

Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	4.30 pm on Tuesday, 4 November 2014
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454512)

All persons present are reminded that the meeting may be recorded and by attending this meeting you are giving your consent to being filmed and your image being used. You are kindly requested to make it known to the Chairman if you intend to film or record this meeting.

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

## AGENDA

Item	Pages
<b>1. APOLOGIES FOR ABSENCE</b>	
<b>2. DECLARATION OF INTERESTS</b>	
Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
<b>3. MINUTES</b>	
To confirm and sign the minutes of the meeting held on 7 October 2014	<b>5 - 14</b>
<b>4. PLANNING APPLICATIONS AND OTHER MATTERS</b>	
Report of the Director of Services.	<b>15 - 18</b>



## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	<p><b>14/00104/FULM: Demolition of side and rear extensions at existing hotel, erection of side /rear extension to existing hotel and associated external works; erection of single storey kiosk building (A3 use),erection of two storey pavilion building (A3 and D2 use), formation of car park and alterations to existing access at Station Road involving removal of part of boundary wall to form visibility splays, associated removal of existing fencing and car park furniture and implementation of landscape works.</b></p> <p>The Royal Hotel Station Road Ashby De La Zouch</p>	Permit Subject to a Section 106 Agreement	19 - 40
A2	<p><b>14/00105/LBC: Demolition of side and rear extensions of hotel, erection of side /rear extension to hotel, internal works, partial demolition and rebuilding of boundary wall to form visibility splays</b></p> <p>The Royal Hotel Station Road Ashby De La Zouch</p>	Permit	41 - 48
A3	<p><b>14/00692/FULM: Demolition of existing garage for proposed food and non-food retail (A1) development with additional restaurant uses (A3/A4), together with ancillary access, parking and servicing</b></p> <p>Motors Ltd Whitwick Road Coalville</p>	Permit Subject to a Section 106 Agreement	49 - 74
A4	<p><b>14/00614/OUTM: Development of up to 180 dwellings, including a retail unit, access and associated infrastructure (outline - all matters reserved apart from part access)</b></p> <p>Land South Of Greenhill Road Coalville Leicestershire</p>	Refuse	75 - 108
A5	<p><b>14/00520/FULM: Erection of 41 dwellings and associated infrastructure including the provision of play space and combined cycle and footpath.</b></p> <p>Land Adjoining Wells Road And Willesley Road Ashby De La Zouch</p>	Permit	109 - 142
A6	<p><b>14/00082/OUTM: Erection of up to 50 dwellings (Outline - all matters other than access reserved)</b></p> <p>Land To The North Of Top Street Appleby Magna Swadlincote</p>	Refuse	143 - 160

## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A7	<p><b>09/00082/FULM: Conversion of mill building and erection of new buildings to provide 44 No. dwellings along with associated works (Revised Scheme)</b></p> <p>Holywell Mill Burton Road Ashby De La Zouch</p>	Permit subject to a Section 106 Agreement	161 - 212
A8	<p><b>14/00669/VCU: Erection of two no. 250Kw wind turbines and associated infrastructure, including access track without complying with condition 2 of permission 14/00133/FUL to allow to the installation of a different model of turbine</b></p> <p>Land Off Farm Town Lane Farm Town</p>	Permit	213 - 230
A9	<p><b>14/00595/OUT: Demolition of two existing buildings and the erection of four detached dwellings and garaging (including two self build units) and creation of paddock for equestrian or agricultural use (Outline - part access included)</b></p> <p>Land At Measham Road Appleby Magna Swadlincote</p>	Permit Subject to a Section 106 Agreement	231 - 262
A10	<p><b>14/00752/FUL: Erection of detached dwelling, alterations to existing access and highway works</b></p> <p>Land Adjoining Recreation Ground Measham Road Moira</p>	Refuse	263 - 276
A11	<p><b>14/00928/NMA: Non-material amendment to planning permission 12/00229/FULM to allow for revised garage position, enlarged rear gardens for plots 1-4, additional windows to plots 12 and 14 and amended landscaping and boundary treatments</b></p> <p>Land Rear Of 27 The Crescent Breedon On The Hill</p>	Permit	277 - 282

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MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 7 OCTOBER 2014

Present: Councillor D J Stevenson (Chairman)

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

In Attendance: Councillors D De Lacy, J Geary and T J Pendleton

Officers: Mr S Bambrick, Mrs V Blane, Mr C Elston, Mrs H Exley, Mrs C Hammond, Mr J Mattley and Mr A Mellor

## **51. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors J G Coxon and T Neilson.

## **52. DECLARATION OF INTERESTS**

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

Councillors J Bridges and J Hoult declared that they had been lobbied without influence in respect of items A1 and A2, application numbers 14/00535/FULM and 14/00574/OUT.

Councillors R Adams, G A Allman, G Jones and N Smith declared that they had been lobbied without influence in respect of items A1, application number 14/00535/FULM.

Councillors D Everitt and M Specht declared that they had been lobbied without influence in respect of items A1, A2 and A4, application numbers 14/00535/FULM, 14/00574/OUT and 14/00328/OUTM.

Councillor T Gillard declared that he had been lobbied without influence in respect of items A1, A4 and A7, application numbers 14/00535/FULM, 14/00328/OUTM and 14/00248/FUL.

Councillors L Spence and M B Wyatt declared that they had been lobbied without influence in respect of items A1 and A4, application numbers 14/00535/FULM and 14/00328/OUTM.

Councillor R Johnson declared that he had been lobbied without influence in respect of item A1, application number 14/00535/FULM and also a disclosable non-pecuniary interest in item A6, application number 14/00580/FUL as a member of Hugglescote and Donington le Heath Parish Council.

Councillor J Legrys declared that he had been lobbied without influence in respect of items A1, A2 and A6, application numbers 14/00535/FULM, 14/00574/OUT and 14/00580/FUL, and also a disclosable non-pecuniary interest in item A3, application number 14/00681/FUL as he had been involved in the application as Ward Member. He stated that he would speak to the item and then leave the meeting for the consideration and voting.

Councillor R Woodward declared that he had been lobbied without influence in respect of item A1, application number 14/00535/FULM and also a disclosable non-pecuniary interest in item A7, application number 14/00248/FUL as he had been involved in the application as a Ward Member. He stated that he would speak to the item and then take no part in the consideration and voting.

Councillor D Howe declared that he had been lobbied without influence in respect of item A1, application number 14/00535/FULM and also a disclosable non-pecuniary interest in item A7, application number 14/00248/FUL as a member of the club.

Councillor D J Stevenson declared that he had been lobbied without influence in respect of items A1, A2, A3, A4, A5 and A6, application numbers 14/00535/FULM, 14/00574/OUT, 14/00681/FUL, 14/00328/OUTM, 14/00723/FUL and 14/00580/FUL.

During the consideration of item A4, application number 14/00328/OUTM, Councillor R Woodward declared a disclosable non-pecuniary interest in the item as the Chairman of the Community Centre Executive Board.

During the consideration of item A7, application number 14/00248/FUL, Councillor T Gillard declared a disclosable non-pecuniary interest in the item, as a member of the club.

### **53. MINUTES**

Consideration was given to the minutes of the meeting held on 2 September 2014.

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

RESOLVED THAT:

The minutes of the meeting held on 2 September 2014 be approved as a correct record and signed by the Chairman.

### **54. 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.

### **55. A1**

**14/00535/FULM: INSTALLATION OF GROUND MOUNTED PHOTOVOLTAIC SOLAR ARRAYS TO PROVIDE 13.88MW GENERATION CAPACITY TOGETHER WITH POWER INVERTER SYSTEMS; TRANSFORMER STATIONS; INTERNAL ACCESS TRACK; LANDSCAPING; DEER FENCING; CCTV AND ASSOCIATED ACCESS GATE**  
Land South Of Babelake Street Packington Ashby De La Zouch

Officer's Recommendation: PERMIT

The Senior Planning Officer presented the report to Members.

Mr T Collins, objector, addressed the meeting. He advised Members that the application was contrary to the Local Plan and NPPF, and that brownfield sites should be considered first. He stated that there was no justification to permitting the application and that it would be the size of seventy five football pitches. He informed Members that no impact assessment had been carried out on Champneys Health Resort as this was the single largest development next to the site and it was bad planning to consider developing next to the resort.

Mr S Purdue, objector, addressed the meeting. He advised the Committee that he had owned Springs for 25 years and they were proud to have played host to Olympic teams. He stated that he employed 250 people and that they were responsible for protecting local jobs for local people. He highlighted that the site would be seen from the resort and urged Members to refuse the application so that a more suitable site could be considered.

Mr S Plummer, objector, addressed the meeting. He advised Members that he had lived in the area for 20 years and urged the Committee to defer the application to allow further consideration to be given to the location of the access to the site. He stated that Babelake Street would be unsuitable for lorries to travel along and that there would be up to 500 HGV movements during the construction period. He informed Members that there was a more suitable entrance along a B road and that would avoid danger to the users of Babelake Street. He urged Members to oppose the application.

Professor T Marmont, supporter, addressed the meeting. He advised Members that he was in support of renewable energy and that the development of Solar Panel farms was essential to provide the country with energy security due to climate change as it was becoming more difficult to rely on other energy suppliers.

Mr G Maruca, applicant, addressed the meeting. He advised Members that they had worked hard to ensure community involvement in the application, that the Parish Councils were in favour and that 30 letters of support had been received. He stated that there were no objections from the highways authority in relation to the access and that he had been in direct contact with the owners of Springs, and had tried to address all their concerns as they had progressed. He informed Members that it was proposed that 3,900 homes would be powered by the energy that would be produced.

Councillor N Smith stated that he had been lobbied intensely on the application and all had been in relation to the access of the site. He moved that the application be deferred so that access could be discussed further.

There was no seconder.

Councillor D Everitt stated that there would be a need for other energy sources when fossil fuel ran out and that a solar farm would be more suitable than windmills. He moved the officer recommendations. This was seconded by Councillor M Specht.

Councillor J Legrys stated that he understood where Councillor N Smith was coming from and that he would have seconded the deferral had the highway authority not said they had no objections. He added that Members may wish to consider adding a condition to the permission restricting traffic movements during peak times and mature planting in the bund. He highlighted that the farm would only be there for 25 years and that the site was in an area that could be permitted for open cast mines, which would be objected to. He asked for an explanation on the right of a view and overbearing applications.

The Senior Planning Officer advised Members that there would be no right to a view on this application.

Councillor M Specht stated that he had listened to the speakers, that neither of the Parish Councils who speak for the residents had any objections and none of the consultees had objected. He felt that Babelake Street was adequate to drive down with some areas to pull over, whereas Gallows Lane had limited view for traffic leaving the site. He added that the noise and disturbance would last for 2 to 3 months and that the solar panels would be removed after 25 years, and that he would be supporting the application.

Councillor D J Stevenson asked for an update on the Secretary of State Call-In.

The Director of Services advised Members that the National Planning Casework Unit was considering the Call-In and that Members could resolve to permit the application but the authority would not be in a position to issue the permission, if the Call-In was to be determined by the Secretary of State.

Councillor J Bridges suggested that if the application was approved a condition be added to restrict the construction traffic movements until after 9am.

The Planning and Development Team Manager informed the Committee that it was not normal practice to impose traffic movement conditions on developers.

Councillor J Bridges advised Members that it was normal practice to restrict deliveries to construction sites and that it would be nice if the applicant agreed.

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Director of Services and the inclusion of a construction traffic condition.

**56. A2  
14/00574/OUT: ERECTION OF 16 DWELLINGS (OUTLINE APPLICATION - ALL  
MATTERS RESERVED EXCEPT FOR PART ACCESS)**

Land Off Dawsons Road Osgathorpe Loughborough Leicestershire

Officer's Recommendation: REFUSE

The Senior Planning Officer presented the report to Members.

Mr S Olsberg, representing Osgathorpe Parish Council, addressed the meeting. He advised Members that he had lived in the village for 15 years. He informed Members that a ballot in August had received a 60% turnout with overwhelming objection to the application and that 42 letters of objection had been sent in. He stated that the Parish Council was in strong objection to the application and that they urged the Committee to refuse the application.

Mr G Phillipson, objector, addressed the meeting. He advised the Committee that he had lived in the village for over 45 years and urged Members to refuse the application on 4 issues. These were that the authority already had a 6 year land bank, no further development should be required, that the village was not sustainable, that the development would pose a flood risk to the area and that the development would fall outside the limits to development.

Mr K Atkins, supporter, addressed the meeting. He advised Members that he had been a resident of the village for 12 years and that he was speaking on behalf of the less vocal residents that felt there was a need for development in the village. He informed Members that the Section 106 monies would provide a community facility to bring all walks of life together. He added that all households in the village were surveyed with a 97% response. He went on to highlight that the pub, which would be a centre for the village, would be the first of its kind in Leicestershire and had strong backing from Councillors and the Local MP.

Mr A Large, applicant's agent, addressed the meeting. He advised Members that there was a strong desire to save the pub and insufficient funds had been raised. He highlighted that 124 people had been against redistribution of the funds from the development, but the pub would be turned into a one stop shop housing various services. He informed Members that the application would ensure that the village would remain sustainable by retaining facilities and that local materials would be sourced for the construction. He added that the site would include 3 houses for local needs and the development was unique and supported by planning policy.

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



Councillor N Smith expressed concerns that if the community pub was to fail, the Section 106 money would be lost.

In response the Senior Planning Officer advised Members that should the venture fail the building would likely be sold and the services currently being promoted by the applicant would likely cease.

Councillor J Bridges thanked officers for a good report. He stated that the application would allow the village to become more sustainable, as other services were being reduced and slowly closing the village down. He added that it was unusual for money to be offered and that pubs have to become other services to support growth. He supported the application.

Councillor G A Allman agreed with Councillor J Bridges and added that too many pubs were closing down and that the restoration of the Storey Arms would be a good asset, and moved that the application be permitted. This was seconded by Councillor A Bridges.

Councillor M Specht stated that the sale of the pub would make the village a sustainable location as it would look to provide a number of varying services and events that in turn would look to reduce the use of vehicles. He supported the motion to permit.

Councillor J Legrys stated that he shared Councillor J Bridges' views, however he was unable to vote in support of the application as he felt the monies should be put towards affordable housing. He added that the Parish Council objected and a referendum had shown that the existing residents had voted against the application. He expressed sympathy for residents wanting to maintain the pub, but had to support the officer's recommendations.

Councillor D Everitt stated that the Parish Council had objected and that some villages did not want to expand.

Councillor D J Stevenson stated that he had been on the District Council for 40 years had never come across this situation before. He added that if the application worked the village would have a one stop shop and that if it didn't the village would be left with 16 houses.

Councillor L Spence sought clarification on the difference between local needs housing and affordable housing.

The Director of Services stated that local needs housing would be restricted for sale to a local person and that if that was not successful it would be opened up to a wider area and that affordable housing was not restricted.

Councillor M Specht sought clarification as to whether the price of a local needs house would always be sold at the lower price.

The Planning and Development Team Manager advised Members that the 3 local needs dwellings would remain at low cost.

RESOLVED THAT:

The application be permitted, subject to a Section 106 Agreement and the wording of the conditions be delegated to the Director of Services.

**57. A3**  
**14/00681/FUL: CHANGE OF USE FROM NEIGHBOURHOOD EQUIPPED AREA FOR PLAY (NEAP)/MULTI-USES GAMES AREA (MUGA) TO INFORMAL PUBLIC OPEN SPACE**

Play Area Lillehammer Drive Coalville Leicestershire

Officer's Recommendation: PERMIT subject to a Section 106 Agreement

The Senior Planning Officer presented the report to Members.

Mr R Galij, applicant, addressed the meeting. He advised Members that extensive dialogue had taken place with all concerned and that monitoring by Barratt Homes and residents had witnesses and observed activities and anti-social behaviour. He stated that the evaluation had agreed that the site was inappropriate and a better location was needed. He informed Members that Scotlands Playing Fields was the preferred location and that there was no objection from the Police to the site. He welcomed the report, acknowledged the conditions and urged Members to support the application.

The Chairman reminded Members that they were considering whether to relocate the play area, not the location.

Councillor J Legrys, Ward Member, addressed the meeting. He acknowledged the work that had been done by the officers in assisting to resolve the issue. He also thanked the Regeneration and Planning Portfolio Holder for his involvement. He stated that he could remember the site when it was the college and that for various reasons the site had not been completed. He informed Members that children need somewhere safe to play and that many families had bought homes on the estate due to the play area. He added that unfortunately some teenagers had been looking for a new place to hang out and they were still on the estate at 3am. He advised the Committee that whatever they decided someone would be disappointed.

Having declared a disclosable non-pecuniary interest in the item, Councillor J Legrys left the meeting on conclusion of his statement.

It was moved by Councillor J Bridges, seconded by Councillor R Johnson and

RESOLVED THAT:

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

Councillor J Legrys returned to the meeting.

**58. A4**  
**14/00328/OUTM: RESIDENTIAL DEVELOPMENT OF UP TO 85 NO. DWELLINGS (OUTLINE - ALL MATTERS OTHER THAN PART ACCESS RESERVED)**

Land At Loughborough Road Thringstone Leicestershire

Officer's Recommendation: PERMIT Subject to a Section 106 Agreement

The Senior Planning Officer presented the report to Members.

Ms L Stones, agent, addressed the meeting. She advised Members that the applicant was seeking outline permission for the development that they felt would be sustainable. She stated that the proposed development had been considered with the council's Urban Designer, that there had been a low number of objections to the development and that none of the consultees had any objections to the plans. She informed Members that the

development would be a positive contribution to the Authority's housing land supply and that a number of developers had already expressed an interest in the site. She urged Members to support the application.

Councillor L Spence stated that he had spoken to many residents who supported the application and that he was mindful that Thringstone needed to take its fair share of development. He added that it was a good location and he was happy to support, but expressed concerns in relation to the foul drainage scheme. He moved the officer recommendation. This was seconded by Councillor G Jones.

The Senior Planning Officer advised Members that that a Flood Risk Assessment had been included with the application and that the applicant was aware of the concerns.

Councillor D Everitt endorsed what Councillor L Spence had said and stated that some development had been permitted for Thringstone, but nothing had happened yet. He added that it would be wonderful if some of the Section 106 agreement monies could be used to install suitable access for people with disabilities at the community centre.

Councillor R Woodward declared a disclosable non-pecuniary interest in the item as the Chairman of the community centre executive board.

Councillor J Legrys congratulated the developer on brilliant community engagement and that the development would see improved traffic calming measures.

Councillor R Woodward stated that he agreed that the traffic calming should be removed completely and that attention should be paid to the sewage farm within the area.

RESOLVED THAT:

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

**59.**

**A5**

**14/00723/FUL: ERECTION OF ONE TWO STOREY DETACHED DWELLING**

Land Adjoining 20 Main Street Osgathorpe Loughborough Leicestershire

Officer's Recommendation: PERMIT

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

Mr A Large, agent, addressed the meeting. He advised Members that the only reason the application was being considered was due to his relationship to existing Councillors. He reiterated his earlier comments and added that all the materials would be locally sourced. He urged Members to support the application.

It was moved by Councillor D J Stevenson, seconded by Councillor J Bridges and

RESOLVED THAT:

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

**60.**

**A6**

**14/00580/FUL: REMOVAL OF TWO GARAGES AND REPLACEMENT WITH DOUBLE GARAGE**

144 Central Road Hugglescote Coalville Leicestershire

Officer's Recommendation: PERMIT

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

Councillor D J Stevenson stated that he had been asked to visit the site as Chairman of the Committee and following this he had requested that a stop notice be served, with which the applicant had complied.

Councillor J Legrys thanked the Chairman for looking at the site and stated that the applicant had removed two garages and started to build one double. He moved that the application be refused on the grounds that it did not comply with policy E3 as he considered it was overbearing on not just Central Road residents, but also Breach Road residents. He added that there were significant problems with the height and the pitch of the roof and that he felt that it would be better for Members to refuse the application than to defer. He requested that decent negotiations took place with the neighbours. This was seconded by Councillor R Woodward.

Councillor D J Stevenson stated that had the garage been built two metres closer to the house then no permission would have been required.

The Director of Services advised Members that if they refused the application, the applicant could submit an amended application and then Ward Members would be able to call in the application under the member notification process if deemed necessary.

RESOLVED THAT:

The application be refused on the basis that the application would have a detrimental effect on the neighbouring dwellings.

**61. A7**  
**14/00248/FUL: CHANGE OF USE TO B1 (BUSINESS)**  
 70A North Street Whitwick Coalville Leicestershire

Officer's Recommendation: PERMIT

The Senior Planning Officer presented the report to Members.

Councillor T Gillard declared a disclosable non-pecuniary interest in item A7, application 14/00248/FUL, as a member of the club.

Mr N Wright, applicant, addressed the meeting. He stated that the building would house a second site for the business, that there would be no production or emissions as it would be used to disassemble components of vehicles, and that they would employ between 6 and 8 people. He advised Members that the car parks were owned by the club and that they had agreed to mark out the spaces that could be used by the business during the agreed times. He asked the Committee to consider the amended opening times of 8am – 6pm Monday to Friday to ensure that working hours were compliant with the other site.

The Chairman advised Members that as Councillor N Smith had left the meeting during the presentation, he would be unable to vote on the application.

Councillor R Woodward stated that he had been involved in ongoing discussions with all parties as a Ward Member and that there was a history of non-compliance with conditions. He stated that it was a start with the amendment of the opening hours.

Councillor R Woodward then took no further part in the discussion or voting on the application.

It was moved by Councillor D J Stevenson, seconded by Councillor G Jones and

RESOLVED THAT:

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

Councillor N Smith left the meeting at 6.22pm during the consideration of item A7 and returned at 6.25pm.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 6.30 pm

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**APPENDIX B**

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

**4 November 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 Director of Services are material planning considerations and relate to matters not previously raised.

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

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

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

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



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

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

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

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

## SECTION A- PLANNING APPLICATIONS

Demolition of side and rear extensions at existing hotel, erection of side /rear extension to existing hotel and associated external works; erection of single storey kiosk building (A3 use), erection of two storey pavilion building (A3 and D2 use), formation of car park and alterations to existing access at Station Road involving removal of part of boundary wall to form visibility splays, associated removal of existing fencing and car park furniture and implementation of landscape works.

Report Item No  
A1

The Royal Hotel Station Road Ashby De La Zouch  
Leicestershire

Application Reference  
14/00104/FULM

Applicant:

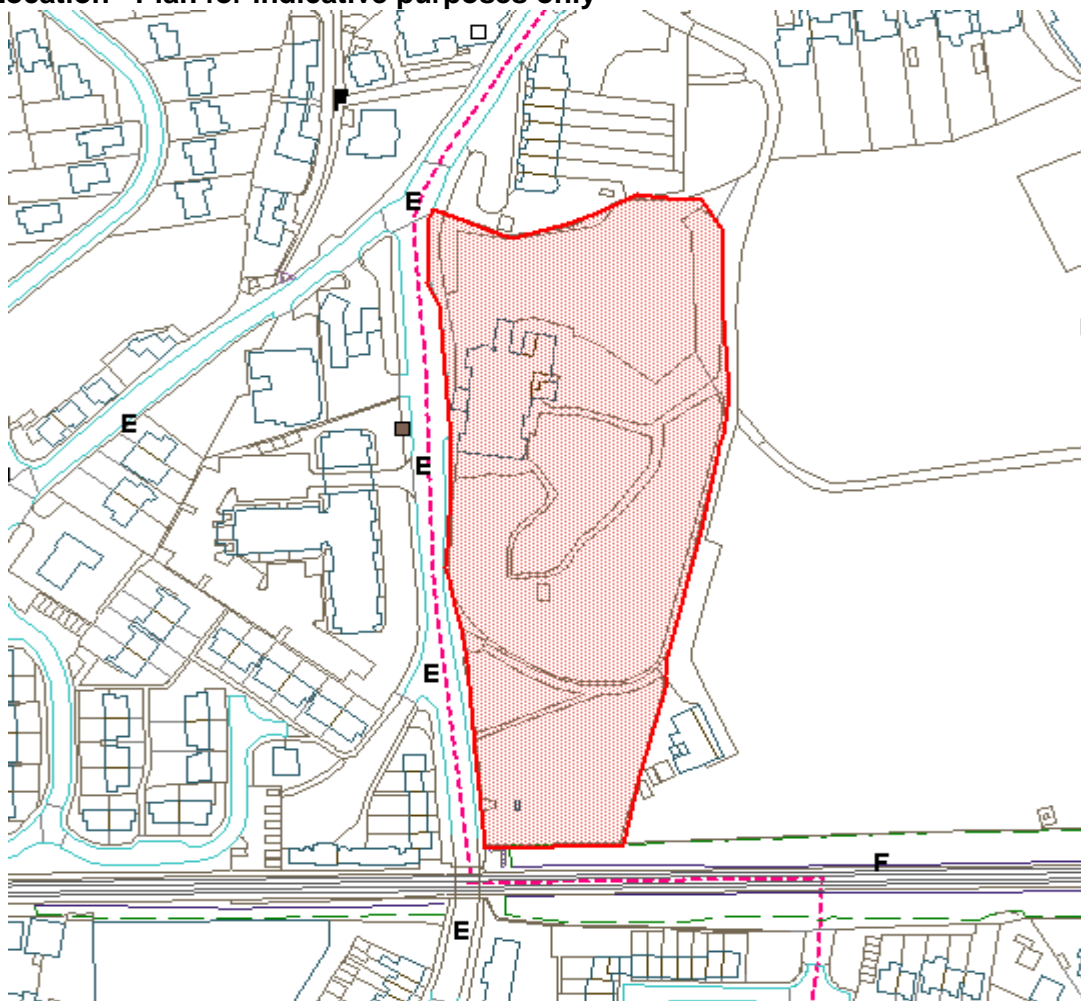
Date Registered  
6 February 2014

Case Officer: Sarah Worrall

Target Decision Date  
8 May 2014

Recommendation: PERMIT Subject to a S 106 Agreement

Site Location - Plan for indicative purposes only



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## **Executive Summary**

### **Call in**

The application is brought to Planning Committee at the request of Councillor Coxon on the grounds of public interest.

### **Proposal**

The application seeks full permission for a single storey extension to the existing hotel at the north and eastern corner which would include demolition of some non-original extensions. The scheme also seeks approval for a modified access at Station Road, reconfiguration of car parking areas including the formation of a new woodland car park, a single storey kiosk towards the Station Road frontage for A3 café/restaurant use and a two storey leisure pavilion to include A3 use and D2 assembly and leisure use.

The application is being considered in conjunction with a Listed Building Consent application for the demolition of existing side extensions and erection of single storey side extension and refurbishment works to the Royal Hotel (14/00105/LBC).

The current development proposal was also being considered in relation to a separate application for the demolition and redevelopment of the cricket and bowls pavilions on Bath Grounds along with the erection of five dwellings on a section of the Bath Grounds (14/00107/FULM). That application has been withdrawn.

### **Consultations**

Members will note that representations from local residents and businesses have been made and the full representations are available to view on the working file. In terms of the issues raised, statutory consultees other than Natural England are satisfied that there are no matters that have not been satisfactorily addressed or cannot otherwise be satisfied by way of condition. Members will also note that the applicant undertook a public consultation event prior to submission of the application.

### **Planning Policy**

The impact of the proposal in terms of town centre policies, design and heritage, residential amenities, highways issues, protected species and other ecological aspects, flood risk, noise and River Mease SAC and SSSI can be assessed in relation to the NPPF and development plan policies and other relevant guidance as set out in the main report.

### **Conclusion**

The site lies within the Limits to Development of Ashby where development is, in principle, acceptable. The proposed development would meet the requirements of Policy R13 in respect of the Ashby Town Centre Service Area but would not fully comply with Policy R1 in respect of the A3 café/restaurant uses proposed. On balance, however, it is considered that the A3 elements form part of the overarching redevelopment plan for the site and, subject to appropriate condition, would not have an adverse impact on Ashby Town Centre. The proposed hotel extension, kiosk, leisure pavilion and associated car parking areas and landscaping would not have any adverse impact in terms of design and heritage, residential amenities, highway safety, protected species, flood risk and River Mease SAC and SSSI (subject to Natural

England revised comments) and approval is therefore recommended.

**RECOMMENDATION: PERMIT, subject to any further comments which Natural England submit, and subject to conditions and a S106 legal agreement for River Mease DCS contribution and highways requirements (Travel Plan Framework)**

b 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 various development elements at The Royal Hotel and its car park and adjacent woodland area. The Royal Hotel is a Grade II\* Listed Building and the hotel and its curtilage, which forms the application site, lie within the Ashby de la Zouch Conservation Area and within the Limits to Development of Ashby. The site also lies within the River Mease Special Area of Conservation (SAC) catchment area.

Rawdon Terrace, a Georgian residential terrace, is situated to the north of the application site, Ashby Bath Grounds adjoins the site to the east and south and Station Road forms the boundary at the west elevation. Across the road to the west there is predominantly residential development with some commercial elements, including a petrol filling station.

Firstly, in relation to the listed building itself, permission is sought for the demolition of existing side and rear single storey ground floor elements of the existing hotel at the north and east elevations, and erection of a wrap around style single storey replacement extension to provide for internal rearrangement of the kitchen area and a new function room with link corridor together with an external terrace at the east elevation. In addition, some refurbishment works would be undertaken internally, and these aspects are considered under a separate Listed Building Consent submission 14/00105/LBC.

The application also seeks permission for a detached A3 café restaurant use kiosk building towards the Station Road frontage on an area of existing car park to the north of the existing hotel. The kiosk would provide some 202 sq.m. of A3 use floorspace and would include a dining area, kitchen, store and customer toilets. As a separate unit there is flexibility for the unit to be kept as an ancillary building to the main hotel or to be used as a separate business. The unit would be single storey and have a height of some 3.2m with a further construction on top to conceal roof plant making an overall height of some 4m. The kiosk would be oval in shape and formed from re-constituted stone with a high level of glazing. Parking would be made available to the rear and the existing access to Station Road would be modified to make it wider. Pedestrian access would also be provided for.

The other building for which permission is sought is a two storey leisure pavilion which would be situated to the eastern end of the existing car park. This would have a footprint of some 700 sq.m. and would be block form in appearance elevation wise, but form a crescent towards the Ashby Bath Grounds. As with the kiosk, it would have a high level of glazing and re-constituted stone would be used for its external finish, at ground floor level, and white render at the recessed first floor. The main form of the building would be some 8m in height with various subordinate elements and a taller central section of some 9m. The taller central section would include a void to form a central area and link between the two arms of the crescent shape. It would also create entrances at the east and west elevations. The east elevation would include landscaping works to provide for a remodelled embankment and steps facilitating a connection with Ashby Bath Grounds. The ground floor would be occupied by an A3 café restaurant use (some 295 sq.m) with the remaining floorspace at ground floor level to be a D2 use incorporating a swimming pool and ancillary changing and store rooms. The entire first floor would also be for D2 use and would comprise treatment rooms and a gymnasium. Overall, the D2 use would utilise some 1,009 sq.m. of the building. Parking for the proposal would be to the west, and would be shared with the proposed kiosk building.

Due to the loss of the existing car park which serves the hotel, and also acts as a pay and display car park for the general public, as a result of the redevelopment proposals, this application also seeks permission for a new car park within the woodland area to the south of the hotel. A new vehicular access is also proposed from Station Road.

The application includes a Design and Access Statement, Heritage Statement, an ecological report, a tree survey, a transport statement and travel plan, a flood risk and River Mease SAC assessment, a Phase I ground survey, a noise assessment, an archaeological and geo-physical survey and a landscape masterplan in addition to the application forms and plans. Due to concerns raised by English Heritage and the District Council in relation to the single storey extension to the listed building itself amended elevation and floorplans plans were submitted on 8 May 2014. Additional drainage information has been submitted in relation to comments received by Natural England.

As stated above, a separate Listed Building Consent submission 14/00105/LBC is being considered in relation to the listed building works proposed. It should be noted that application 14/00107/FULM for the demolition and erection of both cricket and bowls club pavilions and erection of No.5 dwellings within the Ashby Grounds has been withdrawn by the applicant.

Councillor Coxon has requested that the application be brought before Committee on the grounds of public interest.

### **Planning History**

There is not any relevant planning history for the application site in relation to the current proposal.

Pre-application discussions were undertaken in relation to development proposals at the Royal Hotel and the Bath Grounds.

### **2. Publicity**

83 no. Neighbours have been notified (Date of last notification 2 June 2014)

Site Notice displayed 2 June 2014

Press Notice published 11 June 2014

### **3. Consultations**

Ashby de la Zouch Town Council consulted 21 February 2014

County Highway Authority consulted 21 February 2014

Environment Agency consulted 21 February 2014

Severn Trent Water Limited consulted 21 February 2014

Head of Environmental Protection consulted 21 February 2014

Natural England consulted 21 February 2014

NWLDC Tree Officer consulted 21 February 2014

County Archaeologist consulted 21 February 2014

LCC ecology consulted 21 February 2014

NWLDC Conservation Officer consulted 21 February 2014

NWLDC Urban Designer consulted 21 February 2014

English Heritage- Grade I/II\* LB Works consulted 21 February 2014

County Planning Authority consulted 21 February 2014

Development Plans consulted 21 February 2014

Head Of Leisure And Culture consulted 21 February 2014  
Georgian Group- LB demolition consulted 21 February 2014  
Victorian Society- LB demolition consulted 21 February 2014

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

**Ashby de la Zouch Town Council** - objects on the basis that the proposed development would have an unacceptable impact on the surrounding listed buildings and conservation area, that the layout and density shows that the leisure pavilion would cover a larger area than the existing listed hotel, and that the materials and overall design are not in keeping with the neighbouring listed buildings .

**Environment Agency (EA)** - has no objection to the application.

**Natural England** - raised objection to the proposal in terms of the impact of any increase in surface water drainage on the Gilwiskaw Brook and the River Mease SAC and SSSI. At the time of writing the report, no revised comments have been received from Natural England in relation to the additional drainage information which has been submitted by the agent. Any comments subsequently received shall be reported on the Update Sheet.

**Severn Trent Water** - no objection subject to condition relating to surface water and foul sewage disposal;

**English Heritage** - no objection subject to details of materials and finishes.

**Leicestershire County Council (Ecology)** - originally raised concern about lack of bat and badger survey prior to sight of ecological assessment information submitted as part of the application.

**Leicestershire County Council (Highways)** - no objection subject to conditions.

**NWLDC Environmental Protection (noise)** - no objection.

#### **Third Party Representations**

Ashby de la Zouch Civic Society objects to the proposed kiosk, leisure pavilion and woodland car park proposals but not the hotel extension and refurbishment. The Society submits concerns in relation to the kiosk design and location, the level of glazing proposed at the leisure pavilion and overlooking of the Bath Grounds from the first floor, loss of the public car park, and loss of trees as a result of the woodland car park.

**Friends of Ashby Bath Grounds** advise that the group does not object to the improvements and extension of the Royal Hotel as "these are long overdue and will enhance Ashby and the Conservation Area". However, the group objects to the kiosk and pavilion building on the grounds that it is not sustainable, does not meet the core principles of the NPPF, there would be an adverse impact on heritage assets (including the Royal Hotel, Rawdon Terrace and views into and out of the Conservation Area) and the design pays no attention to the architecture of its surroundings or local heritage, the proposal would be contrary to Adopted Local Plan policies R13, E10 and E16, and the conversion of Hastings Gardens into a private car park would result in a loss of trees and biodiversity and an important public access route to the Bath Grounds. The development would also result in a loss of public parking spaces. The group also submits



that the developer has not properly consulted with the community on the proposals and no further consultation has been undertaken since a public exhibition in May 2012.

### **Other third party representations**

Two letters of support for the development proposals has been submitted from one person (one customer service contact form and one letter). In addition, a total of 609 letters of objection have been received in relation to the application of which 573 are a pro forma letter. 551 objection letters (547 pro forma and 4 individual) were submitted with a cover letter from Friends of Ashby Bath Grounds stating "please find enclosed 551 objection letters from residents of Ashby & District who are or have been regular users of Ashby Bath Grounds who wish to object in the strongest terms to the planning application 14/00104/FULM". Of the total number, a further 26 pro forma letters were received and a further 38 individual comments also submitted. The comments can be summarised as follows:

#### *Consultation*

- The developer has not consulted the community properly.

#### *Design and Heritage*

- The development would be contrary to the NPPF and Local Plan Policies E10 and E16;
- The leisure pavilion would substantially harm the significance of the hotel and Rawdon Terrace through development within their setting;
- Important views within, to and from the Conservation Area would be lost;
- The view of the architecturally paired hotel and Rawdon Terrace would be spoiled by the leisure pavilion, and will prevent people from visualising and understanding how the original baths/spa, hotel and Rawdon Terrace were related and the significance to Ashby;
- The pavilion would be larger than the hotel and twice the size of Rawdon Terrace;
- The pavilion would be larger than the original spa building;
- The design and size are not appropriate for the area and would detract from the listed buildings and Conservation Area;
- The design would not be in keeping with the modern development of the Royal Mews apartments on Station Road.

#### *Residential and other amenity*

- This is a residential area and a tranquil park setting;
- We do not consider the noise assessment is adequate and should be undertaken over a longer period of time;
- Evenings would be most noisy since the A3 uses would most likely be used then, including any associated equipment e.g. ventilation/extraction fans;
- There will be an adverse impact from comings and goings of restaurant users in the evenings;
- The type of restaurant could be a bar or hot food takeaway which could bring anti social behaviour;
- Trees to be removed for the car park should be replaced with planting elsewhere on the site;
- We object to the loss of Hastings Garden with the loss of mature trees (LP S1 and CS30) and access to the Bath Grounds.

#### *Highways issues*

- Loss of public car park;
- Loss of car parking will result in parking on nearby roads, some of which are already subject to parking restrictions;
- Increased traffic will cause a safety risk especially for children who walk through the Bath

Grounds to school.

*Other issues*

- The proposal is contrary to Policy R13 (of the Local Plan) since parts of the leisure pavilion and the kiosk is for A3 use;
- A3 uses could be accommodated within the town centre;
- The proposed developments will negatively affect the future success of the hotel as a going concern;
- The proposals may take business away from Market Street;
- There would be an increase of litter;
- There is evidence of Japanese Knotweed present in the car park of the hotel and this should be addressed;
- The Hastings Garden provides a pleasant entry to the Bath Grounds;
- Housing in the Bath Grounds should not take place;
- A community building on the car park which is not particularly attractive may be appropriate;
- A new gym may be detrimental to my business - Ashby already has two gyms;
- There is a shortage of an area in Ashby to sit around 100 people for a large function - there is enough room adjacent to the hotel for this purpose whilst leaving the car park as it is.

**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."

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

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

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

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

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

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

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

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

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

Policy E4 seeks to achieve good design in new development.

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

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

Policy 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 R1 sets out the provision of food and drink uses within the Core Town Centre Shopping Area.

Policy R13 supports hotel development in addition to Assembly and Leisure uses (Class D2).

### **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.

## 6. Assessment

### Principle of Development

The application site lies within the Limits to Development of Ashby de la Zouch where development is, in principle, acceptable subject to material planning considerations including design and heritage, amenity, highways, ecological, flood risk, and River Mease issues.

In addition, the Adopted Local Plan Policy R13 makes specific reference to Bath Street/Station Road, Ashby de la Zouch forming part of a Town Centre Service Area in which Assembly and leisure uses (Class D2) would be acceptable. As such, the proposal would be in accordance with Policy R13 of the Adopted Local Plan.

Also of relevance is Policy R1 of the Adopted Local Plan which sets out that shopping and related development will be permitted within Ashby Town Centre, and that retail development outside these areas will only be permitted subject to demonstrable need, no alternative sites, no adverse impact on the vitality and viability of Ashby town centre, location being well related to an existing centre, no adverse impact for new investment in redevelopment or revitalisation of existing centres, and that the proposed development would not adversely affect the supply of land for other major uses such as employment.

The proposed kiosk would be for an A3 café/restaurant use, and part of the leisure pavilion would also include an A3 café/restaurant use. Since the Use Classes Order was amended pubs and hot food takeaways form separate use classes (A4 and A5) and, as such, the proposed developments could not be used for A4 or A5 operations.

The proposed A3 use within the leisure pavilion would be ancillary to that use and it would be appropriate to condition the use to ensure that the element was not separated as an individual

planning unit. In addition, the proposed kiosk would be a separate unit to the leisure pavilion and the existing hotel, but would allow the hotel flexibility to retain it as part of the hotel operation or lease/sell it as a separate planning unit. The site immediately adjacent to the existing hotel would be the preferable location for an additional restaurant facility since it would be closer to the hotel compared to other premises which may be available in Ashby town centre. Whilst the extension and internal reconfiguration to the hotel at ground floor level would provide for an improved restaurant facility it would not be significantly larger than the existing situation and the proposed kiosk would potentially offer the option to increase the offer for larger groups.

It also has to be considered that the A3 uses could potentially be used for A1 retail or A2 professional and financial service operations under current permitted development rights. In addition, permitted development rights currently include more flexibility on a temporary basis for changes of use. It is considered that Retail A1 units would not be appropriate at this location at the edge of Ashby Town Centre as they may have an adverse impact on the vitality and viability of the town centre. However, this could be addressed through condition to ensure that the leisure pavilion and kiosk A3 uses are retained as A3 uses only.

In summary, the proposed development is in accordance with Policies S2 and R13 of the Adopted Local Plan, but does not meet all the criteria of Policy R1 of the Adopted Local Plan. However, on balance, it is considered that the A3 uses proposed, in relation to the wider redevelopment of the hotel and the car park site, would not have an adverse impact on Ashby Town Centre.

## Design and Heritage

The descriptions of the designs of the proposed development are set out in the Proposals section above. The demolition of the existing single storey newer additions to the original hotel would result in the removal of an uncohesive array of extensions which currently do little to enhance the existing Listed Building or the Conservation Area. The design of the hotel extension would be in scale and character with the existing hotel and an amended elevation has been submitted in relation to a revised window design. In contrast, the proposed kiosk and leisure pavilion would be of more simple contemporary designs to clearly differentiate between the old and the new rather than try to create a pastiche of the existing heritage assets to the north and south.

This issue is subjective and it is noted that many representations refer to the design not being in keeping with the existing Georgian architecture. However, it is considered that the contemporary design of the proposed kiosk and pavilion does not detract from the architectural form and presence of the existing hotel or Rawdon Terrace. The kiosk building would relate well to the existing site frontage, would be subordinate to the hotel and would ensure that the existing access was improved, to the benefit of the Conservation Area and general streetscene. The relocation of car parking facilities for the hotel within the proposed woodland car park area to the south of the hotel would also improve the current streetscene appearance, and ensure that the new parking area would not have an adverse visual impact on the wider Bath Grounds.

It is also noted that some representations raise concern that the leisure pavilion would be larger in scale and form than the original baths. The footprint of the proposed pavilion is aligned with the former spa/baths building which was demolished in the early 1960's. The fact that the proposed development would be of a greater height and form than the original building in this location would not specifically warrant a refusal of the proposal since the application is based on its own merits. In design terms, the scale, massing and design of the pavilion would have a

visual impact and presence in relation to the setting of the adjacent listed buildings and Conservation Area. However, the proposed pavilion would not visually dominate the massing and visual appreciation of the hotel building or Rawdon Terrace.

The proposals were considered by an OPUN Design Review Panel during pre-application stages, and it is noted that English Heritage does not raise any objections to the application proposal subject to design details being required to be submitted. This aspect could be dealt with through condition.

National planning policies have addressed heritage issues for many years now, and as part of Central Government's streamlining of planning policy, duplicate NWLDC Local Plan policies were cancelled in 2007. As such, Local Planning Policies E10 and E16 no longer exist, and the Core Strategy has been withdrawn. On the basis that the design is in scale and character with its surroundings and has no adverse impact on any heritage assets, the proposal is in accordance with Policy E4 of the Adopted Local Plan, and with heritage asset and sustainable development guidance contained in the NPPF.

### **Residential Amenity Issues**

The proposed development would affect the nearest properties which are the hotel and the residential dwellings at Rawdon Terrace, whilst properties on Station Road would be affected to a lesser degree. Amenity issues to consider are whether the proposal would be overbearing, cause overshadowing or overlooking and whether there would be any adverse noise impacts as a result of the activities and uses proposed.

The proposed extension to the hotel would have no adverse impact on neighbouring properties in terms of overshadowing or overlooking, and the single storey development would not have any overbearing impact on the proposed kiosk building. In addition, any noise as a result of the extension would be unlikely to be significantly over and above that experienced as a result of the existing hotel operation.

The proposed kiosk would be single storey and subordinate to the hotel and Rawdon Terrace. The kiosk would be set forward of the Rawdon Terrace properties and some 23m away from the nearest part of Rawdon Terrace. It is noted that the end property within the Terrace has a first floor window facing towards the application site. The application site at this front section is separated from Rawdon Terrace by a line of mature trees and a substantial wall. The design and situation of the kiosk would ensure that it would not cause any overbearing impact, overshadowing or overlooking issues to adjacent properties.

In terms of noise, the layout plans show that the entrance doors would face towards Rawdon Terrace, but the plant room and refuse bin storage compartment would face towards the hotel and the vehicular access to the site. In addition, the floorplans for the kiosk show that there would be rooftop plant in addition to the enclosed plant room. To ensure that there would be no adverse noise impact from any rooftop plant which may be installed it is recommended that a condition be attached should planning permission be granted. Other noise may be generated from an outside seating area to the front of the kiosk and adjacent to Station Road. Whilst such an activity may cause more noise than the existing car park use, the area would be set forward of the properties of Rawdon Terrace, and the distance separation between the existing development at Rawdon Terrace and the proposed kiosk and front seating area would ensure that there would be no significant increase in noise to neighbours. The properties at Rawdon Terrace have main garden areas to the rear of the premises.



The proposed rearrangement of car parking between the kiosk and the proposed leisure pavilion, and the additional woodland car park would have no adverse impact on residential amenities. The rearrangement of the car parking within the existing car park area would not cause any significant increase of activity over and above that which could take place at present, and the woodland car park would be set away from any domestic residential units.

The proposed leisure pavilion would be situated some 35m away to the east from the nearest dwelling at Rawdon Terrace, and some 2.5m away from the boundary with the end section of that nearest property's curtilage. Whilst the leisure pavilion would be some 8m in height generally, with a central atrium section of some 9m in height the two proposed site section plans submitted as part of the application clearly demonstrate that the proposed development would be subordinate to both Rawdon Terrace and the hotel. In addition, the north elevation facing towards Rawdon Terrace would not have any main glazed windows at first floor level which would overlook the curtilages of properties on Rawdon Terrace. One glazed section on the north elevation would be at the north east corner of the building which is a point where the building would be some 10m beyond the end of the garden of the nearest property at Rawdon Terrace. It is not disputed that the building would be visible from Rawdon Terrace and the hotel, and within the Conservation Area. However, this does not warrant a refusal of the scheme. The proposed development has been designed to be subordinate to both the hotel and Rawdon Terrace and would, therefore, have no overbearing impact on these existing developments, and distance separation would also ensure no significant overshadowing would take place. There would be some limited overshadowing of the very end section of the nearest garden at Rawdon Terrace but this would not be significant enough as to warrant refusal of the scheme. The leisure pavilion has also been designed to ensure that there would be no overlooking of adjacent gardens at Rawdon Terrace or hotel room windows. The heritage aspects have been set out in the previous section of this report.

A noise assessment has been submitted in relation to the proposal and has considered noise from air conditioning plant and car parking activity. The noise assessment has been considered by the NWLDC Environmental Protection team which has confirmed it has no objections to the proposal. As set out in relation to the kiosk, it is recommended that a condition relating to details of plant and any housing be attached to any permission which may be granted.

As such, the proposed development would not cause any residential amenity issues which would warrant refusal of the scheme, and the proposal would be in accordance with the requirements of Policy E3 of the Adopted Local Plan.

## Highways

The Highways Authority advises that it would normally have concerns in connection with a proposal that could lead to an increase in traffic at the double mini-roundabout junction of Bath Street, Kilwardby Street, Market Street and Derby Road where there is an existing situation of queuing and delays. In addition the Transport Assessment indicates that the proposed traffic flows are significant at the junction in the evening peak traffic time to a level where the impact should be assessed.

Based on the information submitted and consideration of the fact that there would be a degree of shared trips between the hotel and the proposals and that the submitted traffic figures have not included allowances for linked or diverted trips, or that at peak times drivers are likely to modify their route or the time of their journey, the Highway Authority confirms that the traffic impact at the double mini-roundabout junction would be acceptable.

The Highway Authority also submits that the revised access arrangements onto Station Road may not need to be modified to the extent shown on the submitted plans in order to provide appropriate visibility splays. However, that is the scheme which is being considered and it is acceptable in highway safety and conservation terms.

The Highway Authority has no objection to the proposal subject to substantive conditions and a S106 agreement in relation to provision of a Framework Travel Plan and a monitoring fee of £11,337.00 in order for the County Council to provide support for the developer's Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure outcomes are being achieved and monitor any issues arising.

The concerns regarding the loss of a public car park are noted. However, this particular car park is not a District Council asset and it is owned by the applicant.

### **Flood Risk, River Mease SAC and SSSI and Ecology Issues**

The submitted flood risk assessment submits that the site is at low risk of flooding, with the Bath Grounds taking up most fluvial flooding from the Gilwiskaw Brook at times of heavy rainfall and flooding. The Environment Agency has confirmed it has no objection to the proposed development.

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, the Gilwiskaw Brook runs through the adjacent Bath Grounds. 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 combined mains sewer system on Station Road and confirms that the applicant will pay the required contribution under the DCS in relation to commercial development. The scheme proposes a surface water drainage strategy to provide for a 30% betterment in terms of impermeable run off areas using attenuation storage in the form of swales in the car park areas and a hydraulic flow control device. This strategy has been put forward since ground tests reveal that the clay base would not allow for a soakaway system. As such, the drainage strategy proposes betterment in terms of a reduction of the amount of final surface water drainage which would enter the combined sewer system. Natural England raised objection to the original information and proposal on the

grounds of impact on the SAC and, due to the close proximity of Gilwiskaw Brook, also the SSSI. Further drainage information has been submitted by the agent in relation to the concerns raised. No revised comments have been received from Natural England at the time of writing this report so any recommendation will be made subject to Natural England comments at this stage, and any revised comments will be reported on the Update Sheet.

Consideration needs to be given to the capacity of Severn Trent Water's receiving treatment works at Packington. Severn Trent Water has confirmed it has no objection subject to condition.

Natural England's revised comments are awaited in order for the District Council to ascertain whether 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.

In terms of protected species, the County Ecologist originally raised objection to the proposal as the ecological statement had not been viewed. The report addresses the concerns of the County Ecologist in terms of the protected species considered and surveyed, including bats and badgers, and it is recommended that a resurvey timescale condition be attached to a permission should the application be approved.

A number of protected trees would need to be removed as part of the proposed development scheme, in particular in association with the woodland car park element. Within this area, trees that are proposed to be removed are of low quality value or would need to be removed due to their poor condition. Whilst the loss of some of the trees is regrettable, the woodland car park element would facilitate additional car parking facilities and the development would be feathered into the overall scheme without forming a stark open car parking area within the Conservation Area. In addition, some replacement tree planting is proposed and landscaping from the leisure pavilion onto the Bath Grounds is proposed to ensure physical and visual connectivity. A landscaping condition is recommended should the application be approved.

Japanese Knotweed has been identified on the site, and submitted information as part of the application confirms this. It is a landowner's responsibility to deal with this invasive species and the District Council will monitor this situation.

### **Other issues**

The concerns raised in the representation in respect of competition and loss of view are noted but are not material planning considerations and cannot be afforded any weight in the consideration of this application.

### **Summary**

The site lies within the Limits to Development of Ashby where development is, in principle, acceptable. The proposed development would meet the requirements of Policy R13 in respect of the Ashby Town Centre Service Area but would not fully comply with Policy R1 in respect of the A3 café/restaurant uses proposed. On balance, however, it is considered that the A3 elements form part of the overarching redevelopment plan for the site and, subject to appropriate condition, would not have an adverse impact on Ashby Town Centre. The proposed hotel extension, kiosk, leisure pavilion and associated car parking areas and landscaping would not have any adverse impact in terms of design and heritage, residential amenities, highway safety, protected species, flood risk and River Mease SAC and SSSI (subject to Natural England revised comments) and approval is therefore recommended.

**RECOMMENDATION, PERMIT, subject to any further comments which Natural England submit, and subject to that, the following conditions and S106 legal agreement for River Mease DCS contribution and highways requirements (Travel Plan Framework):**

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

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

- 2 The development shall be built strictly in accordance with the approved plans as follows:

Drawing Number 11078/08/01 - Site Location Plan 1/2;  
 Drawing Number 11078/08/02 - Site Location Plan 2/2;  
 Drawing Number 11078/08/03 - Proposed masterplan;  
 Drawing Number 11078/08/04 - Existing site plan commercial zone;  
 Drawing Number 11078/08/05 - Proposed site plan commercial zone;  
 Drawing Number 11078/08/06 - Existing site plan car parks zone;  
 Drawing Number 11078/08/07 - Proposed site plan car parks zone;  
 Drawing Number 11078/08/08 - Proposed plans principal building;  
 Drawing Number 11078/08/09 - Proposed elevations principal building;  
 Drawing Number 11078/08/10 - Proposed sections principal building;  
 Drawing Number 11078/08/11 - Proposed plans and elevations kiosk building;  
 Drawing Number 11078/08/12 - Existing site sections 1/2;  
 Drawing Number 11078/08/13 - Existing site section 2/2;  
 Drawing Number 11078/08/14 - Proposed site sections 1/2;  
 Drawing Number 11078/08/15 - Proposed site sections 2/2;  
 Drawing Number 11078/08/21 - Existing hotel ground floor plan;  
 Drawing Number 11078/08/22 - Existing hotel first floor plan;  
 Drawing Number 11078/08/23 - Existing hotel second floor plan;  
 Drawing Number 11078/08/24 - Existing hotel elevations 1/2;  
 Drawing Number 11078/08/25 - Existing hotel elevations 2/2;  
 Drawing Number 11078/08/26 - Proposed hotel demolition ground floor plan;  
 Drawing Number 11078/08/27 - Proposed hotel demolition first floor plan;  
 Drawing Number 11078/08/28 - Proposed hotel demolition second floor plan;  
 Drawing Number 11078/08/31A - Proposed hotel ground floor plan;  
 Drawing Number 11078/08/32 - Proposed hotel first floor plan;  
 Drawing Number 11078/08/33 - Proposed hotel second floor plan;  
 Drawing Number 11078/08/34 - Existing/Proposed hotel alterations East elevation;  
 Drawing Number 11078/08/35A - Existing/Proposed hotel alterations North elevation;  
 Drawing Number 11078/08/36 - Existing/Proposed hotel alterations South elevation;  
 Drawing Number 6315 EL(90)02 - Existing and proposed wall elevations;  
 Drawing Number 6315 SP(90)05E - Trees retained, removed and proposed;  
 Drawing Number 6315 SP(90)01T - External works plan; and,  
 Drawing Number 6315 EL(90)01H - Hotel external works elevations and sections.

