

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 3 February 2015
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
1. APOLOGIES FOR ABSENCE	
2. DECLARATION OF INTERESTS	
Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
3. MINUTES	
To confirm and sign the minutes of the meeting held on 6 January 2015	3 - 8
4. PLANNING APPLICATIONS AND OTHER MATTERS	
Report of the Head of Planning and Regeneration.	9 - 12



Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	14/00769/OUTM: Erection of up to 70 dwellings together with public open space, National Forest planting, landscaping, drainage infrastructure and access off Woodcock Way (outline - all matters reserved) Land Adjoining Woodcock Way Ashby De La Zouch	Permit Subject to a Section 106 Agreement	13 - 44
A2	14/00802/OUTM: Erection of 36 dwellings, formation of access and provision of open space (outline - all matters other than part access reserved) Land At Acresford Road Donisthorpe Swadlincote	Permit	45 - 68
A3	14/00967/FULM: Permanent Change of Use of car park land to the sale of plant and machinery by auction with up to 5 auctions per annum Donington Park Race Circuit Donington Park Castle Donington	Permit subject to a Section 106 Agreement	69 - 80
A4	14/00519/FUL: Erection of timber framed commercial growing house (greenhouse), a building containing barn, stabling and car port for associated smallholding use, single storey garden room and balcony to dwelling, change of use to residential curtilage including landscaping works and realignment of existing driveway. Dishley Farm Main Street Swepestone	Permit	81 - 102
A5	14/01073/FUL: Erection of two-storey detached dwelling with detached garage 28 Elder Lane Griffydam Coalville	Permit	103 - 118
A6	14/01082/FUL: Change of use of agricultural barn to commercial use to include B2 and B8 use and associated parking/service area. (re-submission of 11/00748/FUL) Cattle Shed South Of Service Station Atherstone Road	Permit	119 - 128
5.	TO CONSIDER THE MAKING OF A TREE PRESERVATION ORDER AT 73 PARK LANE, CASTLE DONINGTON Report of the Planning and Development Team Manager		147 - 150

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 6 JANUARY 2015

Present: Councillor D J Stevenson (Chairman)

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

In Attendance: Councillors J Geary and T J Pendleton

Officers: Mrs V Blane, Mr C Elston, Mr J Knightley, Miss E Mattley, Mrs M Meredith and Mr J Newton

89. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R Adams, G A Allman and T Gillard.

90. DECLARATION OF INTERESTS

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

Councillors A Bridges, J Bridges, J Cotterill, J G Coxon, D Everitt, J Houlton, D Howe, R Johnson, G Jones, J Legrys, T Neilson, S Sheahan, N Smith, M Specht, D J Stevenson, R Woodward and M B Wyatt declared that they had been lobbied without influence in respect of item 6, Receipt of Advice in Respect of Planning Application 13/00335/OUTM for Residential Development and Associated Development at Money Hill Site, Ashby De La Zouch.

Councillor S Sheahan declared a disclosable non-pecuniary interest in item A1, application number 10/00775/OUTM, as a Member of Leicestershire County Council.

Councillor D Howe declared a disclosable non-pecuniary interest in item A1, application number 10/00775/OUTM, as a Member of the East Midlands Housing Group Active Stakeholder Forum.

Councillor J Legrys declared that he had been lobbied without influence in respect of items A1 and A2, application numbers 10/00775/OUTM and 14/00875/FUL.

Councillors A Bridges and J Bridges declared a disclosable pecuniary interest in item A3, application number 14/01006/FUL, as the application had been submitted by their son.

Councillors J G Coxon, J Houlton and G Jones declared a disclosable non-pecuniary interest in item A4, application number 14/00980, as Members of Ashby Town Council.

The Chairman requested that a letter be sent to Councillor G A Allman following his recent operation.

91. MINUTES

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

The Legal Advisor read out an amendment to the minutes which had been requested by Councillor R Johnson as follows:

“Correction to the minutes page 321.

Line 3 He commented that this was just plain daft.

What I actually said was And to have 2 new villages within the Hugglescote Parish boundary was just plain daft.

Line 7 He commented that the villages should not be seen as a dumping ground for developers profits.

Line 13 He commented that no amount of money would solve the traffic problems if the highway was not fit for such a large development. He added that the by pass would have partly solved the problem with the lack of infrastructure, but this was not an option.

What I did say was no amount of money thrown at all the road junctions and Islands around our town will solve the traffic problems as we still have the branches of highway not fit for such a large development such as this.

Line 21 bottom of the page. He added that having one of the narrowest parts of Forest Road as an access was a crazy idea and asked if this was reasonable considering that this was an accident hotspot.

What I actually said was, access points of an only bus lane road onto one of the narrowest part of Forest Road from the proposed site is a crazy idea, and to top it all an access point close to Newbridge school on a renowned accident hotspot. I ask the question is this reasonable.

Page 322 He commented that the development would be with the residents for a very long time and asked if this was worthwhile. What I actually did say was the plans look wonderful on a piece of paper but in reality there will be a lot of upheaval for all of our residents for a very long time. Is it worth it. The residents are not of the persuasion of the short time pain for the long time gain scenario”.

It was agreed that the minutes be amended to reflect this.

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

RESOLVED THAT:

Subject to the above amendment, the minutes of the meeting held on 2 December 2014 be approved and signed by the Chairman as a correct record.

92. PLANNING APPLICATIONS AND OTHER MATTERS

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

93. A1 10/00775/OUTM: ERECTION OF UP TO 24 DWELLINGS (OUTLINE-ALL MATTERS RESERVED)

Land At Kane Close Coalville Leicestershire LE67 3RF

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

The Principal Planning Officer presented the report to Members.

Councillor J Geary, Ward Member, addressed the meeting. He referred to his knowledge and understanding of the Snibston site gained during the last 17 years of his working life. He also referred to the previous application which had been approved in September 2011. He commented that he would have expected this application to be the same, however there were radical changes to the layout. He reminded Members that the previous site was larger and had permission for 21 dwellings; however this smaller site was seeking permission for 24 dwellings. He asked whether this was acceptable. He made reference to the concerns raised in respect of the dwellings bordering a scheduled monument site and the overbearing impact that this could have unless the development was linked into the monument site. He added that the dwellings bordering the scheduled monument site should be single storey. He referred to the request that the layout of the site be discussed with the Coalville Ward Members and he hoped that such a condition would be made to ensure that the developer discussed the proposals with Members in order to reach an acceptable scheme. He expressed concerns regarding surface drainage and requested a condition regarding the future maintenance of the ditch, which was already becoming heavily silted. He added that the issues around the joint ownership of the ditch needed to be resolved.

Councillor J Bridges moved that the application be permitted in accordance with the Head of Planning and Regeneration. This was seconded by Councillor N Smith.

Councillor A Bridges referred to the problems she had experienced in her area regarding surface drainage issues. She added that it would be positive to establish who owned what and how the run-off water would be dealt with.

Councillor R Johnson commented that the application seemed to change every so often and had been amended as recently as yesterday. He added that 21 dwellings was acceptable to the developer in 2011, and questioned why this was not the case now. He commented that the developer seemed to want to squash in as much as possible and it was not acceptable that people were living in boxes. He added that he hoped a condition was included to ensure that Ward Members were consulted. He questioned why there was no provision for a play area. He expressed concerns that the plans kept changing.

Councillor J Legrys stated that he shared Councillor R Johnson's concerns about the changing plans and expressed his disappointment that the plans before Members differed to those on the Council's website and the boundary which had been discussed at the briefing. He called for accuracy. He made reference to the previous permission and the minutes of that meeting which commented on the lack of consultation at that time. He added that the issue of Snibston would be very sensitive in the coming days.

The Chairman reminded Members that what was under discussion was the land in the ownership of East Midlands Housing Group.

Councillor J Legrys commented that East Midlands Housing Group had made it clear that they did not intend to build beyond the wall. He called for a proper consultation with Ward Members. He expressed concerns regarding the noise complaints from the dwellings along the boundary and added that he did not want to see two or three storey dwellings along that side. He added however that the land had already been sold and it was preferable to deal with the application properly rather than to seek a refusal. He sought reassurance from officers that Ward Members would be properly consulted and would have some influence over the reserved matters.

The Chairman referred to the condition set out in the report in respect of surface drainage. He added that a note to the applicant would be included in respect of consultation with Ward Members on the layout of the scheme. He added that the houses were very much needed in the area and he hoped Members would support the application.

Councillor M Specht stated that personally he was not a big believer in play areas. He commented that the proposed development was wholly affordable and was much needed in Coalville and the whole district. He added that he would be supporting the application.

Councillor J Bridges stated that he believed all the concerns raised had been addressed in conditions 1, 2, 5, 6 and 7.

The Chairman then put the motion to permit the application to the vote. It was

RESOLVED THAT:

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

94.

A2

14/00875/FUL: DEMOLITION OF PUBLIC HOUSE AND CHANGE OF USE OF LAND TO A RESIDENTIAL MOBILE HOME PARK

Navigation Inn 166 Spring Cottage Road Overseal Swadlincote

Officer's Recommendation: PERMIT

The Planning Officer presented the report to Members.

Mr P Taylor addressed the meeting on behalf of the applicant. He stated that the Navigation Inn had been struggling to survive for several years. He referred to the seasonal fluctuation in income and the financial problems experienced by the last two licensees, and commented that this was clearly not a viable pub business. He added that this was a brownfield site, the majority of which was inside the limits to development, and the proposals were sustainable. He stated that there would be no adverse impacts upon neighbours as the proposals were less likely to cause noise at unsocial hours and there would be no impact on traffic movements or ecology. He concluded that there was nothing to suggest the proposals were contrary to policy and therefore the application should be granted.

Councillor S Sheahan sought clarification on the proportion of the site that was inside the limits to development. He also expressed concerns about the sustainability of the site given that there was no bus service and Leicestershire County Council was of the opinion that the development was not sustainable. He commented that Overseal was at least a mile walk and the nearest school was 1.8 miles away.

The Planning Officer advised that almost the entirety of the site was inside the limits to development. In respect of the bus service she confirmed that the nearest service was from Overseal.

Councillor S Sheahan stated that according to the Traveline website, the quickest way to get to Overseal from the development site was to walk. He asked if officers believed the development was still sustainable without any bus service.

The Planning Officer advised that there was a footpath which ran all the way to Overseal and this was within walking distance. She referred to a nearby site which had been permitted and which was further away from Overseal. She reiterated that she believed the development was sustainable.

Councillor S Sheahan felt that it may have been misleading to say that the development was sustainable. He added that he was inclined to believe the contrary opinion of Leicestershire County Council, and given that some of the site was outside the limits to

development, he felt that there were grounds to refuse the application. He duly moved that the application be refused on those grounds. The motion was seconded by Councillor J Legrys.

Councillor J Geary stated that he was very sorry to hear that another country pub was falling by the wayside. He expressed concerns regarding highway safety and commented that the last thing he wanted was another Pick and Shovel. He commented that despite his reservations he would be voting in favour of the proposals.

Councillor M Specht expressed grave concerns regarding the sustainability of the development as there were no local services whatsoever. He commented that people would be reliant on cars. However, he added that the development would cause less vehicle movements than the pub, so despite his concerns he would be supporting the application.

Councillor J Bridges stated that he had several concerns however he did not consider that a refusal could be defended.

The Chairman commented that this was a brownfield site which had been empty for over two years. He added that given that permission had been granted further away over the road, a refusal could not be defended.

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

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

RESOLVED THAT:

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

95.

A3

14/01006/FUL: ERECTION OF TWO SEMI-DETACHED DWELLINGS AND ASSOCIATED WORKS (RE-SUBMISSION OF 11/00160/FUL)

15 Ashby Road Donisthorpe Swadlincote Derby

Officer's Recommendation: PERMIT

Having declared a disclosable pecuniary interest, Councillors A Bridges and J Bridges left the meeting during consideration of this item and took no part in the discussion or voting thereon.

The Planning Officer presented the report to Members.

It was moved by Councillor J Legrys, seconded by Councillor J Geary and

RESOLVED THAT:

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

96. A4
14/00980/FUL: ERECTION OF PART TWO STOREY, PART SINGLE STOREY SIDE AND REAR EXTENSIONS TO FARM WORKERS DWELLING
 The Orchard Nottingham Road Ashby De La Zouch Leicestershire

Officer's Recommendation: PERMIT

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

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

RESOLVED THAT:

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

97. EXCLUSION OF PRESS AND PUBLIC

Councillor J Legrys sought clarification on the reasons that the report was to be considered in private.

The Head of Planning and Regeneration advised that this was to protect the Council's interests in an ongoing appeal.

Councillor J Legrys commented that the report gave a précis of the advice received and he could see nothing which should be exempt. He sought reassurance from the Legal Advisor that this could not be challenged through the Freedom of Information process.

The Legal Advisor stated that legal advice to the authority was legally privileged and had been précised in the report. She added that at this stage, the authority would not want the appellant to have knowledge of the legal advice and if they were able to read the report they would be able to deduce what legal advice had been given as it would be abundantly clear from the report.

