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| Meeting | PLANNING COMMITTEE |
| Time/Day/Date | 4.30 pm on Tuesday, 2 September 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 5 August 2014. | 5 - 16 |
| 4. PLANNING APPLICATIONS AND OTHER MATTERS | |
| Report of the Director of Services. | 17 – 20 & 29 - 292 |
| 5. EXCLUSION OF PRESS AND PUBLIC | |
| The officers consider that the press and public should be excluded during | |



consideration of the following items in accordance with Section 100(a) of the Local Government Act 1972 as publicity would be likely to result in disclosure of exempt or confidential information.

6. RECEIPT OF ADVICE IN RESPECT OF APPLICATION 12/00922/OUTM

Report of the Director of Services 21 - 28

Index of Applications to be Considered

| Item | Application Number and Details | Recommendation | Page |
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| A1 | 14/00354/OUTM - Erection of up to 105 dwellings, public open space, earthworks, balancing pond, structural landscaping, car parking, and other ancillary and enabling works (Outline - All matters other than vehicular access off Grange Road reserved) Land Off Grange Road Grange Road Hugglescote | PERMIT Subject to a Section 106 Agreement | 29 - 70 |
| 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 | 71 - 122 |
| A3 | 14/00251/OUTM - Erection of 12 dwellings (Outline access and layout included for determination) 3 Top Street Appleby Magna Swadlincote Derby | REFUSE | 123 - 172 |
| A4 | 14/00320/FUL - Erection of a detached dwelling (Amended Scheme) Land To The Rear 31 The Green Thringstone Coalville Leicestershire | REFUSE | 173 - 182 |
| A5 | 14/00244/OUTM - Erection of 29 dwellings with new access, woodland planting and landscaping (Outline - Access included) Home Farm 25 Main Street Oakthorpe Swadlincote | PERMIT Subject to a Section 106 Agreement | 183 - 208 |
| A6 | 14/00408/FULM - Installation of a 7.99MWp solar farm and associated infrastructure Land To The West Of Gelscoe House Farm Outbuildings Gelscoe Lane Diseworth | PERMIT | 209 - 226 |

| Item | Application Number and Details | Recommendation | Page |
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| A7 | 14/00627/FUL - Erection of 3 no. detached dwellings together with associated garaging Land At The Junction Of Melbourne Road And Gelsmoor Road Newbold Leicestershire | REFUSE | 227 - 246 |
| A8 | 13/00857/OUTM - Erection of 101 dwellings (Outline - access, appearance, layout and scale included) Land At Leicester Road Ashby De La Zouch Leicestershire | PERMIT Subject to a Section 106 Statement | 247 - 258 |
| A9 | 14/00554/FUL - Erection of 7 no. dwellings (Amended Scheme in respect of previously approved dwellings to plots 1-6) Land To Rear Of 112 Park Lane Castle Donington Derby | PERMIT Subject to a Section 106 Agreement | 259 - 272 |
| A10 | 14/00619/FUL - Single storey rear extension to dwelling and garage along with the erection of a single storey detached studio 5 Main Street Ravenstone Coalville Leicestershire | PERMIT | 273 - 280 |
| A11 | 14/00642/FUL - Erection of detached dwelling and detached garage (retrospective) 65 Park Lane Castle Donington Derby | PERMIT | 281 - 292 |

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MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 5 AUGUST 2014

Present: Councillor J Bridges (in the Chair)

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

In Attendance: Councillors N Clarke, S Sheahan, L Spence and J Geary

Officers: Mr S Bambrick, Mr C Elston, Mrs V Blane, Mrs M Meredith, Ms S Worrall, Mr J Knightley and Mr R McKillop

24. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors N Smith and D J Stevenson.

25. DECLARATION OF INTERESTS

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

Councillors R Adams, N Clarke, J Cotterill, J Legrys, T Neilson, M Specht and M B Wyatt declared that they had been lobbied without influence in respect of item A1, application number 14/00050/FULM.

Councillor M B Wyatt declared a Disclosable Non-Pecuniary interest in item A1, application number 14/00050/FULM, due to his association with the Save Our Green Wedges Action Group. He referred to another application in the area, regarding which he had made his intent clear. He clarified that he had not made up his mind regarding this application. In respect of the public meeting organised by Councillor N Clarke, he advised that he had not attended, and to his knowledge had not been invited to attend.

Councillor T Neilson declared that he had attended the meeting arranged by Councillor N Clarke regarding item A1, application number 14/00050/FULM, but he had not spoken at the meeting.

Councillor J Legrys declared that he had been lobbied without influence in respect of item A2, application number 13/00141/OUTM.

Councillor T Neilson declared that he had been lobbied without influence in respect of items A2, A3 and A4, application numbers 13/00141/OUTM, 13/00516/FULM AND 13/00969/FUL.

Councillors R Johnson and J Legrys declared a Disclosable Non-Pecuniary interest in item A6, application number 14/00450/FUL, as a Member of the Owen Street Recreation Ground Pavilion Management Committee and as a Member of the Coalville Special Expenses Working Party.

Councillor R Woodward declared that he had been lobbied without influence in respect of item A6, application number 14/00450/FUL.

Councillors M Specht and M B Wyatt declared a Disclosable Non-Pecuniary interest in item A6, application number 14/00450/FUL as a Member of the Coalville Special Expenses Working Party.

26. MINUTES

Consideration was given to the minutes of the meeting held on 8 July 2014.

It was moved by Councillor J Legrys, seconded by Councillor R Woodward and

RESOLVED THAT:

The minutes of the meeting held on 8 July 2014 be approved and signed as a correct record.

27. 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.

28. 14/00050/FULM - ERECTION OF 79 DWELLINGS AND ASSOCIATED INFRASTRUCTURE

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

The Planning and Development Team Manager presented the report to Members. Councillor N Clarke, Ward Member, addressed the Committee. He spoke in support of the officer's recommendation as this was an area of particularly attractive countryside and the development would encroach into the Charnwood Forest and a SSSI site. He referred to the document from the Leicestershire and Rutland Wildlife Trust which supported the officer's recommendations and he thanked them for producing the document. He felt that there would be an effect in terms of highways, as the development would generate an increase in traffic which would impact upon Warren Hills Road. He added that the additional traffic had not been mitigated. He thanked the residents who had highlighted the flooding issues and pointed out that the report offered no conclusive solution to these issues. He encouraged all Members to support the officer's recommendation.

Mr T Sporne, objector, addressed the meeting on behalf of the Save Our Green Fields Action Group and neighbouring residents. He stated that the proposed development was outside the limits to development, in an area of particularly attractive open countryside, which should be protected. He added that the proposals were contrary to policy E22, would encroach into Charnwood Forest, and would set a dangerous precedent for similar sites. He pointed out that the Leicestershire and Rutland Wildlife Trust had objected for a number of reasons. He stated that the ecological buffer and wildlife corridor should be retained in respect of the Holly Rock Fields SSSI. He made reference to the recent revisions to the methodology used to calculate the housing land supply and the current position that the Council was able to demonstrate a five year supply plus a twenty per cent buffer, which meant that it was no longer necessary to permit the application. He stated that residents had grave concerns regarding traffic and the environmental implications. He added that if the application was granted, an additional junction onto Broom Leys Road would be required.

Mr S Lewis-Roberts, agent, addressed the meeting. He stated that the application site was in a sustainable location, with good access to shops, schools and bus stops. He added that there were no technical objections from any of the statutory consultees. He made reference to the comprehensive S106 package. He stated that the development was of high quality, and was sensitive to local concepts following discussions with the Council's Urban designer. He added that the proposals would ensure that more than one third of the site would be protected and designated as a wildlife site. He acknowledged that the area was attractive countryside, however he felt that this should not prevent appropriate development taking place. He stated that the landscape strategy would reduce the visual impact of the proposals. He commented that the five year housing land

supply was a critical factor when considering this application. He stated that the argument to rely on the recent changes in methodology was flawed, as demonstrated by a recent decision at Blaby which had been overturned on appeal. He advised that calculations made by his organisation showed that the current position was in fact only 2.94 years. He added that policy S3 and E22 were out of date and concluded that permission should be granted.

Councillor R Adams commented that Councillor N Clarke and Mr T Sporne had said most of what he was intending to say and therefore he moved that the application be refused in accordance with the officer's recommendation. He expressed concerns regarding the report from the Highways Authority as he felt this was not correct in terms of the traffic situation on Greenhill Road and Warren Hills Road. He added that he was local to the area and was aware of the issues. He commented that he would like to see some reinvestigation of the highways situation and asked whether such a recommendation could be made.

The Director of Services clarified that if Members were minded to refuse the application, this could be included as an additional reason for refusal.

Councillor R Adams moved that the application be refused in accordance with the officer's recommendation, and that an additional reason for refusal be included on highways grounds due to local knowledge. This was seconded by Councillor J Legrys.

The Chairman advised Members that firstly a vote would be taken on adding the additional reason for refusal. The motion was then put to the vote and declared a tie. The Chairman exercised his casting vote and the motion was declared LOST.

Councillor T Neilson stated that he supported the officer's recommendation to refuse the application. He added that the current position meant that the Committee would not be forced to approve applications due to the lack of a housing land supply. He made reference to the speed in which Pegasus had come to conclusions about the housing land supply issue and stated that he was happy to support the SHMA outcome and the officer's recommendation.

Councillor M B Wyatt stated that he agreed with the recommendation to refuse the application. He felt that it would have a detrimental and harmful effect, would destroy the local countryside and would cause congestion. He referred to the objection from Friends of Charnwood Forest, and felt there would be a detrimental impact upon the landscape. He stated that he would support the recommendation to refuse the application.

Councillor T Gillard made reference to various policy constraints including H4/1 and S3, which should apply when determining applications if there was no conclusive backup of delivered housing. He stated that on this basis, the application should be granted. He felt that this was a very good scheme and sought advice on planning grounds for permitting the application.

The Planning and Development Team Manager advised that there was substantial detailed evidence backing up how the figure of 7.4 years' housing land supply had been arrived at. In respect of the concerns raised by the applicant's agent, he advised that the latest figures were a good basis for the calculation and could be relied upon. He added that the deliverability figures had been assessed.

The Director of Services advised that, in terms of planning grounds, it was a matter for Members whether they regarded the proposals to represent sustainable development.

Councillor T Gillard moved that the application be permitted on the grounds that the proposals represented sustainable development. This was seconded by Councillor G Jones.

Councillor T Neilson raised a point of order in accordance with Council Procedure Rule 14.10, in that no further motions could be moved when a motion was under debate. He suggested that a vote be taken on the motion to refuse the application in accordance with the officer's recommendation.

The Chairman then put the motion to the vote and it was declared LOST.

Councillor G Jones stated that he had reservations about the density of the development site and sought assurance that the square footage of the properties was above average. He felt that the location was ideal.

The Planning and Development Team Manager advised that there were approximately 30 houses per hectare, which was deemed to be an appropriate density for a development of this size.

Councillor M B Wyatt sought advice from officers whether permitting this application would set a precedent, particularly in this area. He also referred to the uncertainty regarding the housing land supply figures and asked whether it was worthwhile deferring the application so that Members' concerns could be clarified.

This was seconded by Councillor R Adams.

The Chairman sought clarification from Councillor M B Wyatt on the grounds on which he wished to defer the application.

Councillor M B Wyatt commented that the officer's report had been questioned, especially regarding the housing land supply figures. On that basis he felt the application should be deferred until the September meeting as clarity was needed.

The Director of Services advised that the housing land supply would always be a fluid situation, and therefore if Members were minded to defer the application, it was unlikely that there would be a more definitive position when the application was reconsidered. He explained that officers were claiming a five year housing land supply currently existed, and the applicant did not agree. He added that the motion to approve the application was on the basis that the scheme was sustainable, and not the basis that Members did not agree with the officers' claim in respect of the housing land supply. He commented that the position regarding setting a precedent was difficult to answer, however clearly if this site was being reconsidered, a precedent would have been set. He added that sites nearby would need to be considered on their own merits. He stated that permitting this application may have implications for nearby sites, however a definitive answer could not be given as to whether a precedent would be set.

Councillor R Adams sought advice on whether the application could be deferred due to the fact that there were outstanding flooding issues.

The Chairman advised that the application could not be deferred on this basis as these issues would need to be dealt with in any case.

Councillor M Specht commented that it was a breath of fresh air to have a recommendation to refuse. He stated that he was not happy with the content of the report and felt that the application met two of the three key criteria. He referred to the housing land supply issue and commented that there had been a lot of figures bandied about, however he was not satisfied that the current presumption could be relied upon. He

added that many of the applications approved over the past 18 months were outline applications, and as such, the housing land supply figure could be minimised at appeal. On that basis he expressed support for the application.

Councillor J Legrys agreed that this application was close to call. He stated that the figures from G L Hearn were as good as it would get. He referred to the speech made by the applicant's agent regarding the application at Blaby, as his understanding was that this application was refused at appeal. He expressed concerns regarding flooding, traffic, and the fact that the application site was outside the limits to development. He commented that there had to be a line drawn in the sand between the urban and rural areas, and until today, Agar Nook Lane had been that line. He referred to Charnwood Forest which was currently earmarked in the Local Plan. He expressed concerns that applications may be received on the other side of Warren Hills Road, and that precedent was not a planning objection. He acknowledged that the line in the sand could not be held in perpetuity however he believed strongly that a 7 year housing land supply did exist and expressed support for the SHMA figures. He stated that he could not under any circumstances support the motion to permit the application. He requested a recorded vote.

Councillor A Bridges highlighted that there were no objections from the statutory consultees and added that she could find no reason to refuse the application.

Councillor D Everitt referred to the risk of flooding and stated that the application needed to be considered in the overall context as it would cause problems for the surrounding low lying areas.

Councillor R Johnson highlighted the reasons for refusal in respect of the application at Blaby which had been referred to. He stated that the proposals would be harmful to the area and commented that all we seemed to do was build on areas of natural beauty.

The Planning and Development Team Manager referred Members to the current motion to permit the application and advised that the developer contributions would need to be secured by means of a Section 106 Agreement. The mover and seconder agreed that they were happy to have this written in to the recommendation.

The Chairman then put the motion to the vote. A recorded vote having been requested, the voting was as follows:

For the motion:

Councillors G A Allman, A Bridges, J Bridges, J Cotterill, J G Coxon, T Gillard, J Hoult, G Jones and M Specht (9).

Against the motion:

Councillors R Adams, D Everitt, D Howe, R Johnson, J Legrys, T Neilson, R Woodward and M B Wyatt (8).

Abstentions:

None (0).

The motion was declared CARRIED.

RESOLVED THAT:

The application be permitted subject to conditions, and the wording of the decision notice be delegated to the Director of Services.

29. 13/00141/OUTM - DEVELOPMENT OF UP TO 450 RESIDENTIAL DWELLINGS AND REINSTATEMENT OF 1.1KM OF ASSOCIATED CANAL, PROVISION OF PUBLIC

OPEN SPACE AND VEHICULAR, EMERGENCY AND FOOTPATH ACCESS (OUTLINE APPLICATION - ALL MATTERS RESERVED EXCEPT ACCESS)

Land At Measham Waterside Burton Road Measham Derby

The Principal Planning Officer presented the report to Members.

Dr O Mulka, supporter, addressed the meeting. He made reference to his long association with the village and the severe impact that the closure of the mine had had upon it. He stated that the best way to improve health and wellbeing was by improving the economy. He added that he had started the canal restoration group as this was the only project that could bring back the heart of Measham. He referred to previous the regeneration of the village which had done nothing for the high street. He stated that there would never be another opportunity to regenerate the canal and the high street and this was a unique opportunity to create a leisure attraction.

Mr B Wilson, applicant's agent, addressed the meeting. He commented that he welcomed the opportunity to change the approach to the Section 106 Agreement. He referred to the June meeting of the Planning Committee where Members had expressed the need for the application to provide benefit locally, as well as restoring the canal. He reiterated the commitment to developing the canal and advised that an access road and bridge would be constructed, and the domestic waste would be removed from the bed of the canal. He made reference to the cost of protecting the route of the canal in addition to the Section 106 Agreement. He placed on record his thanks to the officers for allowing the application to be reconsidered.

Councillor T Neilson stated that he was extremely disappointed that after the June meeting, further talks were made with the applicant when no authority had been granted by the Planning Committee to do so. He stated that a decision had been made by the Committee and he found this to be extremely worrying. He added that if the officer in question was still in post, he would have taken this matter further. He raised a point of order relating to Council Procedure Rule 15.2, in that a motion in similar terms to one which has been rejected at a Council meeting within the past six months cannot be moved unless notice is given and signed by at least one third of the Members. He stated that nothing had been brought before Members to this effect and he sought advice on whether it was constitutional for Members to reconsider this item. He referred to the Money Hill application, in respect of which Members were required to take a vote to reconsider the application.

The Chairman proposed that the application be deferred to enable advice to be sought following the meeting. This was seconded by Councillor M Specht.

The Chairman then put the motion to the vote and it was declared CARRIED.

RESOLVED THAT:

The application be deferred to enable further legal advice to be sought.

30. 13/00516/FULM - ERECTION OF 20 NO. DWELLINGS WITH ASSOCIATED ACCESS, DRIVEWAYS AND PARKING

Land Off New Street Measham Swadlincote Derby

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

Councillor S Sheahan, Ward Member, addressed the meeting. He stated that the initial concerns appeared to have been resolved, and therefore he supported the recommendation to permit the application.

Councillor T Neilson stated that he took issue with the fact that there was no affordable housing. He added that the development was not sustainable if there was no affordable housing. He commented that a motion to refuse the application would be voted down, however he could not support a scheme with no affordable housing.

It was moved by Councillor J Coxon, seconded by Councillor G Jones and

RESOLVED THAT:

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

31. 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

The Principal Planning Officer presented the report to Members.

Councillor S Sheahan, Ward Member, addressed the meeting. He stated that he was generally in favour of affordable housing, however this development had been badly designed and did not satisfy policies E3 and E4. He added that there was an issue getting bin lorries into the site as it was too constrained. He questioned where a bin store might be located and expressed concerns that residents may end up paying twice for this service. He referred to the separation of 5.3m which was quite worrying and would cause Orchard House to be overshadowed. He added that officers felt this would not be significant, however the residents of Orchard House had had a professional study undertaken which indicated otherwise. He referred to the errors in the officer's report and plans. He concluded that the proposed development would be a blight upon neighbouring properties and a horribly cramped place to live. He urged Members to refuse the application on the grounds that it did not comply with policies E3 and E4.

Mrs P Wheatcroft, objector, addressed the meeting. She made reference to the site plan and the original outline application for 5 dwellings. She added that the whole point of good design was to offer imaginative solutions. She stated that the issues had not been addressed and planning officers had given inaccurate and inconsistent advice. She expressed concerns that the proposals would cause overshadowing and overlooking, and felt that they were demonstrably overbearing. She questioned whether permitting the application would set a precedent. She highlighted numerous errors in the report, in particular that the parking provision for plot 4 was located within her own garden. She stated that the plan was totally flawed.

Mr P Taylor, applicant's agent, addressed the meeting. He stated that at the April meeting, the reasons for deferring the application were the access and overlooking. He added that there had been many changes to the scheme and the position of dwellings, and the issues in respect of the access had been addressed. He commented that the applicant had made a significant effort to address the concerns raised by residents. He stated that the parking arrangements were compliant with the design guide and there was no reason to refuse the application on highways grounds. He added that drainage would be a matter for building regulations. He acknowledged that there were unusual relationships between existing dwellings, and therefore there would be an impact, however he urged Members to make a subjective assessment of the impact upon neighbours. He stated that the applicants had worked hard to satisfy the technical requirements and address the concerns expressed by neighbours. He felt that there were no reasonable grounds to refuse the application.

Councillor G A Allman moved that the application be permitted in accordance with the recommendation of the Director of Services. This was seconded by Councillor J G Coxon.

Councillor R Woodward stated that he supported social housing, however this was typical of outline applications where the number of dwellings was subsequently increased. He added that he had seen the site and could not support the proposals.

Councillor T Neilson stated that he could not support this plan as there were still too many problems, even after an extremely long negotiation process. He referred to the question he had raised at the previous meeting regarding the parking issues for the residents of 8 Queens Street. He added that after hearing the representations made, he felt this would be a time bomb if approved, and he would be voting against the recommendation.

Councillor J Legrys stated that he could not vote for the recommendation and had been struck by the resident's objection, particularly regarding the plans and the allocation of a parking space in their garden. He stated that this was poor planning and he was disappointed that there had not been an opportunity to check the plans. He added that he was aware there was an ongoing boundary dispute in respect of this application. He expressed disappointment that the RSL had not taken the opportunity to discuss and consider Queensway House as part of these proposals, as it was currently vacant and in the ownership of the Council. He stated that he was deeply concerned regarding social housing, as the number of dwellings per hectare was being increased, and the size of properties was reducing. He felt that on planning grounds, this application was wrong and he could not support it.

Councillor A Bridges stated that during the debate on the previous application, a comment had been made that Measham was incredibly short of affordable housing, and so she felt this was an ideal area. She added that boundary issues were between the applicant and the landowners.

Councillor T Neilson made a point of personal explanation, in that he had commented that the District was short of affordable housing and as such, this application would not have much impact on the shortfall. He added that these proposals should not be compared to the previous scheme.

Councillor M Specht felt that the proposals constituted overdevelopment of the site, which was a ludicrous parcel of land. He stated that he would not be supporting the proposals.

The Chairman then put the motion to permit the application to the vote and the motion was declared LOST.

Councillor T Neilson moved that the application be refused on the grounds that the proposals were not in accordance with policies E3 and E4, constituted overdevelopment of the site, had poor access and a poor relationship with surrounding properties. This was seconded by Councillor R Johnson.

The motion was then put to the vote and was declared CARRIED.

RESOLVED THAT:

The application be refused on the grounds that the proposals were not in accordance with policies E3 and E4, constituted overdevelopment of the site, had poor access and a poor relationship with surrounding properties.

32. 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

The Principal Planning Officer presented the report to Members.

Mr I Hallam, objector, addressed the meeting on behalf of the residents of Newbold. He stated that the application was retrospective which showed a disregard for rules and procedures. He added that there were strong concerns that noise and dog odours would reach unacceptable levels as they had before. He sought clarification on whether there was the option to change the breed at the premises, and if so, there could be potentially worse issues with noise and odour. He made reference to the school opposite the premises and expressed concerns that visitors would add to the existing traffic problems. He highlighted that the stated number of dogs on site excluded puppies, which still produced odour and noise. He concluded that a business of this sort was not suitable for a quiet residential area.

Mr T Redfern, applicant's agent, addressed the meeting. He stated that he was pleased to note that the officer's recommendation was to permit the application. He made reference to the previous application and highlighted that the number of breeding dogs had been reduced to 15. He added that officers had not considered it feasible or necessary to require a restriction on the breed of dog. He stated that the applicant had a large garden and the sheds had been situated in the best location. He added that the dogs were virtually noise-free as the site had been sound proofed, the compound was fenced, the site was kept clean and there were no smells outside the fence. In terms of visitors he explained that multiple visits did not take place at the same time, and therefore there were 5 or 6 purchase visits per month. He added that the parking on site could accommodate 6 or 7 vehicles at a time and was never full. He stated that the objections to the application were as a result of a malicious complaint and the applicants had been the subject of racial abuse and vandalism since the previous application. He added that there were no reasons to refuse the application. He concluded that control would be reinforced by the breeder's licence and urged Members to grant the application.

Councillor T Neilson stated that he had spoken in favour of the previous application as no complaints had been received whilst the premises had been in operation. He moved that the application be permitted in accordance with the officer's recommendation. He added that as the District Council had yet to receive any complaints, public nuisance could not be evidenced, and the visit from the RSPCA had given the all clear.

The motion was seconded by Councillor D Everitt.

Councillor M Specht stated that there were no objections regarding noise and smell, and the outbuildings would appear to be permitted development and as such were no different from having a hobby room in your back garden. He expressed support for the application.

Councillor A Bridges stated that she would not be supporting the application and felt that the comment indicating that there had been no official complaints received was misleading and was the reason that this application had been called in previously. She added that this was an inconsiderate way of moving into a village and turning a lovely garden into a kennel. She stated that there had been complaints from neighbours, but these had not been made officially. She indicated that she would move that the application be refused on the grounds that it did not accord with policies E3 and E4 as it was significantly detrimental to neighbouring properties and subsequent purchasers.

The Chairman advised that a motion had already been moved and seconded, and this would be dealt with firstly.

Councillor R Woodward agreed that information on the number of complaints received could be misleading. He pointed out that the number of dogs on site would be significantly more than the 15 breeding dogs, irrespective of whether they were in the sheds or in the house. He felt that the application would be detrimental to the local area and stated that he would not buy a house next to the site. He concluded that the application did not accord with policy E3 and added that he could not support it.

Councillor J Legrys stated that he felt likewise and had objected to the previous application. He added that he could not see that a reduction of 5 dogs was any different. He stated that the dogs may or may not be loud, however they would cause a nuisance. He expressed a real concern that the buildings were permitted development, which could have been used for hobby purposes, however he felt that the Committee would take a dim view of them being used for business. He added that there were issues raised by the objector which could not be taken into account, such as property prices. He expressed concern that the objector referred to complaints which had been made, however the Environmental Health department had no record of them. He felt that the overlooking onto the site was unacceptable.

Councillor D Everitt stated that he could see no problem with the application, and the officer had recommended that it be permitted. He added that there had been a lot of assumptions, however the fact was that no complaints had been received, and the facts led him to believe that the officer's recommendation was correct.

Councillor J G Coxon referred to the report which stated that the applicant had a licence for 7 litters. He sought clarification on how many dogs would produce 7 litters.

The Principal Planning Officer advised that the current number of animals was 12 breeding females and 3 males, and between them they produced 7 litters per year, with an average of 6 pups per litter.

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

Councillor R Woodward moved that the application be refused on the grounds that it did not accord with policies E3 and E4.

The Director of Services advised that policy E4 related to design and that this reason for refusal could not be sustained on appeal.

Councillor R Woodward withdrew policy E4 as a reason for refusal.

The motion was seconded by Councillor A Bridges.

The Chairman then put the motion to the vote and it was declared CARRIED.

RESOLVED THAT:

The application be refused on the grounds that it did not accord with policy E3.

33. 14/00450/FUL - PROPOSED NEW CLUBHOUSE AND CHANGING ROOM
Coalville Town FC Owen Street Coalville Leicestershire

The Planning Officer presented the report to Members.

The Chairman asked Councillor M B Wyatt to clarify why he had called in the application.

Councillor M B Wyatt explained that he had done so as he wanted to make sure that residents could see that the process was open and transparent, as a substantial sum of taxpayers' money was going in to the scheme.

Councillor J Geary, Ward Member, addressed the meeting. He explained that the Chairman of the football club had been invited to attend the last meeting of the Coalville Special Expenses Working Party and he had explained that their aspirations for future development depended upon the new changing rooms. He stated that the club had been very successful and referred to the match at Wembley which was a remarkable achievement. He added that the pavilion had been purpose built for the former cricket team and was not suitable for football. He reminded Members that the team had lost out on promotion in the playoffs, but they may have been denied in any case as they do not currently have the requisite facilities. He made reference to the significant improvements which had already been done at the team's expense and added that match funding had been arranged. He concluded that the football club were enhancing the Council's portfolio and this was a 'no-brainer'. He urged all Members to support the application.

Councillor J Legrys reiterated that the site belonged to the Council and the board of directors had invested a significant amount of their own money into improving the facilities on site. He added that any person who invested in their community deserved congratulating. He stated that the club needed the facilities to enable the name of Coalville to progress through the football league. He added that there would be a benefit not just for Coalville, but for the whole of North West Leicestershire and this would promote the district in the sporting media. He welcomed the initiative and significant investment in the community.

The Chairman asked Councillor J Geary to pass on his full support to the football club.

It was moved by Councillor T Gillard, seconded by Councillor G Jones and unanimously

RESOLVED THAT:

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

Councillor S Sheahan entered the room at 5.45pm prior to the discussion and debate on item A3, application number 13/00516/FULM.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 6.48 pm

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APPENDIX B

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

2 September 2014

PLANNING & DEVELOPMENT REPORT



PLANNING COMMITTEE FRONT SHEET

1. Background Papers

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

2. Late Information: Updates

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

3. Expiry of Representation Periods

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

4. Reasons for Grant

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

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

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

6 Refusal contrary to officer recommendation

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

7 Delegation of wording of Conditions

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

8. Decisions on Items of the Director of Services

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

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Likely to contain exempt information under paragraph(s) 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item 6.

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Likely to contain exempt information under paragraph(s) 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

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Erection of up to 105 dwellings, public open space, earthworks, balancing pond, structural landscaping, car parking, and other ancillary and enabling works (Outline - All matters other than vehicular access off Grange Road reserved)

Report Item No
A1

Land Off Grange Road Grange Road Hugglescote
Leicestershire

Application Reference
14/00354/OUTM

Applicant:
Mr Jonathan Abbott

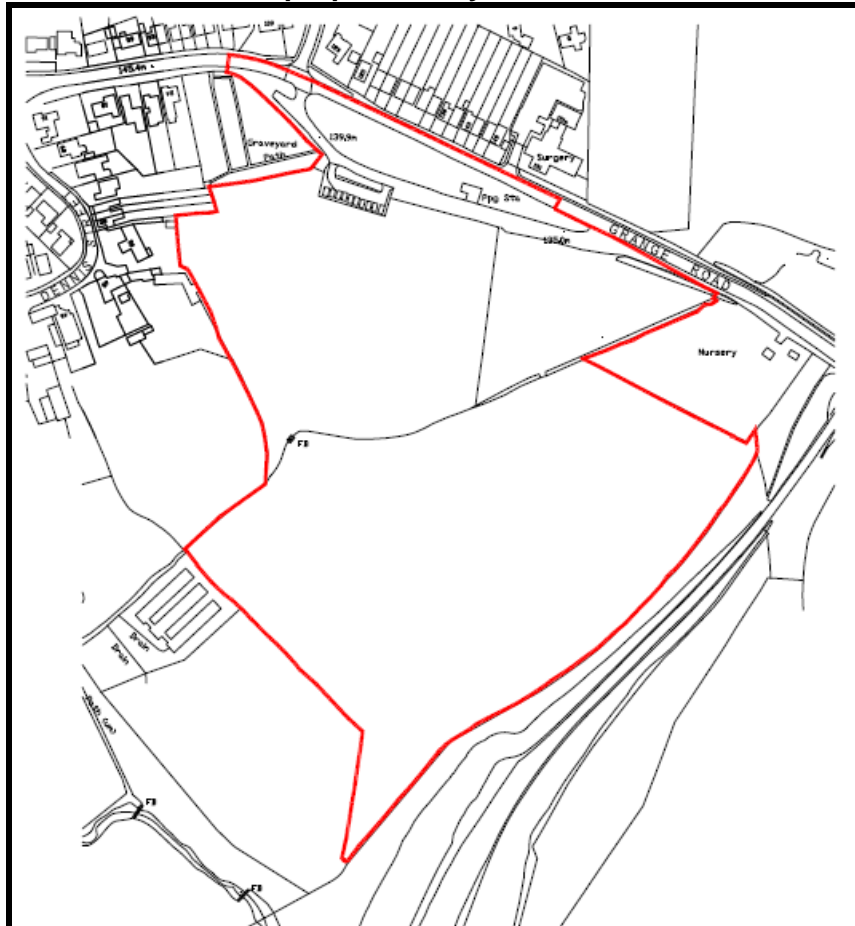
Date Registered
24 April 2014

Case Officer:
James Knightley

Target Decision Date
24 July 2014

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

This application seeks outline planning permission for residential development of up to 105 dwellings and associated works.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals (including from Hugglescote and Donington le Heath Parish Council); no other objections are raised by statutory consultees.

Planning Policy

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

Conclusion

The report below indicates that, whilst the site is a greenfield site outside Limits to Development, having regard to the site's general suitability for housing (including its proximity to the built up area of Coalville) and the need to demonstrate and maintain a five year supply of housing land within the District, the proposals would be considered to constitute sustainable development, and release of the site for residential development would be appropriate in principle. The proposed development would, it is considered, be able to be undertaken in a manner acceptable in terms of access issues; there are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities, albeit with a reduced contribution to affordable housing required so as to ensure the development remains viable whilst making appropriate contributions to highways and transportation infrastructure.

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

This is an outline planning application for residential development of a site of 7.3 hectares primarily in agricultural use for up to 105 dwellings on land to the south of Grange Road, Hugglescote.

All matters are reserved except for part access; whilst all other matters are reserved for subsequent approval, an illustrative masterplan has been submitted showing the proposed dwellings (provided in two main areas of the site), together with areas of public open space / children's play, proposed and retained tree planting / landscaping and surface water attenuation facilities.

The site is crossed by a watercourse, and is adjacent to various other land uses including woodland, open / "scrub" land, residential curtilage, a cemetery and a disused railway connecting to the former South Leicester Colliery in Ellistown, now used on an informal basis as a recreation route.

Vehicular access is proposed by way of a new priority access with ghost island, provided through an existing landscaped area separating Grange Road from an existing lay-by; the existing lay-by would be stopped up (for vehicular use) and a new lay-by formed to serve the existing pumping station. The existing lay-by would be downgraded to a bridleway.

In terms of other matters of access (and including non-vehicular routes into the site, and vehicular, cycle and pedestrian routes *through* the site), these are reserved for consideration at the reserved matters stage(s), although the illustrative masterplan indicates a network of routes linking the site to adjacent land / existing recreational routes.

The application has been submitted following an earlier refusal for a similar scheme (ref. 12/00922/OUTM); that application was refused contrary to officer recommendation at the meeting of the Planning Committee of 3 December 2013 for the following reasons:

- 1 *Policy T3 of the adopted North West Leicestershire Local Plan requires development to make adequate provision for vehicular access, circulation and servicing arrangements. Based on its local knowledge, the Local Planning Authority considers the proposed vehicular access to be unacceptable from a highway safety perspective, contrary to Policy T3 of the North West Leicestershire Local Plan.*
- 2 *The site is located close to the Hugglescote Crossroads, a junction already operating at a level over its capacity. The proposed development would result in increased use of the junction, exacerbating the existing capacity issues, to the detriment of the free flow of traffic in the area.*
- 3 *The site is located within an area subject to flooding. Based on its local knowledge, the Local Planning Authority considers that the proposed dwellings would be at risk of flooding, contrary to the policies and intentions of the National Planning Policy Framework and its associated Technical Guidance.*

An appeal has also been lodged with the Planning Inspectorate against this refusal, and is to be determined by way of an inquiry, scheduled to take place in December 2014. Appended to this

report is a confidential advice note from Counsel.

The current application is, for the most part, identical to the refused scheme. However, an updated Design and Access Statement and illustrative plans have been submitted which show two principal areas of two and "two and a half" storey development located either side of an area of public open space and SUDs features.

2. Publicity

52 no. neighbours have been notified (Date of last notification 7 May 2014)

Site Notice displayed 7 May 2014

Press Notice published 21 May 2014

3. Consultations

Hugglescote & Donington Le Heath consulted

LCC Development Contributions consulted 16 July 2014

County Highway Authority consulted 18 July 2014

Highways Agency- affecting trunk road consulted 18 July 2014

County Highway Authority consulted 7 May 2014

Environment Agency consulted 7 May 2014

Severn Trent Water Limited consulted 7 May 2014

Head of Environmental Protection consulted 7 May 2014

NWLDC Tree Officer consulted 7 May 2014

County Archaeologist consulted 7 May 2014

LCC ecology consulted 7 May 2014

NWLDC Urban Designer consulted 7 May 2014

LCC Development Contributions consulted 7 May 2014

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 7 May 2014

Development Plans consulted 7 May 2014

Head Of Leisure And Culture consulted 7 May 2014

Manager Of Housing North West Leicestershire District Council consulted 7 May 2014

Police Architectural Liaison Officer consulted 7 May 2014

LCC/Footpaths consulted 7 May 2014

National Forest Company consulted 7 May 2014

Network Rail consulted 7 May 2014

DEFRA consulted 7 May 2014

LCC Fire and Rescue consulted 7 May 2014

Head Of Street Management North West Leicestershire District consulted 7 May 2014

LCC/Footpaths consulted 7 May 2014

NWLDC Footpaths Officer consulted 14 May 2014

4. Summary of Representations Received

Environment Agency has no objections subject to conditions

Highways Agency has no objections

Hugglescote and Donington le Heath Parish Council objects on the following grounds:

- Concern over traffic flow and speed
- Parish Council has undertaken a speed watch survey

- Applicants' report written without reference to the full speed watch report
- Traffic speed in speed watch report was measured only outbound, never in the wet and all information was gathered in a County Council approved method, using correctly calibrated machines and followed up by the Leicestershire Police
- Given these inaccuracies the applicants' report should be withdrawn and proper consideration be given to the Parish Council report
- A proposed alternative traffic management scheme utilizing the Grange Road lay-by (located opposite the surgery) has been discussed with the applicants - the Parish Council is aware that the County Council has already approved in principle a scheme to dissect the green opposite the surgery but the developers should nevertheless give consideration to these proposals, and have not objected to the Parish Council's proposals being forwarded to the County and District Councils for further consideration
- If the Planning Committee is minded to permit the application, access should be removed from the application and reserved for subsequent approval
- Flood risk - local knowledge has already identified that this site floods at times of prolonged wet weather and it is unclear as to the depth of survey work carried out to take account of the potential flood risk issues

Leicestershire County Council Local Education Authority requests developer contributions of £421,090.16 in respect of additional provision in the primary and high school sectors

Leicestershire County Council Library Services Development Manager requests a developer contribution of £5,710

Leicestershire County Council Highway Transportation & Waste Management Authority requests a developer contribution of £6,865 in order to mitigate the impact on civic amenity waste facilities in the local area.

Leicestershire County Council Landscape Officer has no comments

Leicestershire County Council Highway Authority has no objections subject to conditions, and subject to Section 106 obligations

Leicestershire County Council Rights of Way Officer has no objections subject to conditions

Leicestershire Police objects unless a developer contribution of £41,911 in respect of policing is provided

National Forest Company comments that the proposals have the potential to meet the 20% woodland planting and landscaping requirement as set out in the National Forest Company's Guide for Developers and Planners and has no objections subject to a number of matters being secured as part of the reserved matters proposals

Network Rail notes that the development should make a contribution to the wider transportation infrastructure needs of development in South East Coalville commensurate with the size of the development and including elements in respect of level crossing issues

NHS England (Leicestershire and Lincolnshire Area) requests a healthcare contribution of £18,119.21

North West Leicestershire District Council Environmental Health has no objections

Third Party Representations

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

- Site liable to flooding
- Site liable to subsidence
- Agricultural / greenfield sites should not be developed when previously-developed sites are available
- Insufficient infrastructure (including schools, healthcare, and highway network capacity)
- Increased traffic / congestion, including at Hugglescote Crossroads
- Site should be part of a nature corridor / recreation area
- Site not originally part of the Bardon Grange development in the Core Strategy
- Additional housing unnecessary
- No change since previous refusal
- Speeding traffic on Grange Road
- HGVs use Grange Road
- Unsafe accesses onto existing lay-by
- There are currently road works in the area
- Development not large enough to make improved public transport viable
- New bus services would result in new bus stops, causing chaos
- Not enough starter homes proposed
- Reduction in separation between Hugglescote and Ellistown / loss of local identity
- Impact on wildlife and ecosystems
- Loss of view
- Loss of recreational facilities / open space
- Improvements to Hugglescote Crossroads would be to the detriment of the village's character

In addition, copy correspondence from the County Councillor for the Coalville Ward to the County Highway Authority has been received advising that she cannot support the County Highway Authority's comments. In particular, the correspondence comments provide as follows:

- The assumptions underlying the County Highway Authority comments (especially about "pain and gain") are now out of date in the light of the revised Strategic Housing Market Assessment figures - there is now local doubt that the SE Coalville SUE will ever materialise
- The District Council is consulting on its Local Plan
- Hugglescote and Donington le Heath Parish Council has engaged a local planning consultant to work with them on a pro bono basis to look at other less costly solutions to the Hugglescote Crossroads problem. The Parish Council's preferred option, being negotiated by the consultant with developers, would allow some limited development without requiring major transport infrastructure investment. The overall aim is to get some "gain" but far less "pain".
- Any decision should be deferred until the appeal on the first application is heard and local consultation with the Parish Council has been undertaken

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, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

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

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

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

"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..."

"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..."

"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)

The application site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan.

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

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

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

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

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

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

Other Policies

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.

South East Coalville Development Brief

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

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

Submission Core Strategy

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

6. Assessment

Principle of Development

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

In terms of the adopted North West Local Plan, the site is outside Limits to Development. Policy S3 sets out the circumstances in which development will be permitted outside Limits to

Development; the development proposed would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3.

Notwithstanding the countryside location, and whilst the proposals would be contrary to the adopted Development Plan, in determining the application, regard must be had to other material considerations, including other policies, such as 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. Insofar as the site's location is concerned, and whilst it is outside Limits to Development, it is well related to the existing built up area of the settlement. In terms of accessibility generally, the view is taken that, as a site within close proximity of Hugglescote / Coalville and the range of services available therein, it performs relatively well in this regard. The entrance to the site is approximately 1.5km from the town centre (being the closest point of the Core Town Centre Shopping Area as defined in the adopted Local Plan), and there are regular bus routes serving Station Road / Central Road in Hugglescote (approximately 500m from the site entrance).

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 and Limits to Development

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 8 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 7.04 years (i.e. an excess of 2.04 years beyond the five year requirement, or 1.04 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 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.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to the economic growth associated with the proposed development, coupled with the role played in contributing to housing land supply and the inclusion of appropriate contributions to local services as detailed below, would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, whilst the proposed development would result in the development of land outside of the defined Limits to Development, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment and, by virtue of its location, close to the existing built up area and associated services, would perform well in terms of need to travel and the movement towards a low carbon economy.

At the time that the then Pre-Submission Core Strategy was considered by the District Council in April 2012, the report considered by members included a proposed Study Area which was anticipated to form the basis of a defined extent of the proposed South East Coalville Broad Location. The application site falls within the identified Study Area. Whilst the site falls within the Study Area, the applicants are not currently part of the developer consortium which is intending to bring forward the wider South East Coalville development. Nevertheless, the application site has been included within the consortium's emerging masterplan documents (including the South East Coalville Development Brief referred to above), and the general location of proposed development within this part of the Study Area as indicated by the consortium generally accords with that shown on the illustrative masterplan forming part of the application documents, as does the proposed use (i.e. residential). Insofar as the comprehensive development of South East Coalville is concerned, it would be considered preferable for the developers of the application site to be part of the consortium. Having said that, however, it is noted that, by virtue of the former railway (now used as an informal recreational route), the site (which is on the edge of the Study Area) is separated from other development areas (physically, visually and in terms of the logical means of vehicular access) within the Study Area. In view of this, it is considered that the bringing forward of this site in isolation from the remainder of the Study Area would not, in this case, lead to any material harm in terms of the proper planning of the area, nor would it prejudice the comprehensive development and proper planning of the South East Coalville area as a whole, and would therefore, in this regard, satisfy adopted Local Plan Policy E6. This

position would appear to be supported by the overall form of development currently being proposed by the wider consortium. The site is also adjacent to a smaller parcel of "scrub" / woodland (understood to have formerly been used as a nurseries) to the north eastern corner of the site (adjacent to the former railway bridge) which also lies within the Study Area. On the basis of the illustrative masterplan, there would appear to be no reason why the proposed development would necessarily preclude development of this site if this were to be proposed in the future; the County Highway Authority also advises that, in capacity terms, the proposed access onto Grange Road would be likely to be more than sufficient to accommodate the number of dwellings likely to be achievable on a site of this size. Again, therefore, no prejudice of the development of adjacent land would appear likely.

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 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.

However, it is also necessary to consider any other relevant material considerations, including the Government's current intentions in respect of the need to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF), and the current position in the District in terms of housing land supply. An important consideration is that the Council must demonstrate and maintain a five year supply of housing land (with a 20% buffer) as required by the NPPF, which is considered to be a material consideration of some significance. As set out above, the Council is now in a position whereby it is able to demonstrate a five year supply and, as such, Paragraph 49 of the NPPF would not be engaged. However, given the overall conclusions in respect of whether the site constitutes sustainable development in NPPF terms, however, and given the need to maintain a five year supply of housing, it is considered that release of the site would nevertheless remain appropriate. Having regard to all of the above, therefore, it is considered, overall, that the proposed development of the site is acceptable in principle.

Detailed Issues

In addition to the issues of the principle of development, consideration of other issues relevant to the application is set out in more detail below.

Means of Access and Transportation

As set out above, all matters are reserved for subsequent approval except for access (insofar as vehicular access into and out of the site is concerned). The point of access proposed shows vehicular access via a new ghost island priority junction to Grange Road, with the access road passing through the existing grassed area of highway land separating the carriageway from the existing lay-by; the County Highway Authority confirms that this access has been subject to a Stage 1 Road Safety Audit (albeit the potential solution allowing this site to be accessed in conjunction with alterations to the Wainwright Road junction has not to date). Under the proposed details, the existing lay-by would become a pedestrian route and new pedestrian crossings to Grange Road provided. The illustrative layout also shows other potential pedestrian

links into and through the site; these would also be a matter for the reserved matters stage(s) (although their impact on the overall potential accessibility of the site still ought to be considered in those terms).

The application is accompanied by a Transport Assessment as well as a Residential Travel Plan. The Transport Assessment indicates that, in the applicants' consultants' opinion, the development is in a location that offers opportunities for journeys to local facilities to be undertaken by foot, including schools, shops, public houses, Hugglescote Surgery and the Millfield Recreation Ground. Whilst there are no bus routes currently passing the site frontage, various services are available from Central Road.

Insofar as the affected junctions on the wider highway network (and the associated junction capacity assessments contained within the applicants' submissions) are concerned, the County Highway Authority comments as follows:

Dennis Street / Grange Road priority junction:

The submitted PICADY assessment is agreed. It is agreed that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2019 "with development" scenario.

Dennis Street / Station Road priority junction:

The submitted PICADY assessment is agreed. It is agreed that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2019 "with development" scenario.

Hugglescote Crossroads:

No junction capacity assessment has been submitted for Hugglescote Crossroads. In the submitted Transport Assessment it is acknowledged that the junction is currently operating over capacity.

The development will have an impact at Hugglescote crossroads. However, as stated in the Transport Assessment, Leicestershire County Council will be investigating options for junction capacity improvements at this location.

Until such time as a scheme has been identified, a scenario of "short term pain" for "long term gain" is considered to be acceptable. Therefore, it is agreed that this development should contribute towards improvements to the wider highway network in Coalville (which includes for Hugglescote Crossroads) as considered appropriate by North West Leicestershire District Council.