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

- 3 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order

1987 (as amended), or any Order revoking and re-enacting that Order, the A3 use class kiosk and A3 element of the leisure pavilion hereby permitted shall be retained for A3 use only.

*Reason- For the avoidance of doubt and in the interests of the vitality and viability of Ashby de la Zouch town centre.*

- 4 Notwithstanding the submitted information 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 by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

*Reason- To ensure the works are carried out in a way which respects the special appearance and character of the Conservation Area and adjoining Listed Building, and to enable the Local Planning Authority to retain control over the external appearance given that precise details have not been submitted.*

- 5 No development shall commence on site until drawings (including cross-sections) of the proposed door and window units at the hotel extension to a scale of 1:1/1:2/1:5/1:10 shall be first agreed with the Local Planning Authority. The works shall be carried out in accordance with the approved details and retained as such in perpetuity.

*Reason- To enable the Local Planning Authority to retain control over the external appearance of the Listed Building as no precise details have been submitted.*

- 6 No development shall commence on site until details of the location of any external services, including any rainwater goods, meter boxes and flues, have been submitted to and agreed in writing with the Local Planning Authority. The external services shall be installed in accordance with the agreed scheme and shall thereafter be retained unless otherwise agreed in writing with the Local Planning Authority.

*Reason- To ensure the works are carried out in a way which respects the special appearance and character of the Conservation Area and adjoining Listed Building, and to enable the Local Planning Authority to retain control over the external appearance given that precise details have not been submitted.*

- 7 No development shall commence on site until details of the location and specification of any air conditioning, chiller, condenser, extraction or other plant and flues required in association with the development hereby permitted have been submitted to and agreed in writing with the Local Planning Authority. The plant facilities and system shall be installed in accordance with the agreed scheme and shall thereafter be maintained as such unless otherwise agreed in writing with the Local Planning Authority.

*Reason- To ensure the works are carried out in a way which respects the special appearance and character of the Conservation Area and adjoining Listed Building, and to enable the Local Planning Authority to retain control over the external appearance given that precise details have not been submitted, and to ensure against noise disturbance to the surrounding area or properties.*

- 8 No demolition/development shall take place/commence until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation, submitted to and approved by the

local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

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

*Reason - To ensure satisfactory archaeological investigation and recording of the undesignated heritage asset.*

- 9 No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 8.

*Reason - To ensure satisfactory archaeological investigation and recording of the undesignated heritage asset.*

- 10 The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 8 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 of the undesignated heritage asset.*

- 11 Notwithstanding any details submitted and before development commences on the site a detailed scheme for the boundary treatment of the site shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the kiosk and leisure pavilion are occupied.

*Reason- To preserve the residential amenities of the locality and the amenities of the adjacent Listed Buildings and Conservation Area .*

- 12 Operations that involve the destruction and removal of any vegetation on the site shall not be undertaken during the months of March to September inclusive unless a report undertaken by a qualified ecologist demonstrating that there are no nesting birds on the site has been submitted to and agreed in writing by the Local Planning Authority.

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

- 13 No development shall commence on site until a protective fencing scheme for all trees that overhang the site in accordance with British Standard 5837:2005 (which shall include a plan to a metric scale showing the position of the protective fencing and details of the design of the fencing) has been submitted to and agreed in writing by the Local

Planning Authority. No development shall commence on site until the agreed scheme has been implemented and it shall be kept in place until construction of the buildings, and the associated areas of hard surfacing is completed.

*Reason - In the interest of health and safety and the amenity value of the trees.*

- 14 If any works are to be carried out within the areas bounded by the protective fencing, then no development shall commence in respect of these works until a method statement which sets out how the development will be undertaken within these areas has been submitted to and agreed in writing by the Local Planning Authority. The works within the areas bounded by the protective fencing shall be undertaken in accordance with the agreed method statement.

*Reason - in the interest of health and safety and the amenity value of the trees.*

- 15 No work shall commence on the site until such time as a scheme for protecting the existing trees and hedgerow, 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.*

- 16 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. 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.*

- 17 Should development not start for three years since the last survey (2012) an updated badger survey will be required to be submitted.

*Reason- In the interests of protected species on the site.*

- 18 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.*

**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 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 £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 The developers should note that this permission does not authorise any new shop front advertisement which may require advertisement consent. You may wish to contact the Local Planning Authority in relation to any new adverts which may be required.
- 4 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at [www.defra.gov.uk](http://www.defra.gov.uk)



**Demolition of side and rear extensions of hotel, erection of side /rear extension to hotel, internal works, partial demolition and rebuilding of boundary wall to form visibility splays**

**Report Item No  
A2**

**The Royal Hotel Station Road Ashby De La Zouch  
Leicestershire**

**Application Reference  
14/00105/LBC**

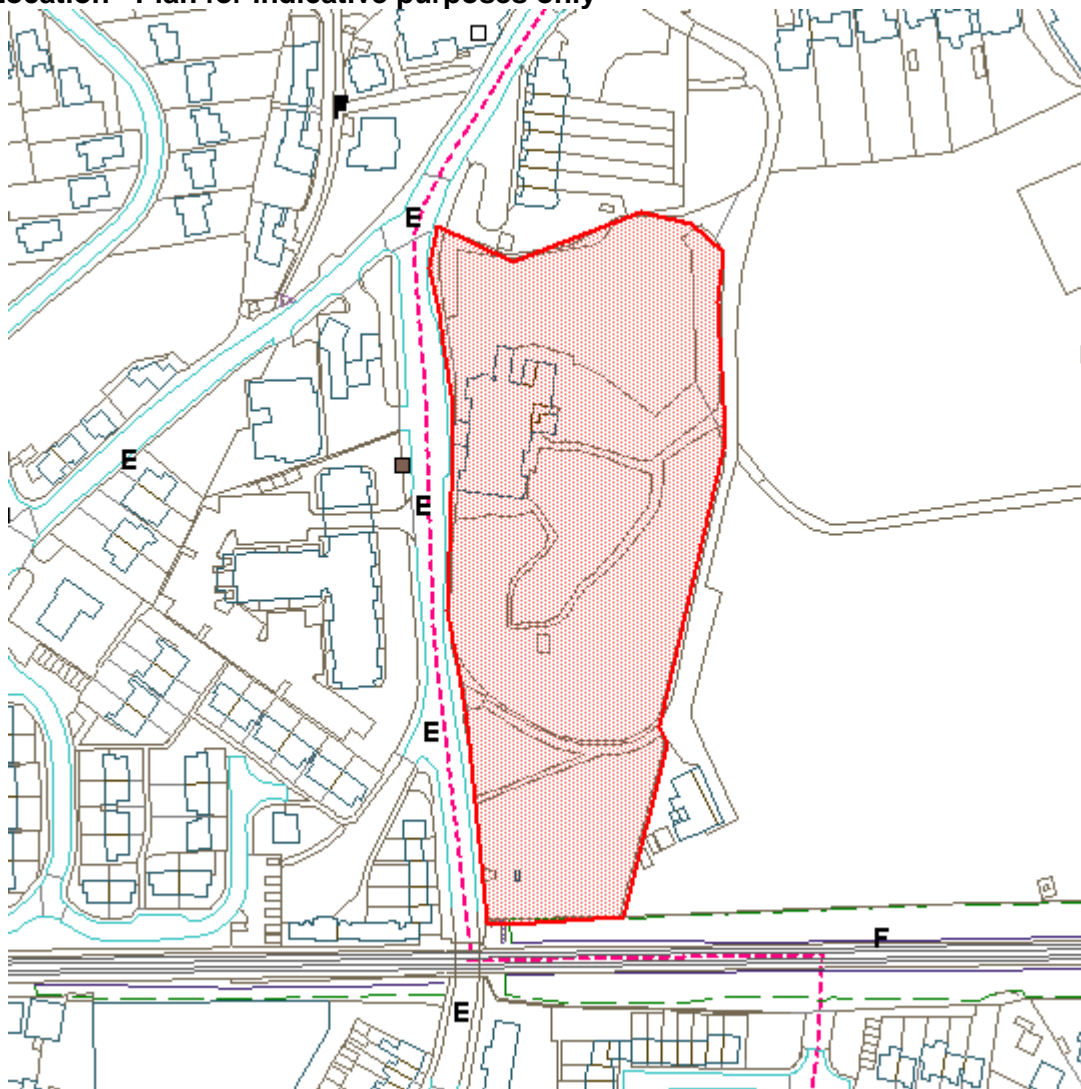
**Applicant:**

**mit**

**Case Officer:  
Sarah Worrall**

**Recommendation:  
PERMIT**

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



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## **Executive Summary**

### **Call in**

The Listed Building Consent submission is brought to Planning Committee since the associated planning application 14/00104/FULM has been called in at the request of Councillor Coxon on the grounds of public interest. This will allow the planning application and Listed Building Consent (LBC) submission to be considered together.

### **Proposal**

The application seeks Listed Building Consent for the demolition of existing single storey extensions and the erection of a replacement single storey extension to the existing hotel at the north and eastern corner. The scheme also seeks approval for refurbishment work to the hotel and partial demolition and rebuilding of the boundary wall.

The LBC is being considered in conjunction with a full application for the demolition of existing side extensions and erection of single storey side extension and refurbishment works to the Royal Hotel, erection of kiosk (A3 use), associated car parking rearrangements and woodland car park, and erection of a leisure pavilion (D2 use) with integral A3 café /restaurant section (14/00104/FULM).

The current development proposal was also being considered in relation to a separate application for the demolition and redevelopment of the cricket and bowls pavilions on Bath Grounds along with the erection of five dwellings on a section of the Bath Grounds (14/00107/FULM). That application has been withdrawn.

### **Consultations**

Members will note that representations from local residents and businesses have been made and the full representations are available to view on the working file. In terms of the issues raised, 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 impact of the proposal in terms heritage aspects can be considered in relation to the NPPF.

### **Conclusion**

The proposed demolition works, hotel extension, partial new wall and internal refurbishment works would not have any adverse impact on the adjacent Listed Buildings or Conservation Area heritage assets and approval is therefore 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 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 Listed Building Consent submission for the demolition of existing single storey extensions at the north east corner of the Royal Hotel which is a Grade II\* Listed Building, replacement with a new single storey extension and rear seating area along with general refurbishment of the hotel and partial demolition and rebuilding of the boundary wall to improve visibility splays.

The listing description for the hotel is as follows:

Circa 1826. Facade and south end of red brick with stone dressings. Rest of stone. 3 storeys. Outer bays advanced under segmental pediments. Quoins. Moulded cornice 1st floor and moulded cornice and parapet above recessed centre cornice carried across end pediments. Roof not visible. 9 windows in centre set in moulded architraves - alternate windows blocked. Outer bays have 1 window of 3 lights each. Sashes with glazing bars. Centre giant porch with cornice hood on coupled Greek Doric columns from which the fluting has been removed

A separate planning application 14/00104/FULM is being considered in relation to the listed building works proposed. It should be noted that application 14/00107/FULM for the demolition and erection of both cricket and bowls club pavilions and erection of No.5 dwellings within the Ashby Grounds has been withdrawn by the applicant.

### Planning History

There is not any relevant planning history for the application site in relation to the current proposal.

Pre-application discussions were undertaken in relation to development proposals at the Royal Hotel and the Bath Grounds.

### 2. Publicity

83 no. Neighbours have been notified (Date of last notification 2 June 2014)

Site Notice displayed 2 June 2014

Press Notice published 11 June 2014

### 3. Consultations

Ashby De La Zouch Town Council consulted 20 February 2014  
 NWLDC Conservation Officer consulted 21 February 2014  
 English Heritage- Grade I/II\* LB Works consulted 21 February 2014  
 Victorian Society- LB demolition consulted 21 February 2014  
 Georgian Group- LB demolition consulted 21 February 2014

#### 4. Summary of Representations Received

**Ashby de la Zouch Town Council** - no comment received.

**English Heritage** - no objection subject to details of materials and finishes.

**NWLDC Conservation Officer** - no objection.

#### Third Party Representations

Two letters of support for the development proposals has been submitted from one person (one customer service contact form and one letter). In addition, three letters of objection have been received in relation to the proposal. These concerns can be summarised as follows:

- Awful design like an alien spaceship beside the Royal Hotel totally out of keeping with the area and the local architecture;
- The intrusive design would dominate the bath grounds and local area;
- The new building is of a modern design while the hotel is built of brick and stone;
- The development should be in keeping with Chaplin's original concept of the hotel;
- The development would have a significant detrimental impact on the appearance and amenity offered by the Bath Grounds;
- The proposed new kiosk building should be built from reclaimed red brick;
- Existing trees should not be removed; and,
- Access will not be sufficient for the traffic generated.

#### 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.

"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."

**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.

There is no relevant policy contained within the Adopted North West Leicestershire Local Plan.

## **6. Assessment**

The only concern of this Listed Building Consent application is the consideration of the impact of the proposed works on the Listed Building.

The demolition of the existing single storey newer additions to the original hotel would result in the removal of an uncohesive array of extensions which currently do little to enhance the existing Listed Building. The design of the hotel extension would be in scale and character with the existing hotel and an amended elevation has been submitted in relation to a revised window design addressing concerns originally raised by English Heritage and the District Council. Design details of materials, finish and window/door openings would be required, and information on making good the walls where demolition occurs would also be required. These could be dealt with by condition.

The internal alterations would create individual rooms into suites where possible which would result in the restoration of some rooms to their original proportions whilst also improving the offer of room available to guests. The rearrangements will result in some new door openings and other minor changes. It is recommended that a schedule of works is required by condition should the submission be approved.

The existing boundary wall which would be altered to provide an improved splay at the vehicular access to the site has little architectural or historic interest and the modifications would have no adverse impact on the designated heritage asset.

As such, the proposed development would not adversely affect the fabric or setting of the Listed Building in accordance with the provisions and intentions of the NPPF.

## **Summary**

The proposed works would comply with national planning policy heritage requirements and the proposed works would have no adverse impact on the fabric or setting of the Listed Building. As such, approval is recommended.

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

- 1 The works to which this consent relates shall begin not later than the expiration of three years from the date of this consent.

*Reason- To comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).*

- 2 The development shall be built strictly in accordance with the approved plans as follows:

Drawing Number 11078/08/01 - Site Location Plan 1/2;  
Drawing Number 11078/08/02 - Site Location Plan 2/2;  
Drawing Number 11078/08/03 - Proposed masterplan;  
Drawing Number 11078/08/12 - Existing site sections 1/2;  
Drawing Number 11078/08/13 - Existing site section 2/2;  
Drawing Number 11078/08/14 - Proposed site sections 1/2;  
Drawing Number 11078/08/15 - Proposed site sections 2/2;  
Drawing Number 11078/08/21 - Existing hotel ground floor plan;  
Drawing Number 11078/08/22 - Existing hotel first floor plan;  
Drawing Number 11078/08/23 - Existing hotel second floor plan;  
Drawing Number 11078/08/24 - Existing hotel elevations 1/2;  
Drawing Number 11078/08/25 - Existing hotel elevations 2/2;  
Drawing Number 11078/08/26 - Proposed hotel demolition ground floor plan;  
Drawing Number 11078/08/27 - Proposed hotel demolition first floor plan;  
Drawing Number 11078/08/28 - Proposed hotel demolition second floor plan;  
Drawing Number 11078/08/31A - Proposed hotel ground floor plan;  
Drawing Number 11078/08/32 - Proposed hotel first floor plan;  
Drawing Number 11078/08/33 - Proposed hotel second floor plan;  
Drawing Number 11078/08/34 - Existing/Proposed hotel alterations East elevation;  
Drawing Number 11078/08/35A - Existing/Proposed hotel alterations North elevation;  
Drawing Number 11078/08/36 - Existing/Proposed hotel alterations South elevation;  
Drawing Number 6315 EL(90)02 - Existing and proposed wall elevations;  
Drawing Number 6315 SP(90)05E - Trees retained, removed and proposed;  
Drawing Number 6315 SP(90)01T - External works plan; and,  
Drawing Number 6315 EL(90)01H - Hotel external works elevations and sections;

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

- 3 Notwithstanding the submitted information 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 by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

*Reason- To ensure the works are carried out in a way which respects the special appearance and character of the Listed Building, and to enable the Local Planning Authority to retain control over the external appearance given that precise details have not been submitted.*

- 4 No development shall commence until a schedule of works in relation to the internal alterations has been submitted to and agreed in writing with the Local Planning Authority. The schedule of works shall include detailed plans at 1:50 scale of any new doors, openings and fixings required in association with the works.

*Reason- To enable the Local Planning Authority to retain control over the internal alterations to the Listed Building as no precise details have been submitted.*

- 5 No development shall commence on site until drawings (including cross-sections) of the proposed door and window units at the hotel extension to a scale of 1:1/1:2/1:5/1:10 have been first agreed in writing by with the Local Planning Authority. The works shall be carried out in accordance with the approved details and retained as such in perpetuity.

*Reason- To enable the Local Planning Authority to retain control over the external appearance of the Listed Building as no precise details have been submitted.*

- 6 No development shall commence on site until details of the location of any external services, including any rainwater goods, meter boxes and flues, have been submitted to and agreed in writing with the Local Planning Authority. The external services shall be installed in accordance with the agreed scheme and shall thereafter be retained unless otherwise agreed in writing with the Local Planning Authority.

*Reason- To ensure the works are carried out in a way which respects the special appearance and character of the Listed Building, and to enable the Local Planning Authority to retain control over the external appearance given that precise details have not been submitted.*

- 7 No development shall commence on site until details of the location and specification of any air conditioning, chiller, condenser, extraction or other plant and flues required in association with the development hereby permitted have been submitted to and agreed in writing with the Local Planning Authority. The plant facilities and system shall be installed in accordance with the agreed scheme and shall thereafter be maintained as such unless otherwise agreed in writing with the Local Planning Authority.

*Reason- To ensure the works are carried out in a way which respects the special appearance and character of the Listed Building, and to enable the Local Planning Authority to retain control over the external appearance given that precise details have not been submitted, and to ensure against noise disturbance to the surrounding area or properties.*

- 8 Notwithstanding any details submitted and before development commences on the site a detailed scheme for the boundary treatment of the site shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the kiosk and leisure pavilion are occupied.

*Reason- To preserve the residential amenities of the locality and the amenities of the adjacent Listed Building.*

### **Notes to applicant**

- 1 Listed Building Consent 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).

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Demolition of existing garage for proposed food and non-food retail (A1) development with additional restaurant uses (A3/A4), together with ancillary access, parking and servicing

Report Item No  
A3

Motors Ltd Whitwick Road Coalville Leicestershire

Application Reference  
14/00692/FULM

Applicant:  
Mr Mark Dalby

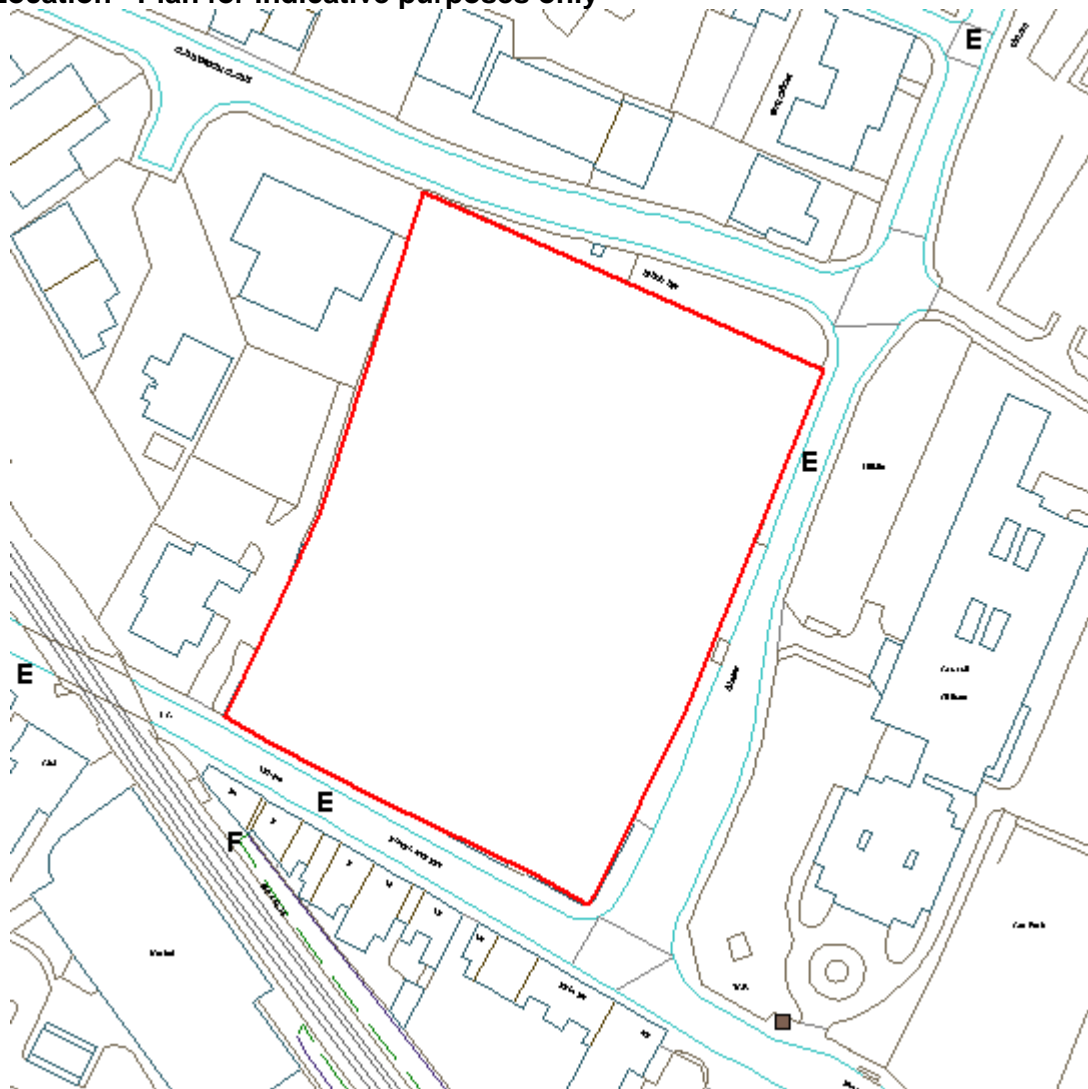
Date Registered  
5 August 2014

Case Officer:  
James Mattley

Target Decision Date  
4 November 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 REASONS FOR APPROVAL**

### **Call In**

The application falls to be determined by the Planning Committee as it is a matter which is considered to be of significant public interest.

### **Proposal**

Planning permission is sought for the demolition of existing garage for proposed food and non-food retail (A1) development with additional restaurant uses (A3/A4), together with ancillary access, parking and servicing at Motors Ford site on land off Whitwick Road/Hotel Street in Coalville.

### **Consultations**

Members will see from the report below that no representations have been received from surrounding neighbours or from statutory consultees. The Council's Urban Designer has raised concern regarding the design of the scheme and a letter of objection has been received from the owner of the Belvoir Shopping Centre.

### **Planning Policy**

The application site is within Limits to Development as defined in the adopted North West Leicestershire Local Plan, and the site is also subject to various retail type policies of the Local Plan, including Policies R1, R8, R11 and R16. Also relevant are the retail policies of the National Planning Policy Framework.

### **Conclusion**

The report below indicates that, the scheme is considered to pass the sequential and impact assessments set out in the NPPF and would be acceptable in principle. The scheme is considered to have the potential to support the vitality and viability of Coalville town centre. Concerns have been expressed from the Council's Urban Designer regarding the design quality of the scheme but, on balance, having regard to the potential economic benefits arising from the scheme these concerns are not considered to warrant a refusal of the application. It is also noted that conditions could be applied to the granting of any planning permission in order to require a revised elevation to Hotel Street and in order to control the quality of the proposed materials.

The proposal is not considered to affect residential amenity in the area, conflict with highway safety, impact upon heritage assets, drainage, flooding or protected species. There are no other relevant material planning considerations that indicate planning permission should not be granted.

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

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, 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 demolition of existing garage for proposed food and non-food retail (A1) development with additional restaurant uses (A3/A4), together with ancillary access, parking and servicing at Motor's Ford site on land off Whitwick Road/Hotel Street in Coalville. The application site is currently occupied by a Ford car dealership which fronts onto Whitwick Road opposite the District Council offices. The site also comprises a number of small, traditional retail units that front onto Hotel Street. The application site is located within the limits to development within Coalville town centre and within an area designated as an outer town centre shopping area.

The proposed development envisages six units (five of which would be used for retail purposes) at the site providing a total floorspace of 5,949 sq. m (gross) together with car parking, servicing and landscaping. The proposed units range in size from 304 sq. m to 3,130 sq. m and, with the exception of the smallest unit which is proposed to be used for A1, A3, A4 uses, the units would be arranged in a single retail terrace set back from Whitwick Road. The applicant seeks open A1 use of the proposed retail floorspace for which no information has been provided in terms of named operators. The submitted retail assessment indicates that the following retail and restaurant floorspace is proposed:

Unit 1 - 665 square metres

Unit 2 - 665 square metres

Unit 3 - 500 square metres with a possible mezzanine providing an additional 185 square metres

Unit 4 - 500 square metres

Unit 5 - 1665 square metres with a possible mezzanine providing an additional 1465 square metres

Unit 6 - 304 square metres

The main access to the site would be from Whitwick Road although a separate access would be formed on Old Station Close to be used for servicing. The scheme would also include for pedestrian access points onto Hotel Street and Whitwick Road.

The application is accompanied by a Design and Access Statement, Flood Risk Assessment, Planning Statement, Transport Assessment, Framework Travel Plan, Protected Species Report, Retail Statement and Archaeological Assessment.

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

#### Relevant Planning History:

08/00917/OUTM - Demolition of existing buildings and redevelopment of the site for a mix of uses including A1 foodstore, other A1-A5 retail space, residential apartments and associated car parking, infrastructure works, servicing and public realm enhancements (Outline - all matters reserved) - permitted.

10/01045/REM - Demolition of existing buildings and redevelopment of the site for a mix of uses including A1 foodstore, other A1-A5 retail space, 20 no. residential apartments and associated car parking, infrastructure works, servicing and public realm enhancement (Reserved Matters to Outline Planning Permission Ref 08/00917/OUTM) - permitted.

12/00945/EXTM - Application for a new planning permission to replace planning permission 08/00917/OUTM in order to extend the time period for the implementation of the demolition of existing buildings and redevelopment of the site for a mix of uses including A1 foodstore, other A1-A5 retail space, residential apartments and associated car parking, infrastructure works, servicing and public realm enhancements (Outline - all matters reserved) (and as per reserved matters approval ref. 10/01045/REM) - withdrawn.

## 2. Publicity

68 Neighbours have been notified (Date of last notification 18 August 2014)

Site notice displayed 19 August 2014

Press Notice published 27 August 2014

## 3. Consultations

County Highway Authority  
Environment Agency  
Severn Trent Water Limited  
Head of Environmental Protection  
Natural England  
NWLDC Tree Officer  
County Archaeologist  
LCC ecology  
NWLDC Conservation Officer  
NWLDC Urban Designer  
LCC Fire and Rescue  
Development Plans  
Building Control - NWLDC  
Head Of Street Management North West Leicestershire District  
Head of Environmental Protection

## 4. Summary of Representations Received Statutory Consultees

**Environment Agency** has no objection subject to the inclusion of relevant conditions and notes to applicant.

**Leicestershire County Council Archaeologist** raises no objection to the proposed development subject to the inclusion of relevant conditions.

**Leicestershire County Council Ecologist** originally placed a holding objection to the application until such time as additional bat surveys were provided. Following the submission of further bat surveys the County Ecologist has removed the holding objection and now raises no objection subject to the inclusion of relevant conditions.

**Leicestershire County Council Highway Authority** raises no objection to the proposed scheme subject to the inclusion of relevant conditions and obligations.

**National Forest Company** requests an off-site contribution of £12,400 towards woodland planting and landscaping.

**Natural England** raises no objections to the proposed development subject to providing notes to the applicant.

**North West Leicestershire District Council Contaminated Land Officer** has no objections subject to relevant conditions.

**North West Leicestershire Environmental Protection Section** has no environmental observations.

**Severn Trent Water** has no objection subject to the inclusion of relevant drainage conditions.

### **Third Party Representations**

No representations have been received from members of the public.

Zurich Assurance Limited who own the Belvoir Shopping Centre have objected to the proposed scheme on the following grounds:

- The proposal would have a significant impact on the viability and vitality of the Town Centre;
- The proposal would be in direct competition with the Belvoir Shopping Centre and would result in vacant units within the Belvoir Shopping Centre;
- Any planning permission should be restricted to bulky goods;
- The amount of car parking proposed would have an impact upon the Town Centre in terms of accessibility and connectivity;
- Design of the scheme is unacceptable and would result in a blank frontage to Hotel Street that would not contribute towards permeability and connectivity;
- Degree of car parking proposed could have a detrimental impact on existing traffic conditions and surrounding air quality;
- Proposals encourage the use of the private car;
- The application proposals are speculative and there is a concern as to whether there would be demand for the scale of retail floorspace proposed.

## **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. It states that local planning authorities should:

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

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

The 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.

The following sections are considered relevant:

Paragraph 17 sets out the 12 core planning principles. In particular, the third principle provides 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.

"24 Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale."

"26 When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made."

"27 Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused."

"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."

"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."

"58 Planning policies and decisions should aim to ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
- are visually attractive as a result of good architecture and appropriate landscaping."

"60 Planning policies and decisions should not attempt to 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."

"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."

"129 Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal."

"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..."

"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 (August 2002)**

The site is located within Limits to Development and within an area subject to the following policies:

Policy R1 provides that shopping and related development (such as financial and professional services and food and drink uses) will be permitted within Coalville and Ashby de la Zouch Town Centres, on allocated sites, and in existing or proposed local shopping areas. New retail development outside these areas will only be permitted where it can be shown that a number of criteria would be satisfied.

Policy R8 provides that redevelopment for shopping and related purposes will be permitted on those sites identified as such within Coalville and Ashby-de-la-Zouch town centres, subject to environmental and traffic considerations. The Policy requires that redevelopment of these sites must be comprehensive in design and well-related to the form and functioning of adjoining parts of the shopping area. Piecemeal redevelopment which would be prejudicial to the objectives of this policy will not be permitted.

Policy R11 provides that, in addition to the uses set out in Policy R4, only uses within Use Classes D1 and D2 will be permitted to ground floor frontages within the outer part of the Coalville town centre shopping area, and that shop window displays will be required where appropriate. (Policy R4 lists uses such as retail, financial and professional services and food and drink-related uses as being appropriate within the core area).

Policy R16 provides that, within the Coalville and Ashby de la Zouch shopping areas and other local and village centres, only the use of upper floors for a number of specified purposes will be permitted, subject to parking and amenity considerations. It also provides that, where the proposals will not cause a problem in the locality, the requirement to provide car parking spaces to serve small schemes for the creation of flats over existing shops in such areas may be waived in cases where private car parking cannot be reasonably provided on site or in the locality where certain criteria can be met.



In addition to the policies listed above, the following policies of the adopted North West Leicestershire Local Plan are also relevant:

Policy S2 states that development within the Limits to Development will be permitted where it complies with the policies in the 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.

Policy E7 states that all development should make appropriate provision for hard and soft landscaping.

Policy E8 states development will only be permitted where appropriate crime prevention measures are incorporated as an integral part of the design, layout and landscaping features.

Policy E9 requires access by all persons with restricted mobility where sites are open to the public.

Policy F1 states new development within the boundaries of the National Forest should reflect the importance of its Forest context by making appropriate provision for landscaping and tree planting.

Policy F3 requires landscaping and planting schemes for new development.

Policy T3 states that development will be permitted only where its highway design and layout make adequate provision for vehicular access, servicing arrangements and circulation.

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

Policy T13 requires adequate provision for cycle parking.

### **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**

The development plan for North West Leicestershire comprises the saved policies of the 2002 Local Plan, which was altered in 2004 and 2005. The relevant policies include R1, R8c, R11 and R16. Policy R8 relates to 'Potential Redevelopment Areas' and identifies the site for

shopping and related purposes. This policy requires the redevelopment of the site to be comprehensive in design and well-related to the form and functioning of adjoining parts of the shopping area. The proposed scheme is considered to comply with the thrust of the retail policies contained in the Local Plan although it is necessary to consider in more the advice contained in the National Planning Policy Framework (NPPF) in relation to the sequential and impact tests.

Paragraph 24 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. Applications for main town centre uses should be required to be located in town centres, then in edge of centre locations and, only if suitable sites are not available, should out-of centre sites be considered. Paragraph 24 goes on to say that when considering edge-of-centre and out-of-centre proposals, preference should be given to accessible sites that are well connected to the town centre. The proposals map accompanying the Local Plan shows that the application site is located within the boundaries of Coalville town centre as defined by the town centre inset. The site is also identified as an 'outer town centre shopping area' adjacent to the 'core town centre shopping area', the boundary of which is formed by the railway line. Therefore, it is considered that the sequential test should be applied to this site and the application is accompanied by information in this regard.

It is considered that the only in-centre site that might be capable of accommodating development of a similar scale to the application scheme is the site of the Belvoir Shopping Centre and Coalville Market. There is little doubt that the site of the Belvoir Shopping Centre and Coalville Market is suitable for further retail-led development. It is located within the heart of the town centre and is the focus of the area designated by the Local Plan as the 'core town centre shopping area'. The owners of the shopping centre have previously brought forward proposals for its comprehensive redevelopment and extension. A planning application was submitted in 2009 (ref: 09/00359/FULM) for the extension and reconfiguration of the shopping centre to provide additional retail floorspace, a hotel, cinema, car parking and new public realm. The permission has not been implemented, although a planning application to extend the time period for the implementation was submitted to the District Council in April 2013 (ref: 13/00330/EXTM). Whilst it is clear that this would represent a suitable alternative to the application site it is necessary to have regard to the availability of this site.

Planning permission for the scheme was granted in April 2010 and both economic and market conditions have changed since then. Whilst an application has been made to renew this permission and the District Council resolved to approve that application in August 2013, the planning permission has still not been issued due to a failure to complete a Section 106 agreement. Furthermore, no evidence has been provided that the redevelopment scheme is currently being marketed. In these circumstances, it is difficult to conclude that the site would be available for redevelopment within a reasonable timescale and that it would present a realistic alternative to the proposed development at the application site. In the Committee Report (dated February 2013) to planning application 12/00945/EXTM which sought to extend the time limit of the previous application on the application site, a similar conclusion was reached:

*Whilst the Belvoir Centre is considered to remain a sequentially preferable site, on the basis of the lack of progress in respect of the implementation of the permission for the approved scheme for that site, it is considered that, at this time, there is significant doubt as to whether or not a development is likely to be delivered on that site within a reasonable length of time. As such, in terms of this issue, it would not be considered appropriate to withhold an extension of time permission for the Ford garage site. It remains the officer view that, in sequential terms, there is*

*no preferable site to the Ford garage site, other than the Belvoir Centre site.*

Having regard to these matters, it is concluded that there are no available and suitable sequentially preferable alternatives within Coalville town centre and that the current proposals are considered to satisfy the requirements of paragraph 24 of the NPPF.

Paragraph 26 of the NPPF states that when assessing applications for retail, leisure and office development outside of town centres which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set threshold. Where there is no locally set threshold then the default threshold is 2,500 sq. m. The impact tests to be considered for such developments are:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made.

In terms of the impact upon planned development, the only major proposed investment in Coalville town centre is the proposed extension and redevelopment of the Belvoir Shopping Centre (discussed above). The District Council has received a representation in respect of the current application that was submitted by Barton Willmore on behalf of Zurich Assurance Limited, the owners of the Belvoir Shopping Centre. This representation is mainly concerned with impacts on the existing shopping centre rather than its proposed extension and redevelopment. It is also noted that the 2009 proposals for the redevelopment of the Belvoir Shopping Centre came forward after a planning application had been submitted for the retail-led redevelopment of the application site and during the economic recession. The consideration of any additional impacts on the planned investment arising from the revised scheme must be weighed in that context. In these circumstances, it would be difficult to conclude that the application scheme would have a significant adverse impact on the planned investment at the Belvoir Shopping Centre or outweigh the positive benefits that the proposed investment at the application site would afford to the town centre, as discussed in more detail below.

The second impact test contained at paragraph 26 of the NPPF requires an assessment of the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider area. When considering the previous outline planning application on the site, the District Council took the view that, rather than assessing the development to be the source of an acceptable degree of harm to the town centre, it was adjudged to have no harmful impact on the vitality and viability of the town centre and, furthermore, as a key gateway to the town centre, its redevelopment would act as a catalyst for the redevelopment of the town. It is accepted that the current scheme on the site differs from that previously proposed and the District Council has sought independent retail advice following the objection received from the owners of the Belvoir Shopping Centre.

The conclusion reached in the independent retail advice is that the proposal has the potential to bring about benefits in terms of enhanced retailer representation, reinforcing the role of Coalville town centre in the retail hierarchy and has the potential to increase the comparison goods turnover of the town centre. Such an increase would provide attendant benefits such as increased footfall, increased investor confidence and greater operator interest. In view of these findings, it is concluded that the proposed development at Hotel Street would not give rise to any significant adverse impacts on either proposed investment in the town centre or the vitality and viability of the town centre. Indeed, the proposals have the potential to support the future

performance of the town centre, increase local consumer choice and encourage more sustainable shopping patterns. The application scheme is therefore considered to have met the requirements of paragraph 26 of the NPPF.

The proposed retail development would accord with the requirements of relevant planning policy for town centres as contained within the NPPF and the Local Plan. The proposals satisfy the requirements of paragraph 24 and 26 of the NPPF and would support the objectives of Policy R8 of the Local Plan. Accordingly, the principle of the development is considered to be acceptable.

## Design

The need for good design in new development is outlined in 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 seeks to achieve good design in new development. The aspiration in the NPPF is to "always seek to secure high quality design" (paragraph 17) and that "permission should be refused for development of poor design that fails to take the opportunities available from improving the character and quality of an area and the way it functions" (paragraph 64).

The site layout of the proposal is arranged with a terrace of five retail units located to the west of the site (set back from Whitwick Road by 40 metres) with a dedicated service yard located behind and accessed from Old Station Close. A total of 154 car parking spaces are proposed and these would be located between Whitwick Road and the front elevation of units 1-5. A stand alone unit (unit 6) is located at the junction of Hotel Street and Whitwick Road and a new public space, including rain garden, would be created between unit 1 and unit 6.

In terms of site opportunities, the application site is located with the town centre and alongside the town's original street - Hotel Street. This street is characterised by buildings that are located at the back or a short distance from the back of the pavement edge, with frequent doors to the street creating a bustle of street activity as people walk into and out of these buildings. Street vitality is heavily reliant on the strong and direct relationship between buildings and the street, i.e. active frontages. This street/building relationship is typical of places with a traditional town centre character and this represents an opportunity to reflect similar relationships within the proposed scheme.

This critical relationship with Hotel Street was secured in the previously approved mixed use retail scheme on this site but has been lost to a large extent under the current proposals as unit 1 would not have an active frontage to Hotel Street. The elevation would contain some glazing in close proximity to the proposed new public space but would largely consist of a blank elevation despite the variety of materials proposed along this elevation (including glass cladding, brickwork, wood effect rainscreen, aluminium cladding). The elevation also consists of an access ramp and fire door immediately onto Hotel Street. The Council's Urban Designer objects to this element of the scheme and considers that the application does not comply with paragraph 61 of the NPPF that refers to "connections between people and places and the integration of new development into the natural, built and historic environment" or Paragraph 58 of the NPPF which promotes developments that are, "are visually attractive".

Another key opportunity with the development of this site is to ensure that movement on foot

and by bicycle is easy, direct, convenient and safe. In terms of the original layout supplied, the proposal would have forced pedestrians to walk across a large car park navigating across circulation lanes and between parked cars. The layout and detailed design of these proposals would have compromised access particularly for the young and those with mobility impairments. The applicants were advised at the pre-application advice stage to consider desire lines and crossing points along Whitwick Road and Hotel Street but these have not been included within the submitted scheme. As such, the Council's Urban Designer considered that the development proposals would run counter to paragraph 58 of the NPPF that encourages the creation of "attractive and comfortable places to live, work and visit" and paragraph 61 that seeks to, "address the connections between people and places" and the user hierarchy advocated in Manual for Streets. However, an amended plan has been submitted during the course of the application which has amended the site layout to include for a central walkway from Whitwick Road through the car park which would help to address, to some extent, the concerns raised by the Council's Urban Designer. It is also noted that the scheme includes for cycle parking and an area of public open space that would provide direct pedestrian access to Hotel Street.

The site offers the opportunity to create a strong gateway to the town centre of the junction with Whitwick Road and Hotel Street. The scheme includes for built development in the form of a single storey unit that would be used as a cafe. Such gateway buildings are normally, but not always, two storeys or more in height (such as in the 'Tesco' scheme) and the single storey nature of this unit and the scale of the proposed building mass behind this particular gateway structure (i.e. units 1 -5) would dilute the proposed single storey building. During pre-application advice discussions and during the course of the determination of this application the applicant's agent has been advised that this building be increased in height and suggested that as a proposed A3 use, a second storey 'pod' could be added to allow access to a external seating space on the roof. Unfortunately, the applicants have not made any alterations to the height of the building and have cited commercial reasons.

In summary, the Council's Urban Designer considers that the layout, form (urban grain) and appearance of the proposed development is not urban in character but is instead typical of suburban and edge of town retail parks - a typology that is largely generic, anonymous and dominated by cars and associated movement infrastructure. For the reasons set out above the Council's Urban Designer objects to the design of the proposals and does not consider that they conform to design policies in the Local Plan and in the NPPF. Whilst it is clear that reservations remain regarding the design of the scheme, the pedestrian connectivity of the scheme has been improved by the introduction of a central walkway from Whitwick Road and conditions can be attached to the granting of any planning permission to require details of an amended elevation to Hotel Street in order to break up the mass of this elevation as well as details of materials, surfacing, lighting and landscaping. Through the discharge of these conditions, it would not be possible to fundamentally overcome the issues raised by the Council's Urban Designer but it would be possible to make some improvements to the scheme. The acceptability of the scheme in light of the design concerns is discussed in more detail in the 'Conclusion' section of this report.

### **Historic Environment Issues**

The site is located adjacent to the former Railway Hotel (now a day nursery), a Grade II listed building and consideration has been given to the impact of the proposal upon that designated heritage asset. The development would be located around 11 metres away at the closest point and the submitted plans indicate that, at a maximum height of 10.4 metres (approx), the proposed building would not be as tall as the existing listed building. It is noted that the previously approved scheme on the site included for a building that would have been

somewhere in the order of 12.5 metres taller than the ridge of the listed building's roof and, therefore, the previous scheme is considered to have a much more significant impact than the application currently submitted.

Nevertheless, the Council's Conservation Officer considers that the setting of the listed building would be affected by the development especially as the side elevation of the building is a functional elevation rather than having an active frontage. Whilst there would be harm to the setting of the listed building, the setting is not enhanced particularly by the current buildings which are to be demolished. Given the wider benefits of the scheme, the Council's Conservation Officer considers, on balance, that the harm to the setting of the listed building would be outweighed by other positive elements such as the re-development of this gateway site and the wider economic benefits.

The site also lies adjacent to the Coalville conservation area and the current buildings have limited merit given the appearance and poor condition. Although the design of the proposed building in close proximity to the Coalville conservation area is not considered to be a positive addition, it is not considered that the proposal would be harmful to the conservation area and, therefore, the Council's Conservation Officer does not raise an objection to the scheme.

In terms of archaeology, the County Archaeologist advises that the significance of the site lies in its 19th Century origins, specifically the survival on the Hotel Street frontage of buildings and elements of buildings which are likely to have their origin in the early development of Coalville. The affected buildings include probable workers' cottages, and a number of buildings of at least local significance. The County Archaeologist raises no objection to the application subject to the inclusion of relevant conditions including the approval of a written scheme of investigation. It is also noted that the principle of the demolition of these buildings has already been established by previous planning applications and demolition notices on the site.

### **Highway Safety**

The County Highway Authority (CHA) was previously consulted on the application site (currently occupied by Motors Coalville Ltd) for proposals to build a Tesco store of 6,526sqm along with two retail units totalling 714sqm and 63 residential flats (08/00917/OUTM). The CHA recommended approval for the previous Tesco application, subject to improvement works on the highway network. The current application is for a retail park totalling 5,949sqm across six units. The current application therefore represents a smaller scale of development. However, the CHA advised that a new Transport Assessment (TA) would need to be submitted to identify any significant changes to the background highway network and to re-scope the extent of off-site works to be commensurate to the revised proposals.

The site is proposed to be accessed via a new ghost island priority junction to be provided on Whitwick Road. Units 1 to 5 are proposed to be serviced off Old Station Close whilst Unit 6 (which is much smaller in scale) is proposed to be serviced from the main car park. The CHA is content with the access details and servicing arrangements in principle.

The TA has considered the traffic impact at the A511/Whitwick Road roundabout and the Hotel Street/Whitwick Road junction as agreed with the CHA at scoping stage. Initial investigation at scoping stage also considered the likely traffic flows at the High Street/Memorial Square junction and the A511/Thornborough Road roundabout, but it was subsequently agreed with the CHA that the impact was unlikely to be material and therefore did not require consideration in the TA. In assessing the traffic impact, the TA has considered the level of trips likely to be generated from the proposed retail park using the industry standard TRICS database.

*Whitwick Road/site access*

The ghost island priority junction has been demonstrated to operate well within capacity, for both the weekday evening and Saturday peak.

*Hotel Street/Whitwick Road junction*

The priority junction has been shown to operate well within capacity, both with and without the development in the weekday evening and Saturday peak.

*A511/Whitwick Road roundabout*

The roundabout has been demonstrated to be operating at a level over its capacity in the evening peak without development. As a result of the development generated traffic, the following operational impacts are predicted:

- A511 (western approach): immaterial impact
- Hermitage Road: remains within operational capacity
- A511 (eastern approach): slight impact with increase in queues and delays , over capacity
- Whitwick Road: slight impact with increase in queues and delays, still within capacity however over theoretical capacity where congestion effects become evident.

Although there will be an impact at the A511/Whitwick Road roundabout, given that a) the trip generation figures are reasonable and b) the previous application for a larger Tesco store only proposed minor improvements at the junction, the CHA is content that no mitigation works are required as it is unlikely that a scheme could reasonably be conditioned which would be commensurate to the level of development proposed. The roundabout has been demonstrated to operate within capacity in the Saturday peak.

A total of 154 car parking spaces are now proposed in the revised site layout. This is within the maximum levels set out in the 6C's Design Guide. Given the edge of town centre location, and in line with the principles of the Framework Travel Plan, the CHA require a Car Park Management Strategy to be provided.

A Framework Travel Plan (FTP) has been provided in support of the application. A late resubmission of the FTP was made and whilst there are minor issues to be resolved (these relate to calculations/references following revision of targets) the FTP can now be considered acceptable in principle. The CHA anticipates more precise details to be provided through the individual unit Travel Plans as each unit comes to be occupied.

The County Highway Authority raises no objections to the proposed scheme subject to conditions and subject to Section 106 contributions to secure the following:

1. A Construction Traffic Routeing Agreement to be submitted to and approved in writing by the Highway Authority. During the period of construction, all traffic to and from the site shall use the agreed route at all times.
2. Appointment of a Framework Travel Plan Co-ordinator from occupation of the first unit for a minimum of five years following the occupation of the last unit.
3. Appointment of a Travel Plan Co-ordinator for each unit/occupier from first occupation for a minimum of five years.
4. One Travel Pack per employee, to be provided from first employment. This can be provided

through Leicestershire County Council at a cost of £52.85 per pack. If not supplied by LCC, a sample Travel Pack shall be submitted to and approved in writing by LCC.

5. One six-month bus pass per employee to be provided at first occupation. This can be provided through Leicestershire County Council at a cost of £350.00 per pass.
6. A contribution of £6,526.00, towards the improvement of the two nearest bus stops on Whitwick Road to provide raised kerbs.
7. An iTRACE monitoring fee of £11,337.00 for the Framework Travel Plan.
8. An iTRACE monitoring fee of £6,000.00 for the Travel Plan of each unit to be occupied.

The applicant's transport consultant has provided a response to the contributions requested by the CHA and indicates that the request for bus passes and iTRACE contributions would not be CIL compliant. There are ongoing discussions surrounding these contributions with the CHA; however, the CHA is content that this application can be recommended for approval subject to agreement of contributions at the S106 discussions stage. Any update regarding this matter will be reported on the update sheet.

### **Flood Risk and Drainage**

A Flood Risk Assessment (FRA) has been submitted in support of the application. The Environment Agency flood zone maps indicate that the site lies within Flood Zone 1, and on this basis the site would appear suitable for development in principle (and in flood risk sequential terms, would meet the requirements of the NPPF).

The layout indicates that the scheme would include for a rain garden which would act as a small sustainable drainage feature although the scheme would also utilise new foul and surface water drains. Conditions would need to be attached to any planning permission to ensure that detailed and satisfactory surface water and foul drainage schemes are provided on the site.

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. In coming to this conclusion it is noted that the Environment Agency and Severn Trent Water raise no objections to the proposed development subject to the inclusion of relevant planning conditions and notes to applicant.

### **Ecology**

In terms of ecological issues, the County Ecologist originally placed a holding objection to the application pending the submission of additional surveys in relation to bats. These additional surveys have now been submitted as part of the application and identifies that a small number of bats were seen emerging from the rear of two of the buildings along Hotel Street. The County Ecologist does not consider the roosts to be significant, but as they would be lost, a licence would be needed from Natural England to demolish these buildings. Mitigation in the form of bat boxes built into the structure of the new buildings would be acceptable, as outlined in section 4 of the consultants' report. The comments received also indicate that update surveys and (if appropriate) revised mitigation proposals would be required if the buildings have not been demolished within three years of the submitted ecology survey. Subject to the imposition of conditions relating to update surveys and ecological mitigation, the County Ecologist raises no objection to the proposed scheme. Natural England raises no objections to the scheme



subject to biodiversity and landscape enhancements which could be secured by appropriate conditions and notes to the applicant.

### **Other**

In terms of National Forest Planting the scheme does not include for 20% of the site area to be planted. The National Forest Company has been consulted on the application and is disappointed that the application makes no reference to the need to accommodate planting within the development. However, as with the previous Tesco application on the site, the NFC would raise no objections to the scheme subject to a financial contribution of £12,400 towards off-site planting. The applicant's agent originally questioned the need for the financial contribution given that the scheme included for some planting but has now indicated that they are agreeable to a financial contribution of £6,200. Officers recognise that the current scheme differs from the previous Tesco scheme on the site and also includes for some on-site tree planting. Taking this into account a reduced contribution of £6,200 is considered to be acceptable in this instance.

In terms of the proposed landscaping shown on the submitted plans, the Council's Tree Officer has raised concerns over the suitability of the proposed landscaping in relation to the surrounding highway and car park areas as well as issues over the size of the proposed planting pits. Any increase in the size of the planting pits is likely to result in a reduction in the level of car parking that would be provided on site although a condition for a landscaping scheme is recommended which would ensure that more suitable species of trees are provided on the site.

Planning conditions would be required in respect of land contamination.

### **Conclusion**

As set out above the Council's Urban Designer strongly objects to the design of the proposals and does not consider that they conform with design policies in the Local Plan and in the NPPF. The concerns primarily relate to pedestrian connectivity, the lack of active frontages along Hotel Street and the design and appearance of the elevations that would be visible along Hotel Street. There have been some improvements to the connectivity of the scheme during the course of the application and conditions could be attached to the granting of any planning permission to require details of an amended elevation to Hotel Street in order to break up the mass of this elevation. Through the discharge of various conditions, it would not be possible to fundamentally overcome the issues raised by the Council's Urban Designer but it would be possible to make some improvements to the scheme.

It should be noted that the existing Ford Garage site is made up of large areas of car parking and commercial style buildings that do not result in a positive addition to the surrounding area. The range of units along Hotel Street are now derelict and some have been partially demolished which has resulted in these buildings detracting from the local environment. Therefore, whilst concerns remain regarding the design of the scheme, the replacement of the existing buildings on the site would be welcomed in principle and would remove buildings that currently detract from the area.

Paragraphs 18 and 19 of the NPPF indicates that significant weight should be placed on the need to support economic growth through the planning system. The proposal is not considered to have harmful impacts on the vitality and viability of the town centre and, furthermore, as a key gateway to the town centre, its redevelopment could act as a catalyst for the redevelopment of

the town. The scheme has the potential to bring about benefits in terms of enhanced retailer representation, reinforcing the role of the town centre in the retail hierarchy and has the potential to increase the comparison goods turnover of the town centre. Such an increase would provide attendant benefits such as increased footfall, increased investor confidence and greater operator interest. Therefore, the scheme would have some clear economic (and some social) benefits to Coalville and would accord with the thrust of the policies contained in the NPPF that seek to secure a strong, competitive economy. Therefore, whilst concerns have been expressed from the Council's Urban Designer regarding the design quality of the scheme, on balance, having regard to the potential economic benefits arising from the scheme, these concerns are not considered to warrant a refusal of the application and the scheme is considered to represent sustainable development.

The proposal is not considered to affect residential amenity in the area, conflict with highway safety, impact upon heritage assets, drainage, flooding or protected species. There are no other relevant material planning considerations that indicate planning permission should not be granted.