RESOLVED THAT:

In pursuance of Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the remainder of the meeting on the grounds that the business to be transacted involves the likely disclosure of exempt information as defined in Paragraph 5 of Part 1 of Schedule 12A to the Act and that the public interest in maintaining this exemption outweighs the public interest in disclosing the information.

98. RECEIPT OF ADVICE IN RESPECT OF PLANNING APPLICATION 13/00335/OUTM FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED DEVELOPMENT AT MONEY HILL SITE, ASHBY DE LA ZOUC

Consideration was given to the report of the Head of Planning and Regeneration.

RESOLVED THAT:

The recommendations as set out in the report be approved.

Councillors G Jones and J Legrys requested that it be noted that they had abstained from voting.

The meeting commenced at 4.30 pm.
 The Chairman closed the meeting at 5.39 pm.

APPENDIX B

**Report of the Head of Planning and Regeneration
To
Planning Committee**

3 February 2015

PLANNING & DEVELOPMENT REPORT

PLANNING COMMITTEE FRONT SHEET

1. Background Papers

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

2. Late Information: Updates

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

3. Expiry of Representation Periods

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

4. Reasons for Grant

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

5. Granting permission contrary to Officer Recommendation

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

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

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

6 Refusal contrary to officer recommendation

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

7 Delegation of wording of Conditions

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

8. Decisions on Items of the Head of Planning and Regeneration

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

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Erection of up to 70 dwellings together with public open space, National Forest planting, landscaping, drainage infrastructure and access off Woodcock Way (outline - all matters reserved)

Report Item No
A1

Land Adjoining Woodcock Way Woodcock Way Ashby De La Zouch LE65 1AX

Application Reference
14/00769/OUTM

Applicant:
Miller Homes

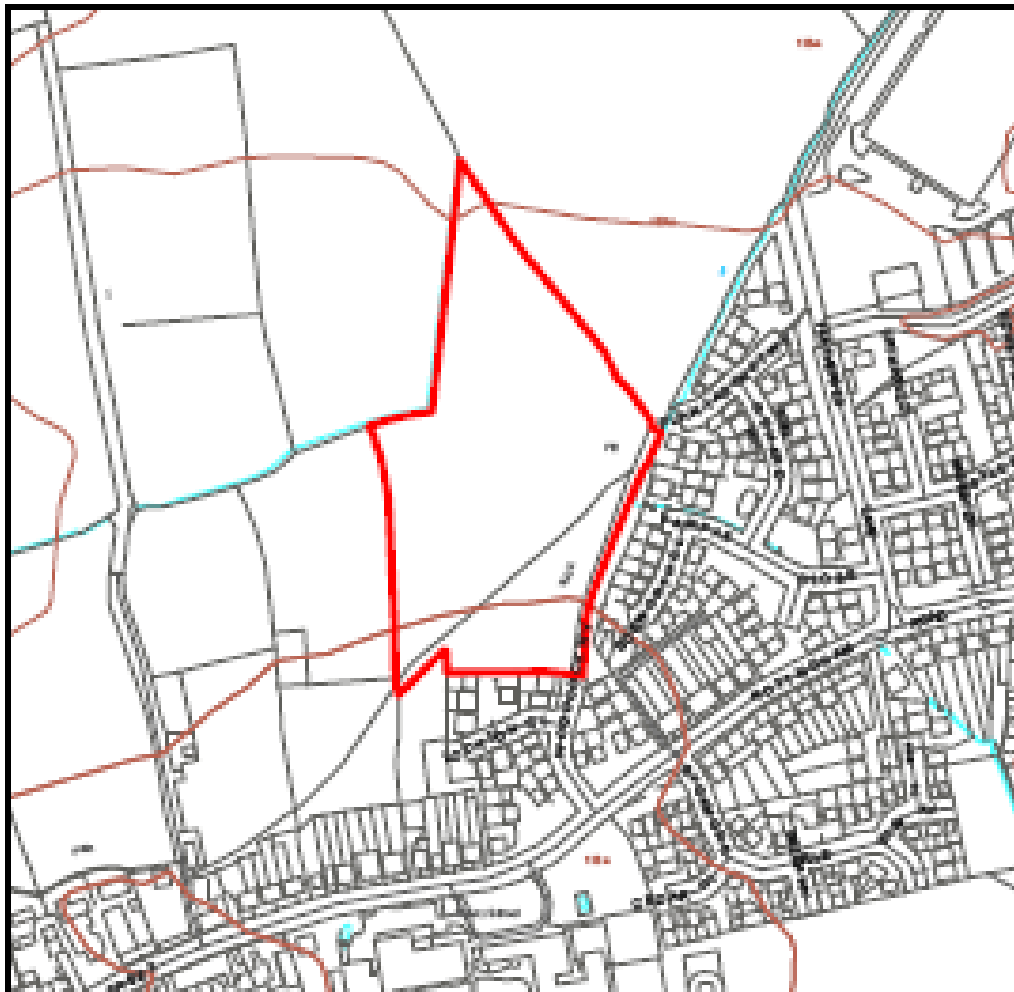
Date Registered
28 August 2014

Case Officer:
James Knightley

Target Decision Date
27 November 2014

Recommendation:
PERMIT Subject to a Section 106 Agreement106

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 70 dwellings and associated works.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals (including from Ashby de la Zouch Town Council); no other objections are raised by statutory consultees.

Planning Policy

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

Conclusion

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

RECOMMENDATION:-

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

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

MAIN REPORT

1. Proposals and Background

This is an outline planning application for residential development of a site of 3.85 hectares (currently unused grassland) for up to 70 dwellings on land to the north of Woodcock Way, Ashby de la Zouch.

Following amendment of the application, all matters are reserved for subsequent approval; whilst all matters are reserved, an illustrative masterplan has been submitted showing the proposed dwellings, together with areas of public open space / children's play, proposed and retained tree planting / landscaping and surface water attenuation facilities.

The site is adjacent to other agricultural land (to the north and west) and to existing residential development (to the south and east); the site is crossed by an existing public right of way (Footpath O89).

Whilst a reserved matter, vehicular access is indicated on the illustrative plan as being provided by way of an extension to Woodcock Way, an existing cul-de-sac served from Nottingham Road. Alterations to the existing priority junction of Woodcock Way with Nottingham Road are proposed (assuming access were provided via Woodcock Way), including provision of a new right turn lane and alterations to refuges. 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 also reserved for consideration at the reserved matters stage(s), although the illustrative masterplan indicates retention of connections to the adjacent rights of way network.

The site is part of a wider area subject to planning application 13/00335/OUTM, an outline application for the erection of 605 dwellings (including a 60 unit extra care centre), a primary school, a health centre, a nursery, a community hall, retail use and public open space with vehicular access taken from both the A511 (Ashby Bypass) and from Woodcock Way. That application was refused at the Planning Committee of 6 May 2013 on the basis of the site's poor connectivity for pedestrians to the town centre, the lack of suitability of Woodcock Way as a means of providing vehicular access, the potential impacts on the operation of Junction 13 of the A42 and the under-provision of affordable housing having regard to the lack of evidence necessary to demonstrate that a policy-compliant contribution would be unviable. That application is now the subject of an appeal, although the District Council has resolved to pursue only the final reason for refusal (i.e. the under-provision of affordable housing) at the forthcoming inquiry.

2. Publicity

104 no. neighbours have been notified.(Date of last notification 27 November 2014)

Press Notice published 10 September 2014

Site Notices posted 15 September 2014

3. Consultations

Ashby De La Zouch Town Council
 County Highway Authority
 Environment Agency
 Head of Environmental Protection
 Natural England
 NWLDC Tree Officer

County Archaeologist
LCC ecology
NWLDC Urban Designer
National Forest Company
LCC Fire and Rescue
LCC Development Contributions
NHS Leicester, Leicestershire And Rutland Facilities Management
Development Plans
Head Of Leisure And Culture
Manager Of Housing North West Leicestershire District Council
Police Architectural Liaison Officer
LCC/Footpaths
NWLDC Footpaths Officer
Highways Agency
Head Of Street Management North West Leicestershire District

4. Summary of Representations Received

Ashby de la Zouch Town Council objects on the following grounds:

- Access through Woodcock Way is unsuitable and will have significant traffic implications for Nottingham Road which is already congested with 15,000 cars a day passing along the road;
- Town Council had concerns about the traffic implications of the previous application when 30 dwellings were using Woodcock Way and this development is for 70 dwellings;
- In the light of large scale planning applications already approved for Ashby, the sustainability of the location and the ability of the town's infrastructure (e.g. roads and schools) to cope with the development is questionable

Environment Agency has no objections subject to conditions

Highways Agency has no objections

Leicestershire County Council Local Education Authority requests developer contributions of £456,882.68 in respect of additional provision in the primary, high and upper school sectors

Leicestershire County Council Library Services Development Manager requests a developer contribution of £3,800

Leicestershire County Council Highway Transportation & Waste Management Authority advises that no civic amenity contribution is required

Leicestershire County Council Landscape Officer has no comments

Leicestershire County Council Ecologist has no objections subject to conditions

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

Leicestershire County Council Mineral Planning Authority has no objections

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

Leicestershire Fire and Rescue Service advises that it does not have the resources to comment on proposed access arrangements in respect of new development and notes that this is covered under the Building Regulations

Leicestershire Police objects unless a developer contribution of £27,278 in respect of policing is provided

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

Natural England has no objections subject to conditions

NHS England (Leicestershire and Lincolnshire Area) requests a healthcare contribution of £23,331.83

North West Leicestershire District Council Cultural Services Officer advises that, if the right of way crossing the site were to deviate from its definitive map line, an application to divert it would be required

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

Third Party Representations

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

- Further housing not needed
- Site outside Limits to Development
- Adverse impact on the walking experience of users of the Ivanhoe Way (right of way O89)
- Attempt to gain a toe-hold in Money Hill and will open up the remainder of Money Hill to development
- Insufficient highway infrastructure
- Submitted Transport Assessment not robust
- Increased congestion to roads and footways
- Unsafe access
- Increased highway hazards due to proximity to school
- Woodcock Way too narrow to accommodate additional vehicles
- Adverse impact on sustainable operation of the farm
- Loss of agricultural land
- Adverse cumulative impact of development with other schemes in Ashby de la Zouch
- Highways Agency direction preventing the development
- Insufficient capacity at Packington sewage treatment works
- Brownfield sites should be developed in preference to greenfield ones
- Contrary to 2002 Local Plan Inspector's report
- Contrary to Core Strategy
- Insufficient school and healthcare capacity
- Not sustainable development
- Some development acceptable subject to limitations on future development beyond

In addition, representations have been received from the Ashby de la Zouch Civic Society and

the Nottingham Road Action Group, objecting on the following grounds:

- District now has a 5 year housing land supply and the housing policies of the Local Plan are hence no longer out of date
- Site located outside Limits to Development
- Further residential development not needed having regard to the requirement for Ashby de la Zouch as set out in the SHMA
- Arla Dairies site can be developed instead if additional housing is required
- Contrary to Local Plan policies
- Premature
- Would impact on development of the District's preferred direction of growth at Money Hill
- Does not address reasons for refusal in respect of the refused wider Money Hill scheme
- Nottingham Road at saturation
- Submitted Transport Assessment not robust
- Excessive walking distances to town facilities - unsustainable location
- Nature of the routes to facilities make walking less desirable
- Poorly connected for cycling
- Poor accessibility to local employment by public transport
- New developments in Ashby de la Zouch aimed at long distance commuters
- Unsafe access
- Adverse impact at A42 Junction 13 and adjacent A511 / Nottingham Road roundabout
- Brownfield sites should be developed in preference to greenfield ones
- Adverse impacts on residential amenity of Woodcock Way due to increased traffic
- Adverse impact on the walking experience of users of the Ivanhoe Way (right of way O89)
- Contrary to NPPF

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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 listed 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 (Presumption in favour of sustainable development)
- Paragraph 32 (Promoting sustainable transport)
- Paragraph 34 (Promoting sustainable transport)
- Paragraph 47 (Delivering a wide choice of high quality homes)
- Paragraph 49 (Delivering a wide choice of high quality homes)
- Paragraph 57 (Requiring good design)
- Paragraph 59 (Requiring good design)
- Paragraph 61 (Requiring good design)
- Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)

Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)
Paragraph 112 (Conserving and enhancing the natural environment)
Paragraph 118 (Conserving and enhancing the natural environment)
Paragraph 123 (Conserving and enhancing the natural environment)
Paragraph 131 (Conserving and enhancing the historic environment)
Paragraph 132 (Conserving and enhancing the historic environment)
Paragraph 135 (Conserving and enhancing the historic environment)
Paragraph 173 (Ensuring viability and delivery)
Paragraph 203 (Planning conditions and obligations)
Paragraph 204 (Planning conditions and obligations)

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. The following Local Plan policies are relevant to this application:

Policy S3 - Countryside
Policy E2 - Landscaped Amenity Open Space
Policy E3 - Residential Amenities
Policy E4 - Design
Policy E6 - Comprehensive Development
Policy E7 - Landscaping
Policy E8 - Crime Prevention
Policy F1 - National Forest General Policy
Policy T3 - Highway Standards
Policy T8 - Parking
Policy H4/1 - Housing Land Release
Policy H6 - Housing Density
Policy H7 - Housing Design
Policy H8 - Affordable Housing
Policy L21 - Children's Play Areas
Policy L22 - Formal Recreation Provision

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 Ashby de la Zouch.