The need for improvements at the Hugglescote Crossroads is recognised in the South East Coalville Development Brief. This junction already experiences congestion and delays, and it is predicted that the growth will exacerbate these issues; this affects access to the town centre and local facilities (such as the Primary School) for all road users, including cyclists and pedestrians, and will impact on the quality of life for local residents (e.g. noise, visual intrusion and pollution impacts). There is, therefore, a clear link between growth in the town and the need to undertake improvements to the junction.

The application itself does not provide for detailed modelling of the Hugglescote Crossroads (i.e. as it is already accepted that it is operating over capacity). Nevertheless, the County Highway Authority has, based on junction capacity modelling undertaken for another application in the vicinity of the site, provided an estimate of likely impacts from the proposed development on

queuing / delays at the Crossroads. These indicate that, in the am peak, the number of queuing vehicles would increase by between 2 and 5 vehicles for the four junction arms, with the most significant increase being on the Grange Road arm, where the additional 5 vehicles would represent an increased queuing time of 26 seconds (to an average of 239 seconds in total for any one vehicle). In the pm peak, the number of queuing vehicles would increase by between 3 and 10 vehicles, with the most significant increase being on the Central Road arm, resulting in an increased queuing time of 51 seconds (to an average of 415 seconds in total).

Birch Tree roundabout:

The submitted ARCADY assessment is agreed. It is agreed that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2019 "with development" scenario.

Site access junction:

The submitted PICADY assessment is agreed. It is agreed that the junction would operate well within capacity in the 2019 "with development" scenario. [NB Having regard to a proposed development on land to the north of Wainwright Road (including that subject of a current full application for 75 dwellings, ref. 13/00802/FULM); the applicants have provided alternative access designs for the proposed Grange Road development, one designed to accommodate the development itself, and one which, in the event that both the Grange Road and Wainwright Road schemes were to be undertaken, would accommodate both. The conditions as recommended by the County Highway Authority would allow for either option to be delivered but, in the event that the Wainwright Road scheme had been implemented prior to the Grange Road one, would have the effect that only the "joint" solution would be implementable.]

Other mitigation proposals required by the County Highway Authority (and sought as Section 106 contributions) are as follows:

- A Construction Traffic Routeing Agreement to be submitted to and approved in writing by Leicestershire County Council
- One Travel Pack per dwelling to inform new residents from first occupation what sustainable travel choices are available in the surrounding area (which can be provided through Leicestershire County Council at a cost of £52.85 per pack/dwelling if required)
- Two six-month bus passes per dwelling to encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour from first occupation (which can be provided through Leicestershire County Council at a cost of £350.00 per pass if required)
- Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development to ensure effective implementation and monitoring of the site wide Travel Plan submitted in support of the planning application;
- A contribution of £6,000 towards iTrace monitoring (transportation monitoring software)
- A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council (i.e. in accordance with the District Council's contribution strategy - addressed in more detail below)

Further to the concerns raised by Planning Committee at the time the previous application was considered, the County Highway Authority has provided further information setting out its position in respect of the safety of the proposed site access. In this respect, it confirms as follows:

Traffic Speeds

"Speed surveys were undertaken which identified the mean speed to be approximately 35mph and the 85th percentile (wet) speed to be approximately 40mph in both directions, at a location approximately 50m to the east of the proposed site access. At another location approximately 100m to the west of the proposed site access, the mean speed was measured to be approximately 28mph and the 85th percentile (wet) speed to be approximately 31mph. Accordingly, visibility splays have been identified corresponding to 30mph to the west of the proposed site access and 40mph to the east. These were confirmed to be achievable on site by the Highway Authority." Insofar as the concerns raised over the robustness of the applicants' traffic speed data is concerned, the County Council notes that the Parish Council's representations refer to its own readings being undertaken using a "County Council approved method"; Leicestershire County Council confirms that it uses TA 22/81 for measuring vehicle speeds. However, given the limited sample size, the County Council expresses some reservations as to how representative the Parish Council's readings would be. It is also understood that the Speedwatch readings relate only to vehicles observed exceeding the speed limit and, hence, the Parish Council and applicants' respective datasets will, it seems, be measuring different things.

Retention of the lay-by

As set out above, the proposed development would result in the removal of the existing lay-by. The County Highway Authority advises that it has "been consulted on the possible retention of the lay-by, and offered its comment to the transport consultant that there would be no objection in principle should this be proposed, subject to satisfactory tie-in details. However, no further discussions have been held on this point and it would appear that the retention of the lay-by is no longer being pursued. Notwithstanding, the Highway Authority is of the opinion that closure of the lay-by would be preferable, as it would reduce the number of access points on to Grange Road and also noting the fact that visibility from the lay-by joining on to Grange Road is currently poor. During the site visit undertaken by the Highway Authority, only two cars were noted to be parked in the lay-by; such a small number could easily be accommodated within the proposed site access."

Accident Records

The County Highway Authority confirmed that the County Council's accident records for the past 5 years show there were no recorded accidents on Grange Road at the site frontage.

As set out in the summary of representations above, Hugglescote and Donington le Heath Parish Council has suggested an alternative form of access to the application site. In brief, the draft layout provided by the Parish Council suggests access via the existing lay-by, provision of new roundabouts at either end of the lay-by, and partial closure of Grange Road (in effect, diverting Grange Road via the existing route of the lay-by, and reconnecting to the existing line of Grange Road by way of a roundabout at either end of the lay-by). The applicants have considered the Parish Council's proposals, and identify what they consider to be the following key issues:

1. *Only a mini-roundabout can be designed at the western end, as there is not enough land for a normal roundabout. This would be a 4-arm mini-roundabout and they are, generally, not acceptable to the Highway Authority where traffic flows are reasonably high. In addition, there would be insufficient room for splitter islands and signage.*
2. *The left turn from Grange Road (serving the surgery) to the new road cannot be made by a vehicle larger than a 7.7m fire tender. Equally, it would be difficult to make the right turn from the new road to Grange Road for large vehicles. Enlarging the mini-roundabout to accommodate splitter islands is likely to cause further problems with turns into/out of Grange Road.*
3. *It is not possible to achieve the required taper for the ghost island right turn lane in to the*

site. A departure of standard would be required - we have no assurance that this would be permitted.

4. It is possible to design a 3 arm mini-roundabout at the eastern end but forward visibility cannot be achieved.

5. There is no footway provision along the new stretch of road. It would require at least 1 crossing point on the new road and a footway across the grassed central area to connect to the footways on the section of [Grange Road] serving the surgery. This would be against current guidance as it does not provide the most direct pedestrian routes to the west or east.

Our initial review of this option indicates that this is a very compromised design, which does not meet the required highway design standards and furthermore, has not been the subject of a Road Safety Audit.

We do not therefore believe we can progress on the basis of the revised design as we do not believe that planning permission would be granted for this proposal."

In view of this, therefore, the applicants confirm that they wish to proceed with the application as submitted.

In view of its conclusions as set out above, the County Highway Authority raises no objections to the proposals as submitted on highway safety grounds subject to conditions, and subject to the contributions as set out above. Insofar as the strategic highway network is concerned, the Highways Agency does not consider that the proposed development would have a material impact on the closest strategic route (the M1) and raises no objections.

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 improvements at the Hugglescote Crossroads, and an appropriate contribution of £500,000 has been calculated.

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 some initial calculations (which would need to be submitted to the District Council in due course and subject to more detailed independent assessment on behalf of the Local Planning Authority) so as to demonstrate the impact that payment of the transportation infrastructure contribution would have on the viability of the scheme. They advise that the initial calculations indicate 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 that the quantum of affordable housing would need to be reduced so as to render the scheme viable.

The sum proposed (i.e. £500,000) would, it is considered, represent a reasonable contribution towards those schemes identified as being necessary to enable development to proceed in the Coalville area including those which, insofar as this particular development is concerned, would be necessitated by this development. Separate contributions are also proposed in respect of other highways works which would be required to accommodate this development (i.e. as required by the County Highway Authority and as set out above).

In terms of the accessibility of the site generally, this is considered in more detail above under Principle of Development. Whilst not part of the access proposals submitted at this outline stage, the illustrative masterplan indicates that non vehicular links to adjacent land would be anticipated at the reserved matters stage. The route of public Right of Way N84 passes through the northern part of the site (connecting Grange Road with Dennis Street), and the site abuts Right of Way N50 to the south east, which also connects the site with Dennis Street (Right of Way N79), along with the Millfield Recreation Ground and land to the south of Grange Road (via the former railway). Potential linkages are also shown to the south east of the site, again connecting to the former railway, currently used as an informal recreational route. Whilst all means of access other than the principal vehicular point of access into the site are reserved (and any other accesses would therefore need to be subject to a reserved matters application(s)), it is considered that the information submitted indicates that, in principle, a suitable range of non-vehicular connections could be provided between the site and adjacent land. However, it would need to be demonstrated at the relevant reserved matters stage that the scheme proposed provided an appropriate level of accessibility / permeability for pedestrians. In terms of Right of Way N84, Leicestershire County Council's Rights of Way Officer notes that the route of the right of way as shown on the illustrative masterplan appears to follow the definitive map route (as opposed to the currently walked route, the definitive map route not currently being passable), and requests that the development include a minimum surfaced width of 2m plus 1m grass borders for the section of the footpath passing through the site. At the point where the existing right of way meets Grange Road, the Rights of Way Officer suggests that appropriate signage / gates would be required. In terms of Right of Way N50, the County Council's Rights of Way Officer comments that the route shown on the illustrative masterplan does not fully comply with that shown on the definitive map.

In principle, however, there appears no reason why the development could not provide for appropriate alternative rights of way if the reserved matters proposals would necessitate the extinguishment / diversion of existing rights of way crossing the site. Should this be the case, any application to stop up / divert the affected rights of way would be likely to be dealt with by

the District Council's Cultural Services Officer. As set out in DEFRA Circular 1/09 relating to rights of way, most outline planning applications do not contain sufficient information to enable the effect on any right of way to be assessed (and are not required to do so) and, as such, these issues are usually dealt with at the reserved matters stage. Nevertheless, and as set out above, there appears no reason in principle why a suitable solution could not be found at that time. Similarly, whether or not it would be appropriate to require new gates / signage etc for the existing right of way would, it is considered, depend on what exactly was proposed in terms of the eventual site layout (and what changes, if any, affected the currently walked (and gated / signed) route of Right of Way N84).

In terms of impacts on the rail network, it is noted that Network Rail has suggested that a financial contribution would be appropriate which would allow any future impacts on level crossings within the area arising as a result of the development (i.e. increased vehicular use of the crossings) to be mitigated. Having regard to the fact that a Transport Assessment has been submitted in support of the application, it is considered that sufficient information has been provided to enable Network Rail to come to a view as to whether or not the additional traffic associated with the proposed development would have a material impact on local crossings (and, hence, whether any mitigation is necessary and ought to be requested). At the time that the previous application was considered, a condition was recommended to be imposed in respect of a scheme of measures to the Bardon Hill crossing (i.e. equivalent requirements to those required in respect of the Bloor Homes scheme on land to the north of Grange Road) and, on this basis, it would seem appropriate to attach a similar condition in respect of the current application. At the time of preparing this report, no further views had been received from Network Rail as to the need or otherwise for any mitigation, but any additional comments received will be reported on the Update Sheet.

Subject to the above, 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.

Landscape and Visual Impact

The application is accompanied by a Landscape and Visual Appraisal, as well as an Arboricultural Assessment. In order to implement the proposed vehicular access to Grange Road, the formation of a new road would be required, crossing an existing grassed area of highway to the site frontage; a number of trees on this area of verge are protected by Tree Preservation Order (TPO) T181.

The Landscape and Visual Appraisal considers the site's context in relation to surrounding development / landscape, and considers the impact upon a total of 16 viewpoints, both within and outside of the application site; longer distance views are, however, not considered likely given the surrounding topography and vegetation which serve to limit the visibility of the site from further afield. Overall, the Landscape and Visual Assessment concludes that development in accordance with the Illustrative masterplan would allow a sympathetic urban extension to be created that, subject to appropriate detailed design, would not appear discordant with the character of the area, nor result in any material impact on the quality of the surrounding landscape. In view of the context of the site, it is accepted that these conclusions are reasonable.

In terms of retained / proposed planting, the site is in the National Forest, and the scheme's performance vis-à-vis the relevant National Forest standards is set out under the relevant section below. In terms of the extent of landscaping and other open space cover proposed in

respect of the development, it is noted that the illustrative masterplan indicates that substantial areas of existing vegetation would be retained throughout the site and, in particular, to the central area of the site. Also proposed are other areas of landscaping within the site, with the total quantum of public open space / landscaping and other green infrastructure constituting approximately 49% of the total site area as indicated on the illustrative masterplan (or approximately 44% when excluding the retained highway verge forming part of the site). It is considered that the scheme as indicated on the illustrative masterplan represents a suitable balance between built development and landscaping, and the development of the site in the manner indicated on the illustrative masterplan (i.e. two principal parcels of development either side of a central open space based around the watercourse) would serve to provide for a suitable form of development which, whilst lying adjacent to the existing built up area of the town, is outside Limits to Development as defined in the adopted Local Plan, and would in a sense form a "semi-rural" gateway to the settlement of Hugglescote.

Trees cover much of the site, including TPO protected trees along Grange Road, and a significant number of unprotected trees in the vicinity of the watercourse within what would, on the basis of the illustrative material, be likely to be retained as open space. In general terms, however, and whilst the District Council's Tree Officer has previously made observations in respect of some of the trees' protection zones as shown on the submitted material, there would appear to be no reason why the most important trees could not be adequately accommodated at the reserved matters stage(s). In terms of impact of the proposed vehicular access through the area affected by the TPO, it is noted that the scheme indicates the removal of two trees adjacent to the access where it meets Grange Road, both of which are specifically protected under the TPO; the trees in question are a weeping ash and a cherry. The ash is categorised in the submitted Arboricultural Assessment as retention category C (i.e. "Low"); the cherry is categorised as retention category U (i.e. unsuitable for retention on arboricultural grounds, in this instance by virtue of the tree's condition, the tree having an open wound with exposed heartwood). As such, only the ash would be proposed to be removed specifically to enable access to be formed. However, having regard to the relatively low value of the tree, and the need to provide for a suitable form of access, it is considered that the impacts on these trees would be acceptable.

Overall, in respect of issues relating to Landscape and Visual Impact, the view is taken that the proposals are acceptable.

Loss of Agricultural Land

Part of the site is currently in agricultural use (including grazing) and, insofar as the proposed built development is concerned, this would result in an irreversible loss to non-agricultural use.

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to the five year housing land supply issue as set out above, it would seem inevitable that land outside Limits to Development (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification. Whilst the applicants have not provided a detailed assessment of the agricultural quality of the site, they note that provisional data provided by MAFF indicates it would be Grade 3b (and not, therefore, BMV).

However, also of relevance to this issue is the limited size of the site (and, hence, the limited impact on loss of agricultural land). Whilst the NPPF does not suggest that release of smaller

BMV sites is acceptable, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process. Also relevant is the extent to which change of use of the BMV land is irreversible. Whilst the submitted masterplan is illustrative only, it is noted that it indicates that a significant proportion would be given over to National Forest planting and public open space which, it is considered, would not necessarily preclude its future re-establishment in active agricultural use if circumstances so dictated.

Overall in terms of agricultural land quality, therefore, the evidence available indicates that the land would not constitute BMV but, even if some or all of it were, given the limited extent of land lost, it is not considered that this would be a significant loss. However, this would need to be weighed against other material considerations and, whilst some (albeit limited) adverse impacts in this regard cannot be ruled out, these concerns would not be so significant as to outweigh the considerations in favour of the scheme. When considered in the context of the five year housing land supply issue, and the benefits of releasing the site to assist in maintaining such supply, it is considered that the agricultural land quality issue would not be sufficient to suggest that planning permission should be refused.

Flood Risk and Drainage

A Flood Risk Assessment (FRA) and a Foul Water Drainage Strategy have been submitted in support of the application. The Environment Agency flood zone maps indicate that the majority of the site lies within Flood Zone 1, although parts of the central part of the site (i.e. adjacent to the existing watercourse) fall within Zones 2 and 3. However, it is not proposed to erect any dwellings within these higher risk areas, all dwellings being located within Zone 1 only. Whilst the proposed dwellings would be located outside of Zones 2 and 3, the Environment Agency advises that the sequential test would nevertheless still need to be applied as the application site as a whole includes such areas. In this instance it is considered that the sequential test would be satisfied given the limitation of proposed dwellings' siting to areas within Zone 1. Whilst the site includes land falling outside of Zone 1, it is considered reasonable to accept that this in itself should not prevent the sequential test being passed, particularly when having regard to the availability of alternative sites, and the need to release land for housing as set out above. It is noted that areas of public open space / children's play could be subject to flooding during extreme events. However, the approach to location of appropriate uses as set out in the NPPF does not preclude such uses, and it is accepted that no significant harm would be likely to result from the inaccessibility of these areas for a limited period during such extreme events, given the relatively low frequency of such events. The Environment Agency raises no objection to the application on the basis that the Local Planning Authority determining that the sequential test is passed. Insofar as the proposed access road crossing the watercourse is concerned, the FRA confirms that it will be designed so as to ensure that the road levels of the crossing would remain above the predicted 1 in 1,000 year flood level. Conditions to ensure that performance of the floodplain remains unaffected by the crossing are included in those recommended to be attached by the Environment Agency. The FRA also confirms that, as there would be no built development within the floodplain, no compensatory storage would be required.

Insofar as other sources of flooding are concerned, the FRA considers the potential impacts from groundwater, sewer, reservoirs and canals, and concludes there are no significant issues in terms of these sources. Whilst the possibility of flooding from overtopping or surcharge of existing storm water sewers is identified in the FRA, it also concludes that the probability is low.

In terms of on-site surface water drainage, the application documents indicate that the development would direct surface water into the existing watercourse. In order to attenuate any increased rates of discharge into the watercourse, it is proposed to incorporate a range of SUDs

features on either side of the watercourse (including swales and permeable pavements) so as to accommodate the 1 in 100 year plus 30% storm event.

Insofar as foul drainage is concerned, it is proposed to connect to a new sewer which, the FRA advises, is intended to be provided through the site as part of proposed diversion works by Severn Trent Water.

Overall, in terms of issues of Flood Risk and Drainage, it is considered that the scheme is acceptable, and would provide for appropriate drainage solutions to accommodate the proposed development.

Design

The application is supported by a Design and Access Statement (and including a Building for Life assessment) setting out the applicants' proposals, and explaining the approach taken in terms of design. Having reviewed the proposals and the Design and Access Statement, the District Council's Urban Designer has raised concerns regarding the illustrative scheme (which differs from that proposed in respect of the earlier application), and supplementary information has been provided in order to seek to address these issues. Whilst this additional information has to some extent provided additional explanation as to the applicants' proposals (and includes illustrative sections showing the treatment of the SUDS and the proposed retaining wall indicated within the southern development parcel), concerns in particular remain regarding the approach to permeability which, by virtue of the scheme shown would, it is considered, be limited within the southern section. In officers' view, the illustrative scheme would benefit from provision of smaller perimeter blocks within this area of the site, thus providing for additional pedestrian routes across to the open space and northern parcel. For their part, the applicants advise that the illustrative scheme indicated is designed in this way due to the levels on the site, and the need for routes to be of limited gradient (and without steps) if they are to be adopted by the County Council. Whilst it is accepted that gradients are indeed likely to be a constraint in this respect, officers remain to be convinced that this necessarily precludes provision of a more permeable form of development, and regardless of whether the routes are intended to be adopted by the County Council or could in fact be managed in an alternative fashion. Other concerns raised include the appropriateness of the use of a substantial retaining wall as suggested, and the approach taken to identifying and defining the scheme's character.

Notwithstanding these concerns, however, it is accepted that the scheme is in outline only and, whilst officers do not, at this stage, accept that the design solution indicated on the illustrative layout is the most appropriate, there appears no overriding reason why the site cannot, in design terms, deliver an appropriate scheme. As such, it is accepted that the unresolved design-related concerns should not preclude the granting of outline planning permission.

Residential Amenity

In terms of amenity issues, the impacts of the proposed development need to be considered both in terms of the impacts on the future living conditions of residents of the proposed development, having regard to the site's location, as well as on existing residents arising from the proposed development. These are considered in turn below.

In terms of future residents' amenities, it is noted that the site is not located in close proximity to any existing incompatible land uses and, in principle, there appears no reason why the development would not be appropriate in this regard, and no objections are raised by the District Council's Environmental Protection team.

Insofar as the impacts on neighbouring occupiers arising from the proposed development are concerned, whilst an illustrative masterplan has been submitted, all matters are reserved for subsequent approval. Any reserved matters scheme would need to be appropriately devised at the edges of the site adjacent to other dwellings (primarily to the north western part of the site where the illustrative masterplan shows proposed dwellings in the vicinity of existing dwellings off Dennis Street) so as to ensure that occupiers of both existing and proposed dwellings were afforded an appropriate level of amenity but there is no reason to suggest that the eventual form of development proposed under the reserved matters would necessarily result in undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, acceptable in this regard.

In terms of potential impacts to occupiers of existing dwellings on Grange Road, on the basis of the submitted masterplan, these would appear likely to be insignificant. Whilst there would be likely to be some impacts on occupiers of dwellings directly adjacent to the proposed vehicular access (and including from vehicular movements and, for example, car headlights of vehicles emerging from the site), it is accepted that such impacts would not represent unacceptably adverse loss of amenity, and a refusal of planning permission on such an issue would be unlikely to be sustainable on appeal.

Ecology

The application is supported by an Ecological Appraisal of the site. This provides that the closest statutorily designated sites of nature conservation of importance to the application site are approximately 2km from the site (being the Bardon Hill Quarry and Bardon Hill Sites of Special Scientific Interest (SSSIs)); no adverse impacts are anticipated in terms of these sites. In terms of non-statutory designation, none are located within 1km of the application site, although the site itself includes a candidate Local Wildlife Site, and a number of other potential Local Wildlife Sites are within close proximity. In terms of the candidate Local Wildlife Site within the application site itself, it is proposed that this be retained within the proposals (i.e. as part of the development's green infrastructure, albeit without public access so as to maintain / enhance its ecological value), and suitably buffered and protected in order to minimise potential effects during and after construction. In terms of the other potential Local Wildlife Sites located in close proximity to the site boundary, again the Appraisal recommends that appropriate protection during construction would be required in order to minimise disturbance effects.

In terms of the biodiversity value of the site, this is generally considered to be low, largely comprising grazed species poor grassland. Features of ecological interest identified within the Appraisal include swamp, standing and running water, hedgerows, scrub, hedgerows and trees which, it confirms, would largely be retained within the proposals.

Insofar as protected species are concerned, the Appraisal identifies potential habitat / foraging areas for bats, great crested newt, badger, reptiles and birds within the site (although no direct evidence of badger was found on the site, and the great crested newt habitat is indicated as being limited to commuting habitat only). Having regard to the overall findings, and subject to various recommendations in respect of mitigation measures and additional future survey work, the Appraisal concludes that no adverse impacts on ecological interests would result.

Leicestershire County Council's Ecologist has been consulted on the proposals; whilst no comments had been received at the time of preparing this report, no objections were raised in respect of the earlier application subject to conditions securing the various mitigation measures and a management plan for the potential Local Wildlife Site; any comments subsequently

received will be reported on the Update Sheet. Reference to Natural England's standing advice appears to indicate that the proposals are acceptable subject to conditions.

The proposals are therefore considered to be acceptable in terms of their ecological impacts, subject to the imposition of suitably-worded conditions.

Heritage Issues

The application is supported by an archaeological Geophysical Survey Report. This concludes that, whilst there are various mining-related remains within the site, there would appear to be little else likely to be of archaeological interest; no representations have been received from the County Archaeologist.

In terms of other heritage issues, it is noted that there are no listed buildings or Conservation Areas within the immediate vicinity of the site, nor are there considered to be any non-designated heritage assets affected by the proposals.

Geo-Environmental Conditions

A geo-environmental site assessment has been submitted with the application which provides an assessment of the site's ground conditions, and indicates that there are no impediments to the site's development in terms of contamination or general ground conditions. It is noted that concern has been raised regarding potential subsidence within the site; the submitted geo-environmental assessment confirms that eight seams of coal have been worked underneath the site at depths of between 80 and 240 metres (having last been worked in 1983) and that ground movements from those workings should now have ceased. Whilst the geo-environmental site assessment confirms that ongoing settlement monitoring continues on the site, no specific mitigation in relation to potential subsidence is recommended, given the conclusions that, whilst settlement has taken place, this process now appears to be complete. The site is not within a Coal Authority referral area but is subject the Coal Authority's standing advice (and as set out in Informative 3 within the recommendation below). Insofar as contamination issues are concerned, the District Council's Environmental Protection team previously raised no objection to the application subject to conditions, and including in respect of further investigations and mitigation measures where required.

Other Matters

Developer Contributions

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

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

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

The relevant developer contributions (save for those already considered under Means of Access and Transportation) are listed below.

Affordable Housing

As per the applicants' previous application, and in response to the Cabinet report referred to above in respect of the prioritisation of transportation infrastructure over affordable housing, the applicants propose to make a minimum affordable housing contribution of 10% (i.e. up to 11 dwellings); the Local Planning Authority's current requirements for the Coalville area for a scheme of this scale would usually require a minimum contribution of 20%. In terms of tenure, the applicants advise that, at this stage, they are unable to confirm how this would be split between social rent, intermediate and affordable rent. They do however advise that the affordable housing would be tenure blind in terms of appearance and would be clustered throughout the site so as "to ensure a mixed and balanced community whilst enabling effective housing management by the Registered Provider."

Clearly an affordable housing contribution of 10% would fall below the minimum 20% 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, is considered an acceptable approach if this level of contribution is the highest that can be demonstrated as viable; if a higher contribution is subsequently found to be viable by the Local Planning Authority's independent assessors, then it is considered that this higher level should be secured. Having regard to the approach suggested in the District Council's *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.

In terms of the impacts of the reduced provision of affordable housing, this was assessed in more detail when the *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy was introduced. A significant housing need already exists within the District, and the recent Strategic Housing Market Assessment (SHMA) has indicated that the level of affordable housing provision within the district required to meet the identified need is 209 new affordable dwellings per annum between 2011 and 2036. In the years 2011/12, 2012/13 and 2013/14, the numbers of affordable houses built in the District were 57, 82 and 83 respectively and, therefore, even at current levels of provision, and notwithstanding a recent increase, the housing needs of many people within the District are not being met, and whilst securing a contribution in this instance would assist, the contribution proposed would be below that which would ordinarily be sought in this area. 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, a reduced affordable housing contribution would not assist in ensuring the development performs well in respect of the social dimension. On balance, however, whilst the contribution proposed would be substandard vis-à-vis the current affordable housing standards set out in the District

Council's SPD, on the assumption that the applicants were able to demonstrate that no contribution could be provided from a viability point of view, it is considered that the reduced quantum of affordable housing would not be unacceptable in this case, and particularly when balanced against all other viability considerations and other aspects of sustainable development.

Children's Play and Public Open Space

The illustrative masterplan shows a significant extent of the site given over to landscaping, retained and proposed tree / hedgerow planting and other open space, with the open space including an on-site equipped children's play area. In terms of the extent of the equipped parts of the play area, on the basis of the illustrative details, this would be in the order of 420 square metres. Under the Local Planning Authority's Play Area Design Guidance SPG, children's play areas should be provided at a rate of 20 square metres per dwelling. Therefore, for a development of 105 dwellings, an area for children's play of 2,100 square metres would normally be required. Whilst this represents a shortfall in this regard, the extent of the "play area" in its general terms (which is the figure to which the SPG relates) is normally calculated in its wider sense and, when taking into account the other landscaped open space in the immediate vicinity of the equipped play area (and as discussed under Landscape and Visual Impact above), the minimum requirements of the SPG would be comfortably met. Overall, the illustrative material indicates that 3.73ha (i.e. 51%) of the 7.3ha site would be given over to residential use, the remainder being given over to public open space, the candidate Local Wildlife Site, strategic landscaping and SUDs measures, a pumping station, and land within the public highway to the site frontage.

In terms of the range of equipment necessary, for developments of this number of dwellings, Local Plan Policy L22 and the District Council's SPG requires that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity, as well as a "kickabout" area. In addition, formal recreation open space (e.g. sports pitches) should also be provided for. Whilst on-site "kickabout" and recreational open space provision is not proposed, the applicants have advised that they would be agreeable to making a financial contribution to the nearby Millfield Recreation Ground subject to appropriate justification.

National Forest planting

The applicants' proposals show the provision of on-site National Forest planting as part of their wider landscaping and public open space proposals and the illustrative proposals meet the National Forest woodland planting and open space standards of 20% of the site area. The proposals are therefore considered appropriate in this regard, particularly when considered in the context of the conclusions reached under Children's Play and Public Open Space above.

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 Hugglescote Community Primary School. The School has a number on roll of 424 and 487 pupils are projected on the roll should this development proceed; a deficit of 63 places (of which 37 are existing and 26 would be created by this development).

The County Council also refers to four other primary schools within a two mile walking distance of the development, namely Belvoirdale Community Primary School, Ellistown Community Primary School, Broom Leys School and All Saints Church of England Primary School. Ellistown Community Primary School and Broom Leys School have surpluses of 28 and 62 places respectively; Belvoirdale Community Primary School and All Saints Church of England Primary School have deficits of 35 and 130 places respectively. Having regard to these other schools, the overall deficit including all schools within a two mile walking distance of the development is 138 places. The 26 deficit places created by this development could not therefore be accommodated at nearby schools and a claim for an education contribution in respect of 26 school places in the primary sector (equating to £304,895.05) is made. The County Council also comments that, as there are plans for a new primary school in this area, this contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing facilities at the primary school that the children from the development would be expected to attend.

High School Requirements:

The site falls within the catchment areas of Newbridge High School. The School has a net capacity of 590 and 623 pupils are projected on roll should this development proceed; a deficit of 33 places (of which 22 are existing and 11 would be created by this development). The County Council also refers to two other high schools within a three mile walking distance of the development (namely Ibstock Community College and Castle Rock High School) into account; Ibstock Community College has a deficit of 15 places and Castle Rock High School has a surplus of 41 places. When taking all three schools into account, the overall deficit would be 7 places, and a contribution of £116,195.11 is therefore sought in respect of this sector.

Upper School Requirements:

The site falls within the catchment area of King Edward VII Science & Sports College. The College has a net capacity of 1193 and 1066 pupils are projected on roll should this development proceed; a surplus of 127 places after taking into account the 11 pupils generated by this development, and no contribution in respect of the Upper School sector is therefore requested.

The applicants are agreeable to making the education contributions requested, subject to review mechanisms in the event that the number of dwellings be reduced at the reserved matters stage or a lowering of the County Council's cost per place figures.

Civic Amenity

A contribution of £6,865 is proposed to be made by the developer for Civic Amenity facilities in accordance with the requirements of Leicestershire County Council.

Library Services

A contribution of £5,710 is proposed to be made by the developer for library services in accordance with the requirements of Leicestershire County Council.

Healthcare

NHS England requests a developer contribution of £18,119.21 in respect of healthcare as set out in the consultation response above. This request has been supported by detailed

information setting out the projected impacts on capacity arising from the proposed development (with the principal impacts being on other surgeries rather than the nearby Hugglescote surgery) together with commensurate costs of mitigation. It is considered that this request would meet the relevant CIL and NPPF tests, and the applicants have confirmed that are agreeable to making the contribution sought.

Contributions sought by Leicestershire Police

Leicestershire Police requests a developer contribution of £41,911 in respect of policing as set out in the consultation response above. The contribution sought comprises:

| | |
|--------------------------------|---------|
| Start up equipment / training | £4,409 |
| Vehicles | £2,667 |
| Additional radio call capacity | £268 |
| Police National Database | £136 |
| Additional call handling | £234 |
| ANPR | £2,055 |
| Mobile CCTV | £500 |
| Additional premises | £31,432 |
| Hub equipment | £210 |

The policing contributions listed above remain under consideration as to whether they meet the tests pursuant to CIL Regulation 122.

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 the NPPF and the CIL Regulations.

Conclusions

As set out in the main report above, whilst the site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, and constitutes greenfield land, its release for housing is considered suitable in principle, particularly having regard to the need to release sites in order to meet the District Council's obligations in respect of maintaining a five year housing land supply (and the approach taken in respect of such within the NPPF). Whilst the site is located outside of Limits to Development as defined in the adopted Local Plan, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, benefit from a presumption in favour of such development as set out in that document. The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. Whilst the proposed development would, for viability reasons, be unlikely to be able to support the full range of infrastructure requirements necessary to accommodate the development (and, in particular, the necessary improvements to local transportation infrastructure), the applicants are proposing to address this by way of making a reduced contribution to affordable housing, 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, thus ensuring that appropriate infrastructure contributions are made. Whilst this would result in a reduced affordable housing contribution, an appropriate contribution would nevertheless be made, when having regard to the approach taken in the District Council's

financial contributions priorities policy. It is therefore recommended that outline planning permission be granted.

RECOMMENDATION- PERMIT, subject to Section 106 Obligations, and subject to the following conditions:

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

Reason - This permission is in outline only.

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access (save for the details of vehicular access into the site from Grange Road), appearance, landscaping, layout, and scale shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

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

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

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended), and to accord with the requirements of the Local Planning Authority's emerging policy relating to developer contributions.

- 4 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
 - Site location plan (CSa/1940/108 Rev B) deposited with the Local Planning Authority on 24 April 2014
 - Proposed site vehicular access (063) deposited with the Local Planning Authority on 16 July 2014 or proposed site vehicular access (059 Rev B) deposited with the Local Planning Authority on 24 April 2014

Reason - To determine the scope of this permission, and for the avoidance of doubt.

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

Reason - To ensure that the development of the site takes place in a consistent and comprehensive manner.

6 A total of no more than 105 dwellings shall be erected.

Reason - To define the scope of this permission.

7 The development permitted by this planning permission shall not be carried out other than in strict accordance with the approved Flood Risk Assessment (FRA) dated 17 April 2014, ref. R-FRA-R6554PP-01 Rev A undertaken by JPP Consulting and the following mitigation measures detailed within the FRA:

- No built development within the 100 and 1,000 year flood plain outlines (Flood Zones 2 and 3);
- Provision of watercourse crossings in accordance with current best practice guidance; and
- Limiting the discharge rate for surface water run-off and provision of surface water attenuation storage on the site, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

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

Reason - To prevent the increased risk of flooding, to improve and protect water quality, to improve habitat and amenity, and to ensure future maintenance of the watercourse.

8 No development shall commence on the site until such time as a surface water drainage scheme for the site (or, in the case of phased development, for the relevant phase of the site), based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and timetable. The scheme shall include:

- 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;
- Limiting the surface water run-off generated by the all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
- Provision of surface water attenuation storage on the site to accommodate the difference between the allowable discharge rate and all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm;
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
- Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

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

occupants.

- 9 The development hereby permitted shall not be commenced until such time as a scheme to detail each individual watercourse crossing (including pedestrian footbridge and vehicular crossings) and demonstrating that any associated raising of ground levels or bridge soffit levels will not result in elevated flood levels or loss of flood plain storage, has been submitted to and agreed in writing by the Local Planning Authority, in consultation with the Environment Agency and Lead Local Flood Authority (LLFA). The scheme shall include, but not be exclusive of:
- Limiting the number of crossings of the Hugglescote Brook, and removal or upgrade of the existing footpath crossing located downstream of survey section 18;
 - Crossings to be provided as clear span bridges or arches above reinstated natural bank and bed in preference to any (box) culverting, including the upgrading of existing crossings, where upgrading is required or proposed;
 - Crossing soffits set a minimum of 600mm above the modelled 100 year plus 20% (for climate change) flood level applicable at the crossing site;
 - Crossing abutments set back beyond the top of the natural bank of the watercourse;
 - Where necessary, culverts designed in accordance with CIRIA C689 (including up sizing to provide a free water surface and natural bed), and to have a minimum width / length of culvert essential for access purposes;
 - Provision of compensatory flood storage for all ground levels raised within the 100 year flood plain applicable at any crossing sites, including proposed location, volume (calculated in 200mm slices from the flood level) and detailed design (plans, cross and long sections) of the compensation proposals;
 - Compensatory flood storage provided before (or, as a minimum, at the ground works phase) of the vehicle bridge and any other crossing construction;
 - Detailed designs (plans, cross and long sections, and calculations) in support of any crossing;
 - Details of how the scheme shall be maintained and managed after completion;
 - Modelling - re-run with the detailed design of watercourse crossings; and
 - A timetable for the relevant works.

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 in consultation with the Environment Agency and LLFA.

Reason - To avoid adverse impact on flood storage, to reduce the risk of flooding to the proposed development and future occupants, to reduce the risk of flooding to adjacent land and properties, to improve and protect water quality, to improve habitat and amenity, and to ensure future maintenance of the surface water drainage system.

- 10 No development shall commence on the site until such time as a construction working method statement to cover all watercourse works (including pedestrian and vehicular crossings) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme (or any amended method statement subsequently submitted to and agreed in writing by the Local Planning Authority).

Reason - To protect local watercourses from the risk of pollution.

- 11 No development shall commence on the site (or, in the case of phased development,

within the relevant phase of the site) until such time as a scheme of foul drainage for the site / phase, and including a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and timetable. The submitted scheme shall demonstrate that any additional flows discharging into the foul sewerage drainage network will not cause deterioration in the operation of any combined sewer overflows either upstream or downstream on the network and that there will not be an increase in spill frequency or volume from any CSOs affected by the increase in volume within the sewerage network.

Reason - To ensure that the development is provided with a satisfactory means of drainage, and an increase in spill frequency or volume would result in the discharge of raw sewage to the River Sence thereby risking deterioration of the water body and failure to meet Water Framework Directive standards.

- 12 Notwithstanding the submitted details, no development shall commence on the site until such time as a plan of the trial pit and window sample locations to which the investigations set out in the submitted geoenvironmental site assessment relate has been submitted to and agreed in writing by the Local Planning Authority.

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

- 13 No development shall commence on the site until such time as a Risk Based Land Contamination Assessment report on the further works outlined in section 9.1.1 of RSK report Project No. 301011-1(00) Grange Road, Hugglescote dated May 2012 has been submitted to and agreed in writing by the Local Planning Authority. The assessment shall be carried out in accordance with:

- BS10175:2011+A1:2013 Investigation of Potentially Contaminated Sites Code of Practice;
- BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);
- BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004)

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan shall be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004); the Verification Plan shall be prepared in accordance with the requirements of:

- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1 (Environment Agency 2010); and
- CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004)

If, during the course of development, previously unidentified contamination is discovered, development shall cease on that part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. No work shall recommence on that part of the site until such time as a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to

the Remedial Scheme and Verification Plan) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

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

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

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

- 15 No development shall commence on the site until such time as precise details of proposed mitigation and / or management measures (and including a timetable for their implementation) as set out in sections 4.1 to 5.9 (inclusive) of the Ecological Appraisal (Rev A dated 22.04.14 prepared by FPCR) and as set out in sections 4.1 to 5.1 (inclusive) and sections 5.1 to 5.6 (inclusive) of Appendices D and E respectively of the Appraisal have been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative measures are first agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in strict accordance with the agreed measures and timetable.

Reason - In the interests of nature conservation.

- 16 No development shall commence on the site until such time as a conservation management plan for the candidate Local Wildlife Site (and including a timetable for its implementation) has been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out and occupied in accordance with the agreed management plan and timetable.

Reason - In the interests of nature conservation.

- 17 All reserved matters applications for the erection of dwellings shall include full details of the proposed dwellings' anticipated level of achievement in respect of criteria / sub-

categories contained within the Code for Sustainable Homes. Unless any alternative timescale is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as evidence to demonstrate compliance with the relevant criteria has been submitted to and agreed in writing by the Local Planning Authority.

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

- 18 None of the dwellings hereby permitted shall be occupied until such time as the Grange Road site access junction and all associated works within the public highway as shown on either drawing no. 063 or drawing no. 059 Rev B have been provided in full and are 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.

- 19 No development shall commence on the site until such time as a construction vehicle management plan, including wheel cleansing facilities and construction vehicle parking facilities, and a timetable for their provision, has been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative management plan has first been submitted to and agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in accordance with the 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 associated with the development does not lead to on-street parking problems in the area.

- 20 No development shall commence on the site until such time as a scheme of works to the Bardon Hill level crossing has been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative timescale is first agreed in writing by the Local Planning Authority, no part of the development shall be occupied until such time as the agreed works have been carried out in full in accordance with the agreed scheme of works.

Reason - In the interests of railway safety.

- 21 Notwithstanding the submitted Travel Plan, no development shall commence on the site until such time as a scheme of measures designed to reduce the amount of single occupancy car journeys to/from the site (and including a timetable for their implementation) has been submitted to and agreed in writing by the Local Planning Authority. The measures shall be implemented in accordance with the agreed scheme and timetable.

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

- 22 No site works of any description in respect of the formation of the vehicular access to Grange Road shall take place on the site at any time unless the existing trees shown as retained on drawing no. 5104-A-04 Rev C deposited with the Local Planning Authority on 1 July 2014 are securely fenced off in accordance with measures for their protection as

detailed within the submitted Arboricultural Assessment dated April 2014. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand, unless any alteration is first agreed in writing by the Local Planning Authority.

Reason - To ensure that existing trees are adequately protected during construction in the interests of the visual amenities of the area.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through early engagement with the applicant both at the pre-application stage and during the application determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 The 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
- 3 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

- 4 Your attention is drawn to the attached report of the Environment Agency.
- 5 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highway matters.
- 6 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer. The applicants are advised to have regard to the issues raised when preparing any reserved matters scheme.
- 7 Your attention is drawn to the attached report of North West Leicestershire District Council's Cultural Services Officer regarding Rights of Way.
- 8 Your attention is drawn to the attached report of the National Forest Company.
- 9 Your attention is drawn to the attached report of Network Rail.
- 10 The applicants' attention is drawn to the presence of protected and unprotected trees within the site, and any applications for the relevant reserved matters should have regard to the need to minimise loss of trees in this National Forest setting, as well as be supported by an appropriate arboricultural report and impact assessment. Notwithstanding the details shown on the submitted illustrative masterplan, the details submitted at the reserved matters stage(s) should have regard to the presence of existing trees and, in particular, those subject to Tree Preservation Orders.
- 11 The applicants are advised that, at the reserved matters stage, the Local Planning Authority will expect the detailed scheme to be accompanied by a Building for Life 12 assessment, and that the scheme should be capable of achieving 12 "Greens" under Building for Life 12, and may be subject to independent design review (e.g. by OPUN or an equivalent body). In particular, the applicants are advised of concerns regarding the submitted illustrative scheme, and including the lack of connectivity which would be likely to generate a "red" indicator under the relevant criterion. against any future Building for Life 12 assessment of the scheme. The applicants are also advised that, insofar as the illustrative retaining wall is concerned, in order to ensure a suitable design solution and to address issues of overlooking between properties, the applicants are advised to ensure that any scheme including such a feature should provide for gardens of suitable depth to allow for a band of trees to be planted so as to safeguard future residents' privacy.

Whilst the outline planning permission relates to a development of up to 105 dwellings, the applicants are advised that any application for reserved matters will be required to demonstrate that the level of development proposed as part of those proposals can be accommodated in an appropriate fashion without unduly compromising design quality.

12 This decision is in accordance with the resolution of the Planning Committee of 2 September 2014 and is subject to a Section 106 Obligation.

Likely to contain exempt information under paragraph(s) 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

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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

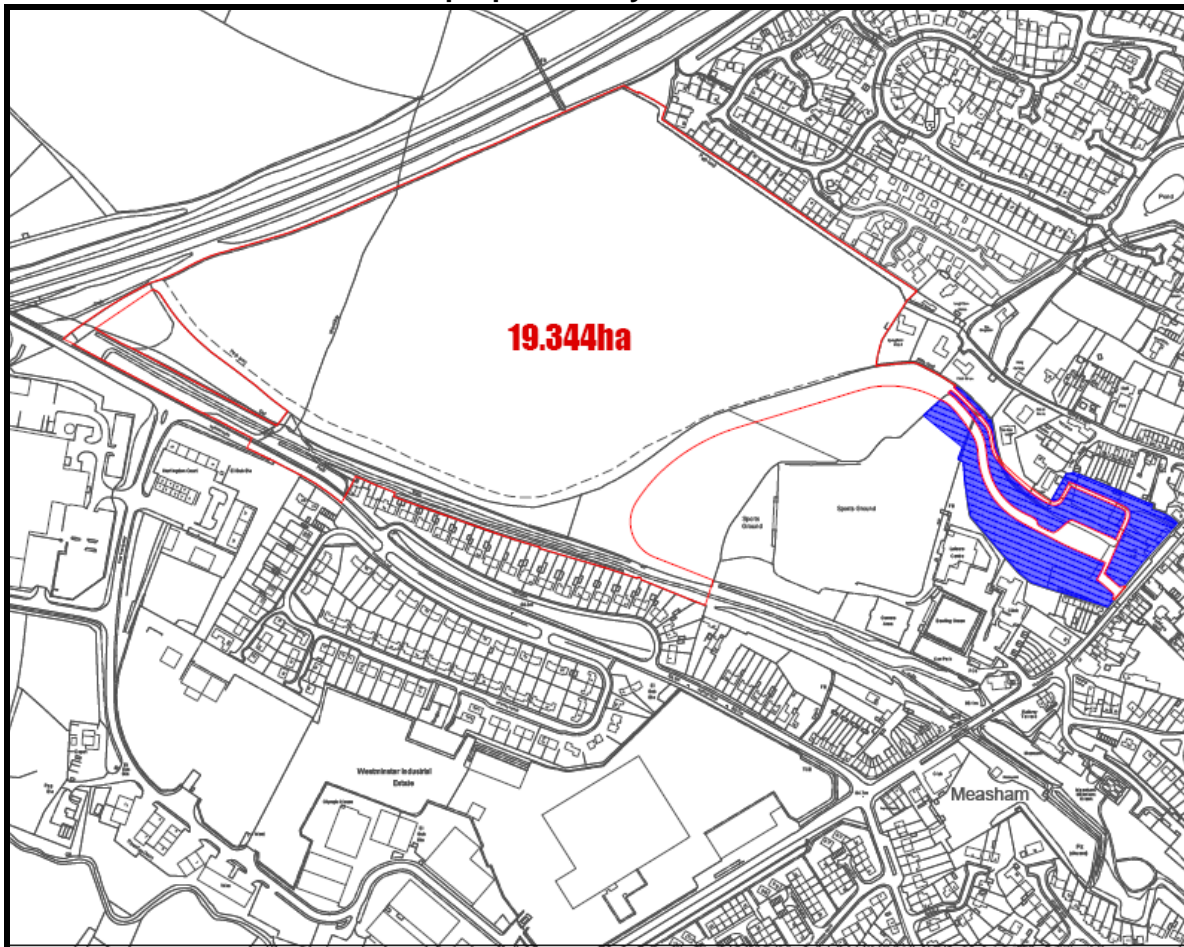
Date Registered
25 February 2013

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

Members will recall that this application was deferred at the 5 August 2014 Planning Committee meeting due to a point of order concern raised by Councillor Neilson in relation to Council Procedure Rule 15.2. Specifically, concern was raised with regard to the consideration of a motion in similar terms to one which has been rejected at a Council meeting within the past six months, without notice being given and without agreement of one third of the Members of the Committee to reconsider the item.