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

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

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

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

Drawing No. 0927 001 B deposited with the Local Planning Authority on 3 October 2014;  
 Drawing No. (08) 04 A deposited with the Local Planning Authority on 1 October 2014;  
 Drawing No. (08) 03 A deposited with the Local Planning Authority on 1 October 2014;  
 Drawing No. (08) 02 A deposited with the Local Planning Authority on 1 October 2014;  
 Drawing No. (02) 01 deposited with the Local Planning Authority on 5 August 2014;  
 Drawing No. (08) 08 deposited with the Local Planning Authority on 1 October 2014;  
 Drawing No. (08) 07 deposited with the Local Planning Authority on 1 October 2014;  
 Drawing No. (08) 06 deposited with the Local Planning Authority on 1 October 2014;  
 Drawing No. (08) 05 deposited with the Local Planning Authority on 1 October 2014.

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

- 3 The total gross floor space of the proposed development shall not exceed 5,949 square metres at any time unless separate planning permission has first been obtained from the Local Planning Authority.

*Reason - To ensure satisfactory control over the retail impact of the development, and to comply with Policy R1 of the North West Leicestershire Local Plan.*

- 4 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking or re-enacting that Order), units 1-5 shall be used solely for purposes falling within Class A1 (shops) of the Town and Country

Planning (Use Classes) Order 1987 (as amended), and for no other purpose.

*Reason - To ensure satisfactory control over the retail impact of the development, and to comply with Policy R1 of the North West Leicestershire Local Plan.*

- 5 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking or re-enacting that Order), unit 6 shall be used solely for purposes falling within Class A1 (shops), Class A3 (restaurants and cafés) or Class A4 (drinking establishment) of the Town and Country Planning (Use Classes) Order 1987 (as amended), and for no other purpose.

*Reason - To ensure satisfactory control over the retail impact of the development, and to comply with Policy R1 of the North West Leicestershire Local Plan.*

- 6 None of the units hereby permitted shall be amalgamated or subdivided, unless otherwise agreed in writing with the Local Planning Authority.

*Reason - To ensure satisfactory control over the retail impact of the development, and to comply with Policy R1 of the North West Leicestershire Local Plan.*

- 7 Save for any works associated with the formation of the access and highway network connections as shown on drawing no. ADC1093/001 Rev B, no development (excluding demolition) shall commence on the site until such a time as the Whitwick Road site access junction as shown on drawing no. ADC1093/001 Rev B has been provided in full and is available for use by vehicular traffic.

*Reason - To provide vehicular access to the site, including for construction traffic and in the interest of highway safety.*

- 8 No development (excluding demolition) shall commence on the site until such a time as a construction 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 materials (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.*

- 9 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as not to open outwards.

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

- 10 Notwithstanding the submitted Framework Travel Plan, no development (excluding demolition) shall commence until such time as a scheme of measures to reduce car travel to/from the site, are submitted to and agreed in writing by the Local Planning Authority.

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

or

Notwithstanding the submitted Framework Travel Plan, a scheme of measures to reduce car travel to/from the site shall be agreed in writing with the Local Planning Authority within three months of the date of first occupation of any unit, unless an alternative timescale is first agreed in writing with the Local Planning Authority.

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

(relevant condition will be finalised following discussion and negotiation with the County Highway Authority)

- 11 Notwithstanding the submitted Framework Travel Plan, no unit shall be occupied until such time as a Travel Plan is submitted for the corresponding unit and has been approved in writing by the Local Planning Authority.

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

or

Notwithstanding the submitted Framework Travel Plan, a Travel Plan shall be submitted to and agreed in writing with the Local Planning Authority within three months of the date of first occupation of each of the corresponding units, unless an alternative timescale is first agreed in writing with the Local Planning Authority.

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

(relevant condition will be finalised following discussion and negotiation with the County Highway Authority)

- 12 Notwithstanding the submitted Framework Travel Plan, no unit shall be occupied until such time as a Car Park Management Plan is submitted to and has been approved in writing by the Local Planning Authority.

*Reason - To ensure that car parking is effectively managed given the edge of town centre location of the development.*

- 13 No development (excluding demolition) shall commence on site until such time as a scheme of bus stop improvements has been submitted to and agreed in writing with the Local Planning Authority. None of the units hereby permitted shall be occupied until the agreed scheme has been provided in full, unless otherwise agreed in writing with the Local Planning Authority.

*Reason - To encourage the use of bus service to/from the site.*

- 14 No development (excluding demolition) 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 scheme should demonstrate the surface water run-off generated up to and including the 100 year plus 20% (for climate change) critical rain storm will not exceed the allowable discharge rate from the 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 also 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 all rainfall events up to the 100 year plus 20% (for climate change) critical rain storm to a discharge rate to be agreed with Severn Trent Water Ltd (STW), so that it will not exceed the run-off from the pre-developed site and not increase the risk of flooding off-site. Written confirmation of the discharge rate agreed with STW will need to be provided as part of any Discharge of Condition application submission.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate set by STW and all rainfall events up to the 100 year plus 20% (for climate change) critical rain storm.
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- 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.*

- 15 The development hereby permitted shall not be commenced (excluding demolition) until such time as a scheme to install oil and petrol separators has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

*Reason - To protect the water environment.*

- 16 No development (excluding demolition) shall commence on site until provision has been made for the satisfactory disposal of foul water from the site in accordance with a scheme which shall first have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented as approved.

*Reason - To ensure that satisfactory provision is made at the appropriate time for the disposal of foul water, to prevent pollution of the water environment, and to prevent the increased risk of flooding.*

- 17 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:

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

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

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

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

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

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 ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF.*

18 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:

- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- Contain Movement Permits for all materials taken to and from the site and/or a copy of

- the completed site waste management plan if one was required;
- Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- Demonstrate the effectiveness of the approved Remedial Scheme; and
- Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

*Reason - To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF.*

- 19 No demolition/development shall take place/commence until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation, submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

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

No development shall take place at any time other than in accordance with the agreed Written Scheme of Investigation. None of the units shall be occupied until such time as the site investigation and post investigation assessment has been completed in accordance with the programme set out in the agreed Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

*Reason - To ensure satisfactory archaeological investigation and recording, and to comply with the NPPF.*

- 20 The scheme shall be carried out strictly in accordance with the recommendations contained within Section 4 of the report entitled 'Bat Activity Survey Report - September 2014' prepared by JTecology and deposited with the Local Planning Authority on 12 September 2014.

*Reason - In the interests of nature conservation and protected species.*

- 21 If any building on the site is not demolished by 30th September 2017, an updated bat survey with revised mitigation (if necessary) shall be submitted to and agreed in writing with the Local Planning Authority. The scheme shall be carried out in accordance with the updated bat survey and mitigation measures (if submitted).

*Reason - In the interests of nature conservation and protected species.*

- 22 Notwithstanding the submitted plans, nor Condition 2 above, no development (excluding demolition) shall commence on site until detailed plans/details/samples (as appropriate) of the:-
- a. bricks, brick bond, and mortar
  - b. cladding (glass, metal and timber)
  - c. roofing materials
  - d. rain water goods
  - e. windows and doors
  - f. stone gabions
  - g. rain garden

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.*

- 23 Notwithstanding the submitted plans, nor Condition 2 above, no development (excluding demolition) 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) 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.*

- 24 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on site (excluding demolition) until such time as a landscaping scheme has been submitted to and agreed in writing with 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. The scheme shall have particular regard to the treatment of the site boundaries.

*Reason - To ensure satisfactory landscaping is provided within a reasonable period.*

- 25 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.*

- 26 Notwithstanding the submitted plans, nor Condition 2 above, no development (excluding demolition) shall commence on site until such time as a detailed scheme for the boundary treatment of the site has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the first unit is occupied.



*Reason - To preserve the amenities of the locality.*

- 27 No development shall commence on site (excluding demolition) until such time as a lighting scheme has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be carried out in accordance with the agreed details.

*Reason - To ensure a satisfactory standard of design and to provide an accessible environment.*

- 28 Notwithstanding the submitted plans, nor Condition 2 above, no development (excluding demolition) shall commence until such time as a revised treatments to the southern and western elevations of unit 1 have been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be carried out in accordance with the agreed details.

*Reason - To ensure that the works are executed in an appropriate manner and to ensure a satisfactory standard of design.*

### **Notes to applicant**

- 1 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority on 01530 454666 for further details.
- 2 All works within the limits of the public highway shall be carried out to the satisfaction of the Highway Area Manager (telephone 0116 305 2202).
- 3 The Developer will be required to enter into an Agreement with the Highway Authority under s278 of the Highways Act 1980 for works within the highway and detailed plans shall be submitted and approved in writing by the Highway Authority. The s278 Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
- 4 C.B.R tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements.
- 5 All street furniture or lining that requires relocation or alteration shall be carried out entirely at the expense of the Developer, who shall first obtain separate consent of the Highway Authority.
- 6 If you intend to provide temporary directional signing to your proposed development, you must ensure that prior approval is obtained from the County Council's Area Manager for the size, design and location of any sign in the highway. It is likely that any sign erected in the highway without prior approval will be removed. Before you draw up a scheme, the Area Manager's staff (telephone 0116 305 2104) will be happy to give informal advice concerning the number of signs and the locations where they are likely to be acceptable.
- 7 The applicant is advised that this approval relates solely to planning permission, and does not convey any consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. The Local Planning Authority would encourage the applicants to discuss a signage code in order to set design parameters for unit signage including size, materials, colours and lighting prior to the submission of any advertisement consent.
- 8 A section 106 is required and would need to provide the following:
  - A Construction Traffic Routeing Agreement;
  - Appointment of a Framework Travel Plan Co-ordinator from occupation of the first unit

for a minimum of five years following the occupation of the last unit.

- Appointment of a Travel Plan Co-ordinator for each unit/occupier from first occupation for a minimum of five years.
- One Travel Pack per employee, to be provided from first employment.
- One six-month bus pass per employee to be provided at first occupation. \_\_\_\_
- Contributions towards iTRACE \_\_\_\_
- National Forest Contribution of £6200 towards forest planting.

9 The Environment Agency states the following:

Whilst we welcome the proposed SuDS drainage strategy detailed within the above FRA and shown on Drawing No. D/001 P2, the proposed discharge rate from the site of 22.3l/s is higher than the 8l/s allowable discharge rate previously set by STW for this site, (planning application No.10/01045/REM). We therefore recommend an allowable discharge rate is sought from STW before detailed design of the surface water drainage scheme is undertaken.

10 Your attention is drawn to the advice provided by Natural England (ref 129655) dated 3 September 2014.

11 In relation to the conditions in respect of lighting, seating and surfacing, the submitted discharge of condition details should accord with the Council's adopted Four Squares and Streets plan.

12 In relation to landscaping, the discharge of condition information should specify details in respect of planting pits, protection (including space for growth) of 12no. car park trees and 11no. frontage trees. The car park trees should be semi-mature standard and the frontage trees should be super-semi mature, i.e. 40-80cms girth and a minimum of 10m in height.

13 The timber and timber effect cladding should be FSC certified.

14 In respect of surfacing, the discharge of condition information should not show thermoplastic markings to demarcate parking spaces and/or usage restrictions.

15 In relation to Condition 23 the Local Planning Authority would advise the following:

Rainwater goods must be hidden within the cladding of the structure and not visible as shown on submitted plans;

The selected bricks should be traditionally inspired and laid with a Flemish or English Garden Wall bond used throughout with recessed mortar joints through the use of chariot wheels. Prior to discharging any condition the Council will require a sample panel of the proposed materials including joints, edge finishes, visible fixings and the interfaces between adjoining materials.

16 The Council's Urban Designer indicates that the revised elevation could include for a glazed material with a pattern based on decorative floor tiles that are visible on two former shop entrances on Hotel Street proposed for demolition and that the west elevation could include for a terracotta rain screen material.

17 In relation to boundary treatments, public realm facing or boundaries visible from the public realm should be constructed from brick with double tile crease and coping brick.

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Development of up to 180 dwellings, including a retail unit,  
access and associated infra-structure (outline - all matters  
reserved apart from part access)

Report Item No  
A4

Land South Of Greenhill Road Coalville Leicestershire

Application Reference  
14/00614/OUTM

Applicant:  
Gladman Dev

Date Registered  
27 June 2014

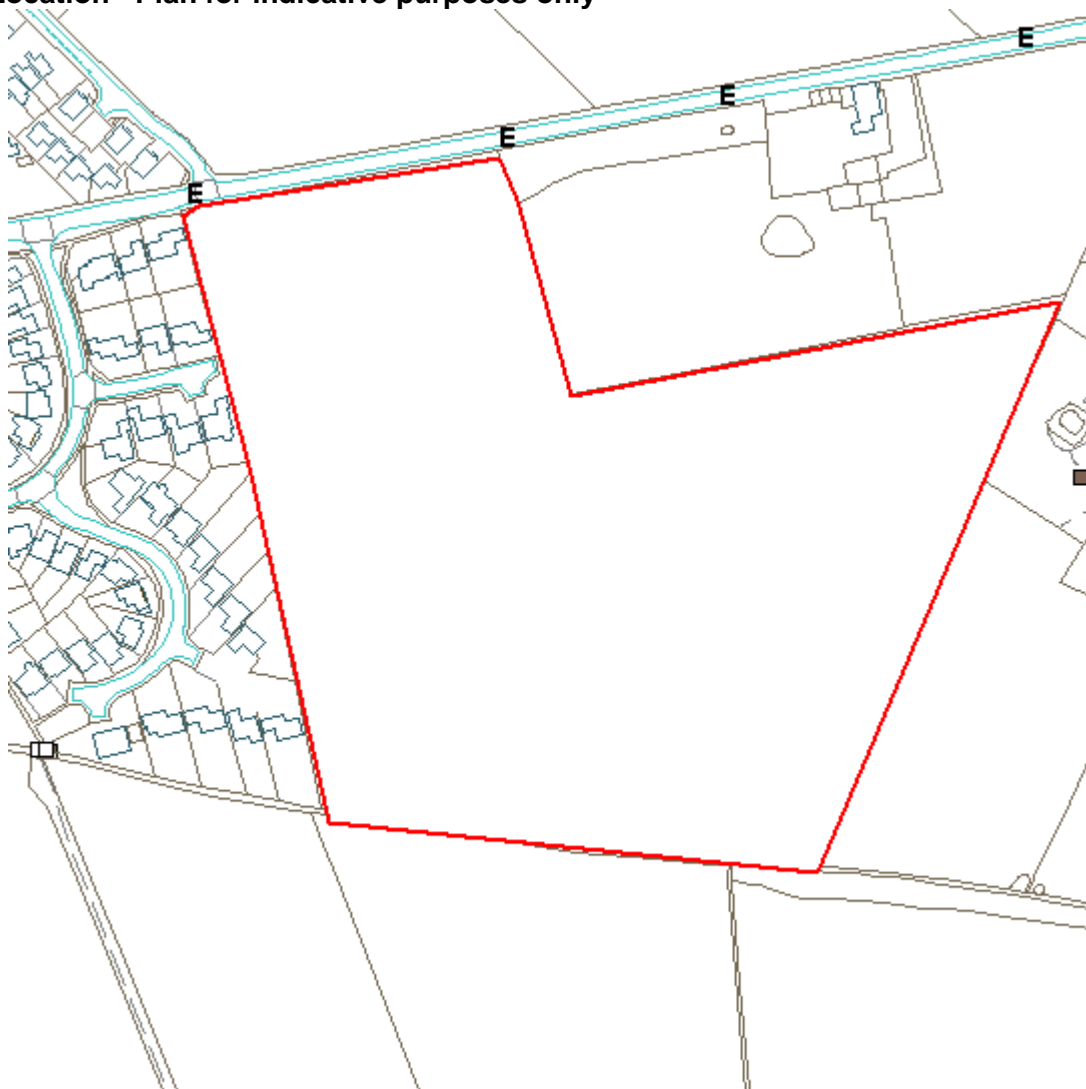
Case Officer:  
James Knightley

Target Decision Date  
26 September 2014

Recommendation:  
REFUSE

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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 180 dwellings, a retail store and associated works.

### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposals; there are a number of other objections raised by statutory consultees having regard to unresolved technical issues.

### **Planning Policy**

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and also within an Area of Particularly Attractive Countryside. 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 the application site is a greenfield site outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and is, for the most part, Best and Most Versatile agricultural land. Whilst the site has some degree of connectivity to local services, and whilst the District Council needs to maintain a five year (plus buffer) housing land supply, the view is taken that release of the site would not in any event constitute sustainable development, particularly when having regard to its location within an Area of Particularly Attractive Countryside (wherein Local Plan Policy E22 presumes against development which would diminish the present open character of such areas). In addition, there are a number of unresolved technical issues in respect of transportation (and, accordingly, air quality) and flood risk. The application as submitted also does not provide for appropriate contributions to infrastructure required to support the proposed development.

### **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 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 7.22 hectares primarily comprising grassland for up to 180 dwellings on land to the south of Greenhill Road, Coalville.

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 and shop (the shop being located to the north western part of the site), together with areas of public open space / children's play and surface water attenuation facilities.

The site is adjacent to agricultural and residential land, and lies to the opposite side of Greenhill Road from a site the subject of a recent resolution to grant planning permission for 70 dwellings (ref. 14/00050/FULM).

Vehicular access is proposed by way of a new priority access onto Greenhill Road. 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).

### 2. Publicity

39 no neighbours have been notified.(Date of last notification 14 October 2014)

Press Notice published 23 July 2014

Site notice posted 22 July 2014

### 3. Consultations

1 September 2014 County Planning Authority  
 1 September 2014 Head of Environmental Protection  
 14 October 2014 Environment Agency  
 14 October 2014 LCC ecology  
 18 July 2014 County Highway Authority  
 18 July 2014 Environment Agency  
 18 July 2014 Severn Trent Water Limited  
 18 July 2014 Head of Environmental Protection  
 18 July 2014 Natural England  
 18 July 2014 NWLDC Tree Officer  
 18 July 2014 County Archaeologist  
 18 July 2014 LCC ecology  
 18 July 2014 Airport Safeguarding  
 18 July 2014 NWLDC Urban Designer  
 18 July 2014 National Forest Company  
 18 July 2014 LCC Fire and Rescue  
 18 July 2014 LCC Development Contributions  
 18 July 2014 NHS Leicester, Leicestershire And Rutland Facilities Managme  
 18 July 2014 Development Plans  
 18 July 2014 Head Of Leisure And Culture  
 18 July 2014 Manager Of Housing North West Leicestershire District Council

18 July 2014 Police Architectural Liaison Officer  
18 July 2014 Highways Agency- affecting trunk road  
18 July 2014 Head Of Street Management North West Leicestershire District  
18 July 2014 DEFRA  
1 September 2014 Leicester & Rutland Wildlife Trust

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

**East Midlands Airport** has no objections

**Environment Agency** objects on the basis of the potential flood risk arising from the proposed drainage scheme

**Highways Agency** has no objections

**Leicestershire and Rutland Wildlife Trust** objects on the following grounds:

- Significant encroachment into the Charnwood Forest - the Charnwood Forest has been identified by the Trust as a priority Living Landscape, by the County Council, the District Council and Charnwood and Hinckley and Bosworth Borough Councils as a candidate Regional Park and by the National Forest Company as a key area within the National Forest
- Site outside Limits to Development and not a priority for development
- Within an Area of Particularly Attractive Countryside
- Site should be retained for its wildlife value and intrinsic landscape appeal
- Site adjacent to a mosaic of habitats and, as such, is an important wildlife corridor linking Bardon Hill SSSI, Charnwood Lodge NNR and Coalville Meadows SSSI
- Visual assessment is flawed - whilst views taken from Warren Hills are from the right of way, this land is open access land, and the views from the higher points accessible in this area are more relevant
- The findings of the submitted protected species survey are flawed

**Leicestershire County Council Local Education Authority** advises that no contribution to education provision is required

**Leicestershire County Council Library Services Development Manager** requests a developer contribution of £9,780

**Leicestershire County Council Highway Transportation & Waste Management Authority** requests a developer contribution of £11,768 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 Ecologist** recommends refusal on the basis of the layout submitted

**Leicestershire County Council Highway Authority** advises that it is awaiting further information from the applicant

**Leicestershire County Council Mineral Planning Authority** has no objections but notes the site's location in the vicinity of the Bardon Quarry and draws attention to previous resident concerns regarding noise and dust

**Leicestershire Police** objects unless a developer contribution of £65,482 in respect of policing is provided

**National Forest Company** has no objections in principle but suggests that a number of amendments be made to the proposed development framework including provision of a landscaped buffer to the eastern boundary

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

**NHS England (Leicestershire and Lincolnshire Area)** requests a healthcare contribution of £16,848.62

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

**Severn Trent Water** advises that there is currently insufficient public sewer capacity to accommodate the development and has provided an update on its ongoing work to address this

### Third Party Representations

60 representations have been received, objecting to the application on the following grounds:

- Site within the countryside / outside Limits to Development
- Site within an Area of Particularly Attractive Countryside
- Site within Green Belt
- Increased traffic / congestion
- Impact on wildlife
- Impact on air quality
- Site and adjacent land are liable to flooding
- Increased flooding to neighbouring properties
- Greenfield sites should not be developed when previously-developed sites and derelict properties are available
- Site has scientific interest
- Site close to a SSSI
- District Council has a five year supply of housing
- No need for additional new housing
- Disturbance from proposed retail use
- Unsafe access
- Insufficient infrastructure (including schools, healthcare, and highway network capacity)
- Insufficient employment for new residents
- Adverse impact on Charnwood Forest / National Forest
- Unsustainable
- Contrary to Local Plan policies
- District has sufficient housing supply
- Proposal should be subject to a referendum
- Loss of visual amenity
- Would set a precedent for other unsuitable developments
- Whitwick should not become part of a larger Coalville
- Site forms part of an attractive rural setting for Coalville
- Flawed supporting documents
- Lack of safe pedestrian access for schoolchildren
- Increased anti-social behaviour

- Litter
- Loss of green space
- Would diminish the open character of the area
- Negative impact on the character of the area generally and the streetscene
- Site should be planted with trees to assist in flood prevention
- Nearby David Wilson Homes development should not have been permitted
- Danger from proposed attenuation pond
- Loss of view
- Insufficient detail of proposals
- Shop not needed - other shops have recently closed due to lack of custom

In addition, whilst received prior to the submission of the planning application, the Local Planning Authority is in receipt, from Councillor Wyatt, of a number of 495 "pro forma" letters addressed to the applicants which he has requested be taken into account. Whilst not relating directly to the application proposals per se, these raised the following concerns regarding the potential development of the site:

- One of the few areas of natural beauty within Coalville
- Site is part of the Charnwood Forest as set out in the Core Strategy and should not be developed
- Insufficient highway infrastructure
- Increased flooding
- Do not support short term financial gain at the cost of the above

80 representations have been received, supporting the application on the following grounds:

- Would provide the opportunity to live nearer relatives
- Residents looking for larger and smaller properties
- Would benefit the town / business
- Would benefit schools
- District Council needs more rented properties

## 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."

"24 Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale."

"26 When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made."

"27 Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused."

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

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

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

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

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

"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."

"103 When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere..."

"109 The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability;..."

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

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

"124 Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan."

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

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

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

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

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 E22 seeks to prevent development which would, amongst others, adversely affect or diminish the present open character of Areas of Particularly Attractive Countryside.

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

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

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

Policy R1 provides that shopping and related development (such as financial and professional services and food and drink uses) will be permitted within Coalville and Ashby de la Zouch Town Centres, on allocated sites, and in existing or proposed local shopping areas. New retail development outside these areas will only be permitted where it can be shown that a number of criteria would be satisfied.

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.

### **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 adjacent 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 the built up area of Coalville and the range of services available therein, it performs relatively well in this regard. Whilst the site entrance is approximately 3.5km from the town centre (being the closest point of the Core Town Centre Shopping Area as defined in the adopted Local Plan), there are other facilities in closer proximity (including shops, schools and the Coalville Community Hospital). The proposals would also, of course, include an on-site shop. The site is also approximately 250m from the nearest bus stop; this stop is served by the Arriva No. 11 bus route connecting Agar Nook with the town centre on Mondays to Saturdays at approximately 10 or 15 minute intervals during the daytime (but with no evening or night time service, nor daytime service on Sundays).

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 requirement.

*Housing Land Supply and Limits to Development*

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

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

As reported to Committee on 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. The latest housing supply trajectory indicates that, as matters currently stand, using the approach of an annualised requirement with a 20% buffer, the District is able to demonstrate a supply of 6.65 years.

For their part, the applicants do not accept the Local Planning Authority's position in respect of housing land need and supply. To this end they have provided their own assessments of objectively assessed need (OAN) and the current supply situation. In brief, their submissions contend that the District has an OAN of 11,965 dwellings to 2031, equating to an annual requirement of 696 dwellings (as compared to the SHMA undertaken on behalf of the Leicestershire authorities which calculates a range of annual requirements (based on various assumptions regarding growth), the highest of which is 350 per annum). Having regard to this assumed annual requirement of 696 dwellings, the applicants calculate that the District's supply is, at best, 2.18 years.

It is noted from the applicants' OAN document that a number of criticisms made in respect of an earlier assessment they had undertaken in support of a Section 62 application (an application submitted direct to the Planning Inspectorate for determination under the "special measures" regime) in Blaby District appear to have been taken into account in the applicants' submissions. As a result, the housing requirement for both the Housing Market Area (HMA) and North West Leicestershire are reduced and, in the case of the North West Leicestershire, the annual requirement has decreased from 828 to 696. This is nevertheless still significantly higher than that recommended in the Leicester and Leicestershire SHMA undertaken on behalf of the Leicester and Leicestershire HMA authorities (350 dwellings per annum). It would appear that the difference is largely attributable to the different approaches taken in respect of economic

growth and its impact on dwelling numbers. The District Council considered a report at Cabinet on 21 October 2014 in respect of the SHMA and, in particular, a Memorandum of Understanding (MOU) which has been developed jointly by all the HMA authorities and is based on meeting the needs as identified in the SHMA. At that meeting it was resolved to recommend to Full Council that the signing of the Leicester and Leicestershire Housing Market Area MOU relating to the objectively assessed need for housing be delegated to the Chief Executive / Director of Services in consultation with the Portfolio Holder.

In terms of the applicants' report submitted regarding housing land supply, it is noted that the report accepts the District Council's figures in respect of likely supply over the next 5 years. The fact that they then contest that the Council does not have a 5 year supply is therefore largely due to the fact that the starting point in terms of overall requirements is their consultants' OAN which, as set out above, is significantly higher than the SHMA annual figure. It is also noted that they have applied an under performance figure for 2006-11 against the RSS requirement. It appears that this is because their consultants' work has not built in such under provision. It is officers' understanding that, in doing SHMA type work, it is normal to not build in for previous shortfalls as this will be picked up as part of the forecasting.

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.

In addition to lying outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, the site is located within an Area of Particularly Attractive Countryside (APAC) which, the Local Plan notes, represent the most significant and important rural landscape areas within the District. This designation is subject to Local Plan Policy E22 which provides that:

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

- (a) *Land to the east of Greenhill, Thringstone, Whitwick and Worthington, including part of Charnwood Forest...*

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

Accompanying paragraph 4.93 provides that *"In addition the District Council will seek to:*



- (a) *Undertake or encourage measures to protect and enhance the landscape, wildlife, habitat, archaeological and scientific interest of the designated area, including planting, nature conservation measures and the provision of nature interpretation and appreciation facilities;*
- (b) *Secure the positive management of land within the designated areas to enhance and maintain its wildlife habitat and features of scientific and archaeological interest;*
- (c) *Protect and conserve particular features which contribute to the special character of the designated areas, such as dry stone walls in the Charnwood Forest."*

As well as being within an Area of Particularly Attractive Countryside as defined in the adopted Local Plan, the site also falls within the Charnwood Forest Regional Park, an area comprising land within the District of North West Leicestershire, and the Boroughs of Charnwood and Hinckley and Bosworth, distinctive for its rugged upland landscape. Regional Parks are non-statutory partnership-led initiatives, and designation does not provide affected land with any statutory protection. There are no adopted Local Plan policies relating to the Regional Park, although a Vision has been agreed between Leicestershire County Council and the respective District and Borough Councils and provides that *"The unique natural and cultural heritage features of the Charnwood Forest will be managed and promoted through the Charnwood Forest Regional Park. The Regional Park will be recognised as an essential part of the growing communities in the Derby, Leicester and Nottingham area, now and in the future"*.

Further assessment on the impacts on the character of the Area of Particularly Attractive Countryside is contained within the relevant section below.

Having regard to the three dimensions of sustainable development, it is accepted that the development has the potential to make a positive contribution to the economic dimension by virtue of the growth associated with the proposed development. Subject to the issues surrounding the ability of the site to make a meaningful contribution to housing land supply within the next five years given the potential drainage constraints and, were the applicants to confirm the inclusion of appropriate contributions to local services as detailed below, the scheme has the potential to sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, however, and whilst the proposals would be reasonably accessible (during the daytime on six days per week, given the availability of the nearest bus service) in terms of need to travel and the movement towards a low carbon economy, for the reasons set out in more detail below, the proposed development would result in the development of part of an Area of Particularly Attractive Countryside located outside of the defined Limits to Development. The resulting environmental harm from these impacts would, overall, it is considered, indicate that, even when taking into account the economic and social dimensions, the proposals would not represent sustainable development.

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

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

The site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and, as such, the scheme would be in conflict with the relevant Development Plan and other policies designed to protect the countryside from inappropriate development, and including Local Plan Policy S3, a policy designed to protect the countryside for its own sake.

The site lies within an Area of Particularly Attractive Countryside; whilst this designation in itself does not preclude development in principle in the same way as Policy S3, separate tests are set out within Policy E22, and the proposals' performance against these requirements is set out in more detail later in this report.

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. Regardless, however, as set out within this report, the development would not be considered to represent sustainable development and, in principle therefore, the scheme is not considered acceptable.

### **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 priority junction to Greenhill Road. The illustrative layout also shows other potential pedestrian links through the site; these would also be a matter for the reserved matters stage(s).

The application is accompanied by a Transport Assessment and a Travel Plan. These documents indicate that, in the applicants' consultants' opinion, the development is in a location that is accessible by modes of travel other than the private car, and including foot, cycle and bus. They suggest that the development provides the "capacity to readily access these wider major destinations by rail and bus provides a key advantage in providing a real alternative to car travel (e.g. for journeys to work) and as such promotes the aim of reducing car travel". Whilst, as set out above, the nearest bus service (no.11) does not operate in the evening or on Sundays, in coming to this view, the Transport Assessment and Travel Plan have also had regard to the no. 29A service, which is approximately hourly seven days per week. The nearest stops served by the no. 29A are approximately 700m and 900m from the site respectively (depending on direction of travel on that service).

Insofar as the submitted Travel Plan is concerned, the County Highway Authority has requested clarification from the applicants' transport consultants on a number of issues within the submitted document, and the County Council disputes the Travel Plan's assertions in respect of the accessibility of local schools. In terms of the highways impacts generally, however, the County Highway Authority advised on 29 August 2014 that it was engaging with the applicants' transport consultants and have outstanding concerns about the trip distribution, area of assessment, site access proposals and accessibility. Following a meeting with the applicants' transport consultants on that date, the County Council advised that it was awaiting the submission of further information. The applicants subsequently advised the Local Planning Authority on 2 October 2014 that they would be submitting updated highways reports (along with other outstanding documents) on 7 October 2014 but, as of the time this report was being

prepared, no further highway documents had been received by the Local Planning Authority. However, it is understood that some supplementary information has been provided direct to the County Highway Authority but, at this time, there remain unresolved issues. In the absence of robust supporting information, therefore, it is recommended that the application be refused on this issue.

### **Landscape and Visual Impact**

The application is accompanied by a Landscape Visual Impact Assessment, as well as an Arboricultural Implication Study.

The Landscape Visual Impact Assessment considers the site's context in relation to surrounding development / landscape, and considers the impact upon a total of 12 viewpoints within the vicinity of the application site; views from areas further east within the Charnwood Forest are not assessed, however, as they fall outside the zone of theoretical visual influence (i.e. those areas within 2.5km of the site from where the development could be seen, assuming a maximum building height of 11 metres, and having regard to existing topography).

In terms of the impacts upon these 12 viewpoints, these are predicted at three principal phases (namely during construction, following completion, and at 15 years following construction) as follows (and expressed in terms of significance and residual impact (following mitigation)):

*Construction Phase:*

Nil / No Effect 1  
Slight Adverse 4  
Moderate Adverse 5  
Substantial Adverse 2

*Year 0 (following completion):*

Nil / No Effect 3  
Slight Adverse 5  
Moderate Adverse 3  
Substantial Adverse 1

*Year 15:*

Nil / No Effect 1  
Negligible Adverse to Nil / No Effect 2  
Negligible Adverse 2  
Slight Adverse 5  
Moderate Adverse to Slight Adverse 1  
Moderate Adverse 1

In terms of the mitigation assumed in undertaking the Landscape Visual Impact Assessment (and upon which the Year 15 residual impacts would be dependent), this includes retention of existing vegetation, provision of additional planting, and establishment of public open space within the middle of the site (so as to help break up the mass of the proposed development).

Overall, the Landscape Visual Impact Assessment concludes that the long term establishment of the site for residential and retail development would result in the scheme blending in with the existing setting of eastern Coalville, and that the visual impact of the proposed development would diminish over the short to medium term and would not have an unacceptably adverse

impact on public amenity. In terms of the views of the site assessed within the Landscape Visual Impact Assessment, it is accepted that its conclusions are, in themselves, reasonable (although, as suggested by the Leicestershire and Rutland Wildlife Trust, it is accepted that the Assessment does not appear to provide for a full picture of the potential views available from publicly accessible points on the Warren Hills).

The Landscape Visual Impact Assessment does not however make reference to the site's location within an Area of Particularly Attractive Countryside, nor the impacts of the development upon its character. However, the applicants' Planning Statement suggests that the site's allocation as an Area of Particularly Attractive Countryside is inconsistent with the landscape policies of the NPPF and, therefore, is out of date. This position appears to be taken on the basis of one of the footnotes to paragraph 14 of the NPPF. Paragraph 14, which relates to the presumption in favour of sustainable development, provides in respect of plan-making that Local Plans should meet objectively assessed needs unless, amongst others, specific policies in the Framework indicate development should be restricted, and the footnote to this criterion lists examples of designations which would indicate that meeting objectively assessed need would not necessarily be possible. The applicants' position appears to stem from the fact that Areas of Particularly Attractive Countryside are not one of the examples provided. Notwithstanding the point that this is a list of examples of such designations rather than an exhaustive list, there has in any event been no suggestion on the Local Planning Authority's part that its emerging Local Plan would not be able to accommodate its objectively assessed need (identified by way of the findings of the recently undertaken County-wide SHMA). As such, the applicants' suggestion that the protection afforded to the Area of Particularly Attractive Countryside under Policy E22 can no longer apply does not appear to be particularly well founded.

As set out above, Local Plan Policy E22 presumes against development which would adversely affect or diminish the present open character and attractive rural landscape and / or be detrimental to natural habitats and scientific interest of the relevant Area of Particularly Attractive Countryside. Whilst the findings of the Landscape Visual Impact Assessment are not disputed per se in that it is accepted that the impacts from the viewpoints considered could, to some degree, be mitigated, this does not address the fundamental issue that the proposals would, inevitably, diminish the open character of that part of the Area of Particularly Attractive Countryside upon which the development would be sited and the various mitigation measures suggested in the Landscape Visual Impact Assessment would not address this conflict with the adopted policy. Whilst it needs to nevertheless be considered whether other material considerations can outweigh this departure from the Development Plan (and, not least, the NPPF's requirements in respect of housing land supply and the presumption in favour of sustainable development), having regard to the Local Planning Authority's current position in respect of housing land supply, it is not considered that there is any overriding need to release the most sensitive areas of countryside within the District for housing. Whilst, in order to maintain a five year supply, it would seem likely that some areas of land outside Limits to Development would need to be released, any such release should, it is considered, be limited to areas wherein the adverse environmental effects of so doing would not be such that, overall, they would not constitute sustainable development. In this case, it is considered that there would be no overriding reason to release this part of the Area of Particularly Attractive Countryside for housing and that, on balance, any economic or social benefits of the scheme could not reasonably be concluded to outweigh the significant adverse environmental impacts in this regard.

In terms of retained and proposed planting, it is noted that the site lies within the National Forest. Insofar as the scheme's performance vis-à-vis the relevant National Forest standards is

concerned, based on the National Forest Company's Planting Guidelines, 20% of the site area (i.e. 1.44ha) would be required to be provided as woodland planting and landscaping. The National Forest Company notes that the submitted documents set out that the development includes 0.37ha of National Forest planting which equates to 5% of the site area, and that the remaining requirement would be provided by way of a commuted sum; the National Forest Company confirms that a sum of £21,400 has been agreed with the applicants in this regard.

Insofar as existing trees are concerned, the application is supported by an Arboricultural Implication Study assessing existing trees on the site, the majority of which are located on the site's periphery, although a number are nevertheless located within the proposed developable areas of the site, primarily adjacent to existing stone walls. Based on the illustrative layout submitted, significant loss of tree cover would appear unlikely to result although more detailed assessment of any potential implications on existing trees would need to be undertaken at the reserved matters stage. In terms of impact of the proposed vehicular access to Greenhill Road (which is not reserved), the submitted access plan indicates that a number of trees would be likely to be affected by the proposed access formation and / or provision of visibility splays. A number of trees appear to fall within the access visibility splays (whether in part or full) and the Arboricultural Implication Study indicates that, in order to form the proposed access, a number of trees (including a holly and a number of hawthorn) would need to be felled. These trees all fall within category C (i.e. trees of low quality). In addition, given the extent of the visibility splays indicated on the submitted access plan, it is not clear whether additional trees at the eastern and western extremities of the site would also be affected (including in part, depending on the extent of any works required to ensure the visibility splays are kept clear of obstructions); these trees include an oak (category B - moderate quality) and an ash (not assessed). Both of these trees' canopies appear to fall within the required splays but not necessarily to a degree where extensive works would seem likely and, as such, undue loss of amenity by way of any required works to these trees would seem unlikely to result.

### **Loss of Agricultural Land**

The site is currently in agricultural use and, insofar as the proposed built development is concerned, this would result in an irreversible loss to non-agricultural use.

Having regard to the need to ensure an ongoing five year supply of housing land, 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, and the Local Planning Authority has, accordingly, been permitting development on a number of sites constituting agricultural land as it seeks to meet its housing land supply obligations. 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.

The application is also accompanied by an assessment of the agricultural quality of the application site, indicating the following distribution of land quality:

Grade 3a:	4.7ha
Grade 3b:	2.2ha
Urban:	0.3ha

On this basis, approximately 65% of the application site would be BMV and, therefore, contrary to the thrust of the NPPF in this regard. Whilst the applicants' Planning Statement suggests that, as the land does not fall within Grade 1, the development of the site would address the requirements of Paragraph 112 of the NPPF, this position appears contradictory to that

paragraph in that it refers to BMV land (which, therefore, would include that part of the site falling within Grade 3a).

Nevertheless, it is also considered relevant to have regard to the extent of the loss. 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. Whilst, given the extent of the area falling within BMV grades, the extent of the harm caused to the supply of BMV land would not be very large, it is nevertheless considered that the loss of this higher quality agricultural land would weigh against the proposals in assessing whether the scheme constitutes sustainable development, and in the overall planning balance.

### **Flood Risk and Drainage**

A Flood Risk Assessment (FRA) and a Foul Drainage Strategy have been submitted in support of the application. The Environment Agency flood zone maps indicate that the site lies within Flood Zone 1 (i.e. less than a 1 in 1,000 annual probability of river or sea flooding in any one year) and, on this basis, the site is considered to pass the sequential test.

Insofar as the disposal of surface water is concerned, the FRA considers this to be the most significant source of flood risk. The FRA notes the potential for surface water to be managed by means of infiltration, disposal to watercourses and disposal to the public sewer. In terms of infiltration, the FRA suggests that this may be possible, but does not provide detailed assessment given the outline nature of the proposals. Insofar as disposal to watercourse is concerned, the FRA sets out proposals in this regard involving use of existing and enhanced drainage ditches (prior to disposal to a nearby watercourse). An attenuation pond is also proposed.

A number of objections have been raised by local residents on the potential for increased flood risk to their properties as a result of the proposed surface water drainage management measures. Concerns are also raised by the Environment Agency and the application as submitted is the subject of an objection from the Agency on the basis that (i) the proposed attenuation pond would include a top water level significantly above the floor levels of nearby existing properties and (as noted in the FRA), "during exceedance events, or failure in the system, runoff will migrate towards the west of the site, towards existing residential properties"; and (ii) the originally submitted FRA shows discharge from the pipe network directly to the existing ditches, with parts of the ditches contributing to attenuation provision. An amended FRA was submitted on 7 October 2014 and, at the time of preparing this report, the Agency's amended comments (and confirmation as to whether its objections have been addressed) were awaited.

Insofar as foul drainage is concerned, the applicants' Foul Drainage Strategy states that there are public foul sewers available in Romans Crescent or at an alternative location downstream of that point and that it is also possible that additional public sewers not currently shown on the public sewer records are located closer to the site, and available to connect to in Greenhill Road. The Strategy states that a new network of foul sewers (both on and off site, as well as a pumping station, if required) would be constructed and then connected to the existing public foul sewer network.

Concerns have been raised regarding the capacity of the local sewerage network, and its ability to accept additional flows, and representations have been received from local residents to the effect that, as a result of existing capacity issues, sewer flooding has taken place. Insofar as capacity is concerned, the Foul Drainage Strategy states that sewerage or waste water capacity

is not a material planning consideration. Advice on drainage matters can, however, be found within the DCLG's Planning Practice Guidance which states at ID 34 Paragraph 020 that *"If there are concerns arising from a planning application about the capacity of wastewater infrastructure, applicants will be asked to provide information about how the proposed development will be drained and wastewater dealt with. Applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment."*

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

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

For its part Severn Trent Water originally raised no objection subject to the inclusion of a condition requiring drainage plans for the disposal of surface water and foul sewage to be submitted and agreed. Having regard to earlier issues raised in respect of the nearby David Wilson Homes application (14/00050/FULM), however, further clarification was sought from Severn Trent Water. Severn Trent Water has subsequently advised that the proposed development was assessed by Severn Trent Water and a model carried out at the beginning of 2014, and the result was that there was no capacity in the public sewerage system due to restricted downstream pipe sizes and known flooding in several areas, as well as issues with a combined sewer overflow (CSO) in Greenhill Road and a CSO in Meadow Lane predicted to operate outside consent. Severn Trent Water advises that a scheme to remove groundwater infiltration into the public sewers further downstream has since started with sections of the sewers being relined and is expected to be completed by the winter, providing more capacity within the existing sewerage system in the area. Severn Trent Water confirms that this would increase the capacity to accommodate the 79 dwellings resolved to be approved under application 14/00050/FULM and some of the 180 the subject of the current application. Insofar as more substantial increases are concerned (i.e. to accommodate the whole of the proposed development plus the David Wilson Homes scheme), Severn Trent Water advises that it is looking at various options in this area to raise either a Flood Alleviation Scheme (FAS) or a Growth Scheme and that FAS / Growth schemes usually take between 12 and 24 months to complete subject to completion of investigations, solution design and carrying out of the civil works required.

In view of the position as set out by Severn Trent Water, the Environment Agency has also raised this as an issue and notes that, based on the modelling carried out by Severn Trent Water, there is currently no capacity in the public sewerage system downstream of the proposed development and, in addition, two CSOs were predicted to operate outside of consent. As such, the Agency advises that, should its existing objections be resolved, it would wish to see a condition imposed on any permission preventing any development being occupied until such time as a scheme for the improvement of the existing sewerage system has been completed, the reasons for the condition being that (i) there is a lack of capacity in the public sewerage system downstream of the proposed development; (ii) the performance of CSOs downstream of the development would deteriorate in the absence of improvements to the sewer system; and (iii) the Grace Dieu Brook is currently classed as "poor" under the Water Framework Directive, and that this "poor" status would be exacerbated by the development in

the absence of any improvements to the sewerage system.

It appears from the responses received therefore that a technical solution in respect of foul water disposal is possible in this case and, therefore, in accordance with ID 21a Paragraph 009 of the DCLG's Planning Practice Guidance, it is considered that a Grampian planning condition could be attached to deal with this issue. However, given the need for improvements to take place prior to occupation (having regard to the Environment Agency's suggested condition above), it is not entirely clear as to the extent that this development would be able to contribute towards the Council's five year housing land supply position. At the time of preparing this report, however, the Environment Agency's objection on surface water flooding issues remained in place.

### **Air Quality**

The application includes an Air Quality Assessment considering the impacts on nitrogen dioxide and particles associated with the development, including impacts arising from the construction works and the additional traffic associated with the development once it is in use. The submission has been assessed by the District Council's Environmental Protection team.

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

The Assessment considers likely air quality effects in two principal categories: impacts during the demolition, earthworks and construction phase (principally dust emissions), and impacts from road traffic during the operational phase (nitrogen dioxide and particulates). In terms of nitrogen dioxide implications from road traffic, it is noted that the Assessment includes consideration of the potential impacts on receptors within the Coalville Air Quality Management Area (AQMA), which is located in the vicinity of the junction between the A511 Stephenson Way and Broom Leys Road.

In terms of the construction phase, the Assessment indicates that, from the earthworks and construction operations, the development would, if unmitigated, have a "large" magnitude impact, and "medium" in respect of the "trackout" operations. However, the Assessment suggests that, subject to the implementation of appropriate mitigation measures as set out within the Assessment, the potential for nuisance dust and particulate matter to be generated would be substantially reduced and any residual impact would not be significant.

Insofar as the operational phase is concerned, the Assessment concludes that, for nitrogen dioxide concentrations, seven of the eight receptor locations considered would experience a "negligible / not significant" impact as a result of the proposed development in both 2014 and 2024; a "slight adverse" impact is predicted for the other receptor location (adjacent to the Broom Leys Crossroads, and within the AQMA). As per the construction phase impacts, mitigation is recommended by the applicants' consultants in respect of the operational phase, and including the implementation of a Travel Plan to reduce traffic use. Notwithstanding the impacts of the suggested mitigation, the development would still result in an exacerbation of the existing exceedances beyond the annual mean Air Quality Limit Value (AQLV) of 40 micrograms per cubic metre ( $\mu\text{g}/\text{m}^3$ ). The overall impacts of the exceedances would, however, be considered to be limited overall.

Having regard to this, no objections are raised by the District Council's Environmental Protection



team. However, it is noted that the Assessment has been undertaken having regard to traffic flow data provided by the applicants' transport consultants. As set out above, the County Highway Authority has not been provided with sufficient information to be able to confirm that the applicants' Transport Assessment is robust and, until such time as the extent of any additional traffic likely to pass through the AQMA (and the ability of any traffic control measures to mitigate the impacts of any such changes in traffic etc) is established, it is not possible to come to a final view on the likely air quality impacts (i.e. if the Local Planning Authority is unable to be satisfied that the applicants' predicted traffic impacts are correct, it is similarly difficult to come to a firm conclusion that there would be no unacceptably adverse air quality impacts on the basis of predictions based on assumptions set out within the applicants' transport evidence).

### **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 had raised concerns regarding the illustrative scheme, and in particular in respect of the character / legibility, street layout, perimeter block formation, landscaping space, impacting on Building for Life 12 questions 5, 9 and 10 (relating to local / distinct character; pedestrian, cycle and vehicle friendly streets; and car parking respectively).

An amended illustrative layout has subsequently been provided indicating what is considered to be a more appropriate approach to street hierarchy and legibility, along with illustrative street sections. Further to these updated details (and following advice on the amended details from the District Council's Tree Officer), the District Council's Urban Designer expresses concerns over the limited growing room for proposed street trees. 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 entirely appropriate, there appears no overriding reason why the site could not, in design terms, deliver an appropriate scheme at the reserved matters stage. The Urban Designer recommends that, should permission be granted, a condition be imposed requiring revised cross street cross sections to be produced that provide suitable growing space for trees (i.e. 3m verges / 5m front gardens). He also recommends the imposition of a condition requiring a Building for Life 12 based Design Code to be prepared and agreed by the Local Planning Authority prior to any reserved matters application being determined, together with the attachment of a note to applicant stating that the District Council will require the scheme to achieve 12 "greens" under Building for Life 12.

Notwithstanding these conclusions, however, as set out in more detail below, the County Ecologist has separate concerns over the illustrative layout and, as such, it remains to be demonstrated as to whether a suitable scheme which achieves the respective Building for Life 12 and ecological aims could be provided. On balance, the view is taken that some form of development which achieved this would (probably) be achievable, although a different approach to defining and building on character may be necessary and, for example, the potential to draw on some of the stronger Charnwood Forest character features may be limited (e.g. retention of dry stone walls, given their implications in respect of Great Crested Newts).

### **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. The application is accompanied by a Noise Assessment.

In terms of future residents' amenities, the Noise Assessment identifies the areas of the site closest to Greenhill Road as being most susceptible to existing noise (from road traffic). To mitigate this impact on occupiers of the proposed dwellings, and to achieve a 55dBLAeq(16 hour) standard, the Assessment suggests that a 2m high close boarded fence or wall be provided to garden areas in northern areas of the site closest to Greenhill Road. Such an approach would appear unlikely to be appropriate in terms of design, but the Assessment also suggests that, if gardens were located on the screened side of dwellings, no further mitigation would be required. Internal noise levels could, the Assessment suggests, be secured by use of appropriate glazing. In addition to the sources considered in the Noise Assessment, Leicestershire County Council in its capacity as Mineral Planning Authority raises no objections but advises that the site adjoins land within the ownership of the operators of Bardon Hill Quarry. Whilst, the County Council advises, the proposed quarry extension would eventually move quarrying operations further to the east (and away from the Greenhill area), it is currently proposed that the associated processing plant area would remain in its present location to serve the extension works. The County Council advises that this is adjacent to the Greenhill area and has given rise to complaints from neighbouring properties relating to noise (as well as dust) issues. In respect of this issue, the District Council's Environmental Protection team advises that these noise and dust issues are controlled by the quarry operators' permit, and that problems only arise occasionally (and normally as a result of adverse weather conditions). No objections are raised by the District Council's Environmental Protection team, therefore.

Insofar as the noise impacts on neighbouring occupiers arising from the proposed development are concerned, the Noise Assessment identifies these as including construction noise, and potential impacts associated with the operation of the proposed retail unit (which would also impact on future occupiers of the development as well). In terms of construction impacts, the Assessment acknowledges the close proximity of the nearest sensitive receptors, but does not anticipate that any associated disturbance would be long-lasting, and would be negligible if undertaken in accordance with best working practice and at reasonable hours; such issues would normally be controlled under Environmental Protection legislation. In terms of the issues associated with the operation of the proposed retail unit, the Assessment suggests that mitigation measures would be incorporated into the design of the proposals so as to ensure noise impacts are acceptable at the closest receptors (assumed to be on Jacquemart Close and Greenhill Road), and delivery times be limited. Whilst the Assessment does not detail how these criteria would be met, it is accepted that, in principle, a store could be provided on the application site without undue loss of amenity, subject to appropriate design, orientation, control of external plant, location / separation from sensitive premises, screening and hours of operation / deliveries. The inclusion of any such restrictions / mitigation would, it is considered, depend on what exactly was proposed at the reserved matters stage. Again, no objections are raised by the District Council's Environmental Protection team.

In terms of other residential amenity issues, whilst an illustrative masterplan has been submitted, all matters (other than the proposed Greenhill Road access) 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 western part of the site) 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. Whilst there could be likely to be some impacts on occupiers of dwellings in the vicinity of the proposed

vehicular access (and including from vehicular movements and, potentially, vehicle headlights), 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 a Preliminary Ecological Assessment of the site. This provides that the closest statutorily designated sites to the application site are the Holly Rock Fields, Charnwood Lodge, Bardon Hill, Bardon Hill Quarry and Coalville Meadows Sites of Special Scientific Interest (SSSIs); Holly Rock Fields is less than 100m from the application site, to the opposite side of Greenhill Road and, the Ecological Assessment confirms, is a nationally important site for its lowland species-rich neutral grassland. In terms of non-statutory designation, 12 Local Wildlife Sites are located within 2km of the application site.

In terms of the potential impacts on these designated sites, the Preliminary Ecological Assessment states that the majority of designated sites are located at least several hundred metres away from the site and are therefore unlikely to be directly affected by the development. Insofar as Holly Rock Fields SSSI is concerned, by virtue of the location of the site access, the Assessment concludes that no direct impacts would be likely. Natural England considers that, given the nature and scale of the proposals, there is not likely to be an adverse effect on the nearest SSSIs as a result of the development, and raise no objections subject to the imposition of a condition requiring approval and implementation of a construction management plan designed to avoid any damage to the Holly Rock Fields SSSI. On this basis, Natural England advises, the nearby SSSIs do not represent a constraint in determining the application.

Insofar as the ecological value of the site itself is concerned, it is noted that the Leicestershire and Rutland Wildlife Trust objects on the basis that the site has ecological value as part of a wider "mosaic" of habitats in the area, and given the proposed development's encroachment into the Charnwood Forest which, as a whole, is of importance from a wildlife point of view. However, as set out above, there are currently no adopted Development Plan policies which provide for a Forest-wide protection in this way. The Preliminary Ecological Assessment indicates that the majority of the site comprises semi-improved grassland, with occasional scattered and dense scrub, young trees and tall ruderal vegetation, but that none of the habitats present are particularly rare or of significant botanical interest.

In terms of the potential impacts on protected species, the Preliminary Ecological Assessment confirms that additional survey work is required in respect of bats, amphibians, reptiles, badgers and breeding birds and, in the absence of these surveys, it was not considered possible to come to a reasoned view in respect of the application, and the County Ecologist confirmed the need for this outstanding work on 24 July 2014; these were subsequently submitted on 7 October 2014. Further to the receipt of this additional information, the County Ecologist confirms that the submitted surveys are now acceptable.

In particular, she notes that surveys for birds, bats, badger, amphibia and reptiles have been undertaken and comments that, whilst the habitats on site are not species-rich in general (comprising species-poor semi-improved grassland (although the dry-stone walls across and around the site are potentially of significance)), the site is nevertheless within an area of high biodiversity value, and considers it is important that these surrounding habitats are adequately buffered from development, and that the local wildlife corridors connecting sites are maintained within the development site to ensure connectivity of habitats for bats, birds and other fauna.

In terms of specific species, the County Ecologist advises that bat activity across the site was relatively low (and mainly along the boundaries, as would be expected), no badger setts were present (although there was evidence of badger use), and breeding bird populations were comparatively good (with a high number of species recorded on and adjacent to the site), and no reptiles were recorded.