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within Ashby de la Zouch.

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.

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 Leicestershire 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.

Housing Land Supply and Limits to Development

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery.

In terms of the minimum amount of housing required to be provided within the District as a whole, a Strategic Housing Market Assessment (SHMA) undertaken on behalf of all of the Leicestershire local planning authorities has provided the District Council with an up-to-date objectively assessed annual housing requirement, equating to 350 dwellings per annum. The approach used in the SHMA to establishing this Objectively Assessed Need (OAN) was supported by the Inspector who determined the appeal in respect of a site at Lower Packington Road, Ashby de la Zouch, issued in October 2014 and, based on the findings of the Inspector regarding the appropriate method of calculating supply, the District Council's latest housing supply trajectory indicates that, using the approach of the above annualised requirement with a 20% buffer, the District is currently able to demonstrate a supply of 6.18 years.

Having regard to the above and to the approach set out in Paragraph 49 of the NPPF, Local Plan Policy S3 is considered to be up-to-date in the context of Paragraph 49. However, given 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), this needs to be taken into account when considering the weight to be applied to any conflict with this policy.

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. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set out in more detail in this report.

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted. Whilst a sequential approach is outdated in the context of the NPPF, the sustainability credentials of the scheme would still need to be assessed against the NPPF.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The settlement of Ashby de la Zouch benefits from a range of local services and is readily accessible via public transport and, in general, is considered to be an appropriate settlement for new residential development and, as a settlement, would score well against the sustainability advice in the NPPF.

Insofar as the site itself is concerned, and whilst it is located outside Limits to Development, it is well related to the existing built up area of the town. In terms of accessibility, it is noted that the site is within close proximity of the existing town and the range of services available therein. The site access from Woodcock Way is approximately 600m from the town centre (being the closest point of the Core Town Centre Shopping Area as defined in the adopted Local Plan) when taking the shortest all-weather / all user walking route (i.e. via Woodcock Way, Nottingham Road and Wood Street). A shorter walking route is also available via right of way O89 (approximately 450m from the edge of the application site to the Core Town Centre Shopping Area on North Street); whilst this is not suitable for all users, nor likely to be an attractive alternative during adverse weather or at night, the applicants are proposing to make a contribution towards the provision of a continued metalled pedestrian link along this route between the application site and the town centre. In terms of public transport, the nearest bus services are available at stops adjacent to Ashby School, approximately 230m (eastbound) and 300m (westbound) from the site entrance. Services available include approximately two or three buses towards the town centre per hour during the daytime (although with less frequent services on Sundays). Regular connections are also available to and from Coalville, Loughborough, Burton upon Trent and Swadlincote. In addition to its town centre links, the site is considered to be relatively well related to retail and employment areas on the eastern edge of Ashby de la Zouch; if accessed via the existing rights of way network, the entrance of the Ashby Tesco store is approximately 650m from the eastern site boundary.

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

In addition, the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

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

Relationship to the Wider Money Hill Development

Whilst it is noted that the application for the wider Money Hill scheme (ref. 13/00335/OUTM) was refused, no objection per se to the principle of that development was raised by the Local Planning Authority, and the District Council's concerns to be raised at the forthcoming appeal do not relate to issues of developing the site in principle. The potential therefore exists (and was also anticipated in the former emerging Core Strategy) that the wider Money Hill site could come forward in the future and, as such, it is considered reasonable, in the interests of the proper planning of the area, to ensure that the current scheme to develop a section of that wider site would not prejudice its proper development. In terms of relevant planning policies, adopted Local Plan 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. Insofar as the principle of development is concerned (and when considering in the context of the illustrative material submitted with the application), it is considered that there would be no overriding reason why development of this parcel in isolation would necessarily prejudice the wider development, and subject to appropriate linkages being secured at the reserved matters stage.

Insofar as supporting infrastructure is concerned, developing the site in isolation could, it is considered, result in some issues if the relevant contributions were not reasonably flexible in their nature. For example, on the one hand, if the wider Money Hill development were to proceed, the relevant contributions to infrastructure would, preferably, be able to contribute towards a comprehensive mitigation for the wider development (as opposed to individual developments within the wider site making "piecemeal" contributions). On the other hand, however, there could be no guarantees at this time that the remainder of the wider site would ever come forward and, in those circumstances, the development the subject of the current application would need to be able to mitigate for its own impact, and at a scale commensurate to the level of development proposed (i.e. 70 dwellings). These issues are not, it is considered, readily resolvable, and the approach as set out within this report is, in officers' view, a reasonable compromise in the circumstances.

The various issues arising from the proposed development's relationship to the wider Money Hill development are set out in more detail within the following sections of this report, where relevant.

Conclusions in respect of the Principle of Development and Planning Policy

The site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. However, given the overall conclusions in respect of whether the site constitutes sustainable development in NPPF terms, and given the need to maintain a five year supply of housing, it is considered that release of the site would nevertheless remain appropriate. Having regard to all of the above, therefore, it is considered, overall, that the proposed development of the site is acceptable in principle.

Detailed Issues

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

Means of Access and Transportation

As originally submitted, all matters were reserved for subsequent approval except for access

(insofar as vehicular access into and out of the site is concerned); the application has now been amended so as to reserve all matters. The point of access proposed showed vehicular access via Woodcock Way (and associated alterations to the existing priority junction of Woodcock Way with Nottingham Road); this junction has been subject to a Stage 1 Road Safety Audit. The general form of the development (i.e. accessed via Woodcock Way) indicated on the submitted illustrative layout also shows other potential pedestrian links into and through the site connecting to the public right of way passing through the site; these would also be a matter for the reserved matters stage(s) (although their impact on the overall potential accessibility of the site still ought to be considered in those terms in respect of the outline application).

The application is accompanied by a Transport Assessment as well as a Travel Plan; both documents were amended during the course of the application following dialogue with the County Highway Authority. The Transport Assessment indicates that, in the applicants' consultants' opinion, the development is in a location where all key amenities and facilities are located within acceptable walking distance from the site, stating that all local services are located within 2km walking distance from the site including supermarkets, a restaurant, pubs, schools, a doctor's surgery and a leisure centre, and can be accessed via existing footways and pedestrian crossings. It also considers the accessibility of the site by public transport (and as already assessed under Principle of Development above).

The County Highway Authority's comments were submitted prior to the removal of all access matters from the outline application. However, it is understood from the County Council that this amendment to the application does not affect its overall views, and its comments on the originally proposed access continue to apply insofar as the illustrative layout is concerned. Overall, the County Highway Authority confirms that it has no objections to the application in principle, but having regard to likely impacts on the surrounding highway network, recommends a number of conditions and planning obligations. The County Highway Authority comments on the respective highway-related issues as follows:

"Site Access:

The existing access at Woodcock Way is a simple priority junction serving 20 dwellings. It follows that turning movements at Nottingham Road / Woodcock Way junction would increase with the addition of the proposed 70 dwellings. The proposal is to provide a right-turn lane to keep the ahead flows free from obstruction from right turning vehicles....The proposed layout was subject to an independent Stage 1 Road Safety Audit which recommended minor amendments, but did not raise any material concerns.

The proposed site access design was checked by the CHA [County Highway Authority] against the 6Cs Design Guide and Manual for Streets (MfS) guidance. In strict accordance with guidance, the minimum lane widths should be 3m for all lanes, requiring a total carriageway width of 9m. However, the existing carriageway width is only 8.5m and this accommodates a 2.5m right turning lane. This is considered to be an acceptable relaxation in this instance given that only cars are likely to be using the right turn lane. This also enables a suitable visibility splay to be achieved by keeping the give-way line closer to the main carriageway on Nottingham Road. However, this does mean that the proposed pedestrian refuge is only 2m in comparison to a desirable 2.5m.

Visibility exiting from Woodcock Way is currently partially obscured by overgrown vegetation. The visibility requirement based on MfS guidance is 2.4m by 43m, which has been verified on site as being achievable for the proposed design by maintaining the vegetation. However, given the site constraints, prior to any works beginning on site, further detailed design will need to be submitted to the Highway Authority for review to further demonstrate acceptability. An

independent Stage 2 Road Safety Audit will be required alongside the detailed design. On completion of the works an independent Stage 3 Road Safety Audit stage 3 should also be undertaken.

In conclusion, the proposed junction improvements will mitigate against the increased use of Woodcock Way from a capacity perspective. It also provides enhancements to pedestrian facilities by providing a refuge along the desire line for crossing Nottingham Road."

Insofar as traffic generation and distribution are concerned, the County Highway Authority advises that vehicle trip rates have been based on the existing trip generation at Woodcock Way, and is consistent with other residential developments. The County Highway Authority has also provided a summary setting out the committed developments taken into account in the formulation of the Transport Assessment, and the off-site junctions assessed in terms of their operational capacity and performance.

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

Woodcock Way / Nottingham Road proposed ghost island junction

The junction has been demonstrated to be operating within capacity and the proposed layout is therefore acceptable.

Wood Street / Upper Church Street proposed signalised junction

This junction has been tested against proposed signal arrangement and has been demonstrated to be operating over its capacity both with and without the proposed development. With the proposed development the junction capacity deteriorates slightly from -20.1% to -21.0% reserve capacity (a change in value of 0.9%). Whilst congestion is likely to worsen, the development's traffic impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required

Bath Street / Kilwardby Street / Derby Road double mini-roundabout junction

The modelling results in the TA [Transport Assessment] show the junction to be operating over its capacity both with and without the proposed development. Whilst congestion is likely to worsen, the development's traffic impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required.

Nottingham Road / Resolution Road traffic signal junction

This junction has been tested with CHA model, but assumed that pedestrian phase is operational on each cycle, therefore providing worst case scenario. Whilst congestion is likely to worsen, the development's traffic impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required.

A511 / Nottingham Road roundabout junction

The modelling results in the TA show the junction to be operating over capacity both with and without the proposed development. Whilst congestion is likely to worsen, the development's impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required."

Public Transport and Transportation Developer Contributions

Insofar as public transport is concerned, having regard to the proximity of existing bus stops, and the frequency of the services available from those stops, the County Highway Authority does not require any contribution to public transport enhancements in this case. The County Highway Authority does however consider that improvements to the existing infrastructure would promote bus use and considers that these ought to be secured through Section 106 contributions. In particular, the County Highway Authority comments that, if a bus-ready route could be provided within the development, this would provide the potential for bus penetration to wider development in the area, and that such a route would need to be on roads 6m in width which could, the County Council considers, be detailed at the reserved matters stage. Without this provision, the County Highway Authority notes, bus penetration to wider development in the area could be prejudiced.

Insofar as bus penetration is concerned, it is noted that, as part of the wider Money Hill development the subject of planning application 13/00335/OUTM, the scheme proposed a diverted bus service between Ashby town centre and the development site, including a route whereby buses from the town centre would turn left at the Nottingham Road / A511 roundabout, proceed north westerly along the Ashby bypass, turn left into the application site, drive through it, and then turn right out of Woodcock Way back onto Nottingham Road towards the town centre. As a smaller development (likely to be in the form of a cul-de-sac), and given the proximity to existing bus services on Nottingham Road, the scheme is not, in itself, considered to require diversion of a bus route in this way. However, in order to ensure that any wider Money Hill scheme could secure bus penetration, the County Highway Authority's view that the scheme would need to ensure that a suitable route through the site were deliverable is concurred with. This would need to be taken into account at the reserved matters stage.

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

- Improvements to the public rights of way in the interests of encouraging sustainable travel to and from the site, achieving modal shift, and reducing car use (and as per those requested by the County Highway Authority's Public Rights of Way Officer - see below)
- A Construction Traffic Routeing Agreement
- Travel Packs to inform new residents from first occupation what sustainable travel choices are available in the surrounding area (which can be provided through Leicestershire County Council at a cost of £52.85 per pack/dwelling if required)
- Two six-month bus passes per dwelling to encourage new residents to use bus services as an alternative to the private car and to establish changes in travel behaviour from first occupation (which can be provided through Leicestershire County Council at a cost of £350 per pass if required)
- Provision of information display cases at the two nearest bus stops to inform new residents of the nearest bus services in the area (£120 per display)
- Provision of bus shelters at the two nearest bus stops to provide high quality and attractive public transport facilities to encourage modal shift (£4,908 per shelter)
- Contribution towards equipping the nearest bus stop(s) with Real Time Information (RTI) system to assist in improving the nearest bus service with this facility, in order to provide a high quality and attractive public transport choice, and to encourage modal shift (at a total of £5,840)

The applicants have confirmed their agreement to the contributions listed above which, in officers' view, meet the relevant NPPF and CIL Regulation tests.