Advice from the Council's Legal Advisor has been sought, as requested by Members, and concludes that, taking into account all the relevant documents, the motion before Members on 5 August 2014 was not similar to the three previous recommendations of June, consequently the motion put before the Committee was not similar to the motion that had been put before the Committee in June. As such, there was no reason why the application should not have been brought back to Committee in August. Whilst the June 2014 Planning Committee resolved to refuse the application, a decision notice had not been issued so the application was, and still is, a live application.

The development proposal itself is unchanged from the previous report to Planning Committee at its meetings of 1 October 2013, 10 June 2014, and 5 August 2014. It is aspects of the S.106 legal agreement which have changed over time and which have been set out and reported to Planning Committee at these various meetings.

The agent put forward two S106 proposal options which would 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.

This situation was set out in the report to August 2014 Planning Committee. Since that time the County Council Developer Contributions team has updated its education contribution and this has increased by £265,419.10 to a total request of £2,361,609.42. 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. This report amends the August 2014 Committee report to reflect the County Education request change.

Consultations

No further consultations, other than with the County Council Developer Contribution team, 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 outline application, which would protect the route of the Ashby Canal allowing for its future construction, would include the provision of a new access off Burton Road with roundabout and canal bridge, public open space and National Forest planting, and would also provide for the remediation of the sections of the former canal route which were filled with landfill at some point. The scheme is recommended for approval subject to a S106 to include financial contributions towards health, education, libraries, highways, Police, leisure and management of the River Mease, with the provision of on site affordable housing to be dealt with through an option to review clause.

RECOMMENDATION:- THAT PLANNING PERMISSION FOR A PARTIALLY POLICY COMPLIANT SCHEME BE APPROVED SUBJECT TO CONDITIONS SET OUT AS PER THE OCTOBER 2013 COMMITTEE REPORT AND UPDATE SHEET AND, to include FULL CIL compliant contributions for health, education, libraries, highways, Police, leisure and management of the River Mease, and for provision of the on site affordable housing to be dealt with through 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 this application was deferred at the 5 August 2014 Planning Committee meeting due to a point of order concern raised by Councillor Neilson in relation to Council Procedure Rule 15.2. Specifically, concern was raised with regard to the consideration of a motion in similar terms to one which has been rejected at a Council meeting within the past six months, without notice being given and without agreement of one third of the Members of the Committee to reconsider the item.

Advice from the Council's Legal Advisor has been sought, as requested by Members, and concludes that, taking into account all the relevant documents, the motion before Members on 5 August 2014 was not similar to the three previous recommendations of June, consequently the motion put before the Committee was not similar to the motion that had been put before the Committee in June. As such, there was no reason why the application should not have been brought back to Committee in August. Whilst the June 2014 Planning Committee resolved to refuse the application, a decision notice had not been issued so the application was, and still is, a live application.

The development proposal itself is unchanged from the previous report to Planning Committee at its meetings of 1 October 2013, 10 June 2014, and 5 August 2014. It is aspects of the S.106 legal agreement which have changed over time and which have been set out and reported to Planning Committee at these various meetings.

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.

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 was submitted for consideration which is much more policy compliant than the previous options put forward for consideration.

The agent put forward two S106 proposal options which would 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 S106 proposals 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.

This situation was set out in the report to August 2014 Planning Committee. Since that time the County Council Developer Contributions team has updated its education contribution and this has increased by £265,419.10 to a total request of £2,361,609.42. 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. This report amends the August 2014 Committee report to reflect the County Education request change.

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 County Council Developer Contribution team, 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

It is noted that the District Valuer confirmed in May that due to changes in Quarterly costs and additional information submitted by the agent a policy compliant scheme at the site is not viable. However, the District Valuer indicated that a partially compliant scheme would be viable and suggests that sensitivity testing be undertaken to establish the viable position.

The County Council Developer Contribution team advise that the updated education financial contribution request would be £2,361,609.42.

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 to October 2013 Planning Committee 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 development 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 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 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 and these were set out in the August 2014 Committee Report.

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

From these totals it was evident that there would also be some opportunity for affordable housing, and the applicant and agent submitted the options in relation to providing a partially compliant affordable housing element as part of a legal agreement. The applicant and agent also confirmed they were agreeable to an option to review clause as part of a S106 in relation to the affordable housing element so that it could 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, the previously proposed options depending on which option for full compliance as set out above would have been chosen, were as follows:

- Option 1: The first County Council Education requirement was for a lower amount so the level of remaining contribution towards affordable housing would be £1,015,361.50. This would have delivered 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 have resulted in a remaining contribution of £225,864.20 towards affordable housing. This would have delivered approximately 8 units and represent a provision of 1.78%.

However, since the deferral of the item at the August 2014 Planning Committee, the County Council Developer Contribution team have provided the District Council with an updated education request which increases the contribution sought by more that £265,000. As such, a total education request of £2,361,609.42 is now sought with £829,024.17 for the Primary School Sector, £756,161.99 for the High School Sector and £776,423.27 for the Upper School Sector. This would mean that there would be no available contribution at this stage for affordable housing, and this matter would need to be dealt with through an option to review clause within the legal agreement should the application be approved.

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.

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 scheme proposes to address 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 and National Forest planting.

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 through inclusion of 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 all of which would be dealt with via condition, and the S106 would include the following:

- FULL CIL compliant contributions towards highways (additional to the access, roundabout and bridge costs), Police, education (updated increased amount), libraries, leisure, health and River Mease; and,
- No contribution towards onsite affordable housing at this stage due to the increase in the education request, BUT would include an option to review clause which would have trigger points for further viability assessments to be undertaken.

RECOMMENDATION:- THAT PLANNING PERMISSION FOR A PARTIALLY POLICY COMPLIANT SCHEME BE APPROVED SUBJECT TO CONDITIONS SET OUT AS PER THE OCTOBER COMMITTEE REPORT AND UPDATE SHEET AND, to include FULL CIL compliant provision of health, education, libraries, highways, Police, leisure and management of the River Mease contributions, and with on site affordable housing to be addressed through an option to review clause.

MAIN REPORT- AUGUST 2014 COMMITTEE UPDATE

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 |
|--------------|---------------|---------------|
| Highways | £120,695.50 | £120,695.50 |
| Police | £152,480.00 | £152,480.00 |
| Education | £1,306,693.00 | £2,096,190.30 |
| Libraries | £26,870.00 | £26,870.00 |
| Leisure | £499,000.00 | £499,000.00 |
| NHS PCT | £179,000.00 | £179,000.00 |
| River Mease | £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

Original Report October 2013

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

217 no neighbours have been notified. (Date of last notification 13 March 2013)

Site Notice displayed 6 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
Natural England consulted 17 June 2013
County Planning Authority consulted 17 June 2013
English Heritage- Ancient Monument consulted 28 March 2013
Natural England consulted 1 October 2013
LCC Development Contributions consulted
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 110 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 Sedgfield 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 carriage way 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 12 dwellings (Outline access and layout included for determination)

Report Item No
A3

3 Top Street Appleby Magna Swadlincote Derby

Application Reference
14/00251/OUTM

Applicant:
Mr & Mrs P Kavanagh

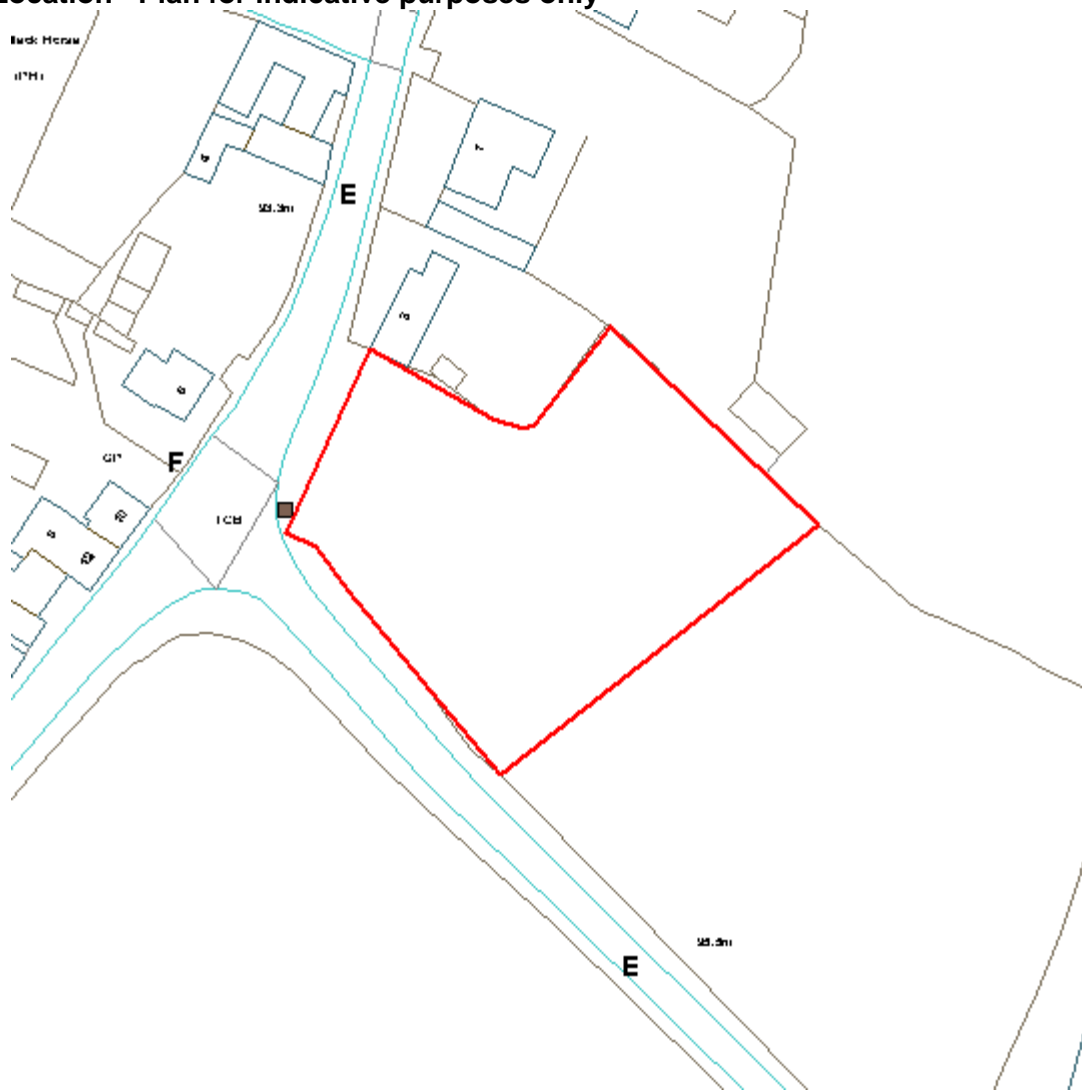
Date Registered
24 March 2014

Case Officer:
Jenny Davies

Target Decision Date
23 June 2014

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Proposal

Outline planning permission (with access and layout included for determination) is sought for the erection of 12 dwellings with associated access, driveways and parking at land at 3 Top Street, Appleby Magna. The site lies on the south eastern side of Top Street and is currently occupied by outbuildings at its western end with the central and eastern parts comprising a grassed paddock. The site is adjoined by residential properties, open fields and the Jubilee Business Park. Two dwellings would be sited in place of the existing outbuildings located to the front of the site. The remaining 10 dwellings would be sited on the paddock. Access to the site would be via the existing site entrance onto Top Street.

Consultations

Members will see from the main report below that six letters of objection from members of the public have been received, along with one objection from Appleby Environment. The objections largely relate to cumulative impact of new dwellings, highway safety, impact on the historic environment and character of the area and impact on residential amenities. Appleby Magna Parish Council also objects to the application. The County Archaeologist recommends refusal on the basis that trial trenching has not been undertaken to establish the significance of any buried archaeological remains within the site. There are no objections from any other statutory consultees.

Planning Policy

The application site lies partly within and partly outside 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

As set out in the main report above, the site lies mostly outside the Limits to Development in the adopted Local Plan and constitutes greenfield land. Policies S3 and H4/1 which restrain the supply of housing are now considered to be up-to-date given the Council can demonstrate a five-year supply of deliverable housing land. The proposal would increase the level of housing within the village above the District-wide levels suggested under the former Core Strategy and the SHMA. However the increase above these levels would not be significant and given the scale of the development, that the site is well located in relation to the settlement and its proximity to local services and facilities, whilst it would be contrary to Policy S3 of the Local Plan in this case it is considered that a reason for refusal on this basis could not be justified in this case.

The proposed development would be acceptable in terms of density, layout and design, impact on trees, residential amenities, transportation and highway safety issues, flood risk and drainage, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services.

However the proposal would have a harmful impact on the significance of designated heritage assets and insufficient information has been submitted to ensure that the development would not harm archaeological remains and there are no material considerations that would outweigh this harm.

The proposed development would, overall, not be considered to constitute sustainable development as defined in the NPPF. It is therefore recommended that planning permission is

refused on the grounds of impact on the historic environment and archaeology.

RECOMMENDATION: THAT PLANNING PERMISSION BE REFUSED

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies 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 falls to be determined by the Planning Committee given that there have recently been a number of other applications for major residential development within Appleby Magna which were also considered by Planning Committee.

Outline planning permission (with access and layout included for determination) is sought for the erection of 12 dwellings with associated access, driveways and parking at land at 3 Top Street, Appleby Magna. The site lies on the south eastern side of Top Street and is currently occupied by outbuildings at its western end with the central and eastern parts comprising a grassed field. The site is adjoined by residential properties, open fields and Jubilee Business Park. Land levels increase approximately by approximately four metres from north west to south east but remain fairly level from north to south. The western end of the site gradually increases in height above the adjacent roads whereas at its eastern end it is 2-2.5 metres higher than the Snarestone Road.

The land to the south of No. 3 is currently occupied by a row of outbuildings and one detached outbuilding which were presumably formerly in agricultural use associated with No. 3 but which have now fallen into disrepair. The outbuildings largely date from the 19th century with some modern alterations/additions. It is proposed to demolish all of the outbuildings to make way for a pair of semi-detached dwellings. A similar pair of semi-detached dwellings (both with three bedrooms) benefit from planning permission under ref. no. 13/00256/FUL) and Conservation Area Consent for demolition of the outbuildings (13/00257/CON) was approved in July 2013.

The remaining 10 dwellings (which are a mix of detached and semi-detached dwellings) would be located on the paddock on the central/eastern part of the site, and comprise 2 x two bed dwellings, 3 x three bed dwellings and 3 x four bed dwellings. Three affordable dwellings are proposed. Two detached double garages are also proposed to serve Plots 1, 2, 11 and 12. Two landscaped/public access areas are shown to be located to the west of Plot 3 and Plot 12.

Access to the site would be via the existing site entrance onto Top Street (which would be altered in terms of its width and alignment) with an access drive extending through the site. The hedgerows and trees located on the site's boundaries are shown to be retained with two trees located on the western part of the site shown to be removed.

The site lies within the Appleby Magna Conservation Area and No. 1 Top Street, the K6 red telephone kiosk that lies on the verge to the front of the site, the Black Horse public house and Nos. 8, 12, 14 and 16 Top Street are all Grade 2 listed buildings. No. 3 Top Street and its outbuildings are identified as unlisted buildings of interest in the Appleby Magna Conservation Appraisal. The site also lies within the catchment area of the River Mease Special Area of Conservation. The trees on the site are protected by virtue of being within a Conservation Area. Public footpath/bridleway Q25 runs adjacent to the site's eastern boundary.

Planning History:

- demolition of outbuildings, erection of a single storey side and two storey /single storey rear extensions and detached double garage/store, erection of a stable block and erection of a pair of semi-detached dwellings and a four bay car port and keeping of horses (13/00256/FUL) approved approved July 2013;
- demolition of outbuildings (Conservation Area Consent) (13/00257/CON) approved July 2013;

- erection of one dwelling (outline) (89/0123) approved March 1989. There is no record of a reserved matters application being submitted.

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraph 10(b) of Schedule 2 to the Regulations it has been concluded that this proposal does not constitute EIA development under the 2011 Regulations as its impacts, both on its own and cumulatively with other developments in Appleby Magna, are considered to not be significant and can be considered as part of the planning application.

2. Publicity

34 no. Neighbours have been notified (Date of last notification 7 April 2014)

Site Notice displayed 16 April 2014

Press Notice published 9 April 2014

3. Consultations

Appleby Magna Parish Council consulted 26 March 2014

LCC ecology consulted 23 June 2014

Development Plans consulted 4 April 2014

County Highway Authority consulted 23 May 2014

County Archaeologist consulted

Severn Trent Water Limited consulted 26 March 2014

Head of Environmental Protection consulted 26 March 2014

NWLDC Tree Officer consulted 26 March 2014

County Archaeologist consulted 26 March 2014

LCC ecology consulted 26 March 2014

NWLDC Conservation Officer consulted 26 March 2014

English Heritage- Grade I/II* LB Works consulted 26 March 2014

LCC Development Contributions consulted 26 March 2014

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 26 March 2014

Head Of Leisure And Culture consulted 26 March 2014

Manager Of Housing North West Leicestershire District Council consulted 26 March 2014

Police Architectural Liaison Officer consulted 26 March 2014

DEFRA consulted 26 March 2014

4. Summary of Representations Received

Statutory Consultees

Appleby Magna Parish Council advises that all previous comments relating to Appleby Magna planning applications stand, that surface water from this site would run straight down Black Horse Hill, which already has major surface water problems and this is in a conservation area. However this site, if three houses were built on it, would be the most acceptable of the applications. This site is also the least intrusive of the proposed developments for the village. The comments made by the Parish Council on previous applications are attached as an appendix to this report.

The County Highway Authority recommends refusal on the following grounds:

'The Applicant has failed to demonstrate that their proposal will be in a location where services are readily and safely accessible by walking, cycling and public transport. Leicestershire County

Council policy contained in the Local Transport Plan 3 seeks to deliver new development in areas where travel distances can be minimised, and genuine, safe and high quality choices are available (or can be provided) for people to walk, cycle and use public transport facilities and services nearby. The LTP3 reflects Government guidance contained in the NPPF.'

The County Archaeologist initially requested the submission of an archaeological desk-based assessment. Following submission of this assessment the County Archaeologist recommended that an evaluation of the site by trial trenching is required. Trial trenching has not been undertaken and the County Archaeologist has therefore advised that a reason for refusal relating to this matter should be included.

English Heritage advises that in line with the NPPF it considers the proposed residential development harmful to significance, which is deemed less than substantial. It recommends the authority determines this application in accordance with relevant policy guidance contained within the NPPF including paragraphs 131, 132, 134 and 137 and with reference to the Authority's specialist archaeological and conservation advice.

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 surveys for bats and badgers and a Phase 1 Habitat Survey needed to be undertaken and raised concerns about impacts on hedgerows. Following submission of further information the County Ecologist is satisfied with the bat, badger and Phase 1 surveys and following a site visit has withdrawn her objection in relation to impact on the hedgerow.

The Council's Tree Officer make comments in relation to impact on hedgerows.

The Environmental Protection team initially requested additional information relating to noise impact from the adjacent industrial site. Following the submission of further information the Environmental Protection team is satisfied that noise impact has been considered.

The Affordable Housing Enabling Officer initially advised that whilst four affordable homes should be provided on site to be policy compliant provision of three affordable homes is sought in this case.

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 requests a contribution of £370 towards library services.

Leicestershire County Council Local Education Authority has requested a contribution of

£79,322.74 towards accommodating capacity issues at nearby schools resulting from the development.

No responses received from DEFRA, Leicestershire Police, NHS England 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:

- huge increase in number of dwellings in the village and cumulative impact cannot be ignored;
- development that the village might be able to support has been exceeded;
- further development would not be sustainable as it would impact on the character and infrastructure of the village;
- concerns have previously been raised by the County Highway Authority in relation to the poor local transport infrastructure;
- lack of a sustainable transport network in the village;
- the Sir John Moore Primary School is over-subscribed and cannot absorb more pupils;
- proposal does not fit with the Appleby Plan;
- Village Design Statement must be taken into account;
- single storey properties were not viable under the original application but are now included in the current proposal;
- concerns regarding scale and height as dwellings would be in an elevated position;
- loss of light;
- loss of privacy;
- unwelcome expansion into the rural fringe of the village;
- loss of open fields around the village;
- impact on the character of the village;
- destruction of rural setting of prominent site at entrance to the village;
- loss of separation with farmhouse further along Snarestone Lane and impact on character of this road;
- detrimental to setting of nearby listed buildings on Top Street and adverse impact on the Conservation Area due to loss of existing outbuildings, which are unlisted buildings of interest;
- as these buildings contribute to the special character of the Conservation Area then the Council's primary obligation should be to protect them;
- the NPPF states that evidence of deliberate neglect or damage to a heritage asset should not be taken into account in any decision;
- other old farm buildings in the village have been renovated and it is inconsistent and unjust to not expect an owner of a property in a Conservation Area to do something similar;
- access would be sited close to an unsafe junction and a bus stop and will result in dangers for people coming onto Top Street including horse riders;
- safety from using the shared drive to No. 6 Top Street would be affected;
- additional traffic using Top Street;
- concerns have previously been raised by residents in relation to inadequate access into the village via single track roads, bottlenecks and additional traffic generated by the 68 dwellings already approved;
- flooding and sewerage issues on Black Horse Hill;
- problems with connecting 12 more houses to a sewerage system which has a pumping station with capacity issues;
- proximity to proposed HS2 line would result in significant risk in being able to sell the houses;
- village has already felt detrimental impact and noise levels from construction and use of the M42.

One letter of representation has been received from Appleby Environment, which is a formally

constituted community group. The letter also refers to previous letters submitted by Appleby Environment in respect of other applications in the village. The comments made by Appleby Environment on this and previous applications are attached as an appendix to this report. In summary Appleby Environment objects on the following grounds:

- cumulative impact relating to the scale of housing development;
- cumulative impact relating to environmental assessment;
- failure to meet the criteria for sustainable development as set out in the NPPF;
- increased car journeys in conflict with national low carbon strategy and NPPF;
- impact on settlement patterns and listed buildings;
- lack of accessible local services;
- lack of need for additional housing;
- local concern in relation to flooding and sewage capacity;
- destruction of hedgerows and open areas which would have an adverse impact on nature conservation;
- guidelines within the Village Design Statement would be broken;
- sites are outside limits to development;
- inappropriate site for development as surrounded by heritage assets;
- site would be extremely dangerous in highway terms due to proximity to junctions with Snarestone Road and Mawbys Lane/Black Horse Hill.

One letter of representation has been received which states that an access into the adjacent field is essential and the planning agent has advised that this should not be a problem and that the provision of 1.8 metre stockproof fencing is pleasing.

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;
- conserve heritage assets in a manner appropriate to their significance;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;

- take account of and support local strategies to improve health, social and cultural wellbeing.

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

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

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

"32. ...Plans and decisions should take account of whether:

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

"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."

"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..."

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

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness."

"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...."

"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 the harm or loss or all of four other criteria apply."

"134. 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."

"135. The effect on the significance of a non-designated heritage asset should be taken into account in determining the application.

"138. Not all elements of a Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area should be treated either as substantial harm or less than substantial harm."

"139. Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets."

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

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

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

Policy E4 seeks to achieve good design in new development.

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

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

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

Policy T8 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.

Appleby Magna Village Design Statement The purpose of the Village Design Statement is to

influence the planning process so that any further development and change within the village and the surrounding countryside will be managed in a way that protects and enhances the qualities that give Appleby its special character, by taking into account local knowledge, views and ideas.

Appleby Magna Conservation Area Appraisal and Study SPG identifies individual factors considered to have a positive impact on the character of the Conservation Area. These factors include principal listed buildings and unlisted buildings of interest in the vicinity of the site.

6. Assessment

The main issues for consideration in the determination of this application relate to the principle and sustainability of the proposal, layout and design and impact on the historic environment and its impact on trees, 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 partly within and partly outside the Limits to Development. Two of the dwellings (Plots 1 and 2) lie within the Limits to Development (and already benefit from a planning permission under ref. no. 13/00256/FUL). Policy S3 of the Local Plan sets out the circumstances in which development will be permitted outside Limits to Development; the remaining 10 dwellings would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3.

Notwithstanding the site's countryside location, 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.

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.

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 maintain a five year housing land supply in the District. 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.

Housing Land Supply

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. Further to the recalculated housing land supply figure reported on the Update Sheet to the Planning Committee meeting of 8 July 2014, the District Council has now published a revised housing supply trajectory. This indicates that, as matters currently stand, the District Council is able to demonstrate a supply of 7.04 years (i.e. an excess of 2.04 years beyond the five year requirement and 1.04 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 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

As set out above, the application site is an unallocated site partly within and outside the Limits to Development in the adopted Local Plan. The County Highway Authority (CHA) raises concerns as it considers that the applicant has failed to demonstrate that the proposal is in a location where services are readily available and safely accessible by a variety of modes of transport. These are issues which Policy H4/1 of the Local Plan deals with. Notwithstanding the status of Policy H4/1 as mentioned above, since its adoption the NPPF has been published.

In terms of the sustainability of the site, Appleby Magna provides a good range of day to day facilities, i.e. a primary school, shop/Post Office, church, church hall, two public houses, GP surgery, play area/recreation ground and some small-scale employment sites. It should be noted that public consultation was undertaken at the end of 2013 to close the GP surgery and

that the surgery has since closed, so patients would have to attend the surgery in Measham (3.05km away).

There is also a limited public transport service; the No. 7 service currently provides a service Monday to Saturday (approximately every 1.5-2 hours) from 8.10am to 5.48pm which serves Measham, Ashby de la Zouch, Atherstone and Nuneaton with a total of 11 buses running per day.

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 from the end of March 2015, although the route, and whether this includes Appleby Magna, is not yet known.

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 - 73 metres
 Primary School - 830 metres
 Shops/Post Office - 325 metres
 Play Area/Open Space - 660 metres
 Village Hall - 510 metres
 Public House - 110 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, which is located outside the main village. The level of services available is considered to be good for a rural village although the public transport connectivity is considered to be poor. Whilst there is no footway along the majority of the eastern side of Top Street, there is a stretch of footway fronting the site and a footway runs along the western side of Top Street and existing residents make use of these footways and the existing footway network within the village. There is also a variety of pedestrian routes through the village that could be used to reach existing services. Although there already appears to be a high level of car use within the village (based on 2011 Census data) there are some services/facilities within the village and some opportunities to access them other than by car.

Concerns have been raised about the impact on Sir John Moore Primary School which is located in a Grade 1 listed building, in particular the capacity for the site/building to house additional pupils. Contributions have been sought by Leicestershire County Council (discussed in a separate section below) which would fund capacity for extra school places and the County Council would decide where those spaces are provided. The school has previously advised that it has a Master Plan in place which involves a new building to the rear of the existing building and there is some flexibility to provide space for additional pupils within this proposed building. Contributions have also been sought to provide additional capacity at the library and to provide an on-site play area.

Given the scale of the development it is considered that the proposal would not result in unsustainable demands on local services and facilities. Taking all of these matters into account, it is considered that Appleby Magna is a sustainable location for the level of development proposed for this site on an individual basis.

Scale of Development and Cumulative Impacts

It is appropriate to consider the scale of the proposed development compared to Appleby Magna so as to understand its potential impact upon the scale and character of the village.

In terms of likely future needs the GL Hearn Leicester and Leicestershire Housing Requirements Study which was used to inform the housing requirement in the now withdrawn Core Strategy includes information regarding future natural change across the district. This Study projected a 23.4% increase in housing was required across the District from 2006-2031, which was reflected in the now withdrawn Core Strategy. This assessment is provided to be consistent with the assessments of the other recent large proposals for new housing in the village.

It is estimated that there are 433 properties in the village of Appleby Magna within its main built up area and 485 properties in the Parish of Appleby Magna. This proposal for 12 dwellings would represent a 2.77% increase in the number of dwellings within the village and a 2.47% increase within the Parish. Therefore, the proposed development on its own would represent a lower level of growth than that for North West Leicestershire as a whole.

There are outstanding commitments for 86 dwellings in the village, which includes the two dwellings previously approved on the front part of the site, as well as the schemes for 8 and 39 dwellings on Measham Road and 29 dwellings further south on Top Street. Therefore an assessment of increased growth when referring to outstanding commitments will only take into account 10 of the dwellings proposed (as two are already taken into account in the figure relating to commitments). The 10 additional dwellings on the site alongside the outstanding commitments for 86 dwellings would equate to a 22.17% growth in the village from 2011. The 10 additional dwellings on the site alongside the 13 new dwellings built since 2006 and the outstanding commitments for 86 dwellings (a total of 109 dwellings) would equate to a 25.89% growth in the village since 2006. Whilst the level of cumulative growth would be higher for the village than for the District overall, the difference of 2.49% is not considered to be significant.

However since consideration of the previous large housing applications in the village, the Strategic Housing Market Assessment (SHMA) has been published which suggests a 17.3% increase in new housing across the District from 2011-2031. The site alongside existing commitments (which includes the new housing for the village that has recently been approved), would exceed the District-wide level of growth suggested in the SHMA from 2011, i.e. 22.17% compared to 17.3%, but again this is not considered to be significant with a difference of 4.87%.

It should also be noted that the level of housing proposed across these this site and those recently considered at Planning Committee would be built over a number of years and works would not start immediately due to the need for legal agreements to be completed and for a reserved matters application to be submitted (and approved) on this and the other Top Street site.

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 the 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). The application site may fall within Grade 2 of the 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 0.57 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 but highly likely to be irreversible as there are only very small areas within the site that could accommodate an agricultural use in the future. The cumulative loss of farmland across this and other recently approved sites the Top Street site would be 4.51ha which is also considered to be low.

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, 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 partly within and outside the Limits to Development in the adopted Local Plan and is a greenfield site. Two of the dwellings lie within the Limits to Development. The remaining 10 dwellings would however be contrary to Local Plan Policy S3, which along with Policy H4/1 is now considered to be up to date. The site's general suitability for housing (given its location in terms of distances to most services/facilities) is also material, together with the need for the District to release land for housing to ensure the maintenance of a five year supply of land and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF).

The proposal on its own would not significantly increase housing numbers within the village. Although the level of cumulative development proposed across the site alongside existing commitments in the village would exceed growth for the District as a whole based on the former Core Strategy figures, the difference of 2.49% is not considered to be significant. The difference when compared to the growth for the District suggested by the SHMA is also considered to not be significant at 4.87%. Furthermore given the small scale of the development, that the site is well located in relation to the settlement and its proximity to local services and facilities, whilst the proposal would be contrary to Policy S3 of the Local Plan it is considered that a reason for refusal on this basis could not be justified in this case.

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, the provision of affordable housing and open space 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 however, the proposal would have a harmful impact on the significance of designated heritage assets and insufficient information has been submitted to ensure that the development would not harm archaeological remains. The public benefits of the proposal (contribution towards housing land supply, high quality design, provision of affordable housing and contributions to public service/facilities) would not outweigh this harm. In the overall balance it is considered that the proposal would not constitute a sustainable form of development.

Density

The proposal results in a density of 21 dwellings per hectare for the whole site, which is below that sought under Policy H6 of the Local Plan (a minimum of 30 dwellings per hectare).. The NPPF also states that local planning authorities should set their own approach to housing density to reflect local circumstances. This density is considered appropriate having regard to the location of the site on the edge of a village and the character of the area.

Layout and Design

The proposal provides a mix of housing ranging in size from two to four bedrooms. The position and design of Plots 1 and 2 was considered under planning permission ref. no. 13/00256/FUL and were considered to be acceptable.

The remaining dwellings would not front onto Snarestone Road but would face inwards onto a private drive with their gardens adjoining the site's boundaries. Top Street is characterised by dwellings that vary in terms of age, position, scale and design and the VDS states that there is no over-riding style that characterises the village's appearance. There would be a mix of designs, with variation in the design of the dwellings so that one style is not dominant. Whilst the site is set higher than the adjoining roads, the dwellings would be well contained within the site. Opportunities for surveillance are available with corner plots and elevations facing onto the access road, parking/turning areas and open space. The view along the access road would be directed towards Plot 2 which is angled towards the street therefore providing an end stop. Parking would be provided within plot.

The site can accommodate all of the necessary requirements (private gardens, parking/turning space, bin storage/collection areas) without being cramped. The proposed layout should ensure the retention of boundary hedgerows and trees which are important parts of the character of Snarestone Road. Garden boundaries along the access drive would largely constitute hedgerows, 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 west to east, the indicative streetscenes do not indicate a significant increase in land levels across the site, although this would be dealt with by condition.

Consideration of how the dwellings' design, details and materials meet the VDS guidelines can be undertaken at the reserved matters stage. The scheme in its current form is considered to be a housing development that creates dwellings that to some extent reflect the traditional house types within the village whilst fitting in with the existing mixed character of the area. The development's 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.

Historic Environment

Significance of Heritage Assets

The site lies within Appleby Magna Conservation Area and No. 1 Top Street, the K6 red telephone kiosk that lies on the verge to the front of the site, the Black Horse public house and Nos. 8, 12, 14 and 16 Top Street are all Grade 2 listed buildings, and are therefore designated heritage assets as defined in the NPPF. No. 3 Top Street and its outbuildings are identified as unlisted buildings of interest in the Appleby Magna Conservation Area Appraisal and are therefore undesignated heritage assets.

Appleby Magna is thought to have Saxon origins and it is considered likely that the original settlement may have been in the vicinity of the later St Michael's church, which is Grade 2* listed. However evidence of Romano-British activity indicates that the area around the shallow stream valley was farmed and settled much earlier. Appleby Magna also lies to the south east of the approximate route of a possible Roman road linking Watling Street at Tamworth with a crossing of the Trent at Sawley and the adjacent Roman settlement at Redhill. Within the existing village, which remained in agricultural use until the 19th century, it is thought the settlement was planned, based around Church Street and Top Street linked by two cross routes, Mawbys Lane and Stoney Lane/Blackhorse Hill with three foci of early occupation. To the east of the site lies the scheduled moated site of the former medieval manor house of the Appleby Family, fishponds and settlement earthwork remains later converted into formal gardens in the 16th or 17th Century east of the Church. Within the village there are numerous listed buildings which in general are clustered around the historic routes. Highly graded assets include the Grade 1 listed Sir John Moore School dated 1697 and designed by Sir William Wilson, the Grade 2* 16th Century Moat House with gatehouse which has been described as the best preserved medieval house on a moated site in Leicestershire, and the 14th century Church of St Michael, listed Grade 2*. Together with the moated site, the relationship and association of these structures with one another, including the association with the earlier manor house, is highly significant. This significance derives from the group's architectural, historic and archaeological interest. This includes the historic relationship of the Moore Family who owned the manor house. This historic inter-relationship is recognised within the Appleby Magna Conservation Area Appraisal and Study (2001) as noted below.

Top Street is one of the principal streets within the village and was established by the late 1700s and the land to the west of this road is the likely early core of the settlement. The Appraisal advises that 'The special character of the Conservation Area is derived from the historic inter-relationship of the Moat House site and the Parish Church and from the grouping of farmhouses, their outbuildings and cottages along the curvatures of Church Street, Top Street and Mawby's Lane. The overall pattern of the pre-enclosure settlement remains largely evident within the area.'

English Heritage advises that the paddock forms a physical and visual separation between the development at Jubilee Farm and the defined character of the street and the village (and therefore the Conservation Area as its boundary runs through the western part of the site.) English Heritage goes on to state that "The contribution made by this site to the setting of the Conservation Area and listed buildings/scheduled monument within, notwithstanding the approved scheme which is located on the part of the site which is already developed, derives from its landscape character, which helps reinforce the strong contrast of the rural landscape with the historic village settlement and the outlying farmstead settlements dispersed around the village boundary. The survival of the development site as farm land in both land use and visual terms helps to define the direct historic relationship between the settlement and its agricultural

setting.

The special character of the Conservation Area is also derived in part from the differing ages, scales, materials of construction and designs of buildings along Top Street which create visual interest. The Black Horse Inn, which is one of the earliest secular buildings in the village - fifteenth to seventeenth century in origin - incorporates elements of timber framed construction and has large square panels with diagonal cross bracing. Dressed local stone was used to construct Nos. 10-16 Top Street in the 17th century. Local bricks became the preferred method of construction from the 17th century until the last 19th century. This brick, which is of a dark red colour was often laid in a Flemish or Suffolk bond in the construction of new buildings; Hill House (No. 1 Top Street) is built of local brick laid in a Flemish bond with dark vitreous headers to give a pleasing chequered effect. Stone quoins are also evident to some buildings, including No. 1 and within the terraced group comprising Nos. 12, 14 and 16. Some properties incorporate stone or brick plinths, including No. 3, which suggests that the existing brick built properties may have been constructed upon the foundations of earlier timber framed structures. The buildings on the site appear on the 1st edition Ordnance Survey map and No. 3 also appears on the 1815 Ordnance Survey drawing, which suggests that at least elements of the buildings date from the late 18th/early 19th century. The building to the rear of No. 3 is in good condition but is considered to be of limited historic or visual merit. Most of the central outbuilding is still in place and there is a clear view of this building from the street through the access. The southern parts of the frontage outbuilding are the oldest and although both parts have lost their roofs their main walls remain. Modern alterations have also been undertaken to one of the older parts of this building and so their importance within the Conservation Area has been diminished. The northern parts of this building are more modern as can be seen in the brickwork to the frontage wall. The central outbuilding and the older parts of the frontage buildings are considered to be of some significance due to their age, visual contribution to the streetscene (which is somewhat limited by the lack of roofs and the modern alterations to the frontage buildings) and their link to the historical development of the village.

The Appraisal also appears to identify the boundary treatment to the front of No. 3 to be of merit, and it is presumed that this refers to the frontage brick wall to the south of the access drive which retains some of the original features of the buildings and is mostly constructed of older bricks. There is what appears to be a retaining wall (approximately 0.5 metres high along the frontage) to the front of No. 3 itself but this is hidden by a well established hedgerow so it is not visible from the street. The brick wall to the front of No. 1 is also considered to be a fine example of a boundary treatment within the Conservation Area. In parts of the Conservation Area, including along Top Street, footways only run along one side of the road and so grass verges are a feature; as is the case to the front of the site. Classic 20th century design is represented on Top Street by the Type K6 telephone kiosks (a 1935 design by Giles Gilbert Scott) on the verge to the front of the site.

The site is visible in views from within and outside of the Conservation Area and within views of some listed buildings, in particular. As such it is part of the 'surroundings in which a place is experienced; its local context embracing present and past relationships to the adjacent landscape' and therefore forms part of the setting to the designated heritage assets. Therefore the historic and visual relationship of the site with the wider historic core of the village forms an important part of the setting of the group of inter-related heritage assets.

Therefore the listed and unlisted buildings, the Conservation Area, scheduled monument and archaeological remains form an important part of the history of this part of the village and the village as a whole and are considered to be heritage assets of significance which have value for this and future generations.

Loss of Outbuildings and Walls

The loss of the outbuildings, as a result of the erection of Plots 1 and 2, was considered under the previous application for these two properties (13/00256/FUL), where it was concluded that their loss would not result in substantial harm to or total loss of the designated heritage assets, some public benefits would occur and whilst some harm would result, a reason for refusal on the basis of the demolition of the outbuildings having a negative impact on the character and appearance of the Conservation Area and on the setting of heritage assets could not be justified. It was also considered that the loss of the frontage wall to No. 3 would not result in significant harm to the Conservation Area.

New Development

The impact of Plots 1 and 2 and associated garaging was considered as part of the previous application, where it was concluded that it would preserve the character and appearance of the Conservation Area and would not adversely affect the setting of listed and unlisted buildings and therefore the significance of these heritage assets would be retained. Whilst the proposal does not meet all the criteria set out in the Appleby Magna Village Design Statement it is not so significantly contrary to these guidelines or to the character and appearance of the streetscene and locality that lies within the Conservation Area to justify a reason for refusal. As Plots 1 and 2 are very similar to the approved scheme it is considered that these elements of the proposal are still acceptable in terms of impact on the historic environment.

Consideration therefore turns to the 10 dwellings proposed for the paddock. The National Planning Practice Guidance states that 'Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.'

English Heritage accepts that existing 20th century development has impacted on the setting of this medieval village and the significance of the Conservation Area. However the rural landscape here results in the countryside penetrating the village, a characteristic that is noted in the Village Design Statement, and therefore the site contributes positively to the character and appearance of the Conservation Area, and therefore the setting of the inter-related heritage assets. The continued development of surrounding farm land stretching into the countryside and removing the separation from the former farmstead is considered harmful to the significance of the designated heritage assets. Development of the paddock would result in the loss of a part of the rural setting of this historic settlement, when considered on its own and cumulatively with the three other larger sites in the village that have recently been approved.

The site's survival as farm land and its historic relationship with the designated heritage assets is visible and can be experienced, appreciated and valued and this would be fundamentally altered. The character and contribution of the site to the heritage assets would be lost, in terms of visual impact as the rural landscape is eroded, and in terms of erosion of the relationship of the countryside with the village and the heritage assets.

The paddock also forms a backdrop and foreground to the Conservation Area, being visible in views from Top Street and from the adjacent public footpath, with more limited views from Snarestone Lane due to the change in land levels and hedgerow boundary. The paddock, along with the mature hedgerow and trees along Snarestone Lane, creates a semi-rural feel to this part of the Conservation Area which is on the edge of the village. The proposal would

fundamentally alter the character of the site and the approach to the Conservation Area from the countryside. Therefore the rural and natural character and setting of the Conservation Area and this part of the village would be lost through development of the site, and this would result in a harmful visual impact on the Conservation Area.

The setting of the adjacent listed building, No. 1 Top Street, would not be adversely affected by the 10 dwellings, due to the separation of the paddock from this listed building and the screening in place. The setting to the listed phone box would change as its immediate backdrop will be altered. However it is not unusual for phone boxes to be located with buildings as their backdrop and as such it is considered that its setting would not be adversely affected. The site is visible in the setting of several other listed buildings but it is considered that the new dwellings would not adversely affect their setting due to their design, distance from the listed buildings and location close to existing development.

The 10 dwellings proposed on the paddock are considered to be harmful to significance, which is deemed to be less than substantial. Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal. Clear and convincing justification for the proposal is also required. In this case it is considered that a clear and convincing justification for the proposal has not been put forward. Furthermore, the Authority now has a five year housing land supply. Although contributions towards services/facilities and the provision of affordable housing are proposed, in this case it is considered that these public benefits are not so substantial that they would outweigh the harm to the heritage assets. In addition alternative sites are available elsewhere within the village for new housing. Therefore the proposal would be harmful to the significance of designated heritage assets for which there is no clear and convincing justification or public benefits that would outweigh this harm.

Archaeology

The County Archaeologist advises that the site lies within the historic settlement core of Appleby Magna, an area defined using available evidence to encompass the likely extent of the medieval and post-medieval village and that buried archaeological evidence, constituting one or more as yet unidentified heritage asset(s) spanning the period from the earliest evolution of the village to its more recent past can be expected within the development area. He also advises that the proposals include operations that may destroy any buried archaeological remains that are present, but the archaeological implications cannot be adequately assessed on the basis of the currently available information.

The County Archaeologist also advised that information submitted with the application is incorrect and therefore recommended that an archaeological desk-based assessment of the site and a field evaluation, by appropriate techniques including trial trenching, if identified necessary in the assessment, to identify and locate any archaeological remains of significance, and propose suitable treatment to avoid or minimise damage by the development, should be undertaken.

Following submission of a desk-based Assessment the County Archaeologist advises that an evaluation of the site by trial trenching to establish the significance of any buried archaeological remains within the site should be undertaken.

The agent has advised that this trial trenching has not been undertaken. A condition requiring trial trenching to take place after determination would not be sufficient to prevent any harm. It is therefore concluded that insufficient information has been submitted to ensure that the development would not harm important archaeological remains.

Trees

The two trees to be removed make a limited contribution to the street scene and character of the Conservation Area and are not considered to be worthy of retention by way of a Tree Preservation Order. The goat willow and hedgerow make a more significant contribution to the visual amenities of the area and are proposed to be retained. The Tree Officer advises that an Ash tree, located on the southern boundary, appears to be the only significant tree and has a low (c) retention category and should not be impacted by construction proposals. Plot 2 is likely to impinge on the hedgerow and so it may either need to be trimmed back or replaced to prevent future incompatibility and this can be secured by condition. The canopy of the goat willow is approximately 4.5 metres from Plot 2 which would also have a large rear garden and is such there is unlikely to be significant conflict between the tree and occupiers of the dwellings. Protection of the trees/hedgerows during construction can be secured by condition. A clause relating to management of the open space/areas of landscaping could be included within a legal agreement.

The County Ecologist initially advised that boundary hedgerows would form garden boundaries and given the proximity of the some of the buildings to the hedgerow which could lead to the loss of the hedgerow and inappropriate piecemeal management. She therefore asked for the layout to be amended to allow retention of the hedge as integral units with a buffer zone between them and the garden boundaries, with a condition imposed for their appropriate management. In practice it would be difficult to provide a buffer zone to this hedgerow other than by requiring the erection of a post and rail fences to prevent the hedgerows from being affected by domestic activity, although the Tree Officer raised concerns about future management under this scenario. In addition the hedgerow could be excluded from gardens/curtilages which can be secured by condition. The County Ecologist subsequently visited the site and advised that the hedgerow along Snarestone Road does not meet the County Council's Local Wildlife Site criteria and that it is unlikely it would meet the criteria for an 'important hedgerow' under the Hedgerow Regulations. The County Ecologist therefore advises that she can no longer object to the impact on the hedgerow.

Residential Amenities

The development would lead to vehicles passing close to Nos. 1 and 3 Top Street and the new dwellings, which could result in noise and disturbance to occupiers of these properties. However the situation would not be dissimilar to having a development on a corner site with a side road running close to the dwellings and their rear gardens, which was considered in a recent appeal decision to be a yardstick for an acceptable standard, and which already occurs in other parts of the village. On this basis it is considered that the proposal would not result in significant detriment to nearby residents from noise and disturbance resulting from use of the access drive and parking/turning areas.

The Environmental Protection team raised concerns relating to noise impact from operations at the nearby Jubilee Business Park. Following submission of additional information relating to permitted development rights for these commercial units and their restriction to B1 and B8 use the Environmental Protection team advise that they are satisfied that noise impact has been considered.