Attention is drawn by the County Ecologist to what she considers to be a major potential impact from the development on Great Crested Newts which, whilst known to be in the locality, are not within 500m of the application site; there are a number of ponds close to the site which may be suitable for great crested newts, but the applicants' consultants have been unable to access these ponds (located on private land) to survey them. As an alternative, therefore, terrestrial pitfall trap surveys for amphibia have been undertaken which, whilst in accordance with national guidance, are, the County Ecologist advises, a less effective means of surveying for Great Crested Newts population than pond surveys. On the basis of the findings (which included a Great Crested Newt caught in a pitfall trap), it is agreed with the consultants that this suggests low use of the site by Great Crested Newts, but the County Ecologist considers it is nevertheless possible that there is a small / medium population of Great Crested Newts dispersed in all of the off-site ponds, and the proposals should therefore mitigate accordingly. In terms of the format of any such mitigation, this should, she advises, maintain connectivity between ponds which, based on the proposed illustrative layout, would not, she considers, be provided. Other concerns regarding the proposed layout are also raised, with buffer zones between proposed dwellings and retained woodland also required. In terms of the Great Crested Newt issues regarding the layout, concern is, in particular, raised regarding the proposed retention of existing stone walls running through the site which, whilst being acknowledged as being an important characteristic of the Charnwood Forest, would affect Great Crested Newt movement. As such, refusal is recommended by the County Ecologist on the basis of the proposed layout.

Whilst these concerns are noted, along with the issues raised in respect of the suitability of the illustrative layout to ensure the retention of suitable habitat, it is nevertheless the case that the proposed layout would be reserved. On the basis of the comments made by the County Ecologist, it would appear that, in principle, an acceptable layout (in ecology and biodiversity terms) would be achievable at the reserved matters stage and, as such, it is not recommended that the application be refused on this issue. Having said that, the issue does raise concerns as to whether the form of development likely to be required to achieve these ecological and biodiversity aims would be compatible with other design / layout objectives (as already set out under Design above).

It is noted that the Leicestershire and Rutland Wildlife Trust raises a number of concerns regarding the methodology and conclusions of the submitted surveys; the County Ecologist agrees with some of these concerns, but also accepts the difficulties faced by the applicants' consultants in this case, and, on balance, considers the approach taken to be reasonable. Whilst there are therefore some differences in this regard, however, it is considered that, overall, the survey work undertaken is not unreasonable. Leicestershire County Council provides independent professional ecological advice to the Local Planning Authority and, whilst concerns are raised by the Wildlife Trust, these concerns are not considered to be so significant as to override the County Council's overall view.

### **Proposed Main Town Centre Uses**

The proposed development includes a convenience store of up to 400sqm (gross), and including retail floor space of up to 280sqm, and the planning application is supported by

information in respect of the sequential test and impact (although, given the scale of the proposed retail development (which falls below the 2,500sqm threshold set out in the NPPF), no supporting information in respect of retail impact is required by the NPPF per se).

In terms of the sites considered by the applicants' Retail Assessment, these are limited to those with a relationship to the Cropston Drive Local Centre (as defined in the adopted Local Plan). The only site considered in respect of the Local Centre is the site of the former Cocked Hat public house, approximately 60m from the Local Centre (and, therefore, defined as "edge of centre"). This site is discounted on the basis it is too small to accommodate the proposed retail unit (the site being 0.13 hectares, whereas the area proposed for the retail unit as shown on the illustrative plan would be approximately 0.2 hectares).

Paragraph 24 of the NPPF provides that local planning authorities should require applications for main town centre uses to be located in town centres, then in edge of centre locations and, only if suitable sites are not available, should out of centre sites be considered. The application site is out of centre (i.e. the least sequentially suitable), although it is accepted that, for the reasons set out in the applicants' Retail Assessment, no centre or edge of centre locations are available within the Cropston Drive Local Centre. Paragraph 24 also provides that, when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. In this case, for the reasons already set out within this report, the site has a reasonable level of accessibility (albeit with limited access to public transport services during the evening and on Sundays) and, in this regard, it would seem debatable as to whether this site could be considered "well connected" to the town centre. In this case, however, it is considered reasonable to have regard to the fact that the proposed retail unit would, in part, serve the new population resident on the site (and, thus, reduce its occupants' need to travel to some degree) and, in this sense, this represents an argument for the retail unit in this location (and notwithstanding the existing convenience store on the Agar Nook estate, approximately 500m from the site); in the absence of any associated residential development, the location of a retail unit in this out of centre location adjacent to the existing edge of the settlement would, it is considered, be inappropriate in sequential terms. Whilst it is accepted that, sequentially, the applicants have demonstrated that no suitable town centre or edge of centre site is available, as a free-standing retail development it would appear unlikely that this site would be the most suitable of all potential out of centre sites. However, when taking into account the proposed associated residential development, it would be considered acceptable in retail policy terms to consider the sequential test as being passed in this case.

Insofar as impact is concerned, and as set out above, the NPPF does not require an impact assessment for developments of less than 2,500sqm. However, Paragraph 27 provides that, where an application is likely to have significant adverse impact on town centre vitality and viability or investment in centres, it should be refused. In this case, it is accepted that any significant adverse impacts on existing centres would be unlikely.

On the basis of the above, therefore, having regard to the proposed retail unit's association with the proposed residential development, it is considered that the proposed development would be acceptable in retail / town centre policy terms, and would not adversely affect the vitality and viability of nearby centres.

### **Heritage Issues**

The application is supported by an Archaeological Desk Based Assessment. This concludes that the site has low potential for as-yet to be discovered archaeological assets within the site

(other than a Medieval deer park boundary along the southern boundary of the site which, on the basis of the illustrative proposals, would remain intact); no representations have been received from the County Archaeologist.

In terms of other heritage issues, the Assessment concludes that there would be no direct or indirect impacts on the nearby Scheduled Monument (rabbit warren on Warren Hills) or listed buildings (or their settings) in that they would be screened from the development by intervening built development; there are no Conservation Areas within the immediate vicinity of the site.

### **Geo-Environmental Conditions**

A Phase 1 Geo-environmental site assessment has been submitted with the application which provides an assessment of the site's ground conditions, and indicates that, given the site's agricultural history, there is not considered to be significant potential for contamination. A further intrusive survey is recommended and the District Council's Environmental Protection team raises 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.

The applicants' Planning Statement advises that they propose contributions in respect of affordable housing, education, on-site open space / children's play, highways / public transport (i.e. a contribution to the District and County Council's Coalville transportation infrastructure contributions strategy), National Forest planting and community facilities.

#### *Affordable Housing*

The applicants propose to make an affordable housing contribution of 20% which would meet the relevant requirements as set out in the District Council's Affordable Housing SPD.

Insofar as unit size and tenure types are concerned, the applicants propose that 77% of the units would be affordable rent and 23% intermediate units, whereas the SPD indicates the relevant split would be 79% rented and 21% intermediate. However, subject to some amendments to the distribution of house types amongst the contribution, including a greater number of 2 bed units (and including 2 bed bungalows), the District Council's Strategic Housing Team is content with the proposals in principle, and with the use of affordable rent in lieu of social rent. As such, the proposals are considered acceptable in this regard, subject the applicants entering into a suitable Section 106 agreement including the relevant requirements of

the Strategic Housing Team. In terms of the proposed development's contribution towards sustainable development, the development would therefore score well insofar as this aspect of the social dimension is concerned.

*Children's Play and Public Open Space*

The illustrative masterplan shows a significant proportion 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 is indicated on the illustrative masterplan as being 400 square metres in area. 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 180 dwellings, an area for children's play of 3,600 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, the minimum requirements of the SPG would be comfortably met. Overall, the illustrative material indicates that approximately 1.76ha (i.e. 24%) of the 7.22ha site would be given over to public open space / landscaping and SUDs measures. As mentioned under Landscape and Visual Impact above, this would include a shortfall in respect of National Forest planting on-site, but the shortfall in this regard would be satisfactorily addressed by way of the proposed financial contribution towards Forest planting off-site.

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. On the basis of the submitted illustrative layout, it would appear that no on-site "kickabout" / recreational open space provision is proposed, and the applicants have been requested to confirm their proposals in this regard; at the time of preparing this report, a response was awaited.

*National Forest planting*

As set out above, the applicants' proposals include the provision of a combination of on-site planting and an off-site commuted sum in respect of National Forest planting, and the proposals are therefore considered appropriate in this regard.

*Education*

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

*Primary School Requirements:*

The site falls within the catchment area of Warren Hills Primary School. The School has a net capacity of 198 and 257 pupils are projected on roll should this development proceed; a deficit of 59 places (of which 15 are existing and 44 are created by this development). There are currently no pupil places at this school currently being funded by Section 106 agreements from other developments in the area. However there is one other primary school within a two mile walking distance of the development (Broom Leys Primary School) which has a forecast surplus of 62 pupil places and could therefore accommodate the pupils generated by the development,

and an education contribution is not therefore requested for this sector.

**High School Requirements:**

The site falls within the catchment area of Castle Rock High School. The School has a net capacity of 600 and 569 pupils are projected on roll should this development proceed; a surplus of 31 places after taking into account the 18 pupils generated by this development. There are currently no pupil places at this school being funded by S106 agreements from other developments in the area. There is one other high school within a three mile walking distance of the development (Newbridge High School) which has a forecast deficit of 20.94 pupil places after a total of 5.06 pupil places funded by Section 106 agreements from other developments in the area have been discounted. After taking all schools in this sector into account within a three mile walking distance of the development there is a surplus of 10.06 pupil places, and an education contribution is not therefore requested for this sector.

**Upper School Requirements:**

The site falls within the catchment area of King Edward VII College. The College has a net capacity of 1193 and 1073 pupils are projected on roll should this development proceed; a surplus of 120 places after taking into account the 18 pupils generated by this development, and no contribution in respect of the Upper School sector is therefore requested.

*Civic Amenity*

A contribution of £11,768 is sought by Leicestershire County Council towards civic amenity facilities so as to accommodate the additional use of the Coalville Civic Amenity site; at the time of preparing this report, the applicants had not confirmed whether they would be agreeable to making the contribution sought.

*Library Services*

A contribution of £9,780 is sought by Leicestershire County Council towards library facilities so as to accommodate the additional use of Coalville Library; at the time of preparing this report, the applicants had not confirmed whether they would be agreeable to making the contribution sought.

*Healthcare*

NHS England requests a developer contribution of £16,848.62 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 the Broom Leys surgery) together with commensurate costs of mitigation. In particular, the NHS advises that the practice has no spare consulting rooms available to accommodate the increased population, but that there would be scope to extend the surgery to enable this to take place, and it is considered that this request would meet the relevant CIL and NPPF tests; at the time of preparing this report, the applicants had not confirmed whether they would be agreeable to making the contribution sought.

*Contributions Sought by Leicestershire Police*

Leicestershire Police requests a developer contribution of £65,482 in respect of policing as set out in the consultation response above. The contribution sought comprises:

Start up equipment / training	£7,348
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Vehicles	£4,572
Additional radio call capacity	£459
Police National Database	£234
Additional call handling	£401
ANPR	£2,713
Mobile CCTV	£500
Additional premises	£48,895
Hub equipment	£360

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

#### *Other Contributions*

In addition to the contributions as set out above, the applicants' Planning Statement provides that they propose to pay a contribution of £50,000 towards improvements at the Agar Nook Community Centre. The Planning Statement states that the contribution *"is not required by planning policy and as such would not meet the proportionate tests of necessity and reasonableness of the CIL regulations. This is offered by Gladman following engagement with relevant parties and agreed a contribution would be to the benefit of the existing community and future residents generated by the proposed development"*.

The effect of the CIL Regulations is that it is unlawful for a planning obligation to be taken into account when determining a planning application for a development (or any part of a development) capable of being charged CIL if the obligation does not meet all three of the tests set out above.

It is agreed that there is no planning requirement for the proposed community centre obligation and, in particular, it is considered that it is neither necessary to make the proposed development acceptable in planning terms, nor directly related to the proposed development. As such, in officers' view, no weight should be attributed to this proposed contribution when determining the application.

Overall insofar as the various developer contributions are concerned, the view is taken that, save where indicated otherwise above, the 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, the site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, and constitutes greenfield land, the majority of which falls within the Best and Most Versatile agricultural classification. Whilst located adjacent to the existing settlement, and whilst it would appear to have a fair level of accessibility to local services, the District Council is currently able to demonstrate a five year plus buffer housing land supply. Whilst there is an ongoing need to demonstrate (and maintain) a five year housing land supply, when taking into account the site's location within an Area of Particularly Attractive Countryside (and the presumption contained within Local Plan Policy E22 against development which would diminish the present open character of such areas), the view is taken that the proposed development would not, overall, constitute sustainable development.

It will also be noted from the report above that, as of the time at which the agenda was

prepared, there were a number of unresolved technical issues. As set out above, further supporting information in respect of some matters has been provided but, having regard to the late nature of these submissions, consultees were not, at the time of drafting this report, in a position to provide their updated views. In view of this issue, following notification that they intended to forward additional information on 7 October 2014, officers contacted the applicants on 6 October 2014 to suggest that an extension to the statutory determination date (i.e. the date after which an appeal may be lodged against non-determination), but no agreement has been forthcoming, and the previously agreed determination date (4 November 2014) continues to apply. As such, the Local Planning Authority is not currently in a position whereby it can be satisfied that the technical issues have been addressed in a satisfactory manner, and the recommendation below therefore includes reasons for refusal based on these unresolved issues, and a failure to demonstrate they have been overcome. Should the submitted information subsequently resolve these matters to the satisfaction of the relevant statutory consultees, therefore, it is recommended that, should the Committee resolve to refuse the application for the reasons recommended, in the event of an appeal being lodged, that officers be authorised to advise the Planning Inspectorate as appropriate where any such issues have been overcome, and submit its case accordingly.

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

- 1 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in respect of protecting and enhancing our natural environment and using natural resources prudently. Policy S3 of the adopted North West Leicestershire Local Plan sets out the circumstances in which development outside of Limits to Development would be acceptable. Paragraph 112 of the NPPF provides that, 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. The site is located outside of the Limits to Development as defined in the adopted Local Plan, and is, in the most part, Best and Most Versatile (BMV) in terms of its agricultural quality. Approval of the application would result in the unnecessary development of BMV land located outside Limits to Development, not constituting sustainable development, and contrary to the policies and intentions of the NPPF and Policy S3 of the North West Leicestershire Local Plan.
  
- 2 In addition to being located outside of the Limits to Development as defined in the adopted North West Leicestershire Local Plan, the site also falls within an Area of Particularly Attractive Countryside. Policy E22 of the adopted North West Leicestershire Local Plan presumes against development within Areas of Particularly Attractive Countryside which would, amongst others, adversely affect or diminish their present open character. By virtue of the site's development for housing, the present open character of that part of the Area of Particularly Attractive Countryside forming the application site would inevitably be diminished, to the detriment of this part of the Area of Particularly Attractive Countryside and the character of the Area as a whole, neither protecting nor enhancing the natural environment and not constituting sustainable development, contrary to the policies and intentions of the NPPF and Policy E22 of the North West Leicestershire Local Plan.

- 3 Paragraph 32 of the National Planning Policy Framework (NPPF) requires that all developments that generate significant amounts of movement be supported by a Transport Statement or Transport Assessment, and that plans and decisions should take account of whether, amongst others, the opportunities for sustainable transport modes have been taken up, and that safe and suitable access to the site can be achieved for all people. Policy T3 of the adopted North West Leicestershire Local Plan requires development to make adequate provision for vehicular access and circulation and servicing arrangements. The application as submitted provides insufficient information to demonstrate the highways and transportation impacts of the proposed development, in the absence of which the Local Planning Authority is unable to be satisfied that unacceptable adverse highway safety and capacity impacts on the surrounding highway network would not result, contrary to the policies and intentions of the NPPF and Policy T3 of the North West Leicestershire Local Plan.
- 4 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in respect of minimising pollution. The site is located approximately 2.2km from the Coalville Air Quality Management Area (AQMA), an area designated on the basis of existing exceedances of the annual mean Air Quality Objective for nitrogen dioxide. The application is supported by an Air Quality Assessment but, having regard to the failure to demonstrate that the predicted traffic flows upon which the Assessment is based are robust, the Local Planning Authority is unable to be satisfied that unacceptable adverse impacts on air quality within the AQMA would not result, contrary to the policies and intentions of the NPPF.
- 5 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in respect of mitigating and adapting to climate change. Paragraph 103 provides that, when determining planning applications, local planning authorities should, amongst others, ensure flood risk is not increased elsewhere. The submitted Flood Risk Assessment (FRA) includes for potential drainage strategies which have the potential to increase the flood risk to others, contrary to the policies and intentions of the NPPF.
- 6 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its economic dimension) and also provides that the planning system needs to perform an economic role, including in respect of provision of infrastructure. The application as submitted does not include for appropriate contributions in respect of associated infrastructure (including mitigation for the impacts of the proposed development in terms of youth / adult recreation facilities, library facilities, civic amenity and healthcare), contrary to the policies and intentions of the NPPF.

### Notes to applicant

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Local Planning Authority acted pro-actively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but

fundamental objections could not be overcome. The 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).

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**Erection of 41 dwellings and associated infrastructure including the provision of play space and combined cycle and footpath.**

**Report Item No  
A5**

**Land Adjoining Wells Road And Willesley Road Ashby De La Zouch Leicestershire**

**Application Reference  
14/00520/FULM**

**Applicant:  
Mr David Prowse**

**Date Registered  
19 May 2014**

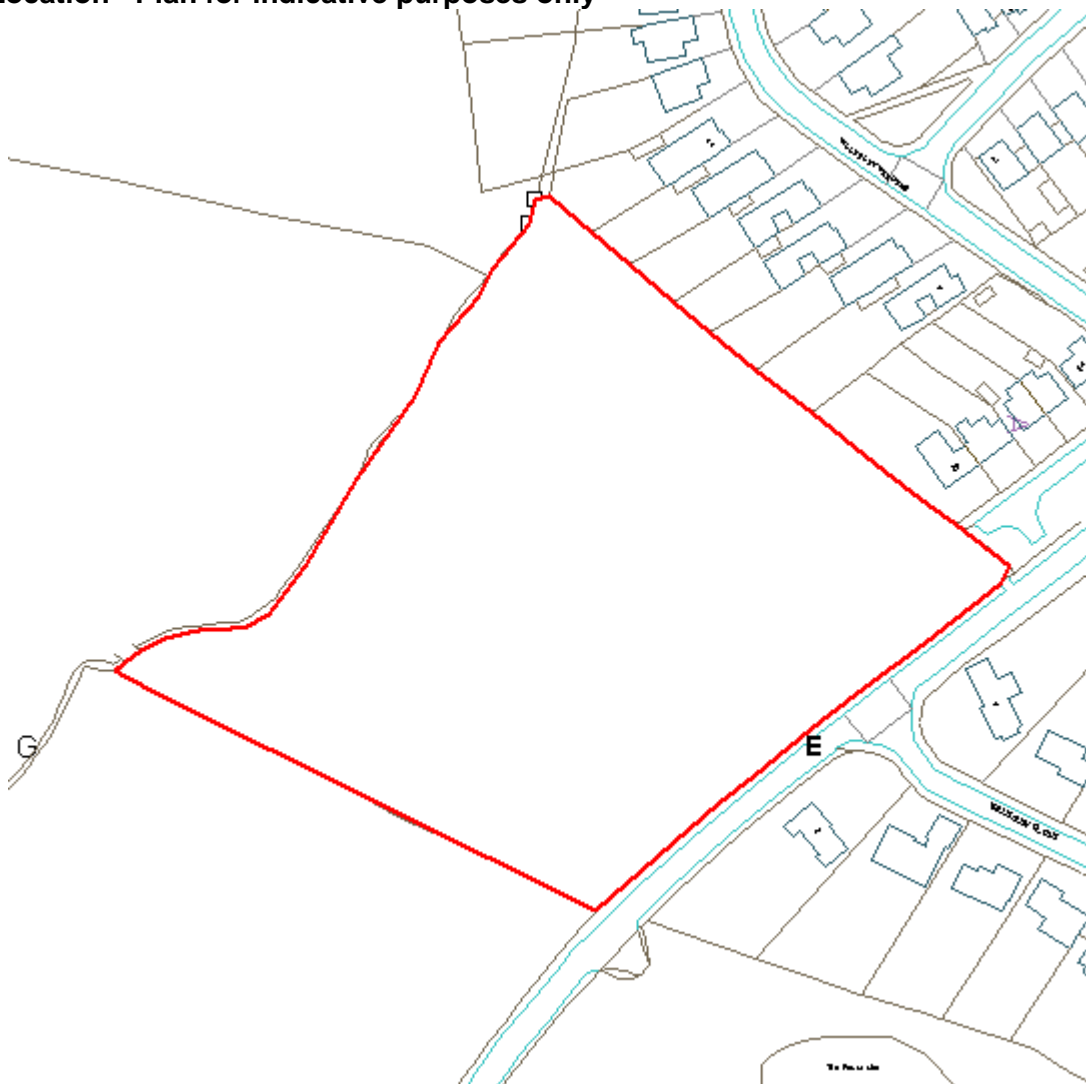
**Case Officer:  
Ebony Mattley**

**Target Decision Date  
18 August 2014**

**Recommendation:  
PERMIT**

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



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## **Executive Summary of Proposals and Reasons for Approval**

### **Reason for Call In**

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

### **Proposal**

This application seeks full planning permission for forty-one dwellings, comprising twenty-nine open market dwellings and twelve affordable dwellings at land at Willesley Road, Ashby.

Access to the site would be from Willesley Road to the east of the site and a combined pedestrian/cycle route is proposed from the north east corner of the site with Willesley Gardens, to the northern boundary of the site.

### **Consultations**

Members will see from the main report below that there are over 120 objections to the scheme, and an objection from Ashby Town Council. There are no other objections raised from statutory consultees.

### **Planning Policy**

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

### **Conclusion**

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 settlement boundary, 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, layout and scale, trees, residential amenities, highway safety, flood risk and drainage, ecological impacts and impact on the River Mease SAC/SSSI 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, subject to conditions and the signing of the S106 Agreement.**

**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

This application seeks full planning permission for forty-one dwellings, comprising twenty nine open market dwellings and twelve affordable dwellings at land at Willesley Road, Ashby.

The open market dwellings are made up of 2 x two beds, 16 x three beds, 11 x four beds, with the affordable comprising 8 x one beds, 2 x two beds and 2 x three beds.

The originally submitted scheme proposed thirty seven dwellings, comprising twenty six open market dwellings and eleven affordable dwellings.

For the avoidance of doubt the actual number of plots on site has reduced from 37 to 35, but due to the configuration of the eight, 1 bedroomed affordable units, the overall number of individual units has been calculated as forty-one.

During the course of the application amended plans have been received to show:-

- o An increase in the number of open market dwellings from 26 to 29 and increase in affordable dwellings from 11 to 12;
- o An increase in the number of 1 bedroomed affordable dwellings;
- o Provision of a combined cycle/footpath and connections to the wider area;
- o Re-location of un-equipped play space and provision of five pieces of equipped play;
- o Layout changes to roads and dwellings;
- o Changes to house types and additional fenestration detailing;
- o Additional tree planting;
- o Confirmation of retention of hedgerow and ash tree to the frontage.

Re-consultation has been undertaken with all neighbours and statutory consultees for a period of 14 days.

The layout has subsequently been amended to show:-

- o Improvements to parking area of plots 34-41;
- o Re-alignment of combined cycle/footpath route through the play area;
- o Removal of pedestrian connection to the sites frontage and retention of this section of hedgerow;
- o Removal of section of hedgerow required to achieve visibility at the sites entrance.

The amended plans have been re-considered by the County Highway Authority and the County Footpaths Officer.

The scheme proposes areas of play space and a balancing pond to the north west border of the site. Access to the site would be from Willesley Road to the south east of the site and a combined pedestrian/cycle route is proposed from the south east corner of the site with Willesley Gardens, to the north west boundary of the site. The combined pedestrian/cycle route is then proposed to be extended beyond the site to the Hicks Lodge Cycle Centre. A separate agricultural access is also proposed from the site to the north west boundary.

One ash and two lime trees are sited close to the access point with the two lime trees proposed

to be removed to facilitate the access. The ash tree is to be retained.

An informal, un-designated footpath runs to the north east boundary of the site parallel to the rear gardens of Willesley Gardens.

The site is in arable, agricultural use and is located outside Limits to Development, as identified in the North West Leicestershire Local Plan 2002.

The application is accompanied with a Transport Statement, Archaeological Desk Based Assessment and Field Walking Survey, Ecological Appraisal, Arboricultural Assessment, Flood Risk Assessment, Landscape and Visual Appraisal, Desk Study and Ground Investigation Report, Building for Life 12 Assessment, Planning Statement, Design and Access Statement and Draft Heads of Terms.

### **Planning History:-**

72/4243/02 - Erection of dwellings and formation of access - Refused - 07.09.72

### **2. Publicity**

49 no neighbours have been notified. (Date of last notification 14 October 2014)

Press Notice published 18 June 2014

Site notice posted 11 June 2014

### **3. Consultations**

Ashby De La Zouch Town Council consulted  
NWLDC Footpaths Officer consulted 12 June 2014  
County Highway Authority consulted 14 October 2014  
County Planning Authority consulted 14 October 2014  
LCC Development Contributions consulted 14 October 2014  
LCC/Footpaths consulted 14 October 2014  
Environment Agency consulted 14 October 2014  
County Archaeologist consulted 14 October 2014  
National Forest Company consulted 14 October 2014  
Manager Of Housing North West Leicestershire District Council consulted 14 October 2014  
NHS Leicester, Leicestershire And Rutland Facilities Manager consulted 14 October 2014  
Severn Trent Water Limited consulted 14 October 2014  
Natural England consulted 14 October 2014  
Police Architectural Liaison Officer consulted 14 October 2014  
Head of Environmental Protection consulted 14 October 2014  
Head Of Leisure And Culture consulted 14 October 2014  
Development Plans consulted 14 October 2014  
NWLDC Urban Designer consulted 14 October 2014  
LCC ecology consulted 14 October 2014  
NWLDC Tree Officer consulted 14 October 2014  
LCC/Footpaths consulted 13 June 2014  
National Forest Company consulted 16 July 2014  
Natural England consulted 9 June 2014  
LCC ecology consulted 9 June 2014  
Development Plans consulted 9 June 2014



Head Of Leisure And Culture consulted 9 June 2014

#### 4. Summary of Representations Received

##### Statutory Consultees:

**Ashby Town Council** raise objection on the following grounds:-

- Not consistent with the character and appearance of the local landscape
- Outside of the established urban area of Ashby, open countryside and at the heart of the National Forest
- The location has been given the landscape quality of 9 which is the highest value of all the sites in Ashby
- Not in accordance with the NPPF in terms of achieving and delivering sustainable development and conserving and enhancing the natural and historic environment
- Concerns regarding the ingress and egress from Willesley Road and the County has installed speed bumps indicating that there are concerns with speeding
- Streetscenes are out of character with the surrounding area, poor and unsympathetic design

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

**Severn Trent Water** raises no objection, subject to condition.

**The Environment Agency** raises no objection, subject to condition.

**National Forest Company** has confirmed that a surfaced footpath and cycleway through the site and the adjoining field to the cycle centre would be acceptable as a contribution towards the National Forest from this development.

**The County Highway Authority** raises no objection subject to the imposition of planning conditions.

**The County Footpaths Officer** is fully supportive of the route proposed for the cycleway/footway within the site.

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

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

**NWLDC Affordable Housing Enabler** is satisfied with the provision and tenure of the proposed affordable units on site.

**NWLDC Urban Design Officer** is satisfied with the amended layout and house types and raises no objection, subject to the imposition of conditions.

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

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

**NWLDC Tree Officer** advises that the trees to the sites frontage should be protected by a Tree Preservation Order.

### **Third Party Representations**

2 letters do not object to the dwellings being built but would like to see a permanent access to the bike trails from Ashby to Hicks Lodge.

124 original letters of objection have been received, raising the following concerns:-

#### *Principle*

- a) Contrary to NPPF in terms of achieving and delivering sustainable development and conserving and enhancing the natural and historic environment
- b) Significant impact on the character and landscape value
- c) The site is in an area of natural beauty
- d) Eats into the green belt between Ashby and Donisthorpe
- e) Loss of view
- f) Location given the high landscape quality value of 9 in the withdrawn Core Strategy - is of the highest value and only equalled by one other site in the whole District
- g) Site is located outside the established urban area
- h) Introduces an intensive form of development which is out of character
- i) Adds little to the 5 year housing land supply
- j) Facilities located to the North side of the town, the development is in excess of the 800 metre walking distance to everyday facilities and the nearest bus stop is 450 metres away, in excess of the 400 metre guidance.

#### *Scale and Layout*

- a) Contrary to Policy E4
- b) Decimate the visual aspect and approach to Ashby from Willesley
- c) The development does not include a play space and the nearest space is 1.2 km from the site
- d) Scale and massing is out of character with the built form
- e) Green infrastructure could become a nuisance
- f) The existing hedgerows and trees will only have a limited screening effect on the scheme
- g) The development is not consistent with the character and appearance of the landscape, which forms a gateway and access into the adjacent National Forest open access areas.

#### *Highway Safety*

- a) A number of accidents and incidents
- b) Poor visibility
- c) No footpath
- d) Narrow country road
- e) Increased traffic will pose a threat to pedestrians

- f) Recent traffic calming measures have not addressed this issue
- g) Junction design
- h) The use of the development access by agricultural vehicles would be in conflict with the safety and amenity of residents, particularly children.

*Drainage*

- a) No provision for enhanced drainage and sewage facilities
- b) Increased risk to flooding
- c) Lack of consideration for drainage

*Natural England*

- a) Impact upon wildlife, bird life, flora and fauna
- a) Song thrush, bats, wood peckers and other endangered species
- b) Should be planting more trees, not houses
- c) Loss of habitats
- d) On site hedgerows have been designated
- e) The visibility splays will require the removal of the existing hedgerow and trees fronting the site.

*Links/Footpath*

- b) Considerable numbers of the public, up to 100 a day walk or cycle down the side of this site to gain access to the trails.

*Other*

- c) Set a precedent and further adjacent applications would be difficult to resist
- d) Other developments in Ashby and schools and doctors cannot cope
- e) Other sites identified in the local plan and SHLAA 2014 and Ashby proposal plan west are likely to fulfil the 5 year supply of housing need
- f) The development has many similar aspects to the Packington Nook developments which have been refused and successfully upheld on appeal
- g) The documentation refers to Melton Local Plan and there are a number of assumptions and errors within the submitted accompanying documentation
- h) Other brownfield sites should be developed
- i) The site has history and an application has been refused in the late 1970's.
- j) Plans and street scene do not show the relationship between the new development and existing development.

Following re-consultation one additional letter of objection has been received raising the following objections:-

- a) Concern regarding local amenities and more house will exacerbate this
- b) Do not need any more house, far too many being built
- c) Greater noise and general discomfort and disruption
- d) Houses no longer stare into kitchen but are of lower standard than is in keeping with the area
- e) Parking - most homes would have more than 2 cars.
- f) Views into Ashby is picturesque, and scheme will lower the perception of Ashby and devalue the town

- g) De-valuation of property prices
- h) Do not wish to see another revised plan with even more houses on it.

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."

"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."

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

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

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

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

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

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

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

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

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

Policy E4 seeks to achieve good design in new development.

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

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

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

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

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

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

agreement.

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

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

Policy L21 indicates that new housing development will be required to incorporate the provision of children's play area, except where the development is a discrete site of less than 10 dwellings; or all play space needs arising from the development can be adequately met by existing facilities within walking distance.

### **Other Guidance**

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

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

*Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)* sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

*River Mease Water Quality Management Plan - August 2011* draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

*The River Mease Developer Contributions Scheme (DCS) - November 2012* is relevant to development which results in a net increase in phosphorous load being discharged to the River Mease Special Area of Conservation (SAC). It currently applies to all development which contributes additional wastewater via the mains sewerage network to a sewage treatment works which discharges into the catchment of the River Mease SAC.

*The Community Infrastructure Levy Regulations 2010* provides a legislative requirement that an obligation must meet the following tests:

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

*The Technical Guidance to the National Planning Policy Framework - March 2012* provides additional guidance relating to flooding.

*National Planning Practice Guidance - March 2014* supplements the policies in the NPPF. The



Guidance does not change national planning policy but offers practical guidance as to how such policies should be applied.

*North West Leicestershire District Council Supplementary Planning Document (SPD) for Affordable Housing* Key Principle AH3 provides that 30% affordable housing will be sought on all sites of 15 or more dwellings in 'Ashby de la Zouch'.

*North West Leicestershire District Council Supplementary Planning Guidance (SPG) Play Area Design Guidance* sets out the relevant requirements in respect of children's play provision required in association with residential development.

## 6. Assessment

The main considerations with regards to this application are the principle of development, density, layout and design, impact upon residential amenity, highway considerations, public footpaths and cycle routes, impact upon trees, protected species/ecology, archaeology, drainage and flood risk, the impact upon the River Mease Special Area of Conservation/SSSI, developer contributions and other matters.

### 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)).

The application site lies outside the Limits to Development of Ashby, as defined by the proposals map of the adopted Local Plan. The overarching principle of the NPPF is to protect the countryside but to allow sustainable development where appropriate. Schemes outside Limits to Development fall to be considered against Saved Policy S3 of the Local Plan.

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. The settlement boundary of Ashby runs along the rear gardens of Willesley Gardens incorporating Willesley Close and 'The Paddocks' to the south, accordingly the application site abuts the settlement boundary along its north east, east and south east boundaries.

The site is therefore bordered by residential development to two boundaries - to the north east

by Willesley Gardens and to the south east by Willesley Close and does not extend or encroach any further to the south of the settlement of Ashby, than Willesley Close. Insofar as the site's location is concerned, whilst the site it is located outside of Limits to Development, the site is well related to the settlement boundary, is bounded by existing development and is not therefore considered to be an isolated development in the countryside.

Objections have been raised by the Town Council and neighbouring residents, on the basis that the site been given a landscape quality value of 9. At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy. Accordingly no weight can be attributed to the policies contained with the Core Strategy for the purposes of determining applications.

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. 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.

### *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".

The latest housing supply trajectory indicates that, as matters currently stand, using the approach of an annualised requirement with a 20% buffer, the District is able to demonstrate a supply of 6.65 years.

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.

### *Sustainable Development*

In March 2012 the National Planning Policy Framework (NPPF) was published and introduces the presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved without delay and where relevant policies are out of date planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

There are three core strands underpinning the presumption in favour of sustainable development promoted within the NPPF. These are economic, social and environmental. So long as a development is consistent with these criteria, in principle the development should be considered acceptable.

**Economic** - in this respect developments should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to support growth, and by coordinating development requirements, including the provision of infrastructure. It is considered that the development would benefit the local economy through both the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and maintenance of local infrastructure. Accordingly the site is considered to be consistent with the 'economic role'.

**Social** - in this respect, developments should support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment. The development would provide both open market and affordable housing, appealing to a wider spectrum within the local market, thus increasing local market choice and appealing to groups whom may have otherwise been excluded from the locality.

**Environmental** - to fulfil this role development should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change. The 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'.

The NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. Based on the above discussions, the proposed scheme is considered to comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable.

### *Sustainability*

In terms of sustainability, Ashby has a wide range of services and facilities and a regular public transport service. 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 site to local facilities and services via the existing footway network

Bus Stop - 465 metres  
 Western Park, via Packington Nook Lane - 675 metres  
 Primary School - 790 metres  
 Public House, Tamworth Road - 900 metres  
 Play Space (to the west of Ridgeway Road) - 950 metres  
 Town Centre boundary 1,050 metres  
 Market Street - 1,480 metres

Whilst the bus stop, park and primary school are the only amenities within the maximum preferred walking distance, the bus stop is in close proximity to the site and can provide access to the facilities within the town centre. The nearest bus stop is located approximately 465 metres to the northern side of Tamworth Road and an hourly bus service runs along Tamworth Road.

There is also an existing footpath along the southern side of Willesley Lane which runs the entire length to the junction with Tamworth Road. There are also footpaths on both the north and south side of Tamworth Road into the town centre.

In addition, the scheme seeks to provide its own on-site play space, and there is an area of equipped play space and larger area of play at Western Park which is accessed via Willesley Road, straight on to Tamworth Road and then via Packington Nook Lane, being located approximately 675 metres away.

Furthermore, the scheme itself also seeks to promote walking and cycling, by providing a combined footpath and cycle route within the site. This is proposed to continue beyond the site, to the Hicks Lodge Cycle Centre, with the applicant willing to enter into a Section 106 Agreement to provide and surface this route. This will provide both future occupiers and existing residents in Ashby access to the Hicks Lodge Cycle Centre.

Ashby provides a good and wide range of day to day services and facilities which meet the day-to-day needs of Ashby as well as some of the surrounding villages. These include primary schools, a secondary school, a good range of shops, leisure facilities and library, health centre as well as recreational facilities and public houses.

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, it is considered that Ashby is a sustainable location for the level of development proposed for this site.

#### *Loss of Agricultural Land*

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. Whilst the site is currently in use as pasture land, the development of the site would result in an irreversible loss to a 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 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 applicant has confirmed that the land would be assigned to Class 3, however the Agricultural Land Classification does not specify whether the land would fall within a 3a (BMV) or 3b (not BMV) classification. If considering the scenario that the land is potentially BMV land, 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 1.54 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 small in scale but irreversible as there are no areas of open space/landscaping that would be large enough to accommodate an agricultural use in the future.

Nevertheless, if the site were to fall within Class 3a, it is not considered that the proposed development would sit 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, 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 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 (i.e. 1.54ha).

### **Density, Layout and Design**

#### *Density*

The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances.

The application proposes 41 dwellings on a 1.54 hectare site equating to a net density of 26.6 dwellings per hectare (dph). Policy H6 requires a minimum of 40 dph in town centre locations and accessible locations and 30 dph in other locations. As the site is considered to be accessible by public transport and accessible to services and facilities, then in this case the 40 dph would be applicable.

This density at 26.6 dph is, however considered appropriate having regard to the location of the site on the edge of the town and the rural character to the north and east of the site. Accordingly it is not considered that a higher density of development could be achieved on the site, without having detrimental impacts upon the proposal. Therefore, the scheme is considered to be acceptable in relation to the advice contained in the NPPF and Policy H6 of the Local Plan.

#### *Layout and Design*

Paragraph 64 of the NPPF states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and

quality of an area and the way it functions.

Following the submission of amended plans the scheme proposes one access point from Willesley Road which runs round in a loop creating two main internal streets within the scheme, in addition to the street adjacent to Willesley Lane.

It is acknowledged from letters of representation that the site occupies, locally, an important and visually prominent entrance into the town. However, it is important to note, as previously discussed the site abuts the settlement boundary and is bounded by residential development in the form of Willesley Gardens and Willesley Close. On this basis it is not considered that the site is an isolated development in the countryside. Therefore it is considered that it would be viewed in conjunction with existing surrounding residential development on the approach into and out of the settlement.

Furthermore, the layout has taken into consideration these concerns, by setting the dwellings approximately 10 metres back from the sites frontage, and through the retention of existing hedgerows, retention of a number of existing trees and additional planting. In addition, the north of the site has been proposed for the balancing pond and play pieces, and not dwellings, and it is also considered that the natural topography of the site, lower density and feathering out of the development towards the peripheries will assist the development assimilating into the countryside. Therefore it is considered that the residential scheme would not have a significantly detrimental impact upon the character and appearance of this setting.

The amended layout shows plots to south (plots 6-9, 25 and 27-28) fronting Willesley Lane, creating a strong attractive streetscene. Within the scheme, within the exception of the 1 bed roomed affordable dwellings (plots 34-41) the layout proposes dwellings facing inwards, addressing the internal access road with gardens to the rear. Plots 1,5,6,16,19,25,26 and 34-37 are identified as feature plots. These are positioned on prominent corner locations and are dual aspect designs, ensuring that there are no dull or blank frontages.

In the wider area there are a variety of styles of dwellings. In relation to the visual appearance of the built environment, the scheme proposes ten differing house types. Each house type proposes different design features such as external chimney stacks, canopies, arched headers, brick cills and other brick detailing which adds additional interest to the external appearance of the site as a whole. Following discussions with officers, during the course of the application, there have been alterations to the types of the dwellings proposed and further additional fenestration details and improvements have been made to all, including hipped roofs, external chimney stacks and variation in materials.

Given the range of detached, semi-detached, and terrace dwellings of 2, 3 and 4 bedroom configurations, of 2 and 2.5 storey proportions within the site, there are also a number of differing footprints and heights within the site.

The development provides appropriately sized gardens commensurate to the size of the dwellings and the scale of the single and double garages are subservient in scale to the dwellings to which they serve.

Accumulatively as a result of the differing styles, features, materials and sizes it is considered that an attractive scheme would be provided.

Areas of un-equipped play space are shown in pockets throughout the scheme, with the main play area adjacent to plot 5 and five pieces of equipped play space to the north of the site.

These areas will be provided natural surveillance by plots 5 and 16-19.

In respect of soft landscaping, the scheme has been designed to create a prominent boulevard tree lined style street (street 1). The set back of the dwellings from the road, with mature tree planting is considered to soften and enhance the appearance of the scheme. The level of planting is considered appropriate to contribute to the overall 'semi rural' character of the area and will contribute to the visual amenity of the development. National Forest have confirmed that they are satisfied with the planting shown within the amended layout and the suggested landscaping condition.

In relation to hard landscaping, the scheme proposes three types of road surfacing and there is a mixture of frontage and side parking to add variation.

No representative samples of the types of materials to be used on the external elevations of the dwellings and garages have been submitted or details in respect of boundary treatments or surfacing of the roads, driveways and footpaths and lighting and it is therefore considered necessary to impose conditions to ensure that these important details will be submitted to and approved in writing by the Local Planning Authority.

The land levels vary within the site, with the levels highest at the frontage with Willesley Road, sloping south to north with the lowest parts of the site in the north and north-west corners. Accordingly a condition requiring finished floor and road levels is recommended.

In summary, it is considered that the range of terraced, semi-detached and detached properties of 2, 3 and 4 bedroom configuration and 2 and 2.5 storey proportions adds interest and provides strong attractive street scenes, softened by the variation in architectural detailing, materials, surfacing, boundary treatments, trees and landscaping. As such the scheme is considered to be in accordance with Saved Policy E4 of the Local Plan and overarching intentions of the NPPF.

### **Impact upon Residential Amenity**

The residential dwellings most immediately impacted upon as a result of the proposal would be No.'s 1-9 Willesley Gardens and No. 28 Wells Road located to the north east of the site and No's 1 and 2 Willesley Close located to the south east of the application site.

The closest points between the rear of No. 1 Willesley Gardens and rear of plot 1 would be approximately 28 metres with 33 metres between No. 3 and plot 2, 32 metres between No. 5 and plot 3, 33 metres between No. 7 and plot 4 and 32 metres between No.9 and plot 5, respectively. It is therefore considered that there are sufficient distances to ensure no significant adverse impacts, in terms of loss of privacy, light and overbearing impacts. It is acknowledged that garages would be sited closer to the residential properties, however these are single storey and not habitable.

The largest area of play space is proposed adjacent to plot 5, and there would be a distance of approximately 18 metres between the rear wall of No. 11 Willesley Gardens and the proposed play space. It is considered that appropriate boundary treatments and planting, combined with the distance would ensure that there were not significant adverse impacts. For the avoidance of doubt the play area is proposed to be un-equipped.

There is a distance of approximately 20 metres between plot 6 and the side wall of No. 28 Willesley Road - which is considered sufficient distance away to ensure no significant adverse

impacts.

There is a distance of at least 25 metres between the front of plots 6 and 25 and the side elevations of No's 1 and 2 Willesley Close, with plots 7-9 being at least 20 metres (with no direct alignment) complete with an 'over the road' relationship, which ensures that there is no significant adverse impacts upon the occupiers of these neighbouring properties.

'The Paddocks' sited to the south east of the application site, to the south of properties on Willesley Close, is set back from the highway and it is not considered that there would be any direct impacts as a result of the proposal. Other neighbouring properties at Willesley Close, Willesley Gardens, Wells Road and Willesley Road are considered to be sited at sufficient distances away not to be significantly impacted upon as a result of the proposal.

In respect of impacts upon the future occupiers between the plots themselves, there is sufficient distance between the dwellings to ensure that there are no any significant overlooking, overshadowing, or overbearing impacts. Windows serving bathrooms and en-suites are to be fitted with obscure glass, secured by the imposition of a planning condition.

In summary, the proposal is considered to have minimal impacts upon amenity of existing neighbouring or future neighbouring residents. As such the scheme is considered to be in accordance with Saved Policy E3 of the Local Plan.

### **Highway Considerations**

Access is proposed from Willesley Road. The application has been accompanied with a Transport Statement.

During the course of the application, in addition to the combined cycle/footpath link, the scheme has also provided pedestrian connection to the sites frontage.

There is a mixture of frontage and side parking and single and double detached garages. All plots open market and affordable have at least two car parking spaces, with the exception of the one bed affordable units, which have one space each and two visitor spaces between them. For the avoidance of doubt all 2 bed properties (8 plots) have two parking spaces, with all other 3 and 4 bed properties having three parking spaces. Following the submission of amended plans all single garages have internal dimensions of 3.1 metres width by 6 metres in length and double garages of 6.1 metres in width by 6.1 metres in length.

The scheme has been considered by the County Highway Authority (CHA) who raises no objection, subject to conditions including off site works.

It is considered that a condition recommended by the CHA requiring details of parking, turning and access is not necessary as these details are provided for consideration and details in respect of pedestrian visibility, surfacing and lining are subject to separate conditions.

In addition, a suggested condition requires the provision of 2 car parking spaces for a dwelling up to three bedrooms and 3 car parking spaces for four or more bedroomed dwellings. The car parking provision, as discussed above, is considered to be acceptable and a condition is recommended securing that the parking be provided prior to first occupation of the respective dwelling and thereafter made available for parking.

In summary, subject to the imposition of conditions it is considered that the scheme is



acceptable in relation to Saved Polices T3 and T8 of the Local Plan.

### **Public Footpaths and Cycle Routes**

There are no formal, designated public footpaths running through the site, however a route has been used historically and informally to the north east periphery of the site, running parallel with the rear gardens of Willesley Gardens. Beyond the site to the north, the route continues before forking off in two directions, with the northern route used as an access to the National Forest Cycle Centre, at Hicks Lodge.

An application has been submitted by local residents to Leicestershire County Council for a Modification Order (ref: P114) to seek a Public Right of Way consistent with the existing informal route, as described. The County Council are currently proceeding with the preparatory work associated with the making of the Modification Order.

During the course of the application, discussions have been undertaken with the County Council, the National Forest and the applicant in respect of pedestrian footpaths and cycle routes. Accordingly the applicant has incorporated within the submission of an amended plan, a combined pedestrian and cycle route within the scheme, with the route also extending to the field to the north of the site. The applicant has made a commitment that this route will be formally offered as a formal Public Right of Way and Cycle Route for access to Hicks Lodge. The applicant has confirmed that they would be willing to enter into a Section 106 Agreement to secure the route, width and appropriate surfacing. The National Forest and Leicestershire County Council Footpath Officer have been consulted upon this and are fully supportive.

As such, whilst the route through the site, would not be consistent with that one currently used and sought by local residents, through the Modification Order, the scheme does seek to provide what will be a formally designated route through the site and beyond the site to the north, for access to the Hicks Lodge Cycle Centre.

In respect of the impact of the scheme on the current route used by residents, given that the route is not a designated footpath, then no weight can be given to the impact of the development on this route.

### **Impact upon Trees**

The scheme has been considered by the Council's Tree Officer who originally recommended that the lime trees to the sites frontage be protected by a Tree Preservation Order.

The issue that has been raised, was that if both of the lime trees were required to be retained, then the proposed access point would not be able to provide the necessary visibility required, for this speed of road, at the point proposed. The Tree Officer therefore advised that the removal of the lime trees, would only be acceptable providing that no other alternative access point along the sites frontage could be proposed and that adequate justification demonstrating this should be submitted.

Accordingly, during the course of the application the applicants, in direct consultation with the County Highway Authority have sought to propose alternative access points along Willesley Road.

An additional central access point was submitted, and additional speed surveys undertaken, however the County Highway Authority were of the opinion that highway safety would be

compromised and that the originally proposed access point should be re-proposed.

As such, it has therefore been demonstrated that there are no other suitable access points along Willesley Road, and therefore the originally proposed access point will be required to serve the development. Accordingly this results in the loss of the lime trees, to ensure that adequate visibility can be afforded for this access point.

The Tree Officer has therefore accepted appropriate, mitigation planting be proposed, to compensate for the loss of the trees, to be secured by way of condition.

It is considered that to insist upon the lime trees retention would be to the detriment of highway safety and accordingly on balance, the amenity value the lime trees added was not sufficient to outweigh the potential highway safety implications, in this case.

In respect of impacts upon other trees the proposed residential development is considered to be sited at sufficient distances away and it is recommended a condition be imposed for no dig construction in the vicinity of the play space to facilitate the route of the proposed cyclepath and footpath, to ensure no significant adverse impacts upon the tree (T13 - crack willow).

### **Protected Species/Ecology**

The application has been accompanied by an Ecological Appraisal, which has been considered by the County Ecologist. The County Ecologist has raised no objections subject to the imposition of planning conditions, and has confirmed that the hedgerow to the sites frontage, has been incorrectly designated and that there is no formal designation now upon it.

Following concerns raised by residents, the County Ecologist has confirmed that most of the hedges are being retained and the layout would be adequate to protect crayfish and it is unlikely that water vole would be present.

The site lies within the catchment of the River Mease Special Area of Conservation (SAC) and consideration of the potential impacts of the development on this designated site will be covered later in this report.

### **Archaeology**

The application has been accompanied by an Archaeological Desk Based Assessment and Field Walking Survey. The application has been considered by the County Archaeologist who has confirmed that no further archaeological involvement is required for this site.

Overall it is considered that the site has a low archaeological potential and consequently no further archaeological requirements have been recommended.

### **Drainage and Flood Risk**

The site lies within Flood Zone 1 as defined by the Environment Agency as having a low probability of flooding (less than 1 in 1,000 annual probability in any year). An unnamed ditch forms the site's western boundary and a small drain flows along the site's northern boundary.

The scheme proposes an open attenuation pond, in addition to proposed permeable paving within proposed private parking areas.

The application has been accompanied by a Flood Risk Assessment, which has been considered by statutory consultees, all of which raise no objections, subject to the imposition of planning conditions.

The scheme has been considered by the Environment Agency who raises no objection subject to the imposition of the condition requiring the development to be undertaken in accordance with the details provided within the Flood Risk Assessment.

In response to neighbours concerns in respect of flood risk to Willesley Road and Willesley Close, the applicant has confirmed that the risk of flooding along the adjacent Willesley Road has been assessed as 'low' (which has been accepted by the Environment Agency), and so the risk of surface water run-off being directed off the highway and into the site is low. The combination of the natural slope across the site, the proposed site layout (and specifically the proposed road alignment through the site) and the detailed design of the proposed roads, will ensure that any such run-off would be retained within the proposed roads and directed through the site towards the existing ditch along the western site boundary. This will ensure that the flood risk posed to existing and adjacent properties is minimised.

In respect of the concerns raised regarding the existing surface water sewer, the applicant has confirmed that the proposed scheme would not utilise the existing 400 m surface water sewer and so the sewer functionality would not impact upon the scheme's feasibility. In respect of a surface water management plan, the application has been supported by a drainage strategy which includes drawings and hydraulic calculations which demonstrate the effectiveness of the drainage scheme proposed in terms of managing surface water on-site and ensuring flood risk is not increased off-site.

Severn Trent Water has been consulted on the application and raise no objection subject to the imposition of a condition requiring the submission of drainage plans prior to the commencement of development. Consideration of the capacity of STW's treatment works is set out below in the section relating to impact on the River Mease SAC.

### **Impact on the River Mease Special Area of Conservation/SSSI**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. 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 Packington Treatment Works, which serves the Town. At March 2014 capacity as available for 533 dwellings but this is reduced by the number of dwellings that have consent and/or are under construction whilst also considering those which are pending consideration which at the time of writing totalled 233. Taking these into account, assuming all would be approved there would still be capacity for at worst case scenario, 300 dwellings. In addition, since this time there has been additional capacity, resultant of the closure of Arla Dairy on Smisby Road, Ashby. Accordingly a scheme for 41 residential units 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 41 dwellings would increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS. The exact calculation is provided later on in the report, under the heading "Developer Contributions".

Natural England has considered the scheme and raise no objections in relation to impact on the SAC/SSSI subject to conditions. 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.

In response to comments made by residents regarding pollution, neither the Environment Agency nor Natural England have raised concerns regarding pollution to the watercourse.

### **Developer Contributions**

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

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

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

### *Affordable Housing*

Under the Council's Affordable Housing SPD, 30% affordable housing is required on sites of 5 dwellings or more, and this would equate to 12.3 dwellings for the current proposal. The applicant is proposing that 12 of the dwellings be affordable, which would generally comply with the requirements of the SPD.

The Council's Strategic Housing Team have been consulted on the application and specifically requested the provision of 1 and 2 bedroomed units within the scheme, based upon the analysis of the Leicestershire Choice Based Lettings systems.

Accordingly the applicant within the amended plan submission has proposed 12 affordable units in total comprising 8 x 1 bedroomed units, 2 x 2 bedroomed dwellings and 2 x 3 bedroomed dwellings.

The Council's Strategic Housing Team has been re-consulted on the application and has advised that they are satisfied with the proposed affordable housing provision.

### *Play Space*

The Council's SPG also states that the Council will not seek any additional provision where existing play areas, within 400 metres walking distance, satisfy the needs of the area, including the proposed development. In this instance, whilst an existing play space would fall within 400 metres of the site, given the route that users (children) would need to take along existing footpaths, to access the play space, the site would be well in excess of 400 metres, and therefore on-site provision should be provided.

Discussions have been undertaken with the applicant and Town Council during the course of the application, regarding their preference between provision on-site or a commuted sum off site. Accordingly whilst within the latest discussions with the Town Council have confirmed their preference for a contribution in the form of a commuted sum be given to an existing near play space, in lieu of the on-site provision, as the site is beyond the 400 metres walking distance of the existing play space, then the Local Planning Authority has considered that on site provision would be more suitable in this instance.