Pedestrian Access

In terms of the accessibility of the site generally, this is considered in more detail under Principle

of Development above. Whilst not part of the access proposals submitted at this outline stage, the illustrative masterplan indicates that non vehicular links to adjacent land would be anticipated at the reserved matters stage. Public right of way O89 (part of the Ivanhoe Way circular route) passes through the site, and connects beyond the site boundary to other rights of way (including rights of way O90, O91 and O92). In terms of right of way O89, Leicestershire County Council's Rights of Way Officer notes that the route of the right of way as shown on the illustrative masterplan does not appear to follow precisely the definitive map route. However, subject to the route being retained within landscaped areas, and including a minimum surfaced width of 2m plus 1m grass borders for the section of the footpath passing through the site, raises no objections. Appropriate new signage and gates are also requested.

In principle, there appears to be no reason why the development could not accommodate the existing line of right of way O89. Should this not be the case, however, an application to stop up / divert the right of way would be required, and would be likely to be dealt with by the District Council's Cultural Services Officer. As set out in DEFRA Circular 1/09 relating to rights of way, most outline planning applications do not contain sufficient information to enable the effect on any right of way to be assessed (and are not required to do so) and, as such, these issues are usually dealt with at the reserved matters stage. Nevertheless, and as set out above, there appears no reason in principle why a suitable solution could not be found at that time. Insofar as the amenity impacts of the proposed development (i.e. the impacts on the amenity value of the right of way as a leisure / recreational route given that it would no longer pass through a section of undeveloped countryside) are concerned, it is accepted that some adverse impacts on its value in this regard would result. However, having regard to the limited extent of the section subject to this change, and subject to the reserved matters scheme ensuring that the right of way is provided within a landscaped setting as far as practicable, it is not considered that these impacts would be unacceptably harmful, nor sufficient to render the development unsustainable in NPPF terms.

It is also noted that, for the purposes of enhancing connectivity, the applicants are proposing to make a contribution of £110,275 so as to allow for the formation of a continuous metalled pedestrian link between the site and the town centre. Again, such proposals would have an element of an urbanising effect (and, in particular, on those sections where right of way O89 passes through undeveloped agricultural land). However, subject to the use of appropriate surfacing, it is not considered that such alterations would be unacceptable in visual impact or amenity terms. In terms of the sum offered, Leicestershire County Council's Rights of Way Officer considers that the financial contribution proposed is appropriate in this instance.

Subject to the above, therefore (and including the applicants making appropriate contributions towards transportation infrastructure), the proposed development is considered acceptable in terms of Means of Access and Transportation issues.

Landscape and Visual Impact

The application is accompanied by a Landscape and Visual Impact Assessment, as well as a Tree Survey and Arboricultural Impact Assessment.

The Landscape and Visual Impact Assessment considers the site's context in relation to surrounding development / landscape, and considers the impact upon a total of 10 viewpoints, including views close to the application site, and further afield (including from Corkscrew Lane, the Ashby bypass, Western Old Parks Farm and Money Hill Farm).

In terms of landscape effects, the Landscape and Visual Impact Assessment considers that the

sensitivity of the landscape is "medium". However, when considered in the context of the proposals which the Assessment finds to be of a low impact (in landscape terms, having regard to the urban fringe character of the landscape), the overall impact would, the Assessment concludes be "minor adverse" (albeit "moderate to major adverse at the site specific level). Insofar as visual effects are concerned, the impacts from three of the various viewpoints considered are categorised as "Moderate"; the others were found to have an impact less severe than that.

The Landscape and Visual Impact Assessment concludes that views towards the site are limited to short and middle distance views from the south-west, south, east and north-east, and that distant views are restricted by the intervening landform and vegetation; "high sensitivity" receptors include visitors to Ashby Castle, residential properties to the south and east of the site and users of the Ivanhoe Way (of which separate analysis is made within the Landscape and Visual Impact Assessment). The Assessment suggests that the development would be visible from a very localised area only and, where it would be seen, "moderate adverse" effects would be limited to receptors in close proximity only. It also considers that, in the longer term, effects would reduce as landscaping became established.

In terms of retained / proposed planting, the site is within the National Forest, and the scheme's performance vis-à-vis the relevant National Forest standards is set out under the relevant section below. There are a number of trees / hedgerows on the site (primarily located to the site periphery) and, whilst a reserved matter, the illustrative masterplan would suggest that the majority of the vegetation would be capable of being retained in the event that the reserved matters proposals took the form indicated. The principal areas of the site where removal would be required (were the illustrative scheme implemented) are to the north western and eastern site boundaries (removal of brambles), and adjacent to Woodcock Way (removal of trees and hedgerow required to accommodate the site access). These latter works would involve the removal of an ash tree (retention category C) and part of a hawthorn / elder hedgerow (retention category C). Were the development implemented in the manner indicated, it is not considered that the impacts in terms of the loss of this vegetation would be unacceptable.

It is noted that the application site forms part of the wider Money Hill site the subject of application 13/00335/OUTM, and which proposed strategic landscaping for the site as a whole, and including from the north (i.e. adjacent to the Ashby bypass). Development of this section of the site in isolation from the remainder of the wider site would not enable the delivery of this strategic landscaping, nor is any contribution towards it proposed. For their part, however, the applicants consider that the scheme as proposed only needs to address its own landscape and visual impacts (and it is accepted that there can be no guarantees at this time that the wider site would ever come forward). It is accepted that, notwithstanding the lack of a contribution towards addressing the wider landscape impacts of the Money Hill site as a whole, it is reasonable to assess the current application on its ability (or otherwise) to mitigate its own impact. It is also accepted that, were the remainder of the Money Hill site developed, the impacts from this particular section in the wider context would be relatively limited (given their resulting position within a built up area). Alternatively, if the wider Money Hill scheme were not to come forward, it is accepted that, subject to an appropriate scheme being proposed at the reserved matters stage(s), there is no reason why a suitable form of landscaping could not be provided at that time. On the basis of the submitted illustrative plan, it is considered that the case for the scheme as shown has not been demonstrated in that some relatively limited landscaping is shown to the northern and western boundaries which, if the remainder of Money Hill were to stay undeveloped, would form the edge of the town and, hence, would need to provide for an appropriate form of screening to address the transition between the urban and rural landscapes. Notwithstanding this concern, however, it is nevertheless accepted that, in principle, there is no

reason why an appropriate landscaping solution could not be achieved.

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

Loss of Agricultural Land

Whilst not currently in active agricultural use, the proposed development would result in an irreversible loss of this land to non-agricultural use.

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to the five year housing land supply issue as set out above, it would seem inevitable that land outside Limits to Development (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification. Whilst the applicants have not provided a detailed assessment of the agricultural quality of the site, the quality of this land was assessed as part of the submitted Environmental Statement relating to the wider Money Hill application (ref. 13/00335/OUTM); the two assessments informing that Environmental Statement identified the current application site as falling within Grade 3a and, as such, the site would appear to constitute BMV land.

In terms of assessing the significance of this loss, it is noted that, at 3.85 hectares, the site falls some way below the 20 hectare threshold at which it is generally accepted that a "moderate" impact from the loss of BMV would result. 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 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, 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 agricultural land quality issue is not sufficient to render the development unsustainable overall, nor that planning permission should be refused on this issue.

Drainage, Ecology and the River Mease SAC

The submitted documents include assessments of the flood risk, drainage and ecological implications of the proposed development and, having regard to the site's location within the catchment of the River Mease Special Area of Conservation (SAC), the impacts on water quality of the Mease. These issues are considered in more detail below.

Flood Risk and Drainage

A Flood Risk Assessment has been submitted in support of the application. The Environment Agency flood zone maps indicate that the site lies within fluvial Flood Zone 1; on this basis it is considered that the sequential test would be satisfied.

In terms of other sources of flood risk, the Flood Risk Assessment considers the potential flooding impacts from surface water, sewer, groundwater and reservoirs. Of these, it is noted that the site includes areas at risk of pluvial flooding and, including small sections of the site

within the 1 in 30 year event. Mitigation measures are therefore recommended to address this issue.

The Flood Risk Assessment includes a drainage strategy which proposes surface water mitigation measures designed to mimic flows from the undeveloped site including attenuation to restrict run-off to the ditch course along the eastern boundary to greenfield rates for storms up to the 1 in 100 year (+30% allowance for climate change) return period event. It also proposes that discharges from the attenuation basin to the existing watercourse would be restricted to 6.3l/s during storms up to the 1 in 100 year (+30% allowance for climate change) return period event by a flow control system, equating to approximately 70% betterment over the existing site. In addition, the strategy proposes other mitigation measures, and including providing finished floor levels at a level of at least 150mm above adjacent ground levels. Insofar as foul drainage is concerned, this is proposed to be discharged to the existing public foul sewer on Woodcock Way. No objections are raised in terms of flood risk or drainage issues by the Environment Agency or Severn Trent Water. Whilst the Agency notes that some of the site appears to drain to an alternative watercourse from that proposed, there appears no reason why retention of natural drainage paths could not be secured subject to appropriate measures being secured by way of condition.

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

Ecological Issues

The application is supported by an Ecological Assessment of the site. This provides that the closest statutorily designated sites of nature conservation of importance to the application site are the Lount Meadows Site of Special Scientific Interest (SSSI) and River Mease Special Area of Conservation (SAC) and SSSI. In terms of non-statutory designation, the Assessment identifies 14 non-statutory sites within 1km of the application site, including three District level sites, five Parish level sites, and six candidate / potential Local Wildlife Sites. Insofar as anticipated impacts on these sites are concerned, the Appraisal concludes as follows:

Lount Meadows: Given the distance from the site, significant adverse impacts are unlikely

River Mease: Subject to the mitigation proposed to be secured via the Developer Contribution Scheme as set out below, significant adverse impacts would not result

Other Sites: The closest site is the Green Lane Parish level site; whilst there would be an increase in the number of people using the footpath along the Green Lane, this increase is unlikely to have significant effects.

Insofar as protected or notable species are concerned, the Assessment considers the impacts on badgers, bats, reptiles, great crested newts, and birds. In terms of these, no evidence in respect of use of the site by badgers, great crested newts or reptiles was found. The Assessment suggests that the impacts on bat commuting and foraging habitat would not be unacceptable, and could be limited by appropriate retention of suitable trees, and appropriate use of lighting. Similarly, the impacts on birds could, the Assessment indicates, be mitigated by way of retention of suitable trees and undertaking of clearance works outside of the breeding season.

Subject to conditions, no objections are raised by Leicestershire County Council's Ecologist, and the proposals are therefore considered to be acceptable in terms of their ecological impacts, subject to the imposition of suitably-worded conditions.

River Mease Special Area of Conservation (SAC)

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). 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 would have a significant effect on the SAC is required.

The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). 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 is considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

The application is supported by a River Mease SAC Impact Assessment which considers the implications of the proposed development on the River Mease and proposed mitigation. This includes the making of a DCS contribution in accordance with the formulae set out within the DCS, and with the final amount payable being contingent upon the precise nature of the development proposed at the reserved matters stage(s) in terms of number of dwellings, bedrooms and Code for Sustainable Homes level. As such, and subject to the implementation of appropriate obligations, the proposals would comply with the relevant planning policies and the Habitats Regulations. Natural England advises that the proposed development would be unlikely to have a significant effect on the interest features for which the SAC has been classified, and that an Appropriate Assessment would not be 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 site. As of March 2014 capacity was available for 457 dwellings when taking into account the number of dwellings that had consent and / or were under construction; whilst approval of further dwellings since March 2014 would reduce the capacity, sufficient capacity nevertheless remains for the proposed development, and particularly when having regard to the significant additional capacity now available as a result of the closure of the Arla dairy (equivalent to adding approximately 1,900 additional houses to the headroom figure in the 2014 capacity report).

On this basis, it is accepted that the proposed development, either alone or in combination with other plans or projects, would not have an adverse impact on the internationally important interest features of the River Mease SAC or any features of special scientific interest of the River Mease SSSI (nor would there be any other impacts on other aspects of the SAC / SSSI), and the development is acceptable on this basis, subject to the implementation of the mitigation identified, secured by way of conditions and Section 106 obligations as appropriate.

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 illustrative proposals and the Design and Access Statement, however, the District Council's Urban Designer has raised concerns regarding the illustrative scheme, and considers that the concept lacks strength and, for instance, suggests a street hierarchy that offers no meaningful distinction or no defining or focal point spaces. He is of the view that, on the basis of the submissions, there is limited distinctiveness between the different street typologies and, having regard in particular to the potential development of the wider Money Hill site, suggests that use of nodal spaces would help aid navigation. The District

Council's Urban Designer also questions the orientation of the principal street which, on the basis of the illustrative layout, would run north west from Woodcock Way, then north east, and then north / north west, whereas the Urban Designer considers that it would more appropriately continue direct to the north western boundary. The scheme also, he considers, appears to lack an overall direction / rationale, and seems more akin to an extension of the existing Woodcock Way development rather than creating a more "memorable" development which would be landscape or architecture led. He therefore expresses concern that the proposals are somewhat "lacklustre" and do not embrace the urban design principles and those behind Manual for Streets.