The new dwellings would be over 30 metres from the dwellings located on Botts Lane. Plots 1 and 2 and their detached garage would be at least 24 metres from No. 1 Top Street. Plot 12 would be 25 metres from No. 1's rear garden boundary and within 10 metres of the boundary with a rear paddock and outbuilding that appear to belong to No. 1. The garage to Plots 11/12 would be within three metres of the boundary with this paddock. A two metre hedge forms part

of the boundary and No. 1 has an extensive garden area and the outbuilding appears to be in ancillary use.

Whilst there are no side windows in the existing side (southern) elevation of No. 3 Top Street, a proposed rear extension does contain side windows (see 13/00256/FUL). Plot 1 would be 6.2 metres from this elevation and currently contains ground floor side windows which will not result in a significant loss of privacy. Permitted development rights can be removed to prevent the insertion of first floor windows in the side of Plot 1. The double garage to Plots 1 and 2 would be too far away from No. 3 to have a significant impact. Whilst the rear extension to No. 3 will contain side windows that will overlook Plot 1, given that Plot 1 has not yet been constructed the weight attached to the potential for overlooking is less than if an existing property was affected. Furthermore side windows could be erected in No. 3 without the need for planning permission. On this basis it is considered that the proposal will not adversely affect the occupiers of Nos. 1 and 3 Top Street in terms of loss of light, loss of privacy or creation of an oppressive environment.

No. 6 Top Street and parts of the garden to No. 4 Top Street currently enjoy a more open outlook across the site due to the height and scale of the outbuildings. It is also appreciated that their private gardens are located to the front/side of the dwellings. The introduction of Plots 1 and 2 would reduce this outlook and they would be sited at least 1.3 metres higher than Nos. 4 and 6. However Plots 1 and 2 would be located on the opposite side of Top Street from Nos. 4 and 6 and would be at least 19 metres from No. 6, 28 metres from No. 4 and 15.5 metres from their front boundaries. Whilst many of the nearby properties on the western side of Top Street do not face other dwellings across the road, it is not an unusual arrangement for dwellings to face each other across the street, even at different land levels, as is the case with Nos. 1 and 3 Top Street facing Nos. 2 and 4 and elsewhere in the village. It is therefore considered that a reason for refusal on the grounds of loss of light, loss of privacy and creation of an oppressive environment to the occupiers of Nos. 4 and 6 Top Street could not be justified.

Highway Safety

Concerns have been raised by local residents including relating to proximity of the access with the junction with the bus stop and Snarestone Road, dangers for road users joining Top Street, additional traffic using Top Street and inadequate access within the village for additional traffic, including that generated by the 68 dwellings recently approved.

The Highway Authority's objection on the grounds of the site being in an unsustainable location is addressed earlier in this report. The County Highway Authority has no objections in relation to highway safety matters, subject to conditions and a construction traffic route to be secured in a legal agreement.

The existing access to the site would be improvised and 33 metre 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 could be provided 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. The Highway Authority raises no concerns in relation to the proposal on its own or cumulatively with other recent approved schemes adversely affecting the capacity of the village road network. 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 within Flood Zone 1 and as it is also under one hectare in size, a Flood Risk Assessment is not required and the Environment Agency has therefore not been consulted as the application is covered by the Agency's Standing Advice. Severn Trent Water has no objections subject to the imposition of a condition relating to drainage details. Consideration of the capacity of Severn Trent Water's treatment works is set out below in the section relating to impact on the River Mease SAC. The submitted information advises that the development would be designed to be neutral in terms of surface water run-off and there is ample space to place soakaways.

The Environment Agency's guidance in relation to surface water drainage states that '...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.' Best practice is for developments of greenfield sites to ensure surface water runoff discharges at greenfield runoff rates (i.e. the rate at which surface water currently discharges from the site when undeveloped), which is usually set at 5l/sec/ha, and this is required by the Environment Agency in respect of developments of larger greenfield sites and can be secured by condition.

Severn Trent Water has advised that it is aware of current issues with the sewerage system which is being looked into by its sewer modelling team and it intends to promote a project into its capital programme within the coming months. Severn Trent Water advises that it will not object to the proposal and that a phasing condition should be imposed, which can be drafted as a Grampian condition to prevent occupation of the proposed dwellings until the works to the sewer/drainage system have taken place. Such an approach has been adopted on other recent proposals for new dwellings in the village at Measham Road and Top Street.

Protected Species/Ecology

The site is predominantly grassland with trees/hedgerows along its boundaries. The site is also adjoined by grassland along with other trees and hedgerows nearby. Several derelict buildings occupy the front part of the site and the existing dwelling is currently empty. Some of 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.

The County Ecologist initially advised that surveys for bats and badgers and a Phase 1 Habitat Survey needed to be undertaken. The bat survey (which was submitted with the 2013 application for the site) found some evidence of bats and breeding birds and considered that potential existed for bats to use the buildings and therefore an emergence survey was required. The County Ecologist was satisfied with the emergence survey also submitted with the 2013 application which found no bats within the buildings and as such she advised that no further action is required. No evidence of barn owls was found. A condition could be imposed in relation to breeding birds. The badger survey found no evidence of badger setts or latrines within the site although evidence of badgers using the site was found and mitigation measures were suggested which could be secured by condition. The Phase 1 survey found that the grassland is not species-rich and is therefore of low conservation concern. As such it is considered that protected species and ecological features would not be adversely affected by the proposals.

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 confirms that the applicant will pay the required contribution under the DCS. The exact contribution cannot be agreed at this time (although the maximum amount would be £4,248) as the exact number of bedrooms per dwelling has not been agreed at this stage. Natural England's Standing Advice sets out that foul water mains drainage development proposals in the River Mease catchment that fully adhere to the now adopted DCS will not sustain an objection from Natural England, providing that the proposal does not result in any other potential impacts on the River Mease SAC either alone or in-combination with other plans or projects and providing that there are no other significant matters of nature conservation concern.

Consideration needs to be given to the capacity of Severn Trent Water's receiving treatment works at Snarestone. The flows from the new dwellings will need to be taken into account against the existing headroom at Snarestone. At March 2014 capacity was available for 129 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 (27), and by the number of dwellings that have subsequently been granted planning permission (77). Taking these into account capacity is currently available at the treatment works.

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 and conditions 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.

Education

Leicestershire County Council seeks the following contributions to provide additional places at the nearest schools where there is no capacity:

- £35,845.15 - primary school (Sir John Moore Primary School); £21,451.40 - high school (Ibstock Community College); £22,026.19 - upper school (Ashby School).

Libraries

Leicestershire County Council is seeking £730.00 to provide additional capacity at Measham Library, which is the nearest library. It is therefore considered reasonable for a contribution to be sought to increase its capacity to cater for additional users.

Play Area/Open Space

As the site is over 650 metres from the play area at Bowleys Lane an on-site play area needs to be provided on site, which could be located wither of the two areas of landscaped/amenity space located to the west of Plots 3 and 2, which are considered appropriate locations as surveillance would be available from nearby dwellings. A contribution for maintenance would be required if the play area was taken on by the Parish Council. An obligation relating to management plans for the open space to ensure that the land is properly established, maintained and managed in the future would also be required.

Affordable Housing

The Strategic Housing Team advises that 3.6 on-site affordable homes should be provided to make the scheme policy compliant (30% provision on site). However the Strategic Housing Team advises that in this case the provision of four dwellings would exceed the requirement set out in the SPD and on such a small site would impact on viability. Therefore it has been agreed with the applicant that three on-site affordable homes would be provided on Plots 3, 4 and 5, in the form of one x 2-bed bungalow and two x 2-bed dwellings. The bungalow and one of the dwellings should be affordable rent with the other dwelling being intermediate housing. The Strategic Housing Team is satisfied with the location of the affordable housing

River Mease DCS

The exact contribution cannot be agreed at this time (although the maximum amount would be £4,248) as the exact number of bedrooms per dwelling has not been agreed at this stage, as outlined earlier in the report.

County Highway Authority

The Highway Authority requests agreement of a construction traffic route which is considered to be necessary in this case given the site's proximity to residential areas and the village centre and that although existing weight restrictions are in place they would not prevent HGVs from passing through the village to access the site itself.

Other Contributions

No request for contributions has been received from the Council's Leisure team, the County Highway Authority, NHS England 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. The applicant has agreed to all of the above obligations in principle and the legal agreement would be negotiated following any resolution to grant planning permission. The District Council would continue negotiations with consultees and the applicants to ensure the appropriate level of contributions that have been sought could be secured through a S106 agreement.

Other Matters

In respect of the previous application for the site the Environmental Protection team requested the imposition of conditions relating to contaminated land which would need to be imposed in this case.

The routes of the adjacent public footpath/bridleway would not be obstructed or diverted as a result of the proposal as it lies outside the site.

Given the proximity of the site to residential properties on two sides and that there is only one access to the site, in this case it is reasonable to impose a condition limiting the hours of construction works.

The site lies within one kilometre of 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. 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.

In respect of the concerns raised in the letters of representation that have not been addressed above,

Conclusion

As set out in the main report above, the site lies mostly outside the Limits to Development in the adopted Local Plan and constitutes greenfield land. Policies S3 and H4/1 which restrain the supply of housing are now considered to be up-to-date given the Council can demonstrate a five-year supply of deliverable housing land. The proposal would increase the level of housing within the village above the District-wide levels suggested under the former Core Strategy and the SHMA. However the increase above these levels would not be significant and given the scale of the development, that the site is well located in relation to the settlement and its proximity to local services and facilities, whilst it would be contrary to Policy S3 of the Local Plan in this case it is considered that a reason for refusal on this basis could not be justified in this case.

The proposed development would be acceptable in terms of density, layout and design, impact on trees, residential amenities, transportation and highway safety issues, flood risk and drainage, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to

mitigate the impacts of the proposals on local facilities/services.

However the proposal would have a harmful impact on the significance of designated heritage assets and insufficient information has been submitted to ensure that the development would not harm archaeological remains and there are no material considerations that would outweigh this harm.

The proposed development would, overall, not be considered to constitute sustainable development as defined in the NPPF. It is therefore recommended that planning permission is refused on the grounds of impact on the historic environment and archaeology.

RECOMMENDATION, REFUSE for the following reasons:

- 1 The proposal would have a harmful impact on the significance of a scheduled monument, listed buildings and the Appleby Magna Conservation Area, all of which are designated heritage assets. It is considered that clear and convincing justification for the development has not been put forward nor would the public benefits of the proposal outweigh this harm, when assessed against the policies of the National Planning Policy Framework, taken as a whole. As such the proposal would not constitute a sustainable form of development.

- 2 The application includes development within areas where archaeological remains may be located, which would be disturbed by works associated with the proposal. The County Archaeologist advises that some trial trenching, to establish the significance of any buried archaeological remains within the site needs to be undertaken before determination of the application. The required trial trenching has not been undertaken and therefore without this information it is considered that sufficient information has not been submitted to draw the conclusion that the proposed development would not harm archaeological remains. A condition requiring trial trenching to take place after determination would not be sufficient to prevent any harm. It is therefore concluded that insufficient information has been submitted to ensure that the development would not harm the archaeological remains. The public benefits of the proposal would not outweigh this harm when assessed against the policies of the National Planning Policy Framework, taken as a whole. As such the proposal would not constitute a sustainable form of development.

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).

2 APPENDIX 1 - COMMENTS MADE BY APPLEBY MAGNA PARISH COUNCIL ON PREVIOUS APPLICATIONS

- In the absence of an approved NWLDC Core Strategy we would ask that the total number of dwellings for all the applications be taken into consideration. The rejected

Core Strategy considered Appleby Magna as a sustainable village and as such would share a quantity of new dwellings with the other sustainable villages. The proposed quantity was 80 between all the sustainable settlements the proposals before the Council would exceed this level by 20% in a single community. There are several new dwellings already approved or awaiting approval prior to these applications giving a total of 9 new dwellings to be constructed. Please note that the Parish Council does not object to some development within the village, but feels that the proposed 9 dwellings plus 1 or 2 more would more than satisfy this village's quota towards the 5 year plan.

- A major point of concern is the current flooding issues associated with a stream running through the village, this causes flooding in Church Street, Mawbys Lane, Duck Lake, Black Horse Hill and Old End as well as the Caravan Park off Measham Road. The Caravan Park off Measham Road is also the location of the main Severn Trent Water sewage pumping station for the village. With reference to the Severn Trent Water letters included in the Flood Risk Assessments for Applications 13/00797/FULM and 13/00799/FULM which states "the Village system is currently experiencing some hydraulic sewer flooding problems". These problems are associated with Black Horse Hill, Duck Lake, Old End and the Caravan Park off Measham Road. One resident of Black Horse Hill is currently unable to reside in the property because of these known problems. The application 13/00809/OUT would add to this problem and the dwelling may also be affected by it. The Parish Council would ask that further investigation of these known issues be carried out before adding to this problem.

- There is a village survey being carried out (an unbiased, objective questionnaire) re development within Appleby Magna - the results are not yet available, but we will pass these to you on receipt, this, with other planning matters can be discussed when you meet with Councillors to review the planning applications.

- The Parish Council wishes to register interest in any Section 106 funding, should this become relevant - this would be useful to the village and Councillors are open to discussion in the future based on mutually agreed planning applications - however, this does not in any way give approval to any large scale planning applications as long as the infrastructure and inadequate water management in the village remains as is.'

- All of the above applications are responded to by the Parish Council using material considerations, Councillors have acted fairly, openly and apolitically, approaching each application with an open mind and avoiding pre-conceived opinions, all issues have been carefully weighed up and they determined each application on its individual planning merits, avoiding undue contact with interested parties, clearly stating reasons for their decisions.

- It is interesting to note that Christine Fisher, Chief Executive of NWLDC stated in a letter sent 14th October 2014 re Churchyard of St Michael and All Angels, Appleby Magna regarding further burial land - "It is also unlikely that there will be any major development in Appleby Magna that would attract significant 106 funding." This leads the Councillors to feel that their major concerns with the infrastructure of the village are generally held.

- Appleby Environment believes, in light of the cumulative effects of the various housing developments, and taking account of guidance set out in the NPPF on the importance of such cumulative effects, that NWLDC is required to commission an Environmental Impact Assessment (EIA). This is required to assess the cumulative effects of the

proposed developments. This has to be undertaken prior to the determination of these residential applications.

- The Parish Council works closely with Appleby Environment and other key interdependents to ensure the village is looked after and is sustained (and grows) in a strategic and robust manner, taking into account all factors which impact residents and are also material planning considerations, such as water management, road use, access/egress issues, sewage management and ensuring Appleby Magna sustains its character.

- It is worth noting that the Severn Trent water disposal lorry is in the village every day dealing with water problems - this is causing a great deal of concern to residents, especially in light of further possible developments;

- the Talbot Street, Whitwick planning application to build 8 houses has been rejected - in some part due to concerns re flooding and traffic/road safety - similar potential impacts to those causing concern in Appleby Magna village.

The Parish Council also previously forwarded the results of a village survey carried out on its behalf, which had a 57.2% turnout. The responses indicate the following:

- 87% of respondents oppose all or most of the proposed developments;
- 89% of respondents are quite or very worried about flooding and drainage issues;
- 56% of respondents are quite or very concerned about the primary school having to move and 62% of respondents are quite or very concerned that the primary school would have to change its future development plans. 32% and 23% of respondents did not respond to these two questions;
- 75% of respondents are very concerned about the impact of extra traffic;
- 50% of respondents are very opposed to measures to accommodate extra traffic;
- The majority of respondents are in agreement with six out of seven of listed guidelines in the Village Design Statement being important to guide new development, and there being no over-riding view in relation to the seventh listed guideline;
- 60% of respondents are quite or very unhappy with the process of consultation/planning;
- 21% of respondents think 16 to 25 dwellings would be a reasonable level of new housing for the village.

3 **APPENDIX 2 - COMMENTS MADE BY APPLEBY ENVIRONMENT**

Letter dated 23 May 2014

We have already written to you in January laying out our objections to housing development in Appleby on sites outside the existing development limits and again in March developing these arguments and making specific objections to application 14/00082/OUTM. We still hold these views and would like the March letter to stand and ask you to refer back to it.

Since then the planning meeting at the beginning April approved 68 houses for Appleby on green field sites outside the limits to development. At that meeting the officers' report argued that this level of growth when considered alongside other existing permissions and commitments was appropriate for Appleby on the grounds that it was in line with the required housing growth for the village as a whole. Councillor Pendleton is quoted in the Ashby Times as saying the applications approved are "in line with the desired level of growth for the district" (Ashby Times, April 11th 2014). Furthermore the Chairman of the

Planning Committee told residents of Appleby who attended the meeting that these permissions would be the last for the village in this planning cycle.

We have argued repeatedly and extensively that the criteria of proportionate growth across the District is the wrong test for assessing sustainable development (as required by the NPPF). This is shown by the District's sustainability appraisal of the withdrawn Core Strategy which clearly argues that the level of development needs to be much lower in the rural villages. The Council is now going through a new plan development process which will involve another sustainability appraisal (as discussed by the Local Plan working group recently).

The only changes in Appleby since the last sustainability appraisal was done have been in the direction of reducing the services available to residents of Appleby (reduced bus service, closure of GP surgery). As such there is no reason to believe the new assessment will reach a different conclusion. We therefore believe there are no grounds for granting either of these applications. We summarise the arguments below:

Cumulative Impact - scale of housing development

These applications are, in total, for an additional 72 houses.

The officers' report in April said that the existing permissions and the ones approved by that planning meeting would constitute a growth of 22% which would be 'appropriate' for the village. Another 72 houses would be an additional 16% which the report says would not be appropriate.

The District Council's previous assessment of villages such as Appleby has been that they were appropriate only for 'small scale housing development'. The earlier Sustainability Appraisal Main Report (Feb 2013) specifically looks at the strategic distribution of housing and alternatives in Section 8. Para 8.11 reads: "In the small rural and sustainable villages there is limited access to services and jobs and the majority of trips would be by car. High levels of rural development risk creating rural isolation as the price of driving increases. More development in these locations would reinforce an unsustainable pattern of development in the district."

This criteria of 'small scale development' has already been far exceeded, breaching sustainability criteria and risking the erosion of the character of Appleby.

Cumulative Impact - Environment assessment

We noted in our earlier letters that the larger applications should be accompanied by statutory Environmental Statements in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and that the Council has determined that an EIA is not required for the individual applications. In our earlier letter we spelt out why we thought that such individual EIAs should have been required. The larger application exceeds 0.5 hectares and meets other screening criteria not least because of the cumulative effects of the various proposed developments (air quality, landscape and visual, land use, noise, traffic, water (including possible effects on flooding and the Mease European Designated Special Area of Conservation) and ecology (for example the cumulative effect on Great Crested Newt populations). Please refer back to our earlier letters for a more detailed argument in relation to these assessments.

Any consideration of new applications in Appleby needs to take account of the cumulative environmental impact of the permissions granted over the past 6 months.

Sustainable Development

In our previous letter we documented in detail the reasons for assessing all these applications as failing the sustainable development criteria required by the National Planning Policy Framework.

The Council commissioned sustainability assessments of its emerging core strategy and considered its conclusions in a 'consideration of alternatives' document. In that document, under the heading 'Settlement Strategy and Hierarchy' the Council notes that the sustainability appraisal was already critical of the level of development proposed for villages. It notes that the sustainability appraisal "... considered that settlements without relatively good and secure existing or planned public transport access are not sustainable places for growth to occur. New development in these locations would give rise to increased car use, and importantly may risk social isolation for new residents". The sustainability appraisal therefore recommended that the Council should restrict development to locations where there was a 'good bus service'. The Council decided that this assessment had to be balanced against the need for some development for local people. It argued that there should be 'limited development to meet local needs but that 'any development that is allowed is to meet a local need and not more general market provision'.

The final Non technical Summary of the Sustainability Appraisal (March 2013 version) from an external consultant concludes:

"The Core Strategy allows some growth in the rural areas. Past completion rates for housing show that the rural area has always played an important role in housing growth in the District. However, development in villages has led to a pattern of development that is unsustainable. Many new homes are occupied by people who travel outside of the villages for work and also may meet many of their other needs outside these areas, not necessarily supporting rural services" (para 5.11).

As such it is clear that the District Council's own sustainability criteria and assessments show that housing development in the rural villages at all but the smallest scale threatens nationally required sustainability targets. These have already been exceeded.

We provided a detailed account in our previous letters of the ways in which these developments failed to meet the criteria for sustainable development as set out in the National Planning Policy Framework. This analysis still stands and is summarised below. Please refer back to our earlier letter for the detail.

Sustainable Development issue 1 - increased car journeys in conflict with national low carbon strategy and NPPF

The NPPF spells out the 3 dimensions of sustainable development at para 7 and under environmental role says that the planning system needs to support the need to 'mitigate and adapt to climate change including moving to a low carbon economy'. Under NPPF para 17 (core planning principles) it says there is a need to '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'.

It is clear that Appleby does not meet these criteria. We have already provided you with extensive evidence to support this assessment. As with previous applications the applicants' transport plans show no understanding of these issues.

Sustainable Development issue 2 - contributing to protecting and enhancing our natural, built and historic environment as required by national policy in the NPPF

There is a further dimension to environmental sustainability included in the National Planning Policy Framework. This is that sustainable development should contribute "to protecting and enhancing our natural, built and historic environment" (para 7).

Again we refer you to our previous letter about the impact on the current settlement pattern of the village and the impact on listed buildings.

Sustainable Development issue 3 - accessible local services that reflect the community's needs and support its health, social and cultural well-being as required by the National Policy in the NPPF (para 7)

Again previous letters provide extensive evidence that Appleby does not meet this criteria. Sustainable Development issue 4 - supply of housing required to meet the needs of present and future generations as required by NPPF (para 7)

Again we have detailed the evidence that this criteria has not been met in our previous letters. This argument is further reinforced by the large numbers of houses which have recently been granted permission.

Sustainable Development - Conclusions

- The Sustainability Appraisal conducted as part of the NWLDC core strategy development clearly argues that any more than very limited development in villages for the period up to 2031 already threatens its sustainability objectives.
- Appleby has already had permissions for 82 houses since this assessment was done (March 2012) and there are a further 15 years to go. It has also had a recent rural exception site.

Other Material Considerations

In addition to establishing whether a development would be sustainable the NPPF requires authorities to take into account other material considerations.

The following material considerations are relevant to all applications

- As detailed above social facilities in the village exist but are not extensive. This includes the village school which is housed in a historic building. Its governing body is committed to staying at its current size to retain its current excellent local provision and because of constraints on their existing accommodation.

Furthermore all these applications involve the destruction of hedgerows and open areas which would have an adverse impact on nature conservation.

- VDS guidelines relating to the preservation of village lanes, hedgerows, open areas, the settlement pattern and avoiding solid blocks of development at the edges of the village are broken by these applications.
- All these sites are outside the limits to development.

Material considerations relating to individual applications:

This site is surrounded by heritage assets and as such is a completely inappropriate site for this type of development. The front part of the site is actually part of the Conservation Area. The Conservation Area is also opposite and to one side of the site. There are significant listed buildings nearby including the neighbouring Hill House, the Black Horse public house almost opposite and other buildings very close on Top Street. Behind the site is Jubilee Farm which is cited in the Village Design Statement as a classic example of a Leicestershire farm house. The buildings currently on the proposed development site were themselves originally farm buildings and as such their setting in the existing

undeveloped plot is part of the heritage asset that would be destroyed by the proposed intensive development.

Development at this site would also be extremely dangerous in highway terms. Proposed access to the site is very close to both the junction of Top Street & Snarestone Lane (one boundary of the site) and on the other side the junction of Top Street, Mawby's Lane and Black Horse Hill. This junction is a blind bend between Mawby's Lane and Top Street, has no effective pavement, and is sufficiently sharp and narrow that cars meet head on and lorries regularly get stuck trying to negotiate it and have to reverse back.

Conclusions

On the basis of all of these arguments we would contest that these applications individually and cumulatively fail the test of sustainable development and have additional significant material planning considerations which also support their refusal.

Letter dated 25 March 2014

We wrote to you in January objecting to 3 out of these 4 applications. We would like this earlier letter to still stand and ask you to refer back to it. The general arguments still stand and also apply to the application (14/00082/OUTM) which had not been submitted at that time. This letter is a summary of the earlier arguments. It also contains new information relating to the general situation, the change in the application for Measham Rd, and the new application for Top Street.

Cumulative Impact - scale of housing development

These applications are, in total, for 154 houses. There is a need for a strategic assessment of the scale of development which would be appropriate for Appleby to avoid erosion of the village's character and to ensure that the development is sustainable.

The District Council's assessment of villages such as Appleby has been that they were appropriate only for 'small scale housing development'. While this Core Strategy policy has been withdrawn we wish to draw attention to Sustainability Appraisals of the core strategy and various options considered during the process. These form part of the evidence base to the core strategy. These appraisals were independent assessments of whether different policy options could be considered to meet the sustainable development criteria. As such they are in no way affected by the decision to withdraw the Core Strategy. Neither are they affected by the likely increase in the numbers of housing that the District is likely to be required to plan for. The sustainability assessments looked at different options for housing levels in different types of locations and assessed them in terms of their carbon impact and the available provision of jobs and services for the residents of new houses.

The Sustainability Appraisal Main Report (Feb 2013) specifically looks at the strategic distribution of housing and alternatives in Section 8. Para 8.11 reads:

"In the small rural and sustainable villages there is limited access to services and jobs and the majority of trips would be by car. High levels of rural development risk creating rural isolation as the price of driving increases. More development in these locations would reinforce an unsustainable pattern of development in the district."

The numbers of new houses being assessed were judged against a starting point of March 2012. By the beginning of 2014 there had already been permissions granted for 6 houses in Appleby since March 2012 (3 in Church St; 1 in Rectory Lane which has

already been built; 2 in Top Street) following a regular pattern of applications which can be expected to continue. The February 2014 Planning Committee then granted permission for a development of an additional 8 houses on a designated sensitive site within the village. The Sustainability Assessment was made against allocations for village locations across the District (rather than for individual ones such as Appleby). However the numbers considered sustainable for all village locations for the entire plan period (up to 2031) has already been exceeded by planning permissions granted since the assessment was made.

Cumulative Impact - Environment assessment

We noted in our earlier letter that the applications are not accompanied by statutory Environmental Statements in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and that the Council has determined that an EIA is not required for the individual applications. In our earlier letter we spelt out why we thought that such individual EIAs should have been required. All these applications exceed 0.5 hectares and meet other screening criteria not least because of the cumulative effects of the various proposed developments (air quality, landscape and visual, land use, noise, traffic, water (including possible effects on flooding and the Mease European Designated Special Area of Conservation) and ecology (for example the cumulative effect on Great Crested Newt populations). Please refer back to our earlier letter for a more detailed argument in relation to these assessments. We contend that each application should be accompanied by an Environmental Statement which takes into account the cumulative effects of individual developments as should their assessments of the impact on the River Mease as a European Designated SAC. We would like the Council to explain why they have determined that no formal Environmental Impact Assessments are required for the developments and provide evidence of their screening decisions.

Sustainable Development

In our previous letter we documented in detail the reasons for assessing all these applications as failing the sustainable development criteria required by the National Planning Policy Framework.

The Council commissioned sustainability assessments of its emerging core strategy and considered its conclusions in a 'consideration of alternatives' document. In that document, under the heading 'Settlement Strategy and Hierarchy' the Council notes that the sustainability appraisal was already critical of the level of development proposed for villages. It notes that the sustainability appraisal "... considered that settlements without relatively good and secure existing or planned public transport access are not sustainable places for growth to occur. New development in these locations would give rise to increased car use, and importantly may risk social isolation for new residents". The sustainability appraisal therefore recommended that the Council should restrict development to locations where there was a 'good bus service'. The Council decided that this assessment had to be balanced against the need for some development for local people. It argued that there should be 'limited development to meet local needs but that 'any development that is allowed is to meet a local need and not more general market provision'.

The final Non technical Summary of the Sustainability Appraisal (March 2013 version) from an external consultant concludes:

"The Core Strategy allows some growth in the rural areas. Past completion rates for housing show that the rural area has always played an important role in housing growth

in the District. However, development in villages has led to a pattern of development that is unsustainable. Many new homes are occupied by people who travel outside of the villages for work and also may meet many of their other needs outside of the villages for work and also may meet many of their other needs outside these areas, not necessarily supporting rural services" (para 5.11).

As such it is clear that the District Council's own sustainability criteria and assessments show that housing development in the rural villages at all but the smallest scale threatens nationally required sustainability targets.

We provided a detailed account in our previous letter of the ways in which these developments failed to meet the criteria for sustainable development as set out in the National Planning Policy Framework. This analysis still stands and is summarised below. Please refer back to our earlier letter for the detail.

Sustainable Development issue 1 - increased car journeys in conflict with national low carbon strategy and NPPF

The NPPF spells out the 3 dimensions of sustainable development at para 7 and under environmental role says that the planning system needs to support the need to 'mitigate and adapt to climate change including moving to a low carbon economy'. Under NPPF para 17 (core planning principles) it says there is a need to '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'.

It is clear that Appleby does not meet these criteria. In our previous letter we cited a survey of residents from 2010 with responses from a third of households showing that:

- 82% did their main food shopping in a large supermarket whereas 2% said that they used the village shop.
- 89% said that they did this major food shop at least weekly (with a third of these saying two to three times per week).
- 70% of all households said that they drove alone or with other family members to carry out this shop. A further 7% shopped online and had it delivered.
- The most common location for food shopping was Ashby, followed by Tamworth and then Swadlincote (with no-one mentioning Measham for food).

If people choose to use cars despite available alternatives then this might be open to change. However, Appleby already has a poor bus service which is about to become even worse. Leicestershire CC is planning for a reduced Mon-Sat daytime service. Your previous reports have said that there will still be 6 buses a day from Appleby. The provision you need to report on is the number of viable return trips. The new service will see the first bus to Ashby leaving Appleby at 10.30 a.m. with the only return trip giving any time to do anything in Ashby, being the last bus back at 3.00 p.m.

- There will only be one return public transport option per day to the nearest centre with a reasonable provision of shops and it would only allow employment for a few hours in the middle of the day.

Our last letter analysed in detail the inadequacy of the travel plans provided with the 3 applications that were available then. Please refer back to this. The same arguments apply to the new application 14/00082/OUTM. In summary the travel plans for all applications:

- Do not provide adequate analysis of car journeys likely to be undertaken by new residents - they show large numbers of cars as indicated by parking provided, but very

few journeys. This is implausible;

- Do not take account of the changing bus provision;
- Do not take account of the terrain which makes walking or cycling to Measham highly unlikely;
- They focus on road congestion not on sustainable transport. CC Highways have objected to all these applications on their failure to meet sustainable transport requirements.

Sustainable Development issue 2 - contributing to protecting and enhancing our natural, built and historic environment as required by national policy in the NPPF

There is a further dimension to environmental sustainability included in the National Planning Policy Framework. This is that sustainable development should contribute "to protecting and enhancing our natural, built and historic environment" (para 7).

Again we refer you to our previous letter. In summary:

- Applications 13/00799/FULM and 13/00697/OUTM are for sites defined in the local plan as 'sensitive areas' which are defined as important open areas within or adjoining settlements which contribute positively to the character of the settlement concerned, its streetscene or its setting or approaches. It is important that such areas are kept free from development in view of the contribution they make to local environmental quality (Local Plan para 4.1). Policy E1 says that 'development will not be permitted within the Sensitive Areas, identified on the Proposals Map, which would adversely affect or diminish the present open character of such areas and the contribution they may make to the character, form and setting of settlements, the streetscene generally or the relationship with adjoining countryside'.
- All the applications are for sites outside the limits for development in the Local plan. These limits respect the settlement pattern which is part of its distinctive character. This is reinforced by the Appleby Magna Village Design Statement which is adopted Supplementary Planning Guidance.
- English Heritage has objected to the applications on Church St and Measham Rd in terms of their impact on the historic environment.

Sustainable Development issue 3 - accessible local services that reflect the community's needs and support its health, social and cultural well-being as required by the National Policy in the NPPF (para 7)

Again in summary only:

- There are no significant employment opportunities in the village (as confirmed by the census data that shows only 11% of residents walk or cycle to work). The only existing ones are small scale units located in nearby farms;
- The village shop is treated by the vast majority of residents as only for minor or top up purchases (as demonstrated by a village survey in 2020)
- It is now confirmed that the GP surgery will close at the beginning of May (see Measham Medical Unit website);
- There is no evening bus service to meet the leisure needs of children or adults and very limited village provision.
- The developers misrepresent the NWLDC label of 'sustainable villages'. This was never intended to suggest that any development within them would be sustainable.
- There is no suggestion in the applications that they will lead to any increase in jobs or services.
- These developments will exacerbate the current situation whereby those without access to a car will find it very difficult to access work or services. This actually makes the sustainability of the village even worse by isolating older and poorer residents and

leading to young people to leave as soon as they are independent.

Sustainable Development issue 4 - supply of housing required to meet the needs of present and future generations as required by NPPF (para 7)

Again in summary only. There is no credible claim that the level of development proposed by any one of these applications - let alone in total - is required to meet local needs.

- Appleby is one of the few villages in the District that has had a rural exception site (completed in 2011 as an extension to Parkfield Crescent). This was carried out as a result of a proper survey of local housing needs by the Leicestershire & Rutland Rural Housing Enabler (LRRHE) and more than satisfied assessed need;
- Appleby also has affordable rented accommodation in the Alms Houses. Recent vacancies there have met with limited interest;
- The developers provide no credible assessment of local housing need;

Sustainable Development - Conclusions

- The Sustainability Appraisal conducted as part of the NWLDC core strategy development clearly argues that any more than very development in villages for the period up to 2031 already threatens its sustainability objectives.
- Appleby has already had permissions for 14 houses since this assessment was done (March 2012) and there are a further 15 years to go. It has also had a recent rural exception site.

Other Material Considerations

In addition to establishing whether a development would be sustainable the NPPF requires authorities to take into account other material considerations. In our previous letter we referred to general issues affecting all applications as well as specific comments relating to individual applications. Please refer back to these. The comments below merely summarise these and modify them where applications have changed:

The following material considerations are relevant to all applications

- There is considerable local concern about flooding and sewage capacity which has not been addressed. The developers modification on plans for Church St and Top St / Botts Lane show that their initial claims to provide adequate controls within their sites were not correct.
- As detailed above social facilities in the village exist but are not extensive. This includes the village school which is housed in a historic building. Its governing body is committed to staying at its current size to retain its current excellent local provision and because of constraints on their existing accommodation.
- Furthermore all these applications involve the destruction of hedgerows and open areas which would have an adverse impact on nature conservation.
- VDS guidelines relating to the preservation of village lanes, hedgerows, open areas, the settlement pattern and avoiding solid blocks of development at the edges of the village are broken by these applications.
- All these sites are outside the limits to development.

On the basis of all of these arguments we would contest that these applications individually and cumulatively fail the test of sustainable development and have additional significant material planning considerations which also support their refusal.

Since our previous letter there has also been a survey carried out by an independent Market Research Society accredited organisation of village residents with a 57.2% response rate. The responses showed strong opposition to the proposed developments

with almost nine in ten of villagers saying that they oppose either all or most of the proposed developments. While residents' views are not strictly material planning considerations we maintain that they are an assessment from people who actually live in the village of the rate at which Appleby can grow without destroying its character and the types of impact that are of particular concern. We would draw attention to the following findings:

- Over half of those who responded felt that it would be reasonable to build no more than 15 houses over the next 5 years; and nearly three-quarters said no more than 25. Nobody said that 100 houses or more was reasonable.
- The impact on flooding and drainage were major concerns as was the increase in vehicles. Proposed responses to increased traffic, such as road widening, were not supported. They were felt to affect the character of the village.
- Over 8 in 10 households endorsed principles such as the need for development to be at a slow enough pace to allow newcomers to integrate; that any development should be within the existing village boundaries rather than as blocks of uniform new development at the approaches to the village; and that green spaces within the village and connecting the village to the countryside should be conserved wherever possible (these are all in line with VDS guidelines which are adopted SPG and show that this document is still supported by residents).

Full results are available from the Appleby Magna community website (www.applebymagna.org.uk).

Letter dated 18 January 2014

Cumulative Impact - scale of housing development

These applications are, in total, for 139 houses (and we understand from a developer who held a meeting in Appleby at the end of last year that another 60 will be applied for shortly). We feel that rather than considering these applications individually you should start by making a strategic assessment of the scale of development which would be appropriate for Appleby to avoid erosion of the village's character and to ensure that the development is sustainable. Such an analysis was carried out as part of the District's Core Strategy and was subject to extensive consultation and evaluation. This categorised Appleby as a 'sustainable village' alongside another 16 villages in North West Leicestershire. Such locations were said to be appropriate for 'small scale housing development'. The March 2013 version of the core strategy assessed housing numbers for the plan period (up to 2031) for such locations based on those already built or given planning permission from 2006 to 2012. This said that the 15+ Sustainable Villages needed to accommodate at least 80 more homes in total by 2031. This was based both on the total level of assessed housing need and the distribution of housing which the council assessed as appropriate between different types of location in the District.

We understand that this Core Strategy has been withdrawn, in part because the total housing needs for the District were not felt to be reliably assessed. However the Council has said that "the vast majority of the work we have already done to develop the strategy is still valid". The criticisms from the Inspector related to housing numbers and the lack of specific identified sites for development. There was no challenge to the issue of distribution of housing. The report to the Council meeting that agreed the withdrawal of the core strategy says that the withdrawal of the submission draft version of the plan does not obliterate the evidence base which was used to inform the Core Strategy and this evidence base can continue to inform a revised document. This evidence base includes Sustainability Appraisals of the core strategy and various options considered during the process. The Sustainability Appraisal Main Report (Feb 2013) specifically looks at the strategic distribution of housing and alternatives in Section 8. Para 8.11

reads: "In the small rural and sustainable villages there is limited access to services and jobs and the majority of trips would be by car. High levels of rural development risk creating rural isolation as the price of driving increases. More development in these locations would reinforce an unsustainable pattern of development in the district."

An equal distribution of 80 houses across 15+ houses would result in 5 houses per sustainable village between March 2012 and 2031. In fact there have already been permissions granted for 6 houses in Appleby since March 2012 (3 in Church St; 1 in Rectory Lane which has already been built; 2 in Top Street) following a regular pattern of applications which can be expected to continue. Even accepting that development cannot be expected to be distributed exactly evenly between the sustainable villages and that the District's housing total might turn out to be an underestimate, it would still be against the sustainability appraisal to grant permission for more than a handful of additional houses.

Cumulative Impact - Environment assessment

We note the applications are not accompanied by statutory Environmental Statements in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and that the Council has determined that an EIA is not required for the individual applications. As set out in Schedule 2 of the EIA Regulations (Descriptions of development and applicable thresholds and criteria for the purposes of the definition of - Schedule 2 development-) the trigger for schemes of this nature possibly requiring an EIA is that they exceed 0.5 hectares (which is the case for all but the smallest of these applications). In addition to exceeding the 0.5ha threshold consideration should be given to the requirements of Schedule 3 of the Regulations which contains selection criteria for screening Schedule 2 development. If both the size criteria and the screening criteria are met then the applications should be accompanied by an EIA reported in an Environmental Statement.

We believe that the proposed developments meet many of the selection criteria for requiring a formal EIA not least because of the cumulative effects of the various proposed developments (air quality, landscape and visual, land use, noise, traffic, water (including possible effects on flooding and the Mease European Designated Special Area of Conservation) and ecology (for example the cumulative effect on Great Crested Newt populations). In addition, it should be noted that the assessments themselves which accompany the individual applications identify significant environmental effects as a result of the respective schemes (e.g. on visual, ecological and cultural heritage receptors) irrespective of cumulative effects with other developments. Therefore, given that three of the developments each exceed 0.5 hectare and that selection criteria in Schedule 3 are met (particularly in view of cumulative effects) and that individually the various schemes have significant environmental effects irrespective of their cumulative effects we contend that each application should be accompanied by an Environmental Statement which takes into account the cumulative effects of individual developments. We would like the Council to explain why they have determined that no formal Environmental Impact Assessments are required for the developments and provide evidence of their screening decisions.

There is an additional issue in that the failure to supply Environmental Statements (which would bring together all the various effects of the developments individually and in combination with other developments) means that a large amount of disparate documents have been produced. In order to understand the effects on receptors (both individually and in combination) requires a paper chase and we understand that there is

case law relating to this. We note that in these cases the documents consist of a lot of 'cut and paste' material that even the developers don't seem to have read. For example para 2.3 of the bat survey submitted in relation to both applications 13/00799/FULM and 13/00797/FULM reads "Under the Wildlife and Countryside Act 1981 (as amended) it is legal (sic) to recklessly kill, injure or take any wild animal ...".

The River Mease is a European Designated Special Area of Conservation. Although the applications contain consideration of the effect on the SAC again none deal with the potential cumulative effects. Under Article 6(3) of the Habitats Directive, an appropriate assessment is required where a plan or project is likely to have a significant effect upon a European site, either individually or in combination with other projects.

- Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives - Article 6(3)

The River Mease Impact Statement accompanying the application for 8 properties on Measham Road contains the following:

- In 2012 Severn Trent Water assessed the treatment works at Snarestone as having current headroom (capacity) for the equivalent of up to 22 dwellings; there have been no developments in the Snarestone area since 2012 that would affect this figure and therefore the proposed 8 dwellings would only take up 36% of that capacity.

As with all the other applications no consideration is given to other applications and as such the requirement of the Habitats Directive to assess effects in combination with other project has not been considered.

Sustainable Development

The National Planning Policy Framework states that there is a presumption in favour of sustainable development unless material considerations indicate otherwise. The first question this raises is are these developments sustainable within the meaning of policy? As already noted North West Leicestershire District Council commissioned a consultant to carry out a sustainability assessment of their emergent core strategy. In so far as this relates to the distribution

of housing between different types of location, there is no reason to think that this is not still a relevant assessment. We would draw attention to the following extracts from the Non technical Summary of the Sustainability Appraisal (March 2013 version).

"The core strategy sets growth targets for the plan area of 9,700 new homes to be delivered between 2006 and 2031" (para 5.5). "The housing figure is not intended to be a maximum allowance. However, to deliver the strategy in a sustainable way there needs to be reasonable certainty that there will not be a significant departure from the preferred distribution of this growth. If development happens in a way that departs from the strategy it could lead to unforeseen adverse impacts for sustainable development" (para 5.6). "To achieve the intended distribution of residential development in North West Leicestershire there needs to be a marked change in the locations where housing is being delivered. For instance the rural housing requirement is already largely taken up by existing commitments and completions. Therefore, tighter controls need to be put on development in these areas in the future to help deliver objectives related to reduce car dependence." (para 5.7). "The Core Strategy allows some growth in the rural areas. Past completion rates for housing show that the rural area has always played an important role in housing growth in the District. However, development in villages has led to a pattern of development that is unsustainable. Many new homes are occupied by people

who travel outside of the villages for work and also may meet many of their other needs outside of the villages for work and also may meet many of their other needs outside these areas, not necessarily supporting rural services" (para 5.11). As such it is clear that the District Council's own sustainability criteria show that housing development in the rural villages at all but the smallest scale threatens nationally required sustainability targets.

Sustainable Development issue 1 - increased car journeys in conflict with national low carbon strategy and NPPF

We have Appleby specific data to back up a pattern of village living dependent on car travel. Appleby Environment carried out a village-wide survey in 2010 where we had responses from a third of all households. The questionnaire asked about shopping for food and other goods. In response to a question asking where they did the majority of food shopping, 82% said that they did this in a large supermarket whereas 2% said that they used the village shop. The village shop is used and valued by many but is seen as appropriate for the main shop by only a tiny minority. 89% said that they did this major food shop at least weekly (with a third of these saying two to three times per week). 70% of all households said that they drove alone or with other family members to carry out this shop. A further 7% shopped online and had it delivered. Less than 10% shared a car and even fewer took public transport. For non-food shopping 80% said that they drove alone or with another member of their household. The most common location for food shopping was Ashby, followed by Tamworth and then Swadlincote (with no-one mentioning Measham for food), with Tamworth being the preferred location for non-food shopping (followed by Burton, Ashby and Birmingham). This pattern of travelling to the shops is required because there is only a very limited bus service to Ashby (and then only to the town centre, not to the out of town Tesco that most people mean by the major supermarket in Ashby) and no service at all to the other locations mentioned.

In 2012 and 2013 Leicestershire County Council consulted on reductions to the No 7 bus which is the only one which serves Appleby. This bus goes to Measham, Ashby and Nuneaton but the service which is currently at 90 min intervals in the daytime Mon - Sat is being reduced to a 4 hourly service

(see

http://www.leics.gov.uk/index/highways/passenger_transport/transportconsultation/service_7_consultation_2013.htm). The service to Measham and Ashby will then be particularly badly affected by this change with the first bus service leaving Appleby at 10.30 a.m rather than 08.10 as currently. This arrives at Measham at 10.37 and Ashby at 10.48. It turns round at Ashby and so, assuming that one wants more than 12 minutes there, the only return journey is the last bus back leaving Ashby at 15.00. The journeys to Measham are slightly better with 2 buses a day allowing one to spend approximately three-quarters of an hour there before returning!

The travel plans provided with these applications are seriously inadequate in their assessment of car travel that will be created by their proposed developments. Again they seem to have produced standardised reports without paying any attention to the specific features of this location or the use of any up to date material. Some specific examples:

26 Houses Church St / Bowley's Lane

- The developers' application indicates the intention to provide 63 parking spaces for 26 houses implying an average 2.4 cars per property. The Transport Statement says that the development is predicted to generate 23 new vehicle trips in the a.m. peak period and 24 in the p.m. peak period. There is no indication of how this prediction is compatible with travel to work census data quoted in the same document which says

that 81% of journeys to work in the parish are undertaken by car. The developers do not cite employment data but the 2011 census data for the ward shows that 16-74 year old residents are economically active, including 55% of women.

- There is nothing about any other journeys that might be taken by residents.

- The developers claim they can reduce the proportion of travel to work journeys by car to 73% by the end of 5 years, in part by providing details of the bus service which they think will run every 2 hours (rather than every 4 hours which Leicestershire County Council anticipates).

- They seem to think the location of this development is in Cambridgeshire (see paras 5.1.1 and 5.1.4 of the Framework Residential Travel Plan).

73 Houses Measham Rd

- The developers' application indicates the intention to provide 166 parking spaces for 73 houses implying an average 2.3 cars per property. The travel plan predicts 64 vehicle trips in the a.m. peak and 66 in the p.m. peak. There is no indication of how this prediction is compatible with travel to work data quoted in the same document (81% travelling to work in a car).

- There is nothing about any other journeys that might be taken by residents.