Under the District Council's Play Area Supplementary Planning Guidance (SPG), on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 41 dwellings are proposed, this would require a play area of not less than 820 square metres. The scheme provides in excess of the policy requirement. In addition, during the course of the application, amended plans have been submitted showing the re-location of the proposed play space and provision of 5 pieces of equipment, in conformity with the Council's SPG.

As the Town Council would have now confirmed their preference for a contribution towards the existing play space, it is unlikely that there would be willing to maintain the proposed play space. Accordingly if further negotiations fail, the play space would be managed by a private management company. For the avoidance of doubt, a contribution for maintenance would be required if the play area was taken on by the Town Council.

A scheme for the play provision will be secured through the Section 106 Agreement. 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.

### *River Mease DCS*

A contribution under the River Mease DCS is required (as outlined earlier in the report) but an exact figure for the contribution cannot be determined at this stage, as the code levels of the dwellings has not been finalised. A Section 106 agreement would be worded as such to allow flexibility based on the construction code levels.

### *National Forest Company*

The application site extends to 1.54ha and the National Forest Planting Guidelines would normally require 20% of the site area to be for woodland planting and landscaping.

The National Forest has confirmed that if the surfaced footpath and cycleway through the site and the adjoining field to the cycle centre as shown on the 'Indicative Cycle Plan Improvement

Plan' is provided then we would be content with that as the contribution towards The National Forest from this development.

The National Forest have requested that the width of the cycle path should be 3 metres, with 2 meters being the absolute minimum and appropriate surfacing, similar to match the trails at Hicks Lodge. The National Forest have confirmed that they would be happy for these details to be secured through a submission required by the Section 106 Agreement, in addition to the long term ownership and maintenance.

#### *Healthcare*

NHS England have sought £12,410.55 towards the costs of providing additional accommodation at Ashby Health Centre for additional patients arising from the development. At the time of writing, the updated financial contribution from NHS England, following the revisions to the number of units has not been received, but will be reported via the update sheet.

#### *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 £95,824.16 for the primary school sector, for Ashby Willesley Primary School.
- a contribution of £58,991.36 for the high school sector, for Ivanhoe College.
- a contribution of £60,572.03 for the upper school sector, for Ashby School.

#### *Libraries*

Leicestershire County Council is seeking a contribution of £2,270 towards additional resources at Ashby de la Zouch Library.

#### *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:

- o Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
- o Six-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
- o Improvements to the nearest bus stop (Tamworth Road outside Loudoun House), including raised and dropped kerbs to allow level access, to support modern bus fleets with low floor capabilities. At £3263.00 per stop.
- o Information display case at a nearest bus stop; to inform new residents of the nearest bus services in the area. At £120.00 per display.

#### *Cycle Route*

The applicant has agreed to provide a combined pedestrian and cycle route through the site and the route is to be extended beyond the site to the Hicks Lodge Cycle centre, which is to be secured through the Section 106 Agreement.

### *Other Contributions*

No requests for contributions have been received from Leicestershire Police and the County Council has advised that a contribution towards civic amenity sites is not required.

### *Summary*

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

The applicant has confirmed that they would be willing to enter into an agreement to secure the above mentioned contributions, should there be a resolution to grant planning permission.

### **Other Matters**

#### **Previous Reason for Refusal**

An application was refused in 1972 (ref: 72/4243/02) for residential development for the following four reasons:-

1. The Local Planning Authority is of the opinion that the proposal is undesirable in that it is contrary to the intentions of the Approved Ashby de-la Zouch Town Map and the approved County Development Plan, which includes the site as being within a "white" area where the existing uses are to remain undisturbed.
2. The Local Planning Authority is of the opinion that sufficient land has been allocated for residential purposes within the Town Map Area to cater for the housing needs of the area in the foreseeable future.
3. The erection of dwellings on this agricultural land would constitute an unwarranted extension of development into the open countryside and would adversely affect the visual amenities of the area.

The approved Ashby de-la Zouch Town Map and the approved County Development Plan have subsequently been replaced since 1972 and as such carry no weight in the determination of this application. The merits of this case are for consideration at this time and each case is considered on a case by case basis. As discussed within the main report the site does fall outside of the settlement boundary, however the NPPF is supportive of sustainable development and the scheme is not considered to adversely affect the visual amenities of the area.

4. Furthermore, it is considered that the construction of an additional estate road onto Willesley Lane in close proximity to the existing junction at Willesley Close would not be in the interests of road safety.

The County Highway Authority have considered this scheme and do not consider that there is any reason to sustain a highway objection.

## Letters of Representation

In respect of other objections received which have not already been addressed within the report above:-

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy. Accordingly no weight can be attributed to the policies contained with the Core Strategy for the purposes of determining applications.

In respect of the concerns raised regarding the similarities with the Packington Nook developments, each case it considered on its own merits.

A right to a view is not a material planning consideration.

## Conclusions

In conclusion, as set out in the main report above, the site lies 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 site lies within the countryside, as defined in the Local Plan. Notwithstanding the conflict with the provisions of Policy S3 of the Local Plan, given its close proximity to built development and the settlement boundary, it is therefore considered that this site would form a natural extension.

When having regard to the sustainability credentials of the settlement and the site, on balance, it is considered that the proposal would represent a sustainable form of development for the purposes of the NPPF, and therefore, the principle of development is considered acceptable.

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, archaeology, 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.

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

**RECOMMENDATION, PERMIT, subject to the signing of the Section 106 Agreement and the following conditions, subject to no new significant material objections being received prior to the expiry of the consultation period on 28 October 2014.**

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

*Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act*



1990 (as amended).

- 2 The proposed development shall be carried out strictly in accordance with the following amended plans, unless otherwise required by a condition of this permission:; 1160 House Type Drawing No. BC/1160/ASHBY; Whitehall + House Type Drawing No. BC/TWHIT/ASHBY; Marlborough House Type Drawing No. BC/MARB/ASHBY; Mayfair House Type Drawing No. BC/MAY/ASHBY; Knightsbridge House Type Drawing No. BC/KNIG/ASHBY; Hanbury Plus House Type (Semi) Drawing No. BC/HAN/ASHBY; 1010 House Type Drawing No. BC/1010/ASHBY; Alnwick + (Semi) Drawing No. BC/ALNWICK/ASHBY; Leicester House Type Drawing No. BC/LEIC/ASHBY; 1160 House Type Drawing No. BC/1160/ASHBY; Whitehall House Type Drawing No. BC/TWHIT/ASHBY; Single garage Drawing No. BC/SGARAGE/ASHBY and Double garage Drawing No. BC/DGARAGE/ASHBY received by the Local Planning Authority on 14 October 2014 and 1 Bed Flat Drawings No. BC/FLAT/ASHBY received by the Local Planning Authority on 16 October 2014 and Alnwick/Hanbury (Terrace) Drawing Nos. BC/ALNWICKT/ASHBY and Planning Layout (Scale 1:500) received by the Local Planning Authority on the 23 October 2014.

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

- 3 No development shall commence until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

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

- 4 Notwithstanding the submitted detail, nor Condition 2 above, no development shall commence until precise details of all doors and windows (including porches and door surrounds, as well as doors to proposed garages) 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.*

- 5 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence until precise details of the treatment of verges, eaves and rainwater goods 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.*

- 6 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence until such time as precise details of all proposed chimneys 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.*

- 7 Notwithstanding the submitted plans, no development shall commence until such time as the precise details of a lighting scheme for all communal open space and parking areas are submitted and agreed to in writing by the Local Planning Authority.

*Reason: To ensure that the development provides for a satisfactory form of design, in the interests of safeguarding against actual and fear of crime and anti-social behaviour.*

- 8 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence until such time as a detailed scheme for the boundary treatment of the site including the precise details of the treatment of the demarcation of all public realm facing boundaries that will be a minimum of 1.2m high comprising of either railings with hedging, dwarf walls with railings, or dwarf walls have been submitted to and agreed in writing by the LPA. The development shall be carried out in accordance with the agreed details. The development hereby permitted shall not be brought into use until such time as the approved scheme has been implemented in full (unless an alternative timescale is first agreed in writing by the Local Planning Authority). 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) 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.*

- 9 No development shall commence until a detailed landscaping scheme, including mitigation planting for the loss of trees, has been submitted to and approved in writing by the Local Planning Authority. The eight proposed trees along Street 1 shall be semi-mature trees of a minimum height of 5.5m and girth of 25-30cms, with focal trees adjacent plots 1, 25 and 26 and lime tree mitigation planting to the frontage shall be super semi-mature trees of a minimum height of 7.0 and girth of 40-45cms. The approved scheme shall be implemented in the first planting and seeding season following the first occupation of the first dwelling hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. 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 ensure satisfactory landscaping is provided within a reasonable period and a reasonable period for the replacement of any trees and shrubs.*

- 10 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence until such time as a detailed scheme for all surfacing of the access, driveways, parking areas and footpaths has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be undertaken in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority

*Reason: To preserve the amenities of the locality.*

- 11 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on the site until such time as details of the proposed bridge/structures to connect the site with the adjacent field to the north west of the site have been submitted

to and approved in writing by the Local Planning Authority and no dwelling shall be occupied until the scheme has been constructed in accordance with the approved details.

*Reason: To enable the Local Planning Authority to retain control over the external appearance, in the interests of the amenities of the area.*

- 12 No development shall commence until a scheme that makes provision for waste and recycling storage across the site shall first be submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities for residents/collection crews, and adequate collection point space at the adopted highway boundary.

*Reason: To ensure that the development provides for a satisfactory form of design, in the interests of amenity.*

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

*Reason: To ensure the development takes the form envisaged by the Local Planning Authority.*

- 14 No development shall commence until drainage plans for the disposal of foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the development is first brought into use.

*Reason: To ensure that the development is provided with a satisfactory means of foul water drainage.*

- 15 Notwithstanding condition 23 no development shall commence until drainage plans and surface water drainage management and monitoring plan have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the development is first brought into use.

*Reason: To ensure that the development is provided with a satisfactory means of surface water drainage management and monitoring as to reduce the risk of creating or exacerbating a flooding problem; to prevent an adverse impact on the River Mease Special Area of Conservation.*

- 16 No development shall commence until details for off-site highway work being a junction table at the Willesley Close/Willesley Road junction have been submitted to and approved in writing by the Local Planning Authority and no dwelling shall be occupied until the scheme has been constructed in accordance with the approved details.

*Reason: To reduce vehicle speeds on the approach to the site access.*

- 17 No development shall commence until details for off-site highway works being provision of a footway from the southern side of Wells Road to a suitable crossing point with drop kerbs and tactile paving on Willesley Road, have been approved in writing by the Local Planning Authority, and no dwelling shall be occupied until the scheme has been

constructed in accordance with the approved details.

*Reason: To ensure a safe pedestrian route to the footway on the southern side of Willesley Road.*

- 18 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.*

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

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

- 20 Before first occupation of any dwelling hereby permitted, visibility splays of 2.4 metres by 43 metres shall be provided at the junction of the access with Willesley Road. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

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

- 21 Before the first occupation of any dwelling hereby permitted, 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the Highway boundary on both sides of all accesses with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway. These shall be in accordance with the standards contained in the Highways Transportation and Development design guide and shall be so maintained in thereafter.

*Reason: To afford adequate visibility in the interests of pedestrian safety.*

- 22 Before first occupation of any dwelling hereby permitted, the respective car parking provision and any turning space shall be made within the curtilage, in accordance with the approved plans. The parking spaces and turning space so provided shall not be obstructed and shall thereafter permanently remain available for car parking and turning.

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

- 23 The development hereby permitted shall only be carried out in accordance with the

approved Flood Risk Assessment (FRA) revision 3, dated May 2014 Ref. R/C1409.001.03, under by Hydrock, including the mitigation measures detailed within it. The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or with any other period that may be subsequently agreed in writing by the Local Planning Authority.

*Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to assist in the achievement of good water quality status for the River Mease, to reduce the risk of flooding from blockages and to ensure maintenance access.*

- 24 Should development not start for two years since the last survey (April 2014) an updated badger survey will be required to be submitted to and approved by the Local Planning Authority.

*Reason: In the interests of protected species on the site.*

- 25 The windows serving bathrooms, en-suites and WCs shall be glazed with obscure glass to Pilkington Standard 3 (or equivalent) and shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority.

*Reason: To ensure that the development is not detrimental to the privacy and amenities of the existing and future occupiers.*

- 26 Notwithstanding the provisions of Part 1 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) the dwelling hereby permitted shall not be enlarged, improved or altered, nor shall any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse be provided 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.*

- 27 Utility boxes shall be painted black, unless otherwise agreed in writing by the Local Planning Authority.

*Reason: To ensure an appropriate form of design.*

- 28 No development shall commence until a scheme providing a tree protecting plan for the tree identified as T13 within the submitted Arboricultural Assessment (May 2014) and a method statement outlining cycle/footpath installation of "no dig" design is first submitted to and approved in writing by the Local Planning Authority. All works shall be carried out in accordance with the approved details and timetable.

*Reason: To ensure that existing trees are adequately protected during construction in the interests of the visual amenities and character of the area.*

### **Notes to applicant**

- 1 In respect of condition 3, the applicant is advised that render will be traditionally applied rough cast render. Monocouche and/or the use of plastic beading will not be permitted.

- 2 In respect of condition 4, the applicant is advised that porches and door surrounds must be constructed of timber that is either painted or stained. Full or partial UPVC porch structures and/or door surrounds will not be acceptable. UPVC windows and doors shall be of a cream or olive green finish.
- 3 In respect of condition 5, the applicants are advised the Local Planning Authority will be likely to require the submitted details to provide for, amongst others, the following: open toe rafters, mid course projecting brick detailing and wet bedded verges throughout the development.
- 4 In respect of condition 8, the Local Planning Authority will be likely to require the submitted details to provide for, amongst others, the following: a plan indicating the type of boundary treatment to be employed and where landscaping is proposed to demarcate public and private space, a photographic illustration of the proposed species.
- 5 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001).
- 6 The applicant will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
- 7 The applicant will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge must be made before building commences.
- 8 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).

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Erection of up to 50 dwellings (Outline - all matters other than access reserved)

Report Item No  
A6

Land To The North Of Top Street Appleby Magna Swadlincote Derby

Application Reference  
14/00082/OUTM

Applicant:  
Mr L Griffin

Date Registered  
6 February 2014

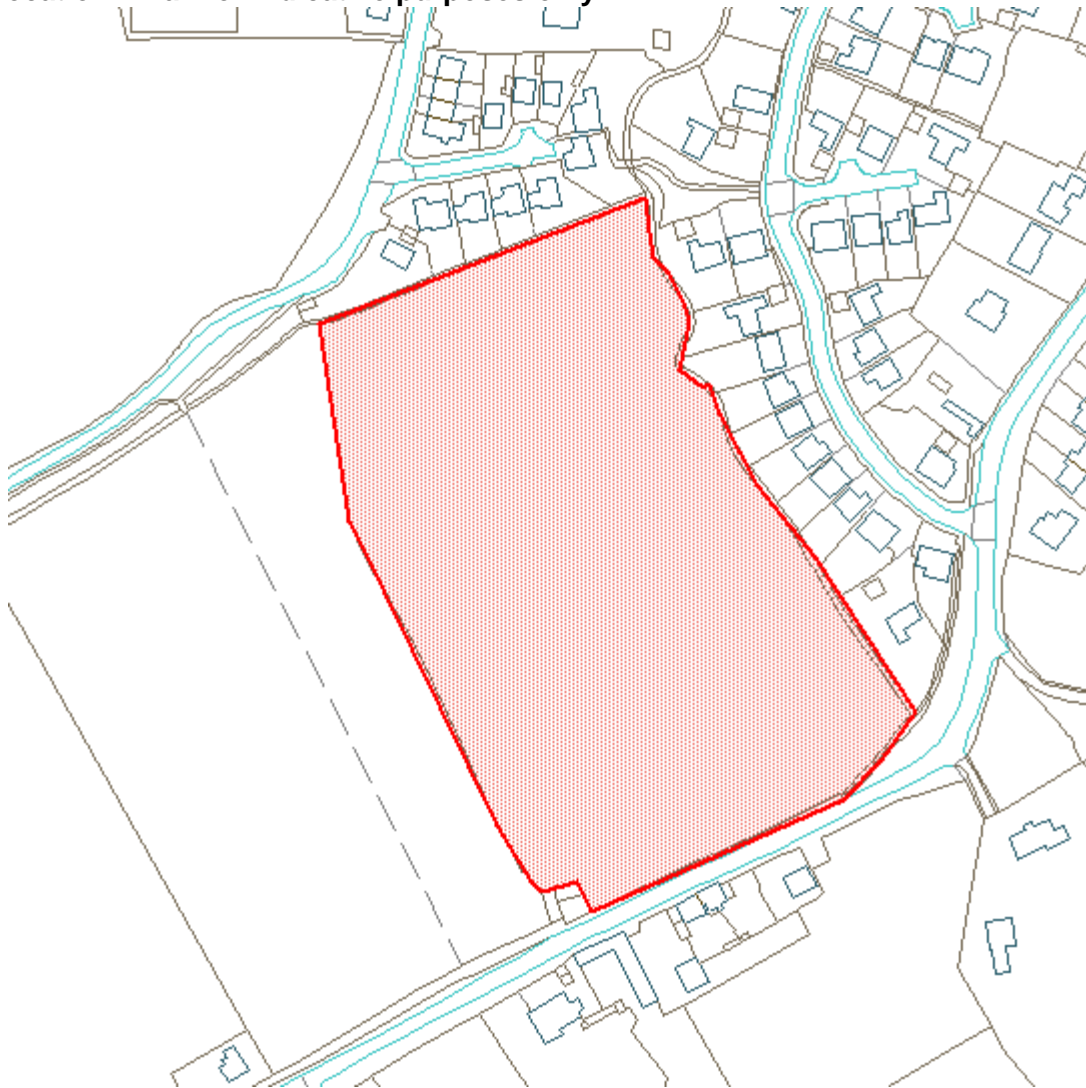
Case Officer:  
Sarah Worrall

Target Decision Date  
8 May 2014

Recommendation:  
REFUSE

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Site Location - Plan for indicative purposes only



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## Executive Summary

### Call in

The application is brought to Planning Committee at the request of Councillor Blunt on the grounds of public interest. It is also considered prudent for the item to be considered by Committee since other applications for Appleby Magna have been reported and considered by Members at previous meetings.

### Proposal

This is an outline application seeks permission, in principle, for 50 dwellings on agricultural land off Top Street. All matters other than the access off Top Street are reserved for subsequent approval. A revised design and access statement was submitted in September and includes an indicative masterplan layout for the site to demonstrate how the development could take place. Landscaping, boundary buffer zones and a sewage pumping station are also included on the masterplan.

### Consultations

Members will note that representations from local residents have been made and the full representations are available to view on the working file. In terms of the issues raised, there still outstanding concerns raised by statutory consultees which will be explored in the main report. Members will also note that the applicant undertook a public consultation event prior to submission of the application.

### Planning Policy

The impact of the proposal in terms of agricultural land and countryside location, design and heritage, residential amenities, highways issues, protected species and other ecological aspects, flood risk, noise and River Mease SAC and SSSI can be assessed in relation to the NPPF and development plan policies and other relevant guidance as set out in the main report. The District Council's 5 year housing land supply position also has to be taken onto consideration.

### Conclusion

The site lies outside the Limits to Development of Appleby Magna in the countryside on agricultural land which is characterised by being a ridge and furrow field within a wider ridge and furrow field network. Whilst issues relating to the River Mease SAC and SSSI, other developer contributions, ecology, design, amenity and highways could be addressed, the significant harm to heritage assets outweighs any possible benefits of such a scheme, particularly at a time when the District Council considers it has over and above a 5 year and 20% buffer of housing land supply. As such, refusal is recommended.

**RECOMMENDATION: REFUSE on heritage and housing land supply grounds.**

**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 it has been called in by Councillor Blunt, and 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 included for determination) is sought for the erection of 50 dwellings with associated landscaping, open space and infrastructure. The application originally sought approval for 60 dwellings but has been revised by the applicant to 50. However, whilst an indicative draft masterplan has been submitted as part of the application, appearance, landscaping, layout and scale are all matters which are reserved for subsequent approval.

Various documents have been submitted as part of the application including a transport statement, design and access statement, ecological appraisal, tree survey and hedgerow assessment, flood risk and drainage assessment and a heritage statement. A Phase I ecological survey was submitted on 29 April 2014, and additional heritage statement information, flood risk information and supplemental design and access statement was received on 10 September 2014 along with a request to change the description from 60 dwellings to 50 dwellings.

The application site is a field which is situated at the south west edge of the village of Appleby Magna. The site lies outside the Limits to Development of Appleby Magna in the countryside and is evidently ridge and furrow land. Access to the site would be from Top Street and would be created towards the centre of the site frontage.

The site is surrounded by residential development at the northwest and northeast boundaries with adjoining agricultural land to the southwest. Top Street forms the boundary to the south east of the site. There is some linear development along this section of Top Street which leads down to the Grade I listed building Sir John Moore school. The site also lies within the River Mease Special Area of Conservation (SAC).

### History

There is no relevant planning history for the site in relation to the current scheme.

### 2. Publicity

28 No neighbours have been notified. (Date of last notification 18 September 2014)

Site Notice displayed 14 February 2014

Press Notice published 9 April 2014

### 3. Consultations

Appleby Magna Parish Council consulted 14 February 2014

Environment Agency consulted 18 September 2014

English Heritage- Grade I/II\* LB Works consulted 18 September 2014

NWLDC Conservation Officer consulted 18 September 2014  
 NWLDC Urban Designer consulted 18 September 2014  
 County Highway Authority consulted 14 February 2014  
 Environment Agency consulted 14 February 2014  
 Severn Trent Water Limited consulted 14 February 2014  
 Head of Environmental Protection consulted 14 February 2014  
 Natural England consulted 14 February 2014  
 NWLDC Tree Officer consulted 14 February 2014  
 County Archaeologist consulted 14 February 2014  
 LCC ecology consulted 14 February 2014  
 LCC Development Contributions consulted 14 February 2014  
 NHS Leicester, Leicestershire And Rutland Facilities Manage consulted 14 February 2014  
 Development Plans consulted 14 February 2014  
 Head Of Leisure And Culture consulted 14 February 2014  
 Manager Of Housing North West Leicestershire District Council consulted 14 February 2014  
 LCC/Footpaths consulted 14 February 2014

#### 4. Summary of Representations Received

##### Representation

**NHS** - a sum of £23,446.80 would be sought for additional health facilities in relation to the proposal;

**English Heritage** - objected to the original application and this objection has been maintained following additional information submitted on 10 September 2014;

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

**Natural England** - has no objection in relation to the River Mease SAC and SSSI subject to a condition relating to a construction environmental management plan and a S106 River Mease DCS contribution;

**Environment Agency** - originally advised that flood risk information was inadequate. Comments received in relation to the additional information submitted on 10 September 2014 advise that the EA has no objection subject to conditions relating specifically to details contained in the supplemental information;

**Leicestershire County Council Developer Contributions** - no contribution is required for civic amenity facilities, and £3260 is required for library services. No education request has been submitted at this time. (NB Updated figures, and for NHS, would be required on the basis that the development proposal has reduced from 60 to 50 dwellings);

**Leicestershire County Council Highways** - objects on the grounds of sustainability;

**Leicestershire County Council Ecology** - objected to the original submission but is now satisfied with the Phase 1 survey which was submitted on 25 April 2014. The grassland does not meet wildlife site criteria. However, the commitment to the retention of buffer zones along the boundary hedges and watercourse would be required as a condition.

**NWLDC Housing Enabling Officer** - 30% affordable housing is required which would equate to

15 properties delivered on site through a registered provider. Ten affordable rented units would be likely to be sought along with five intermediate low cost shared ownership units. In addition, 2 bedroom bungalows and 1 bedroom homes would be sought as part of a proposal as there is unmet demand for this type of unit in the locality.

**NWLDC Environmental Protection** - no objection.

### **Third party representations**

One letter of support has been received for the proposal which simply states it supports the proposal. Forty four letters of objection, including a representation by Appleby Environment community group, have been submitted. The concerns can be summarised as follows:

#### *'In principle' Issues*

- Housing development in Appleby has already been approved;
- The village cannot sustain planning of this size;
- The proposal is contrary to the Village Design Statement;
- The site is outside limits to development;
- The site is countryside and brownfield sites should be developed first;
- The settlement boundaries of the Core Strategy should be taken into account;
- The proposals are systematically and resolutely destroying our community;
- The village shop is limited and there are not enough community facilities to sustain a development of this size;
- Local services are limited, the school is at capacity;
- Measham medical centre would be under extra pressure;

#### *Design concerns*

- Gardens would be extended up to our property into the buffer shown in the Design and Access Statement;
- The development would not be in character with the locality as this stretch of Top Street and New Road is made up of largely older detached dwellings;

#### *Heritage concerns*

- There would be a loss of historic green fields and an adverse impact on the rural setting especially near a Grade 1 listed building;
- The site is ridge and furrow which is of historical significance;
- The development would cause a loss of historic hedges which support a variety of wildlife including protected species;
- The plans show trees on the boundary with our property when there are none;

#### *Residential amenity concerns*

- Loss of privacy and overlooking as a result of the proposal;
- Noise, dust and intrusion during construction would be unbearable;
- Loss of privacy and light;
- How will our balconies be taken into account when considering overlooking from the housing plans;
- I don't want streetlighting running along the rear of my property;
- I don't want a playground next to my house;

#### *Highways concerns*

- Highway safety issues;
- There are narrow roads in the village;

- The development will be a hazard to pedestrians especially school children at Sir John Moore's school;
- There is limited public transport;
- New residents are unlikely to work in the locality or use the limited bus service, so there would be an increase in car journeys;

*Drainage concerns*

- The drainage system is at capacity;
- Roads are often flooded e.g. Duck Lane and Stoney Lane;
- Flooding is a key issue and the siltstone geology does not allow surface water to drain away well;
- The pumping station details are unclear as no explanation or visual is given;
- I don't want a swale next to my house as it would increase the flood risk;

*Other issues*

- There are slow broadband facilities;
- Loss of countryside views and outlook;
- Devaluation of property;
- The developer held a stakeholder event which included questionnaires but the issues raised at the event do not seem to be addressed in the application;
- An increase in traffic would result in an increase in CO2 emissions;
- There is a cumulative impact with other development an EIA is required;
- An additional footpath is not needed since there are others nearby;
- The potential route of HS2 has to be taken into consideration.

The Parish Council has also 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.

**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 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.

## **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 Local Plan, the site lies outside the Limits to Development, and Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development. The proposed development of 50 dwellings would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3.

In addition, 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 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. The latest housing supply trajectory indicates that, as matters currently stand, using the approach of an annualised requirement with a 20% buffer, the

District is able to demonstrate a supply of 6.65 years.

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.

Since the Council can demonstrate a five-year supply of housing land Policy H4/1 being a policy for the supply of housing, can be considered relevant to the application.

Whether or not this site would be considered "appropriate" is a matter of judgement. Insofar as the site's location is concerned, it is well related to the existing built up area of the settlement and would not result in isolated development in the countryside. However, 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. In terms of the site's greenfield status, it is accepted that the site does not perform well.

#### *Sustainability*

As set out above, the application site is an unallocated site located 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.

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 so patients would have to attend the surgery in Measham (3.05km away). There is also a limited public transport service.

Concerns have been raised about the impact on local services, in particular on Sir John Moore Primary School which is located in a Grade 1 listed building, and the capacity for the site/building to house additional pupils. Contributions are expected to be sought by Leicestershire County Council for education requirements and the County Council would decide where those spaces are provided. Contributions have also been sought to provide additional capacity at the library and GP surgery at Measham, to improve the open space/recreational facilities within the village.

#### *Scale of Development*

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. Further work is currently being undertaken on this issue and information on this aspect will be reported on the Update sheet.

*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. However the development of the site 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. 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). Whilst the application submission does not clearly address the agricultural land classification issue, the Natural England Agricultural Land Classification online maps show the site falling 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 2.5 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, and taking into consideration that the Council can demonstrate a 5 year housing land supply. 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.

*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 in the adopted Local Plan and its development for housing would therefore be contrary to Local Plan Policy S3 and Policy H4/1 both of which are up to date on the basis that the District Council is of the view that it can demonstrate a 5 year housing land supply.

Having regard to the three dimensions of sustainable development, it could be argued that the development would contribute to economic growth associated with the proposed development in terms of jobs and the creation of new households, coupled with the role played in contributing to 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. 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.

**Design and Residential Amenity Issues**

The application is an outline application for 50 dwellings and whilst an indicative masterplan has been submitted this is not definitive and layout of development on the site could change should permission be granted. The Design and Access Statement also submits information about

scale and the vision for the site. However, the issues of appearance, landscaping, layout and scale are all matters which are reserved for subsequent approval. As such, it is not possible to assess any design issues at this stage.

Representations from residents at Didcott Way and Wren Close have been received in relation to concerns about impacts of the proposal on their amenities, in particular concerns about overlooking, overshadowing and overbearing issues. It is not possible to comment on these aspects since the details are reserved for subsequent approval. Should the application be approved, any reserved matters submission would need to ensure that residential amenities were protected.

### **Heritage Assets and the development proposal**

English Heritage submits that the development of the site for housing would result in the loss of part of the rural agricultural setting to identified heritage assets including the conservation area, Sir John Moore's school and St Michaels church. The entire site is considered sensitive in terms of its contribution to heritage significance, including the presence of ridge and furrow. The proposed scheme would result in harm to this significance.

Neither is it considered that the revised heritage information and reduction of dwellings to 50 to provide for views towards St Michaels would enhance the significance of the conservation area and church.

Comments in relation to the ridge and furrow land are awaited from the County Archaeologist and any information received will be reported on the Update sheet.

In conclusion, the proposal would cause less than substantial harm to various heritage assets but an NPPF compliant sustainable scheme would need to demonstrate that conflict between heritage conservation and any other public benefits it may deliver could be resolved. It is considered that the submitted scheme does not resolve such issues, and the proposal would therefore not form a sustainable development in accordance with NPPF requirements.

### **Highways**

The Highway Authority has objected to the proposal on the grounds of sustainability which has been addressed above. However, it remains unclear as to the position of the Authority in respect of highway safety matters and clarification on this is being sought. Any comments received will be reported on the Update sheet.

### **Flooding and River Mease SAC**

The concerns of local residents in relation to flooding are noted. The application includes flood risk information and a supplemental flood risk assessment. The Environment Agency has confirmed that it has no objection to the proposal on the basis of the supplemental flood risk information that has been submitted subject to stringent conditions being attached to any approval. Any reserved matters application would need to address these requirements.

### **Developer Contributions**

Developer contributions in respect of health facility provision, River Mease SAC, affordable housing, national forest planting, open space and play areas, and library facilities are requested. It is expected that education requests will be forthcoming. Revised contribution requests are

sought on the basis that the scheme has been reduced to an outline application for 50 dwellings. Any additional representations will be reported on the Update sheet.

### Other Issues

Loss of view and devaluation of property are not material planning considerations. In addition the potential route of HS2 is not yet a material planning consideration.

The scheme, individually or cumulatively, does not meet the criteria required for an EIA assessment to be submitted. Any issues that relate to the suitability, or not, of the scheme in relation to the site and its surroundings can be dealt with by technical reports on the various issues and these have been submitted as part of the application.

### Conclusion

The site lies outside the Limits to Development of Appleby Magna in the countryside on agricultural land which is characterised by being a ridge and furrow field within a wider ridge and furrow field network. Whilst issues relating to the River Mease SAC and SSSI, other developer contributions, ecology, design, amenity and highways could be addressed, the significant harm to heritage assets outweighs any possible benefits of such a scheme, particularly at a time when the District Council considers it has over and above a 5year and 20% buffer of housing land supply. As such, refusal is recommended.

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.

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

- 1 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in respect of protecting and enhancing our natural environment and using natural resources prudently. Policy S3 of the Adopted North West Leicestershire Local Plan sets out the circumstances in which development outside of Limits to Development would be acceptable. Paragraph 112 of the NPPF provides that, 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. The site is located outside of the Limits to Development as defined in the adopted Local Plan, and is Best and Most Versatile (BMV) in terms of its agricultural quality as set out on the Natural England online ALC maps. Insufficient information has been submitted through the application in respect of agricultural land classification. As such, approval of the application would result in the unnecessary development of BMV land located outside Limits to Development, not constituting sustainable development, and contrary to the policies and intentions of the NPPF and Policy S3 of the North West Leicestershire Local Plan.
- 2 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.

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Conversion of mill building and erection of new buildings to provide 44 No. dwellings along with associated works (Revised Scheme)

Report Item No  
A7

Holywell Mill Burton Road Ashby De La Zouch Leicestershire

Application Reference  
09/00082/FULM

Applicant:  
Dunkin Rushton Ltd

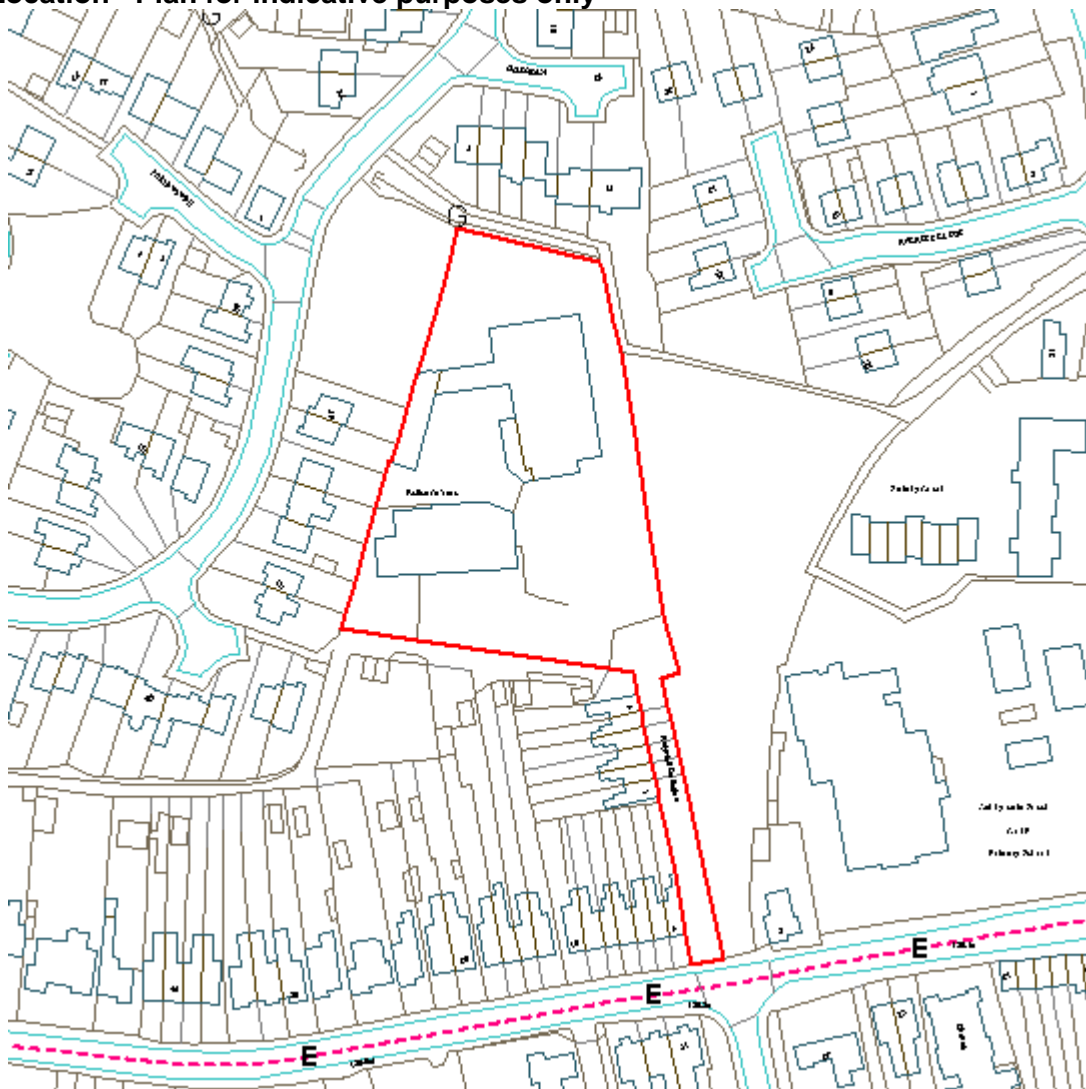
Date Registered  
20 February 2009

Case Officer:  
Alan Harvey

Target Decision Date  
22 May 2009

Recommendation:  
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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## **EXECUTIVE SUMMARY OF PROPOSALS**

### **Call In**

This application was last considered at Planning Committee on 6 July 2010 where Members may recall that they resolved to grant planning permission, subject to the imposition of planning conditions and the signing of the Section 106 Agreement. The S106 Agreement was never completed and therefore planning permission has not been issued, and the applicant is now keen to complete the agreement.

Due to the lapse in time, the application needs to be reported back to Planning Committee to update Members of the updated financial contributions and any other subsequent changes to policy and conditions, where relevant.

### **Proposal**

There have been no changes to the detail of the scheme, which still seeks consent for the conversion of the mill building and erection of extensions, and new buildings to provide a total of 44 No. dwellings on the site.

### **Consultations**

Statutory consultees have provided updated financial contributions and Leicestershire County Council and Severn Trent have confirmed that no further information is required to be undertaken in respect of highway safety and the River Mease SAC/SSSI.

### **Planning Policy**

Since the time of the resolution on 6 July 2010, there have been a number of changes to National Planning Policy, namely with the introduction of the National Planning Policy Framework and more recently published National Planning Policy Guidance. A full account of all relevant policy is contained within the main body of the report.

The previous East Midlands Regional Plan has been revoked and does not carry any weight in the determination of the application.

### **Conclusions**

National Planning Guidance, and other material considerations have not changed in a manner that would now lead to a different conclusion on the acceptability of the application. It is considered that all conditions are considered necessary, subject to the removal of previous condition 3 and re-wording of condition 23. As such it is recommended that the Section 106 be completed, containing the latest, updated financial contributions, as set out in the main body of the report.

## **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 recent 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.**

**A copy of the previous report to planning committee is enclosed within Appendix A and a copy of the late items enclosed within Appendix B of this report.**

## Main Report

### 1. Proposals and Background

Members are advised that this application for the conversion of the mill building and erection of new buildings to provide 44 no. dwellings with associated works at Holywell Mill, Burton Road, Ashby was originally reported to Planning Committee on 6 April 2010.

At that time the application was deferred to provide an additional time period for the submission and assessment of additional/revised information in relation to foul flows in relation to the impact of the proposal on the River Mease Special Area of Conservation (SAC).

The application was subsequently reported back to Planning Committee on 6 July 2010 where Members may recall that they resolved to grant planning permission, subject to the imposition of planning conditions and the signing of the Section 106 Agreement.

The S106 Agreement was never completed and therefore planning permission has not been issued, and the applicant is now keen to complete the agreement.

Due to the lapse in time, it is considered that the application needs to be reported back to planning committee to update Members of the updated financial contributions and any other subsequent changes to policy and conditions.

A copy of the previous report to planning committee is enclosed within Appendix A and a copy of the update sheet enclosed within Appendix B of this report.

### 2. Consultations:-

**Severn Trent** have confirmed that there is spare capacity available at Packington Sewage Treatment Works, and the recent closure of the Arla plant has made a lot more capacity available. Packington Sewage Treatment Works have also been upgraded to a phosphate discharge permit of 1mg/l and the necessary permit has been issued by the Environment Agency.

**Leicestershire County Council Highway Authority** have confirmed that the original consultation responses dated 16/3/09 continues to apply in full and have also provided updated financial contributions.

### 3. Changes to Planning Policy

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

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

- o approve development proposals that accord with statutory plans without delay; and
- o grant permission where the plan is absent, silent or where relevant policies are out of date

unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

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

Paragraph 17 indicates, amongst other things, that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs; always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

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

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

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

Paragraph 57 outlines that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes;

Paragraph 60 outlines that planning policies and decisions should not impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness;

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

Paragraph 64 outlines that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions;

Paragraph 111 encourages the effective use of land by re-using land that have been previously

developed (brownfield land) providing that it is not of high environmental value.

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

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

Paragraph 120 outlines that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account;

Paragraph 121 outlines that planning policies and decisions should also ensure that, amongst other things:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;

Paragraph 123 outlines that planning policies and decisions should aim to avoid noise from giving rise too significant adverse impacts on health and quality of life as a result of new development;

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

The Government has revoked the Regional Spatial Strategy for the East Midlands with effect from 12 April 2013.

#### **Other Guidance:**

##### *The Habitat Regulations:*

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

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

Circular 06/05 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

##### *River Mease Water Quality Management Plan - August 2011:*

This plan draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of

the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

*The River Mease Developer Contributions Scheme - November 2012:*

The Developer Contribution Scheme (DCS) is relevant to development which results in a net increase in phosphorous load being discharged to the River Mease Special Area of Conservation (SAC). It currently applies to all development which contributes additional wastewater via the mains sewerage network to a sewage treatment works which discharges into the catchment of the River Mease SAC.

*The Community Infrastructure Levy Regulations 2010:*

The 2010 Regulations provide a legislative requirement that an obligation must meet the following tests:

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

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

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

*National Planning Practice Guidance - March 2014:*

This 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.

### **Assessment:-**

The main reason for referring this application back to Planning Committee was to provide an update on the financial contributions, since the application was last considered at Planning Committee in 2010. It is also necessary to consider whether there have any material changes in planning policy since the previous application that would affect the determination of the application and to consider if the originally imposed conditions are still required.

### **Changes to Policy**

#### **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)).

The original application was resolved to grant planning permission in 2010 therefore it was considered against the same North West Leicestershire Local Plan policies which have been 'saved' by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004. As such the scheme has been considered in line with the development plan

policies.

In March 2012 the National Planning Policy Framework (NPPF) was published and introduces the presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved without delay and where relevant policies are out of date planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

There are three core strands underpinning the presumption in favour of sustainable development promoted within the NPPF. These are economic, social and environmental. So long as a development is consistent with these criteria, in principle the development should be considered acceptable.

**Economic** - in this respect developments should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to support growth, and by coordinating development requirements, including the provision of infrastructure. It is considered that the development would benefit the local economy through both the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and maintenance of local infrastructure. Accordingly the site is considered to be consistent with the 'economic role'.

**Social** - in this respect, developments should support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment. The development would appeal to a wider spectrum within the local market, thus increasing local market choice and appealing to groups whom may have otherwise been excluded from the locality.

**Environmental** - to fulfil this role development should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change. The site is located within limits to development and is well related to the town centre and also relates to the re-use of an existing building. Furthermore, as set out in original report attached as an appendix, 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'.

Paragraph 111 within the NPPF is also supportive of the re-use of brownfield land.

The NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. Based on the above discussions, the proposed scheme is considered to comply with the core principles of the NPPF, and thus in principle, the development is still considered to be acceptable.

The National Planning Practice Guidance does not change national planning policy but offers practical guidance as to how such policies should be applied.

In summary, National Planning Guidance, and other material considerations have not changed in a manner that would now lead to a different conclusion on the acceptability of the application.



### ***Housing Land Supply***

The previous application was considered in line with the requirements of government guidance in PPS3, where there was an obligation on Local Planning Authorities to assess and demonstrate the extent to which existing plans already fulfil the requirement to identify and maintain a rolling five-year supply of deliverable land for housing.

The NPPF goes a step further, requiring 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".

The latest housing supply trajectory indicates that, as matters currently stand, using the approach of an annualised requirement with a 20% buffer, the District is able to demonstrate a supply of 6.65 years.

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.

As the site does not fall outside limits to development, Policy S3 would not be applicable and the scheme is considered to represent sustainable development and in conformity with Policy H4/1. It is therefore considered that the changes to the five year housing land supply position would not result in any changes to the recommendation in this case.

### **Highway Safety**

Since the consideration of the application, a number of other developments have been granted in the area, particularly on Smisby Road and the County Highway Authority have been asked to consider whether additional assessments are required to be undertaken by the applicant.

The County Highway Authority have confirmed that their position remains the same as that given at the time of first consideration and that no further work on the applicants part is required.

### **Ecology**

Within the original determination of the application, Natural England withdrew their objection following the submission of a necessary survey of bats and requested that a note as per paragraph 4.4 of the bat report be attached to the permission, if granted. Paragraph 4.4 states

“In addition to this, were the proposed development works not undertaken within a reasonable time-frame (approximately one year) a further survey may be required to re-confirm the absence of a bat roost.”

Accordingly condition 32 was imposed which required that should the development not commence on site by 1 July 2010 a further survey for the presence of bat roosts would be required to be undertaken.

Unfortunately the timeframe, should have actually read 1 July 2011, but nevertheless the originally intended one year time period has now clearly lapsed. It is considered, than in any case, this time period would not be relevant, as should any further surveys had identified the presence of bat roosts then appropriate mitigation would have been required.

Given that the mitigation would be to provide roosting sites, then it is not considered that the condition is required, as condition 30 already states this:-

No development shall commence on the site until details of the provision of roosting sites for bats within the site have been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be provided prior to any residential unit being first occupied and thereafter be so maintained at all times.

Reason:- In the interests of the habitats of protected species.

As such it is therefore recommended that condition 32 be removed, as appropriate mitigation is already proposed within condition 30.

### **River Mease**

The application was extensively considered in respect of surface water contribution and the Council commissioned expert consultants to provide a Habitats Regulations Assessment.

Since this application was last reported to Committee the River Mease SAC Developer Contribution Scheme has now been adopted.

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.

Natural England previously considered that the foul water discharge of the proposed development would not constitute a significant adverse effect upon the integrity of the River Mease SAC and was therefore considered that there was unlikely to be a significant increase in foul water. Furthermore, Severn Trent Water have now confirmed that there is spare capacity at Packington Severn Trent Water, as the recent closure of the Arla plant (on Smisby Road) has

been significant more capacity available.

When having regard to the existing commercial activities which currently exist on site, in comparison the proposed scheme it is still not considered to result in any significant increase in foul water, indeed when considering the current usage the scheme would result in a betterment, and therefore it is not considered that a contribution can be requested in this case.

Within the original application, condition 3 read:-

*“No development hereby permitted shall commence until:*

- (i) works to the Packington Waste Water Treatment Works have been completed and the works secure a reduction in phosphate levels in the discharge at the works to 1mg per litre*
- (ii) the developer submits to the local planning authority written confirmation from Severn Trent Water that the improvement works to Packington Waste Water Treatment Works have been completed and evidence of any necessary written consent issued by the Environment Agency or its successor, which limits phosphate levels in the discharge to a maximum 1 mg per litre.*

*Reason- To ensure that the development is provided with a satisfactory means of drainage and to minimise the risk of pollution and ensure that there is no adverse impact on the River Mease SAC in accordance with Policies 26 and 32 of the East Midlands Regional Plan”*

Severn Trent Water have stated that Packington Sewage Works have been upgraded to meet a phosphate discharge permit of 1mg/1 and the necessary permit has been issued by the Environment Agency. Therefore on this basis it is no longer considered that condition 3 will be required to be imposed.

As such, the integrity of the River Mease SAC would be preserved in accordance with Paragraph 118 of the National Planning Policy Framework and the 2010 Habitats Regulations and Circular 06/05.

### **Other Matters**

The scheme in design terms was assessed against Saved Policy E4 of the Local Plan and is considered to be in compliance with paragraph 57, 60, 61 and 64 contained within the NPPF.

In terms of impact upon residential amenity the scheme has not changed in any way since the previous resolution and the scheme was considered against Saved Policy E3 of the Local Plan and therefore no further consideration on this matter is required.

### **Financial Contributions**

The resolution to grant planning permission originally sought to secure the following contributions through the Section 106 Agreement comprising:

- Leisure – £48,400.00
- Health care - £583 (1-2 bed), £1,167 (3-4 bed), £1,750 (5+bed)
- Education - £74,244.00
- Library £2,060.00

- Civic amenities - £4,097.00
- Affordable housing – 13 no. units in total, 9 as social rented and 4 no. low cost home ownership
- National Forest planting - £6,000 in lieu of on site provision
- Travel pack 1 no. per unit
- Two adult passes per unit
- Bus stop infrastructure £6,810.00
- Monitoring fees- £250.00

Following re-consultation with Leicestershire County Council and NHS England the following have been requested-

### **Healthcare**

NHS England have sought £14,727.18 towards a new surgery for Ashby Health Centre for additional patients arising from the development.

### **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 £33,635.25 for the primary school sector.
- a contribution of £20,021.31 for the high school sector, for Ivanhoe College.
- a contribution of £20,557.78 for the upper school sector, for Ashby School.

### **Libraries**

Leicestershire County Council is still seeking a contribution of £2,060 towards additional resources at Ashby de la Zouch Library.

### **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:

- 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).
- Six-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
- 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. At £3263.00 per stop.
- Information display case at the two nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display.
- Contribution towards equipping the nearest bus stop(s) with Real Time Information (RTI) system at a total of £5,840.

## **Civic Amenity**

No Civic Amenity contribution has been requested.

## **National Forest**

National Forest have confirmed that as the site area is 0.56 hectares, which would equate to 0.11 hectares of on-site planting or a contribution of £2,200.00 in lieu of on-site planting.

## **Summary**

The resultant contributions to be secured through the Section 106 Agreement would now comprise:-

- Leisure – £48,400.00
- Health care - £14,727.18
- Education - £74,214.34
- Library £2,060.00
- Affordable housing – 13 no. units in total, 9 as social rented and 4 no. low cost home ownership
- National Forest planting - £2,200.00 in lieu of on-site provision
- Travel packs £52.85 per pack
- Two adult bus passes per unit
- Bus stop infrastructure £12,606.00
- Monitoring fees- £250.00

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

The applicant has confirmed that they would be willing to enter into an agreement to secure the above mentioned contributions, should there be a resolution to grant planning permission.

## **Changes to Conditions**

### **Condition 3**

As discussed above, resultant of the improvement works to Packington sewage works, it is therefore recommended that the following condition be removed:-

No development hereby permitted shall commence until:

- (i) works to the Packington Waste Water Treatment Works have been completed and the works secure a reduction in phosphate levels in the discharge at the works to 1mg per litre
- (ii) the developer submits to the local planning authority written confirmation from Severn Trent Water that the improvement works to Packington Waste Water Treatment Works have been completed and evidence of any necessary written consent issued by the Environment Agency or its successor, which limits phosphate levels in the discharge to a maximum 1 mg per litre.

*Reason- To ensure that the development is provided with a satisfactory means of drainage and to minimise the risk of pollution and ensure that there is no adverse impact on the River Mease SAC in accordance with Policies 26 and 32 of the East Midlands Regional Plan.*

**Condition 32**

As discussed in the main body of the report, it is re-commended that the following condition be removed:-

Should the development not commence on the site by 1 July 2010 a further survey for the presence of bat roosts shall be undertaken in accordance with a survey scheme that shall have first agreed in writing by the local Planning Authority. Should any bat roosts be found at the site a mitigation scheme shall be first be agreed in writing by the Local Planning Authority. Any mitigation scheme shall then be implemented in accordance with the agreed scheme.

*Reason- To provide protection for protected species.*

For the avoidance of doubt the reason attached to condition 4 will be re-worded to remove the reference to the Policies 26 and 32 of the East Midlands Regional Plan.

All the other conditions imposed on the original consent are considered to be necessary, reasonable, relevant and enforceable and compliant with Circular 11/95 and therefore considered to be acceptable.

**Conclusion**

National Planning Guidance, and other material considerations have not changed in a manner that would now lead to a different conclusion on the acceptability of the application.

The proposed development is still considered to be acceptable in terms of layout and design, impact upon residential amenities, transportation and highway safety issues ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise.

It is considered that all conditions are considered necessary to be carried above, subject to the removal of previous condition 3 and re-wording of condition 23. As such it is recommended that the Section 106 be signed, contained the latest financial contributions.

**RECOMMENDATION - PERMIT, APPROVE SUBJECT TO SECTION 106 OBLIGATIONS AND THE IMPOSITION OF CONDITIONS.**

## Appendix A: Previous Committee Report

### 1. Proposals and Background

Members are advised that this application was originally reported to Planning Committee on April 6th 2010 when the application was deferred to provide an additional time period for the submission and assessment of additional/revised information in relation to foul flows in relation to the impact of the proposal on the River Mease Special Area of Conservation (SAC).

This deferral resulted from further correspondence received from Ashby de la Zouch Civic Society following the completion of the Committee report questioning the accuracy of the methodology and conclusions of the Foul Flow Assessment submitted on behalf of the applicants. Specifically, the Civic Society contended that the development will actually result in a significant increase in foul water flow and a consequential increase in phosphate levels to the detriment of the River Mease Special Area of Conservation.

In response, and notwithstanding it previously raised no objections, Natural England indicated that they shared the concerns of the Civic Society in relation to the apparent inaccuracies surrounding the use of two calculating methods in the Foul Flow Assessment. As a result Natural England subsequently raised objections to the proposal because it was considered that, either alone or in combination with other plans or projects, it may have a significant effect on the internationally important interest features of the River Mease Special Area of Conservation, or any of the features of scientific interest of the River Mease Site of Special Scientific Interest.

In light of the issues raised in relation to the Foul Flow Assessment and the objection raised by Natural England, the applicants stated that they intended to provide further submissions in relation to the impact of foul flows as noted in the update sheet for the April Committee. The submission of this information would necessarily need to be the subject of further consultation with the Environment Agency and Natural England - along with the Civic Society - before the District Council is in a position (as the 'appropriate authority') to prepare a revised Habitats Regulation Assessment.

The applicant has now submitted the necessary further information in relation to the impact of the proposals on the River Mease SAC which states as follows:

#### Surface Water Contribution

The development proposals will bring about a reduction in the discharge rate to the existing combined sewer by virtue of the removal of surface water from the system; this is acknowledged by Ashby Civic Society.