Further to these concerns, an updated Design and Access Statement has been submitted and, at the time of preparing this report, was being considered by the District Council's Urban Designer, and whose updated comments will be reported on the Update Sheet. The recommendation below is therefore made on the assumption that the revised submissions will address the Urban Designer's concerns satisfactorily; if this is not the case, however, this matter will be addressed on the Update Sheet, and any amendments to the recommendation set out accordingly.

Residential Amenity

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

In terms of future residents' amenities, it is noted that the site is not located in close proximity to any existing incompatible land uses and, in principle, there appears no reason why the development would not be appropriate in this regard. Whilst the Environmental Statement submitted in respect of the wider Money Hill proposals noted the potential for impacts from the nearby United Biscuits warehouse (principally due to HGV manoeuvring to the rear of that unit) and made mitigation recommendations (extension of the existing acoustic screen), that proposal involved erection of dwellings significantly closer to the warehouse than would be the case in respect of this particular site, and such mitigation would not appear necessary for this development. No objections are raised by the District Council's Environmental Protection team.

In addition to the noise climate issues identified above, however, are the issues of potential disturbance from vehicular movements to and from (and, potentially, within) the site. In this regard it is noted that, on the basis of the illustrative masterplan, there would appear to be limited areas where internal access roads would be likely to be proposed to the rear of existing dwellings. Nevertheless, regard would need to be had to that issue when devising any reserved matters proposals. Insofar as this outline stage is concerned, however, of particular relevance are the additional comings and goings likely to be generated along the proposed access which would be likely to lead to some increased levels of disturbance to adjacent properties fronting onto Woodcock Way. Whilst there would be an increased use of the Woodcock Way / Nottingham Road junction, it is not considered that material impacts on amenity of other properties in the vicinity of this junction would arise in this respect (nor along Nottingham Road / Wood Street generally in terms of traffic-related impacts). Insofar as the impacts on existing residents of Woodcock Way are concerned, whilst there would be increased use of this route by vehicles leading to a material change to the existing situation, use of estate roads of this nature to access developments of this scale is not an unusual scenario and, whilst a change would inevitably result, it is not considered that the impacts of the resulting conditions would be so adverse as to warrant a refusal of the application.

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves, whilst an illustrative masterplan has been submitted, all matters are reserved for subsequent approval. The illustrative masterplan indicates that built development would be located adjacent to a number of residential properties to areas to the south of the application site, including properties on Woodcock Way and Lockton Close. Clearly, careful consideration would need to be given to any detailed proposals for these and other areas of the site submitted at the reserved matters stage(s) so as to ensure that an appropriate relationship between existing and proposed dwellings were provided. However, there is no reason to suggest that the eventual form of development proposed at the reserved matters stage(s) would necessarily result in undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, acceptable in this regard.

Heritage Issues

The application is supported by an archaeological desk based assessment; this assessment also includes consideration of designated heritage assets in the vicinity.

Insofar as designated assets are concerned, the assessment concludes that none of these (comprising listed buildings, the Ashby de la Zouch Conservation Area and the nearby scheduled monument (i.e. Ashby Castle)) would be impacted upon, having regard to their screening from the site by intervening development; this general conclusion is accepted.

In terms of non-designated assets, the assessment has regard to the findings of the earlier appraisal work undertaken in respect of the wider Money Hill site application. Paragraph 135 of the NPPF provides that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that, in weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In terms of archaeological finds within the vicinity of the site, these include finds from the prehistoric and Saxon / medieval eras, although of particular significance in this case is the previously-identified ridge and furrow. Insofar as this feature is concerned, the assessment suggests that it is not exceptionally well preserved, nor complete, and is part of a "once extensive and now heavily eroded set of landscape features that has some visual appeal but which, unlike most significant earthworks, contains within its own matrix little or nothing of archaeological interest". As such, the assessment concludes that it is not of more than local significance. At the time the wider Money Hill scheme was considered, English Heritage took the view that the significance of the ridge and furrow (which extends to a wider area than just this part of the application site) was a material consideration which the Local Planning Authority needed to weigh against the benefits of development and alternatives, and when considering the layout of the development in relation to the town (and also the contribution made by the ridge and furrow to the setting to the Conservation Area). It is considered that the ridge and furrow within the area the subject of the current application is not as important visually as elsewhere in the wider site. Given this, together with the scale of the current development compared to the wider scheme, and to the increased separation of this area from the Conservation Area as compared to the areas of ridge and furrow within the wider Money Hill site, it is again accepted that this does not represent an overriding issue in the overall planning balance. Furthermore, the development of this site would not preclude preservation of ridge and furrow features elsewhere within the site as previously intended as part of the open space forming the wider Money Hill development. On this basis, the proposals are considered to meet the tests in Paragraph 135 of the NPPF.

It is therefore considered that the proposed development would be acceptable in terms of heritage issues; no representations have been received from the County Archaeologist.

Geo-Environmental Conditions

A Phase 1 environmental risk assessment has been submitted with the application which provides an assessment of the site's ground conditions, and indicates that, whilst a small number of potential risks to receptors have been identified, there are no overriding impediments to the site's development in terms of contamination or general ground conditions, subject to further investigation / mitigation as appropriate; no objections are raised by the District Council's Environmental Protection team in respect of contamination issues.

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 referred to in respect of access / transportation) are listed below.

Affordable Housing

The applicants propose to make an affordable housing contribution of 30% (i.e. 21 dwellings assuming a 70 unit development) as per the Local Planning Authority's current requirements for the Ashby de la Zouch area for a scheme of this scale.

The precise nature of the contribution in terms of house type / size tenure etc would need to be resolved pursuant to the Section 106 agreement but, on the basis that it is proposed to make a policy-compliant contribution, the proposed development is considered acceptable in this regard.

Children's Play and Public Open Space

The illustrative masterplan shows a 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 would be in the order of 400 square metres. Under the Local Planning Authority's Play Area Design Guidance SPG, children's play areas should be provided at a rate of 20 square metres per dwelling. Therefore, for a development of 70 dwellings, an area for children's play of 1,400 square metres would normally be required. Whilst this would represent a shortfall in this regard, the extent of the "play area" in its general terms (which is the figure to which the SPG relates) is normally calculated in its wider sense and, when taking into account the other landscaped open space in the immediate vicinity of the equipped play area (and as discussed under Landscape and Visual Impact above), the

minimum requirements of the SPG would be comfortably met.

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 require that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity; there would appear to be no reason in principle why the proposed development could not comply with this requirement.

Insofar as youth / adult recreation is concerned, it is noted that, in isolation, the proposed development would fall below the relevant Local Plan and SPG threshold (identified in the SPG as 100 dwellings) for making an appropriate contribution. Nevertheless, the view is taken that the application site, when considered cumulatively with other areas of the wider Money Hill site, would generate a requirement for formal recreational open space. In view of the limited scale of the site, there would be no realistic likelihood of providing an appropriate facility on site, but the applicants have offered an off-site contribution of £91,000 (i.e. equivalent to a contribution of £1,300 per unit); this would then allow the scheme to make a proportionate contribution towards the mitigation necessary to accommodate the wider Money Hill scheme, whether within the wider site, or elsewhere in the vicinity.

National Forest planting

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

Education

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

Primary School Requirements:

The site falls within the catchment area of Ashby de la Zouch Church of England Primary School. The school has a net capacity of 315 and 474 pupils are projected on the roll should this development proceed; a deficit of 159 places. There are currently 109 pupil places at this school being funded from Section 106 agreements for other developments in the area which reduces the deficit at this school to 50 (of which 33 are existing and 17 would be created by this development).

The County Council also refers to three other primary schools within a two mile walking distance of the development, namely Ashby Willesley Primary School, Ashby Hill Top Primary School and Woodcote Primary School. Taking these schools and other Section 106 contributions into account, the overall deficit including all schools within a two mile walking distance of the development is 39 pupil places and the 17 deficit places created by this development can therefore not be accommodated at nearby schools and a claim for an education contribution in respect of 17 school places in the primary sector (equating to £203,263.37) is made.

Insofar as the relationship to the wider Money Hill scheme is concerned, it is noted that, at the time that application was under consideration, an on-site primary school was proposed, and the Local Education Authority was requesting the provision of this school or, if the proposed school on the Holywell Spring Farm site were progressed first, a contribution towards extension of that

facility (and vice versa if the Money Hill scheme progressed first). At the present time, the County Council advises that it is currently liaising with developers in respect of the Holywell Spring Farm site with regard to the delivery of the new school on that site, which would secure a school with 4 classrooms which would be sufficient to accommodate the 96 pupils that site would yield with scope for expansion.

In terms of the current application, the County Council advises that it falls within the catchment for Ashby de la Zouch Church of England Primary School which is not able to be extended given its constrained site and location. As such, the County Council advises that it may wish to use the contribution from the current application to extend the new Holywell Spring Farm site school, and may also require a contribution from the applicants to purchase the required land (such land costs not being included in the figure above); this would therefore need to be resolved with Leicestershire County Council through the Section 106 drafting process.

On this basis, therefore, the making of a financial contribution by the applicants in this case would not appear to prejudice the wider Money Hill scheme per se, although the County Council advises that, for the wider Money Hill site, a new school may nevertheless still be required, notwithstanding the current progress towards providing a school on the Holywell Spring Farm site.

High School Requirements:

The site falls within the catchment area of Ivanhoe College. The College has a net capacity of 949 and 1,070 pupils are projected on roll should this development proceed; a deficit of 121 places. Taking this school and other Section 106 contributions into account, the overall deficit is 78 (of which 71 are existing and 7 would be created by this development). There are no other high schools within a three mile walking distance of the site and, in order to provide the additional high school places anticipated by the proposed development, the County Council requests a contribution for the high school sector of £125,133.19. The County Council advises that this contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Ashby Ivanhoe College.

Upper School Requirements:

The site falls within the catchment area of Ashby School. The school has a net capacity of 1,841 and 2,044 pupils are projected on roll should this development proceed; a deficit of 203 places. Taking into account a total of 71 pupil places being funded at the school from Section 106 agreements for other developments in this area, this reduces the total deficit to 132 (of which 125 are existing and 7 would be created by this development). There are no other upper schools within a three mile walking distance of the site, and the County Council requests a contribution for the upper school sector of £128,486.12.

The applicants are agreeable to making the contributions requested (save for the as yet unknown additional land costs in respect of the primary education contribution referred to by the Local Education Authority).

Library Services

A contribution of £3,800 is proposed to be made by the developer for library services in accordance with the requirements of Leicestershire County Council.

River Mease Special Area of Conservation (SAC) Contributions

As set out above, the applicants propose to make contributions as per the schedule set out in the District Council's Developer Contribution Scheme (DCS). As set out, the precise amount payable would need to be based upon the precise nature of the development proposed at the reserved matters stage(s).

Healthcare

NHS England requests a developer contribution of £23,331.83 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 Ashby Health Centre practice) together with commensurate costs of mitigation. It is considered that this request would meet the relevant CIL and NPPF tests, and the applicants have confirmed that are agreeable to making the contribution sought.

Contributions sought by Leicestershire Police

Leicestershire Police requests a developer contribution of £27,278 in respect of policing as set out in the consultation response above. The contribution sought comprises:

Start up equipment / training	£2,939
Vehicles	£1,779
Additional radio call capacity	£178
Police National Database	£91
Additional call handling	£163
ANPR	£2,055
Mobile CCTV	£375
Additional premises	£19,558
Hub equipment	£140

The applicants have indicated their agreement to making such a contribution if required. The policing contributions listed above remain under consideration however as to whether they meet the tests pursuant to CIL Regulation 122.

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

Conclusions

As set out in the main report above, whilst the site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, and constitutes greenfield land, its release for housing is considered suitable in principle, particularly having regard to the need to release sites in order to meet the District Council's obligations in respect of maintaining a five year housing land supply (and the approach taken in respect of such within the NPPF). Whilst the site is located outside of Limits to Development as defined in the adopted Local Plan, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, benefit from a presumption in favour of such development as

set out in that document. The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. It is therefore recommended that outline planning permission be granted.

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

- 1 Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced.

Reason - This permission is in outline only.

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access, appearance, landscaping, layout, and scale shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

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

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

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

- 4 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
 - Site location plan (EMS.2533_002) deposited with the Local Planning Authority on 28 August 2014

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

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

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

6 A total of no more than 70 dwellings shall be erected.

Reason - To define the scope of this permission.