- Para 4.2.1 of the Transport Statement says that cycling to work journeys of 5km are considered acceptable and this makes the whole of Measham accessible by a sustainable route. Presumably the writers failed to notice the gradient of the road from Appleby to 'Birds Hill' in Measham nor of the level of heavy traffic on the main road. Anyone local could have told them that very few people cycle up the Tamworth Rd (the direct route for those living on Measham Rd) and those that do tend to use the footpath ... which is used by no pedestrians. Perhaps this explains why the data taken from the census shows that only 1% of Appleby residents travel to work by bicycle.

- Para 4.3.1 says that the No 7 bus service "offers the opportunity for residents of the proposed development to commute sustainably to Ashby de la Zouch for work based journeys". With the new timetable this will no longer be true unless one can find a job which starts after 11am and finishes before 3pm.

8 houses Measham Rd

- Here the developers' application says they are intending to provide 23 car spaces (according to the application form) implying 2.9 cars per household (but rather less if you read their highway statement).

- The highway statement says that these 8 houses will generate an additional 64 traffic movements per day from the site. This is far higher than the predicted ratios for the other 2 sites. There is no referencing here so it is not possible to compare methodologies.

- This developer also refers to a 2 hourly bus service - but mentions that the increase in use of the service generated by the development is not likely to put it under any strain!

- They expect residents to walk to Measham for work (2 km up the route described above and including walking on Measham Rd with no pavement).

32 houses Top St / Botts Lane

- Here the developers are proposing 64 spaces for 32 houses.

- This is an outline application and gives no indication of traffic movements but again mentions the existing bus service (with no awareness that it is soon to be curtailed).

As can be seen the data provided on the vehicle trips created by these developers is inadequate. It provides evidence that large numbers of cars are expected to be owned by residents of these new houses. Where the developers do provide data it is only about peak time travel to work movements

(and these seem implausible). The developers seem to think that the only issue relating to car travel is congested roads. This is a complete misunderstanding of the issue of the impact of car use for sustainability which instead relates to the need to move to a low

carbon economy by reducing unsustainable transport particularly car use.

Sustainable Development issue 2 - contributing to protecting and enhancing our natural, built and historic environment as required by national policy in the NPPF

There is a further dimension to environmental sustainability included in the National Planning Policy Framework. This is that sustainable development should contribute "to protecting and enhancing our natural, built and historic environment" (para 7). Three out of the four applications (all except 13/00797/FULM) are planned for 'sensitive areas' as identified in the existing NWLDC Local Plan. These 'sensitive areas' are defined as important open areas within or adjoining settlements which contribute positively to the character of the settlement concerned, its streetscene or its setting or approaches. It is important that such areas are kept free from development in view of the contribution they make to local environmental quality (Local Plan para 4.1).

Policy E1 says: Development will not be permitted within the Sensitive Areas, identified on the Proposals Map, which would adversely affect or diminish the present open character of such areas and the contribution they may make to the character, form and setting of settlements, the streetscene generally or the relationship with adjoining countryside.

All these proposed developments involve tearing out existing hedgerows to create 'visibility splays'.

The applications further contain statements such as "the development of this site would seem to be a logical 'rounding off' of the village" (26 houses Church St / Bowley's Lane), "The Measham Road site does not extend, northwards or westwards, the furthest extent of the village" (73 houses Measham Rd). This shows no understanding of the "character of the settlement" as experienced by the residents of Appleby. Rather than seeing Appleby as a settlement that needs straight lines drawing around its existing settlement pattern the Village Design Statement includes the views of residents (endorsed by the District Council as Supplementary Planning Guidance) such as "The rural aspect of the village seen from the approach roads should be retained by avoiding solid blocks of development visible at the boundaries. Spaces should be left to retain views into and out of the village" (guideline 26), "Green and other underdeveloped spaces in the village, and the green corridors connecting them, both within the village and from the village to the surrounding countryside, should be conserved whenever possible" (guideline 32), "Leafy green lanes are a characteristic of Appleby and should be conserved" (guideline 58), "Undue widening of roads at junctions should be avoided" (guideline 61), "The natural features of the countryside around Appleby should be protected, in particular old woodland and ancient hedgerows. Hedges and trees should be conserved..." (guideline 23). These views have been endorsed by external assessors. These include the planning inspector who considered the last planning application for the site applied for by 13/00829/OUT. He said "the village is partly characterised by a number of relatively narrow lanes bounded by mature hedgerows. Also evident are several open spaces extending into the settlement which contribute towards its attractive rural character. In my opinion that character is worth of preservation and enhancement" (para 12, The Planning Inspectorate ref: T/APP/G2435/A/96/265258/P2). These views about the value of undeveloped fields in providing a general setting for the village were endorsed by the inspector who was responsible for deciding on objections to the NWLDC Local Plan in 1999. These will be quoted in detail below under material conditions since they throw light on the value of sites currently under consideration for housing.

The applications focus on areas which have been identified in the local plan as sensitive

areas which contribute to the character of Appleby. They also plan to destroy features and characteristics which have been defined as significant for the characteristics of Appleby as defined by residents in the Village Design Statement and endorsed by the planning process as supplementary planning guidance.

Sustainable Development issue 3 - accessible local services that reflect the community's needs and support its health, social and cultural well-being as required by the National Policy in the NPPF

The applications currently under consideration exaggerate the level of services that are available in Appleby. These do include pubs, a village shop, primary school, and a recreation ground. However there are no significant employment opportunities (as confirmed by the census data that shows only 11% of residents walk or cycle to work), our survey shows that the shopping facilities are treated by the vast majority of residents as only for minor or top up purchases; the GP currently limited hours service is due to close (and the parent medical facility have said that however many new houses are built this decision will not be reversed); and the village offers minimal leisure facilities. There is a current limited bus service which does not meet the District Council's criteria for a sustainable village -once an hour 7am to 6pm - and is about to come even more restrictive. There is no bus service in the evenings, when adults and teenagers want to go out, and in any case doesn't go to the places they would want to go (e.g. cinemas in Tamworth and Swadlincote). In the next few months the bus service will effectively offer a once a day service to Ashby which is the nearest place with a reasonable range of shops and other services.

These circumstances are not just an issue for environmental sustainability through increased car use. They also threatens social sustainability through failing to provide accessible local services which reflect the needs of the local community and economic sustainability by failing to provide any access to employment opportunities. Even the developers' optimism does not stretch to suggesting that these houses will create any increase in jobs or services.

They do however distort the District Council's labelling of Appleby as a sustainable village to suggest that it means that any development within it has been judged as 'sustainable'. For example the application for 26 houses in Church St says "Appleby Magna is a sustainable village, having a good range of facilities and services. The sustainability of the village can only be seen as a merit of the proposed development and provides significant support for the NPPF's presumption in favour of sustainable development" (planning application supporting statement para 4.60). The application for 8 houses on Measham Rd says "Appleby Magna is one of the villages identified in the submission Core Strategy (as a sustainable village) ... (and) the proposal is consistent with the thrust of the NPPF which seeks to promote development in sustainable locations" (planning statement 4.4. to 4.6). This is nonsense. The designation of 'Sustainable Village' is a label used by District Council to distinguish villages with some services. The planned core strategy policy CS7 states that in such locations "Small-scale housing and employment development will be permitted within the existing built-up area as defined by Limits to Development". Only one of these applications can plausibly be said to meet this criteria.

With the loss of the GP surgery Appleby will only have the minimum number of facilities required for a 'Sustainable Village'. As our recent survey of shopping patterns and the census data show, more residents will travel elsewhere by car for employment and other services rather than increase the 'sustainability' of Appleby and those without access to

a car will find access to work and services very difficult.

Sustainable Development issue 4 - supply of housing required to meet the needs of present and future generations as required by NPPF

The developers make the further spurious argument that these houses are needed in order to provide housing for local people. Appleby is one of the few villages in the District that has had a rural exception site (completed in 2011 as an extension to Parkfield Crescent) and not subject to any local opposition. This was carried out as a result of a proper survey of local housing needs by the Leicestershire & Rutland Rural Housing Enabler (LRRHE). Appleby also has affordable rented accommodation in the Alms Houses. Recent vacancies there have met with very limited interest.

In contrast to the way in which local housing need was assessed for the rural exception site, the developers' survey does not meet any criteria of objective or meaningful data collection. For example they report that 32 people said they knew someone who had moved out of the village because they couldn't find a suitable home. This provides no way of knowing whether all 32 knew the same one or two people or whether any house built in the village would have met their criteria of 'suitability'.

There is thus no credible evidence that there is significant unmet local need, and in contrast there is evidence that Appleby has taken a responsible position in relation to assessing and addressing local need as recently as 2 years ago. As such there is no reason for departing from the distribution of housing decided by NWLDC in their core strategy as subject to a sustainability appraisal.

Sustainable Development - Conclusions

- The Sustainability Appraisal conducted as part of the NWLDC core strategy development clearly argues that the planned level of development in villages for the period up to 2031 already threatens its sustainability objectives.
- Appleby has already had permissions for 6 houses since this assessment was done (March 2012) and there are a further 15 years to go. It has also had a recent rural exception site.
- Furthermore NWLDC last month granted permission for more houses in Ravenstone than were intended in all the sustainable villages for the whole of the plan period. As such we cannot see any basis for considering any of these applications as fulfilling the sustainable development criteria.

Other Material Considerations

The following material consideration are relevant to all applications

- You will have received a lot of information via individual objectors about flooding experienced in Appleby Magna close to all of these application sites and we will not repeat the detail here. In recent years all access roads to the village have become impassable at the same time on several occasions.- There are also concerns relating to sewage both in specific locations and more generally in relation to capacity for the village overall. The application in support of the smallest of these proposed developments reviews provisions for sewage treatment and reports that Severn Trent Water say that the Snarestone Treatment works has capacity for another 22 dwellings. This is clearly far below the number of houses currently under consideration. However there are reasons for thinking even that figure is an overestimation. Vehicles pumping out sewage have been regularly seen in Measham Rd including continuously in the week of writing (starting 20th January 2014).
- As detailed above social facilities in the village exist but are not extensive. This

includes the village school which is housed in a historic building. Its governing body is committed to staying at its current size to retain its current excellent local provision and because of constraints on their existing accommodation.

- Furthermore all these applications involve the destruction of hedgerows and open areas which would have an adverse impact on nature conservation.

Conclusions

On the basis of all of these arguments we would contest that these applications individually and cumulatively fail the test of sustainable development and have additional significant material planning considerations which also support their refusal.

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Erection of a detached dwelling (Amended Scheme)

Report Item No
A4

Land To The Rear 31 The Green Thringstone Coalville
Leicestershire

Application Reference
14/00320/FUL

Applicant:
Mr Colin Draycott

Date Registered
28 April 2014

Case Officer:
James Mattley

Target Decision Date
23 June 2014

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL**Call In**

The application falls to be determined by the Planning Committee as the application has been called in by Councillor Spence as part of the DEL1 process.

Proposal

Planning permission is sought for the erection of a detached dwelling on land to the rear of 31 The Green, Thringstone. The application site is located to the west of The Green behind the existing line of dwellings which front onto the road. The site is located outside of the limits to development as defined by the Local Plan.

Consultations

A total of 4 letters of representation have been received; 2 in support of the application and 2 against the application. No other objections have been received from any other statutory consultees.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application and the weight that can be attached to these policies is the supply of housing in the context of the National Planning Policy Framework (NPPF).

Conclusion

The proposal is no longer considered to adversely affect and diminish the present open and undeveloped character of this part of the Green Wedge and, therefore, the scheme would be acceptable in relation to Policy E20 of the Local Plan. Previous concerns relating to the access have been satisfactorily addressed such that the County Highway Authority no longer object to the application and the scheme is considered acceptable with regard to Policy T3 and T8. However, the proposed dwelling would not be in keeping with the character and appearance of the surrounding area and is considered to be contrary to the aims of Policy E4 and H7 and the advice in the NPPF. It is, therefore, recommended that planning permission be refused.

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

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the erection of a detached dwelling on land to the rear of 31 The Green, Thringstone. The application site is located to the west of The Green behind the existing line of dwellings which front onto the road. Residential properties front onto The Green but the majority of the application site and the land further to the west is located within the countryside and some of the adjacent land is defined as Green Wedge in the North West Leicestershire Local Plan. Part of the application site is also located within a site of county or district ecological or geological interest.

In January 2014 planning permission was refused for a similar development although it was located in an amended location. The reasons for refusal stated:

1 The application site is situated within the Coalville-Whitwick-Swannington Green Wedge, as defined on the North West Leicestershire Proposals Map, 2002. The Green Wedge is provided to protect the structurally important areas of open land which influence the form and direction of urban development, prevent coalescence, maintain the physical identity of adjacent settlements and preserve links between the urban centres and the open countryside. Policy E20 (Green Wedge) of the Local Plan guards against development that would adversely affect or diminish the present open and undeveloped character of the Green Wedge, with any built development permitted being limited to minor structures and facilities that are ancillary to agriculture, forestry, minerals extraction and outdoor sports and recreation uses. The proposal would adversely affect and diminish the present open and undeveloped character of this part of the Green Wedge and the proposed built development would not be limited to minor structures and facilities that are ancillary to agriculture, forestry, minerals extraction and outdoor sports and recreation uses. The proposal is therefore contrary to Policy E20 (Green Wedge) of the Local Plan, 2002.

2 Policy E4 of the North West Leicestershire Local Plan states that in determining planning applications, regard has to be had to the wider setting of new buildings. New development should respect the character of its surroundings in terms of scale, design, density, height, massing, materials of construction, the spaces between and around buildings and the street scene generally. Policy H7 seeks good quality design in all new housing development. The proposed dwelling would not be in keeping with the street scene in the surrounding area and approval of such an application could also set a precedent for similar unacceptable and undesirable development in the surrounding area. On this basis, the proposal would be contrary to Policy E4 and H7 of the North West Leicestershire Local Plan and the advice in the NPPF.

3 Policy T3 of the North West Leicestershire Local Plan requires development to make adequate provision for vehicular access, circulation and servicing arrangements. The proposal, if permitted, would lead to an intensification in use of an access that is substandard in width and would be likely to lead to vehicles waiting within the highway in order to enter the site, which would be an additional source of danger for road users and would be detrimental to the free flow of traffic and not in the interests of highway safety. The Applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development and the proposal, if permitted, would consequently result in an unacceptable form of development and could lead to dangers for road users. On this basis the proposal would not be in accordance with Policy T3 of the Local Plan.

The proposed dwelling would be accessed between No.31 The Green and No.7 Main Street,

Thringstone. The plans indicate that the dwelling would be two storeys in height with the second floor accommodation provided within the roof. It would measure a maximum width of 17.75 metres, a maximum length of 10.7 metres and would have an eaves height of 2.9 metres in height to the eaves and a ridge height of 7.2 metres. There are significant land level differences across the site.

The application is accompanied by an ecological appraisal and a design and access statement.

Relevant Planning History:

13/00582/FUL - Erection of a detached dwelling - refused.

2. Publicity

8 no neighbours have been notified (Date of last notification 29 April 2014)

Site Notice displayed 2 May 2014

Press Notice published 7 May 2014

3. Consultations

County Highway Authority
Severn Trent Water Limited
Natural England
LCC ecology

4. Summary of Representations Received

Natural England has no objection in relation to statutory nature conservation sites and has left standing advice in relation to other ecological matters

County Highway Authority has left standing advice comments for a range of highway matters to be considered.

County Ecologist considers that the ecology report is satisfactory and raises no objection subject to the imposition of relevant conditions.

Severn Trent Water has no objection subject to the inclusion of relevant notes to the applicant.

Two letters of representation has been received in support of the application as it would improve the outlook of The Green.

Two letters of representation has been received objecting to the application on the following grounds:

- _ Field is protected by Policy E26;
- _ The proposal does not accord with the development plan in the area;
- _ The proposal does not comply with the Highways and Fire Requirements;
- _ The application contains incorrect information;
- _ There have never been dwellings located on the site;
- _ Land has been used for grazing and is not disused scrubland;
- _ Would set an undesirable precedent;
- _ Access is narrow and would add to the congestion in the surrounding area;

_ Flooding and drainage issues.

5. Relevant Planning Policy

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

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

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

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

Adopted North West Leicestershire Local Plan (2002)

The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

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

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

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

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

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

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

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

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

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

Policy E20 seeks to prevent development that would adversely affect or diminish the present open and undeveloped character of the Green Wedge.

Policy E26 states that development will not be permitted which could adversely affect sites of County and District ecological or geological interest, or Local Nature Reserves.

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

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

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

Submission Core Strategy (April 2012)

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

Other Policies

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

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

6. Assessment

Principle of Development

In relation to the previous application on the site the 'Principle of Development' section of the report indicated the following:

The access drive and a small section of the dwelling are located within the limits to development. However, the majority of the application site is greenfield land located outside of limits to development and situated within the designated Coalville-Whitwick-Swannington Green Wedge, as defined on the North West Leicestershire Proposals Map, 2002.

Policy E20 (Green Wedge) of the Local Plan states that development will not be permitted which would adversely affect or diminish the present open and undeveloped character of the Green

Wedge, with any built development permitted being limited to minor structures and facilities that are ancillary to agriculture, forestry, minerals extraction and outdoor sports and recreation uses. Whilst it is acknowledged that the NPPF does not refer specifically to strategic land designations such as Green Wedge, there are a number of references within the NPPF that support the relevance of Policy E20 (Green Wedge). Paragraph 17 of the NPPF sets out the core planning principles of the Framework, which include that planning should take account of the different roles and character of different areas and should contribute to conserving and enhancing the natural environment. In addition, paragraph 109 of the NPPF states "the planning system should contribute to and enhance the natural environment by: protecting and enhancing valued landscapes". The locally designated Green Wedge is provided to protect the structurally important areas of open land which influence the form and direction of urban development, prevent coalescence, maintain the physical identity of adjacent settlements, preserve links between the urban centres and the open countryside, provide recreational facilities and promote positive management to ensure that they remain and are enhanced as attractive environmental features. The open land between Coalville, Whitwick and Swannington is a long established feature, designated as Green Wedge (albeit through previous policy processes) due to it having a particular landscape value worthy of protection. It is especially valued by the local communities and continues to receive public support for its retention. Paragraph 114 of the NPPF also states that "Local planning authorities should...plan positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure". The NPPF glossary defines Green Infrastructure as a network of multi-functional green space. The Green Wedge is a multi-functional Green Space as it provides opportunities for agricultural uses, prevents the merging of settlements and provides recreational benefits.

The proposal for one dwelling on the site would clearly not be in accordance with Policy E20 as it would adversely affect or diminish the present open and undeveloped character of this part of the Green Wedge and the proposed built development would not be limited to minor structures and facilities that are ancillary to agriculture, forestry, minerals extraction and outdoor sports and recreation uses. The proposed development is not therefore deemed to be appropriate in principle. Approval of such an application could also result in similar unacceptable developments within the Green Wedge area.

However, the current application on the site proposes a new location that would result in the rear elevation of the proposed dwelling falling in close proximity to the edge of the Green Wedge designation. Although an extremely small part of the dwelling may encroach into this designated area and the amenity space of the dwelling would also likely be located within it, it is not considered that this would have a severe impact upon the Green Wedge in order to justify refusal of the application on this matter alone.

It is therefore necessary to consider impacts upon design, amenity, highway safety and any other material considerations.

Design

The need for good design in new residential development is outlined not only in Local Plan Policy H7, but also paragraphs 57, 60 and 61 of the NPPF, with paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 indicates that in the determination of planning applications regard will be had to the wider settings of new buildings; new development should respect the character of its surrounding, in

terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

The character of the application site is an undeveloped and open field with mature trees and hedges bordering it. Similar undeveloped land is located to the north, south and west of the application site. To the east are residential properties which are characterised predominantly by two storey dwellings which either front the road or are set back slightly from the road. This particular area is not characterised by back-land development and, therefore, the proposal would not be well related to the street scene in the surrounding area. Approval of such an application could also result in similar unacceptable developments in this area.

Overall, the design, appearance and scale of this proposal is not considered to be acceptable and would not be in accordance with the character and appearance of the surrounding area and is considered to conflict with Policy E4 and H7 of the Local Plan and advice in the NPPF.

Highway Safety

The access to the dwelling would be positioned between No.31 The Green and No.7 Main Street, Thringstone. The site visit revealed that part of the access drive, located immediately off The Green, is used as off-street car parking in association with No.31 The Green. The County Highway Authority (CHA) has been consulted and does not raise any objections to the proposal under the standing advice procedure subject to the inclusion of relevant conditions and notes to applicant. These include matters relating to the access, car parking for existing and proposed dwellings, turning facilities, access surfacing, access drainage and ownership issues.

On this basis it is considered that the scheme is acceptable in relation to Policy T3 and T8 of the Local Plan.

Other

Given the distances to surrounding residential properties and the 1.5 storey nature of the proposal, it is not considered that the scheme would result in any significant overbearing, overshadowing or overlooking impacts. On this basis the scheme is considered to be acceptable in relation to Policy E3 of the Local Plan.

The site is located in close proximity to an area designated as a site of County and District ecological or geological interest and is protected by Policy E26 of the Local Plan. This Policy states that where development is permitted on such sites, the developer will be required to minimise damage to and disturbance of the site, or, where material damage or disturbance is unavoidable, to provide suitable new habitats. The County Ecologist has been consulted on the proposed scheme and considers that the site had ecological value in the past as species-rich grassland, but it is clear from the ecology survey that much of this value has been lost, through lack of management of the grassland. The ecologist also notes that the application is on part of the grassland only, and the least important part. Therefore, it is not considered that there is any conflict with Policy E26 of the Local Plan. It is also noted that Natural England raise no objections to the proposed scheme subject to the imposition of relevant conditions and notes to applicant.

The Design and Access Statement indicates that the application site previously contained two dwellings until these were demolished in or after 1991. However, letters of representation from a surrounding neighbour indicates that dwellings have never been positioned on the land and that the buildings shown on old maps were used for agriculture. Whilst the history of the site is

not clear, any buildings have now been demolished and the application site has blended back into the landscape in the process of time. Therefore, the former presence of buildings on the site would not be sufficient reason to grant planning permission for an unacceptable development.

Conclusion

The proposal is no longer considered to adversely affect and diminish the present open and undeveloped character of this part of the Green Wedge and, therefore, the scheme would be acceptable in relation to Policy E20 of the Local Plan. Previous concerns relating to the access have been satisfactorily addressed such that the County Highway Authority no longer object to the application and the scheme is considered acceptable with regard to Policy T3 and T8. However, the proposed dwelling would not be in keeping with the character and appearance of the surrounding area and is considered to be contrary to the aims of Policy E4 and H7 and the advice in the NPPF.

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

- 1 Policy E4 of the North West Leicestershire Local Plan states that in determining planning applications, regard has to be had to the wider setting of new buildings. New development should respect the character of its surroundings in terms of scale, design, density, height, massing, materials of construction, the spaces between and around buildings and the street scene generally. Policy H7 seeks good quality design in all new housing development. The proposed dwelling would not be in keeping with the street scene in the surrounding area and approval of such an application could also set a precedent for similar unacceptable and undesirable development in the surrounding area. On this basis, the proposal would be contrary to Policy E4 and H7 of the North West Leicestershire Local Plan and the advice in the NPPF.

Notes to applicant

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. In the Local Planning Authority's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. The Local Planning Authority has therefore complied with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 Severn Trent Water advise that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

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Erection of 29 dwellings with new access, woodland planting
and landscaping (Outline - Access included)

Report Item No
A5

Home Farm 25 Main Street Oakthorpe Swadlincote

Application Reference
14/00244/OUTM

Applicant:
Mr P, W, C & R Redfern

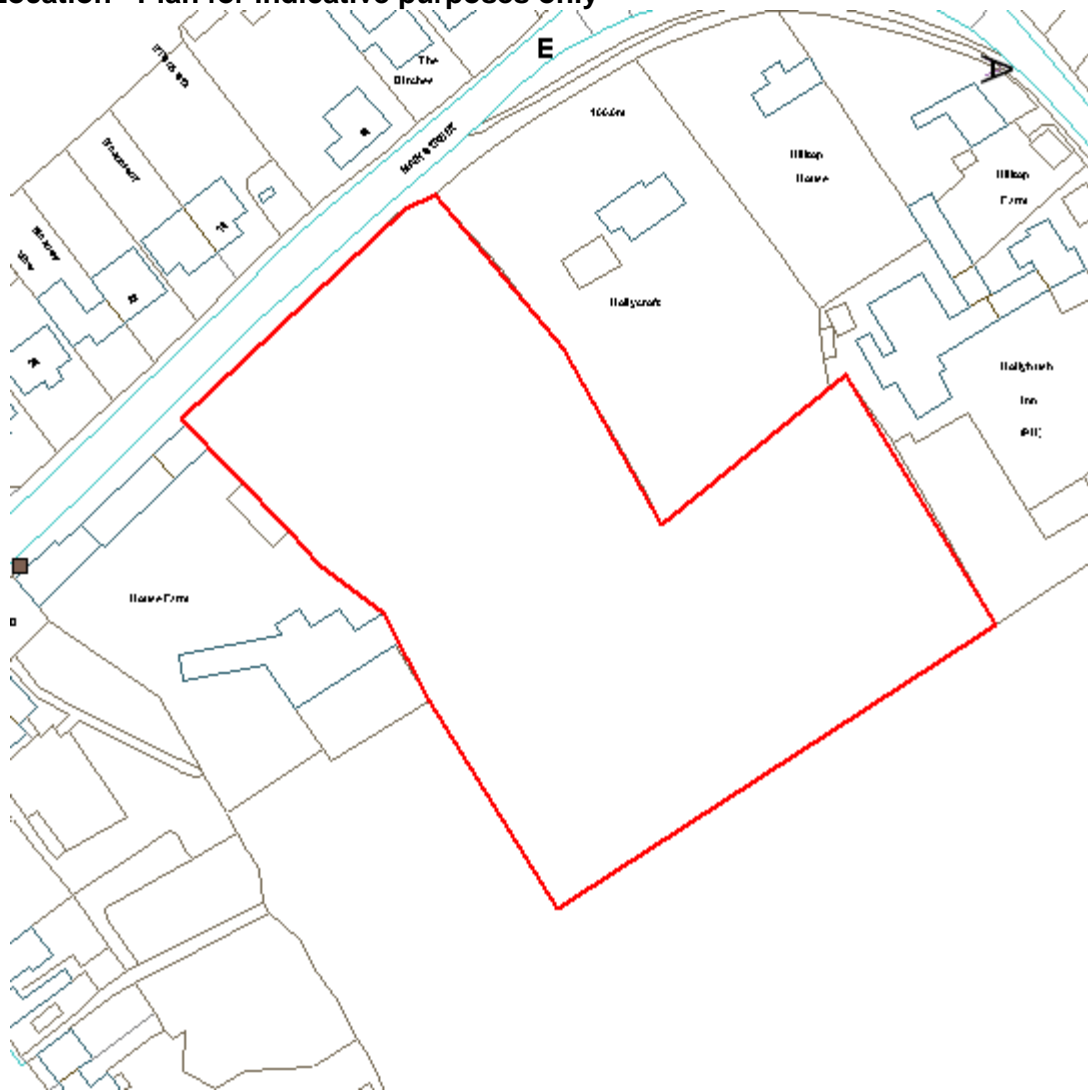
Date Registered
28 March 2014

Case Officer:
Hannah Exley

Target Decision Date
27 June 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

The application falls to be determined by the Planning Committee as the agent for the application is Andrew Large who is the husband of Councillor Caroline Large.

Proposal

Outline planning permission is sought for the erection of 29 dwellings on 01.52 hectares of land at Home Farm, Main Street, Osgathorpe. Details of means of access only are included for consideration at this stage and vehicular access into the site would be off Main Street.

The site is currently occupied by a dilapidated farmhouse and outbuildings, and also includes some pasture land. The application site is bordered by a public highway to the north west and by open fields on the south east and two public footpaths are routed through the site. There are seven protected trees on the site covered by Tree Preservation Order T371.

Consultations

Members will see from the main report below that objections have been received, with 13 letters being received from members of the public. No objections have been received from statutory consultees or the Parish Council.

Planning Policy

The frontage part of the site is allocated within the Local Plan for housing under allocation H4o. The remainder of the site lies outside the limits to development as defined in the adopted North West Leicestershire Local Plan.

Conclusions

The frontage part of the site is allocated for housing where the principle of the proposed development is considered acceptable. The rear part of the site lies within the countryside as defined in the Local Plan. Notwithstanding the conflict with the provisions of Policy S3 of the Local Plan, when having regard to the sustainability credentials of the settlement and the site, along with the fact that the site is well related to existing built development and the Limits to Development as defined in the Local Plan, the development of countryside land is considered acceptable in this instance. The proposed development would be acceptable in terms of density, impact on heritage assets, impact on trees, residential amenities, highway safety issues, flood risk and drainage, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services. 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, 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

Outline planning permission is sought for the erection of 29 dwellings on 01.52 hectares of land at Home Farm, Main Street, Osgathorpe. The site is currently occupied by a dilapidated farmhouse and outbuildings, and also includes some pasture land. The application site is bordered by a public highway to the north west and by open fields on the south east. The nearest residential properties are located to the north east and south west of the site, and on the opposite side of Main Street facing the proposed development site. Public footpaths P73 and P71 are routed through the site and public footpath P74 joins footpath P71 at the south eastern edge of the site.

The application is in outline at this stage with details of means of access included for consideration. Vehicular access into the site would be off Main Street, approximately 30m from the south-western corner of the site frontage. There are seven protected trees on the site covered by Tree Preservation Order T371.

Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application.

Amended plans were received during the course of the application following concerns raised by officers about the loss of trees along the site frontage.

The application submission was accompanied by the following supporting information:

- Building for Life 12 Assessment;
- Design and Access Statement;
- Building Condition Survey by Peter J. Steer dated 11 March 2008;
- Ecology Report by Three Shires Ltd dated January (issued December 2013);
- Phase I and II Geo-Environmental Assessment by Ivy House Environmental dated January 2014;
- Archaeological Heritage Assessment and Rapid Building Appraisal by Archaeological Building Recording Services dated 2014;

The following documents were also secured during the course of the application following requested for additional information by statutory consultees:

- Protected Species and Ecological Walkover Survey by EMEC Ecology dated June 2014;
- Great Crested Newt Habitat Assessment and Survey by EMEC Ecology dated June 2014;
- Reptile Survey by EMEC Ecology dated June 2014;
- Arboricultural Survey by Three Shires Ltd dated December 2013;
- Flood Risk Assessment by Howkins and Harrison dated April 2014.

2. Publicity

40 no neighbours have been notified (Date of last notification 1 April 2014)

Site Notice displayed 1 April 2014

Press Notice published 9 April 2014

3. Consultations

Oakthorpe & Donisthorpe Parish Council consulted 1 April 2014
 NWLDC Tree Officer consulted 10 June 2014
 National Forest Company consulted 10 June 2014
 Environment Agency consulted 23 April 2014
 LCC ecology consulted 24 June 2014
 National Forest Company consulted 28 April 2014
 NWLDC Tree Officer consulted 28 April 2014
 Coal Authority consulted
 County Highway Authority consulted 1 April 2014
 Environment Agency consulted 1 April 2014
 Severn Trent Water Limited consulted 1 April 2014
 Head of Environmental Protection consulted 1 April 2014
 Natural England consulted 1 April 2014
 NWLDC Tree Officer consulted 1 April 2014
 County Archaeologist consulted 1 April 2014
 NWLDC Urban Designer consulted 1 April 2014
 County Planning Authority consulted 1 April 2014
 LCC Development Contributions consulted 1 April 2014
 NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 1 April 2014
 Development Plans consulted 1 April 2014
 Head Of Leisure And Culture consulted 1 April 2014
 Manager Of Housing North West Leicestershire District Council consulted 1 April 2014
 Police Architectural Liaison Officer consulted 1 April 2014
 LCC/Footpaths consulted 1 April 2014

4. Summary of Representations Received

Statutory Consultees:

County Ecologist has no objections subject to conditions.

Strategic Housing Manager advises that the proposal triggers a requirement for nine affordable homes and gives advice on housing types and tenures.

National Forest Company has no objections subject to the Council's Tree Officer being consulted and subject to a Note to Applicant and either agreement to secure the provision of 0.3ha of woodland on-site or near the site or a developer contribution of £6,000.

NWLDC Urban Designer comments awaited on the indicative layout and will be reported on the update sheet.

County Highways Authority has no objections subject to conditions and S106 requirements.

NHS England (Leicestershire and Lincolnshire Area) seeks a developer contribution of £13,827.60 towards the upgrading of the nearest doctors surgery at Measham.

NWLDC Tree Officer raised concern about the impact of the development as shown on the originally submitted plans.

Environment Agency has no objections subject to conditions.

Natural England has no objections subject to conditions and subject to compliance with the River Mease DCS.

Environmental Protection has no objections subject to a contaminated land condition.

LCC Footpaths Officer has no objections given the outline nature of the proposal, subject to notes to applicant.

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 have requested a contribution of £1780 towards additional resources at Measham library.

Leicestershire County Council Local Education Authority have requested a contribution of £51,840.89 for the high school sector as there would be a deficit of 64 pupil places (3 created by the development) within high schools within a 3 mile walking distance of the site. A contribution of £53,229.96 is also sought for the upper school sector as there would be a deficit of 203 pupil places (3 created by the development) within upper schools within a 3 mile walking distance of the site. A contribution of £84,209.11 is also sought for the primary school sector as there would be a deficit of 105 pupil places (7 created by the development) within upper schools within a 2 mile walking distance of the site.

No comments had been received from Oakthorpe and Donisthorpe Parish Council, Severn Trent Water Ltd, County Archaeologist and Leicestershire Police at the time of writing this report.

Third Party Representations:

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

13 letters of neighbour representations have been received, raising objection on the following grounds:

- increased traffic along Main Street will increase dangers to residents using existing vehicular accesses, pedestrians (including children) and cyclists;
- Main Street is unsuitable to accommodate additional traffic and already has to accommodate delivery and farm vehicles along with fast moving commuter traffic, horse riders, cyclists and pedestrians;
- bottlenecks already occur outside the proposed site entrance along Main Street which is the link road for all ways into/out of the village;
- concern has been raised by the CHA about children needing to cross the road to the local play area;
- concern about vehicle parking within the highway outside the site which would impede the flow of traffic and cause dangers to road users and therefore, adequate parking should be provided on the site;
- headlights will shine into properties on the opposite side of Main Street when using the proposed vehicular access into the site;
- concern about the siting of the proposed site entrance;
- concern about traffic levels during the construction phase;
- local speed limits are not adhered to and increased traffic on local roads will only exacerbate this problem;
- the speed limit through the village should be adjusted to 20mph;
- concern about increased use of a blind corner outside the Shoulder and Mutton where the road narrows to the width of one vehicle and accidents have already occurred;

- the scheme is a better match to the local village character than the earlier scheme in 2008 and the scheme is an opportunity to improve the character, community and sustainability of the village;
- concern that there are more houses proposed than on earlier schemes;
- all those houses on the farm site will spoil the village;
- impacts on wildlife and bats;
- some development on the site is welcomed but concern about the proposed density and associated vehicular movements, especially at peak times creating additional dangers for road users;
- the proposed access position is inappropriate and will provide an additional source of traffic onto The Square and Main Street and other adjoining roads;
- the local play area is inadequate for children under seven;
- footpaths linking the Square and Stretton View to Oakthorpe schools and the shop, as well as shops and medical facilities in Measham are inadequate and will become more important when the local bus service ceases;
- lack of clarity about how local footpaths will be dealt with;
- access for ambulances into the village is already restricted;
- additional housing will make the village busier when local services are closing down;
- heritage has been lost through development and the proposal should ensure that all the Yew, Holly and Hornbeam trees and the old phone box are preserved;
- it was unclear from the submission which trees on the site were protected;
- space should be provided for rural crafts and sport opportunities for teenagers;
- confirmation that drainage infrastructure is adequate should be sought;
- due to old sewers during periods of heavy rainfall, the local sewers have been unable to cope and have overflowed depositing raw effluent on properties within Boncroft Gardens and these have to be regularly maintained by Severn Trent to avoid regular occurrences;
- Severn Trent have raised concern about the possibility of pollution to the River Mease at times of heavy rainfall;
- assurances that the local road network can accommodate additional traffic should be sought;
- does the proposed tree screen along the southern boundary anticipate HS2?
- the application does not provide full site elevations;
- the proposed access appears wider than it is;
- loss of views;
- local footpaths are already in a poor state of repair and could not cope with additional use;
- local schools cannot accommodate more pupils and local services (doctors) will be under further pressure;
- noise and disturbance during construction works;
- the application has already resulted in some properties being put up for sale;
- concern that the neighbour has relations in the Council and whether the application will be dealt with properly;
- rubbish and old building materials including asbestos have been buried on the site;
- natural springs should be taken into account;
- concern about the housing being affordable.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document.

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

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

- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity;
- take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- encourage effective use of land by reusing land that is previously developed;
- conserve heritage assets in a manner appropriate to their significance;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
- take account of and support local strategies to improve health, social and cultural wellbeing.

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

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

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

"32. ...Plans and decisions should take account of whether:

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

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

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

"49. Housing applications should be considered in the context of the presumption in favour of

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

"54. ... Local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs."

"55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities."

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

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

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

"64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."

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

"112. Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."

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

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

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

- opportunities to incorporate biodiversity in and around developments should be encouraged..."

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

"123. Planning policies and decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development..."

"129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal taking account of the available evidence and any necessary expertise."

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

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness."

"173. Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."

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

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

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

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 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 the Local Plan.

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

Policy H4 sets out housing land allocations including allocation H4o Main Street, Oakthorpe (1.0ha with a recommended density of 10 units).

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

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account a number of issues including housing mix, accessibility to centres and design.

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

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

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

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

Policy E4 seeks to achieve good design in new development.

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

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

Policy E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplain of the River Mease.

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

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

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

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

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

Submission Core Strategy

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

Other Guidance

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs).

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System) sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

River Mease Water Quality Management Plan - August 2011 draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

The River Mease Developer Contributions Scheme (DCS) - November 2012 is relevant to development which results in a net increase in phosphorous load being discharged to the River Mease Special Area of Conservation (SAC). It currently applies to all development which contributes additional wastewater via the mains sewerage network to a sewage treatment works which discharges into the catchment of the River Mease SAC.

The Community Infrastructure Levy Regulations 2010 provides a legislative requirement that an obligation must meet the following tests:

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

The Technical Guidance to the National Planning Policy Framework - March 2012 provides additional guidance relating to flooding.

National Planning Practice Guidance - March 2014 supplements the policies in the NPPF. The Guidance does not change national planning policy but offers practical guidance as to how such policies should be applied.

NWLDC SPD for Affordable Housing - January 2011 Key Principle AH3 provides that affordable housing will be sought on all sites of 15 or more dwellings in 'all other settlements'.

6. Assessment

Principle, Density and Sustainability:

The frontage part of the site amounting to 1.0 hectare is allocated within the Local Plan for housing under allocation H4o (with an indicated density of 10 units).

The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances. Local Plan Policy H6 provides that residential development should meet a minimum density of 30 dwellings per hectare within locations well served by public transport and accessible to services. The former advice in PPS3 provided that net dwelling density includes those site areas which will be developed for housing and directly associated uses, including access roads within the site, private garden space, car parking areas, incidental open space and landscaping and children's play areas. Whilst this has now been superseded in the NPPF the methodology contained within it for working out net dwelling density would, in the absence of any other guidance in the NPPF or Local Plan, still be relevant.

The proposal results in a density of 19 dwellings per hectare for the whole site but clearly the net density would be lower when factoring in the landscaping, buffer zones, SUDS etc that would also need to be provided on-site. When having regard to those parts of the site that would not be developed for housing or directly associated uses, along with the existing density of the surrounding area and the additional land beyond the allocation which is included in the site area, it is considered that a higher density than that advised in Local Plan Policy H4o is acceptable in this instance.

The remainder of the site lies within the countryside and therefore, is subject to the provisions of Policy S3 of the Local Plan. Whilst the development of this part of the site would be contrary to the provisions of Policy S3 of the Local Plan, the site is well related to the settlement boundary and would be bounded to the north east and south west by existing development. The allocated site lies to the north-west and open countryside lies to the south east, meaning that three sides of the site abut either existing development or land where there is a presumption in favour of housing development within the Local Plan. The provisions of the NPPF 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.

There are three core strands underpinning the presumption in favour of sustainable development promoted within the NPPF. These are economic, social and environmental. So long as a development is consistent with these criteria, in principle the development should be considered acceptable.

Economic - in this respect developments should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to support growth, and by coordinating development requirements, including the provision of infrastructure. It is considered that the development would benefit the local economy through both the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and maintenance of local infrastructure. Accordingly the site is considered to be consistent with the 'economic role'.

Social - in this respect, developments should support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment. The development of the site would provide both market and affordable housing within the settlement which would increase local market choice and appeal to groups who may have otherwise been excluded from the locality.

Environmental - to fulfil this role development should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change.

The development would result in the loss of greenfield land but the majority of which is identified in the adopted Local Plan as being suitable for development under housing allocation H4o. The strip of land which forms the south eastern edge of the site is located outside the limits to development but is well related to the existing settlement. Furthermore, as set out in the report below, it is considered that the proposal would not be contrary to the aims of protecting or enhancing the natural and historic environment. Accordingly the site is considered to be consistent with the 'environmental role'.

In addition to the above, the site is located centrally within the settlement of Oakthorpe. In terms of sustainability, Oakthorpe has a reasonable range of services and facilities for a settlement of its size. Oakthorpe itself has a primary school, public house, general store, community leisure centre and children's play area. In terms of public transport the nearest bus stops is located along Main Street outside the site where there is an hourly 6 day a week (Monday to Saturday) service to Ashby, although it should be noted that 2 services per day terminate at Measham.

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

Methodist Church 340
 Public House - 230 metres
 Bus Stop - 70m
 Primary School - 245 metres
 Leisure/Community - 430 metres
 Children's Play Area - 180 metres
 Shop - 570 metres

Accordingly, the bus stop and children's play area would be within the 'desirable' walking distance, with the Methodist Church, Public House and Primary School being within the 'acceptable' walking distance. The shop and Leisure/Community uses would fall within the 'maximum' walking distance. It is considered that Oakthorpe is a sustainable settlement and the site is reasonably located in relation to the services/facilities available. Therefore, it is considered that the site would constitute a sustainable form of development for the purposes of the NPPF.

Notwithstanding the conflict with the provisions of Policy S3 of the Local Plan (as set out above), when having regard to the sustainability credentials of the settlement and the site, along with the fact that the site is well related to existing built development and the Limits to Development as defined in the Local Plan, the development of countryside land is considered acceptable in this instance.

Loss of agricultural land:

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. 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). The Agricultural Land Classification maps indicate that the site falls within Class 4. Although, ALC Maps should not be solely relied upon for land use classification, when having regard to the fact that the site would enable the provision of new dwellings within a sustainable location as also advocated in the NPPF, it is considered that the potential agricultural land quality issue is not sufficient to suggest that planning permission should be refused, particularly given the relatively limited extent of the potential loss.

Layout and Means of Access:

All matters are reserved for subsequent approval except for access. Whilst the illustrative layout shows internal access roads and pedestrian links through the site, these would be a matter for the reserved matters stage(s). Although as noted earlier in this report, there are two public footpaths which cross the site and these would need to be accommodated within any detailed development proposals for the site.

It is considered that 29 dwellings and associated parking/turning/amenity areas could be accommodated on the site without adversely affecting the amenities of adjoining residents or the character of the locality. Access to the site would be via a new vehicular access off Main Street. Notwithstanding local concerns which have been raised about the suitability of the proposed access, concerns about on-street parking and the general impacts of the development as a result of increased traffic on the local highway network, the County Highways Authority is satisfied with the proposal from a highway safety perspective and raises no objections subject to conditions.

Although a number of highway concerns have been raised about the proposal (as set out earlier in the report), it is considered that the proposal would comply with the provisions of Policies E3, E4, T3 and T8 of the Local Plan.

Flood risk and Drainage:

Concerns have been raised by residents in relation to the capacity of the local drainage network.

The site lies within Flood Zone 1 and as it is over one hectare in size, a Flood Risk Assessment (FRA) has been submitted during the course of the application at the request of the Environment Agency. The FRA concludes that the only risk identified could be from accelerated surface water run-off from the proposed development, and therefore, the report suggests that a sustainable urban drainage system would need to be designed and incorporated in the layout of the proposed development at the Reserved Matters stage. The SUDs will need to ensure that the post development surface water run-off will not exceed that from the present land use, within the current required parameters.

The Environment Agency have been consulted on the application and considers the development to be at low risk of flooding and has no objections to the proposal subject to a condition concerning contamination and surface water drainage based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. No comments have been received from Severn Trent Water Ltd but should any comments be received, these will be reported to members via the update sheet.

Given the lack of objection from statutory consultees, it is considered that a reason for refusal relating to flood risk and capacity of the drainage system could be not justified.

Impact on the River Mease Special Area of Conservation/SSSI:

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. A tributary of the River Mease runs alongside the western boundary of the site and the River Mease itself is within 200m of the site. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

The flows from the new dwellings will need to be taken into account against the existing headroom at Measham Treatment Works, which serves the village. At March 2014 capacity was available for 188 dwellings but this is reduced by the number of dwellings that have consent and/or are under construction (none) whilst also considering those which are pending consideration (110 dwellings). Taking these into account, assuming all would be approved there would still be capacity for at worst case scenario, 70 dwellings. Accordingly a scheme for 29 falls well within the existing capacity levels.

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

When having regard to the existing agricultural use of the site, the proposal for 29 dwellings would increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS. The application proposes that foul drainage would be dealt with via the mains sewer system and confirms that the applicant will pay the required contribution under the DCS which has been calculated as a maximum of £10,266.00

Natural England has no objections in relation to impact on the SAC/SSSI subject to a surface water drainage condition. Therefore, based on the above it can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Protected Species:

There are redundant farm buildings on the site and hedgerows, trees, grassland, overgrown vegetation within and surrounding the site. All of 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 application submission was accompanied by an Ecology Report and a Protected Species

and Ecological Walkover Survey, Great Crested Newt Habitat Assessment and Survey and Reptile Survey were secured during the course of the application at the request of the County Ecologist. The County Ecologist has been consulted on the additional surveys provided (covering reptiles, great crested newts, bats, badgers and habitat survey) and advises that these are all satisfactory.

The habitat survey reveals that the previously species rich grassland has lost its bio-diversity value and is no longer species rich. Therefore, the County Ecologist considers that the development would not result in the loss of a habitat of county-wide value.

A medium sized population of great crested newts were found in a pond off the site but given the distance from the site, would not result in a requirement for mitigation. A number of precautionary recommendations are set out by the consulting ecologist and the County Ecologist advises that these recommendations should be the requirements of a condition. A grass snake was also evidenced in the Reptile report but again the County Ecologist advises that subject to the recommendations of the consulting ecologist being made into a condition, no objection is raised.