Whilst we are aware that the matters in question relate to foul flow, we would contend that the reduction in surface water flow to the combined sewer can still be considered to have a substantial beneficial affect on the Packington STW and consequently on the SAC. We have used a 1:1 year flood return period to illustrate the potential reduction in surface water flows but surface drainage designs are often required to cater for up to 1:100 year rainfall events. In such an event the potential of reduction in surface water flows to the combined sewer is substantial. You will no doubt understand that discharges from the treatment works are currently maintained within consent levels. During extreme storm events it is inevitable that the sewerage infrastructure will struggle to cope, combined sewer overflows will operate and substantial

amounts of largely untreated effluent may be discharged to the watercourse. Such an occurrence can only be considered as detrimental to the overall integrity of the SAC and in such rare occurrences levels of all pollutants discharged to the SAC will be elevated. This risk will be reduced by the proposed development.

Generally it would appear that some confusion has now developed as to how this reduction has been applied within the figures provided in the report. For the avoidance of doubt we have not assessed proposed flows to the combined system as lower than existing flows on the basis of surface water contribution alone.

Below we set out a summary of our findings which shows the anticipated proposed and existing flows to the combined sewer.

Wastewater Type	Existing	Proposed
Foul	4.22 l/s	2.037 l/s
Surface Flows	22.2 l/s	0 l/s

Comments have been raised regarding the potential for increased concentration of pollutants caused by the removal of storm water from the combined system. Whilst the removal of storm water may well increase the concentration of effluent arriving at the treatment works it is unlikely to have an impact on concentrations within the Mease itself as surface water will still ultimately be discharged from the development to these watercourses by way of the proposed surface water system.

Notwithstanding the above our analysis has compared proposed and existing foul flows and the results indicate a reduction in foul water discharge rates.

In their letter below, the Civic Society argues that the comparisons used are “apple and pear”, however, the reasons for using differing comparison methods have been detailed within the report and I expand upon them further below.

The methods used are necessarily different as flow patterns within the proposed and existing applications are inherently different in nature. It is a matter of fact that a WC at a local gymnasium can be expected to experience higher usage rates than a domestic equivalent. Similarly we can expect much higher flow rates from a canine beautician where many dogs each day are washed than a domestic shower. However in order to make an assessment it is necessary to compare these wildly different uses, tables of foul flow rates from such a wide mix of applications are not available and we must use the best data available for this purpose. Given the eclectic nature of the development the foul flow rates have therefore been calculated in accordance with BS EN 12056. In doing this we are treating all drainage fittings equally – we have made no allowance for the canine beautician or the car valeters which would be expected to be high users of water and high dischargers of detergents. Diurnal flow patterns in dwellings are better understood and the widely accepted 4000 l/dwelling/day figure from Sewers for Adoption has been used to assess the proposed development discharge rate.

It would not be appropriate to assess the flow rates for both proposed and existing uses by the unit discharge method as this would ascribe the same usage rate for a shower used many times a day at the gym as its domestic equivalent.

We are also aware that comment has been made regarding site occupancy rates. Our initial report (paragraph 2.4) indicates that around 20 people are in permanent occupation of the site and around 10 people may be visiting at any one time. Our report goes on in paragraph 2.5 to



detail the existing Karate/Judo Dojo and Gym Membership rolls, estimated to be in the region of 45 and 150 patrons respectively. In retrospect it is possible that the statement in paragraph 2.4 may have been misleading but should not be taken as an indication that only 20 people make use of the facilities on site. Following our report we have now been provided with a list (Holywell Mill Occupiers) detailing the current site occupation levels and upon review it is clear that whilst permanent occupancy levels may be lower than for the proposed residential use, total usage numbers including patrons and visitors, are much higher than the proposed residential use.”

This information has subsequently been the subject of re-consultation with Natural England, the Environment Agency and Ashby de la Zouch Civic Society and any further comments received are reported in the ‘further representations’ section of this report below. In addition, the Council has commissioned expert consultants to provide a Habitats Regulations Assessment of the application and their conclusions are reported in the officers assessment section of the report.

## Proposal

Holywell Mill, along with the properties at Nos. 1-6 (inc) Holywell Cottages, are accessed off Burton Road via a private drive, which has a tarmac surface and is without a demarcated pedestrian pathway. The drive also provides vehicular access to garaging and parking areas to the rear of properties fronting onto Burton Road and a pedestrian link onto Rouen Way, albeit this link is not designated a public right of way. The application site is adjoined to the west by an area of public open space and the rear gardens of dwellings on Rouen Way, which are situated at a higher land level than the application site. To the east the site is bounded by an open grassed area; beyond which to the south-east is Ashby de la Zouch Church of England Primary School. A public footpath linking Rouen Way to Smisby Road runs along the northern boundary of the site - and in part along the eastern boundary - beyond which are properties situated on Roedean Close. The site is situated within limits to development as defined in the adopted North West Leicestershire Local Plan and within the catchment area of the River Mease Special Area of Conservation (SAC).

Holywell Mill is a four storey brick built structure which was constructed as a flour mill in the 1870s. The Mill, which was the subject of a recent unsuccessful request for listing building designation, has been the subject of subsequent external alteration - particularly in the post war period - including the erection of extensions to the front and western side elevations of little or no architectural merit. A further group of detached single storey buildings - also of no particularly architectural interest - occupy the south-western area of the site.

In 2008, an application for full planning permission (ref: 08/00726) was submitted for the conversion of the mill building and erection of extensions and new buildings to provide a total of 44 No. dwellings on the site. The application was withdrawn when it came to light that the incorrect land ownership certificate had been completed on behalf of the applicants.

A revised application for full planning permission (ref: 09/00082) has now been submitted for the conversion of the mill building and erection of extensions and new buildings to provide a total of 44 No. dwellings on the site. In addition to the external and internal alterations to the Mill building (‘Block A’) in connection with its conversion to 16 No. apartment units, the scheme comprises the following elements:-

- The erection of a three storey extension to the rear (northern) elevation of the Mill building to provide 12 No. apartments (‘Block B’). The proposed extension is to be constructed in facing brickwork with a grey slate pitched roof to match the Mill. The extension is to be attached to the main Mill building by means of a three storey glazed

link with a flat roof.

- The erection of two storey structures, with grey slate pitched roofs, towards the western and southern boundaries of the site. The western structure ('Block C') comprises of 10 No. apartments/dwelling units and the southern structure ('Block D') contains 6 No. dwelling units. Block C is situated a distance of between 1.2 - 2.0 metres from the western boundary of the site and the submitted drawings show that a number of the window units to the rear elevation of the block – primarily those at first floor level - are proposed to be obscured glazed. The first floor rooms in question are either bathrooms or 'dual aspect' (i.e. with a clear glazed window unit facing towards the courtyard area to the development). Block D is situated a minimum distance of 6.0 metres from the southern boundary of the site and will benefit from enclosed rear garden areas. Blocks C and D will have a painted rough cast render finish to their exteriors.
- The erection of boundary treatments which include the provision of 2.4 metre high wooden slat fencing to the rear boundaries of Blocks C and D along with the proposed erection of 2.1 metre high galvanised steel fencing to the northern and eastern boundaries; both adjoining the public right of way and running around to the public open space onto Rouen Way (with 6 No. lighting bollards to be sited alongside the public right of way). Sections of 2.0 metre high brick built walls are also proposed along parts of the southern and western boundaries.
- The provision of 50 No. parking spaces within the curtilage of the site, including 6 No. spaces for Holywell Cottages. It is also proposed to provide a 1.0m wide path to the western side of the access drive off Burton Road and a pedestrian link to the existing public footpath is proposed to the eastern boundary.
- The provision of an enclosed childrens play area adjacent to the eastern elevation of Block D. A 1.0 metre high brick wall with 1.0 metre high fencing atop is proposed to the northern and eastern sides of the proposed childrens play area. A similar boundary treatment is proposed to the 'Holywell Cottages parking' area.
- The provision of bin stores and cycle parking facilities.

In overall terms the proposed development will provide 16 No. one bedroom apartments, 17 No. two bedroom apartments, 6 No. three bedroom units (of which 3 No. are apartments) and 3 No. four bedroom dwelling units. The scheme will result in the demolition of all existing buildings at the site other than the principal Mill building.

The application as originally submitted was accompanied by a design and access statement, Local Traffic Impacts Assessment and an Environmental Statement. Subsequent to the original submissions, revised plans were submitted providing for amendments to the design of the proposed development. The principal amendment to the design of the scheme was in relation to the link structure between the existing mill building and its proposed rear extension. The amendments were secured in conjunction with the Council's Urban Design Officer. Further, in response to the initial comments of statutory consultees, a Flood Risk Assessment, a Geo-Environmental Survey and a draft Section 106 Agreement were also submitted. The draft Section 106 Agreement proposes commuted sums towards education (£74,224), libraries (£2,060), civic amenity sites (£4,079), leisure facilities (£48,400), health facilities (pro rata based on the number of bedrooms per residential unit), national forest planting contribution (£6,000), along with travel pack, travel pass and bus stop infrastructure and affordable housing provision of 9 No. social rented units and 4 No. shared ownship units. The draft Agreement also provides

for the necessary monitoring fees.

Subsequently, surveys of the buildings and the external site in relation to determining the presence of bats was carried out and submitted in response to an objection raised by Natural England to the initial submissions (see below). The surveys (including a nocturnal survey) concluded that there was no evidence of bat usage observed in association with the structures on the site, although a small number of common pipistrelle bats were noted using the site curtilage as a commuting and foraging area. A Foul Flow Assessment was submitted to seek to demonstrate that the development would not have a detrimental impact on the River Mease.

In a letter to support to accompany the revised submissions the applicant's agents points out the following :-

- The ethos behind the design of the glazing (of the link between the original Mill building and its extension) is to draw on the industrial heritage and precedent of the site and considering that the stair represents the vertical circulation element of the design the new elevations suggest that the stair may have also been the system by which sacks of flour and other large items were moved in to the building and from floor to floor in the manner of early industrial buildings and warehouse's etc, with an external winch system and loading doors at each level.
- In relation to protected species it is requested that the bat survey be conditioned as suggested by Natural England.
- With regard to highway safety, the proposed site layout includes for a one-way traffic circulation system clockwise around the central mill and extension buildings. As such a dedicated vehicle turning head is not indicated as all vehicles are able to move through the site in a forward direction, without the need to reverse.
- This site is in a very sustainable location being very close to all local amenities and situated off the Burton Road bus network and local footpath network.
- Additionally cycle storage is provided within the scheme. Accordingly it is felt that the applicants are in compliance with the Authorities standards for car parking and the provision is also in line with the national objectives of PPS3 Housing, and PPG13 Transport. The scheme also provides 6 No. permanent off-street spaces for the residents of Holywell Cottages, or their visitors, thus reducing the need to park outside their properties. It is also proposed to provide a 1m footpath to the front of these cottages, as currently they are entered directly off the vehicle highway.
- The issue of addressing commuted sums etc is dealt with in the Section 106 Agreement (as noted above).

## **2. Publicity**

55 Neighbours have been notified (Date of last notification 29 December 2009 )

Site Notice displayed 23 February 2014

Press Notice published 4 March 2009

## **3. Consultations**

Ashby De La Zouch Town Council consulted 23 February 2009

Environment Agency consulted 2 February 2010  
 Natural England consulted 23 April 2009  
 County Highway Authority consulted 24 February 2009  
 Severn Trent Water Limited consulted 24 February 2009  
 Head of Environmental Protection consulted 24 February 2009  
 Natural England consulted 24 February 2009  
 NWLDC Urban Designer consulted 24 February 2009  
 LCC Development Contributions consulted 24 February 2009  
 NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 24 February 2009  
 Head Of Leisure And Culture consulted 24 February 2009  
 Manager Of Housing North West Leicestershire District Council consulted 24 February 2009  
 Natural England consulted 29 March 2010

#### 4. Summary of Representations Received

The following comments were received in respect of the application as originally submitted:-

Ashby de la Zouch Town Council raised no objections.

Ashby de la Zouch Civic Society raised objection in commenting that the Society have no objection in principal (sic) to the development of this site for housing and are pleased to see the retention of the main building. The Society is, however, concerned that :-

- Adjacent new buildings should have sympathetic mass and positioning. The current proposal for additional new buildings is overbearing and represents overintensification of the site.
- There is a preference to see a further extension to the main mill building to accommodate further flats than the new blocks on the edge of the site..

County Highway Authority commented that there has been extensive discussions with regard to parking allocation on this site which revealed inter alia that unallocated parking provision cannot be controlled under the planning system. Accordingly, it is considered there is a slight under provision of parking. However the site is served by a private road system and is some way from the public highway (Burton Road) which itself is subject to a Traffic Regulation Order which prohibits parking. As such the County Highway Authority do not believe that an objection due to the shortfall in provision could be sustained on appeal in this instance.

The County Highway Authority also seeks a public transport contribution in respect of a travel pack per unit, two adult travel passes per unit and bus stop infrastructure.

Leicestershire County Council requested an education contribution of £74,224 (comprising Ashby CE Primary School £33,632, Ashby Ivanhoe High School £20,024 and Ashby School £20,568) along with commuted sums of £2,060 towards library facilities and £4,079 towards civic amenity site infrastructure.

Leicester, Leicestershire and Rutland Primary Care Trust seek healthcare contributions on the basis of £583 per dwelling (1/2 bedroom dwellings), £1,167 per dwelling (3/4 bedroom) and £1,750 per dwelling (5 plus bedrooms).

Severn Trent Water Ltd raised no objections in principle

District Councils Leisure and Cultural Services Division commented that a contribution of £48,400 is sought for Community Leisure Facilities. In seeking this contribution the Division point out that this does not offset any requirement for Children's Play facilities.

The Environment Agency objected because the proposed development involves a connection to the main foul sewerage system which would pose an unacceptable risk of deterioration to water quality. In relation to flooding issues, the Environment Agency raised no objections in principle albeit the Agency emphasised that the proposed development would only be acceptable (in flood risk terms) if the measure(s) detailed in the Flood Risk Assessment are implemented and secured by way of a planning condition on any planning permission.

Natural England originally objected on the basis that the protected species survey has not included a detailed survey of the buildings and the external site in relation to determining the presence of bats. With the submission of the necessary surveys, Natural England advised that the survey is satisfactory and that it had no objections with regards to bats.

Environment Services Manager raises no objections in principle.

District Council's Housing Division seeks 13 No. affordable housing units comprising 9 No. units as social rented and 4 No. units as low cost home ownership.

A total of 21 No. letters of representation were received in respect of the application as originally submitted raising objection on the following grounds summarised below :-

It is pointed out that pedestrian traffic from the Rouen Way estate uses the access onto Burton Road to get to the nearby primary school and it is a very popular route to the shops in the town centre. Further the development access is itself in close proximity to the Primary School. The increased traffic the development would create would be severely detrimental to vehicular and pedestrian safety in the locality, in particular to schoolchildren, as the site entrance off Burton Road is substandard and dangerous.

The unadopted access road onto Burton Road is of insufficient width and capacity to serve the proposed development and there will be an increase in the vehicular traffic passing in front of Holywell Cottages. The proposed development involves making a pavement and as such will make the lane narrower. Furthermore, no account has been taken for the access for emergency vehicles into the development. Also to improve safety there needs to be a pavement both sides of any access road serving the development.

The development would cause congestions at the junction between the access to the development and Burton Road, especially at rush hour times. The site is in a bottleneck.

Vehicular traffic using Burton Road is often speeding and the development will result in the removal of speed bumps on the existing access drive thus speeding up traffic. This would be detrimental to pedestrians and vehicular traffic.

Insufficient parking facilities will be provided to serve the number of residential units proposed and there will be no visitor parking. This will lead to increased on-street parking in the proximity of the development in an area where parking is already overstretched. The rights of the occupants of Holywell Cottages and residents of properties on Burton Road to park on the access road and on the track adjacent to the southern boundary of the site must also be maintained as the withdrawal of these parking spaces would also increase parking problems on Trinity Court, Hill Street etc.

The development scheme by reason of its height and proximity to existing surrounding dwellings would result in the loss of light/sunlight to existing residents. The development would also cause overshadowing and seem 'claustrophobic'

The scheme would affect the local meteorological conditions presently enjoyed by local residents in terms of sunlight, wind and daylight.

The development would lead to the overlooking of adjoining properties and garden areas with a resultant loss of privacy to existing residents.

The development would be detrimental to surrounding residents by reason of the noise that will be generated by future residents of the proposed scheme.

The children's play area is in a poor location; being situated next to a main road and adjacent to a car park, where cars will need to reverse out of their spaces. The proposed children's play area would also be used a place of congregation for 'problem' youths, a problem which would be exacerbated if it is not locked at night.

There will be an increase in noise and pollution from vehicular movements around the buildings to parking areas. This will be detrimental to residential amenities.

There is no provision of a communal amenity area for the residents of Blocks A and B whom would be without garden areas.

It is considered that the tree in the south-western corner of the site and several smaller trees along the southern edge should be preserved.

The development will be likely to result in increased criminal activity with the fencing in of the pedestrian path.

In terms of the density of development per hectare the proposal is close to twice the minimum standard of 40 dwellings per hectare and therefore the scheme represents an over-development of the site.

Concerns are raised in relation to the proposal to erect the high fencing/brick wall along the edge of the new development next to the track/path which runs from Rouen Way to the access road to the Mill. This will lead to a loss of natural light, will make the back lane too private, will impact negatively on security by making the back lane too enclosed, introduce the possibility of graffiti and would hinder visibility both on the approach to, and at the point of exit out of, the back lane. This section of track would also be exceedingly dark at night and make it dangerous for people using it to walk into the town centre.

The existing infrastructure in the town is inadequate to the cope with the proposed development. Ashby de la Zouch does not need any more houses to drain the already existing resources

The scheme would result in a loss of habitat for bats, which have been seen on the site, and other wildlife. The affect of any development upon habitats for wild creatures should be investigated.

Concern is expressed in relation to the adequacy of the gravity sewer and drains to serve the proposed development.

The re-development proposed for this site will jeopardise the continued trading of a business which benefits local residents. Customers will no longer be able to walk to the business if Mill Garage relocated to an edge or out of town location and therefore results in less convenience. The proposal would result in the loss of an important amenity for the town.

The proposed dwellings close to the western boundary will not receive the best of natural light.

There are no natural resources to disperse water which will lead to flooding concerns.

Noise and dust would be generated during the building work to the detriment of local residents.

There are no secondary fire escapes to serve the development.

There would be a devaluation of existing surrounding dwellings.

The scheme would impact on the outlook from existing properties.

The current housing market may reduce investments in the build and the site will languish. If constructed properties could remain empty.

The proposals seem to be driven by pecuniary interests rather than producing a development that is sympathetic to its surroundings.

There is a conflict of interest with the developer being a District Councillor and it is contended that had any one else put in this proposal it would have been dismissed without thought, but being a District Councillor allows unfair consideration.

The access road to the Mill is of unknown ownership and there is a need to clarify ownership.

There are trees to the north of the application site which are not controlled by the applicants and these should not be altered.

It is pointed out that the residents of properties on Burton Road have rights to vehicular access to the rear of their properties from the access road serving the Mill. Further, it is stated that residents have parking rights along the access as the lane has been used as resident parking for the residents of Burton road and Holywell Cottages uninterrupted for at least 25-30 years and continues to be used as such. Any imposition of enforceable parking restrictions (as opposed to the current restrictions threatened with questionable legality by the developer) on this lane would lead to a massive shortage in available parking in the locality.

A number of the letters of representation indicate that some development may be appropriate on the site in particular schemes that provide for the retention of the Mill but amendments need to be made to make the scheme more acceptable; for example that a more varied design be used, that the scheme is single storey and that the proposals be of a reduced density.

It is also pointed out that prior to the submission of the application, but in response to the necessary notification given by the applicant under 'Certificate D' in the local press of the applicants intention to submit the application (given that the applicant was unable to identify all the owners of land within the application site), the Council received a total of 15 No. letters from local residents raising objections to the development. The objections raised reflected those subsequently raised by local residents in relation to the formal consultation process undertaken by the District Council and which are summarised above.

## Revised Submissions

Upon the receipt of the revised plans for the link structure and the Foul Flow Assessment, the Town Council, Civic Society, Environment Agency, Natural England and the local residents were reconsulted. The responses received in relation to the amended submissions are summarised below as follows :-

Ashby de la Zouch Town Council raises no objections but comments that access issues should be resolved prior to the commencement of development and the children's play areas should be re-sited further from Burton Road.

Ashby de la Zouch Civic Society comments that it wishes to maintain its objection to this application.

The Civic Society re-iterates that it has no objection in principle to the development of this site for housing and are pleased to see the retention of the main building. However, the Society are concerned that:

Adjacent new buildings should have sympathetic mass and positioning. The current proposal for additional new buildings is overbearing and represents over intensification of the site.

The Society would prefer to see a further extension to the main mill building to accommodate further flats than the new blocks on the edge of the site.

The re-design of the link building is inappropriate especially the flat roof and is unsympathetic with the main building architecture.

The assumptions made in the new water engineering report (i.e. Foul Flow Assessment) are erroneous. The Society consider this application will be detrimental to the River Mease SAC (Special Area of Conservation) due to increases in foul water connected to Packington STW (Sewerage Treatment Works). The run off of surface water is irrelevant as this is directed to the Gilwhiskaw Brook and does not impact the phosphorus loading which is the key concern of the Environment Agency. The new buildings represent 44 residences with 86 bedrooms. Assuming occupancy of 1.5 people per bedroom, this represents a residency of 129 people on site. The report quotes a current site usage of 20 permanent employees plus 10 visitors at any one time. This represents an increase of 9,900 litres a day of foul sewage, (assuming 100l/day/person foul water). The report quotes the following foul water generators and the proposed equipment is calculated from the planning application.

The Civic Society conclude that there will be a significant increase in foul water and phosphorus loading to Packington STW (Sewerage Treatment Works) which will be detrimental to the River Mease SAC

Natural England advises that it has no objection to the proposal because it is considered that, either alone or in combination with other plans or projects, it would not be likely to 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. With regard to the foul sewage calculation Natural England comments that it supports the conclusions of the submitted Foul Flow Assessment, a peak discharge from the 44 dwellings would be 2.01l/s, this represents a 50% reduction that the sewerage treatment works will receive post development. This is due to the relationship between the current commercial use, and the proposed



residential use. Natural England supports the use of SUDS and a coherent drainage plan that will reduce wet weather flows by 92%.

Natural England also advised the Local Planning Authority to seek assurances from the Environmental Agency and Severn Trent Water that the proposed flows can be accepted at Packington Sewerage Treatment works before determination. Furthermore Natural England recommended that the Environmental Agency advise as to whether the surface water would have an adverse impact on the interest features of the River Mease SAC/SSSI.

Natural England also re-iterates that the bat survey is satisfactory and that it would have no objections in regard to bats.

Environment Agency commented in the light of the response of Natural England that in respect of surface water flows it does not anticipate any adverse effects on the River Mease SAC/SSSI as a result of altering the surface water drainage system at the site.

In respect of foul water flows the Environment Agency advises that its objection to this proposal will remain until the Agency have received confirmation from the sewerage undertaker (Severn Trent Water Ltd) that they have been consulted on the foul flow assessment, and that they can confirm the following:-

- Confirmation of which Waste Water Treatment Works will receive the sewerage from the proposed development.
- Confirmation that there is sufficient capacity within the current discharge consent (DWF) for that Waste Water Treatment Works to accept the expected load from the development.
- Confirmation that the effluent can be discharged within the limits of the determinants set by the current discharge consent.
- Confirmation that the existing sewerage infrastructure is capable of receiving the drainage from the development without causing a pollution risk.

Severn Trent Water Ltd comments that having regard to the objection of the Environment Agency that the position in terms of waste water strategy is that "Severn Trent can confirm that this development will drain to Packington sewage treatment works. Currently there is spare headroom with the current discharge consent to accommodate additional flows from up to 700 new dwellings and can confirm that effluent from (the development) can be accommodated within the limits of the determinants set out by the current discharge consent. With regard to the sewerage infrastructure the proposed development will not have an adverse impact on the sewerage system, indeed the proposal to use SUDS to reduce wet weather flows by 92% and the 50% post development reduction in peak foul discharge will provide a slight improvement in performance. Severn Trent Water therefore has no objection to this development."

A total of 6 No further letters of representation were received in respect of the application as revised. The letters re-iterate a number of the previously stated objections (which are summarised above) along with the additional objections summarised below :-

The Packington Sewerage Treatment Works are unable to cope with existing demands and the Agency responsible has indicated that there should be no further development until the problem is solved.

The amended plans show that the access stair block between Blocks A and B has been raised and this now looks totally disjointed. It is considered that it would aesthetically pleasing if the roof of the access tower was at the same angles as Blocks A and B and not stick out like a 'sore thumb' as proposed.

The proposed materials for the access stair block are not in keeping with either the existing Block A or the new Block B. The scheme currently looks more like an office block than a housing development.

The development could reduce water pressures to the water supply serving existing properties.

A copy letter has also been sent to the District Council in relation to a submission to the County Highway Authority by a local resident raising objections to the highway safety aspects of the proposed development, in particular the access to serve the proposed development.

A further letter of representation has been received from an Ashby Town Councillor for the Holywell Ward, following completion of the Committee report, in which he re-iterates the concerns raised on highway safety grounds in an earlier letter to the County Highway Authority (which is referred to the officer report to the Committee). The Town Councillor again points out that the existing highway access is "wrong"; that a residential development which perpetuates - and arguably exacerbates - that "wrong" can never make it a "right", and therefore should not be allowed. The Town Councillor also comments that whilst it is understood that the Developer has acquired land adjoining the existing roadway, he is not aware of any planning proposal from the Developer which addresses the access problems.

### **Further Representations Received Following 6th April 2010 Planning Committee**

Since deferral of the application from Planning Committee on 6th April 2010, five further separate representations have been received from **Ashby de la Zouch Civic Society** which are outlined below:

1. We maintain our objection to this application.

- This application was deferred at the April planning meeting for further reports on the impact on the River Mease SAC.
- The officer's report made no mention of the building for life assessment which is now a requirement of policy adopted by the Council in December 2008.
- We request that this obligation is discharged and an assessment made and presented to the planning committee.
- We consider that this proposal falls far short of the design standards required by this policy.
- We attach our own assessment which scores the scheme at 8.5 suggesting poor design.
- If the Council's assessment agrees this score then the adopted policy requires that the Urban Designer should recommend the application for refusal.

2. We would add to our objections to this application as the scheme is in contravention to design Bulletin 32 criteria for residential roads and footpaths.

- The entrance road must be adopted by the County Council due to the size of the development. The ownership of this road is unknown. If the Council adopt the road without the previous ownership being determined the Authority leave themselves open for future legal challenges. The Council should insist on the ownership issues being resolved before granting permission.
- The design of the entrance road is unacceptable. The recommended minimum road width is 5.5m, but this scheme is only 4.8m. The minimum pavement width is 1.8m. This scheme is only 1.0m.
- The proposed footpath is not only to be used by residents of the development but is used by residents of the nearby large housing estate as a main route to the nearby

primary school. A footpath of only 1m wide is therefore clearly inadequate in a morning when mothers and children will be using the path at the same time as residents leaving to work by car.

- As the pavement is on the west side of the road only pedestrians will be forced to cross the entrance carriageway in front of cars at the junction as they are trying to emerge from the site.
- The whole entrance design is therefore considered to be unsafe. We would insist that the Highways Authority undertake a safety assessment of this scheme.

3. Further to my previous attached comments (see above), we would ask you to consider the additional comments that:

- The proposed road serves the new development of 44 dwellings and an existing row of 6 cottages. However you should be aware that the residents on the north of Burton Road use the proposed access road to gain access to their garages at the rear of their properties. This access road then is proposed to service a total of 71 properties. Access roads servicing above 50 properties require a road width of 5.5m (Manual for Streets LCC)
- The Pavement proposed will be required to service the same 71 properties. In addition it services a footway from the adjacent large estate of Rouen way and Roedean Close etc. Parents and children from this estate to use this path to access the local school to avoid a 1/2 mile walk around the alternative route to the school. Pavements with this level of usage should be 2m wide. (Manual for Streets LCC)

4. We maintain our objection to this application.

- This application was deferred at the April planning meeting for further reports on the impact on the River Mease SAC.
- We are now in receipt of Mr Stewart's submission of further evidence of 10th May and would comment as follows:
- We disagree that the reduced foul flow would have a substantial benefit to Packington STW or the River Mease. Although reducing the load on the works in terms of flow, this small reduction would have insignificant impact on capacity of the works and no change to the River Mease SAC. Measured down stream of the STW the flow rate and P levels will be the same whether the sewage/surface flow is combined or split.
- We accept that the current use is different from the proposed domestic use.
- We do not accept that this factor cannot be taken account of in the calculation nor that the two scenarios cannot be compared by the same method.
- We attach two calculations for your information. One using the BS EN 12056 proposed by the applicant and a daily flow rate calculation using appliances and usage rates adjusted by the employment and visitor information supplied.
- Despite increasing the submitted current flow calculation by a generous 66% to account for the dog parlour and gym the calculation clearly shows more foul water generated by the development.
- The daily flow rate calculation again shows a generous allowance in the present usage. This is far outweighed by the future usage calculated for the proposed dwellings.
- We therefore conclude that the development will generate significant more foul sewage flow to the Packington STW and will therefore be detrimental to the River Mease SAC and as such The LPA must reject this application.

5. We would like to add to our previous objection to this application.

- The west elevation of the buildings on the edge of the site rely on obscure bedroom windows to afford privacy to existing residents. We have previously commented that this reduction of amenity for occupants was unacceptable. We would refer you to the

Inspectors recent report of the appeal on 09/01213/FUL which supports this view and rejected the appeal.

- Attached below is his comment:  
"The Inspector considered the appellant's suggestion that they would accept a condition to ensure that the 2 bedroom windows in the dormer would be obscure glazed. However, as they would be the only windows to the proposed bedrooms, the Inspector deemed that it would compromise the living conditions in the appeal property and represent an unacceptable solution to overcome a problem that would result from the poor design of the proposed development."
- We ask you to note this decision and apply the same decision to this application.

In light of the comments received by the Ashby Civic Society in relation to the access (see 2 and 3 above), the **County Highway Authority** has responded as follows:

"Regarding the letter from Ashby de la Zouch Civic Society dated 21/4/10, there is no current requirement as part of the development for the Highway Authority to adopt as public highway the proposed access to the site, which falls below the normal standards for adoption contained in "The 6Cs Design Guide - Highways, transportation and development".

The presence of third party land on both sides is such that the existing access drive from Burton Road is restricted in its width, radii and visibility splays. Although the proposed format of the access road does not comply with Leicestershire County Council standards, on the basis of the Transport Assessment by Capita Symonds, dated June 2007 submitted in support of proposals for development at the site, taking into consideration the existing lawful uses at the site in planning terms and the existing potential for traffic, the proposals will not lead to a significant increase in traffic. Therefore it is not considered that it would be possible for the Highway Authority to sustain a reason for refusal on the grounds of an increase in traffic using the access. Similarly, it is considered that the proposal would not lead to a significant increase in the potential for conflict between pedestrians and motor vehicles at the junction of the proposed access with Burton Road over and above that associated with the existing uses at the site. The proposal will lead to a decrease in the number of turning manoeuvres by slow-moving, cumbersome, heavy goods vehicles at the junction of the site access with Burton Road, leading to a highway gain.

In the circumstances it is considered that it would be too onerous for the Highway Authority to require that the Developer should carry out a safety audit of the whole entrance design.

Design Bulletin 32 has been superseded by the Government's 'Manual for Streets'.

The Highway Authority has also commented further:

- The proposed access is not required to be adopted.
- Although the proposed format of the access road does not comply with Leicestershire County Council standards, it is considered that the proposals will not lead to any increase in traffic when considering existing uses and so the Highway Authority is not in a position to recommend that the proposal should be refused.
- The proposed format of the access road does not comply with Leicestershire County Council standards but, on the basis that, in this instance, there will be no increase in traffic, the proposal is acceptable to the Highway Authority.

- It is likely that the Highway Authority will serve APCs on the Developer in respect of all new plots served by the private roads within the development in accordance with Section 219 of the Highways Act 1980. APCs would not be served on residents of the existing properties served by the site access.

In light of the revised foul flow submissions, **Natural England** have indicated it would have **no objection** to the proposal because it is considered that, either alone or in combination with other plans or projects; it would not be likely to 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 reasons for this view are stated below as follows::

NWLDC and Natural England received Further Information on 1 April 2010 from Darren Stewart, Senior Engineer at BWB Consulting Limited that clarified some areas of concern regarding the BWB Drainage Assessment submitted as part of the application.

#### Foul Water

Natural England is satisfied that the proposed development does not constitute significant adverse effect upon the SAC.

The concerns regarding occupancy have been better explained in the Further Information, details of permanent staff and visitors have been provided. Although the existing permanent occupancy is lower than proposed occupancy on site, the existing commercial uses have both high visitor numbers and commercial uses that are conducting high water usage operations.

Furthermore Natural England notes that the commercial properties currently on site, namely Virginia Birch Dog Parlour, Quaver Catering Ltd, Dan Harrison Judo Club and Active8. These commercial activities are likely to produce more water volume and a higher load of P through sources such as toilets, increase shower use frequency and higher detergent use than the replacement residential use is likely to discharge.

The concerns highlighted by Ashby Civic Society regarding the differences in calculating methods between the existing and proposed figures have been explained in the Further Information. It states 'Given the eclectic nature of the development the foul flow rates have therefore been calculated in accordance with BS EN 12056. In doing this we are treating all drainage fittings equally – we have made no allowance for the canine beautician or the car valeters which would be expected to be high users of water and high dischargers of detergents. Diurnal flow patterns in dwellings are better understood and the widely accepted 4000 l/dwelling/day figure from Sewers for Adoption have been used to assess the proposed development discharge rate.' Natural England supports the use of the assessing methods as explained in the Further Information, and accepts the rationale as to why these methods have been used.

Natural England considers that foul water discharge of the proposed development does not constitute a significant adverse effect upon the integrity of the River Mease SAC. It is unlikely that there will be a significant increase in foul water arising from the site if the development were to be granted permission.

#### Surface Water

The proposed development will vastly reduce the volume of surface water entering Packington STW, the further information indicated that the existing surface water arising from the site has been assess as 22.2l/s, whilst the proposed volume would be 0l/s, this is due to the SUDS system discharging to the nearby watercourse, not Packington STW.

Reducing discharge to the River Mease SAC is not a priority for Natural England as high flows are not an issue in relation to the sites Conservation Objectives or site condition. However the lowering of flooding risk as explained in the Further Information is beneficial, as it reduces risk and the impacts of flooding events to the SAC.

Due to total surface water volume entering the River Mease SAC not increasing, Natural England considers that this does not constitute adverse effects upon the SAC. The use of SUDS will remove surface water from entering the STW, and in doing so create less risk of flooding in times of storm events. A more detailed assessment, should it be needed, should be sought from the Environment Agency.

**Environment Agency:** Any further comments received will be reported on the Update Sheet.

## 5. Relevant Planning Policy

The following development policies are considered relevant to this application.

### East Midlands Regional Plan (March 2009)

The Regional Plan applies the general principles for sustainable development in national guidance. Most new development should be directed to locations in and adjoining existing urban areas and the fullest use should be made of vacant and underused (brown) urban land in preference to greenfield sites. Sites well served by public transport should be a priority. The following specific policies are relevant :-

Policy 1 sets out the Regional Core Objectives to secure the delivery of sustainable development in the East Midlands. This policy includes aspirations regarding several issues including the need to ensure that the existing and future housing stock meets the needs of all communities in the Region, the protection and enhancement of the environmental quality of urban and rural settlements by the enhancement of the urban fringe, the encouragement of patterns of new development that reduce the need to travel especially by car, and the protection and enhancement of the environment through protection, enhancement, sensitive use and management of the Region's natural resources, giving particular attention to designated sites of European importance.

Policy 2 (Promoting Better Design) seeks to encourage designs and layouts that reduce CO2 emissions and provide resilience to future climate change.

Policy 3 (Concentrating Development in Urban Areas) deals with the distribution of development and economic activity with new development concentrated primarily in and adjacent to the regions five Principle Urban Areas; significant development should also be located in the three growth towns of Corby, Kettering and Wellingborough; appropriate development of a lesser scale in the Sub Regional Centres and finally development needs of other settlements should also be provided for. In line with Policy 3, Coalville is the only identified Sub Regional Centre in the district. As such development in Ashby de la Zouch is to be considered under the criteria in sub section (d) of this policy whereby new development should contribute to-

- maintaining the distinctive character and vitality of rural communities;
- respecting the quality of tranquillity, where that is recognised in planning documents;
- strengthening rural enterprise and linkages between settlements and their hinterlands; and
- shortening journeys and facilitating access to jobs and services.

Policy 12 relates to Development in the Three Cities Sub Area and provides that development should support the continued growth and regeneration of Derby, Leicester and Nottingham, and maintain and strengthen the economic, commercial and cultural roles of all three cities..... Outside the Derby, Leicester and Nottingham, employment and housing development should be located within and adjoining settlements. Such development should be in scale with the size of these settlements, in locations which respect environmental constraints, in particular the River Mease Special Area of Conservation...'

Policy 13a (Regional Housing Provision) sets out a Total Housing Provision for the period 2006-2026 for North West Leicestershire of 10,200; with an annual apportionment of 510 from 2006.

Policy Three Cities SRS3 indicates inter alia that within the context of Policy 13a provision for new housing will be made in North West Leicestershire over 2006-2026: at a level of "510 dpa (dwellings per annum) located mainly at Coalville, including sustainable urban extensions as necessary."

### **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 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.

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 negotiate with applicants/developers to secure the provision of an element of affordable housing as part of any development proposal.

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 E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplain of the Black Brook, and Gilwiskaw Brook or the River Mease, Soar or River Trent.

Policy T3 states that development will be permitted only where adequate provision is made for vehicular access, circulation and servicing arrangements.

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

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest

Policy L21 indicates that new housing development will be required to incorporate the provision of children's play area, except where the development is a discrete site of less than 10 dwellings; or all play space needs arising from the development can be adequately met by existing facilities within walking distance.

The Council's adopted revised Supplementary Planning Document (SPD) of October 2007 in relation to Affordable Housing provision indicates that the provision of affordable housing will be sought on all sites of 15 or more dwellings and upon those sites to secure a minimum of 40% affordable units.

Detailed National Forest planting guidelines are contained within the National Forest Strategy 2004 - 2014. For residential development on sites of more than 0.5 hectares (as this site is), 20% of the development site area should be provided as woodland planting and landscaping, either on-site or near to the development. The Strategy also provides that, in exceptional circumstances, if the planting guidelines cannot be met, a commuted sum should be paid, at a guideline rate of £10,000 per hectare of the gross development area.

The District Council's Development Control Guidelines indicate in inter alia in relation to the 'Layout of housing areas' that

Rear gardens to residential development should normally have a minimum length of 11 metres, Where a site abuts existing rear gardens the back to back distance between houses should not be less than 22 metres;

Where a principal window of a habitable room faces the blank wall of an adjacent dwelling, the distance between the dwellings should be at least 14 metres. Where both dwellings are single-storey buildings, however, 11 metres will normally be acceptable

All dwellings should normally be provided with a private garden area in accordance with the following requirements :-

House Size.....Private garden area

- 1 bedroom 1-2 persons....70 sq metres
- 2 bedroom 3-4 persons....80 sq metres
- 3 bedroom 4-5 persons....100 sq metres
- 4 bedroom 5-6 persons....115 sq metres
- Larger.....150 sq metres

Private gardens should be screened from public areas by the erection of walls or close boarded fences at least 1.8 metres high;

All parts of the private garden areas should normally be accessible from the public circulation area of an estate without the need to pass through the habitable room of a dwelling;



Proposals should also take into account the need to accommodate changes in levels when checking distances between buildings/boundaries, etc.

### **Five-year Supply of Deliverable Land for Housing**

Since 1 April 2007, and in line with the requirements of government guidance in PPS3, there has been an obligation on Local Planning Authorities to assess and demonstrate the extent to which existing plans already fulfill the requirement to identify and maintain a rolling five-year supply of deliverable land for housing. Having regard to this government advice and other factors, including the Council's knowledge of sites and historic building rates, an assessment has been undertaken and published in the Council's Annual Monitoring Report.

The sites included in the five year housing land supply fall into one of the following categories:

- An Allocated site in the adopted Local where there is evidence of deliverability within the 5 years following discussions or correspondence with the landowner or developer.
- An extant planning permission with likelihood that this would be implemented within the five year period. Only those sites which have been granted detailed planning permission after March 2006 have been included on the basis that if permission had been granted before then with over a year of favourable market conditions with no start, then it would not be realistic to assume that the permission will be implemented within the next 5 years when market conditions are much less favourable.
- Other brownfield sites available for development. Sites included are specific identified sites of 10 or more dwellings that are subject to a planning application and be in a location where there would be no objection in principle to granting permission. As a result many of the sites included in the Council's completed Housing Land Availability Assessment (2007) and which were assessed as likely to come forward during the next five years are excluded where they are not the subject of a planning application.

With the recent adoption of the Regional Plan (March 2009), the District Council has calculated that the present position in relation to the five-year supply of deliverable land for housing for the period between 2009 -14 is that there is a shortfall of 935 dwellings.

### **6. Assessment**

The main issues in the consideration of this scheme relates to the Development Plan policies, highway safety implications, the impact on residential amenities, the effect on the visual amenities and the natural environs, the impact on services and facilities and the impact on the River Mease Special Area of Conservation (SAC). In addressing these issues due consideration has been given to the submissions of the Ashby de la Zouch Town Council, the Civic Society and local residents.

### **Development Plan Policies**

The site does not benefit from any protection for employment use and therefore it is not considered that the Council would have any basis to refuse the application on the loss of land/building for employment purposes, particularly given that having regard to the most up to date evidence there appears to be an oversupply of light industrial land in the district. In relation to the criteria set out in Policy H4/1 of the adopted Local Plan, as previously developed land and

buildings close to the central core of Ashby de la Zouch the residential use of the site 'scores highly' within the sustainability aims of the policy. Further, given that the scheme exceeds 40 dwellings per hectare, the development would exceed the minimum density levels set out in Policy H6 of the Local Plan (the impact of the proposed density on visual and residential amenities is considered below).

### **Highway Safety Implications**

Members will see from the report that local residents raise objections in relation to the suitability (or otherwise) of the vehicular access provisions to serve the development and in relation to the level of off-street car parking provision within the site. In addition, the Ashby Civic Society has raised considerable concerns about the proposed highway layout which they do not consider conforms to current standards and about adoption of the access. However, County Highway Authority essentially raise no objections to the scheme in principle. In relation to off-street car parking provision, the County Highway Authority specifically comment that "there has been extensive discussions with regard to parking allocation on this site which revealed inter alia that unallocated parking provision cannot be controlled under the planning system. Accordingly, it is considered there is a slight under provision of parking. However the site is served by a private road system and is some way from the public highway (Burton Road) which itself is subject to a Traffic Regulation Order which prohibits parking. As such the County Highway Authority does not believe that an objection due to the shortfall in provision could be sustained on appeal in this instance. The County Highway Authority has maintained this stance following consideration of the Civic Society's objections in accordance with their additional comments reported above. In addition, the County Highway Authority has confirmed that the proposed access is not required to be adopted and they continue to raise no objections to the proposals subject to conditions.

In the light of the stated position of the County Highway Authority it is not considered the District Council would be able substantiate any refusal of planning permission on highway safety grounds.

It is also considered that the provision of the footway along the western side of the access drive off Burton Road would benefit both the proposed residents of the development and existing users.

### **Impact on residential amenities**

The converted Mill building is situated some 24 metres from the western boundary of the site, with the glazed link being sited further away given that it is inset between the original Mill and its proposed extension. The proposed extension to the Mill building is situated a minimum distance of 18 metres from the nearest adjoining properties to the north of the site with window to window distances being some 22 metres. As such, it is considered that the elements of the scheme comprising Blocks A and B would not have a significant overbearing, overshadowing or overlooking impact given their relationships with existing dwellings. This is similarly considered to be the case with regard to Block D; the rear elevations and garden areas to which adjoin the private access track running to the rear of dwellings fronting onto Burton Road.

With regard to the siting of the proposed Block C, it is noted that the western elevation of the structure would be situated between 11.0 - 15.0 metres from the rear elevations of the existing dwellings on Rouen Way. As such it is recognised that these distances would be below those indicated by the Council's normal Development Control standards; whereby the back to back distance between houses should not be less than 22 metres; and where a principal window of a habitable room faces the blank wall of an adjacent dwelling, the distance between the dwellings

should be at least 14 metres. However, given the fact that the dwellings on Rouen Way are situated at a higher level, it is considered that the proposed Block C would not have a sufficiently overbearing or overshadowing impact to warrant a refusal of planning permission on these grounds. A further contributing factor in coming to this conclusion is that the proposals to install obscure glazing to those first floor window units to the rear elevation of Block C which would adjoin the boundaries of gardens to dwellings on Rouen Way would mitigate overlooking impacts. Nevertheless, it would be necessary to require that conditions of any grant of planning permission require that the obscure glazing be retained to the first floor window units at all times following installation, that the cill level of any opening lights - which shall only be top hung - be a minimum of 1.8 metres above the internal floor levels and that permitted development rights are withdrawn to prevent the future installation of any new windows or openings.

The comments of the Civic Society regarding the use of obscure glazed windows bedroom windows in the western facing elevation of the new build units have been taken into account as has the reference to an Inspectors appeal decision for an extension to a dwelling in Long Whatton. In that appeal, the Inspector considered the appellant's suggestion that they would accept a condition to ensure that the 2 bedroom windows in the dormer would be obscure glazed. However, as they would be the only windows to the proposed bedrooms, the Inspector deemed that it would compromise the living conditions in the appeal property and represent an unacceptable solution to overcome a problem that would result from the poor design of the proposed development.

However, the windows on the first floor western facing elevation of the new build units serve secondary living room/kitchen areas, bathrooms and toilets and staircases and **not** bedrooms. Therefore, in this instance it is not considered that the obscure glazing of these windows would compromise the living conditions of future residents and it would not be unreasonable to impose conditions requiring these windows to be permanently obscure glazed.

Insofar as other residential amenity issues are concerned, it is not considered that either the use of the parking and children's play facilities nor the use of the residential units themselves would be significantly detrimental to surrounding residents in terms of noise and disturbance. Further, it is considered that proposed boundary treatments would not give rise to any significant overbearing or overshadowing impacts.

With regard to the amenities of the future residents of the proposed dwellings themselves, it is considered that the layout as proposed would ensure adequate living conditions. Further, the fact that the occupants of Blocks A and B would not have access to either private amenity space or a communal garden area is not considered unusual in such an urban location. The necessary bin stores and cycle parking facilities will be provided at the site to serve the residents concerned.

In overall terms, therefore, having due regard to residential amenities issues, along with the highway safety implications, it is also considered that the proposals would not represent an overdevelopment of the site.

### **Effect on the visual amenities and the natural environs**

The principal Mill building, whilst not having listed status, is nevertheless considered to be an important building within the townscape of Ashby de la Zouch. Accordingly, its retention and refurbishment as part of the scheme is considered in principle to be to the benefit of the amenities of the locality. Furthermore, the design and scale of the proposed extension to the Mill, including the revised link structure, is generally considered sympathetic having regard to

the relationship with the principal building. With regard to the two storey blocks, whilst these adopt a more functional design approach it is nevertheless considered that the proposals would not detract from the overall visual amenities of the locality.

However, as the scheme stands the potential Building for Life score of this development is 13/20 (subject to satisfactory discharge of conditions and Section 106). This equates to an 'average' score; which whilst not considered 'poor'; it is considered a missed opportunity. The scheme therefore does fall short of the standard of design with Building for Life 14+ used by the Council as the design quality indicator for the determination of schemes. However, it is not considered on balance that a reason for refusal on this ground could be successfully defended at appeal, given that the area of weakness for this scheme is centred around the new built elements located around the perimeter of the site, which are not prominent or greatly visible in the public realm.

Insofar as the impact of the proposed boundary treatments are concerned, the objections of local residents are noted in relation to the visual and potential crime impacts of the timber slat fencing be provided to the southern boundary of the site and thus alongside the access to the rear of the properties fronting onto Burton Road. However, and notwithstanding the fact that the pedestrian route in question is not a public right of way, it is considered that these concerns are outweighed by the need to provide the necessary levels of privacy to the future residents of the dwellings in Block D. The first floor windows to the rear of the dwellings in Block D would also provide a degree of surveillance over the accessway in question to the benefit of users. With regard to the northern and eastern boundaries of the site where they adjoin the public footpath, it is considered that the introduction of the galvanised steel fencing, along with the provision of the lighting bollards, in lieu of the existing vertical timber boarded fencing would to be benefit of the visual amenities of the area and to security. The footpath would also benefit from the additional surveillance provided by the conversion and extension of the Mill building into residential use.

The concerns raised in relation to the loss of trees from the site are also noted, however, it is not considered that the trees in question are worthy of protection under a Tree Preservation Order. The application nevertheless does provide for the retention of a number of trees in the south-western area of the site and further detailed landscaping would be secured by a condition of any approval. Furthermore, whilst concerns have been raised in relation to the loss of bat roosts, the bat surveys (including a nocturnal survey) concluded that there was no evidence of bat usage observed in association with the structures on the site, although a small number of common pipistrelle bats were noted using the site curtilage as a commuting and foraging area. Consequently, Natural England has indicated that the bat survey is satisfactory and that it would have no objections in principle in regard to bats.

In relation to potential land contamination, both the Environment Agency and the Council's Environment Services Division consider that this matter can be dealt with by means of condition(s) attached to any grant of planning permission.

## **The Impact on Services and Facilities and Impact on the River Mease Special Area of Conservation**

### **Services**

Severn Trent Water Ltd raises no objections in principle to the scheme and the Environment Agency considers the scheme to be acceptable subject to the mitigation measures outlined in the Flood Risk Assessment submission being secured by a condition(s) of any planning

permission. It is also noted that notwithstanding the concerns raised by local residents, that the statutory consultees raise no concerns in relation to the capacity of the existing sewerage system to serve the proposed development.

### River Mease

With regard to determining the likely effect of the development on the River Mease Special Area of Conservation - given that the Gilwiskaw Brook is a tributary of the River Mease - it has been necessary for the Council to undertake a Habitations Regulations Assessment (HRA) and in doing so to full regard to the consultation responses received from Natural England, the Environment Agency, Severn Trent Water and the Ashby de la Zouch Civic Society which are set out in this report. Members will see from the representation section reported above that while there are no objections to the proposals from the Environment Agency or Natural England, the Ashby Civic society maintains its strong objection to the proposals. In addition, the Council has commissioned expert consultants (David Tyldesley Associates (DTA)) to undertake the HRA, the conclusions of which are outlined below as follows:

- "The manner in which the project would be carried out is described in detail in the application documents. Relevant to this assessment, it should be noted that there are no conditions or restrictions that would be effective in reducing the P load arising from typical domestic dwellings. The options for removing adverse effect on integrity as a result of P contribution to the River Mease therefore appear to be limited.
- Having said this, as the recorded conclusion for Packington WWTW within the Environment Agency's Review of Consents was so central to the provisional conclusion, it is appropriate for this assessment to be informed by the outputs of the Review and the implications in relation to the Packington WWTW and the River Mease SAC.
- On the basis of the conclusions of their appropriate assessment, the EA have initiated modifications to the nine waste water treatment works consents which discharge into the River Mease SAC. As a result of these modifications, a P limit of 1mg/l will be imposed on the discharge consent by 2015. Once this limit is in place and the effluent is treated to discharge at a concentration not exceeding 1mg/l, the potential impacts associated with the proposed development, in terms of P contribution to the River Mease SAC, will become more a matter of overall volume (relative to the volume associated with the current use).
- Information submitted as part of the application has demonstrated that the overall volume of foul flow will be reduced as a result of the proposed development, when compared to current use, by virtue of the removal of surface water from the system through the implementation of a sustainable urban drainage system (SUDS).
- With regard to the implications of the proposed modifications for the current appropriate assessment, once the consent is modified and the P limit is imposed, the reduced volume of foul flow from the proposed development (when compared to current use) will represent a reduction in volume being treated and subsequently discharged by Packington WWTW, which will effectively reduce the P load to the River Mease. In other words, the reduced flow with P stripping in place will assist rather than undermine the achievement of the conservation objectives.
- It is proposed therefore that, subject to a condition which prevents the occupancy of the dwellings until the implementation by STW of the P reduction measures and the coming

into force of the modification of the discharge consent at Packington WWTW, NWLDC could ascertain that there would be no adverse effect on the integrity of the River Mease SAC, and grant permission for the current application.

- It therefore falls to be considered whether such a condition would be reasonable and comply with the legal and policy tests for the imposition of conditions on planning permissions. It is a matter for the local planning authority to judge whether allowing the development to start within the statutory three year period, but prohibiting the occupation of any of the dwellings, or such number of the dwellings as would not lead to an increase in P load in the SAC, would be a lawful condition."

In addition the consultants DTA have stated:

"This is a summary record of the assessment of planning application 09/00082/FULM under Part 6 of the Conservation of Habitats and Species Regulations 2010.

The proposal subject to the application is a project within the meaning of the Habitats Regulations.

The competent authority to undertake the assessment before granting planning permission is the North West Leicestershire District Council (NWLDC).

The River Mease SAC is potentially affected by the proposed development.

The project is not directly connected with or necessary to the management of the site for nature conservation.

It cannot be excluded, on the basis of objective information, that the proposed development would be likely to have a significant effect on the River Mease SAC in combination with other plans or projects. In accordance with the requirements of regulation 61(1), as the competent authority, NWLDC must make an appropriate assessment of the implications for the site in view of the site's conservation objectives.

An appropriate assessment has been undertaken of the effects of the planning application for the River Mease SAC in view of the site's conservation objectives. It is not possible to ascertain that this planning application, as submitted, alone or in combination with other plans or projects, would not have an adverse effect on the integrity of the River Mease, in the absence of any restrictions or conditions.

The manner in which it is proposed to carry out the project and the conditions and restrictions which any planning permission could be made subject to have been considered, in accordance with the Habitats Regulations.

Subject to a condition which prevents the occupancy of the dwellings until the implementation, by Severn Trent Water, of the P reduction measures and the coming into force of the modification of the discharge consent at Packington WWTW, the Council could ascertain that there would be no adverse effect on the integrity of the River Mease SAC, and grant permission for the current application.

Consequently, if the Council determines, on legal advice, that a condition prohibiting the occupation of any or any more than a small proportion of the proposed dwellings would be unreasonable or otherwise unlawful, it would not be possible for the Council to ascertain that

there would not be an adverse effect on the integrity of the River Mease SAC. There being alternative solutions and no imperative reasons of overriding public interest, planning permission for the current application must be refused in accordance with the Habitats Regulations 2010."