- 7 The development permitted by this planning permission shall not be carried out other than in strict accordance with the Flood Risk Assessment dated August 2014, ref. 20954/08-14/3616 undertaken by MEC Ltd and the following mitigation measures detailed within the FRA:
- At the detailed design stage suitable hydraulic calculations are undertaken to confirm actual flood plain outlines at the site, including but not exclusive of channel capacity, 20 year, 100 year, 100 year plus 20% (for climate change) and 1000 year (5%, 1%, 1% plus 20% increase in flow, and 0.1%) flood event levels - Sections 4.7 to 4.13, 7.12;
 - No new buildings (including sheds, cycle storage or garages), structures (including gates, walls and fences) or raised ground levels within 5 metres of the top of any bank of any river/watercourse, inside or along the boundary of the site, unless otherwise agreed in writing - Sections 7.11 and 7.13; and
 - Finished floor levels set a minimum of 600mm above the 100 year plus 20% (for climate change) (1% plus 20% increase in flow) flood event levels to be established by Point 1 above - Section 7.12

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

Reason - To prevent flooding elsewhere by ensuring no loss of flood plain storage, to ensure permanent retention of a continuous unobstructed area for the preservation of the water course corridor, wildlife habitat, flood flow conveyance and future watercourse maintenance or improvement, and to reduce the risk of flooding to the proposed development and future occupants.

8 The first reserved matters application shall include details of the 100 year (1%) flood plain extent of the Money Hill and Falstaff Brooks. There shall be no raising of ground levels, or storage of materials (including soil) within the 100 year (1%) flood plain extent of the Money Hill and Falstaff Brooks, unless undertaken in accordance with a compensation scheme first submitted to and agreed in writing by the Local Planning Authority.

Reason - To prevent flooding elsewhere by ensuring no loss of flood plain storage, to ensure permanent retention of a continuous unobstructed area for the preservation of the water course corridor, wildlife habitat, flood flow conveyance and future watercourse maintenance or improvement, and to reduce the risk of flooding to the proposed development and future occupants.

9 No development shall commence on the site until such time as a surface and foul water drainage scheme for the site (or, in the case of phased development, for the relevant phase of the site), based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and timetable. The scheme shall demonstrate that the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the

corresponding rainfall event, and shall include:

- Surface water drainage system(s) to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;
- Limiting the surface water run-off generated by the all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
- Provision of surface water attenuation storage on the site to accommodate the difference between the allowable discharge rate and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm;
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
- Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

Reason - To ensure that the site is appropriately drained, to prevent flooding by ensuring the satisfactory storage / disposal of surface water from the site, to reduce the risk of flooding, both on and off site, to minimise the risk of pollution, to ensure that the development will not impact upon the features of special interest for which the River Mease SAC / SSSI is notified, and in the interests of nature conservation.

- 10 No development shall commence on the site until such time as a scheme of measures to prevent pollution of nearby watercourses (and including during construction works), together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. No works shall take place, nor shall any dwelling be occupied at any time, unless all of the measures as required at the appropriate time under the agreed timetable are provided in full.

Reason - To prevent pollution of the water environment, and to ensure that the development will not impact upon the features of special interest for which the River Mease SAC / SSSI is notified.

- 11 No development shall commence on the site until such time as a further Risk Based Land Contamination Assessment report as recommended within the M-EC Phase 1 Environmental Risk Assessment (20954/08-14/3584, dated August 2014) has been submitted to and agreed in writing by the Local Planning Authority. The assessment shall be carried out in accordance with:

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

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

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

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

If, during the course of development, previously unidentified contamination is discovered, development shall cease on that part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. No work shall recommence on that part of the site until such time as a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

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

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

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

- 13 The first reserved matters application shall include a statement detailing how the proposed mitigation and / or management measures as set out in Section 4.0 of the Ecological Appraisal (dated July 2013 and prepared by FPCR) have been incorporated within the proposed layout and landscaping scheme, together with a timetable for their implementation as applicable. Unless any alternative measures are first agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in strict accordance with the agreed measures and timetable.

Reason - In the interests of nature conservation.

- 14 No external lighting shall be installed on site (and including during the construction

phase) unless in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

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

- 15 No hedgerows, trees or shrubs shall be removed during the months of March to August inclusive unless first agreed in writing by the Local Planning Authority. Should nesting birds be found during construction work, all work within 5 metres of the nest shall cease immediately, and shall not resume until such time as the young have left the nest.

Reason - In the interests of nature conservation.

- 16 Notwithstanding the submitted details, no development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a timetable for the undertaking of an updated survey(s) in respect of badger in relation to commencement of site works on the relevant phase (and including the specification of maximum periods between undertaking of surveys and commencement of work on the relevant phase) has been submitted to and agreed in writing by the Local Planning Authority. No development shall thereafter be undertaken at any time unless the relevant survey(s) has been undertaken and the results (including mitigation measures and a timetable for such mitigation where appropriate) have been submitted to and agreed in writing by the Local Planning Authority, and the development shall thereafter be undertaken strictly in accordance with the agreed mitigation measures and timetable.

Reason - In the interests of nature conservation.

- 17 No dwellings accessible by vehicle from Woodcock Way shall be occupied until such time as a scheme for the provision of works at the Woodcock Way / Nottingham Road junction (to comply generally with the scheme shown indicatively on drawing no. 20954_08_020_01 Rev A) has been provided in full in accordance with precise details first submitted to and agreed in writing by the Local Planning Authority, and is available for use.

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

- 18 No development shall commence on the site until such time as a construction vehicle management plan, including wheel cleansing facilities and construction vehicle parking facilities, and a timetable for their provision, has been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative management plan has first been submitted to and agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in accordance with the approved details and timetable.

Reason - To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic associated with the development does not lead to on-street parking problems in the area.

- 19 Notwithstanding the submitted details, no development shall commence on the site until such time as precise details of all proposed measures as set out in Sections 7.0, 8.0, 9.0

and 10.0 of the submitted Travel Plan (prepared by M-EC, ref. 20954/08-14/3583 Rev A), and including a timetable for their implementation, have been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative measures are first agreed in writing by the Local Planning Authority, the development shall thereafter be occupied in accordance with the agreed scheme and timetable.

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

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through early engagement with the applicant both at the pre-application stage and during the application determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:

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

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

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

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas

prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

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

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

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

- 3 Your attention is drawn to the attached report of the Environment Agency.
- 4 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highway matters. The applicants are advised that the masterplan required to be prepared pursuant to condition 5 above should include for provision of a bus-ready route through the proposed development.
- 5 For the purposes of complying with Condition 19 above, the applicants are advised that the submitted details will not need to include reference to those measures proposed to be secured separately under the associated Section 106 obligation.
- 6 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer. The applicants are advised to have regard to the issues raised when preparing any reserved matters scheme.
- 7 Your attention is drawn to the attached report of North West Leicestershire District Council's Cultural Services Officer regarding Rights of Way.
- 8 Your attention is drawn to the attached report of the National Forest Company.
- 9 Your attention is drawn to the attached report of Natural England.
- 10 Your attention is drawn to the attached report of Leicestershire County Council's Principal Ecologist. The applicants are advised to have regard to the issues raised, together with the recommendations as set out within the submitted Ecological Appraisal (prepared by FPCR, dated July 2013), when preparing any reserved matters scheme.
- 11 This decision is in accordance with the resolution of the Planning Committee of 3 February 2015 and is subject to a Section 106 obligation.

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Erection of 36 dwellings, formation of access and provision of open space (outline - all matters other than part access reserved)

Report Item No
A2

Land At Acresford Road Donisthorpe Swadlincote Derby DE12 7PT

Application Reference
14/00802/OUTM

Applicant:
Mr Philip Chatfield

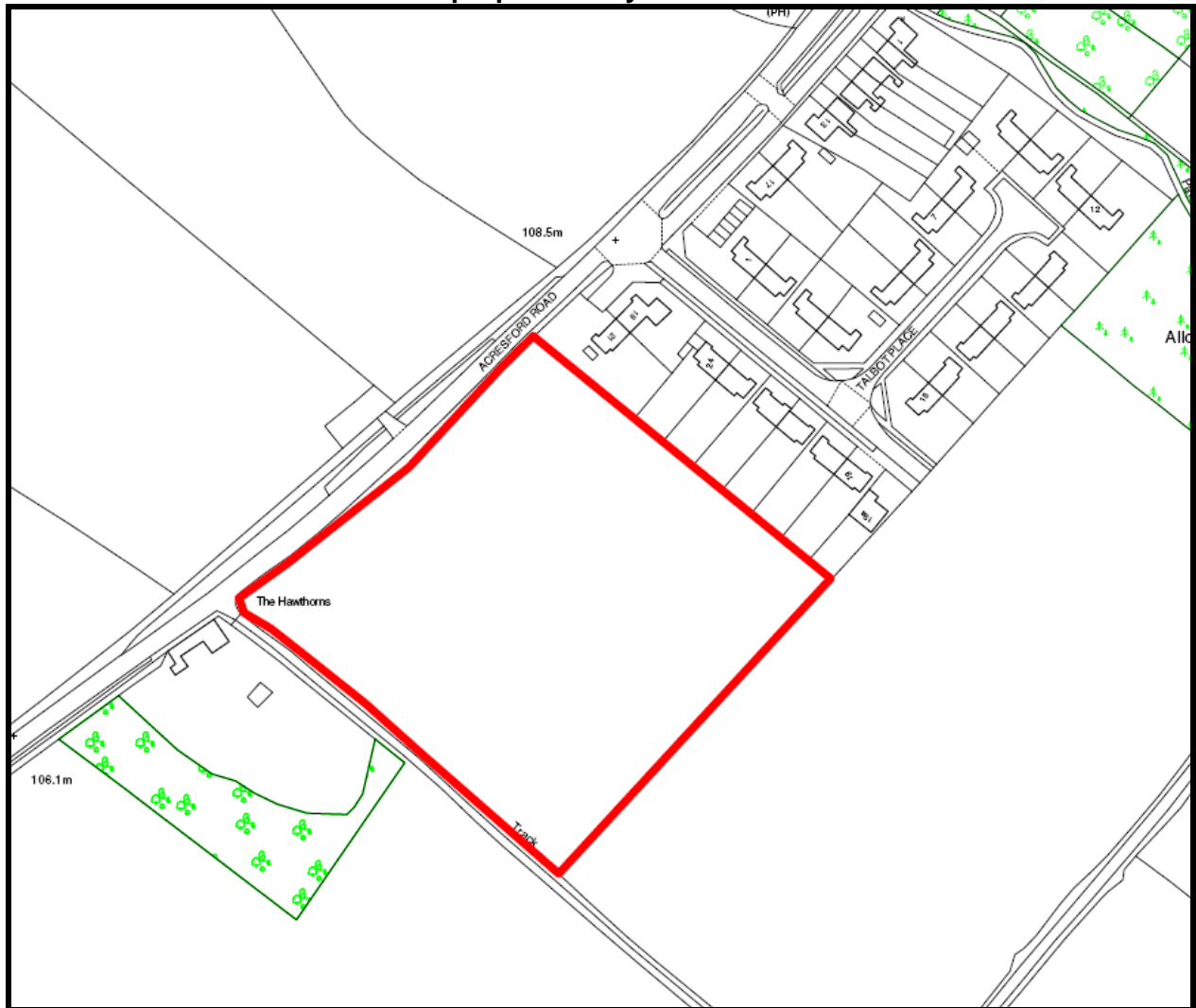
Date Registered
5 September 2014

Case Officer:
James Mattley

Target Decision Date
5 December 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Reasons for Decision

Proposal

This application seeks outline planning permission for a residential development of up to 36 dwellings on land off Acresford Road, Donisthorpe. All matters are reserved for future approval apart from the access into the site from Acresford Road.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals from local residents and the Parish Council but no other objections are raised by any statutory consultees.

Planning Policy

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

Conclusion

The site is located outside the Limits to Development in the adopted Local Plan and is a greenfield site. The scheme would be contrary to Local Plan Policy S3 as the site is located outside of the limits to development. However, the site's general suitability for housing (given its location in terms of distances to most services/facilities) is also material, together with the need for the District to release land for housing to ensure the maintenance of a five year supply of land and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF). Having regard to this and the sites location adjacent to the existing settlement boundary, location within a reasonably sustainable settlement and proximity to local services and facilities, the proposed development would be considered to constitute sustainable development as defined in the NPPF and, as such, would benefit from a presumption in favour of such development as set out in that document.

The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. The development is considered to be acceptable in terms of access issues, landscape and visual impact, design, ecological issues, flood risk and residential amenity; there are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities.

Taking all of this into account, whilst the scheme would not be in accordance with Policy S3 of the Local Plan, it is considered to constitute sustainable development as defined in the NPPF. It is therefore recommended that outline planning permission be granted subject to conditions and entering into a legal agreement to secure relevant contributions.

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

Members are advised that the above is a summary of the proposals and key issues

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

MAIN REPORT

1. Proposals and Background

Outline planning permission is sought for a residential development of up to 36 dwellings. The site comprises of 1.59 hectares of occasional grazing land and is located to the south-east of Acresford Road. Whilst all matters other than part access are reserved for subsequent approval, an illustrative masterplan has been submitted showing the proposed dwellings, together with public open space and landscaping.