Although no evidence of badgers was found during the survey works, the County Ecologist advises that this situation may be subject to change and therefore, should works not commence on the site within three years of the protected species survey then an updated report would be required and again this requirement should be secured by condition.

Evidence of a nursery roost of brown long-eared bats was found in the farmhouse which is to be demolished as part of the development of the site. A replacement roost is required as mitigation for the lost roost and details of this have been provided within the Protected Species and Walkover Survey. Subject to a condition securing mitigation as set out in the submitted survey, and an updated bat survey if works do not commence within one year of the submitted survey, the County Ecologist is satisfied with the proposal.

With respect to breeding birds, the County Ecologist advises that any site clearance should be undertaken outside the bird breeding season and that any demolition works (excluding demolition of the farmhouse) should accord with the recommendations of the consulting ecologist.

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

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

Until recently, these tests had only really been examined as part of the EPS licensing process carried out by Natural England. However, a recent court case (R (on the application of Simon Woolley) v Cheshire East Borough Council and others [2009] EWHC 1227), has held that Local Planning Authorities must engage with these three tests at the planning application stage and demonstrate that they are satisfied that the three tests have been met prior to granting planning permission.

In this case the development is considered to be in the over-riding public interest as the proposed would provide new housing in a sustainable location within an existing settlement.

Mitigation measures are proposed to avoid adverse impacts on protected species so their favourable conservation status will not be affected. It is therefore considered that the proposal meets the requirements of the Habitats Regulations 2010 in respect of protected species.

Impacts on Trees:

The Council's records show that there are protected trees on the site including four holly trees in the northern corner of the site frontage and extending along the boundary shared by Hollycroft. These would not be affected by the proposed access position. Three Yew trees are also included within the Tree Preservation Order (T371) and these are located along the site frontage adjacent to the proposed access position.

The submitted arboricultural survey identified two category A (Yew) trees which are covered by the above-mentioned TPO, two category B (Hornbeam) trees and one category C (Hornbeam) tree along the southern half of the site frontage where the proposed access would be located. The northern section of the frontage is occupied by a category A hedgerow.

The Council's Tree Officer has provided advice that the access point is located too close to one of the Yew trees and has raised concern that the hornbeams along the frontage would obstruct visibility at the access, and therefore, an alternative access position should be considered, having regard to the lifecycle of the existing trees. The National Forest Company has also raised concern about the impact of the proposed access on trees.

Amended plans have been submitted which show the proposed vehicular access being sited further south along the site frontage to allow for the retention of the category A Yew trees. Three new Hornbeams set back behind visibility splays are also proposed along the site frontage to replace those that would be lost.

The agent has advised that the whole of the site frontage contains trees and hedgerows with category A and B status and therefore, there is always going to be pressure to remove trees/hedgerows to enable the site to be developed. The trees that are to be removed are located close to the public footpath along the site frontage and close to existing buildings (which are to be removed) and therefore, could be affected by demolition works.

When having regard to possible alternative options for the siting of the proposed access, there would always be a requirement for loss of some existing landscaping. Land levels on the site are higher towards the northern end of the site frontage and locating the access along the southern section of the frontage would be preferable in design and highway terms.

On balance, and notwithstanding that some unprotected trees would be lost, when having regard to the topography of the site and the value of the trees/hedgerows along the whole site frontage, along with general design/highway considerations, it is considered that the amended access position represents a reasonable approach to developing this site in this case. The proposal is considered acceptable for the purposes of Policy E7 of the Local Plan.

Heritage Assets:

The proposed development would be situated approximately 60m to the north-east of No.2 Coronation Lane which is a grade II listed building. When having regard to the extent and nature of the intervening development, it is not considered that the proposal would adversely affect the setting of this heritage asset. The proposal would therefore, accord with the provisions of the NPPF.

With respect to archaeology, the site lies within the medieval historic core of the settlement and

includes the demolition of historic buildings and accordingly, the application submission was accompanied by a Heritage Assessment. The submitted Heritage Assessment concludes that the development will not affect the significance of the known heritage assets. The buildings on the site are noted as being of historic interest, but it is noted that the condition does not allow for a viable conversion to residential use. This view is supported by a building condition survey which also accompanied the application submission. The consulting archaeologist considers that a suitable scheme of historic building inspection and recording prior to demolition, along with a scheme to address any as yet unidentified archaeological remains potentially present will mitigate against the loss of heritage assets. The recommendations of the consulting ecologist can be addressed by suitably worded conditions.

The County Archaeologist has been consulted and advises that to the south of the former farmyard, much of the development area appears to have been affected by clay and coal extraction of uncertain date. Documentary records indicate that Leicester Abbey held land at Oakthorpe and utilised coal from the area in the medieval period. Historic maps dating from the late 19th and early 20th century, together with geological data, indicates the presence of former workings in the southern part of the development site; the latter appears to relate to surface and deep working of the Middle and Lower Pennine Coal Measures, shown in part as 'Old Shafts' depicted on the 1880's Ordnance Survey mapping. These workings are likely to have caused significant disturbance to earlier archaeological remains, including those associated with any medieval mining.

The area to the north-east of the farm, fronting onto Main Street has not been significantly disturbed in recent times and is undeveloped on 19th century mapping. It is likely, therefore, that any remains within the area are well preserved. In addition, the farm buildings are of historic interest since they are shown on the late 19th century first edition OS map. Traditional farm buildings such as these are a rapidly diminishing resource. Consequently, there is a likelihood that buried archaeological remains and historic buildings will be affected by the development.

In accordance with National Planning Policy Framework (NPPF), paragraph 129, assessment of the submitted development details and 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. Accordingly, the County Archaeologist has no objections to the proposal subject to conditions for an appropriate programme of archaeological mitigation, including as necessary intrusive and non-intrusive investigation and recording.

Coal:

The site falls within the Coal Authority Referral Zone and therefore, the Coal Authority has been consulted on the application. At the time of writing no comments had been received, and therefore, Members will be updated should any comments received from the Coal Authority.

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

NHS England have sought £13,827.60 towards the upgrading of the nearest doctors surgery at Measham. The applicant has confirmed their agreement to pay this developer contribution.

Libraries

Leicestershire County Council is seeking a contribution of £1780 towards additional resources at Measham library. The applicant has confirmed their agreement to pay this developer contribution.

Education

Leicestershire County Council is seeking the following contributions to provide additional places at the nearest schools where there is no capacity:

- a contribution of £51,840.89 for the high school sector as there would be a deficit of 64 pupil places (3 created by the development) within high schools within a 3 mile walking distance of the site;
- a contribution of £53,229.96 for the upper school sector as there would be a deficit of 203 pupil places (3 created by the development) within upper schools within a 3 mile walking distance of the site;
- a contribution of £84,209.11 for the primary school sector as there would be a deficit of 105 pupil places (7 created by the development) within upper schools within a 2 mile walking distance of the site.

The applicant has confirmed their agreement to pay this developer contribution.

Highways Contributions

The County Highway Authority has also requested the following contributions to encourage sustainable travel to and from the site, achieve modal shift targets, and reduce car use:

- (i) Travel Packs - to inform new residents from first occupation what sustainable travel choices are in the surrounding area;
- (ii) Six-month bus passes, two per dwelling (2 application forms to be included in Travel Pack 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;
- (iii) Improvements to the two nearest bus stops (including raised and dropped kerbs to allow level access) - to support modern bus fleets with low floor capabilities - £3263.00 per stop;
- (iv) Information display cases at the two nearest bus stops - to inform new residents of the nearest bus services in the area - £120.00 per display.

The Highway Authority has previously advised that the contributions are related to the new development as they seek to make bus services more attractive and encourage their use by future residents of the development, and to encourage behavioural shift in terms of travel choice at an early stage before car use becomes ingrained. Furthermore, the Highway Authority has considered that development would not be acceptable without these measures, as without them there is likely to be less use of buses and more car journeys. Consequently the development will be less sustainable, congestion on the network would increase, and the policies in LTP3 would not be complied with. Although the bus service is proposed to be reduced, a final decision has not been taken and in any case a bus service would still be available.

The Highway Authority also requests agreement of a construction traffic route which is considered to be necessary in this case given the site's proximity to residential areas and the village centre. The County Highways Authority also advises that the routing agreement will enable the Authority to prevent construction traffic from using unsuitable routes in the interests of highway safety.

The applicant has confirmed their agreement to pay these developer contributions.

Play Area/Open Space

Under the District Council's Play Area Supplementary Planning Guidance, on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 29 dwellings are proposed, this would require a play area of not less than 580 square metres. No on-site children's play area is proposed as part of this proposal and instead it is proposed to make a contribution towards the existing open space at the recreation ground off School Street of £1235 per dwelling (£35,815), which would allow the Parish Council some flexibility as to how the money is spent. The applicant has confirmed their agreement to the payment of a developer contribution. The play area to which a contribution is sought can be accessed via the public footpath network which passes through the site but would require children to cross School Street. The County Highways Authority has confirmed that existing tactile paving crossing points available outside the play area on School Street would be sufficient to provide a safe pedestrian crossing for users of the play area from the proposed development.

The Council's SPG regarding children's play areas specifies that a commuted sum may be acceptable for sites that are within a reasonable walking distance of 400 metres. The distance to the existing play area/recreation ground is around 180 metres, which would be within the 400 metres walking distance as suggested in the SPG and it is considered that a commuted sum towards upgrading and improving the existing play area in the village would be acceptable in this instance. An obligation relating to management plans for any open space, landscaping and SUDS to ensure that the land is properly established, maintained and managed in the future would also be required. The applicant has confirmed their agreement to pay this developer contribution.

Affordable Housing

Under the Council's Affordable Housing SPD, 30% affordable housing is required on sites of 5 dwellings or more, and this would equate to 9 dwellings for the current proposal. The applicant is proposing that 9 of the dwellings be affordable, which would comply with the requirements of the SPD. The Council's Strategic Housing Team has been consulted on the application and has advised that they are satisfied with the proposed affordable housing provision.

National Forest Company

The applicants propose making on-site planting and there is scope at the reserved matters stage to ensure that this extends to 20% of the site area (which would need to equate to a total of 0.3 hectares). The National Forest Company welcomes the proposed National Forest Planting and this would need to be secured by a Section 106 agreement. The applicant has confirmed their agreement to the provision of National Forest Planting as requested by the National Forest Company.

Other:

With respect to neighbour comments received which have not been covered in the above text, noise and disturbance during construction works and concerns about asbestos are covered by separate Environmental Health legislation. Loss of view is not a planning matter that can be taken into account in the determination of the application.

Conclusions:

The frontage part of the site is allocated for housing where the principle of the proposed development is considered acceptable. The rear part of the site lies within the countryside as defined in the Local Plan. Notwithstanding the conflict with the provisions of Policy S3 of the Local Plan, when having regard to the sustainability credentials of the settlement and the site, along with the fact that the site is well related to existing built development and the Limits to Development as defined in the Local Plan, the development of countryside land is considered acceptable in this instance. The proposed development would be acceptable in terms of density, impact on countryside, and the historic environment, impact on trees, residential amenities, highway safety issues, flood risk and drainage, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services. 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 the Section 106 Agreement and the following condition(s):

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

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

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

Reason: this permission is in outline only.

- 3 The proposed development shall be carried out strictly in accordance with drawing number OAK.YEW.006 Rev B received by the Authority on 30 April 2014 and site location plan (scale 1:2500) received by the Authority on 28 March 2014, unless otherwise required by a condition of this permission:

Reason: To determine the scope of this permission.

- 4 The reserved matter application(s) shall include precise details of finished ground levels across the site and the finished floor levels of all buildings in relation to an existing datum point.

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

- 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 take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the pre-developed site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. 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 surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
 - 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 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 and to prevent any adverse impact on the River Mease Special Area of Conservation; to ensure a sustainable drainage system is provided on the site.

- 7 No demolition/development shall take place until a programme of archaeological work, informed by an initial phase of trial trenching and a programme of building assessment, has been detailed within a Written Scheme of Investigation, and submitted to and agreed in writing by the local planning authority. The scheme shall include an assessment of significance and research questions; and:
- o The programme and methodology of site investigation and recording
 - 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.
- No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition.

Reason: To ensure satisfactory archaeological investigation and recording.

- 8 The development hereby permitted shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 7 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

- 9 Prior to the removal of the three Hornbeam trees (T698, T699 and T700) on the site, details of replacement tree planting shall have been submitted to and approved in writing by the Local Planning Authority. The details shall include its siting and size at the time of planting (ie. tree standard). The approved scheme shall be implemented during the first planting season following the removal of the trees. Should any replacement tree die, be removed or become seriously damaged, it shall be replaced in the first available planting season thereafter and during a period of 5 years from its first planting, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To preserve the amenities of the locality.

- 10 No work shall commence on site until all trees/hedgerows which are to be retained on 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. Details of the extent and construction of the fencing shall first have been submitted to and agreed 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/hedgerows are adequately protected during construction in the interests of the visual amenities of the area.

- 11 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.

- 12 Before first occupation of the tenth dwelling hereby permitted, the redundant existing vehicular crossing and the highway verge shall have been reinstated in accordance with a scheme, which shall first have been submitted to and agreed in writing by the Local Planning Authority.

Reason: In the general interests of highway safety especially pedestrian safety.

- 13 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 Main Street. 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.

- 14 No development shall commence on site until such time as details for the relocation of the south west bound bus stop, have been submitted and approved in writing by the Local Planning Authority. The tenth dwelling hereby permitted shall not be occupied until the bus stop has been relocated in accordance with the agreed works.

Reason: The bus stop shall be relocated in order to afford adequate visibility at the junction of the proposed access with Main Street, to cater for the expected volume of traffic joining the existing highway network.

- 15 No development shall commence on site at any time unless, within a period of not more than three years prior to the commencement of development, an updated survey of badgers within and in the vicinity of the site (including mitigation measures where appropriate) has been (i) undertaken by a suitably qualified individual and (ii) approved in writing by the Local Planning Authority. The development shall be carried out in strictly accordance with the recommended measures.

Reason: In the interests of nature conservation.

- 16 No development shall commence on site at any time unless, within a period of not more than one year prior to the commencement of development, an updated survey of bats within the site (including mitigation measures where appropriate) has been (i) undertaken by a suitably qualified individual and (ii) approved in writing by the Local Planning Authority. The development shall be carried out in strictly accordance with the recommended measures.

Reason: In the interests of nature conservation.

- 17 The development shall be carried out in accordance with the recommendations set out in sections 5.22(d) (Nesting Birds) and Appendix 1 (Demolition works excluding the farmhouse) of the Protected Species and Ecological Walkover Survey by EMEC Ecology dated June 2014, the recommendations set out in section 6.11 of the Great Crested Newt Habitat Assessment and Survey by EMEC Ecology (dated June 2014) and the recommendations set out in section 5.1 of the Reptile Survey by EMEC Ecology (dated June 2014).

Reason: To ensure the protection of protected species.

- 18 No development shall commence on site until details of bat mitigation to be provided in accordance with the recommendations set out in section 6.2 of the Protected Species and Ecological Walkover Survey by EMEC Ecology dated June 2014 (and including timescales for implementation) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and shall thereafter be retained in perpetuity.

Reason: ensure that protected species are not adversely affected by the proposals.

- 19 No development (except any demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. 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 Year 2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)
 - o BS8485 Year 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.

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

- 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.

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

Reason: To protected the quality of controlled waters on and in the vicinity of the site and to ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF.

- 20 Prior to occupation of any part of the completed development, 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 protected the quality of controlled waters on and in the vicinity of the site and to ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF.

- 21 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.

Reason: To protect the quality of Controlled Waters on and in the vicinity of the site.

Notes to applicant

- 1 Outline planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 The applicant's attention is drawn to the attached report of the Environment Agency dated 07 May 2014.
- 3 The applicant's attention is drawn to the attached report of the County Highways Authority dated 22 May 2014.
- 4 The applicant's attention is drawn to the attached report of the National Forest Company dated 03 April 2014.
- 5 This decision is subject to a Section 106 Obligation.

Installation of a 7.99MWp solar farm and associated infrastructure.

Report Item No
A6

Land To The West Of Gelscoe House Farm Outbuildings
Gelscoe Lane Diseworth

Application Reference
14/00408/FULM

Applicant:
Mrs J Wall

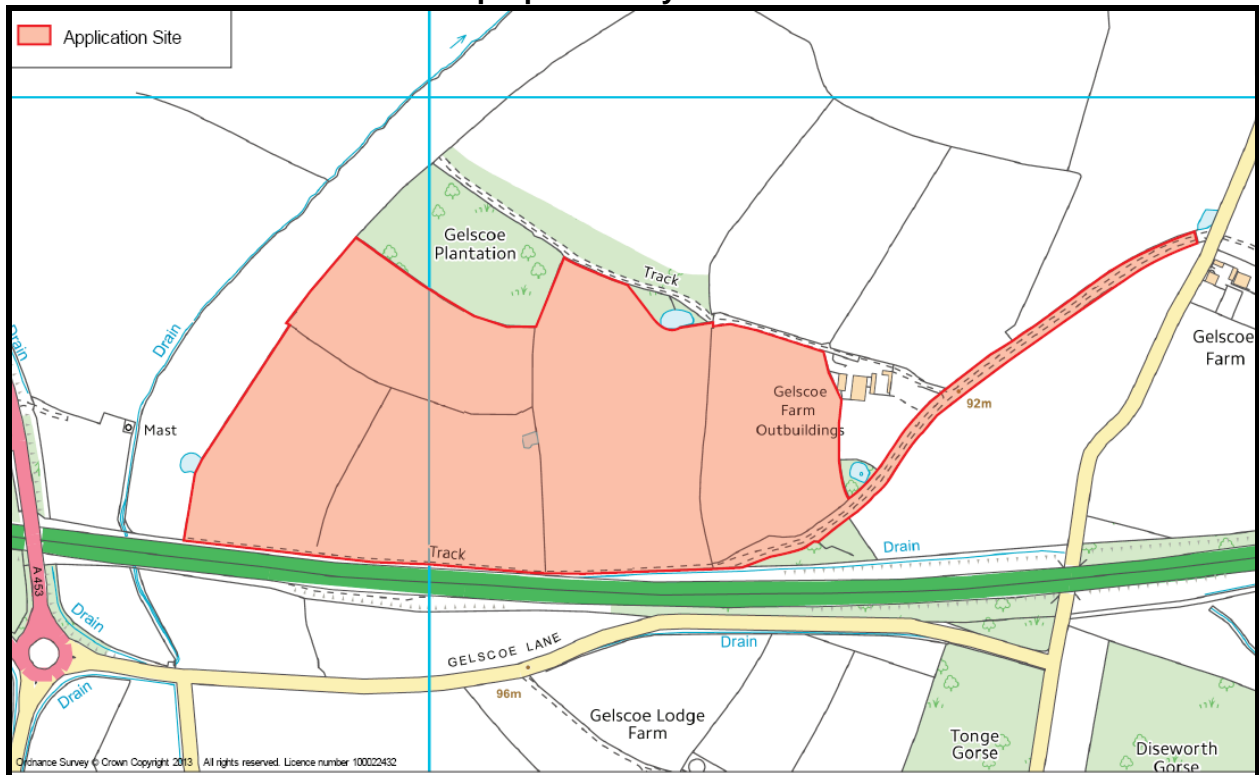
Date Registered
6 May 2014

Case Officer:
Sarah Worrall

Target Decision Date
5 August 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

This application has not been called in but is brought to the Planning Committee for consideration due to the proposed development being the first of its kind in the district, and therefore of some public interest, and since it also represents a major development in the countryside and a departure from the development plan.

Proposal

This is a full application for the erection of a 7.99MWp solar farm over a 19.54 ha site. The application information submits that the site would be split into five parcels and modules would be fixed to arrays that would be arranged in a linear form across the site in rows. The arrays would be laid out west-east to allow the modules to face south and be angled towards the sun at approximately 30 degrees to optimise photovoltaic capture. The proposal would also include the erection of No.7 inverter cabins and No.7 transformer cabins as well as a new substation towards the south eastern boundary. Security fencing and CCTV cameras on 3.1m poles would also be required as part of the scheme. Wildlife corridors and associated landscaping are also proposed as part of the application.

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.

Planning Policy

The proposed development would form a renewable energy development in the countryside, but would also represent farm diversification of an existing agricultural operation and would, therefore, be in accordance with the requirements of Countryside Policy S3 of the Adopted Local Plan. Technical reports to address agricultural land classification, heritage assets, landscape and visual impact, highway safety, flood risk and ecological matters have been submitted as part of the application and assessment of these in relation to national and development plan policies is set out in detail in the main report.

Conclusion

The proposed development would have no adverse visual or landscape character or heritage asset impact, and there would be no adverse impact on residential amenities, highway safety or the highway network, site drainage or flora and fauna. As such, the proposed solar farm would be in accordance with national and development plan policies and approval is recommended.

RECOMMENDATION:- PERMIT SUBJECT TO CONDITIONS

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. Proposal and Background

This is a full application for the erection of a 7.99MWp solar farm over a 19.54 ha site which is currently used as agricultural land. The site slopes gently down from the north and borders the M42 on the southern boundary. Agricultural land adjoins the site on all other boundaries along with commercial development at Walnut Yard to the east of the application site. Langley Priory, Grade II* listed building and grounds is situated to the north of the application site.

The solar farm would be comprised of some 27,600 photovoltaic solar panels fixed on poles, and at an angle between 18 and 30 degrees. This angled positioning would form a minimum height of some 0.9m from the ground level to the base of the panels, and a maximum height of 3m at the top of the panel.

The application information submits that that the site would be split into five parcels which reflect the existing fields which are separated by trees, hedgerows and other vegetation. Modules would be fixed to arrays that would be arranged in a linear form across the site in rows. The arrays would be laid out west-east to allow the modules to face south and be angled towards the sun between 18 and 30 degrees to optimise photovoltaic capture whilst taking into account changes in land levels. There would be 4m spaces between rows to ensure that when viewed from above, the green spaces between would be more evident than the maximum 3m width of the conjoined solar panels set on the posts.

No.7 inverter units, and No.7 transformer cabins, would be required as part of the proposal and these would be dispersed side by side throughout the site, one each on three parcels of the site, and two each on two larger parcels within the site. The inverter cabins would be some 6m long x some 2.4m wide, with a height of some 3.2m and a flat roof. The transformer stations would be some 5m long x some 3m wide with a pitched roof having a maximum height of some 2.6m dropping to some 2.3m at eaves level.

The transformers would feed into a new substation unit which would be situated to the south east boundary of the site. The substation unit would have the appearance of a small agricultural building with a main section and a subordinate element. The main form of the substation unit would be some 5m long x 5m wide with a roof ridge height of some 4.8m dropping to 2.7m at eaves level. The subordinate element which would be situated to finish flush with the front of the main unit would be some 1.6m long x 1.5m wide and would have a monopitch roof with a ridge height of some 3.5m dropping to 2.3m at eaves level.

Fencing around the site is required for security purposes and 2.25m high mesh fencing is proposed around the 5 sections of the site. Each parcel would have a gated entrance which would be formed from mesh fencing. Eight gates would be required in total of which, three existing accesses would be made use of with the introduction of a further five. In addition, No.46 CCTV cameras on poles at a height of some 3.1m would be required across the site. A construction compound and parking area would be formed within the development site, and the parking area would be retained for future maintenance vehicles.

Access to the site would be gained from the existing shared access with Walnut Yard.

A planning and sustainability statement, Transport Statement, construction management statement, flood risk assessment, agricultural land classification, heritage/archaeology assessment, glint and glare assessment, Extended Phase 1 Habitat Survey, Tree and

Hedgerow Survey, Landscape and Visual Impact Assessment and statement of community involvement have been submitted as part of the application. A Great Crested Newt Survey was required as part of the application and this was submitted on 10 July 2014.

Relevant Planning History:-

No relevant planning history found.

2. Publicity

3 NO. Neighbours have been notified (Date of last notification 23 June 2014)

Site Notices posted 28 May 2014

Press Notice published 21 May 2014

3. Consultations

Isley cum Langley Parish Meeting consulted 15 May 2014

County Highway Authority consulted 20 May 2014

Environment Agency consulted 20 May 2014

Head of Environmental Protection consulted 20 May 2014

Natural England consulted 20 May 2014

NWLDC Tree Officer consulted 20 May 2014

County Archaeologist consulted 20 May 2014

LCC ecology consulted 20 May 2014

Airport Safeguarding consulted 20 May 2014

Development Plans consulted 20 May 2014

LCC/Footpaths consulted 20 May 2014

NWLDC Footpaths Officer consulted 29 May 2014

Airport Safeguarding consulted 16 July 2014

4. Summary of Representations Received

Isley cum Langley Parish Meeting - no comments received

Natural England - no objection

Environment Agency - no objection subject to condition

East Midlands Airport - no objection

Leicestershire County Council - Highways - no objection subject to condition

Leicestershire County Council - Archaeology - no comments received

Leicestershire County Council - Ecology - no objection subject to condition

NWLDC Environmental Protection Officer - no objection

NWLDC Footpaths Officer - no objection as no footpaths affected

NWLDC Tree Officer - no comments received

The application submits that wide consultation took place with surrounding Parish Councils and local residents. No representations have been made from residents or other third parties in relation to the scheme.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

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

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

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

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

Paragraph 97 within the NPPF states that to help increase the use and supply of renewable and low carbon energy, Local Planning Authorities (LPAs) should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. It says LPA's should:-

- have a positive strategy to promote energy from renewable and low carbon sources
- design their policies to maximise renewable and low carbon energy development while

- ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts
- consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources
 - support community-led initiatives for renewable and low carbon energy, including development outside such areas being taken forwards through neighbourhood planning; and
 - identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

Paragraph 98 within the NPPF states that when determining planning applications, local planning authorities should:-

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

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

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;

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

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

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

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

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

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

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

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

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

North West Leicestershire Local Plan:

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

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

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

Policy E4 seeks to achieve good design in new development and requires new development to respect the character of its surroundings;

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

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

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

Submission Version Core Strategy

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

Other Guidance:

The Habitat Regulations

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

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

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

Planning Practice Guidance- 2014

The PPG provides guidance on renewable and local carbon energy the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms. The information and advice can be given some weight and used as a reference guide when considering applications relating to renewable energy.

6. Assessment

The main considerations in respect of this application are the principle of development, environmental value of the land, impact upon the visual landscape, impact upon residential amenity, impact upon the historic landscape, drainage and flood risk, protected species and ecology, aviation, highway issues and de-commissioning.

Principle of Development

The application site is located outside the limits to development where permission for new development would not normally be granted unless it is for certain uses as set out under Saved Policy S3 of the Local Plan.

The supporting information states that the proposal is a diversification opportunity for the agricultural operation which is based at Langley Priory. As such, the proposal can be considered to be a farm diversification scheme and would fall within category (b) of Policy S3.

The overarching principle of the NPPF is to protect the countryside, but to allow sustainable development where appropriate. The NPPF states that there are three dimensions to sustainable development: - economic; social; and environmental. There is support and encouragement for sustainable development and the sensitive exploitation of renewable energy sources within the NPPF.

Paragraph 97 of the NPPF outlines that Local Planning Authorities should "recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources" in order to help increase the use and supply of renewable energy, and one of the core planning principles at Paragraph 17 of the NPPF is that decisions should "support the transition to a low carbon future and encourage the use of renewable resources (for example by the development of renewable energy)."

At Paragraph 98 it also states that "applicants should not be required to demonstrate the overall need for renewable energy and that planning applications should be approved if their impacts are or can be made acceptable." Notwithstanding Paragraph 98, since the introduction of the Planning Practice Guidance, this now confirms that the local planning authority would need to consider the energy generating potential. The scheme proposes a 7.99MWp solar farm and the first phase of this would generate around 1.5-1.8MW of energy for the local distribution network via Western Power.

In the circumstances that the NPPF supports proposals which provide energy from renewable energy, as well as the fact that Policy S3 of the Local Plan would support renewable energy projects in the countryside, it is considered that the overall principle of the solar farm scheme would be acceptable.

In summary, there is specific planning policy support for the development of renewable energy projects both at national, and local level and it is considered that the proposed installation of the solar farm would provide a valuable contribution to the overall output of renewable energy within the area and thus will be consistent with the intentions of national and local planning policy. As such, whilst the proposed development is in principle acceptable when considered against relevant countryside policies, this must be carefully balanced against all other material planning considerations.

Environmental Value of the Land

The Planning Practice Guidance states that the local planning authority will need to consider encouraging the effective use of land by focusing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value, and where a proposal involves greenfield land, whether

- i. the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and
- ii. the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays."

In addition, 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.

Best and Most Versatile (BMV) agricultural land is defined as that falling within Grades 1, 2 and 3a of the Agricultural Land Classification (ALC).

The application has been accompanied by an Agricultural Land Classification Survey Report which confirms that the whole site can be considered to be classified as Grade 3a ALC. Whilst this would mean that the development would take place on BMV agricultural land, this can also be considered against the threshold for the magnitude of change to the land resource when having regard to the Town and Country Planning (Development Management Procedure) Order 2010.

A large magnitude of change would result from schemes over 50ha on BMV agricultural land, a medium change for schemes between 20ha and 50ha, a small change for schemes less than 20ha and negligible change where a less than 1ha of agricultural land would be affected. The application site is less than 20ha in size which would mean that the magnitude of change would be small. In addition 3a ALC can be considered to be of medium value (where Grade 1 is highest value) and taking that into account along with the small magnitude of change, the development would not have any significant adverse impact on the agricultural land.

Furthermore, the nature of the development means that it would cause minimum disruption since posts are inserted into the ground with panels mounted on top so there would be no significant development impact on the majority of the site. In addition, the use would be temporary for a maximum of thirty years so the agricultural land would not be lost since the scheme would be reversible.

In a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25 April 2013, he said:- *"Where solar farms are not on brownfield land, you must be looking at low grade agricultural land which works with farmers to allow grazing in parallel with generation."*

In this case, the use of the fields are arable and not used for grazing, however, the submitted details confirm that the solar farm will enable the farmer to diversify activities whilst maintaining the site as grassland, with potential for grazing and wild flower seeding, as well as improvements in soil quality and biodiversity. Wildlife corridors would be welcomed due to the presence of Great Crested Newts at the site. The agent also submitted additional information in August to indicate where alternative sites had been sought. The ALC is essentially similar, or higher, in other nearby sites.

Whilst it is unlikely that grazing will be undertaken in this case, given the existing arable use, the grassland will be maintained and after the temporary lifetime of the solar farm, the agricultural land can be restored to its present use.

Overall it has been demonstrated that the land is not of high environmental value, and that the proposal could allow for continued agricultural use or biodiversity planting. The scheme encourages biodiversity improvements, in conformity with the advice within the Planning Practice Guidance. As such, on balance, it is not considered necessary in this particular case to require any further justification for the proposal in respect of alternative brownfield sites.

Impact upon the Visual Landscape

The site lies in the countryside outside the Limits to Development of Diseworth. Paragraph 17 of the NPPF also states that planning should recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it, and paragraph 109 states that the planning system should protect and enhance valued landscapes.

Paragraph 97 of the NPPF supports this, stating that cumulative landscape and visual impacts of renewable energy sources should be addressed.

For clarity, Landscape Impacts and Visual Impacts will be considered separately below.

Landscape Impacts

Landscape impacts are the effects of a proposed development on the fabric, character and quality of the landscape and is concerned with the degree to which a proposed renewable energy development will become a significant or defining characteristic of the landscape.

The Planning Practice Guidance states that:-

The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.

The site lies within Group 5b Wooded Village Farmlands character type in the East Midlands Regional Landscape Character Assessment (2010). This is a general assessment without any detail but the 2001 Leicester, Leicestershire and Rutland Landscape and Woodland Strategy sets out more detailed local landscape characteristics. The application site falls within the Langley Lowlands character area and this character area extends around the site by some 5km and 6.5km.

Langley Lowlands character features include rolling landform, well wooded appearance influenced by woodland within and beyond the character area, quarries at Breedon Hill and Breedon Cloud, many hedgerow trees and parkland influences. The site has a gentle slope from north to south towards the A42. It has a block of ancient woodland to the north within the agricultural landscape and includes trees and hedgerows which would be retained as part of the proposal.

The solar farm proposal would be formed within five parcels of land in order to retain the existing field layout, and associated boundaries. In addition, the lie of the land provides for some natural screening since the land slopes down towards the A42 which is set at a higher level than the lower sections of the fields. Existing trees and hedgerows would be retained and would also provide additional screening. As such, there would be some change to the landscape character of the development site but this would not be significant, and would also be temporary so there would be no adverse impact on the landscape character of the site or its surroundings.

Visual Impacts

Visual Impacts concern the degree to which proposed renewable energy development will become a feature in particular views and the impact this has upon the people experiencing those views.

A scoping area was discussed with the District Council prior to submission of the planning application and a 5km zone was agreed in order to include Grace Dieu Priory to the south. Seven key viewpoints have been considered in the Landscape and Visual Impact Assessment as follows:

- Public footpath east of A453;
- Public footpath north of Gelscoe Farm;
- Top Merril Grange;
- Breedon Priory Church, Breedon Hill;
- Public footpath east of Woodhouse Farm, Langley Priory;
- Grace Dieu Priory; and,
- The A42.

The site is relatively small in wider panoramic views from afar, and the proposed development would have minimal impact on the views to and from the site. The lie of the land and natural vegetation as screening would also ensure views at a more close proximity, e.g. from the

nearby footpaths and A42, would not be unduly affected as a result of the proposal.

The Planning Practice Guidance also goes on to state that local planning authorities should consider the potential to mitigate landscape and visual impacts through, for example, screening with native hedges. The additional landscaping proposals would ensure that actual screening would be enhanced and improved upon, thereby mitigating any adverse impact on views into the site from users of the A42. It is recommended that a landscaping scheme be secured by condition to ensure a full comprehensive landscaping scheme, and that the approved scheme landscaping scheme is maintained for a period of five years from the date of planting.

Cumulative Landscape and Visual Impacts

The Planning Practice Guidance states that the approach to assessing cumulative landscape and visual impact of large scale solar farms should be the same as assessing the impact of wind turbines. However, in the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of zone of visual influence could be zero. Further applications for solar farms are being considered at land south of Sawley Marina 14/00488/FULM, a site on land south of Babelake Street, Packington 14/00535/FULM and a site at The Paddocks, Bowleys Lane, Appleby Magna 14/00583/FUL.

When having regard to the relatively low level nature of solar farms in general, combined with the distances between this site, and the nearest other proposed solar farms it is not considered that the proposals would contribute to an overall impression of a landscape with solar farms. Therefore, the overall impact in terms of sequential cumulative effects would be less than significant and no further consideration on this matter is therefore required.

Impact upon Residential Amenity (Noise)

The nearest dwellings are Rookery Cottage to the north of the site, Gelscoe Farm to the east of the site across the main road, and Gelscoe Lodge Farm on the other side of the A42. All these dwellings are a substantial distance away from the solar farm development. In addition, the inverter and transformer cabins, which may emanate some noise when operating, would be set towards the middle of the solar panel arrays. Furthermore, inverters do not operate outside of daylight hours so would not be in operation during the night when the majority of people are asleep. Any alarm system for security purposes could be silent, and it is recommended that a condition be attached to this aspect should the application be approved.

As such, there would be no adverse impact on residential amenities and the proposal would comply with Policy E3 of the Adopted Local Plan.

Impact upon the Historic Environment

The Planning Practice Guidance states that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting.

A heritage statement has been submitted as part of the application and this, along with the conclusions of the landscape and visual impact assessment demonstrate that there would be no adverse impact on heritage assets. In particular, Langley Priory to the north of the site is a Grade II* listed building with associated grounds and is most likely to be impact upon by the proposal. However, due to the landscape setting, the site is located towards the bottom of a

slope, and Langley Priory lies to the north beyond the highest point of the land so views to and from the Priory are unaffected as its setting and appearance.

The proposed solar farm is not considered to result in substantial harm to the significance of the identified heritage assets and as such is considered to be determined in accordance with the aims of Paragraph 134 of the NPPF which concludes that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal." It is considered that the provision of the solar farm would provide some public benefits given that the proposal would generate energy from a renewable source assist the wider public interest of tackling climate change by reducing carbon emissions. Furthermore, the proposal would represent farm diversification and help reduce the farming costs for the landowner. Overall, taking all the above matters into account, it is considered that the proposal would not conflict with the principles of Paragraphs 131, 132 and 134 of the NPPF.

Drainage and Flood Risk

The application has been accompanied by a Flood Risk Assessment due to the size of the application site. The Environment Agency has confirmed it has no objection to the proposal subject to condition. Subject to the imposition of a planning condition it is considered that the proposed works would be in accordance with the overarching intentions of the NPPF.

Protected Species and Ecology

The application has been accompanied by a Great Crested Newt Survey and Extended Phase I Habitat Survey.

The application has accompanied by an Ecology and Biodiversity report which has been considered by the County Ecologist who has no objections to the scheme, which is currently in arable use and of low wildlife value. The County Ecologist is satisfied that the layout protects boundary features and adjacent habitat of ecological value through buffer zones and biodiversity enhancements. The Ecologist recommends that the landscape management plan and layout plan are conditioned to ensure the development is carried out in accordance with the submitted details, and that if implementation is not undertaken within two years an updated survey in respect of badgers is undertaken.

In summary, the County Ecologist has been consulted on the application and is satisfied with the conclusions and recommendations reached within the submitted reports and subject to the imposition of conditions the County Ecologist raises no objections to the proposal. Overall, it is considered that the proposal would accord with the aims of Paragraphs 118 and 119 of the NPPF, the Habitats Regulations and Circular 06/05.

Aviation

The Planning Practice Guidance states that authorities needs to consider the proposal's visual impact of glint and glare in respect of aircraft safety. A glint and glare report has been submitted as part of the application.

The scheme has been considered by East Midlands Airport which confirms it has no objection to the proposed development.

Highways Issues

The existing access to the site would be utilised for construction vehicles and subsequently for maintenance vehicles. The existing access is also used by agricultural vehicles accessing other fields adjacent to the site, and by vehicles using the business units at Walnut Yard.

An area of hard standing for access and parking would be formed for use during the construction phase and subsequent maintenance activity. This would be included within one of the parcels, near to its main access. A construction traffic management plan has been submitted as part of the application and the Highway Authority have requested a condition be attached to any permission granted to ensure that construction traffic can be routed appropriately.

The County Highways Officer had originally requested that the Highway Authority would recommend that a requirement for details of the routeing of construction traffic HGVs, to be approved by the Local Planning Authority in consultation with the Highway Authority, should be included in a S106 legal agreement. During the period of construction, all traffic to and from the site shall use the agreed route at all times unless otherwise agreed in writing by the LPA. Further discussion with the District Council took place and the County Highways Officer has verbally agreed that the matter can be dealt with via condition rather than through a legal agreement. As such, subject to the imposition of a highways condition, the proposal would be acceptable in highways terms and would comply with the provisions of Policy T3 of the Local Plan and the NPPF.

Decommissioning

The Planning Practice Guidance advises that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use.

It is considered that a de-commissioning condition be attached which would secure the full details of the method undertaken to remove the modules once they are at the end of their life (in addition to restoration works) and should any module which should become damaged or need to be replaced in the meantime should be carried out in accordance with details to be submitted to and agreed in writing by the Local Planning Authority. In addition, conditions relating to the installation and maintenance, including a log book to be kept, are also suggested.

Conclusion

In conclusion, the NPPF clearly states that the purpose of planning is to help achieve sustainable development and that development that is sustainable should go ahead without delay - a presumption in favour of sustainable development should be the basis of every decision.

There is specific planning policy support for renewable energy projects at both nation and local level. In the circumstances that the proposal would accord with the aims of Policy S3 of the Local Plan, as well as the fact that the NPPF does not explicitly prevent renewable energy

proposals from being located within the countryside, it is considered that the principle of the development would be acceptable. It is, however, considered that these positive benefits of renewable energy of the proposed development must be carefully balanced against the potential harmful impacts.

The scheme has been assessed and is not considered to give rise to any adverse impacts upon the landscape and visual amenity of the area, drainage and flooding, areas of historical and designated landscapes, protected species, residential amenity, or aviation and nor is the scheme considered to result in any other material impacts, that would indicate that the proposal is not in compliance with local development plan policies and overarching government guidance.

Accordingly the application is recommended for approval, subject to the imposition of planning conditions.

RECOMMENDATION: PERMIT:- subject to the following conditions:-

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

Reason- To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The relevant approved plans will be itemised on the update sheet.

Reason- For the avoidance of doubt and in the interests of proper planning.

- 3 The solar panels hereby approved shall not be sited higher than 3.1 metres above ground level.

Reason- For the avoidance of doubt and in the interests of visual amenity.

- 4 The alarm system shall be silent at all times.

Reason- In the interests of residential amenities.

- 5 All cables within the development site shall be set underground.

Reason- In the interests of visual amenity.

- 6 Notwithstanding the approved details, no development shall commence until details, including colour finishes, of the PV panels, brackets, substation, transformer units and inverter units, CCTV cameras and mounting poles, and security fencing and gates have 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 retained as such for the life of the development.

Reason- In the absence of full details and in the interests of visual amenity.

- 7 Notwithstanding the submission of amended plans no development shall commence until full comprehensive soft landscape works have first been submitted to and approved

in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- a) Proposed species rich grassland across the whole site;
- b) Proposed native hedgerow planting;
- c) Schedules of all planting, noting species, plant sizes, planting plans and proposed numbers/densities where appropriate; and,
- d) Implementation and management programme.

The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason- In the interests of visual amenity and to ensure that the work is carried out within a reasonable period and thereafter maintained.

- 8 Removal and management of all hedges shall be undertaken outside the bird-nesting season March-September.

Reason- In the interests of protected species on the site.

- 9 No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has 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 prevent flooding by ensuring the satisfactory storage of, and disposal of, surface water from the site.

- 10 No development shall commence until a method statement/mitigation plan to protect the Great Crested Newt population on site has been submitted to and agreed in writing by the Local Planning Authority, and this shall be undertaken for each phase of installation. Update surveys should be carried out should two years elapse before the start of any phase of installation.

Reason- In the interests of protected species on the site.

- 11 Should development not start for three years since the last survey (late 2013) an updated badger survey will be required to be submitted.

Reason- In the interests of protected species on the site.

- 12 Written confirmation of the date of the first export of electricity to the grid shall be provided to the Local Planning Authority within one month of the date of this taking place.

Reason- To ensure that a record can be kept of all operational PV panels.

- 13 The solar panels hereby permitted shall be maintained twice yearly. A log book should be kept of the maintenance of the solar panels and should be available for inspection at any time by the Local Planning Authority.

Reason- To ensure the panels are checked and maintained in the interests of visual amenity and to ensure that that best practices are maintained.

- 14 No development shall commence until a Removal Method Statement shall be submitted to and approved in writing by the Local Planning Authority in the event any PV module needs to be removed or replaced before the expiry of this planning permission, other than in accordance with condition 16 (decommissioning). The removal or replacement of any module shall be carried out in compliance with the approved Removal Method Statement

Reason- To ensure best practices throughout the removal phase of the development.

- 15 The planning permission hereby granted is for a period of 30 years from the date of the first export of electricity to the national grid. After that time the use shall cease and the PV panels and associated equipment and infrastructure shall be removed from the site in accordance with condition 16 (decommissioning).

Reason- The planning application has only been made for a 'life span' of 30 operational years to prevent unnecessary clutter.

- 16 No later than one year before the expiration of the planning permission, or not more than 6 months from permanent cessation of the exporting of electricity to the national grid if earlier, a Decommissioning Method Statement shall be submitted for the written approval of the Local Planning Authority. This shall include details of:-

- a) decommissioning and works for the removal of the PV panels
- b) decommissioning and works for the removal of all other ancillary equipment and structures
- c) the depth to which the PV panels and ancillary equipment would be dismantled and removed from site
- d) method of removal
- e) works for the restoration of the site
- f) timetable of works.

The Decommissioning Method Statement shall be carried out as approved.

Reason- The planning application has only been made for a 'life span' of 30 operational years to prevent unnecessary clutter.

- 17 No development shall commence on site until details for the routing of construction traffic HGV's have been submitted to and agreed in writing by the Local Planning Authority in conjunction 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 agreed in writing by the Local Planning Authority.

Reason- In the interests of highway safety.

- 18 No development shall commence on site until the full details of the temporary site and construction traffic parking and manoeuvring compound and permanent maintenance vehicle parking area have been submitted to and agreed in writing by the Local Planning Authority.

Reason- In the interests of visual amenity and protected species.

Erection of 3 no. detached dwellings together with associated garaging

Report Item No
A7

Land At The Junction Of Melbourne Road And Gelsmoor Road Newbold Leicestershire

Application Reference
14/00627/FUL

Applicant:
Mr Richard Aldridge

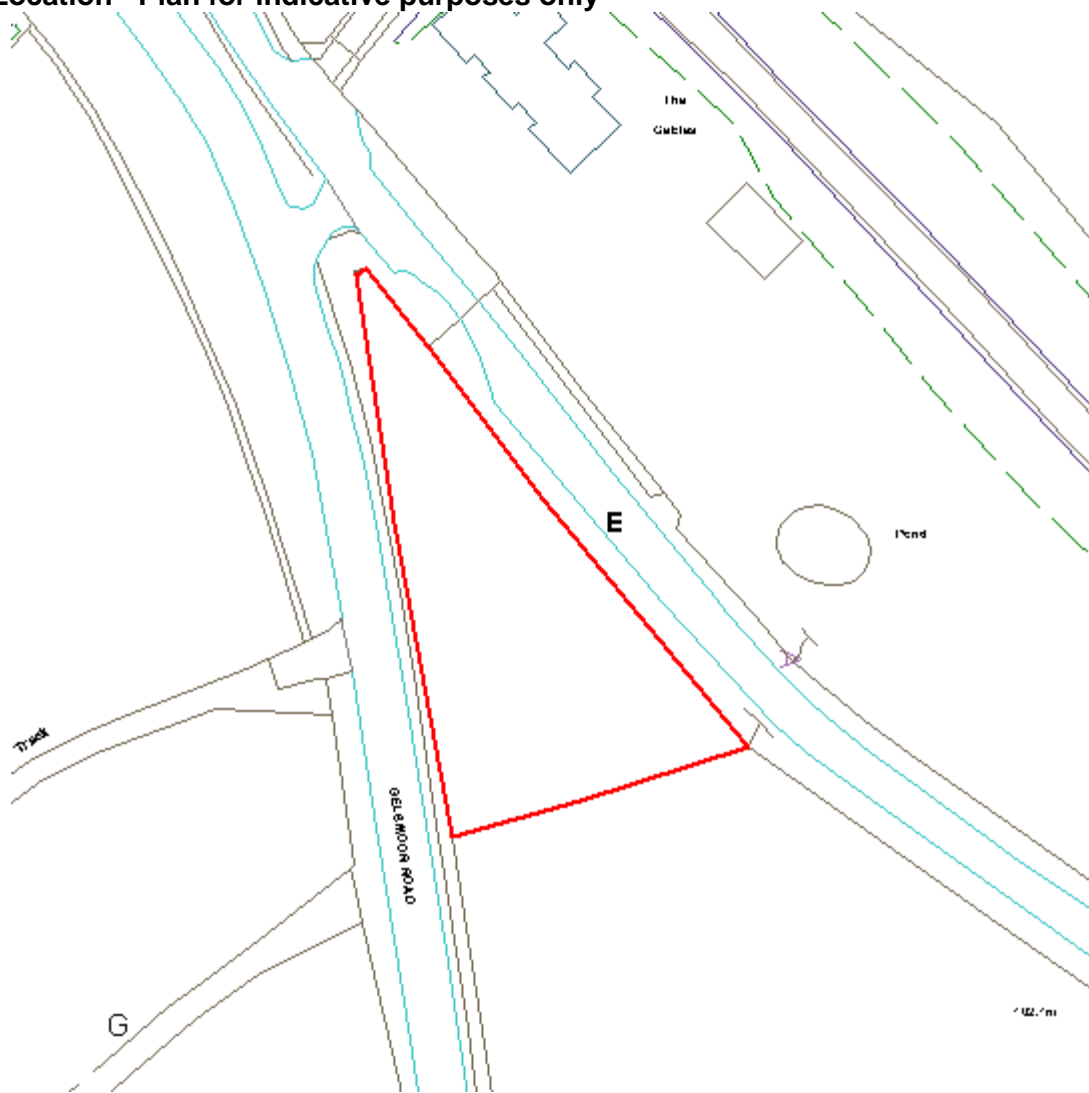
Date Registered
7 July 2014

Case Officer:
Adam Mellor

Target Decision Date
1 September 2014

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought to the Planning Committee as the agent for the application is related to three serving councillors (Caroline Large, Charles Meynell and Richard Blunt).