The full contents of the DTA consultants report is available for members to inspect on the case file.

The conclusions of the report state that the development would currently have an adverse impact on the integrity of the River Mease SAC in the absence of any restrictions or conditions. However, the advice is clear that once the modifications to the Packington Waste Water Treatment Works (WWTW) are carried out to secure a reduction in phosphate levels, the Council could ascertain that there would be no adverse effect on the integrity of the River Mease SAC, and grant permission for the current application subject to the imposition of a condition to restrict occupancy of the units until the works have been carried out.

Legal advice has been sought to determine whether the imposition of such a condition is reasonable and lawful. The advice has confirmed that there is no legal reason why a planning condition should not be used to this effect.

However, the legal advice states that it would be advisable to modify the approach suggested by DTA slightly. The development of the Packington WWTW improvements works is beyond the control of the developer and the developer cannot ensure that it is delivered. A condition restricting occupation of the residential units prior to the completion of the Packington WWTW works would comply with the Conservation (Habitats) Regulations but it does not deal with a scenario where the improvement works do not get carried out. If this occurred the residential units would never be capable of occupation and there would be development which would simply have to remain unused. This would be unacceptable and therefore the condition should be amended to prevent commencement of development until the completion of the works which effect the reduction of the level of phosphates from Packington WWTW. It is also clear from case law that a Grampian condition may only be lawfully used where the pre-commencement condition has a reasonable prospect of being fulfilled within the life time of the planning permission. Given that the works are not scheduled until 2015, albeit Severn Trent Water have indicated the works could take place as early as 2012, the standard 3 year life of a planning permission would be too short. That is, there is no reasonable prospect that the condition would be satisfied within the life time of the permission. The Council does have powers, under S.91 of the 1990 Act, to extend the life of a planning permission where this is in accordance with the development plan and any material considerations. The delivery of the improvements to Packington WWTW is a relevant material consideration and if the Council are certain that they will be delivered by 2015, then a five year period would be appropriate.

In testing the proposed condition against the tests in circular 11/95 officers are satisfied that it would accord with policy in the circular, the summary to this conclusion is set out below.

- 1) Necessary - without the use of the planning condition the planning permission could not be approved as the development would adversely effect the River Mease SAC.
- 2) Relevant to planning - the River Mease issue has occurred because of the Review of Consents process being carried out by the Environment Agency (EA) but the EA cannot control development coming forward as the Council is the relevant authority for this. The regulation of development to ensure that levels of discharge of phosphate into the Packington STW does not increase is a matter for the planning system and officers consider that it is appropriate for this to be a material consideration in any planning decision.
- 3) Relevant to the development being permitted - it is clear that any net increase in the amount

of phosphates being discharged into the River Mease SAC will have an adverse effect given that the SAC is already at saturation point. The HRA carried out by DTA indicates that the development would see an increase in the amount of phosphate being discharged from the site. The legal advice does not comment on the methodology of how this assessment has been made, but this being the case the condition is clearly relevant to the development.

4) Enforceable - monitoring the site to see if development is commenced is straight forward.

5) Precise - the condition is sufficiently precise - see condition 3 of recommendation.

6) Reasonable in all other regards - there are no other reasons that would make the condition unreasonable. In addition, Severn Trent Water has confirmed that the currently agreed date with the Environment Agency and OFWAT, for their new P consent obligation at Packington STW is 31st March 2012. Beyond this date they will be obligated to ensure our discharge from the works does not exceed 1mg/l of P. Therefore there is a reasonable prospect of the development commencing within the extended time period suggested.

In light of the above advice from the Council's SAC consultant and legal advisor, officers are satisfied that, subject to a condition preventing the commencement of development until the modification works to Packington STW have taken place, the Council could ascertain that there would be no adverse effect on the integrity of the River Mease SAC, and grant permission for the current application.

### **Facilities**

With regard to formal play area provision, the proposed on-site facilities are in line with the requirements of Policy L21 of the Local Plan and the District Council's supplementary planning guidance. Further, and notwithstanding the concerns raised by local residents and the Town Council, it is considered that the play area is appropriately positioned within the site having regard to need to provide adequate levels of surveillance. In addition, the County Highway Authority does not raise any safety concerns in relation to the proposed siting.

In relation to commuted sums, as outlined earlier in this report the developers have submitted a draft Section 106 Agreement providing for the payment of commuted sums in respect of leisure provision, health care provision, education facilities, library facilities and civic amenity site infrastructure. The sums meet the requirements of the Council's Head of Leisure Services, the Primary Health Care Trust and Leicestershire County Council. Further, the proposed affordable housing provision meets the stated requirements of the Council's Housing Division and the commuted sum in relation to National Forest planting is in line with the Council's adopted guidelines. The County Highway Authority requests for public transport contributions in respect of a travel pack per unit, two adult travel passes per unit and bus stop infrastructure would also be met, as would the necessary provisions for the payment of monitoring fees.

### **Other Matters**

With regard to other matters raised, it is pointed out that noise and dust mitigation would fall under Environmental Health legislation and that the provision of secondary fire escapes to serve the development would be a matter considered under the Building Regulations. The issue of the potential devaluation of existing surrounding dwellings, the loss of views/outlook, the degree of financial benefit that will be derived from the scheme by the developer should it proceed and the state of the current housing market are not relevant planning considerations. Furthermore, it is pointed out that any rights of access of residents of dwellings fronting onto Burton Road and of Holywell Cottages over the access road are a private legal matter. Further, with regard to the concerns as to the ownership of the access road, by serving a Certificate D and undertaking the necessary publication of the notice in the local press prior to the application



submission, it is pointed out that the applicant has complied with the legal requirements of the Planning Acts. As such any dispute in relation to ownership matters would also now be a private legal matter.

It is also contended that there is a conflict of interest with the developer being a District Councillor and it is noted that a number of suggested alternative proposals have been put forward by local residents for the development of the site. Nevertheless, this application falls to be determined solely on its own planning merits and for the reasons outlined above the scheme is recommended for approval subject to a Section 106 Agreement and the conditions set out below.

### Summary Reasons for Granting Planning Permission

The site lies within limits to development where the principle of this form of development is acceptable. The proposed development would not be detrimental to the visual amenities of the locality in terms of the design, appearance and scale of the scheme and would not give rise to sufficient overbearing, overshadowing or overlooking impacts having regard to the relationship between the proposed development and the existing adjoining properties so as to warrant a refusal of planning permission. The proposed development would not represent an over-development of the application site, would not be significantly detrimental to the natural environment and subject to a condition preventing the commencement of development until the modification works to Packington WWTW have taken place, the Council could ascertain that there would be no adverse effect on the integrity of the River Mease SAC, and grant permission for the current application.. The proposed scheme would not be detrimental to highway safety and the levels of parking provision to serve the development are not considered to be sufficiently deficient to warrant a refusal of planning permission.

### RECOMMENDATIONS – PERMIT, subject to a Section 106 Agreement and subject to the following conditions;

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

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

- 2 The development, including finished floor levels and finished ground levels, shall be undertaken in accordance with the details shown on the Drawing Nos. listed below unless otherwise required by another condition of this permission.

ARP\_00\_00 Rev P3  
 ARP\_00\_90(02) Rev P1  
 ARP\_00\_90(01) Rev P2  
 ARP\_01\_74 Rev P2  
 ARE\_08\_20 Rev P2  
 ARE\_09\_20 Rev P2  
 ARE\_06\_20 Rev P3  
 ARP\_00\_20\_01 Rev P1  
 ARS\_20\_01 Rev P1  
 ARE\_07\_20 Rev P3  
 ARS\_01\_20 Rev P1

ARS\_02\_20 Rev P1  
 ARP\_40\_20 Rev P1  
 ARP\_41\_20 Rev P1  
 ARP\_42\_20 Rev P1  
 ARP\_44\_20 Rev P1  
 ARP\_45\_20 Rev P1

*Reason- for the avoidance of doubt; the original scheme having been considered to be unacceptable.*

- 3 No development hereby permitted shall commence until:
- (i) works to the Packington Waste Water Treatment Works have been completed and the works secure a reduction in phosphate levels in the discharge at the works to 1mg per litre
  - (ii) the developer submits to the local planning authority written confirmation from Severn Trent Water that the improvement works to Packington Waste Water Treatment Works have been completed and evidence of any necessary written consent issued by the Environment Agency or its successor, which limits phosphate levels in the discharge to a maximum 1 mg per litre.

*Reason- To ensure that the development is provided with a satisfactory means of drainage and to minimise the risk of pollution and ensure that there is no adverse impact on the River Mease SAC in accordance with Policies 26 and 32 of the East Midlands Regional Plan.*

- 4 Subject to the requirements of Condition No. 3 of this planning permission, the foul sewerage of the development hereby permitted shall be connected to the Packington Waste Water Treatment Works only.

*Reason- To ensure that the development is provided with a satisfactory means of drainage and to minimise the risk of pollution and ensure that there is no adverse impact on the River Mease SAC in accordance with Policies 26 and 32 of the East Midlands Regional Plan.*

- 5 No development shall commence on the site until representative samples of the materials to be used in all external surfaces of built structures and boundary treatments (including all surfaces finishes) have been submitted to and agreed in writing with the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

*Reason- to enable the Local Planning Authority to retain control over the external appearance as no details have been submitted: to ensure a satisfactory development.*

- 6 No development shall commence on the site until precise details of the proposed bonding to the brickwork to be used in the construction works have been submitted to and agreed in writing with the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

*Reason- to enable the Local Planning Authority to retain control over the external appearance as no details have been submitted: to ensure a satisfactory development.*

- 7 No development shall commence on the site until detailed drawings (including cross-

sections) of the proposed door units, window units and the glazed link roof (including any openings) to a scale of 1:1/1:2/1:5/1:10 have been submitted to and agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with the approved details.

*Reason- to enable the Local Planning Authority to retain control over the external appearance as no details have been submitted: to ensure a satisfactory development.*

- 8 No development shall commence on the site until a sample panel(s) (of at least one square metre in area) of the proposed pointing/re-pointing method has been provided on the site and the specification approved in writing by the Local Planning Authority before the commencement of works. The pointing works shall be carried out in accordance with the approved scheme and the sample panel(s) shall be retained until the work is completed.

*Reason- to enable the Local Planning Authority to retain control over the external appearance as no details have been submitted; to ensure a satisfactory development.*

- 9 Notwithstanding the details shown on the approved drawings, no development shall commence on the site until a detailed landscaping scheme has first 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. 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 ensure satisfactory landscaping is provided within a reasonable period; to provide a reasonable period for the replacement of any trees.*

- 10 The obscured glazed window units to be installed to Block C as shown on Drawing No. ARE\_06\_20 Rev P3 shall be glazed with obscure glass to Pilkington Standard 3 (or its equivalent) prior to the relevant residential unit being first brought into use and shall thereafter be retained at all times 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.*

- 11 No development shall commence on the site until details of any opening lights to be provided to the obscured glazed window units to be installed to Block C as shown on Drawing No. ARE\_06\_20 Rev P3 have been submitted to and approved in writing by the Local Planning Authority. Any scheme, which shall provide for top opening lights only and for the cills of the opening lights to be a minimum height of 1.8 metres above the internal floor level, shall be implemented in accordance with the approved scheme and shall thereafter be retained at all times 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.*

- 12 Unless otherwise provided for under condition 10 above no opening lights shall be installed to the obscured glazed window units to be installed to Block C as shown on Drawing No. ARE\_06\_20 Rev P3 at any time 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.*

- 13 Notwithstanding the provisions of Part 1 (Class A-E) and Part 2 (Class A) 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 dwelling hereby permitted shall be enlarged, improved or altered, nor shall any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse be provided 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; in the interests of existing and future residential amenities*

- 14 Notwithstanding the details shown on the approved drawings no development shall commence on the site 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.*

- 15 No Development shall commence on any part of the site until a risk based land contamination assessment relevant to either the whole development or that part of the development has been submitted to and approved in writing by the Local Planning Authority in order to ensure the land is fit for use as the proposed development. The assessment should be carried out in accordance with BS10175 Year 2001 Investigation Of Potentially Contaminated Sites Code of Practice, BS8485 year 2007 Code of Practice for the Characterization and Remediation from Ground Gas in Affected Developments, and CLR 11 Model Procedures For The Management Of Land Contamination, issued by The Environment Agency. Should any unacceptable risks be identified in the land contamination assessment a remedial scheme must be drafted and submitted for agreement. Should any previously unidentified contamination be identified during the course of development an assessment of the risk of this contamination and any alterations/implementation of remedial works should be submitted to and agreed by the Local planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained in perpetuity, unless otherwise agreed in writing by the Local Planning Authority

*Reason- to provide mitigation of any contamination of land.*

- 16 Before occupation of any part of the completed development, a verification report for any

works outlined in the remedial scheme relevant to either the whole development or that part of the development shall be submitted to, and approved by, the Local Planning Authority. The verification report shall:

- (i) Contain a full description of the works undertaken in accordance with the agreed remedial scheme.
- (ii) Contain results of any additional monitoring or testing carried out between the submission of the Remediation Proposals and the completion of remediation works.
- (iii) 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
- (iv) Contain test certificates of imported material to show that it is suitable for its proposed use
- (v) Demonstrate the effectiveness of the approved remedial scheme
- (vi) Include a statement signed by the developer or the approved agent, confirming that all the works specified in the Remediation Proposals have been completed.

*Reason- to provide mitigation of any contamination of land.*

- 17 The development shall be carried out strictly in accordance with the approved Flood Risk Assessment (FRA) dated December 2008, undertaken by Capita Symonds, and shall thus provide for the implementation of the mitigation measures detailed therein including the limiting of the surface water run-off generated by all events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed 43l/s and not increase the risk of flooding off-site and providing for the provision of a minimum of 178m<sup>3</sup> of underground surface water run-off attenuation.

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

- 18 No development shall commence on the site (or on any such other date or stage in development as may be agreed in writing with the Local Planning Authority), until the following components of a scheme to deal with the risks associated with contamination of the site have each be submitted to and approved, in writing, by the local planning authority:
  - (i). 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.
  - (ii). A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - (iii). The site investigation results and the detailed risk assessment (ii) 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.
  - (iv). A verification plan providing details of the data that will be collected in order to

demonstrate that the works set out in (iii) 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 consent of the local planning authority. The scheme shall be implemented as approved.

*Reason- To protect controlled waters.*

- 19 No works on the construction/conversion of the dwellings hereby permitted shall commence until a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation has been 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, and for the reporting of this to the local planning authority.

*Reason- To protect controlled waters.*

- 20 Where, during works in relation to the 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. The works shall then be undertaken in accordance with the amended remediation strategy.

*Reason- To protect controlled waters.*

- 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.

*Reason- To protect controlled waters.*

- 22 Piling or any other foundation designs using penetrative methods shall not be 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 groundwater. The development shall be carried out in accordance with the approved details.

*Reason- To protect controlled waters.*

- 23 No gates/bollards/barriers shall be erected to the vehicular access to the site.

*Reason- To enable all vehicles (inc service and emergency vehicles) to access the site and enter and leave the site in a forward direction in the interests of road safety.*

- 24 For the period of the construction of the development within the site, vehicle wheel cleansing facilities shall be provided within the site and all vehicles exiting the site shall have all tyres and wheels cleaned, as may be necessary, 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.*

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

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

- 26 The car parking (including that shown for Holywell Cottages) and the turning/manoeuvring facilities shown within the curtilage of the site on the approved plans shall be provided before any dwelling is first 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 No development shall commence on the site until details of suitable signing to be located at the access to the application site, such that drivers can more readily locate the properties, has been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be provided prior to any residential unit being first occupied and thereafter be so maintained at all times.

*Reason- In the general interests of Highway safety.*

- 28 Notwithstanding the details shown on the approved plans no development shall commence on the site until precise details of secure cycle parking provision has been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be provided prior to any residential unit being first occupied and thereafter be so maintained at all times.

*Reason- In the interests of the sustainability of the development and to encourage alternative transport choice.*

- 29 The access drive (including pedestrian access link) and circulatory route shall be provided and completed as shown on the approved plans prior to any residential unit being first occupied.

*Reason- To provide and maintain a satisfactory form of access for both vehicular and pedestrian traffic generated by the proposal and to allow all vehicles (including service and emergency vehicles) to enter and leave the site in a forward direction.*

- 30 No development shall commence on the site until details of the provision of roosting sites for bats within the site have been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be provided prior to any residential

unit being first occupied and thereafter be so maintained at all times.

*Reason- In the interests of the habitats of protected species.*

- 31 The boundary treatment and lighting scheme shown on Drawing No. ARP\_00\_90(01) Rev P2 shall be implemented in accordance with the approved details before any residential unit is first occupied. Once provided the boundary treatments and lighting scheme shall thereafter be retained in situ at all time unless planning permission has first been granted by the Local Planning Authority.

*Reason- to preserve the amenities of the locality; in the interests of residential amenities.*

- 32 Should the development not commence on the site by 1 July 2010 a further survey for the presence of bat roosts on the site shall be undertaken in accordance with a survey scheme that shall have been first agreed in writing by the Local Planning Authority. Should any bat roosts be found at the site a mitigation scheme shall be first be agreed in writing by the Local Planning Authority. Any mitigation scheme shall then be implemented in accordance with the agreed scheme.

*Reason- To provide protection for protected species.*

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

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

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

Policy 1 which sets out the Regional Core Objectives to secure the delivery of sustainable development in the East Midlands..

Policy 2 (Promoting Better Design) which seeks to encourage designs and layouts that reduce CO2 emissions and provide resilience to future climate change.

Policy 3 (Concentrating Development in Urban Areas) which deals with the distribution of development and economic activity with new development.

Policy 12 which relates to Development in the Three Cities Sub Area and provides inter alia that development should be in scale with the size of settlements and in locations which respect environmental constraints, in particular the River Mease Special Area of Conservation...'

Policy 13a (Regional Housing Provision) which sets out a Total Housing Provision for the period 2006-2026 for North West Leicestershire of 10,200; with an annual apportionment of 510 from 2006.

Policy Three Cities SRS3 which indicates inter alia that within the context of Policy 13a provision for new housing will be made in North West Leicestershire over 2006-2026: at a level of "510 dpa (dwellings per annum) located mainly at Coalville, including sustainable urban extensions as necessary."



## North West Leicestershire Local Plan

Policy S2 which sets out the circumstances in which development will be permitted within Limits to Development.

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

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

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

Policy H8 which provides that where there is a demonstrable need for affordable housing the District Council will negotiate with applicants/developers to secure the provision of an element of affordable housing as part of any development proposal.

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

Policy E4 which seeks to achieve good design in new development.

Policy E30 which seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplain of the Black Brook, and Gilwiskaw Brook or the River Mease, Soar or River Trent.

Policy T3 which states that development will be permitted only where adequate provision is made for vehicular access, circulation and servicing arrangements.

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

Policy F1 which seeks appropriate provision for landscaping and tree planting in association with development in the National Forest

Policy L21 which indicates that new housing development will be required to incorporate the provision of children's play areas.

### Reasons

The site lies within limits to development where the principle of this form of development is acceptable. The proposed development would not be detrimental to the visual amenities of the locality in terms of the design, appearance and scale of the scheme and would not give rise to sufficient overbearing, overshadowing or overlooking impacts having regard to the relationship between the proposed development and the existing adjoining properties so as to warrant a refusal of planning permission. The proposed development would not represent an over-development of the application site, would not be significantly detrimental to the natural environment and subject to a condition preventing the commencement of development until the modification works to Packington WWTW have taken place, the Council could ascertain that there would be no

adverse effect on the integrity of the River Mease SAC, and grant permission for the current application.. The proposed scheme would not be detrimental to highway safety and the levels of parking provision to serve the development are not considered to be sufficiently deficient to warrant a refusal of planning permission.

**Notes to applicant**

- 1 Your attention is drawn to the comments set out in the attached consultation response received from the Environment Agency dated 7 April 2009.
- 2 The proposal is situated in excess of 45 metres from the Highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
- 3 A public footpath abuts the site and this must not be obstructed or diverted without obtaining separate written consent from Leicestershire County Council.
- 4 This permission is also subject to a section 106 Agreement comprising:
  - Leisure – £48,400
  - Health care - £583 (1-2 bed), £1,167 (3-4 bed), £1,750 (5+bed)
  - Education - £74,244
  - Library 2,060
  - Civic amenities - £4,097
  - Affordable housing – 13 no. units in total, 9 as social rented and 4 no. low cost home ownership
  - National Forest planting - £6,000 in lieu of on site provision
  - Travel pack 1 no. per unit
  - Two adult passes per unit
  - Bus stop infrastructure
  - Monitoring fees

You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site Highway works (bus stop improvements/passes/packs) before development commences.
- 5 The proposed roads do not conform to an acceptable standard for adoption and therefore they will not be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all plots served by all the private roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge must be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see [www.leics.gov.uk/htd](http://www.leics.gov.uk/htd) or phone 0116 3056782.
- 6 The existing access to the development site is not adopted highway, nor is it shown as a public right of way on the definitive map. However there may be highway rights over it that Leicestershire County Council is not aware of.
- 7 Severn Trent Water Ltd point out that there is a public sewer which crosses the site. No building shall be erected or trees planted within 3 metres of this sewer of this sewer. The applicant may wish to apply to Severn Trent Water Ltd to divert the sewer in accordance with Section 185 of the Water Industry Act 1991 or for a Building Over or Close to a Public Sewer Agreement.
- 8 You are advised that should any bat(s) be found during works on the development, all works must cease on site forthwith and Natural England contacted for further advice.

- 9 You are advised that the District Council will be seeking a paint finish to the galvanised fencing to boundaries.
- 10 With regard to Condition No 3 of this planning permission, the applicant /developer is advised that while Severn Trent Water have indicated that the modification works to Packington Waste Water Treatment Works are likely to be completed by March 2012, this cannot be guaranteed and therefore the applicant/developer should contact Severn Trent Water and the Environment Agency for confirmation of completion of the required works prior to commencement of development.

## Appendix B

### AGENDA ITEM – A5

**Application - 09/00082/FULM**

**Insert Address – Holywell Mill, Burton Road, Ashby De La Zouch**

A further detailed letter has been received from the Ashby Civic Society which challenges the Habitats Regulations Assessment of Planning Application Ref 09/00082/FULM undertaken for the Council by their consultants David Tyldesley Associates (DTA). The letter from the Civic Society concludes:

“We conclude that after installation of P stripping at Packington STW the proposed development will cause adverse impact on the River Mease SAC due to increased Phosphate Load and therefore this application must be refused.”

The letter then goes on to state that while the Civic Society agree with a large part of the DTA report, there are a number of statements that are incorrect and they consider that the adverse effect of this development will still be adverse even when the P reduction is in place.

The full letter from the Civic Society is available for Members to inspect on the application case file.

This letter has been assessed by the Council’s consultants DTA and in response they state:

“Circular 6/2005 para 20 defines the integrity of a site in the context of the Regulations as “The integrity of a site is the coherence of its ecological structure and function, across its whole area, that enables to sustain the habitat, complex of habitats and/or the levels of populations of species for which it was classified.”

Even if the Civic Society’s figures are shown to be correct after analysis, by imposing a condition delaying start until P stripping is in place, and because only this permission will be granted, and no other applications with which this application was combined (in the likely significance test) will be granted, it is safe for the Council to ascertain that the improved treated discharges from this one permission would not adversely affect the coherence of the ecological structure and function of the River Mease, across the whole, or any part, of its area, that enables it to sustain the habitat, and the levels of populations of species for which it was designated.”

Furthermore DTA has indicated that the Council could not ascertain that lots of permissions would not have such an effect in combination. However, because Holywell Mill is being treated differently to new green field proposals as it results in the redevelopment of a brown field site currently occupied by a range of uses which generate phosphate, it alone, after P stripping, will not have such an effect. Therefore, DTA remain comfortable with their report and recommendation to the Council.

### RECOMMENDATION – NO CHANGE TO RECOMMENDATION

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**Erection of two no. 250Kw wind turbines and associated infrastructure, including access track without complying with condition 2 of permission 14/00133/FUL to allow to the installation of a different model of turbine**

**Report Item No  
A8**

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

**Application Reference  
14/00669/VCU**

**Applicant:  
Hallmark Power Ltd**

**Date Registered  
18 July 2014**

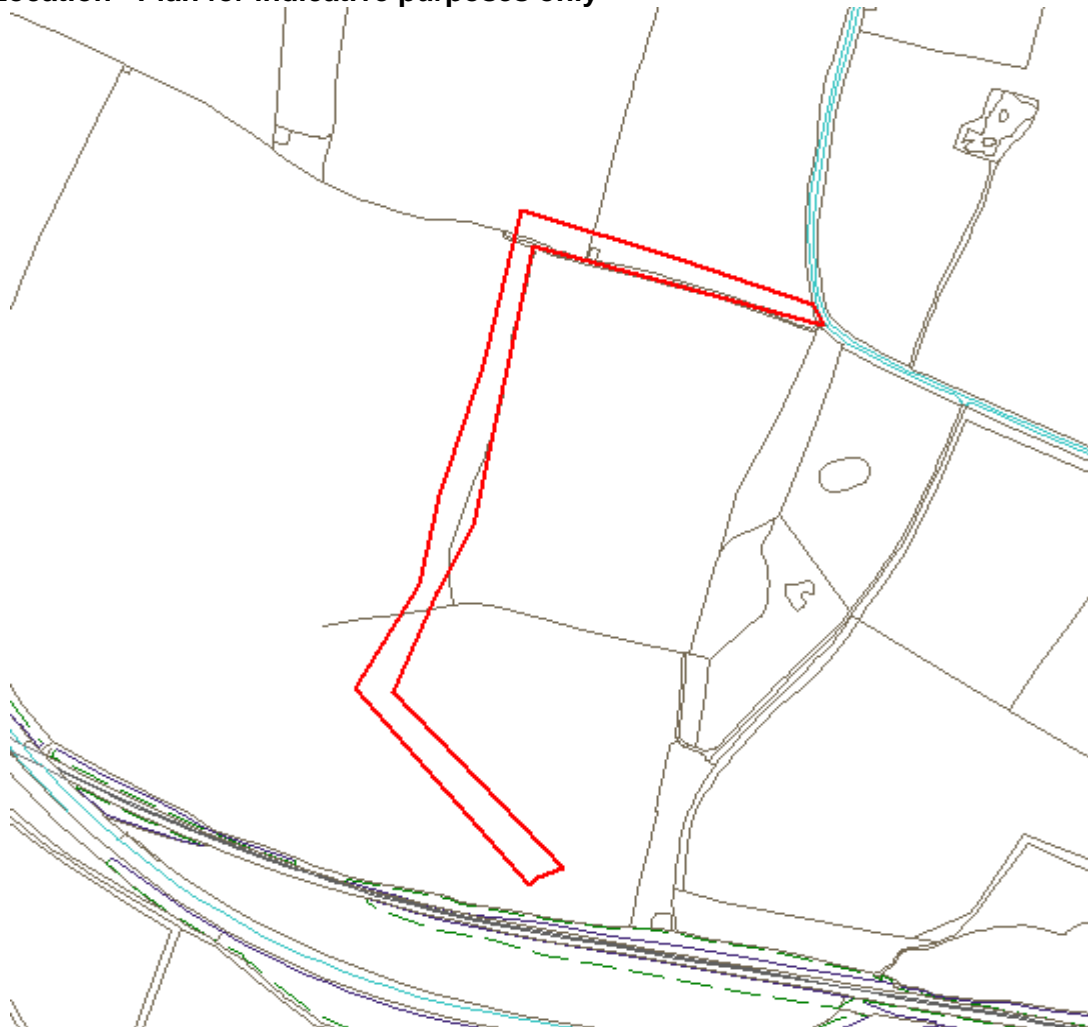
**Case Officer:  
Hannah Exley**

**Target Decision Date  
12 September 2014**

**Recommendation:  
PERMIT**

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



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

This application is reported to Members on the basis that a similar proposal was previously considered by Members at the 08 July 2014 meeting of the Planning Committee.

**Proposal**

This is an application under Section 73 of the Town and Country Planning Act 1990 to vary condition 3 of planning permission 14/00133/FUL for the erection of two no.250Kw wind turbines and associated infrastructure, including access track which was approved on 08 July 2014. Section 73 relates to development of land without complying with conditions subject to which a previous planning permission was granted. The Council, in considering this application, is only entitled to consider the question of the conditions subject to which planning permission should be granted. Condition 2 attached to 14/00133/FUL which the applicant wishes to vary is listed below:

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

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

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

The key difference between the current and previously approved scheme is that an alternative model of turbine is now proposed. The turbine would have a hub height of 30.5m and an overall height of the turbines would be 45m which is 0.5m higher than the model considered under application 14/00133/FUL. The turbine remains a 3-blade model and the siting of the turbines would be as previously considered.

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

**Consultation**

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

**Planning Policy**

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

**Conclusion**

The site has the benefit of permission for the erection of two wind turbines and this is yet to be implemented on the site. The revision to the scheme, comprising a turbine model of increased height, is considered acceptable as the revision would result in no significantly greater impact than the previously approved scheme on the landscape or its visual amenities, nearby heritage assets, neighbouring amenities (in terms of noise, vibration, shadow flicker or outlook), pedestrian or highway safety, or aviation, the internationally important features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. The proposal would not raise any significant concerns in relation to other material considerations, and other matters raised by third parties would not provide sufficient justification to refuse the application. It is therefore recommended that the application be permitted.

**RECOMMENDATION - APPROVE SUBJECT TO CONDITIONS.**

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

## MAIN REPORT

### 1. Proposals and Background

This is an application under Section 73 of the Town and Country Planning Act 1990 to 'vary' condition 3 of planning permission 14/00133/FUL for the erection of two no.250Kw wind turbines and associated infrastructure, including access track which was approved on 08 July 2014. Section 73 relates to development of land without complying with conditions subject to which a previous planning permission was granted. The Council, in considering this application, is only entitled to consider the question of the conditions subject to which planning permission should be granted. Condition 2 attached to 14/00133/FUL which the applicant wishes to vary is listed below:

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

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

The key difference between the current and previously approved scheme is that an alternative model of turbine is now proposed. The hub height of turbine would be 30.5m and the overall height of the turbines would be 45m which is 0.5m higher than the model considered under application 14/00133/FUL. The turbine remains a 3-blade model and the siting of the turbines would be as previously considered.

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

### 2. Publicity

45 no Neighbours have been notified (Date of last notification 4 August 2014)

Site Notice displayed 20 August 2014

Press Notice published 13 August 2014

### 3. Consultations

Coleorton Parish Council consulted 4 August 2014

Ashby de la Zouch Town Council

Natural England

LCC ecology

Airport Safeguarding

Highways Agency- affecting trunk road

MOD Safeguarding

National Air Traffic Services

Environment Agency



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

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

**Coleorton Parish Council** has no comment on the change of turbine design as long as the noise levels are no worse than the original ones.

**Environment Agency** has no comments.

**Natural England** raises no objections.

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

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

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

**East Midlands Airport** as safeguarding authority has no objections.

**Environmental Protection Officer** has no objections.

No response has been received to the following consultees:

County Highways Authority  
English Heritage  
County Archaeologist  
MOD Safeguarding  
National Forest Company  
Ramblers Association  
Leicester and Rutland Wildlife Trust

Any comments received from these consultees before Planning Committee will be reported on the update sheet.

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

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

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

- inadequate consultation with local residents;
- the only difference between the previously approved scheme and the earlier refused application was a developer contribution;
- impact on the countryside and increase visual impact;
- impact on the increased height on the environment and the local community;
- additional noise pollution;
- the noise report was undertaken in 1999 using Danish Regulations;
- further photomontages should be produced to consider visual impacts;
- no weight should be attached to the developer contribution as it has not been agreed

- with the Church and is not CIL compliant;
- inappropriate structure in a rural area.

## 5. Relevant Planning Policy

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

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

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

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

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

- o always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- o 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;
- o 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);
- o 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;
- o conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;

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

- o 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
- o approve the application (unless material considerations indicate otherwise) if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to

demonstrate that the proposed location meets the criteria used in identifying suitable areas;

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

- o 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;
- o 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:

- o avoid noise from giving rise to the significant adverse impacts on health and quality of life as a result of new development;
- o 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;
- o 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 S1 sets out 13 criteria which form the strategy for the adopted Local Plan;

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

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

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

Policy E4 seeks to achieve good design in new development and requires new development to respect the character of its surroundings;

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

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

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

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

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

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

**Submission Version Core Strategy**

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

the Submission Core Strategy.

**Other Guidance:**

*The Habitat Regulations*

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

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

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

*River Mease Water Quality Management Plan - August 2011*

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

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

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

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

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

**6. Assessment**

The principle of the proposed development was assessed and found to be acceptable under application reference 14/00133/FUL and as such does not need further consideration under this application. In these circumstances the only matters for consideration relate to whether the revised turbine model (0.5m higher) would impact adversely on the amenities of nearby residents, whether there would be any significant impacts on the character and appearance of the rural environment, the historic environment, protected species and aviation. The issues in respect of highway safety and implications to the integrity of the River Mease SAC would not be of relevance to this particular application given that the revised turbine model would not change the amount of surface water run-off from the site and there would be no amendments to access arrangements.

**Landscape and Visual Impact:**

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

In terms of impacts on the character of the landscape and visual amenities (including cumulative impacts), these matters were considered in detail with respect to planning application 14/00133/FUL and concluded that although there will be an impact on the landscape, in particular the turbines being visually prominent from closer views, vegetation and topography will help to screen the turbines and there are also a limited number of direct open views at close proximity. The level of visual prominence will reduce further away from the turbines, with distance, topography, and existing vegetation and buildings reducing its overall prominence. The external finish of the tower and blades can also be controlled to reduce the turbines' visibility in longer views. It was also noted that the area is not considered to be of significant scenic quality and it is not within any nationally or locally statutory landscape designation. Whilst there will be some impact on and change to the landscape, given the above circumstances the turbines would not significantly undermine or change its character or that of the National Forest and therefore, on balance, it is considered that the impact would not be so significantly detrimental to the landscape and its visual amenities to justify a reason for refusal. When having regard to the distance between the site and other turbine developments across the wider landscape and the number of approved schemes, it is considered that the proposals are unlikely to contribute to an overall impression of a landscape with wind farms. Therefore, the overall impact in terms of sequential cumulative effects would be less than significant.

It is not considered that the proposed 0.5m increase in height arising from the revised wind turbine design would have any materially greater visual impact or impact on the character of the landscape than the previously approved scheme. As such the proposal would not conflict with the principles of Policy E4 of the Local Plan.

**Historic Environment:**

With respect to the impact of the proposal on heritage assets, this was considered in detail with respect to planning application 14/00133/FUL and it was concluded that the proposed turbines would not result in substantial harm to the significance of nearby heritage assets and as such are to be determined in accordance with the aims of Paragraph 134 of the NPPF which concludes that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal."

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

It is not considered that the proposed 0.5m increase in height arising from the revised wind turbine design would have any materially greater impact on nearby heritage assets than the previously approved scheme. As such the proposal would accord with the above-mentioned

principles of the NPPF.

### **Residential Amenities:**

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

The supporting information accompanying the application shows that noise levels for the model of turbine proposed would be to an acceptable level of 35 db(A) at a distance of 425m from the turbine. The nearest residential properties are identified as Little Alton Farm (505m to the south east), Gamekeepers Cottage (off Corkscrew Lane 650m north west) and Breach Farm (680m south west) and therefore, the proposal would comply with ETSU-R-97 limits. Furthermore, the supporting information identifies that the background noise levels in the locality are significantly more than would be expected in rural areas, with traffic noise from the A42 and the A511. The supporting statement concludes that there should be any unacceptable noise nuisance from the proposed turbines affecting residential amenities.

On the basis of information submitted, it is considered that the proposed development would have no significantly greater impact on neighbouring residential amenities than the approved scheme. The Council's Environmental Protection team has been consulted on the proposal and has no objections and as such it is considered that the turbine would not generate a level of noise which would be sufficiently detrimental to the amenities of neighbouring properties.

In terms of vibration, the DECC's website advises that 'There is no evidence that ground transmitted low frequency noise from wind turbines is at a sufficient level to be harmful to human health.' A comprehensive study of vibration measurements in the vicinity of a modern wind farm was undertaken in the UK in 1997 by ETSU for the DTI (ETSU W/13/00392/REP). Measurements were made on site and up to 1km away in a wide range of wind speeds and direction. The study found that:

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

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

Consideration is also given to potential for shadow flicker to residential properties (created by passing of the blades across direct sunlight). The Department of Energy and Climate Change advises that there are a number of variations in determining the likelihood of this occurring and its significance, in particular that it only occurs within 130 degrees either side of north from a turbine and that potential shadow flicker is very low when more than 10 rotor diameters (in this case 300 metres) from a turbine. In this case the nearest dwellings are Little Alton Farm (505m to the south east) and Gameskeepers Cottage (640 metres to the north-west) from the site of the nearest turbine which is well outside the distance that shadow flicker can affect a property. There are a limited number of properties that would have a direct outlook of the turbine, largely due to the screening from vegetation, changes in land levels and the distance of the turbine from nearby dwellings. It is considered that the turbine would not be overwhelmingly dominant

when viewed from these properties.

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

**Protected Species and Ecology:**

With respect to the impact of the proposal on protected species and ecology, this was considered in detail with respect to planning application 14/00133/FUL and on the basis of an Ecological Assessment including an Extended Phase I Habitat Survey the following conclusions were reached:

*The turbine locations do not form part of any statutory designated sites for nature conservation. All statutory sites identified were of habitat interest only and therefore, no direct or indirect impacts on the habitats of designated sites are anticipated due to the separation distances involved. No non-statutory designated sites will be directly affected by the proposals and indirect impacts are unlikely.*

*The proposed turbines will be located on arable land which is considered to be of limited biodiversity value and field boundaries are not anticipated to be affected by the proposal, although it is recommended that measures should be introduced to ensure that these are protected during the construction phase.*

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

*With regard to birds, the potential impacts include collision (bird strike) and displacement. The ornithological value of the site is identified as low but it is considered likely that the site supports farmland birds. These species are only likely to visit the site on an occasional basis and therefore, it is concluded that it is highly unlikely that any impacts will occur as a result of the proposal. Any potential disturbance to vegetation within the nesting season could disturb nesting birds and therefore, this should be controlled by an appropriately worded condition.*

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

*The report concludes that the survey area is considered to fall within a medium risk location for bats due to low to medium potential for foraging/commuting for bats within the hedgerows and other surrounding habitats. Overall, the consulting ecologist notes that whilst minor negative impacts on bats cannot be precluded, impacts on bat populations at the local level are considered unlikely.*

*In terms of other species, evidence of badgers was found within 500m of the proposed turbines*



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

The County Ecologist has been consulted on the application and has no objections to the proposed amendment as the proposed model has similar dimensions to the approved scheme. Subject to the imposition of conditions concerning the pre-cautionary recommendations for badgers and great crested newts, the County Ecologist raises no objections to the proposal. Overall, it is considered that the proposal would accord with the aims of Paragraphs 118 and 119 of the NPPF, the Habitats Regulations and Circular 06/05.

**Aviation:**

With respect to the impact of the proposal on aviation, this was considered in detail with respect to planning application 14/00133/FUL and Members were advised that the National Air Traffic Service (NATS) and East Midlands Airport find the proposal acceptable from a safeguarding viewpoint. These consultees have been consulted on the proposed variation of condition and their viewpoint has not changed.

**Other Matters:**

The proposal does not include the offering of a financial contribution towards the repair of the wall at St John's Chapel in Farm Town. Notwithstanding this, and as a point of clarification, as advised with respect to application 14/00133/FUL, such an obligation would not comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent an inappropriate contribution.

With respect to local concerns about the adequacy of pre-application consultations with the community, the Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2013 came into force on 17 December 2013. The Order specifies that the requirement to carry out pre-application consultation under Section 61W of the Town and Country Planning Act 1990 shall now apply to all onshore wind development of more than two turbines or where the hub height of any turbine exceeds 15 metres. However, the Order clearly states under paragraph 3A(2) of Part 1A that this does not apply to applications made pursuant to section 73 of the 1990 Act (determination of applications to develop land without compliance with conditions previously attached). Therefore, as the proposal is a Section 73 application, there were no pre-application consultations that the applicant was required to undertake prior to submission the current application.

**Conclusions:**

The site has the benefit of permission for the erection of two wind turbines and this is yet to be implemented on the site. The revision to the scheme, comprising a turbine model of increased height, is considered acceptable as the revision would result in no significantly greater impact than the previously approved scheme on the landscape or its visual amenities, nearby heritage assets, neighbouring amenities (in terms of noise, vibration, shadow flicker or outlook), pedestrian or highway safety, or aviation, the internationally important features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. The

proposal would not raise any significant concerns in relation to other material considerations, and other matters raised by third parties would not provide sufficient justification to refuse the application. It is therefore recommended that the application be permitted.

**RECOMMENDATION - PERMIT, subject to the following conditions:**

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

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

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

- Drawing number NWA-30m Rev 00 (Turbine Elevations) received by the Authority on 18 July 2014;
- Site Location Plan (scale 1:5000) and drawing number 329-50-000 (Foundation for WTN 329) which were deposited with the Local Planning Authority on 12 February 2014 with respect to application 14/00133/FUL.

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

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

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

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

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

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

*Reason - In recognition of the limited life expectancy of the development hereby approved, and to ensure that the use does not become permanently established on the site; so that a record can be kept of all operational turbines to aid in the assessment of cumulative impact in the interests of air safety, as the cumulative impact of wind turbine generation developments, which are in relatively close proximity, could compromise the safe control of aircraft in this area.*

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

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

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

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

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

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

- 9 No development shall commence on site until such time as a detailed method statement for construction of the turbine and access track has been submitted to and agreed in writing by the Local Planning Authority. The method statement should set out methodologies to remove any risk of fuel, soils, building materials and waste water entering the stream during construction, including how and where materials, fuel and plant will be stored and contained, containment of waste water on the construction site, use of site spill kits and briefing to construction staff. Construction works relating to the development hereby approved shall be carried out in accordance with the agreed method statement.

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

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

agreed in writing by the Local Planning Authority.

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

- 11 The development shall be carried out in accordance with the recommendations set out in paragraphs 4.5.1 - 4.5.6 in the Ecological Appraisal by avianecology (dated 13 March 2013) submitted with respect to application 14/00133/FUL. The development shall not commence until the findings of the pre-condition badger survey have been submitted to and agreed in writing by the Local Planning Authority. With respect to the requirements of paragraph 4.5.1, a pre-condition update of the badger survey will only be required if the construction of the turbines is delayed beyond 14 February 2014.

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

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

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

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

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

- 14 The development shall be carried out in accordance with the Proposed Scheme for the Investigation and Alleviation of Electromagnetic Interference by Hallmark Power Ltd (dated 09 January 2014) submitted with respect to planning application 14/00133/FUL.

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

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 The applicant's attention is drawn to the attached report of Natural England dated 02 May 2013 received with respect to planning application 13/00266/FUL.
- 3 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £85 per request. Please contact the Local Planning Authority on 01530 454666 for further details.



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**Demolition of two existing buildings and the erection of four detached dwellings and garaging (including two self build units) and creation of paddock for equestrian or agricultural use (Outline - part access included)**

**Report Item No  
A9**

**Land At Measham Road Appleby Magna Swadlincote Derby**

**Application Reference  
14/00595/OUT**

**Applicant:  
Mr David Jones**

**Date Registered  
1 July 2014**

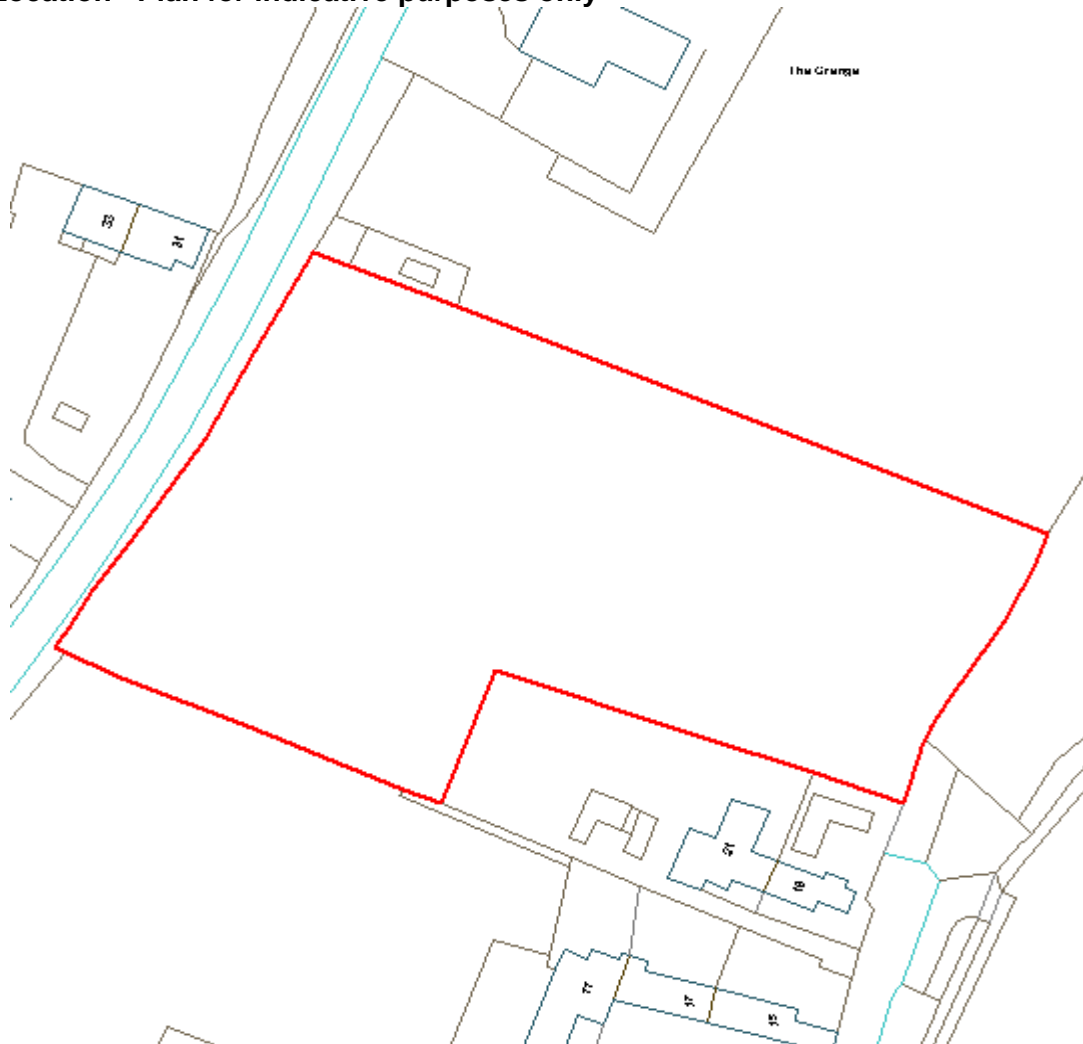
**Case Officer:  
Jenny Davies**

**Target Decision Date  
26 August 2014**

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

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



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## Executive Summary of Proposals and Recommendation

### Proposal

Outline planning permission (with access included for determination) is sought for the demolition of two existing buildings and the erection of four detached dwellings and garaging (including two self build units) and the creation of a paddock for equestrian or agricultural use on land at Measham Road, Appleby. The site lies on the eastern side of Measham Road and is currently occupied by two buildings adjacent to its southern boundary with the remainder of the site comprising a grassed/overgrown field. The site is adjoined by residential properties and open fields. Access to the site would be via a new site entrance onto Measham Road.

### Consultations

Members will see from the main report below that two letters of objection from members of the public have been received, along with one objection from Appleby Environment. The objections largely relate to the level of development within the village, highway safety and impact on residential amenities, the character of the area and the public footpath. No comments have been received from Appleby Magna Parish Council. An objection from the Environment Agency in respect of potential pollution of controlled waters has been withdrawn following the submission of additional information. There are no objections from any other statutory consultees.

### Planning Policy

The application site lies 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 below, the site lies outside the Limits to Development in the adopted Local Plan and predominantly 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, highway safety, flood risk and drainage and it is considered that four dwellings could be accommodated on the site with an appropriate layout/design and retention of the public footpath and without significantly detrimental impacts on trees and residential amenities. Issues relating to contaminated land and potential contamination of controlled waters could be addressed via conditions. 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.

Whilst there would be moderate and localised harm to the countryside it is considered that it would be limited and not be so significantly detrimental to justify a reason for refusal based on the proposal resulting in an adverse impact on the character of this locality and the countryside.



The less than substantial harm to the heritage assets is in this case considered on balance to be outweighed by the site's contribution to the District's housing land supply, a contribution under the River Mease DCS which will improve the quality of the River Mease SAC and improvements to the village's drainage system.

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

**RECOMMENDATION: THAT PLANNING PERMISSION BE PERMITTED SUBJECT TO THE SIGNING OF A SECTION 106 AGREEMENT**

**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 as one of the applicants is related to Councillors Richard Blunt, Caroline Large and Charles Meynell.

Outline planning permission (with access included for determination) is sought for the demolition of two existing buildings and the erection of four detached dwellings and garaging (including two self build units) and the creation of a paddock for equestrian or agricultural use on land at Measham Road, Appleby Magna. The site lies on the eastern side of Measham Road and is currently occupied by two outbuildings adjoining its southern boundary with the remainder of the site comprising a grassed/overgrown field. The outbuildings, which are to be demolished, are no longer in use and in a state of disrepair; the application states they were previously in use as a joiner's workshop and associated storage. The site is adjoined by residential properties and open fields. Land levels decrease by approximately 4.1 metres from west to east, with the site being around one metre higher than Measham Road.

A layout plan shows the four dwellings located on the western/central part of the site and the paddock on the eastern area. However this layout is indicative only and if approved the final site layout would be need to be submitted as part of a reserved matters application.

There is currently no vehicular access to the site and so a new access would be created in the site's western boundary onto Measham Road. A public footpath (Q17) crosses the site from west to east, linking Measham Road with Old End, which is shown to be retained, although the indicative layout shows its route altered by up to two metres in the centre of the site and by up to seven metres at the site's western boundary so that it would follow the footway to the new access drive.

The site is adjoined by the Appleby Magna Conservation Area along part of its southern boundary, with Nos. 11, 15, 17 and 19 Old End being identified as unlisted buildings of interest in the Appleby Magna Conservation Area Appraisal. The site also lies within the catchment area of the River Mease Special Area of Conservation. An ash tree located within the garden to No. 21 Old End is protected by virtue of being within the Conservation Area.

The planning history for the site relates solely to six applications to retain a joinery workshop/store (75/2012 refers).

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

13 no. Neighbours have been notified (Date of last notification 14 July 2014)

Press Notice published 13 August 2014

Site Notice displayed 8 August 2014

### 3. Consultations

Appleby Magna Parish Council consulted 9 July 2014  
County Highway Authority  
Environment Agency  
Development Plans  
English Heritage- major dev in CA  
County Archaeologist  
NWLDC Tree Officer  
DEFRA  
Severn Trent Water Limited  
Head of Environmental Protection  
Natural England  
LCC ecology  
NWLDC Conservation Officer  
LCC/Footpaths  
NWLDC Footpaths Officer

### 4. Summary of Representations Received

#### Statutory Consultees

**The County Highway Authority** has no objections subject to conditions.

**The County Footpaths Officer** advises that the route of public footpath Q17 on the site plan is not entirely consistent with the legal line of this right of way and sets out the procedures to follow to apply for a Diversion Order.

**The District Footpaths Officer** advises that there are no footpath diversion considerations required for this application.

**The County Archaeologist** recommends the imposition of conditions.

**English Heritage** recommends that the Authority's archaeological advisor is consulted in relation to potential impacts on archaeological remains to ensure there is an adequate scheme of recording and that the Authority determines the application in accordance with national and local policy guidance and on the basis of its specialist conservation advice.

**The Environment Agency** initially objected to the application on grounds that there was insufficient information to demonstrate that the risk of pollution to controlled waters is acceptable. Following the submission of a Preliminary Ground Investigation Report, the Environment Agency has no objection subject to conditions.

**Natural England** has no objections in relation to the River Mease SAC/SSSI, refers to its Standing Advice relating to protected species and advises that impacts on biodiversity and landscape enhancements and impact on local sites should be considered.

**The County Ecologist** has no objections subject to a condition.

**The Council's Tree Officer** initially advised that a tree survey was required but following further consideration concluded that impact on trees could be addressed at reserved matters stage.

**The Council's Environmental Protection Team** recommends the imposition of conditions relating to contaminated land and has no other environmental observations.

No responses received from Appleby Magna Parish Council, DEFRA or Severn Trent Water by the date of this report.

### **Third Party Representations**

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

- loss of green space between houses;
- three storey dwellings would be out of keeping with the character of the area;
- loss of privacy;
- overshadowing;
- three storey dwellings would impact on residential amenities;
- impact on existing sewerage system;
- current problems with surface water runoff discharging to Old End and the brook will be exacerbated;
- Measham Road will be made dangerous for pedestrians and vehicles;
- Measham Road already overloaded due to on-street parking;
- more traffic using the road and parking will make it more difficult for existing residents, in particular to use their driveways;
- there is already an increase in traffic along Measham Road;
- no kissing gate on the public footpath;
- public footpath is an ancient and traditional feature of the village and should be kept;
- public footpath is used most days although the western part is not currently accessible as the site owner is not maintaining the grass;
- concerns related to public footpath running through the site to the access junction;
- outbuildings are used by bats;
- impact on wildlife, e.g. foxes, snakes, rabbits, and their habitats;
- impact on facilities within the village, e.g. the school;
- more people travelling out of the village, e.g. to the GP surgery;
- lack of bus routes to other areas.