A new vehicular access is proposed onto Acresford Road and would involve the provision of a priority junction. To the north east of the site are residential properties located off Acresford Road and the Talbot Place cul-de-sac. Immediately to the south-west of the application site is a residential dwelling known as Hawthorns which fronts onto Acresford Road. To the north west of the application site and to the south east are open fields.

Amended plans have been received during the course of the application in order to address concerns raised in respect of highway safety and design.

The application is accompanied by a design and access statement, landscape and visual impact assessment, ecological assessment, transport statement, coal mining risk assessment, ground conditions assessment, flood risk and drainage assessment, archaeology desk based assessment and geophysical survey and a developer contributions statement.

Relevant Planning History:

81/511 - Erection of three bungalows - refused.

84/580 - Erection of a dwellinghouse, garage and tractor store for occupation in connection with use of land for horticultural purposes - refused.

2. Publicity

11 no. Neighbours have been notified (Date of last notification 24 November 2014)

Site Notice displayed 17 September 2014

Press Notice published 24 September 2014

3. Consultations

Oakthorpe & Donisthorpe Parish Council consulted 12 September 2014

Head of Environmental Protection consulted 12 September 2014

NWLDC Urban Designer consulted 24 November 2014

NWLDC Tree Officer consulted 24 November 2014

County Highway Authority consulted 24 November 2014

Environment Agency consulted 12 September 2014

Severn Trent Water Limited consulted 12 September 2014

Natural England consulted 12 September 2014

County Archaeologist consulted 12 September 2014

LCC ecology consulted 12 September 2014

NWLDC Conservation Officer consulted 12 September 2014

National Forest Company consulted 12 September 2014

LCC Fire and Rescue consulted 12 September 2014

LCC Development Contributions consulted 12 September 2014

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 12 September 2014
Head Of Leisure And Culture consulted 12 September 2014
Manager Of Housing North West Leicestershire District Council consulted 12 September 2014
Police Architectural Liaison Officer consulted 12 September 2014
Head Of Street Management North West Leicestershire District consulted 12 September 2014

4. Summary of Representations Received Statutory Consultees

Donisthorpe Parish Council objects to the application on the following grounds:

- Concerns over the access and additional volume of traffic;
- The site is used for recreational purposes;
- Questions whether more affordable housing is required in Donisthorpe;
- Local services and facilities are already overloaded;
- There are existing parking issues around the school;
- Asks whether the play area will include play equipment and whether it will be maintained;
- Proposal would represent ribbon development;
- Brownfield sites should be developed first;
- The number of dwellings proposed is large for a small village;
- The Parish Council objects but has a number of projects that it would like to use Section 106 moneys for.

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

Leicestershire County Council Archaeologist has no objection subject to the imposition of relevant planning conditions.

Leicestershire County Council Ecologist states that the ecology report is satisfactory and raises no objections to the application as there are no habitats of note. No further surveys for protected species are required.

Leicestershire County Council Highway Authority originally placed a holding objection to the application as it did not consider that the proposed off-site highway works would successfully reduce speeds to 30mph and also raised concerns regarding the lack of a continuous footway. However, following the submission of amended plans the County Highway Authority raise no objections subject to conditions and legal obligations.

Leicestershire County Council Library Services Development Manager requests a contribution of £2,170.

Leicestershire County Council Local Education Authority requests a contribution of £222,869.22.

National Forest Company has no objection subject to the National Forest Planting being secured and managed through a legal agreement.

Natural England has no objections subject to relevant conditions and notes to the applicant.

NHS England (Leicestershire and Lincolnshire Area) requests a developer contribution of £16,237.38.

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

North West Leicestershire District Council Environmental Health Officer (EHO) has no objections regarding the proposal.

Severn Trent Water raises no objection subject to the inclusion of relevant conditions.

Third party representations

One letter of representation has been received in support of the application who looks forward to seeing the houses and hopes that the prices are reasonable.

Five letters of representation have been received raising the following comments/objections:

- Previous developers have attempted to build on the land but a problem with sewers has prevented this;
- There are problems with sewerage smells and blockages in the area;
- Some dwellings would cause overlooking;
- There is no natural gas at this end of the village;
- Concern regarding increased traffic;
- Local infrastructure cannot cope with additional residents;
- The development is outside of the settlement boundary;
- The proposal would result in the village blending with Acresford;
- Too many dwellings are being proposed in this location.

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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

Paragraph 14 in relation to sustainable development.
Paragraph 32 in relation to transport and highways.
Paragraph 34 in relation to sustainable transport.
Paragraph 47 in relation to the supply of housing.
Paragraph 49 in relation to the supply of housing.
Paragraph 57 in relation to achieving high quality design.
Paragraph 59 in relation to design codes.
Paragraph 61 in relation to achieving high quality design.
Paragraph 100 in relation to flooding.
Paragraph 101 in relation to the sequential test.
Paragraph 112 in relation to best and most versatile land.
Paragraph 118 in relation to biodiversity.
Paragraph 123 in relation to noise
Paragraph 203 in relation to planning conditions.
Paragraph 204 in relation to planning obligations.

Adopted North West Leicestershire Local Plan (2002)

Policy S3 - Countryside
Policy H4/1 - Housing Land Release
Policy H6 - Housing Density
Policy H7 - Housing Design
Policy H8 - Affordable Housing
Policy E2 - Landscaped Amenity Open Space
Policy E3 - Residential Amenities
Policy E4 - Design
Policy E7 - Landscaping
Policy E8 - Crime Prevention
Policy F1 - National Forest General Policy
Policy T3 - Highway Standards
Policy T8 - Parking
Policy L21 - Children's Play Areas

Other Policies

North West Leicestershire District Council Affordable Housing SPD

Key Principle AH2 provides that affordable housing will be sought on all sites of 5 or more dwellings in Donisthorpe.

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

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.

Submission Core Strategy (April 2012)

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

6. Assessment

Principle of Development

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

In terms of the adopted North West Local Plan, the site is outside Limits to Development. Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development; the development proposed would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3.

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

Housing Land Supply and Limits to Development

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery.

In terms of the minimum amount of housing required to be provided within the District as a whole, a Strategic Housing Market Assessment (SHMA) undertaken on behalf of all of the Leicestershire local planning authorities has provided the District Council with an up-to-date objectively assessed annual housing requirement, equating to 350 dwellings per annum. The approach used in the SHMA to establishing this Objectively Assessed Need (OAN) was supported by the Inspector who determined the appeal in respect of a site at Lower Packington Road, Ashby de la Zouch, issued in October 2014, and, based on the findings of the Inspector regarding the appropriate method of calculating supply, the District Council's latest housing supply trajectory indicates that, using the approach of the above annualised requirement with a 20% buffer, the District is currently able to demonstrate a supply of 6.18 years.

Having regard to the above and to the approach set out in Paragraph 49 of the NPPF, Local Plan Policy S3 is considered to be up-to-date in the context of Paragraph 49. However, given that the Limits to Development as defined in the adopted Local Plan were having drawn regard to housing requirements only up until the end of that Plan Period (i.e. to 2006), this needs to be taken into account when considering the weight to be applied to any conflict with this policy.

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 and Scale

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted. Whilst a sequential approach is outdated in the context of the NPPF, the sustainability credentials of the scheme would still need to be assessed against the NPPF.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The settlement of Donisthorpe provides some day to day facilities, e.g. a primary school, church, community uses, two public houses, play area/open space and a shop. However it is noted that these facilities are spread between the two key areas of Donisthorpe. There is also a bus service which runs on an hourly basis (between 7.29am and 6.39pm, Monday to Saturday) from Burton on Trent to Ashby de la Zouch. The site is located within maximum walking distance (i.e. within 800m to 1km) of some of these services, including bus stops, although it is further to the school. Taking all of these matters into account, it is considered that Donisthorpe is a reasonably sustainable location for the level of development proposed for this site.

It is appropriate to consider the scale of the proposed development compared to Donisthorpe so as to understand its potential impact upon the scale and character of the village. The scale of the development (36 dwellings) is not considered to represent an over-development of the settlement and the additional residents could help to sustain some of the existing services that are located within Donisthorpe.

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 arable farmland, 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. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The Agricultural Land Classification maps indicate that the site falls within Class 2 and therefore, would be classified as BMV agricultural 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). It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable.

In terms of agricultural land quality, the development does impact upon BMV and the proposed development does not 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 such as the benefits of releasing the site to assist in maintaining a sufficient housing supply, it is considered that the agricultural land quality issue is not sufficient to suggest that planning permission should be refused, particularly given the relatively limited extent of the loss (i.e. 1.59ha).

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 located outside the Limits to Development in the adopted Local Plan and is a greenfield site. The scheme would be contrary to Local Plan Policy S3. However, the site's general suitability for housing (given its location in terms of distances to most services/facilities) is also material, together with the need for the District to release land for housing to ensure the maintenance of a five year supply of land and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF).

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to economic growth associated with the proposed development in terms of jobs and the creation of new households, coupled with the role played in maintaining housing land supply, its proximity to services/facilities, the provision of affordable housing and open space and the inclusion of appropriate contributions to local services would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, the scheme would not accord with the provisions of Policy S3 and would result in the development of a greenfield site. However, the development of the site would not result in significant visual impacts given the contained and screened nature of the site (discussed in more detail in the 'Landscape and Visual Impact' section below). In the overall balance it is considered that the proposal would constitute a sustainable form of development.

Means of Access and Transportation

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 the creation of a new vehicular access onto Acresford Road, Donisthorpe. Whilst the illustrative layout shows internal access roads, these would be a matter for the reserved matters stage(s) (although their impact on the overall potential accessibility and connectivity of the site still ought to be considered).

The application is accompanied by a highway report which concludes that the development would be in a sustainable location and that the development would not materially increase traffic flows on the surrounding highway network and a road safety problem would not be introduced.

The County Highway Authority (CHA) has reviewed the highway report and originally raised concerns in respect of the lack of a continuous footway along Acresford Road and that additional off-site highway measures would be required in order to reduce speeds down to 30mph. Amended plans have been submitted in respect of these issues and the proposed

access arrangements would now include for off-site highway improvements including the introduction of a 2 metre wide footway along the site frontage, new gateway signage, uncontrolled pedestrian crossing and the relocation of the 30mph zone and associated roadmarkings.

The CHA states that the principles of the proposed off-site highway works are generally acceptable but further amendments would be required in relation to the detailed design. The CHA now raises no objection to the proposed scheme subject to the inclusion of conditions and legal obligations. The legal obligation would need to secure details of the routing of construction traffic along with other contributions in respect of public transport.

In conclusion, the County Highway Authority raise no highway safety objections to the proposed scheme subject to the inclusion of relevant conditions and obligations. Taking these matters into account, therefore, the proposed development is considered acceptable in terms of Means of Access and Transportation issues and would comply with Local Plan Policy T3 and the advice in the NPPF.

Neighbours' Amenities

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves are concerned, this would need to be assessed at the reserved matters stage(s); notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 36 units could not be provided on the site in a manner which would not adversely impact upon neighbours' amenities.

The Environmental Protection Section has no objections and it is not considered that the proposal would result in significant adverse impacts on health or quality of life. Accordingly, the requirements Policy E3 of Local Plan are considered to have been met by the scheme and the proposal would not conflict with paragraph 123 of the NPPF.

Design

The proposed scheme has been assessed by the District Council's Urban Designer, and rated in accordance with CABI's new Building for Life criteria which scores on the basis of red/amber/green rather than a points based scoring system. The Council's Urban Designer has reviewed the proposals and originally had some concerns over the illustrative layout that had been submitted as part of the application. These concerns included issues regarding parking provision, lack of tree lined principle routes and the feathering of the road frontage and countryside edge.

The comments have been raised with the applicants and they have submitted a revised layout and additional information which has addressed some of the issues which have been raised. It is accepted that the majority of these issues would need to be fully addressed as part of the reserved matters application. Suitable conditions and notes to applicant can be provided to indicate that the design concerns would need to be fully addressed as part of any future reserved matters application(s).

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

Density

Local Plan Policy H6 provides that, for sites of 0.3 hectares and above, residential development should meet a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services, and a minimum density of 30 dwellings per hectare elsewhere. The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances. The former advice in PPS3 provided that net dwelling density includes those site areas which will be developed for housing and directly associated uses, including access roads within the site, private garden space, car parking areas, incidental open space and landscaping and children's play areas. Whilst this has now been superseded in the NPPF the methodology contained within it for working out net dwelling density would, in the absence of any other guidance in the NPPF or the Local Plan, still be relevant.

The application site area is given as 1.59 hectares and the maximum of 36 dwellings proposed by the developers would therefore equate to a maximum density of 22.6 dwellings per hectare, which would fall short of the requirements set out in Policy H6. However, when considering that parts of the site would be taken up by the creation of landscaping and public open space, the net dwelling density would be higher and more in-line with that stated in Policy H6. It is also recognised that a reduced density would be more appropriate in this edge of settlement location. Therefore, the scheme is considered to have an acceptable density in relation to Policy H6 of the Local Plan and the advice in the NPPF.