Proposal

The application relates to the erection of three two-storey detached dwellings on 0.156 hectares of agricultural scrub land to the south-west of Gelsmoor Road and north-east of Melbourne Road with the land being triangular in shape. Vehicular access into the site would be gained from Gelsmoor Road, which itself is accessed off Melbourne Road, with parking provision and turning facilities being made available within the site boundaries. It is noted that the site is situated outside the defined limits to development as identified in the Local Plan.

Consultations

Ten representations supporting the development and one representation objecting to the development have been received with no representation provided by Worthington Parish Council. The County Ecologist and Council's Tree Officer object to the application, with the County Footpaths Officer and County Highways Authority requesting clarification on the right of vehicular access onto Gelsmoor Road which also forms public footpath M103. All other statutory consultees have no objections.

Planning Policy

It is considered that the development would result in conflict with the environmental strand of sustainability and Paragraphs 17 and 118 of the National Planning Policy Framework as well as Policies S3, E7, F1 and H4/1 of the North West Leicestershire Local Plan.

Conclusion

The report above indicates that the site is a greenfield site outside the defined Limits to Development. The release of this land for the proposed residential scheme would result in adverse implications to the rural environment, by virtue of the site's detachment from the recognised limits to development and physical intrusion into the rural environment, and as such would represent unwarranted development in the countryside. The loss of a veteran tree, and future impacts on the integrity of an additional veteran tree, as well implications to biodiversity and ecology would result in a development which, overall, would conflict with the environmental strand of sustainability and Paragraph 17 of the NPPF as well as Policies S3 and H4/1 of the Local Plan.

At present the scheme has not provided suitable mitigation measures for the loss of species rich grassland on the application site and as a result of this an approval of the scheme would conflict with the intentions of Paragraph 118 of the NPPF.

In the circumstances that there is not a recognised need for the development in this location it is also considered that the removal of a tree identified as a veteran tree would result in conflict with the intentions of Paragraph 118 of the NPPF as well as Policies E7 and F1 of the Local Plan.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE;

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

Planning permission is sought for the erection of three detached dwellings together with associated garaging at land at the junction of Melbourne Road and Gelsmoor Road, Newbold, Coleorton. The site of 0.156 hectares lies on the south-western side of Gelsmoor Road and north-eastern side of Melbourne Road and is triangular in shape with it being noted that the land is outside the defined limits to development as identified in the North West Leicestershire Local Plan. A linear form of detached residential properties, which vary in their designs, lie to the north and south of the site with the Gelsmoor Inn being situated to the south-east and open countryside is predominant to the east and west of the site.

The land is currently identified as agricultural scrub land and it is proposed that vehicular access into the site would be gained off Gelsmoor Road, which also forms public footpath M103, with Gelsmoor Road itself being accessed off Melbourne Road. It is proposed that three two-storey detached dwellings would be provided which would have the following dimensions: -

Plot 1:

This property would have a width of 9.3 metres by 6.0 metres in length and use of a pitched gable ended roof with an eaves height of 5.5 metres and overall height of 9.5 metres. It is indicated on the floor plans that the dwelling would provide a hall, water closet, dining room, kitchen, utility and lounge at ground floor area and four bedrooms, a bathroom and en-suite at first floor level for the occupants.

Plot 2:

This property would have a width of 9.3 metres by 6.0 metres in length and use of a pitched gable ended roof with an eaves height of 5.7 metres and overall height of 9.7 metres. It is indicated on the floor plans that the dwelling would provide a hall, water closet, dining room, kitchen, utility and lounge at ground floor level and four bedrooms, an en-suite and bathroom at first floor level for the occupants.

Plot 3:

This property would have a width of 9.8 metres by 6.8 metres in length and use of a pitched gable ended roof with an eaves height of 5.2 metres and overall height of 8.1 metres. A two-storey projecting gable would extend 1.6 metres from the eastern part of the north-western (front) elevation with a width of 4.6 metres and use of a pitched gable ended roof with an eaves height of 5.2 metres and overall height of 7.6 metres. It is indicated on the floor plans that the dwelling would provide a hall, water closet, dining room, utility, kitchen and lounge at ground floor level and five bedrooms, two en-suites and a bathroom at first floor level for the occupants.

Plots 1 and 2 would be served by a detached double garage which would have dimensions of 6.0 metres in length by 6.6 metres in width and use of a pitched gable ended roof with an eaves height of 2.6 metres and overall height of 5.1 metres. Plot 3 would be served by a single detached garage which would have dimensions of 6.0 metres in length by 3.3 metres in width and use of a pitched gable ended roof with an eaves height of 2.6 metres and overall height of 4.1 metres.

A design and access statement, protected species survey and great crested newt survey and arboricultural survey have been submitted in support of the application. An additional ecological assessment in respect of the removal of a tree on the site was received on the 22nd July 2014.

Following the receipt of the comments of the County Highways Authority amended plans were

requested to indicate that at least three off-street parking spaces per dwelling could be achieved as well as increasing the internal dimensions of the garages. Amended plans were received on the 11th August 2014 and these show that the detached double garage would now have dimensions of 6.6 metres in width by 6.6 metres in length and use of a pitched gable ended roof with an eaves height of 2.7 metres and overall height of 5.5 metres. The detached single garage would have dimensions of 3.6 metres in width by 6.6 metres in length and use of a pitched gable ended roof with an eaves height of 2.6 metres and overall height of 4.2 metres. Each property would benefit from three off-street parking spaces.

A previous application for the erection of three dwellings (outline) (Ref: 91/0304/P) was refused on the 22nd May 1991 and was subsequently dismissed by the Planning Inspectorate at appeal on the 12th March 1992.

2. Publicity

10 no neighbours have been notified.(Date of last notification 22 July 2014)

Site Notice posted 30 July 2014

Press Notice published 30 July 2014

3. Consultations

Clerk To Worthington Parish Council consulted 21 July 2014

Environment Agency consulted

LCC/Footpaths consulted

NWLDC Tree Officer consulted

County Highway Authority consulted 22 July 2014

Severn Trent Water Limited consulted 22 July 2014

Head of Environmental Protection consulted 22 July 2014

Natural England consulted 22 July 2014

NWLDC Tree Officer consulted 22 July 2014

LCC ecology consulted 22 July 2014

4. Summary of Representations Received

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

Environment Agency has no comments to make on the proposals.

Leicestershire County Council - Ecology considers that the ecology report supporting the application is satisfactory and that no protected species would be impacted on. A holding objection is placed on the scheme, however, given the potential loss of the species rich grassland for the development and the lack of suitable mitigation proposed.

Leicestershire County Council - Highways has no objections subject to conditions although it has been requested that the applicant demonstrates that they have a right of access along Gelsmoor Road footpath into the site as well as providing sufficient off-street parking.

Leicestershire County Council - Rights of Way has indicated that the applicant needs to demonstrate that he has the necessary authority for enabling vehicular rights to be exercised over the footpath (M103) given that highway rights were extinguished following an Order granted by the Magistrates' Court on the 14th August 1968. Should a right be demonstrated

then no objections are raised subject to the inclusion of relevant notes to the applicant on any consent granted.

Natural England has no objections subject to their standing advice being considered.

NWLDC - Environmental Protection has no objections.

NWLDC - Environmental Protection (Contaminated Land) has no objections subject to the imposition of contaminated land conditions on any consent granted due to the use of the neighbouring site as railway land and the presence of coal measures below the site.

NWLDC - Tree Officer outlines that if all four trees are to be retained than only two dwellings should be proposed and should three dwellings be proposed than suitable mitigation planting should be provided using advanced nursery stock for the loss of the tree in the centre of the eastern boundary. Plot 1 should be no closer to the tree at the northern point of the site than as shown.

Severn Trent Water has no objections subject to a note to applicant being imposed on any consent given the presence of a public sewer on the application site.

Worthington Parish Council no representation received to date. Any comments to be reported on the Committee Update Sheet.

Third Party Representations

Ten representations have been received in support of the application from the occupants of Keepers Cottage, Rempstone Road, Home Close, Gelsmoor Farm, Rempstone Road, 26 School Lane, 5 and 28a Ashby Road, 73 Worthington Lane, 7 Melbourne Road, 20 Vicarage Close and 58 Wood Street, Ashby De La Zouch as well as the owner of Newbold Homes Ltd which are summarised as follows: -

- land is currently scrub land and development would represent re-use of an underused site;
- the provision of the dwellings will provide support to the local services which will help sustain them and prevent their closure;
- houses would be of a high standard using local materials and this should be encouraged;
- access to the site would be adequate and would meet the County Highway standards;
- dwellings would relate well to adjoining houses and would be in close proximity to the facilities;
- Council's reluctance to support growth in rural villages, such as Newbold, has led to an undersupply of houses and increased prices so that they are not affordable;
- dwellings would improve the look of the entrance to the village;
- security the site would afford to people walking to and from the Gelsmoor Pub;

One representation has been received from the occupant of Railway Cottage, Melbourne Road which neither objects to or supports the development proposals but outlines concerns in respect of the use of the access off Melbourne Road given the speed of vehicles using this road and the potential for an increase in accidents and outlines that the dwellings should not result in vehicles parking in front of Railway Cottage, or The Gables, given that access is required at all times;

One representation to the application has been received from the occupants of The Gables, Melbourne Road who object to the application and who's comments are summarised as follows:

-
- the development lies outside the village boundary and if granted would set a precedent in that nearby countryside would be vulnerable to similar applications;
- the development would narrow the divide between Newbold and Coleorton;
- development would result in additional use of an access which is not considered appropriate to cater for additional vehicles and there would be conflict with the public footpath;
- the provision of three dwellings would result in an overuse of the site and that there should be no more than two dwellings on the site;
- the frontage of the properties should be onto Melbourne Road given that other properties have accesses onto this road;
- development will interfere with the amenity and quiet enjoyment of existing residents.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

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

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

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

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

- promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship;

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 55 indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are a group of smaller settlements, development in one village may support services in a village nearby. Local Planning Authorities should avoid isolated homes in the countryside unless there are special circumstances such as, amongst other things:

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 75 outlines that planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails;

Paragraph 103 indicates that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere;

Paragraph 112 outlines that 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;

Paragraph 118 outlines that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying particular principles; it also indicates that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged and veteran trees found outside ancient woodland, unless the need for, and benefits of, the

development in the location clearly outweigh the loss;

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;

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

North West Leicestershire Local Plan

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

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

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

Policy E4 seeks to achieve good design in new development and requires new development to respect the character of its surroundings;

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

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

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

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

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

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

Policy 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 development;

Submission Version Core Strategy

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

Other Guidance

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;

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

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

National Planning Practice Guidance

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

6. Assessment

Principle of Development

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)).

With regard to 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 and as the development proposal would not meet the criteria for development in the countryside an approval of the application would 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, it is located the following (approximate) distances away from a range of services:

- Public House (Gelsmoor Inn, Rempstone Road) - 240 metres;
- Newbold Church of England Primary School (School Lane) - 336 metres;
- Leisure/Community Facilities (School Lane) - 445.0 metres;
- Bus Stop (Junctions of School Lane/Ashby Road/Worthington Lane) - 565 metres;

In terms of distance to amenities, the Inspector in the Moira Road, Ashby appeal referred to Department of Transport (DoT) statistics which showed 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 8km. The site is detached from the built up settlement of Newbold but is within reasonable walking distance, on maintained footpaths, of the majority of services available within Newbold. Whilst Newbold was not identified as a 'sustainable village,' in the now withdrawn submission version North West Leicestershire Local Plan: Core Strategy, the settlement does benefit from two bus services. The 155 is an hourly service that operates Monday to Saturday between 7am and 7pm and is a circular route between Coalville and Castle Donington including East Midlands Airport and the 129 (Cresswell Coaches Services) operates Monday to Saturday every 2 hours between 7:30am and 5:30pm and provides routes to Ashby and Loughborough.

Having regard to the location of the site it is considered that residents of the development would have access to some services and facilities in the village by walking with other facilities and employment opportunities being accessed by the use of 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 it is considered that this would be limited given that the scheme only relates to the provision of three dwellings.

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 the 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 housing requirement, on which basis, the Council is now able to demonstrate a supply of 7.04 years (i.e. an excess of 2.04 years beyond the five year requirement and 1.04 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 to 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 the 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 NPPF outlines that the environmental role should contribute to *"protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy."*

Whilst the land on which the housing would be constructed is not agricultural land, and historically formed an area of scrub, the development would result in the loss of greenfield land which is identified in the adopted Local Plan as being countryside and as such the scheme would not protect or enhance the natural environment. As part of the works it would also be necessary to remove a tree which demonstrates aged characteristics and as such Paragraph 118 of the NPPF, as well as Policies E7 and F1 of the Local Plan, would be of relevance which outlines that permission should be refused for developments which result in the loss or deterioration of irreplaceable habitats such as aged and veteran trees *"unless the need for, and benefits of, the development in that location clearly outweigh the loss."* As discussed in more detail below there is no recognised need for a development of this nature on this particular site and as such there is conflict with Paragraph 118 of the NPPF as well as Policies E7 and F1 of the Local Plan. At this point in time the County Council Ecologist also objects to the application in the circumstances that the development of the site could result in the loss of species rich grassland which could not be mitigated by any on-site provision, due to the land being within residential gardens, and as such this would result in further conflict with the intentions of Paragraph 118 of the NPPF.

Social

The NPPF outlines that the social role should support *"strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being."*

Newbold provides a limited range of services and facilities which help meet the needs of local residents and the provision of additional housing would bring additional residents into the area which would help sustain these local facilities and services which is a key intention of Paragraph 28 of the NPPF. Whilst a scheme which provided a greater mix of dwellings would have been more desirable, given that only four and five bedroom properties are proposed, it would not be a requirement for affordable housing to be provided on a scheme of three dwellings and as such the housing mix proposed would be appropriate in the overall context of sustaining the local services and facilities.

The limited area of the site, and amount of dwellings proposed, would not lead to there being a requirement for an on-site play facility but in the circumstances that the site is within walking distance of leisure facilities it is considered that residents would be able to support their health needs.

Economic

The NPPF outlines that the economic role should contribute to *"building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure."*

In the short term the construction of the development would provide opportunities for local employment and in the longer term new housing would help to support and underpin demand for local businesses and services by bringing people into the settlement.

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 designated to protect the countryside for its own sake. Paragraph 17 of the NPPF also outlines that decisions should *"recognise the intrinsic character and beauty of the countryside,"* and it is considered that the physical intrusion into the countryside of this type of development, which would be significantly detached from the recognised limits to development, would be unwarranted and could potentially set a precedent for the further expansion of the settlement of Newbold into the surrounding fields to the further detriment of the rural environment. The loss of a veteran tree and potential impacts on biodiversity and ecology would also cause conflict with the intentions of the environmental strand of sustainability.

Although accepting the views of supporters to the scheme, in that the provision of additional dwellings would assist in supporting and sustaining the local facilities and services which are available in Newbold, it is considered that more suitable sites with a better relationship with the

built settlement of Newbold should be explored before the acceptance of the release of land in this particular location. As a result of this it is considered that the support to the economic and social sustainable strands of the NPPF would not outweigh the conflicts with the environment strand of sustainability and as such the development of the site is unacceptable in principle and would not represent sustainable development in terms of the environmental role.

Density

Policy H6 of the North West Leicestershire 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 factors such as housing mix, accessibility to centres and design. Policy H6 of the North West Leicestershire Local Plan also requires a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services and a minimum of 30 dwellings per hectare elsewhere.

With a site area of 0.156 hectares, the proposed development would have a density of 19.23 dwellings per hectare. Whilst this density would fall significantly below that advised in Policy H6, this policy also identifies that it is important to factor into any assessment the principles of good design as well as green space and landscaping requirements. In the circumstances that the Local Authority values good design in its approach to residential development and there would be a need to retain and reinforce the landscaping of the site it is considered that the density proposed would represent an efficient use of the land in this instance. In these circumstances the proposal would not substantially conflict with the principles of Policy H6 as to warrant a refusal of the planning permission. On the basis that the density of the scheme would be below that generally anticipated for residential development it is also difficult to support the view that the residential scheme would be an overdevelopment of the site.

Residential Amenity

The nearest residential property to the site is The Gables, Melbourne Road which is a single storey detached property to the north-east of the site. Plot 1 would lie 41.0 metres from this property and this distance, coupled with the mature landscaping to the site boundaries, would ensure that the residential scheme would not impact adversely on the amenities of neighbours in terms of overbearing, overshadowing and overlooking impacts.

With regards to the movement of vehicles associated with the dwellings it is considered that the level of traffic generated by the occupants of the dwellings would not be significant and would not be too dissimilar to having a development on corner site with a road running close to the dwelling and its rear garden, which was considered in an appeal to be an acceptable yardstick for an acceptable standard (Appeal Ref: APP/G2435/A/08/2065885/WF). It is considered that the level of noise generated by the three properties would not be sufficiently detrimental to the neighbouring amenities, particularly given the above appeal decision, and the retention of the landscaping to the site boundaries as well as the proximity of the site to Melbourne Road and Rempstone Road.

A distance of 18.0 metres would exist between the northern (front) elevation of Plot 2 and southern (side) elevation of Plot 1 and this distance would be acceptable in ensuring that any future occupants would not be adversely impacted on in terms of overbearing and overshadowing impacts. With regards to overlooking impacts it is noted that Plot 3 would contain two windows at first floor level (serving an en-suite and a secondary window to a bedroom) in its south-western (side) elevation which would provide views towards the immediate rear amenity area of Plot 2. In these circumstances it is proposed that these windows be conditioned to be obscure glazed and have a restricted opening in order to protect future amenities with the size of the secondary bedroom window reducing the potential for a perceived

impact of overlooking to occur.

Overall the development would accord with the principles of Policy E3 of the Local Plan.

Design

The need for good design in new residential development is outlined not only in Local Plan Policies E4 and 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 slopes modestly from north to south and is currently defined by a mature hedgerow of 2.0 metres in height, four trees also lie on the boundary of the site. Three residential properties exist to the north-east of the site which are addressed as Melbourne Road but are set back from the principle highway and are served by a small access road which also has a junction with School Lane. The former Gelsmoor Road lies to the north-east of the site which also serves as public footpath M103. It is noted that the three dwellings in close proximity to the site are single storey detached types.

Given the overall height of the current boundary treatments the site is relatively visible from Melbourne Road, particularly when travelling in southern direction from Lount towards Coleorton. The northern (side) and western (rear) elevations of Plot 1 and northern (front) and western (side) elevations of Plot 2 would be the most visible elements of the scheme presented to the public domain. It is considered that the majority of these elevations, with the exception of the western (side) elevation of Plot 2, would have windows and details which would enhance the design characteristics of the scheme and ensure that it would not impact adversely on the character of the streetscape. Although the dwellings which lie in close proximity to the site are single storey the land levels to the north, beyond the site, rise upwards and as such it is considered that the two-storey properties would be viewed in the context of their relationship with other built forms which would also ensure that they would not be at odds with the character and appearance of the immediate environment, or be viewed in isolation.

Public footpath M103 runs along the north-eastern boundary of the site and whilst the dwellings would be visible by users of this footpath the landscaping retained to the site's boundaries would reduce the overall visual implications with the development being seen in the context of a setting with other built forms. The built forms would also not obstruct any views established from the footpath onto important features within the landscape beyond the application site.

In terms of the design of the properties themselves it is considered that they would be acceptable and would include design features which the Local Authority considers desirable (chimneys, eaves and verge detailing, stone cills, brick headers, porches and timber windows and doors) and these features would be consistent and in keeping with the design of properties within the village which are considered to make a positive contribution to the visual amenity of the area (such as Birch Tree Barn, School Lane). The inclusion of timber windows, doors and porches would also reinforce the National Forest identity of the dwellings. The footprints of the dwellings and detached garages are also considered to be consistent with dwellings within the vicinity of the site and as such the overall design of the dwellings would be positive to the character and appearance of the wider area.

In terms of the vehicular access it is considered that the implications to the existing hedgerow are minimal given that the works required have been kept to the necessary minimum. The

parking arrangements for the scheme would also not detract from the character of the area given that they would be well related to the dwellings and would be largely screened by the hedgerows to the site boundaries.

Although the materials to be used in the construction of the dwellings have been partially specified in the application forms not all the materials have been noted and as such it is considered that it would be appropriate to condition any planning consent to ensure that samples of the materials to be used are submitted for approval to ensure that appropriate materials are utilised.

Overall the layout, design and scale of the dwellings are considered to be appropriate and would ensure that the development accords with Paragraphs 57, 60, 61 and 75 of the NPPF and Policies E4, F1 and H7 of the Local Plan.

Highway Safety

The County Highways Authority and County Footpaths Officer have raised no objections to the development subject to it being demonstrated that a right of access exists along Gelsmoor Road, which also constitutes public footpath M103. The County Highways Authority also considers that amended information should be provided to demonstrate that adequate off-street parking provision can be accommodated within the application site.

The agent for the application has submitted information to outline that a vehicular right of way has been established over the land for over 50 years, with a continued use, and it was noted from the site visit that a field access into the land to the south of the site is provided from the former Gelsmoor Road. The County Council Footpaths Officer is to ascertain the extent of the public footpath, i.e. is it the width of the old road or is it of a prescribed size, and any information which is provided will be reported to Members on the Committee Update Sheet. In any case it is considered that the road would be of a sufficient width to cater for both vehicular and pedestrian traffic without sufficient detriment to either user, subject to the relevant notes to the applicant suggested by the County Footpaths Officer being imposed on any consent granted.

In terms of general highway safety it is considered that the access into the site off Gelsmoor Road would be acceptable for the amount of dwellings proposed and would be of a sufficient width to allow two vehicles to pass one another so that no vehicle is left 'waiting' on Melbourne Road whilst another vehicle exits. Adequate visibility at the junction with Melbourne Road is also demonstrated on the submitted plans and as a result of this it is considered that the vehicular movements associated with the three dwellings would not result in significant detriment to highway safety.

With regards to the off-street parking requirements it is considered that the detached garages would be of a sufficient size to accommodate a vehicle and additional off-street parking would be provided within the site to ensure three off-street parking spaces are provided. The amount of off-street parking would be considered adequate for a scheme of this nature with any issue associated with a vehicle obstructing a right of access to land being a matter which would be dealt with by the police.

Overall, and subject to the extent of the public footpath being clarified, the development would not result in detriment to highway users (both vehicular and pedestrian) or result in vehicles being parked within the highway and as such the proposal would accord with Paragraphs 32 and 75 of the NPPF and Policies T3 and T8 of the Local Plan.

Ecology

Although the County Ecologist and Natural England have no objections to the impacts on protected species, given the findings of the submitted protected species survey, the County Ecologist has placed a holding objection to the application given the potential loss of a species rich grassland which could not be mitigated for within the application site given that the land would be within residential gardens and as such difficult to enforce or control in the future. The County Ecologist is to undertake a site visit to ascertain whether the remainder of the land within the applicant's control, situated to the south of the development site, could be utilised for compensatory habitat enhancements and any conclusions made from this visit will be reported to Members on the Committee Update Sheet.

At present, however, the scheme as proposed would conflict with the intentions of Paragraph 118 of the NPPF given the loss of species rich grassland which would be of Local Wildlife Site quality.

Landscaping

The Council's Tree Officer provided advice at the pre-application stage to indicate the extent of the root protection areas (RPA's) for each tree and that should there be a need for the removal of an Ash tree, along the north-eastern boundary, to accommodate Plot 1 than suitable mitigation planting of an advanced nursery stock should be provided. There is, however, no overriding need to remove the Ash tree which would be considered a 'veteran' tree although this tree could not be retained should three dwellings be proposed. The advice also identified that Plot 1 should be no closer to the Ash tree at the northern point of the site than the 8.5 metres presently shown on the submitted plans.

Paragraph 118 of the NPPF indicates that planning permission should be refused for developments which result in the loss or deterioration of irreplaceable habitats, which would include aged and veteran trees, unless the *"need for, and benefits of, the development in that location clearly outweigh the loss."* Policies E7 and F1 of the Local Plan also seek to maintain existing features such as trees and hedgerows. Whilst the Council's Tree Officer considers that the loss of the Ash, along the north-eastern boundary, could be mitigated for if there was a need for the development in the circumstances that it is concluded that the development of this site would not be suitable there would be conflict with the intentions of the above policies.

Although the amendments to the scheme, to accommodate the requests of the County Highways Authority, have resulted in Plot 1 being positioned one metre closer to the Ash tree at the northern point of the site it is considered that this repositioning of the property would not have significantly adverse impacts on the integrity of this veteran tree given that the property would be in excess of this distance from the tree's root protection area.

Overall, however, in the circumstances that there is not a need for a development of this nature in this location it is considered that an approval of the application would result in conflict with Paragraph 118 of the NPPF as well as Policies E7 and F1 of the Local Plan given the loss of a veteran tree.

Other Matters

The Council's Environmental Protection team have raised no objections to the development with regards to ground contamination or land instability subject to conditions and given that the site does not fall within the Coal Mining Referral Area, although this area does lie to the immediate north-east and south-east of the site, it is considered that the proposals would not lead to land instability issues to neighbouring properties which would ensure compliance with Paragraphs 120 and 121 of the NPPF.

It is noted that the application site and the properties within the vicinity of the site do not fall within a Flood Zone. Details of drainage would be dealt with under separate legislation (Building Regulations and Severn Trent Water) and as such any issues relating to how surface water run-off would be managed would be addressed at that time, although the application submission indicates that surface water run-off would be directed to an existing watercourse. In the circumstances that the site is not within a Flood Zone it is anticipated that any surface water run-off solution would not further exacerbate any localised flooding issue. As such the development would not conflict with Paragraph 103 of the NPPF.

Conclusion

The report above indicates that the site is a greenfield site outside the defined Limits to Development. The release of this land for the proposed residential scheme would result in adverse implications to the rural environment, by virtue of the site's detachment from the recognised limits to development and physical intrusion into the rural environment, and as such would represent unwarranted development in the countryside. The loss of a veteran tree, and future impacts on the integrity of an additional veteran tree, as well implications to biodiversity and ecology would result in a development which, overall, would conflict with the environmental strand of sustainability and Paragraph 17 of the NPPF as well as Policies S3 and H4/1 of the Local Plan.

At present the scheme has not provided suitable mitigation measures for the loss of species rich grassland on the application site and as a result of this an approval of the scheme would conflict with the intentions of Paragraph 118 of the NPPF.

In the circumstances that there is not a recognised need for the development in this location it is also considered that the removal of a tree identified as a veteran tree would result in conflict with the intentions of Paragraph 118 of the NPPF as well as Policies E7 and F1 of the Local Plan.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reasons;

- 1 The application site is on unallocated Greenfield land located outside the limits to development of Newbold as defined in the adopted North West Leicestershire Local Plan. Policy S3 of the adopted North West Leicestershire Local Plan (Local Plan) provides a presumption against non-essential residential development in the countryside with Paragraph 17 of the National Planning Policy Framework (NPPF) indicating that planning should recognise the intrinsic character and beauty of the countryside. Although the scheme is considered acceptable in terms of the social and economic strands of sustainable development the scheme would fail the environmental element, which outlines the development should protect and enhance the natural, built and historic environment, given its detachment from the settlement boundary of Newbold and physical intrusion into the rural environment. The implications to trees displaying veteran characteristics and inadequate mitigation for the loss of species rich grassland would also result in conflict with the environmental strand of sustainability. An approval of the scheme would therefore be contrary to the environmental strand of sustainability enshrined within the NPPF, as well as Paragraph 17 of the NPPF, and would also be contrary to Policies S3 and H4/1 of the Local Plan.

- 2 The scheme has not compensated for the loss of species rich grassland resulting from a development of the site and as such an approval of the scheme would conflict with the intentions of Paragraph 118 of the National Planning Policy Framework which aims to conserve and enhance biodiversity.

- 3 There is no recognised need for the development in this location and as such the removal of a tree displaying veteran characteristics would result in conflict with the intentions of Paragraph 118 of the National Planning Policy Framework, which outlines that development resulting in the loss of aged or veteran trees should be refused, as well as Policies E7 and F1 of the North West Leicestershire Local Plan which indicates that developments should seek to retain existing features of a site such as trees.

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Erection of 101 dwellings (Outline - access, appearance, layout and scale included)

Report Item No
A8

Land At Leicester Road Ashby De La Zouch Leicestershire

Application Reference
13/00857/OUTM

Applicant:
David Wilson Homes East Midlands

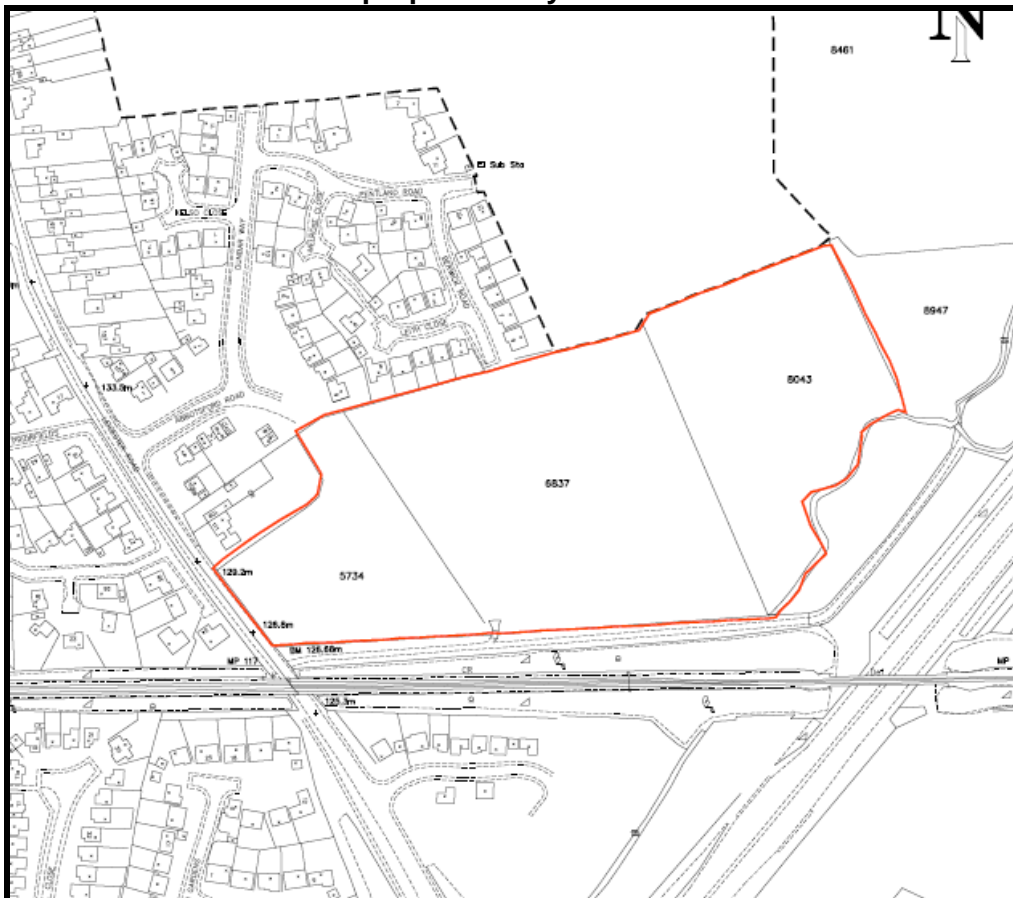
Date Registered
8 November 2013

Case Officer:
Sarah Worrall

Target Decision Date
7 February 2014

Recommendation:
PERMIT Subject to a Section 106 Statement

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Proposal

This is an outline application for 101 dwellings where the only matter reserved for subsequent approval is landscaping. As such, the scale, layout, appearance and access details are included in the current submission which also indicates the location of public open space and a balancing lagoon.

Consultations

All consultations have been undertaken and technical details have been submitted in respect of material considerations. It is considered that there are no matters raised which could not be dealt with appropriately through condition or the S106 legal agreement.

Planning Policy

The site is an allocated housing development site within the Adopted Local Plan under Policies H4a and H4b and as such is in principle acceptable subject to material planning considerations. The site also lies within the River Mease SAC catchment area. The proposed development would form a good quality and standard of residential development with a layout which would allow for connectivity with the wider residential developments adjacent.

Conclusion

The proposed development comprising dwellings, road and access, and amenity space and balancing pond would be in scale and character with the surrounding development, and would have no adverse impact on residential amenities, highway safety issues, the highway network, ecological aspects or the River Mease SAC in accordance with Adopted Local Plan Policies and the provisions and intentions of NPPF. The application is, therefore, recommended for approval.

RECOMMENDATION:- THAT PLANNING PERMISSION BE PERMITTED SUBJECT TO A S106 AGREEMENT AND SUBJECT TO CONDITIONS

MAIN REPORT

1. Proposals and Background

This is an outline application for 101 dwellings where the only matter reserved for subsequent approval is landscaping. As such, the scale, layout, appearance and access details are included in the current submission which also indicates the location of public open space and a balancing lagoon. The 101 dwellings would be a mix of 2, 3, 4 and 5 bed homes and 32 affordable units are proposed with a mix of 1, 2 and 3 bed homes. An additional affordable dwelling has been included from the 31 originally proposed to account for the loss of 1 affordable unit as a result of a replan on the Phase 1 site, north of the application site, which is currently under construction.

The site is bordered to the north by existing and committed residential development and the Burton-Leicester railway forms a physical boundary to the south. The A42 runs along the south east perimeter and is separated from the area proposed for development by a woodland area. Leicester Road borders the site to the west.

A design and access statement, planning statement, draft heads of terms, River Mease statement, BfL12 assessment, statement of community involvement, arboricultural survey, flood risk assessment, archaeological trial trench evaluation and written scheme of investigation, noise impact assessment and an ecological appraisal have been submitted as part of the application. An amended layout plan has been submitted to reflect the additional affordable housing unit for inclusion on this site. Additional information in respect of the Wood Street signal works for Phase 1 of the scheme, which is under construction, were submitted on 13 August 2014.

2. Publicity

76 No neighbours have been notified. (Date of last notification 12 November 2013)

Site Notice displayed 12 November 2013

Press Notice published 20 November 2013

3. Consultations

Ashby De La Zouch Town Council consulted 12 November 2013

LCC ecology consulted 15 July 2014

County Highway Authority consulted 21 January 2014

Environment Agency consulted 12 November 2013

Severn Trent Water Limited consulted 12 November 2013

Head of Environmental Protection consulted 12 November 2013

Natural England consulted 12 November 2013

NWLDC Tree Officer consulted 12 November 2013

County Archaeologist consulted 12 November 2013

LCC ecology consulted 12 November 2013

NWLDC Urban Designer consulted 12 November 2013

LCC Development Contributions consulted 12 November 2013

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 12 November 2013

Development Plans consulted 12 November 2013

Head Of Leisure And Culture consulted 12 November 2013

Manager Of Housing North West Leicestershire District Council consulted 12 November 2013

Police Architectural Liaison Officer consulted 12 November 2013

Head of Environmental Protection consulted 27 November 2013
 National Forest Company consulted 10 December 2013

4. Summary of Representations Received

Summary of Representations Received

Ashby de la Zouch Town Council - concerns with regard to highways issues and the capacity of Leicester Road to cope with additional traffic, capacity at the Wood Street/Upper Church Street junction where new traffic lights have not yet been installed, safety concerns about an increase in traffic on Corkscrew Lane where there is a history of accidents.

Third Party Representations

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

- Flooding
- Impacts from construction traffic
- Noise from the A42
- Trees and vegetation along Leith Close should be retained
- Applicants should provide a metalled footway / cycleway connecting the site to Coalfield Way, thus providing access to Tesco, Aldi and McDonalds

5. Relevant Planning Policy

National Planning Guidance

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.

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.

"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."

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

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

"123. Planning policies and decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development..."

"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 North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

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

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

Policy E1 states that development will not be permitted within the Sensitive Areas which would adversely affect or diminish the present open character of such areas and the contribution they make to the settlement, streetscene or relationship with adjoining countryside.

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

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

Policy E4 seeks to achieve good design in new development.

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

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

Policy E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplain of the River Mease.

Policy 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.

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

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.

The Technical Guidance to the National Planning Policy Framework - March 2012 provides additional guidance relating to flooding.

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

30% affordable housing will be sought on all sites of 15 or more dwellings in Ashby de la Zouch.

6. Assessment

Principle of Development

The application site is allocated for within the Adopted Local Plan for housing under allocation H4a and H4b. As such and notwithstanding the current 5 year housing land supply issue, the principle of development at this site is acceptable subject to design, amenity, ecological, heritage, River Mease SAC and highways considerations. The District Council can currently demonstrate that it has a five year housing land supply with 20% buffer plus additional housing. However, as an allocated site this would not adversely impact on the housing land supply issue and development of the site would constitute sustainable development.

Design and Conservation Issues

A design and access statement and Building for Life 12 assessment have been submitted and set out how the proposed scale, layout and appearance of the dwellings has come about. The proposed dwellings would draw characteristics of traditional buildings found within Ashby and the locality and would reflect the designs previously approved on Phase 1 and would be acceptable in terms of scale and appearance. The layout provides for a linkage with the Abbotsford Road David Wilson Homes development and Phase 1 of Leicester Road, Ashby, connecting the phases with a central loop road. Strong frontages, forms and roofscape would be provided within the streetscene through the proposed house designs and layout. As such, the proposed development would be in accordance with the NPPF and Adopted Local Plan Policy E4.

An archeological survey has been submitted as part of the application. Notwithstanding the submitted information, the County Archaeologist has recommended conditions be attached to any permission should the application be approved.

Residential Amenity Issues

The proposed dwellings would not cause any overlooking, overbearing or overshadowing issues to existing dwellings on Berwick Road, Leith Close, Abbotsford Road and Leicester Road, and would not give rise to an adverse impact on residential amenities to dwellings proposed at the

Phase 1 site to the north west of the application site.

In addition the proposed layout provides for adequate distance separation between units proposed on this Phase 2 section, and would ensure that there would be no issues of overlooking, overbearing or overshadowing between dwellings within this site.

Furthermore, a noise impact assessment has been submitted and sets out mitigation measures to ensure that there would be no adverse impact on residential amenities as a result of the close proximity of the A42. An existing woodland and grassed area would be retained and would essentially form a buffer between the A42 and the proposed dwellings. Landscaping details would be required through condition since it is a reserved matter.

The proposed development would, therefore, be in accordance with the requirements of Policy E3 of the Adopted Local Plan.

Highways Issues

The development would be served via an existing access off Leicester Road. A loop road would link the site with Abbotsford Road and the Phase 1 site to ensure complete connectivity between the wider developments.

Detailed traffic flow information has been submitted by the applicant and assessed by the Leicestershire County Council (LCC) as Highway Authority. Notwithstanding the local concerns which have been raised through representations, LCC is satisfied that the proposed development would not have an adverse impact on the highway network in terms of traffic flow or highway safety and recommends conditions be attached to any permission along with S106 requests.

The agent has submitted additional information on the Wood Street signalisation works which demonstrate that the applicant fully intends on undertaking the works and is currently waiting for a S278 highways approval in order to begin the works in relation to the previously approved Phase 1 scheme.

The proposed scheme would provide for adequate off-street parking spaces for each residential unit.

River Mease SAC, flood risk and Ecology Issues

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) 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 confirms that the applicant will pay the required contribution under the DCS. Natural England has no objections provided the proposal is in full accordance with the DCS. 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.

The flood risk assessment concludes that the site is at low risk of flooding since the site lies within Flood Risk Zone 1. Surface water run off would be dealt with through surface water drainage solutions including a balancing pond which would be provided within the site. The Environment Agency has requested an 8m wide sewer easement and this has been incorporated into the site layout.

The County Ecologist confirms that there is no objection to the amended layout subject to conditions relating to retention of the area as a natural open space and submission of a method statement for translocation of species rich turf from other parts of the site and a management plan.

Summary

The proposed development comprising dwellings, road and access, and amenity space and balancing pond would be in scale and character with the surrounding development, and would have no adverse impact on residential amenities, highway safety issues, the highway network, ecological aspects or the River Mease SAC in accordance with Adopted Local Plan Policies and the provisions and intentions of NPPF. The application is, therefore, recommended for approval.

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

- 1 Reserved matters time limit
- 2 Details of the reserved matters (appearance, landscaping, layout and scale) to be submitted
- 3 Approved Plans
- 4 Hours for construction works
- 5 Confirmation of capacity at Snarestone Waste Water Treatment Works
- 6 Details of measures to ensure capacity in sewer/drainage network
- 7 Details of foul drainage disposal
- 8 Details of surface water disposal
- 9 Development in accordance with FRA only - need to prevent development within flood risk areas
- 10 Mains sewer system only

- 11 Finished floor levels/ground levels
- 12 Exclusion of hedgerow along south eastern boundary from garden areas/curtilages and details of post and rail fencing to protect the hedgerow
- 13 Protective fencing for trees/hedgerow in accordance with Tree Survey and Tree Protection Plan
- 14 Design and method statement for any works taking place within areas of protective fencing
- 15 No storage within areas of protective fencing
- 16 Restriction on times for destruction and removal of vegetation
- 17 Survey of the site for grass snakes
- 18 Details of bird nesting boxes and bat boxes and habitat for grass snakes
- 19 Details of external lighting, including lighting assessment
- 20 Construction method statement to prevent adverse impact on River Mease SAC
- 21 Details of footways to connect to existing footways and crossing facility
- 22 Parking and turning facilities, access widths, gradients
- 23 Visibility splays
- 24 Provision and surfacing of access road
- 25 Highway drainage
- 26 Access gates
- 27 Construction traffic management plan

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Erection of 7 no. dwellings (Amended Scheme in respect of
previously approved dwellings to plots 1-6)

Report Item No
A9

Land To Rear Of 112 Park Lane Castle Donington Derby

Application Reference
14/00554/FUL

Applicant:
Mr James Matthews

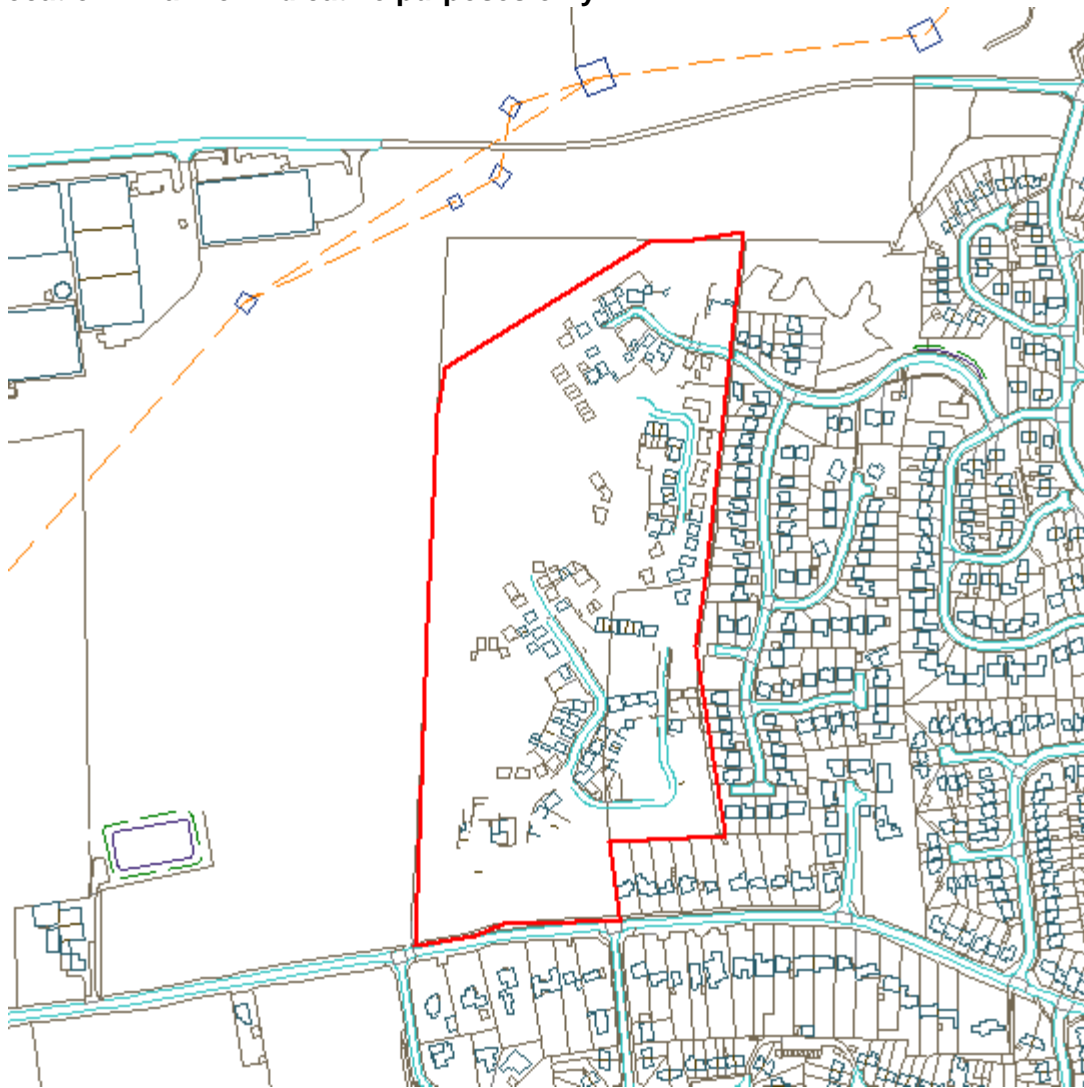
Date Registered
2 June 2014

Case Officer:
James Knightley

Target Decision Date
28 July 2014

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

This application seeks full planning permission for 7 dwellings in lieu of 6 previously approved on this section of a wider residential development site (275 dwellings in total).