One letter of representation has been received from Appleby Environment, which is a formally constituted community group, and which objects on the following grounds:

- officers' reports relating to the 68 houses approved at April Planning Committee argued that this level of growth was appropriate for the village and in line with the required housing growth for the village as a whole;
- Councillors have also stated that those applications were "in line with the desired level of growth for the district" and that those permissions would be the last for the village in this planning cycle;
- current application is another attempt to push agreed boundaries to development and change the character of the village;
- criteria of proportionate growth across the District is the wrong test for assessing sustainable development, which is shown by the sustainability appraisal of the now withdrawn Core Strategy;
- reduction in services within the village through closure of GP surgery and reduced bus service;
- 'small scale development' within the village has been exceeded;
- application therefore does not meet requirement for sustainable development and there is no basis for permitting development on greenfield sites;
- site lies outside the Limits to Development;
- guidelines in the Appleby Magna Village Design Statement would be broken;
- clear evidence that the public footpath across the site is being used;

- impact of development on a public footpath is a material consideration;
- national guidance advises that alternative alignment of public footpaths should avoid the use of estate roads;
- site is higher than adjacent development and the site is at the same height as the upstairs windows of properties on opposite side of Measham Road;

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."

"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 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.

### **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.

*Rights of Way Circular 01/09 (DEFRA)* gives advice to local authorities on recording, managing and maintaining, protecting and changing public rights of way.

*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, impact on the character of the area and the historic environment and its impact on trees, residential amenities, highway safety, the public footpath, drainage and flood risk, protected species/ecology and on the River Mease Special Area of Conservation.

### 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 outside the Limits to Development. Policy S3 of the Local Plan sets out the circumstances in which development will be permitted outside Limits to Development; whilst the paddock for agricultural/equestrian use would fall within the provisions of Policy S3, the dwellings would not meet the criteria for development in the countryside and 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 existing built development and a site which has permission for eight dwellings (13/00829/OUT refers) on which development has

commenced, and therefore would not result in isolated development in the countryside. The site is in part previously developed due to the two outbuildings which it is understood were used as a joinery and associated storage. However these buildings occupy a small area of the site and on historic maps there does not appear to be a significant area of land in associated use with these buildings. Therefore the majority of the site is considered to be greenfield. In terms of the site's largely 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. The latest housing supply trajectory indicates that, as matters currently stand, using the approach of an annualised requirement with a 20% buffer, the District is able to demonstrate a supply of 6.65 years.

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*

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, 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 contract for the revised service is due to go out to tender at the end of 2014, with a service start date towards the end of March 2015, from when the No. 7 will continue to serve the village with a two hourly frequency.

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 - 245 metres
- Primary School - 1.3 km
- Shops/Post Office - 500 metres
- Play Area/Open Space - 750 metres
- Village Hall - 440 metres
- Public House - 520 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 and is unlikely to be a practical walking option for many existing village residents. 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 this side of Measham Road, there is a footway on the western side opposite the site access, from which Measham Road has to be crossed to continue into the village. Residents of existing dwellings further along Measham Road would have to cross the road to use the footway into the village and already use the existing footway network within the village. The public footpath running through the site also provides access onto Old End which provides an alternative route into 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.

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 four dwellings would represent a 0.92% increase in the number of dwellings within the village and a 0.82% 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 several small sites as well as the schemes for 8 and 39 dwellings on Measham Road and 29 dwellings on Top Street. The four dwellings on the site alongside the outstanding commitments for 86 dwellings would equate to a 20.79% growth in the village from 2011. The four dwellings on the site alongside the 13 new dwellings built since 2006 and the outstanding commitments for 86 dwellings (a total of 103 dwellings) would equate to a 24.45% 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 1.05% 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. 20.79% compared to 17.3%, but again this is not considered to be significant with a difference of 3.49%.

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 Top Street sites.

*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 and does not appear to be in active agricultural use. The development of the site would result in an irreversible loss to non-agricultural use on part of the site. 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 0.53 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 with retention of approximately 0.24ha in agricultural or equestrian use and the remaining approximate 0.29ha highly likely to be irreversible. The cumulative loss of farmland across this and other recently approved sites would be 4.22ha 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 outside the Limits to Development in the adopted Local Plan and is mostly a greenfield site. Whilst the paddock element would accord with Policy S3 of the Local Plan, the residential element would be contrary to Policy S3, which along with Policy H4/1 is now considered to be up to date. The site's small scale and 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 1.05% 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 3.49%. 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 and its proximity to services/facilities would ensure that the scheme would have some economic and social benefits. Insofar as the environmental role is concerned, whilst the proposed development would result in the development of a predominantly greenfield site, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural or historic environment. There would be some harm to the character of the area and public footpath but not at a sufficient level to justify a reason for refusal. In the overall balance it

is considered that the proposal would be a sustainable form of development.

### **Density**

The proposal results in a density of 7.55 dwellings per hectare for the whole site, which is well below that sought under Policy H6 of the Local Plan (a minimum of 30 dwellings per hectare). However this density relates to the site as whole, including the paddock. When taking the developed area of the site (approximately 0.29ha) the density increases to 13.8 dwellings per hectare. The NPPF 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.

### **Impact on Character of the Area**

In terms of the character of the site and locality and the guidelines in the adopted Village Design Statement (VDS), the site forms an open space and is part of the semi-rural feel to the approach into the village along Measham Road and the public footpath that runs through the site, as well as forming part of the edge to the village's main built up area.

The Village Character section of the VDS indicates that the character of Appleby is essentially rural, there is a strong sense of being in the countryside and natural features contribute to its rural ambience. However the site is well related to the existing settlement with dwellings to the west and in part to the east and south, a site with planning permission for eight dwellings to the south and a row of housing on Measham Road to the north. Therefore the site is reasonably well related to the existing settlement and the new dwellings would be located on the part immediately adjoining existing and proposed housing.

The site and its boundary treatments are important elements of the setting and approach to the village as identified in the VDS and create a strong sense of enclosure to the site. Hedgerows/trees form strong boundaries around the whole of the site and the northern, eastern and southern boundaries would be retained, which would assist with screening the development and meeting the guidelines of the VDS. However it appears that at least half of the frontage hedgerow/trees would be lost to provide the new access and visibility splays. The loss of part of this hedgerow/trees would affect the character of this stretch of Measham Road and although replacement hedge planting would be provided this would take some time to mature. However part of this hedgerow/trees at its northern end are likely to be retained and it appears that the majority of the frontage embankment could be retained save where the access would be formed. The majority of the frontage hedgerow to the adjacent development site has been retained and mature hedgerows are present to the frontage to the adjacent field to the north and to the field to the north west on the opposite side of Measham Road (with most of this hedgerow being retained under the proposed scheme for 39 dwellings on this site - 13/00797/FULM refers). As such whilst the loss of part of the frontage hedgerow/trees would affect the character of the area it is considered that it would not be so significant to justify a reason for refusal.

The site is not particularly prominent in immediate or longer views from Measham Road due to the extent of mature trees and hedgerow along the frontage boundary and other boundaries or from most of Old End due to screening by existing dwellings and vegetation. Therefore the character of the area in longer views would not be significantly affected.

The site is currently not significantly visible from Measham Road or Old End and therefore in itself makes a limited contribution to their streetscenes. As some of the hedgerow/trees along the site's frontage would be lost, views into the site would be opened up, making development prominent in immediate views from Measham Road as the site is approximately one metre higher than the road. Although the layout is indicative it shows that dwellings could be set back

from the Measham Road frontage, which would reduce their prominence within the streetscene and prevent a harsh edge or a solid block of development being formed within the site, in particular as the eastern part of the site would not be developed.

The site density is very low and the indicative layout shows that four dwellings could be accommodated on the site with space between each dwelling and areas of landscaping provided, in particular close to the site's frontage. Therefore the residential element should not result in a cramped form of development and a development could be achieved on the site that reflects the character of this part of the village where housing is less dense to reflect the edge of settlement location.

However the site does make a contribution to the character and visual amenities of the area when viewed from the public footpath, although it is in itself not considered to have any particularly special characteristics as it is a largely overgrown field. The site does form part of the semi-rural edge to the village and although views outside the site from the western part are more limited due to boundary hedgerows, there are views across the eastern part of the site towards the countryside beyond due to the changes in land levels.

Although the development would be visible from the eastern stretch of the footpath, views of the southern part of the site are screened by vegetation along the boundaries with No. 21 Old End and appropriate boundary treatments could be provided along the eastern boundary between the dwellings and paddock. Given the scale of the proposal views from this part of the footpath would also be of a low density development.

It is the character of the area and visual amenities when viewed from the western stretch of the public footpath that would be most affected. However the site is largely overgrown and does not have any particular special characteristics as noted above. Views through to the eastern part of the site and the countryside beyond would still be available and although the openness of the site's western part would be lost, a low density scheme is proposed which would allow for areas of landscaping to be provided and for a semi-rural, edge of village character to be retained.

Both existing buildings within the site are proposed to be demolished. The larger building visible from the public footpath but is of limited visual quality and makes a limited contribution to the character of the area being derelict and largely of tin and timber construction with an asbestos roof and not being visible from the road. The building adjoining the road appears to be in a better state of repair, being constructed from brick, although it also has an asbestos roof. It is not immediately visible from the footpath due to the overgrown nature of the vegetation but it does immediately abut Measham Road and therefore makes a contribution to the character of the streetscene. As the site layout has not been fixed, there may be an opportunity for this building to be retained in some form, but if not, whilst its loss would be regrettable, it would not be significantly harmful to the streetscene.

Whilst the site contributes to the form and setting of the village and its semi-rural character in this location, in long and immediate range views the sensitivity of the site is limited, as it is effectively a large open field with no particularly distinctive characteristics. Part of the site would remain un-developed and impact on views from the eastern part of the footpath would not be significant. Whilst greater impact would result on views from the western stretch of the footpath, the scheme would be low density and a semi-rural feel would be retained.

Therefore having regard to all of the above considerations, whilst there would be moderate and localised harm to the countryside it is considered that it would be limited and not be so significantly detrimental to justify a reason for refusal based on the proposal resulting in an



adverse impact on the character of this locality and the countryside.

### **Historic Environment**

The boundary of the Appleby Magna Conservation Area adjoins the site along part of its southern boundary. Nos. 11, 15, 17 and 19 Old End are identified as unlisted buildings of interest in the Appleby Magna Conservation Area Appraisal. The Church of St Michael is a Grade 2\* listed building and is visible in views along Measham Road. There are also other listed buildings located within the village, with the nearest being the almshouses which are 300 metres to the south, along with the moated site of the former medieval manor house which is a Scheduled Ancient Monument. The Conservation Area and listed buildings are designated heritage assets as defined in the NPPF, with the properties on Old End being undesignated heritage assets. The site also lies on the edge of the medieval and post-medieval historic settlement core of the village and buried archaeological evidence can be expected within the site, which would also form a heritage asset.

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. However evidence of Romano-British activity indicates that the area around the shallow stream valley was farmed and settled much earlier.

The nearest part of the Conservation Area is a residential area with dwellings located on the western side of Old End. The willow trees on the eastern side of Old End are protected by a Tree Preservation Order and the ash tree within the garden to No. 21 Old End is protected by virtue of being within the Conservation Area. The Conservation Area Appraisal states that 'The buildings in the Black Horse Hill/Old End area superficially largely appear to be of a late eighteenth/early nineteenth century date and many are in the local vernacular building tradition. The location of many properties on Old End at right angles to the road suggests that they may be of even earlier origin. Buildings are largely constructed of local red brickwork with blue clay plain tile roofs. The properties on Old End that are undesignated heritage assets are those that are positioned at right angles to the road.

Therefore the listed and unlisted buildings, the Conservation Area and Scheduled Ancient Monument form an important part of the history of this part of the village and are considered to be heritage assets of some significance which have value for this and future generations.

The contribution made by this site to the setting of the Conservation Area and listed buildings/Scheduled Monument within derives from its landscape character, which helps reinforce the strong contrast of the rural landscape with the historic village settlement. The survival of the development site in both land use and visual terms helps define the direct historic relationship between the settlement and its agricultural setting. It is accepted that existing 20th century development has impacted on the setting of the medieval village and the setting of the Conservation Area and the continued development of surrounding land is considered harmful to the significance of the designated heritage assets. However the site and the proposed development are small in scale and is not considered to be significantly detrimental to the semi-rural character of the area (as discussed earlier in the report).

The church spire is visible in longer views of the site's frontage from Measham Road to the north although it is seen alongside and screened by existing trees. However it is considered unlikely that the new dwellings would be seen in the foreground to the church. Although at a higher land level the site does not form a prominent backdrop to Old End due to screening by existing dwellings and vegetation and although partly visible from the northern end of this lane (where it meets the public footpath) due to the low density and screening of parts of the site, it is

considered that the development would not be prominent or significantly harmful in this view. Some of the dwellings on Old End are visible from the site but form the backdrop as they are at a lower land level and are screened by vegetation. As such the site does not form a significant backdrop or foreground to the Conservation Area. The indicative layout shows that some separation could be achieved between the proposed development and the dwellings on Old End due to existing and proposed gardens and the existing boundary. The proposal will therefore have a limited visual impact on the Conservation Area and the unlisted buildings.

In this case the loss of part of the rural landscape is not considered to be significantly detrimental to the semi-rural character of the area or the village (as discussed earlier in the report). Furthermore the proposal, both on its own and cumulatively with the proposal to the south and on the opposite side of Measham Road and on Top Street, would not result in a significant separation of the historic village core from the village's agricultural setting due to the scale of the proposal, the retention of the eastern part of the site, the distance between the site and the historic centre, that the built form of the village would not significantly extend into the countryside, and as the relationship in terms of rural landscape and the historic village settlement has been diminished by other modern development that has already taken place.

Both the supporting information and English Heritage make reference to the presence of ridge and furrow within the site. The County Planning Archaeologist notes that buried archaeological evidence can be expected within the development area and recommends that conditions can be imposed to allow for the investigation and recording of any archaeological remains that may be found. Neither the Conservation Officer nor English Heritage have any objections. It is therefore considered that the proposal would be harmful to the significance of the heritage assets but that this would not involve substantial harm or total loss of significance for the reasons set out above. Therefore the proposals amount to less than substantial harm to the significance of the heritage assets and would not result in significant detriment to the special architectural or historic interest, character or setting of the ancient monument, the listed church and other listed and unlisted buildings in the village and would not adversely affect the character and appearance of the Conservation Area, thereby sustaining the significance of these heritage assets. Furthermore any archaeological remains can be investigated.

Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal, including securing its optimum viable use. The VDS requires the historic environment to be conserved, enhanced and respected. The harm to the heritage assets is in this case considered on balance to be outweighed by the provision of four new homes to contribute to the District's housing land, a contribution under the River Mease DCS which will improve the quality of the River Mease SAC and improvements to the village's drainage system (with the latter two being discussed below in more detail).

### **Trees**

The Tree Officer initially advised that a tree survey and arboricultural implications report were required due to the ash tree in No. 21 Old End's garden which is close to the site boundary and the trees/hedgerow that lie along the site's southern boundary, as these trees/hedgerow could be affected by the proposed dwellings and/or result in incompatibility problems. However the agent requested that a tree survey was not required at this stage, as the layout plan is indicative only and demonstrates that four dwellings could be accommodated whilst being moved further away from the trees. Consideration of the loss of part of the frontage trees/hedgerow is considered earlier in the report. On this basis it is therefore considered that impact on the trees/hedgerow could be dealt with at the reserved matters stage.

### **Residential Amenities**

The outlook from the dwellings on the opposite side of Measham Road towards and across the site would be affected. The private garden spaces to Nos. 23-29 Measham Road are located to their rear. Whilst the garden space to Nos. 31 and 33 runs parallel with Measham Road the indicative layout plan shows that dwellings could be accommodated at least 18 metres from these gardens and any dwellings directly facing these gardens could be positioned further away. It would also be possible for the new dwellings to be positioned an appropriate distance from the existing dwellings. It is also not an unusual arrangement for dwellings to face each other across the street, even at different land levels, as is the case elsewhere in the village.

The boundary to No. 21 Old End adjoins the residential element; however No. 21 itself is 18 metres from this boundary and No. 21 also has a large private garden area, with a mature hedgerow along the boundary along with a mature ash tree in the eastern part of the garden which provide some screening. It is noted that No. 21 is at a lower land level than the site. However it is considered that four dwellings could be accommodated on the site without resulting in significant detriment to the residential amenities of occupiers of No. 21. Although concerns have been raised about three storey dwellings resulting in loss of privacy and loss of light, the impact of the height, scale and design of the dwellings would be considered at reserved matters stage.

The indicative layout plan also shows that four dwellings could be accommodated on the site at an appropriate distance from the dwellings that benefit from planning permission on the adjoining site to the south.

### **Highway Safety**

The County Highway Authority has no objections in relation to highway safety matters. Whilst there is no footway on this side of the road, one is available on the western side which runs into the village, from which Measham Road has to be crossed to continue into the village. Furthermore occupiers of existing dwellings further along Measham Road currently have to cross the road to use the footway into the village. A new access to the site would be created and the Highway Authority's requirements for visibility splays and other technical requirements can be met. At least two parking spaces could be provided per dwelling, with three to four spaces in some cases, all of which can be secured by condition. As the site is served by a new access drive, 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.

### **Public Footpath**

The route of the eastern part of the footpath is likely to remain unchanged as it would extend through and adjacent to the paddock on the eastern part of the site. The western part of the footpath would run through the developed part of the site and the indicative layout plan shows the footpath being diverted along this stretch by between two and seven metres to follow the route of the proposed access drive. However as the layout is indicative only this altered route has not been fixed.

The character of the western part of the route would change and this is discussed in more detail in the earlier section of this report relating to impact on the character of the area. It is noted that the Rights of Way Circular 01/09 advises that *"In considering potential revisions to an existing right of way that are necessary to accommodate the planned development, but which are*

*acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic."* Whilst the plan shows the revised footpath route following the access drive into the site, as noted above this route has not been fixed at this stage and the detailed matters relating to the route of the public footpath would be considered at reserved matters stage.

If the applicant did wish to divert the footpath from its legal route, then an application would need to be made to the District Council for a Diversion Order.

### **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 therefore the Environment Agency has not commented in respect of drainage or flood risk as the application is covered by the Agency's Standing Advice. No comments have been received from Severn Trent Water. 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.

Concerns have been raised in relation to surface water (once the site is developed) affecting the street and properties on Old End which are at a lower land level and exacerbating existing surface water runoff problems.

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.

The submitted information advises that the development would be designed so that surface water would be attenuated to greenfield run off rates and take account of the 1 in 100 year event plus climate change. There is ample space within the site to place soakaways and other attenuation, although the report advises that surface water would discharge to mains sewer as the site is unlikely to be suitable for infiltration methods. The Environment Agency has requested a condition preventing infiltration methods unless it has been demonstrated it would not harm controlled waters. A condition can be imposed to secure surface water discharge, either to a sustainable drainage system or potentially as an alternative to the mains sewer if it can be demonstrated that the site is not suitable for such a system.

Severn Trent Water has previously 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 new developments 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 grassland and scrub with trees/hedgerows along its boundaries and two vacant

buildings located adjacent to its southern boundary. The site is also adjoined by grassland along with other trees and hedgerows nearby. 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.

An ecological appraisal has been submitted with the application which concludes that the two buildings have low potential for use by bats and the County Ecologist advises that further surveys are not required. No evidence of breeding birds was found within the buildings. The trees/hedgerows located along the site's boundaries are shown to be retained and almost half of the site would be retained as paddock, with other small areas of landscaping provided within the site. A condition relating to breeding birds could be imposed. The survey also found that the site has potential to be used as habitat by reptiles such as grass snake and recommends that further surveys are undertaken to confirm the presence/absence of this species, which can be secured by condition.

The County Ecologist advises that she has concern regarding the potential for ponds within 100 metres of the site for use by great crested newts (GCN). She advises that although there is a known population of GCN in the village it is to the south of the site (on land close to the village hall) and recent surveys and assessments of ponds close to the site have not revealed the presence of GCN, save for one pond within 100 metres to the south which could not be accessed for surveying. However the County Ecologist advises that given the good level of knowledge of GCN within the village it is considered GCN presence in that pond is unlikely and she does not feel that this pond poses a threat to the proposal.

As such it is considered that protected species would not be adversely affected by the proposals.

The survey advises that the majority of the site is designated as a Parish Level Wildlife Site containing 'old grassland' but does not meet the criteria for designation as a Local Wildlife Site. The County Ecologist also advises that whilst the site used to be species-rich grassland, it has declined, probably due to lack of management, and does not object to its partial loss. As some valued grassland is still present and the management of the proposed paddock may improve the quality of the grassland she recommends the imposition of a condition relating to this matter. However it is considered that such a condition would not be reasonable nor enforceable and therefore could not be imposed.

### **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 15 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 £1,416) 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 got consent or are under construction at March 2014 (27) plus any other schemes that have been approved or have a resolution to permit since March 2014 (equivalent to approximately 75 dwellings). 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.

### **Other Matters**

The Environmental Protection team has requested the imposition of conditions relating to contaminated land due to the unknown history of the use of the two buildings.

The Environment Agency initially objected to the application as there was insufficient information to demonstrate that the risk of pollution to controlled water is acceptable and there is a risk that the proposal would cause pollution to controlled waters receptors (principal and secondary aquifers) in the local area from the use of the site as a joinery, associated storage and agriculture. Following submission of a Preliminary Ground Investigation Report, the Environment Agency advises that it concurs with the conclusions of this report that due to the previous joinery use an intrusive investigation is required to assess potential contamination. Therefore the Agency recommends the imposition of conditions to address this matter.

The site lies 700 metres to the west 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.

### **Conclusion**

As set out in the main report above, the site lies outside the Limits to Development in the adopted Local Plan and predominantly 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, highway safety, flood risk and drainage and it is considered that four dwellings could be accommodated on the site with an appropriate layout/design and retention of the public footpath and without significantly detrimental impacts on trees and residential amenities. Issues relating to contaminated land and potential contamination of controlled waters could be addressed via conditions. 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.

Whilst there would be moderate and localised harm to the countryside it is considered that it would be limited and not be so significantly detrimental to justify a reason for refusal based on the proposal resulting in an adverse impact on the character of this locality and the countryside.

The less than substantial harm to the heritage assets is in this case considered on balance to be outweighed by the site's contribution to the District's housing land supply, a contribution under the River Mease DCS which will improve the quality of the River Mease SAC and improvements to the village's drainage system.

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

### **RECOMMENDATION, PERMIT subject to a Section 106 Agreement and the following conditions(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 access within the site, appearance, landscaping, layout and scale (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 development shall be carried out strictly in accordance with the following schedule of plans unless otherwise required by a condition of this permission:
- Drawing No. 2990-02 (Location Plan) received by the Authority on 1 July 2014;
  - Drawing No. 2990-02 Rev A (Site Sections) received by the Authority on 20 October 2014;
  - Drawing No. 2990-01 Revision A (Proposed Site Plan - details of the site access only) received by the Authority on 1 July 2014.

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

- 4 The area coloured light green and annotated as 'Pony Paddock' on Drawing No. 2990-01 Revision A (Proposed Site Plan) shall be used solely as a paddock for agricultural use or the keeping of horses only and no part of the four dwellings or their associated development shall be erected within this area.

*Reason: in the interests of the character and visual amenities of the area.*

- 5 The paddock shall not be used in connection with a riding school, livery stables or any other equestrian business or commercial use.

*Reason - other uses may raise different impacts in terms of residential amenities, highway safety and impact on the River Mease SAC.*

- 6 None of the dwellings hereby approved shall be occupied until a scheme of measures to ensure the sewer/drainage network has capacity to serve the development has been provided in full in accordance with a scheme that has first been submitted to and agreed in writing with the Local Planning Authority (in consultation with Severn Trent Water).

*Reason- to ensure sufficient capacity is available within the local drainage network.*

- 7 No development shall commence on site until such time as details of the means of disposal of foul drainage from the site have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details which shall thereafter be so retained.

*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.*

- 8 No development shall commence on site until such time as details of:
- (i) the means of disposal of surface water from the site to soakaways or other sustainable drainage system where it has been demonstrated that there is no unacceptable risk to controlled waters; or



(ii) evidence to demonstrate that these means of drainage are not suitable for the site and alternative details of surface water discharge to mains sewer;

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 which shall thereafter be so retained.

*Reason- to prevent an adverse impact on the River Mease Special Area of Conservation; to prevent pollution of controlled waters receptors.*

- 9 The reserved matter application(s) shall include precise details of the finished floor levels to each dwelling and the finished ground levels across the site in relation to an existing datum point.

*Reason - in the interests of visual and residential amenities.*

- 10 A tree survey and arboricultural impacts survey of all trees and hedgerows within and on the boundaries of the site to be developed for the four dwellings and of the mature ash tree within the garden to No. 21 Old End shall be submitted as part of the reserved matter application(s).

*Reason - in the interest of health and safety and the amenity value of the trees/hedgerows and to assess the impact of the development on the trees/hedgerows.*

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

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

- 12 No development shall commence on site until details of the design and location of bird nesting boxes and bat boxes 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 the measures incorporated shall thereafter be so retained.

*Reason - In the interests of providing potential bird nesting and bat roosting sites, to mitigate the loss of those resulting from the loss of trees/vegetation.*

- 13 No development shall commence on site nor shall any removal of scrub or grassland take place until such time as a survey of the site for reptiles in accordance with the methodology set out at paragraphs 4.26 to 4.30 of the Ecological Appraisal (June 2014) undertaken by FPCR and details of any mitigation measures (including a timescale for their implementation) if any reptiles are found has been undertaken and submitted to and agreed in writing by the Local Planning Authority. The mitigation measures shall be undertaken in accordance with the agreed details and timescale.

*Reason- to prevent an adverse impact on species of reptiles which are a protected species.*

- 14 No demolition/development shall commence on site until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation which has first been submitted to and approved 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 (including the initial 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.

he development shall be undertaken in accordance with the approved Written Scheme of Investigation unless a variation is agreed in writing with the Local Planning Authority.

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

- 15 None of the dwellings hereby approved shall 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 14 and provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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

- 16 No development shall commence on site in relation to the construction of any part of the dwellings hereby approved until the two existing buildings shown on Drawing No. 2990-02 (Location Plan) have been demolished in full, unless an alternative timescale for their demolition has first agreed in writing by the Local Planning Authority.

*Reason - To avoid the possibility of the coexistence of two unrelated developments which would be visually unsatisfactory and to prevent an adverse impact on the River Mease Special Area of Conservation/SSSI.*

- 17 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 identify all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors and potentially unacceptable risks arising from contamination at the site and information for a detailed assessment of the risk to all receptors that may be affected, and shall be carried out in accordance with:
- o BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
  - o BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)
  - o BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and

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

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.

The development shall be carried out in accordance with the agreed Remedial Scheme and Verification Plan.

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 ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF; to ensure that the development does not cause pollution of the controlled waters receptors below the site.*

18 Prior to occupation of any of the dwellings hereby approved, a Verification Investigation shall be undertaken in line with the agreed Verification Plans for the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

o Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;

o Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;

o Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;

o Contain Test Certificates of imported material to show that it is suitable for its proposed use;

o Demonstrate the effectiveness of the approved Remedial Scheme; and

o Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

*Reason: To ensure that the land is fit for purpose and to accord with the aims and objectives of*

*paragraph 120 of the NPPF; To prevent pollution of the controlled waters receptors below the site.*

- 19 Before first occupation of any dwelling hereby approved, the vehicular access to the site shall be provided in accordance with the details shown on Drawing No. 2990.01 Revision A (Proposed Site Plan), 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 once provided shall thereafter be so maintained in perpetuity.

*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; to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.).*

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

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

- 21 No development shall commence on site until such time as a construction 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.*

- 22 Before the first occupation of any dwelling hereby approved, visibility splays shall be provided at the junction of the access with Measham Road in accordance with the details shown on Drawing No. 2990.01 Revision A (Proposed Site Plan). Nothing shall be allowed to grow above a height of 0.9 metres, or overhang lower than 2.0 metres, above ground level within the visibility splays. These shall be provided in accordance with the standards contained in the current County Council design guide and shall thereafter be so maintained in perpetuity.

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

- 23 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as to open inwards only.

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

- 24 The gradient of the access drive shall not exceed 1:12 for the first 7 metres behind the

highway boundary.

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

**Notes to applicant**

- 1 Planning permission/or approval of reserved matters (delete as appropriate) 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 This decision is subject to a Section 106 Obligation regarding the following matters:  
- Contribution under the River Mease Developer Contribution Scheme.
- 3 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at [www.defra.gov.uk](http://www.defra.gov.uk)
- 4 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, you are advised to visit the County Council website as follows: -  
- For 'major' accesses - see Part 6 of the "6Cs Design Guide" at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg)  
- For other minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.
- 5 If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.
- 6 In respect of condition 14 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.
- 7 The reserved matters application(s) should include car parking provision on the basis of two spaces for a dwelling with up to three bedrooms and three spaces for a dwelling with four or more bedrooms. Please note that the minimum dimensions for a parking space are 2.4 metres by 5.5 metres and for a garage to be considered as a parking space the minimum internal dimensions are 3 metres by 6 metres.
- 8 An application would need to be made to the District Council to divert the public footpath that runs through the site. The grant of planning permission does not guarantee that such a diversion would be agreed. The public footpath must not be blocked or diverted without consent.
- 9 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority

on 01530 454666 for further details.

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**Erection of detached dwelling, alterations to existing access  
and highway works**

**Report Item No  
A10**

**Land Adjoining Recreation Ground Measham Road Moira  
Derby**

**Application Reference  
14/00752/FUL**

**Applicant:  
Mr J COTTON**

**Date Registered  
13 August 2014**

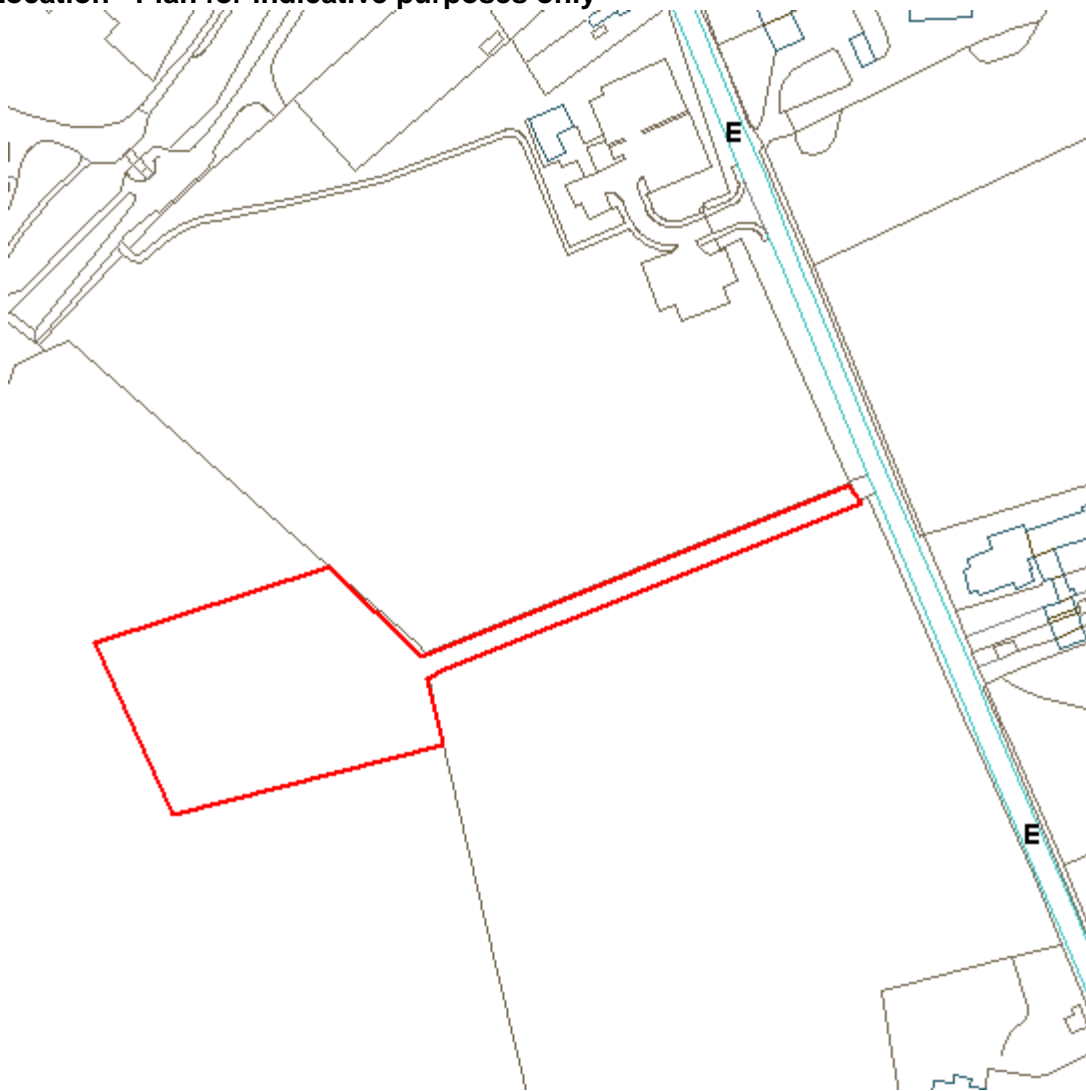
**Case Officer:  
Ebony Mattley**

**Target Decision Date  
8 October 2014**

**Recommendation:  
REFUSE**

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



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## **Executive Summary of Proposals and Reasons for Approval**

### **Reason for Call In**

The application is reported to the Planning Committee at the request of Councillor Annette Bridges in the interest of the general public by way of sustainable living for families that need assistance due to ill health and remaining within the community.

### **Proposal**

This application seeks full planning permission for the erection of a two storey detached dwelling at land adjacent to Moira Recreation Ground, Measham Road, Moira.

### **Consultations**

Members will see from the main report below that there are four letters of support and a petition containing 68 signatures, in support of the scheme. With the exception of Ashby Woulds Town Council there are no other objections raised from statutory consultees.

### **Planning Policy**

The site is located outside Limits to Development, and within an area designated as an area of separation, as defined by the North West Leicestershire Local Plan Proposals Map 2002.

### **Conclusion**

The scheme would be sited outside the defined Limits to Development and within the countryside, disconnected from the settlements of Moira and Donisthorpe. The scheme is considered to result in new residential development, without special overriding justification and would not represent a sustainable form of development. In addition, the proposed scheme by reason of its positioning, scale and design, would not be sympathetic to the character and appearance of this countryside setting.

The development would not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, highway safety, ecology/protected species, drainage and flood risk, or the River Mease SAC/SSSI.

It is considered, however, on balance, that any potential benefits of the scheme as proposed would be insufficient to outweigh the conflict with the development plan and the Framework resulting from the harm as identified in the main report, below.

### **RECOMMENDATION:- REFUSE PLANNING PERMISSION**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and 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 a two storey detached dwelling of four bed configuration at land adjacent to Moira Recreation Ground, Measham Road, Moira. Access is proposed via a gravel driveway, from Measham Road, and a triple detached garage would adjoin the proposed dwelling. The scheme proposes a 1.8 metre high brick wall around the entire garden, with a gravel/porous surface finish to the front of the dwelling and garden area to the rear.

The dwelling spans some 25 metres in length by 15 metres in width, with the garage measuring an additional 15 metres in length by 9 metres in width. The height of the dwelling to the ridge would be 11.6 metres.

During the course of the application, officers have expressed concerns over the principle of new residential development in the countryside and have recommended the application be withdrawn. The applicant has subsequently provided additional information in respect of the need for the dwelling on the grounds of ill health to family members and the need to live in close proximity.

The site is located outside Limits to Development, and within an area designated as an area of separation, as defined by the North West Leicestershire Local Plan Proposals Map 2002.

The application is accompanied by a Design and Access Statement, Biodiversity Report and a Coal Mining Risk Assessment.

### 2. Publicity

10 no. Neighbours have been notified (Date of last notification 28 August 2014)

Site Notice displayed 6 September 2014

### 3. Consultations

Ashby Woulds Town Council consulted 28 August 2014

LCC/Footpaths

County Highway Authority

Environment Agency

Severn Trent Water Limited

Head of Environmental Protection

County Archaeologist

LCC ecology

### 4. Summary of Representations Received

The following summary of representations is provided.

**Ashby Woulds Town Council** objects to the application on the following grounds:-

- 1) Highway safety and traffic capacity of the road network as planning permission already

- obtained for 80 houses off Measham Road
- 2) Siting, design and appearance of the proposed dwelling

**Environment Agency** does not wish to make any formal comment.

**Leicestershire County Council - Highways** raise no objection, subject to conditions.

**Leicestershire County Council - Ecology** raise no objections, subject to boundary hedgerows being planted with native species.

**Leicestershire County Council - Footpaths Officer** has no objection, subject to a note to applicant.

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

### **Third Party Representations**

A petition containing 68 signatures in support of the application has been received.

Four additional letters of support have also been received stating that:-

A petition containing 68 signatures in support of the application has been received.

Four additional letters of support have also been received stating that:-

- 1) The dwelling is required for the son to assist his mother at the running of the farm, as she is in ill health.
- 2) Position and design of the house is lovely
- 3) The applicant will plough the roads when its snows for the locals
- 4) The dwelling will provide natural security for the canal and playing field
- 5) Raise the profile of this part of Moira
- 6) A value to the residents of the village
- 7) The applicant gives care for a number of family members
- 8) Does not stand out from the roadside
- 9) The house has been designed to allow the in-laws room to retire in their own space.

## **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:

" 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."

"55. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances."

"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."

"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..."

### **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 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 E21 states development will not be permitted which result in the reduction in the physical separation between the built up areas of Donisthorpe and Moira.

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 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.

### **Emerging Core Strategy**

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

### **Other Guidance**

The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations');

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

River Mease Water Quality Management Plan - August 2011.

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.

## **6. Assessment**

The main issues for consideration in the determination of this application relate to the principle of development, layout and design, impact upon residential amenity, highway considerations, ecology, drainage and flood risk and impact upon the River Mease Special Area of Conservation/SSSI.

### **Principle of Development**

#### *New Dwelling within the Countryside*

Insofar as the principle of development is concerned, and in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the

determination of the application is the Development Plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2002 (as amended)).

The application site lies outside the Limits to Development of both Moira and Donisthorpe, and falls within an area of separation, as defined by the proposals map of the adopted Local Plan.

Schemes outside Limits to Development fall to be considered against Saved Policy S3 of the Local Plan. The applicant is proposing to build a new dwelling and as such the scheme fails to meet the criteria for development in this policy. Accordingly as the development proposed would not meet the criteria for development in the countryside and the scheme would therefore be contrary to the provisions of S3.

Paragraph 55 of the NPPF states that Local Planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:-

- o The essential need for a rural worker to live permanently at or near their place of work in the countryside or;
- o Where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- o Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- o The exceptional quality or innovative nature of the design of the dwelling.

During the course of the application, the applicant has submitted letters regarding the ill health of family members in the locality which requires the need for this future occupier to live in close proximity to assist in the employment of his mother's farm, in addition to living close by in walking distance to elderly grandparents, who the applicant cares for. Furthermore the applicant is expecting their own child and lives with their in-laws.

It is considered that this application has not sought consent for an agricultural workers dwelling and no information has been provided to demonstrate that other accommodation is not available in the vicinity. It is considered that the scheme does not provide any justification or demonstrate special circumstances, as set out in Paragraph 55 of the NPPF and no other overriding need, justification or special circumstances have been presented to outweigh this fundamental policy objection.

Policy E21 states development will not be permitted which result in the reduction in the physical separation between the built up areas of Donisthorpe and Moira. Given that the scheme relates to one dwelling then this would not result in a direct link or lead to the reduction in the physical separation between the two settlements and therefore a reason for refusal could not be sustained on this basis. It is however, considered that any future applications proposed within this area would be considered on their own merits.

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.

Policy H4/1 of the Local Plan relates to the release of land for housing and states that a sequential approach should be adopted, which reflects the urban concentration and sustainability objectives underpinning national policies. These are outlined as criteria (a) to (f) and the application site would fall within criterion (f) i.e. other locations where appropriate in the

context of other policies. The second section of the policy goes on to outline criteria relating to the sustainability of the location.

Whether or not this site would be considered "appropriate" is a matter of judgement. Insofar as the site's location is concerned it does not adjoin existing residential development or the settlement boundaries of the nearest two settlements. It is therefore considered to result in new residential development in the open countryside that is not well related to existing development.

The site is located to the south of Moira and to the north of Donisthorpe. The settlements of Moira and Donisthorpe benefit from a range of local services,

The site does not adjoin the settlement boundary and notwithstanding the position of the Methodist Church opposite the sites entrance, the site is located some distance from the services and facilities to these settlements.

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 proposed dwelling to local facilities and services via the existing footway network along the eastern side of Measham Road.

- o Methodist Church (opposite the side on Measham Road)
- o Leisure/Community - (adjacent to the site - Recreation Ground, Measham Road)
- o Bus Stop - 280 metres (opposite entrance to the Recreation Ground)
- o Public House - 710 metres (Rawdon Arms, Moira)
- o Shop/Post Office - 950 metres (Ashby Road, Moira, opposite Station Drive)
- o School - 1,480 metres (Ashby Road, Donisthorpe)

Accordingly only the Methodist Church and Recreation Ground would be within the 'desirable' walking distance, with the Bus Stop being within the 'acceptable' walking distance. The closest Public House, would be within the preferred 'maximum' walking distance and the Shop/Post Office and Primary School would exceed the 'maximum' walking distance.

It is considered that whilst Moira and Donisthorpe are sustainable settlements, the site is located outside the defined Limits to Development and would result in an inappropriate form of development disconnected from the main built up area of Moira and Donisthorpe, and would not, therefore represent a sustainable form of development.

#### *National Planning Policy Framework*

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.

In March 2012 the National Planning Policy Framework (NPPF) was published and introduces the presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved without delay and where relevant policies are out of date planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a

whole or if specific policies in the NPPF indicate development should be restricted.

There are three core strands underpinning the presumption in favour of sustainable development promoted within the NPPF. These are economic, social and environmental. So long as a development is consistent with these criteria, in principle the development should be considered acceptable.

**Economic** - in this respect developments should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to support growth, and by coordinating development requirements, including the provision of infrastructure. It is considered that the development would benefit the local economy through both the creation of jobs for the construction of the development itself, although this is considered to be limited given the scheme is for one unit.

**Social** - in this respect, developments should support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment. The scheme proposes one dwelling, and does not include affordable units that would appeal to a wider spectrum with the local market.

**Environmental** - to fulfil this role development should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change. The development would result in the loss of greenfield land which is identified in the adopted Local Plan as being countryside and for the reasons discussed later in this report is not considered to protect or enhance the natural environment.

In summary, based on the above, the development proposed is not considered to constitute sustainable development, and thus in principle, the development is not considered to be acceptable.

### **Principle of Development: Summary**

In summary, the applicant has not presented any evidence to justify the proposal on any of the above special circumstances as set out in paragraph 55 of the NPPF. As the site is outside of a settlement boundary and in the open countryside as defined by Policy S3 of the Local Plan, it is therefore considered to be in an isolated location removed from services and transport choices. The principle of development would therefore be contrary to Policy S3 and H4/1 of the Local Plan and the NPPF.

For the reasons discussed above it is not considered that the proposed development would be carried out in accordance with any of the relevant development plan policies or central government guidance contained within the NPPF. There is no presented compelling case that demonstrates that the proposal is acceptable in light of the development plan or the NPPF, and it therefore results in an un-justified harm to the intrinsic character and beauty of the countryside, contrary to the requirements of the NPPF.

### **Layout and Design**

Paragraph 55 of the NPPF states that Local Planning authorities should avoid new isolated homes in the countryside, unless there are special circumstances such as the exceptional



quality or innovate nature of the design of the dwelling. In addition, paragraph 64 within the NPPF stated that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Local Plan 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.

There is the existence of residential properties opposite the site entrance, to the east of Measham Road, which are set back from the road frontage, but front Measham Road. To the south of the site are three residential properties in the vicinity of the corner between Measham Road and School Street. Within the exception of No. 6 School Road, No's 4 and 19 are sited close to the road frontage. It is therefore considered that the two clusters of existing residential development nearby, are closely related to the roads in which they are accessed from, and that this is the established pattern of existing residential development in the immediate vicinity of the site.

There are no other examples in this area of dwellings in set back, backland locations, as the dominant character of this area are dwellings which form frontage development. The siting of the dwelling in this set back, isolated position has no relationship with the existing, established residential properties in the wider vicinity.

In respect of design, the scheme introduces a substantial footprint, over 500 square metres square metres with a large roof mass and dwelling spanning 11.6 metres in height. The four bedroomed dwelling is adjoined by a large triple garage, spanning over half the length of the proposed dwelling. The design and fenestration are not considered to be characteristic or reflective of a traditional farm house/barn type style and the overall design approach results in an incongruous form of development in this countryside setting.

The scheme by virtue of its scale and mass, and design would not be sympathetic to the character and appearance of this countryside setting

In summary, the proposed dwelling by virtue of its backland location will result in a pattern of development that fails to respect the established frontage character of the surrounding area and will therefore be harmful to the character of the locality and the countryside to which it bounds and the dwelling by virtue of its scale and mass, and design would not be sympathetic to the character and appearance of this countryside setting.

The scheme is not therefore considered to be of such an exceptional quality or innovative nature of design that would meet the requirements of Paragraph 55 of the NPPF and is considered to be contrary to Saved Local Plan Policy E4 and Paragraph 64 of the National Planning Policy Framework.

### **Impact upon Residential Amenity**

Given the isolated nature of the site, there are no immediate residential dwellings. Accordingly there is no further consideration in respect of this matter.

## Highway Considerations

The scheme has been considered by the County Highway Authority (CHA) who raise no objection subject to the imposition of planning conditions.

Leicestershire County Council Footpaths Officer has indicated that if it is intended to re-locate the stile and fingerpost at the entrance of the footpath to improve visibility, the applicant should make contact with the County Team.

In summary, subject to the imposition of conditions it is considered that the scheme is acceptable in relation to Saved Policies T3 and T8 of the Local Plan.

## Protected Species/Ecology

The application has been accompanied by a Biodiversity Report, which has been considered by the County Ecologist who has no objections to the application. The site lies within the catchment of the River Mease Special Area of Conservation (SAC) and consideration of the potential impacts of the development on this designated site will be covered later in this report.

## Drainage and Flood Risk

As the site does not exceed 1 hectare in size, there is no formal requirement to provide a Flood Risk Assessment (FRA).

Severn Trent Water has been consulted on the application but no comments have been received at time of writing. A chasing request has been made and should any comments be received, they will be reported to Members via the update sheet.

The submitted details confirmation that surface water would be disposed of via a soakaway and whilst no formal details have been submitted a suitably worded condition could be imposed.

## 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. 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.

A contribution under the River Mease DCS is required but an exact figure for the contribution cannot be determined at this stage, as the code levels of the dwellings has not been finalised. The contribution would be based on the provision of a four bedroomed dwelling and dependent upon the code level would cost between £236 and £354. A Unilateral Undertaking would be worded as such to allow flexibility based on the construction code levels.

The flows from the proposed dwellings need to be taken into account against the existing headroom at Donisthorpe Treatment Works. Where there is no existing capacity at the time of determination a condition is proposed which seeks to prevent occupation of the proposed dwellings until additional capacity has been provided at Donisthorpe Treatment Works.

Accordingly whilst there is no current capacity at Donisthorpe, in time Severn Trent will facilitate the transfer of some capacity to treatment works (Packington and Snarestone) to create such capacity for the 1 dwelling. As such a reason for refusal based on limited capacity at the treatment works could not be justified.

Therefore based on the above it can be ascertained that the proposed development 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.

## **Conclusion**

In conclusion, the development would not give rise to any significant material impacts upon neighbouring residents, highway safety, ecology, drainage and flood risk and the River Mease SAC/SSSI.

As set out in the main report above, however whilst Moira and Donisthorpe, are sustainable locations for residential development, the scheme would be sited outside the defined Limits to Development and result in an inappropriate form of development disconnected from the main built up area of these settlements and would not, therefore represent a sustainable form of development.

The proposed scheme by reason of its positioning, scale and design, fails to respect and would not be sympathetic to the character and appearance of this countryside setting. The proposal is therefore contrary to Policy E4 of the North West Leicestershire Local Plan and paragraph 64 within the NPPF.

For the reasons discussed above it is not considered that the proposed development would be carried out in accordance with the identified development plan policies or central government guidance contained within the NPPF. There is no presented compelling case that demonstrates that the proposal is acceptable in light of the development plan or the NPPF, and it therefore results in an un-justified harm to the intrinsic character and beauty of the countryside, contrary to the requirements of the NPPF.

It is considered, on balance, that any potential benefits of the scheme as proposed would be insufficient to outweigh the conflict with the development plan and the Framework resulting from the harm as identified in the report, above. It is therefore recommended that the application is refused.

**RECOMMENDATION:- Refuse for the following reasons:-**

- 1 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. Paragraph 17 of the NPPF states that planning should recognise the intrinsic character and beauty of the countryside. Paragraph 55 of the NPPF states that Local Planning authorities should avoid new isolated homes in the countryside, unless there are special circumstances

The introduction of this residential development on this un-developed Greenfield site, in this countryside location, not well related to nearby development, outside of the defined limits of Moira and Donisthorpe and remote from the services they contain, would result in an unsustainable, isolated form of development, without any overriding need, justification of special circumstance and therefore results in an un-justified harm to the intrinsic character and beauty of the countryside. The scheme is therefore considered contrary to the requirement of Saved Policies S3, H4/1 of the North West Leicestershire Local Plan and Paragraphs 17 and 55 of the National Planning Policy Framework.

- 2 Policy E4 of the North West Leicestershire Local Plan requires new development to respect the character of its surroundings. Paragraph 55 of the NPPF states that Local Planning authorities should avoid new isolated homes in the countryside, unless there are special circumstances such as the exceptional quality or innovative nature of the design of the dwelling. Paragraph 64 within the NPPF stated that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The introduction of this residential development in this isolated, backland location will result in a pattern of development that fails to respect the established frontage character of the surrounding area and will therefore be harmful to the character of the locality, and the proposed dwelling, by virtue of its scale and mass, and design would not be sympathetic to the character and appearance of this countryside setting. The scheme is not therefore considered to be of such an exceptional quality or innovative nature of design that would meet the requirements of Paragraph 55 of the National Planning Policy Framework and is considered to be contrary to Saved Policy E4 of the North West Leicestershire Local Plan and Paragraph 64 of the National Planning Policy Framework.

**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 applicant was invited to withdraw the application to seek pre-application advice prior to any re-submission but did not agree to this. The Local Planning Authority has therefore 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).

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**Non-material amendment to planning permission  
12/00229/FULM to allow for revised garage position, enlarged  
rear gardens for plots 1-4, additional windows to plots 12 and  
14 and amended landscaping and boundary treatments**

**Report Item No  
A11**

**Land Rear Of 27 The Crescent Breedon On The Hill**

**Application Reference  
14/00928/NMA**

**Applicant:  
Melbourne Property Company**

**Date Registered  
9 October 2014**

**Case Officer:  
James Mattley**

**Target Decision Date  
6 November 2014**

**Recommendation:  
PERMIT**

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



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

### **Proposal**

An application has been submitted for a non-material amendment to planning permission 12/00229/FULM to allow for revised garage position, enlarged rear gardens for plots 1-4, additional windows to plots 12 and 14 and amended landscaping and boundary treatments on land to the rear of 27 The Crescent in Breedon on the Hill.

The application is to be determined by the Planning Committee as the applicant is Melbourne Property Company and Councillor Richard Blunt has a financial and employment interest with this company.

### **Consultations**

No publicity or consultations have been carried out as the application relates to a proposed non-material amendment.

### **Planning Policy**

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

### **Conclusion**

The report below indicates that the proposed changes are considered to be non-material in relation to the original scheme. The proposal would not adversely affect the character and appearance of the surrounding area, be significantly detrimental to highway safety or impact upon the amenities of nearby residents. It is therefore recommended that the application be permitted.

**RECOMMENDATION - PERMIT, subject to conditions.**

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

## MAIN REPORT

### 1. Proposals and Background

An application has been submitted for a non-material amendment to planning permission 12/00229/FULM on land to the rear of 27 The Crescent in Breedon on the Hill. The proposal seeks for the creation of a ground floor side window to plot 12 and plot 14, the relocation of the garage to plot 2 and the erection of a new close boarded timber fence in order to allow for the rear gardens of plots 1-4 to increase in size by around 4.0 metres. The relocation of this boundary treatment would result in the loss of a boundary hedge and the proposal includes for the planting of an additional hedge to mitigate this loss.

The application is to be determined by the Planning Committee as the applicant is Melbourne Property Company and Councillor Richard Blunt has a financial and employment interest with this company.

Relevant Planning History:

11/00507/FULM - Erection of 14 dwellings with new access - void

12/00229/FULM - Erection of 14 dwellings with new access (Revised scheme) - permitted

### 2. Publicity

No neighbours have been notified.

### 3. Consultations

No consultations required

### 4. Summary of Representations Received

No publicity or consultations have been carried out as the application relates to a proposed non-material amendment.

### 5. Relevant Planning Policy

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

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

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

The 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.

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**

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.

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

Policy T8 seeks to ensure that parking provision in new developments will be kept to the necessary minimum.

#### **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**

In the assessment of the approved scheme (12/00229/FULM) it was considered that the overall development both in terms of its scale and design and its impact upon neighbouring properties was acceptable. Therefore the main consideration in the determination of this submission is as to whether the proposed alteration affects this conclusion.

The proposal seeks for the creation of a ground floor side window to plot 12 and plot 14, the relocation of the garage to plot 2 and the erection of a new close boarded timber fence in order to allow for the rear gardens of plots 1-4 to increase in size by around 4.0 metres. The relocation of this boundary treatment would result in the loss of a boundary hedge and the proposal includes for the planting of an additional hedge to mitigate this loss.



These alterations are considered to be relatively minor in nature and would not have any significant visual amenity impacts, would not result in any significant overlooking, overbearing or overshadowing impacts upon surrounding residential amenities or result in any highway safety or car parking issues.

Accordingly, no objections are raised to the proposals.

**RECOMMENDATION - PERMIT, subject to the following condition;**

- 1 The development shall be carried out strictly in accordance with the conditions set out in planning permission 12/00229/FULM.

*Reason - For the avoidance of doubt.*

- 2 Notwithstanding Condition 1 above, nor Condition 2 of planning permission ref. 12/00229/FULM, the development shall be carried out in accordance with the plans as listed under Condition 2 of that approval and as amended by the following plans:

- \_ Drawing number 2106 - 051 deposited on 9 October 2014;
- \_ Drawing number 2106 - 001 G deposited on 9 October 2014;

submitted in respect of application 14/00928/NMA.

*Reason - For the avoidance of doubt.*

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