Consultations

Members will see from the main report below that objections have been received in respect of the proposals (including from Castle Donington Parish Council); no other objections are raised by statutory consultees.

Planning Policy

The application site lies within Limits to Development and is allocated for residential development under Policy H4 of the adopted North West Leicestershire Local Plan.

Conclusion

The report below indicates that, whilst the proposed development would result in an additional dwelling on this part of the wider site, having regard to reductions in numbers of dwellings elsewhere on the site as a whole, the total number of dwellings would still not exceed site that originally permitted. The proposed development would, it is considered, be able to be undertaken in a manner acceptable in terms of provision of off-street car parking and residential amenity.

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

This is a full application for the erection of 7 dwellings in lieu of 6 dwellings previously permitted on this part of the site under reserved matters approval ref. 10/01043/REM and 12/00952/VCIM.

The area of the site in question is located towards the south western part of the wider site, and includes the western-most of the proposed dwellings fronting onto Park Lane.

The application is referred to Planning Committee at the request of Councillor Saffell on the grounds of loss of car parking, insufficient garage sizes, exacerbation of existing parking problems on the estate and intensification of the development, moving it away from the open and rural character of the rest of the village.

2. Publicity

35 no. neighbours have been notified (Date of last notification 16 June 2014)

Site Notice displayed 26 June 2014

3. Consultations

Castle Donington Parish Council consulted 16 June 2014

County Highway Authority consulted 19 June 2014

Severn Trent Water Limited consulted 19 June 2014

LCC Development Contributions consulted 19 June 2014

Parks Manager consulted 19 June 2014

4. Summary of Representations Received

Castle Donington Parish Council objects on the basis of an over-intensive development and loss of off-road car parking, exacerbating existing parking issues within the development.

Leicestershire County Council Developer Contributions Officer notes that, as the development would not increase the overall number of dwellings, no further comments are required in respect of developer contributions

Leicestershire County Council Highway Authority has no objections subject to conditions

Severn Trent Water has no objections subject to conditions

Third Party Representations

3 representations have been received, raising objection on the following grounds:

- Overlooking
- Loss of light
- Increased height compared to previous scheme
- Insufficient car parking
- Increased traffic
- Proposed change only for profit purposes
- No benefits to residents in existing new dwellings
- Detrimental to the aesthetics of the original scheme
- Misleading application site address / information within the notification letter

- Loss of property value
- Would set a precedent for further amendments
- Increased pressure on local infrastructure
- Increased noise
- Increased fire risk
- Animosity from residents in existing new dwellings
- More claustrophobic form of development

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, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

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

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

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

"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."

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

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

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

Adopted North West Leicestershire Local Plan (2002)

The site lies within Limits to Development and is allocated for residential development under Policy H4.

The following Local Plan policies are considered applicable to the current reserved matters application:

Policy H4 lists the sites allocated for housing including, amongst others, the application site (H4(i) - North of Park Lane, Castle Donington (9.2 ha; 200 units)).

In detail Proposal H4i (which relates to this site) provides that:

- "(i) Substantial block planting and landscaping will be required along the western boundary of the development area; and
- (ii) A financial contribution will be required towards the cost of providing additional school places generated by the development of this site."

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 the Local Plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

Other Policies

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 Castle Donington Area.

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within the Castle Donington 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.

6. Assessment

The principle of the development, and the suitability of the Park Lane access to accommodate up to 250 dwellings, was established by way of the earlier permissions referred to above.

Issues considered relevant to the determination of the outline and reserved matters approvals included the following:

- Air quality
- Visual / landscape impact
- Children's play / public open space / recreation
- Education facilities
- Library facilities
- Civic amenity / waste
- Healthcare facilities
- Affordable housing
- Archaeology
- Ecology
- Flood risk
- Design / site layout
- Highway safety

Having regard to the fact that the proposed dwellings would replace others previously approved under the earlier approvals, it is not considered that the proposed scheme raises any new issues in respect of the above issues. Whilst the proposed development would result in one additional residential unit over and above the number of dwellings approved on this section of the site under the previous re-plan of this phase, and whilst an earlier reconfiguration of Phase 5 also provided for an additional unit over and above the scheme it superseded, another revised scheme (for Phase 3) resulted in a net reduction of four units vis-à-vis the originally approved 275 for the site as a whole and, therefore, this figure would still not be exceeded.

In terms of neighbours' amenities, no adverse impact on any existing dwellings (and including those dwellings recently erected as part of the wider development currently underway) would be considered likely to result. Whilst objection has been raised regarding issues such as overlooking and loss of light to other recently constructed properties (and including by virtue of the height and positioning of the amended house types), it is not considered that the resulting relationships would lead to unacceptable amenity impacts. Similarly, the design of the proposed dwellings would be similar to other recently constructed dwellings within the site, and the scheme would not be considered to be out of character.

Insofar as car parking is concerned, whilst there would be fewer spaces per dwelling in the new scheme as compared to the approved one, all of these four bedroom dwellings would have a minimum of 3 spaces each (including garage space) which, it is considered, would be reasonable. All of the proposed dwellings would have four bedrooms; under the previously approved scheme, 4 no. four bedroom and 2 no. five bedroom dwellings were proposed in this section of the site as a whole. No objections have been raised by the County Highway Authority to the amended scheme.

In terms of developer contributions, the previous approvals made appropriate provision for infrastructure and for affordable housing. Whilst the scale of the proposed development falls below the usual thresholds for contributions, the development is part of a wider scheme for which contributions would be required. Therefore, in order to ensure that appropriate provision continues to be made, it is considered that Section 106 obligations ought to be entered into so as to secure the relevant contributions should the developers opt to implement the scheme the subject of this application in lieu of the existing approved scheme for this portion of the site as a whole.

It is therefore recommended that planning permission be granted.

RECOMMENDATION- PERMIT, subject to Section 106 Obligations, and 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 deposited with the Local Planning Authority on 2 June 2014, unless otherwise required by a condition of this permission:
 - Site location plan (M115_LOC_PH1-1) deposited with the Local Planning Authority on 2 June 2014
 - Topographical survey plan (M115_CD003) deposited with the Local Planning Authority on 2 June 2014
 - Site layout (M115_EM_PH1_01G) deposited with the Local Planning Authority on 22 July 2014
 - Proposed elevations and floor plans to Plot 1 (M115_153G) deposited with the Local Planning Authority on 4 August 2014
 - Proposed elevations and floor plans to Plots 2 to 6A (inclusive) (412-PD-001, 412-PD-002, 454-PD-001, 454-PD-002, 412-PD-003, 421-PD-001 and 421-PD-002) deposited with the Local Planning Authority on 2 June 2014
 - Proposed garages (M115_GAR_001) deposited with the Local Planning Authority on 2 June 2014
 - Door and window (including porch, surround, head and cill) details (CE[13]22_01, CE[13]22_02, M115_DET_2.1, M115_DET_2.6, M115_DET_4.1, M115_DET_4.2, M115_DET_4.3, M115_DET_4.4, M115_DET_4.5, M115-DET_4.7 Rev C and M115_DET_4.9) deposited with the Local Planning Authority on 2 June 2014
 - Midcourse, eaves and gable details (M115_MCD_001 Rev A, M115_ED_003, M115_ED_004 and M115_ED_011) deposited with the Local Planning Authority on 2 June 2014
 - Chimney details (M115_DET_CH01 and M115_DET_CH04)
 - Boundary and gate details (M115_BD_001)
 - Materials layout (M115_MAT_PH1/2/3_01_J)

Reason - To determine the scope of this permission.

- 3 Unless any alternative scheme is first submitted to and agreed in writing by the Local Planning Authority, the development hereby permitted shall be carried out in accordance with the scheme for the disposal of foul and surface water from the site approved by the Local Planning Authority on 13 July 2012 in respect of planning permission 11/00754/VCU. None of the dwellings hereby permitted shall be occupied until such time as the approved scheme (insofar as it relates to any dwellings within the application site) has been implemented in full.

Reason - To ensure that satisfactory provision is made at the appropriate time for the disposal of foul and surface water.

- 4 Unless any alternative scheme is first submitted to and agreed in writing by the Local Planning Authority, the development hereby permitted shall be carried out in accordance with the scheme for the provision and implementation of a Sustainable Drainage (SuDs) system approved by the Local Planning Authority on 13 July 2012 in respect of planning permission 11/00754/VCU. None of the dwellings hereby permitted shall be occupied until such time as the approved scheme (insofar as it relates to any dwellings within the application site) has been implemented in full.

Reason - To ensure the satisfactory provision of drainage facilities to serve the proposed development and reducing the impact on flood risk, protecting rivers and enhancing the habitat potential of the development.

- 5 Unless any alternative scheme is first submitted to and agreed in writing by the Local Planning Authority, the development hereby permitted shall be carried out in accordance with the scheme for the provision and implementation of surface water run-off limitation approved by the Local Planning Authority on 13 July 2012 in respect of planning permission 11/00754/VCU. None of the dwellings hereby permitted shall be occupied until such time as the approved scheme (insofar as it relates to any dwellings within the application site) has been implemented in full.

Reason - To prevent the increased risk of flooding.

- 6 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water highway drainage shall be passed through trapped gullies with an overall capacity compatible with the site being drained.

Reason - To prevent pollution of the water environment.

- 7 Nothing other than uncontaminated excavated natural materials shall be deposited on the site.

Reason - To protect the groundwater quality in the area.

- 8 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, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason - To protect the groundwater quality in the area.

- 9 During the period of construction, any facilities above ground for the storage of oils, fuels or chemicals shall be sited on an impervious base and surrounded by impervious walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge into the bund. Such facilities shall be constructed and completed in accordance with plans approved by the Local Planning Authority.

Reason - To protect the groundwater quality in the area.

- 10 Unless any alternative scheme is first submitted to and agreed in writing by the Local Planning Authority, the development hereby permitted shall be carried out in accordance with the scheme of archaeological work and recording submitted with and forming part of reserved matters application 10/01043/REM.

Reason - To ensure satisfactory treatment of any significant archaeological remains.

- 11 Unless any alternative scheme is first submitted to and agreed in writing by the Local Planning Authority, the development hereby permitted shall be carried out in accordance with the scheme of ecological mitigation measures set out generally in Sections 2.102 to 2.123 of the Environmental Report prepared by Wardell Armstrong, dated November 2007, and FPCR letter dated 22 June 2010 submitted pursuant to planning permission refs. 07/01844/OUTM and 11/00754/VCU.

Reason - In the interests of nature conservation.

- 12 Notwithstanding the submitted details, the total number of dwellings occupied on the site, when aggregated with all those occupied on the site to which North West Leicestershire District Council planning permission 07/001844/OUTM relates (save for those dwellings subject to reserved matters approval ref. 11/00655/REMM), shall not exceed 250 until such time as a scheme of alterations to the Park Lane / High Street / Delven Lane junction has been undertaken and implemented in full.

Reason - To ensure that traffic generated from the site is satisfactorily catered for on the local road network and in the interests of highway safety.

- 13 No construction works shall take place at any time unless vehicle wheel cleansing facilities are provided within the site and are available for use by all vehicles exiting the site before entering the highway.

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

- 14 No development shall commence until such time as a scheme for off-street parking facilities (including any associated surfacing and marking out) for the various phases of the period of the construction of the development has been submitted to and agreed in writing by the Local Planning Authority. No construction works shall take place at any time unless the whole of the agreed construction parking provision in respect of the relevant phase (or any alternative scheme first agreed in writing by the Local Planning

Authority) has been formed and is available for use.

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

- 15 Unless any alteration is first agreed in writing by the Local Planning Authority, the dwellings shall not be occupied at any time unless operated in accordance with the Travel Plan approved by the Local Planning Authority on 6 June 2014 in respect of planning permission 11/00754/VCU.

Reason - To ensure that the proposed development is operated in a sustainable manner.

- 16 Unless undertaken in accordance with an alternative schedule of materials first submitted to and agreed in writing by the Local Planning Authority, the development hereby permitted shall be carried out strictly in accordance with the details of external facing materials as shown on drawing no. M115_MAT_PH1/2/3_01_J.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, in the interests of amenity.

- 17 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on site until such time as precise details of the treatment of all hard surfaces (including all access roads, footways, drives and parking / manoeuvring areas) within the development 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 provides for a satisfactory form of design, in the interest of amenity, and in the interests of highway safety.

- 18 The development hereby permitted shall be carried out in accordance with the proposed finished floor levels shown on drawing nos. M115_EM_PH1_01G (when read in conjunction with the existing levels shown on drawing no. M115_CD003).

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, in the interest of amenity.

- 19 None of the dwellings hereby permitted shall be occupied until the relevant dwelling's boundary treatment as denoted on drawing nos. M115_EM_PH1_01G and M115_BD_001 has been implemented in full. Notwithstanding the provisions of Part 2 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) no gates, fences, walls or other means of enclosure (other than any approved pursuant to this condition, or as a replacement of such in the same location, constructed in the same materials, and at a height not exceeding that which it replaces) shall be erected, unless planning permission has first been granted by the Local Planning Authority.

Reason - To preserve the amenities of the locality, in the interests of highway safety, to ensure that there is a clear and robust demarcation between public and private spaces and to ensure an appropriate form of design.

- 20 Unless any alternative materials are first agreed in writing by the Local Planning

Authority, the proposed 1.8m high brick boundary walls as shown on drawing no. M115_EM_PH1_01G to Plots 1 and 6A shall be erected in Ibstock Arden Red and Hanson Atherstone Red bricks respectively.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, in the interest of amenity.

- 21 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on site until such time as precise details of all garage doors 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 an appropriate form of design.

- 22 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on site until such time as precise details of the positioning and treatment of utility boxes to individual units 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 an appropriate form of design.

- 23 Notwithstanding the submitted plans, nor Condition 2 above, none of the dwellings shall be occupied until such time as precise details (including positioning) of all street name plates 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 an appropriate form of design.

- 24 Notwithstanding the submitted plans, nor Conditions 2, 18 and 19 above, no retaining walls / structures shall be erected unless in accordance with precise details (including in respect of external materials of construction) first submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, to ensure an appropriate form of design, and in the interests of amenity.

- 25 Notwithstanding the provisions of Part 2 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) no direct vehicular access (other than that shown on the approved plans) shall be formed to Plot 1 unless planning permission has first been granted by the Local Planning Authority.

Reason - In the general interests of highway safety.

- 26 Notwithstanding the submitted plans, nor Conditions 2 and 18 above, the gradient of any access drive shall not exceed 1:12 for the first 5 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.

- 27 None of the dwellings hereby permitted shall be occupied until such time as drainage has been provided within the site such that surface water does not drain into the public

highway and, once provided, shall 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.

- 28 No individual dwelling shall be occupied until such time as its associated car parking provision (including garage space(s) where applicable) has been provided in full in accordance with the details shown on the approved plans and, once provided, shall not be obstructed and shall thereafter be so maintained.

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

- 29 No access shall be brought into use until such time as pedestrian visibility splays have been provided on both sides of the relevant access with nothing within those splays higher than 0.6 metres above ground level in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Once provided, the relevant splays shall thereafter be so maintained.

Reason - In the interests of pedestrian safety.

- 30 No dwelling served by a shared private access drive shall be occupied until such time as the relevant access drive has been constructed as shown on the approved plans and, once provided, shall thereafter be so maintained.

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.

- 31 No development shall commence on the site until such time as a landscaping scheme to accord generally with the principles shown on drawing no. M115_EM_PH1_01G has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in the first planting and seeding season following either the first occupation or the bringing into use of the development hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority.

Reason - To ensure satisfactory landscaping is provided within a reasonable period.

- 32 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.

- 33 None of the dwellings shall be occupied until such time as the proposed pedestrian link adjacent to Plots 1 and 2 has been provided in full. Once provided the link shall thereafter be available for use by all pedestrians at all times such that unfettered access is available between the proposed vehicular access road serving the dwellings and Park Lane.

Reason - To ensure that the development takes the form envisaged by the Local Planning Authority, in the interests of providing appropriate accessibility through the site.

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 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
- 3 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport.
- 4 This decision is in accordance with the resolution of the Planning Committee of 2 September 2014 and is subject to a Section 106 Obligation.

Single storey rear extension to dwelling and garage along with
the erection of a single storey detached studio

Report Item No
A10

5 Main Street Ravenstone Coalville Leicestershire

Application Reference
14/00619/FUL

Applicant:
Mr Nigel Smith

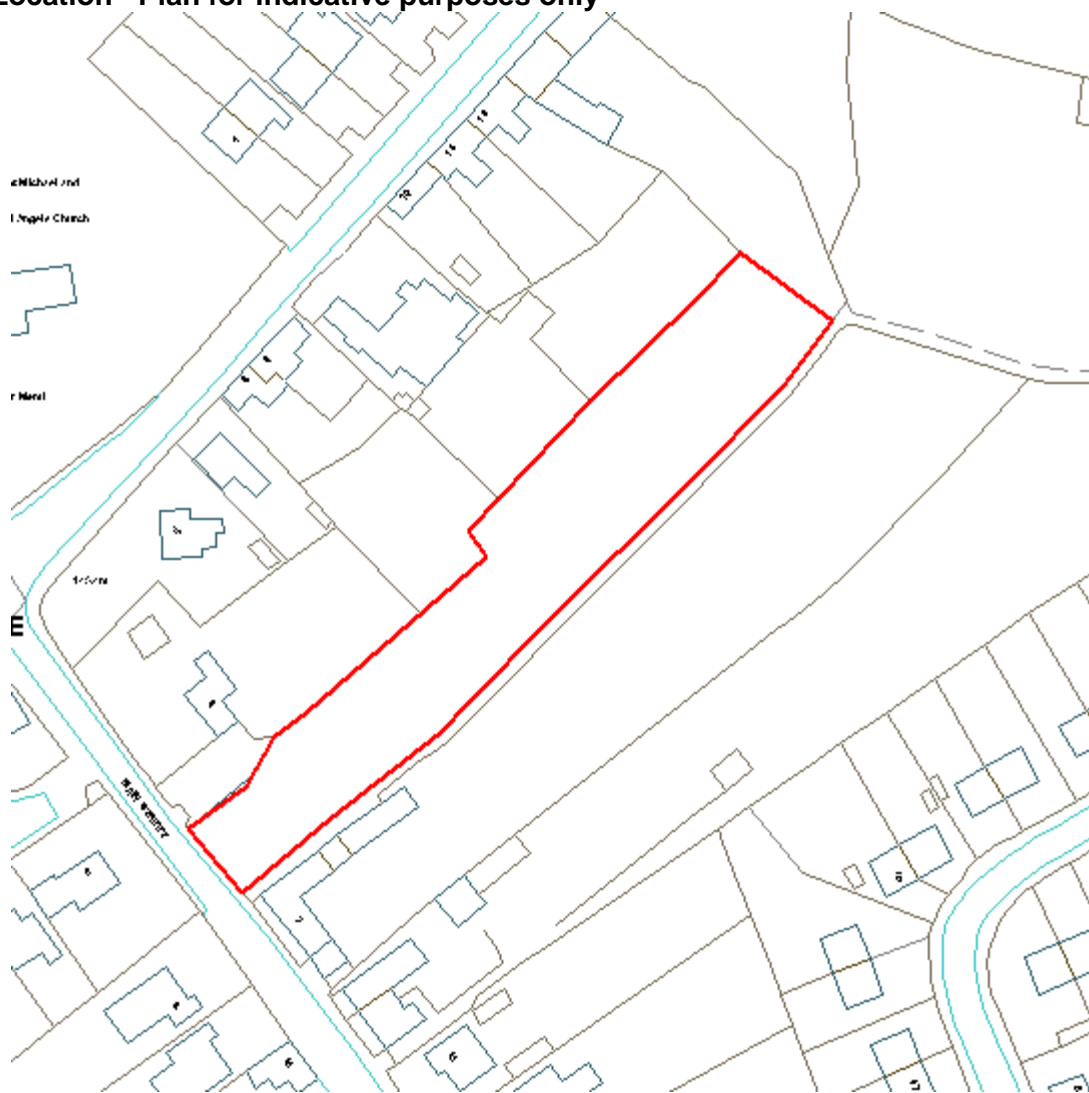
Date Registered
26 June 2014

Case Officer:
James Mattley

Target Decision Date
21 August 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

Call In

The application falls to be determined by the Planning Committee as Councillor Smith is the applicant.

Proposal

Planning permission is sought for the erection of a single storey rear extension to dwelling and garage along with the erection of a single storey detached studio at 5 Main Street, Ravenstone, Coalville. The application site is located within the Ravenstone Conservation Area.

Consultations

Members will see from the report below that no letters of objection have been received from statutory consultees or surrounding neighbours.

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

RECOMMENDATION - PERMIT, subject to the conditions.

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

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the erection of a single storey rear extension to dwelling and garage along with the erection of a single storey detached studio at 5 Main Street, Ravenstone, Coalville. The subject property is a detached two storey dwelling, situated to the east of Main Street. The site is located in a predominantly residential area with dwellings surrounding the site. The subject property is located within Limits to Development and is situated within the Ravenstone Conservation Area.

The following works are proposed:

_ A single storey rear extension to the main dwellinghouse to provide an extension to the garden room. This would measure 5.5 metres in length, 5.9 metres in width and would have a pitched roof measuring 2.9 metres in height to the eaves and 5.3 metres in height to the ridge.

_ A single storey rear extension to the existing detached garage. This would measure 5.5 metres in length, 3.3 metres in width and would have a hipped roof measuring 2.0 metres in height to the eaves and 3.7 metres in height to the ridge.

_ A single storey detached outbuilding at the bottom of the garden to be used as a studio. This would measure 7.7 metres in length, 5.35 metres in width and would have a hipped roof measuring 2.8 metres in height to the eaves and 5.0 metres in height to the ridge.

Pre-application discussions have taken place prior to the formal submission of this application.

Relevant Planning History:

Planning history:

01/01143/FUL- Extensions and alterations to dwelling and new railings and gate to existing front wall (approved)

00/0179- Erection of single storey rear extension (approved)

98/0835- Erection of garage and store (approved)

90/0566- Felling of a Yew Tree (refused and TPO served)

90/0221- Conservation Area Consent for demolition of garage (consent granted)

89/1556- Single storey rear extension (approved)

2. Publicity

2 no. Neighbours have been notified (Date of last notification 30 June 2014)

Site Notice displayed 3 July 2014

Press Notice published 9 July 2014

3. Consultations

Ravenstone With Snibston Parish Council consulted 30 June 2014

County Highway Authority consulted 30 June 2014

NWLDC Conservation Officer consulted 30 June 2014

LCC/Footpaths consulted 30 June 2014

NWLDC Footpaths Officer consulted

4. Summary of Representations Received

No representations have been received from members of the public.

County Footpath Officer has no objection to the proposed development.

County Highway Authority raises no objection under the standing advice procedure subject to the inclusion of a planning condition.

5. Relevant Planning Policy

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

- 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.

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

" 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."

" 134 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."

The policies of the North West Leicestershire Local Plan as set out in more detail in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application. 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 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 S2 sets out that development will be permitted on allocated sites and other land within the Limits to Development, where it complies with the policies of this Local Plan.

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

Policy E4 seeks to achieve good design in new development.

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

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

Residential Amenity

Consideration has been given to the impact of the development on surrounding residential properties despite not receiving any letters of representation during the course of the application.

All of the proposed developments would be single storey in height and the existing boundary treatments would help to screen the developments from the surrounding area. Having regard to these issues it is not considered that the application would result in any significant overlooking, overbearing or overshadowing issues to surrounding occupiers.

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

Design

Consideration has also been given to the design of the extensions and whether they have an acceptable impact upon the character and appearance of the dwelling itself, the street scene and the surrounding Conservation Area.

The site is within the Ravenstone Conservation Area and no.5 Main Street is identified as an important unlisted building, as is no.3 Main Street whilst no.7 is a listed building. The proposed extension to the dwelling would continue the form of the rear projection and the scale of the addition would be less than the existing thereby maintaining the diminishing scale of the building from the façade. Although it would be set adjacent to the listed building, it would be separated by an existing public footpath and mature landscaping, and this part of the existing dwelling is

characterised by enclosure and the setting would not be affected unduly.

The extension to the garage would have a limited impact on the Conservation Area being to the rear of the existing and of relatively modest proportions. It would also be away from the listed building and would not affect its setting. The proposed studio would introduce a new outbuilding toward the rear of the site. This would have an impact on the heritage assets forming part of the side boundary of the plot and adjacent to the listed building. However, the impact would not be unduly significant.

The proposed developments would be constructed using block and render, slate roofing tiles and timber windows and doors. These materials would match those used on the existing dwelling and ensure that the extension appears well related to the main dwellinghouse and the surrounding Conservation Area.

The proposed development is not considered to harm the surrounding heritage assets given the location proposed and single storey nature of the development. In coming to this conclusion it is noted that the Council's Conservation Officer raises no objection to the proposed scheme. Overall, the design, appearance and scale of this proposal is acceptable and would not look out of keeping with the character and appearance of the surrounding Conservation Area or the existing dwelling and is considered to be compliant with Policy E4 of the Local Plan and the advice in the NPPF.

Other

The County Footpath officer confirms that proposal would not impact upon the adjacent public right of way but does offer some notes to applicant regarding protecting the footpath during any construction works.

The County Highway Authority raises no objections subject to a condition that the studio remains ancillary to the main dwellinghouse. A suitable planning condition is recommended.

Conclusion

There have been no objections to the proposed development. The proposal is not considered to affect residential amenity in the area, have any significant detrimental design impacts or result in harm to surrounding heritage assets. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the Local Plan, in this case S2, E3 and E4 and the advice in the NPPF. It is therefore recommended that the application be permitted.

RECOMMENDATION - PERMIT, subject to the following conditions;

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

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

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

Site location plan deposited with the Local Planning Authority on 26 June 2014;
 Drawing No. Sheet 1 deposited with the Local Planning Authority on 26 June 2014;
 Drawing No. Sheet 2 deposited with the Local Planning Authority on 26 June 2014;
 Drawing No. Sheet 3 deposited with the Local Planning Authority on 26 June 2014;
 Drawing No. Sheet 4 deposited with the Local Planning Authority on 26 June 2014;
 Drawing No. Sheet 5 deposited with the Local Planning Authority on 26 June 2014;
 Drawing No. Site Plan deposited with the Local Planning Authority on 26 June 2014;
 Drawing No. 01/1456 03 A deposited with the Local Planning Authority on 26 June 2014;

Reason - To determine the scope of this permission.

- 3 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on site until details/samples (as appropriate) of the:-
- i. sample panel of the bricks, brick bond, and mortar
 - ii. roofing materials
 - iii. rain water goods
 - iv. windows and doors (including heads and cills)
 - v. chimneys
 - vi. eaves and verges

have been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the works shall be executed in accordance with that agreement.

Reason - To ensure that the works are executed in an appropriate manner and to ensure a satisfactory standard of design.

- 4 The use of the studio and garage extension shall permanently remain ancillary to the main dwellinghouse and shall not be sold, leased, nor otherwise disposed of separately from the main dwellinghouse.

Reason - To determine the scope of the permission and in the interests of highway safety.

Notes to applicant

- 1 I am attaching a 1:1250 scale plan upon which I have superimposed by a broken black line and labelled, the route of public footpath O46 which is recorded on the Definitive Map as abutting the south eastern boundary of the application site.
 In the event of planning consent being issued by the District Council, the applicant's attention should be drawn to the proximity of public footpath O46. He will be responsible for ensuring that the line of the footpath is not affected by any operations associated with the development, and that free access can be exercised safely by pedestrians at all times. In addition, the full width currently contained between boundary features should be retained and not encroached upon by the development. It should be ensured that the land crossed by the footpath is not used as a storage area for building materials.
 If it is necessary for any works associated with the development to be carried out within the confines of the footpath, the County Council's consent to these should be obtained before they are commenced. The applicant should notify the Rights of Way Inspector for the area, Mr. S. Daniels, who may be contacted by e-mailing highwayscustomerservices@leics.gov.uk or by telephoning 0116 305 0001.
 Any damage that may be caused to the surface of the footpath which is directly

attributable to works associated with the development will be the responsibility of the applicant to repair at his own expense, to the satisfaction of the Highway Authority.

It is not apparent from the plans accompanying the application that any additional structures will be erected across the route of footpath O46. The applicant should in any event be advised that the written consent of the County Council would need to be sought to the installation of any structure intended to be erected either on a temporary or permanent basis in a new location along the footpath, before it is put in place. Unless a structure has been authorised by the Council, it constitutes an unlawful obstruction of the public right of way.

- 2 Planning permission 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).
- 3 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £28 per request. Please contact the Local Planning Authority on 01530 454666 for further details.

Erection of detached dwelling and detached garage
(retrospective)

Report Item No
A11

65 Park Lane Castle Donington Derby Derby

Application Reference
14/00642/FUL

Applicant:
Mr And Mrs Crossley

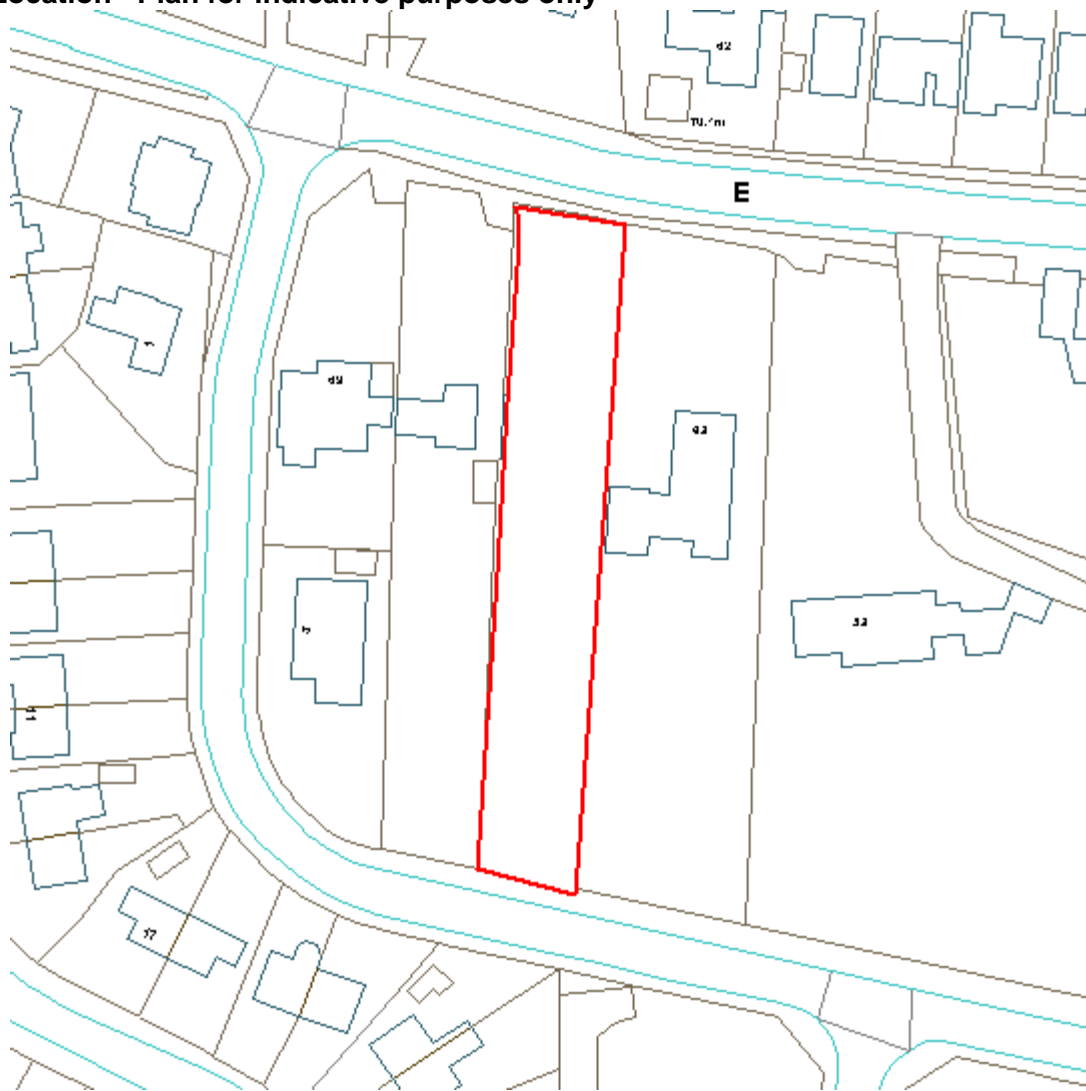
Date Registered
17 July 2014

Case Officer:
Adam Mellor

Target Decision Date
11 September 2014

Recommendation:
PER

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought to the Planning Committee as the applicant is a former officer of the District Council.

Proposal

Planning permission was granted by the Planning Committee on the 4th September 2012 for the erection of a two-storey dwelling and detached garage together with the creation of a new vehicular access off Towles Pastures (amended scheme) under application reference 12/00580/FUL. This scheme proposes an amendment to the approved scheme by virtue of the provision of a half-hipped roof, in lieu of the previously approved fully hipped roof, on the projection on the southern (front) elevation, a reduction in the size of the roof lights on the northern (rear) elevation and the provision of two minor single storey projections from the eastern and western (side) elevations of the front projection. Works commenced on the site in relation to the construction of the dwelling on the 15th June 2014.

Consultations

No letters of representation to the application have been received from third parties, to date, although it is noted that Castle Donington Parish Council object to the application. No adverse comments have been received from statutory consultees. Any relevant comments received following the publication of the Planning Committee Agenda will be reported to Members on the Committee Update Sheet.

Planning Policy

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

Conclusion

The site has the benefit of permission for residential development and this has been implemented on the site. The revisions to the dwelling now under consideration, in lieu of them previously deemed appropriate under application reference 12/00580/FUL, are considered to be acceptable and would not impact adversely on the amenities of existing or proposed residents in accordance with Policy E3 of the Local Plan. It is also considered that the development form, particularly the amendments to the front projection, would mimic the scheme approved under application reference 12/00023/FUL and as a result of this it is considered that the dwelling would not impact adversely on the character and appearance of the streetscape or surrounding area. As such the development would accord with Paragraphs 57, 60, 61 and 64 of the NPPF and Policies E4 and H7 of the Local Plan. It is therefore recommended that the application be permitted.

RECOMMENDATION - APPROVE SUBJECT TO CONDITIONS and no contrary observations being received by the 21st August 2014;

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

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the erection of detached dwelling and detached garage (retrospective) at 65 Park Lane, Castle Donington. No. 65 is a two-storey detached dwelling situated on the southern side of the street, where it is set back 24.0 metres from the public highway. An existing vehicular access exists off Park Lane which provides off-street parking to the site frontage. The site is situated within the defined limits to development, as identified on the North West Leicestershire Proposals Map, and the surrounding area is predominately residential with properties varying in their types and design.

Planning permission was granted, by the Planning Committee, on the 4th September 2012 for the erection of a two-storey dwelling and detached garage together with the creation of a new vehicular access off Towles Pastures (amended scheme) on the application site under application reference 12/00580/FUL. The conditions of this planning consent were discharged and work commenced on the construction of the dwelling on the 15th June 2014. The application now submitted for consideration seeks approval for a revised scheme which still proposes a two-storey dwelling, with first floor level accommodation in the roof space, with slight alterations proposed to the roof design.

The principal differences between the approved dwelling and that now under consideration relates to the provision of a half hipped roof rather than a fully hipped roof on the projection from the southern (front) elevation, a reduction in the size of the roof lights on the northern (rear) elevation, the provision of a single storey lean-to canopy extending from the western (side) elevation of the front projection and a single storey extension projecting from the eastern (side) elevation of the front projection to provide a slight increase in the floor space of the lounge.

It is proposed that the position of the dwelling in the plot would be the same as that approved under application reference 12/00580/FUL, given that construction works have commenced, with vehicular access to the dwelling being provided off Towles Pastures and off-street parking, as well as a detached single garage, being provided to the front of the dwelling adjacent to the eastern boundary of the site.

The planning history of the application site is as follows: -

- 10/00866/FUL - Erection of a single storey dwelling - Approved 5th November 2010;
- 12/00023/FUL - Erection of a two-storey dwelling and detached garage together with the creation of a new vehicular access off Towles Pastures - Approved 5th May 2012.

2. Publicity

7 no. Neighbours have been notified (Date of last notification 31 July 2014)

3. Consultations

Castle Donington Parish Council consulted 31 July 2014

County Highway Authority consulted 4 August 2014

Severn Trent Water Limited consulted 4 August 2014

NWLDC Tree Officer consulted 4 August 2014

Airport Safeguarding consulted 4 August 2014

4. Summary of Representations Received

The following summary of representations is provided. Members will note that full copies of

correspondence received are available on the planning file.

Castle Donington Parish Council objects to the application as previously outlined under application references 10/00866, 12/00023 and 12/00580 which consisted of Policies E3 (proximity would be detrimental to the amenities enjoyed by the occupiers of nearby dwellings, produce excessive traffic generation), E4 (does not respect the character of the surroundings in terms of scale, massing, spaces between and around buildings and the street scene generally), E5 (too restricted in size to satisfactorily accommodate access); would set a precedent which could result in a proliferation of houses in back gardens off Towles Pastures.

East Midlands Airport Safeguarding has no objections.

Leicestershire County Council - Highways has no objections subject to their previous advice on application reference 12/00023/FUL being considered. The advice provided on this particular application was that no objections were raised subject to the imposition of relevant conditions on any consent granted.

NWLDC - Tree Officer has no objections.

Severn Trent Water no representation received to date. Any comments to be reported on the Committee Update sheet.

Third Party Representations

No third party representations received to date. Any representations to be reported on the Committee Update sheet.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

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

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

Paragraph 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 39 indicates that if setting local parking standards for residential and non-residential development, local planning authorities should take into account:

- the accessibility of the development;
- the type, mix and use of development;
- the availability of and opportunities for public transport;
- local car ownership levels; and
- an overall need to reduce the use of high-emission vehicles;

Paragraph 47 outlines that to boost significantly the supply of housing, local planning authorities should, amongst other things, 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;

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 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;

North West Leicestershire Local Plan

Policy S2 indicates that development will be permitted on allocated sites and other land within Limits to Development, provided it complies with other policies of the 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 and requires new development to respect the character of its surroundings;

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

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

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

Policy 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 development;

Submission Version Core Strategy

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

Other Guidance

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;

National Planning Practice Guidance

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

6. Assessment

The principle of the proposed development was assessed and found to be acceptable under both application references 12/00023/FUL and 12/00580/FUL. In these circumstances the only matters for consideration relate to whether the amendments proposed to the dwelling would be acceptable from a design point of view and whether residential amenities would be adversely affected. Any other issues, i.e. highway safety, would not be of relevance in the consideration of this application given that the application still proposes only one dwelling and that its position would be the same as that previously approved.

Residential Amenity

Given the nature of the differences between the dwelling now under consideration and that previously approved, it is considered that the development would not result in any greater harm

to the amenities of occupiers of any surrounding properties. At the nearest points, the proposed dwelling would be approximately 18.0 metres from the rear of the single storey dwelling at No. 63 Park Lane and 29.5 metres from the rear of the two-storey dwelling at No. 67 Park Lane, which are deemed to be sufficient distances in preventing any significant overbearing or overshadowing impacts. A reduction in the size of the roof lights in the northern (rear) elevation roof slope would also reduce the perception of overlooking which would further minimise the impacts on the amenities of these dwellings. A distance of over 24.0 metres would exist between the southern (front) elevation of the dwelling and the rear boundary of the property at 25 Shields Crescent and as such the provision of the half-hipped roof, in lieu of the previously approved full-hipped roof, would not result in any adverse impacts of the amenities of the occupant of this property given the distances involved and the fact that this development form is the same as that approved under application reference 12/00023/FUL.

In these circumstances the scheme would remain compliant with Policy E3 of the Local Plan.

Design

The need for good design in new residential development is outlined not only in Local Plan Policies E4 and 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.

As outlined in the Proposals and Background section of this report the proposed scheme includes the same footprint as that approved under application reference 12/00580/FUL with the principal differences being the provision of a half-hipped roof, in lieu of a fully hipped roof, on the front elevation of the projection from the southern (front) elevation, a reduction in the size of the roof lights on the northern (rear) elevation and the provision of two single storey lean to additions from the western and eastern (side) elevations of the front projection. Aside from these alterations, the main ridge and eaves height of the dwelling would be the same as that approved, at 6.4m and 2.8m above ground level respectively.

It was reported under the consideration of the previous application that the design of the dwelling was not of particularly high quality but that its implications to the streetscape and rural environment would not be sufficiently detrimental to warrant a refusal of the application. The amendment proposed to the roof of the front projection would result in a development form which would match that previously considered acceptable under application reference 12/00023/FUL and as a result of this, along with the other minor alterations which would be carried out, it is considered that the overall design of the dwelling would not be sufficiently detrimental to character and appearance of the streetscape or wider area.

The materials to be used in the construction of the dwelling have already been agreed and are considered acceptable in providing a development form which would not be at odds with the character of the immediate environment. Overall the design of the revised dwelling would be acceptable and would accord with Paragraphs 57, 60, 61 and 64 of the NPPF as well as Policies E4 and H7 of the Local Plan.

Summary Reasons for Granting Planning Permission

The site has the benefit of permission for residential development and this has been implemented on the site. The revisions to the dwelling now under consideration, in lieu of them previously deemed appropriate under application reference 12/00580/FUL, are considered to be acceptable and would not impact adversely on the amenities of existing or proposed residents in

accordance with Policy E3 of the Local Plan. It is also considered that the development form, particularly the amendments to the front projection, would mimic the scheme approved under application reference 12/00023/FUL and as a result of this it is considered that the dwelling would not impact adversely on the character and appearance of the streetscape or surrounding area. As such the development would accord with Paragraphs 57, 60, 61 and 64 of the NPPF and Policies E4 and H7 of the Local Plan. It is therefore recommended that the application be permitted.

RECOMMENDATION - PERMIT, subject to the following conditions;

- 1 The development shall be carried out in strict accordance with the site plan (1:2500), block plan (1:500) and drawing number 43/1/2014, received by the Local Authority on the 17th July 2014, unless otherwise required by another condition of this permission.

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

- 2 The materials to be used in the development, hereby approved, shall be in strict accordance with those specified in the application forms, being Charnwood Multi-Brindle bricks, Marley Heather Sandface plain clay tiles, aluminium window frames powder coated light green and cast iron effect plastic rain water goods, unless alternative materials and colour finishes are first submitted to and agreed in writing by the Local Planning Authority.

Reason - to ensure a satisfactory standard of external appearance.

- 3 The hard and soft landscaping scheme for the site shall be provided in strict accordance with that shown on the block plan (1:500), received by the Local Authority on the 17th July 2014, unless an alternative landscaping scheme is first submitted to and agreed in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the first occupation/use of the dwelling unless an alternative implementation programme is first agreed in writing by the Local Planning Authority. The approved hard landscaping scheme shall be provided in full prior to the occupation of the dwellings unless otherwise agreed in writing by the Local Planning Authority.

Reason - to ensure a satisfactory landscaping scheme is provided within a reasonable period and in the interests of visual amenity.

- 4 Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first 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 is agreed in writing by the Local Planning Authority.

Reason - to provide a reasonable period for the replacement of any trees.

- 5 The boundary treatment scheme for the site shall be provided in strict accordance with that shown on the block plan (1:500), received by the Local Authority on the 17th July 2014, unless an alternative scheme is first submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be provided in full prior to the first occupation of any dwelling hereby approved unless an alternative timescale is first

agreed in writing by the Local Planning Authority.

Reason - to preserve the amenities of the locality and in the interests of highway safety.

- 6 Notwithstanding the provisions of Part 1 of Schedule 3, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) the dwelling hereby permitted shall not be enlarged, improved or altered, 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 form and density of the development proposed.

- 7 The drainage scheme for the site will be provided in strict accordance with that shown on the block plan (1:500), received by the Local Authority on the 17th July 2014, unless an alternative drainage scheme is first submitted to and agreed in writing by the Local Planning Authority.

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.

- 8 Any vehicular access gates, barriers, bollards, chains or other such obstructions erected shall be erected so as to open inwards only.

Reason - to protect the free and safe passage of traffic in the public highway.

- 9 The gradient of the access drive shall not exceed 1:12 for the first 5.0 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.

- 10 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 once provided shall thereafter be so maintained.

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

- 11 The access drive, car parking and manoeuvring as shown on the block plan (1:500), received by the Local Authority on the 17th July 2014, shall be provided before the first occupation of the dwelling and shall thereafter be so maintained.

Reason - to provide a satisfactory form of access and 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.

- 12 Before first occupation of the dwelling 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 7.0 metres from its junction with Towles Pastures and shall thereafter be so maintained.

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

- 13 Before first use of the development hereby permitted, the visibility splays as shown on the block plan (1:500), received by the Local Authority on the 17th July 2014, shall be provided at the junction of the access with Towles Pastures and once provided shall thereafter be so maintained. The said splays shall be kept clear of all obstructions exceeding 0.9 metres in height above the level of the adjoining carriageway.

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

- 14 No doors/gates etc shall be provided/erected to the southern elevation of the garage.

Reason - the set back of the garage in relation to the road is considered substandard and therefore to allow such a detail could result in a vehicle blocking the road to the detriment of the free flow of traffic and general road safety.

- 15 The proposed site levels and finished floor levels shall be provided in strict accordance with those shown on the block plan (1:500), received by the Local Authority on the 17th July 2014, unless alternative levels and finished floor levels are first submitted to and agreed in writing by the Local Planning Authority.

Reason - to determine the scope of the permission and in the interests of residential amenity.

- 16 All openings within the eastern and western facing roof slopes of the building shall be glazed with obscure glass, to Pilkington Standard 3 or its equivalent, 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.

Notes to applicant

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 The applicant is advised to note the recommendations of the Tree Survey, submitted in support of application reference 12/00580/FUL, compiled by Curious Ecologists dated 27th August 2012, and particularly to that relating to Tree 10 (Hawthorn) which suggests a root protection radius of 4.2 metres should be fenced or covered during construction works to avoid damage to the tree.

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