Landscape and Visual Impact

The application is accompanied by a landscape and visual impact assessment (LVIA). The site is not protected by any national landscape designations. The application site immediately borders existing residential development off Talbot Place to the north-east and there is also a residential property located on the south-western boundary. Further to the rear of the site is built development associated with Hall Farm.

The submitted LVIA states that the development of this site would extend the built form of the settlement a little further along a village edge ridge line. This would fill a small gap and would be a logical continuation of the adjacent built area of Talbot Place. It would be in keeping with the local pattern of settlements occupying high ground locations and the landscape effects would not be pronounced. The report concludes that the setting of the village and its relationship with the surrounding countryside would not be significantly altered. In terms of views into the site the LVIA considers that the development would occupy a particular place in the composition of views such that it should be read as a natural extension to the village and no notably harmful visual impacts have been predicted.

The conclusions reached in the submitted LVIA are considered to be reasonable and subject to appropriate landscaping, it is considered that the visual impacts of the proposals would be acceptable and that, notwithstanding the site's location outside Limits to Development, unacceptable impacts on the amenities of the surrounding area would not be likely to arise. Overall, therefore, and subject to an appropriate form of development being proposed at the reserved matters stage(s), it is considered that the landscape and visual effects of the proposed development are acceptable.

Ecology and Trees

The application is supported by an ecological appraisal. The appraisal concludes that there are

no statutory or non-statutory designated sites within 1km of the site. Given that all sites are located more than 1km away, it is not considered that there would be any impacts ecological impacts in respect of designated sites.

There are trees and hedges on the site boundaries and also a small number of trees present in the eastern corner of the site. These provide suitable habitat for breeding birds. All hedgerows are expected to be retained, except one alongside Acresford Road.

In response to the application and the submitted ecological report, Leicestershire County Council's ecologist considers that the report is satisfactory and no species or habitats other than hedges have been identified. The draft layout is considered to be acceptable as it protects hedges and no further survey requirements are deemed necessary. Therefore, the County Ecologist raises no objection to the proposed scheme.

The Council's Tree Officer originally considered that plot 36 was too close to existing trees on the adjacent property and that further clearance was required. The amended masterplan appears to take into account the presence of these trees but this would need to be considered further at the reserved matters stage(s).

Therefore, subject to the imposition of suitably-worded conditions and notes to applicant the submitted scheme is considered acceptable in ecological terms and in respect of the impact upon trees.

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.

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 £12,744) 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 Donisthorpe. The flows from the new dwellings will need to be taken into account against the existing headroom at Donisthorpe. At March 2014 there was no capacity available at this treatment works. Severn Trent Water has advised that it will not object to proposals where there is no capacity at the relevant treatment works and that a phasing condition should be imposed, which can be drafted as a Grampian condition to prevent occupation of the proposed dwellings until additional capacity has been provided at Donisthorpe Treatment Works or elsewhere in its sewer system. As such a reason for refusal based on lack of capacity at the treatment works could not be justified.

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.

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 submitted flood risk assessment indicates that surface water discharge to the ground via infiltration should be achievable and that foul water from the proposed development would discharge into the public combined sewer. Conditions would need to be attached to any outline 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 raises no objections to the proposed development subject to the inclusion of relevant planning conditions and notes to applicant.

Developer Contributions

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

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

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

The relevant developer contributions are listed below.

Affordable Housing

The Council's SPD on affordable housing indicates that for developments of this scale in the Donisthorpe area 30% of the units should be provided as affordable housing (i.e. 11 units, assuming the construction of the maximum 36 dwellings as proposed). In terms of tenure split, the District Council's Affordable Housing Enabler advises that a tenure split of 80% social rented and 20% low cost home ownership would be sought and the District Council's Strategic Housing Team would currently be seeking the following:

Affordable Rented - 8

2 x 1 bed homes

4 x 2 bed house

2 x 2 bed bungalows

Intermediate / Low cost home ownership - 3

3 x 3 bed house

However, it is accepted that the current requirements are likely to change over time, and it is considered appropriate for the Section 106 agreement to secure a minimum of 30% (and including the tenure split suggested above) with the actual contribution in terms of unit types to be agreed by the District Council.

Transportation Contributions

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

- 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).

- 6 month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £350.00 per pass - NOTE it is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate).

- New/Improvements to 2 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 cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display.

The County Highway Authority have also requested that details of the routing of construction traffic be included in the legal agreement. The applicants are agreeable to making these contributions.

Education

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

Primary School Requirements:

The site falls within the catchment area of Donisthorpe Primary School. The School has a net capacity of 188 pupils and 209 pupils are projected on roll should this development proceed; a deficit of 21 places (of which 12 are existing and 9 are created by this development). However, the overall deficit including all schools within a two mile walking distance of the development is 8 places. The 9 deficit places created by this development can therefore be partly accommodated at nearby schools but a claim for an education contribution of 8 pupil places in the primary sector is justified. A primary school contribution of £92,436.44 has been calculated and would be used at Donisthorpe Primary School. The applicants are agreeable to paying the requested contribution.

High School Requirements:

The site falls within the catchment area of Ivanhoe College. The college has a net capacity of 949 pupils and 1067 pupils are projected on roll should this development proceed; a deficit of 118 pupil places. However, a total of 43 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have to be discounted. This reduces the total deficit for this school to 75 (of which 71 are existing and 4 are created by this development). There are no other high schools within a three mile walking distance of the site. A high school contribution of £64,354.21 has been calculated and would be used at Ivanhoe College. The applicants are agreeable to paying the requested contribution.

Upper School Requirements:

The site falls within the joint catchment area of Ashby School. The school as a net capacity of 1841 and 2041 pupils are projected on roll should this development proceed; a deficit of 200 pupil places. However, a total of 71 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have to be discounted. This reduces the total deficit for this school to 129 (of which 125 are existing and 4 are created by this development). There are no other upper schools within a three mile walking distance of the site. An upper school contribution of £66,078.58 has been calculated and would be used at Ashby School. The applicants are agreeable to paying the requested contribution.

Play and Public Open Space

The indicative masterplan shows that provision is proposed to be made for public open space on site that would be located within the southern section of the site. This would need to include a children's equipped play area. Taking into account the overall size of the recreation area, a suitable sized children's equipped play area could be provided at the reserved matters stage. Therefore, the proposal is considered to be in accordance with Local Plan Policy L21 and the Play Area Design Guidance SPG.

National Forest Planting

The application site extends to 1.59ha and the National Forest Company's (NFC) Planting Guidelines, as set out in the Guide for Developers and Planners, would expect 20% of the site area to be for woodland planting and landscaping. This would equate to 0.3ha in this instance. The NFC welcomes the combination of woodland planting and open space as indicated on the indicative layout plan.

Subject to the inclusion of relevant conditions and obligations which include, amongst other things, detailed landscaping plans the National Forest Company raise no objection to the proposed development.

Library Services

The proposed development is within 2.6km of Measham Library and the proposal would impact on local library services in respect of additional pressures on the availability of local library facilities. Therefore, a library contribution of £2170 is requested. The applicants are agreeable to making this contribution.

Healthcare

NHS England (Leicestershire and Lincolnshire Area) requests a developer contribution of £16,237.38 based upon a contribution commensurate to the anticipated increased population arising from this development. The applicants are agreeable to making this contribution.

Other

It is understood that there is no mains gas available in this part of Donisthorpe. As such a condition is recommended to ensure that any storage facilities for oil, gas and coal (or other fuel) are of a suitable design and appearance.

Conclusions

The site is located outside the Limits to Development in the adopted Local Plan and is a greenfield site. The scheme would be contrary to Local Plan Policy S3 as the site is located outside of the limits to development. However, the site's general suitability for housing (given its location in terms of distances to most services/facilities) is also material, together with the need for the District to release land for housing to ensure the maintenance of a five year supply of land and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF). Having regard to this and the sites location adjacent to the existing settlement boundary, location within a reasonably sustainable settlement and proximity to local services and facilities, the proposed development would be considered to constitute sustainable development as defined in the NPPF and, as such, would benefit from a presumption in favour of such development as set out in that document.

The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. The development is considered to be acceptable in terms of access issues, landscape and visual impact, design, ecological issues, flood risk and residential amenity; there are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities.

It is therefore recommended that outline planning permission be granted.

RECOMMENDATION - PERMIT, subject to the following conditions and the completion of a Section 106 legal agreement;

- 1 Save for the details of vehicular access into the site from Acresford Road, details of the

access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins in respect of the relevant phase.

Reason - This permission is in outline only.

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

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

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

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

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

- ADC1083/001 Rev C (Proposed Access Arrangements) deposited with the Local Planning Authority on 25 November 2014;
- Site Location Plan deposited with the Local Planning Authority on 5 September 2014.

Reason - To determine the scope of this permission.

- 5 A total of no more than 36 dwellings shall be erected.

Reason - To define the scope of this permission.

- 6 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.

- 7 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.

- 8 No development shall commence on the site until such time as a programme of archaeological work including a Written Scheme of Investigation has first been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:

- The programme and methodology of site investigation and recording (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; and
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation

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

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

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

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

- 10 No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage scheme should demonstrate the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

- 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 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site, as outlined in Section 3.7.6 of the approved Flood Risk Assessment (FRA) dated 8 May 2014, Ref: 14058/FRA/RevA, undertaken by BSP consulting.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.

- 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.

- 11 The development hereby approved shall only use the mains sewer system for its foul drainage discharge.

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

- 12 None of the dwellings hereby approved shall be occupied until, within a period of four months prior to occupation, the Authority (in consultation with Severn Trent Water) has confirmation in writing that there is sufficient headroom capacity available at Donisthorpe Waste Water Treatment Works or elsewhere within Severn Trent Water's sewer system to take the foul drainage discharge from the dwellings hereby approved.

Reason - to ensure sufficient capacity is available at the treatment works and to prevent an adverse impact on the River Mease Special Area of Conservation/SSSI.

- 13 No site works of any description shall take place on the site until such time as the existing trees to be retained have been securely fenced off in accordance with a scheme that has first been submitted to and agreed in writing with the Local Planning Authority. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand, unless any alteration is first agreed in writing by the Local Planning Authority.

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

- 14 No development shall commence on site until such time as details of any container used for domestic heating purposes for the storage of oil or liquid petroleum gas 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 an appropriate appearance because inadequate details have been submitted.

- 15 Notwithstanding condition 4, no development shall commence on site until details of design for off-site highway works being speed reduction measures on Acresford Road including the relocation of the existing 30 mph limit and village gateway treatment, the provision of a 2 metres wide footway at the site frontage, the provision of suitable footways to link to existing footways and suitable crossing facilities have been submitted to and approved in writing by the local planning authority. No more than 10 dwellings shall not be occupied until that scheme has been constructed in accordance with the approved details.

Reason - In the interests of highway safety, including pedestrian safety.

- 16 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 accesses with Acresford 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.

- 17 No development shall commence on the site until such time as a construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

Reason: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the area.

Notes to applicant

- 1 During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.
- 2 Your attention is drawn to the comments provided by the Council's Urban Designer and Tree Officer. These would need to be addressed as part of any reserved matters application on the site.
- 3 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England)) Order 2010 (as amended).
- 4 A section 106 agreement would be required in order to make the development acceptable and would need to include the following:
 - Provision of on-site affordable housing (30%)
 - National Forest Planting on site
 - Financial contribution in respect of healthcare (£16,237.38)
 - Financial contribution in respect of education (£222,869.22)

- Financial contribution in respect of libraries (£2,170)
 - Provision / maintenance of a children's play area
 - Construction traffic routeing
 - Provision of travel packs to first occupiers of the new dwellings
 - Provision of bus passes to first occupiers of the new dwellings
 - Improvements to the two nearest bus stops (including raised and dropped kerbs (£3,263 per stop)
 - Information display cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display
 - Section 106 monitoring
- 5 The Council requires all developments meet BfL12 and the applicant of any future reserved matters application is strongly encouraged to benefit from pre-application advice.
- 6 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.

Please be aware that Leicestershire County Council as Lead Local Flood Authority (LLFA) are currently not a statutory consultee to the planning process for drainage matters. If Schedule 3 of the Flood and Water Management Act 2010 is implemented Leicestershire County Council may become the SuDs Approval Body (SAB) and also a statutory consultee of the planning process. You will need to contact Leicestershire County Council if you have an aspiration for us to adopt any SuDs features associated with the development. Please e-mail roadadoptions@leics.gov.uk if you wish to discuss further.

You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced. For further information you are advised to visit the County Council website (www.leics.gov.uk/6CSDG), or contact the Infrastructure Planning Team by email to roadadoptions@leics.gov.uk.

C.B.R. Tests shall be taken and submitted to the County Council's Highways Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Highways Manager.

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Permanent Change of Use of car park land to the sale of plant and machinery by auction with up to 5 auctions per annum

**Report Item No
A3**

**Donington Park Race Circuit Donington Park Castle
Donington Derby Derby DE74 2RP**

**Application Reference
14/00967/FULM**

**Applicant:
Donington Park Racing Ltd**

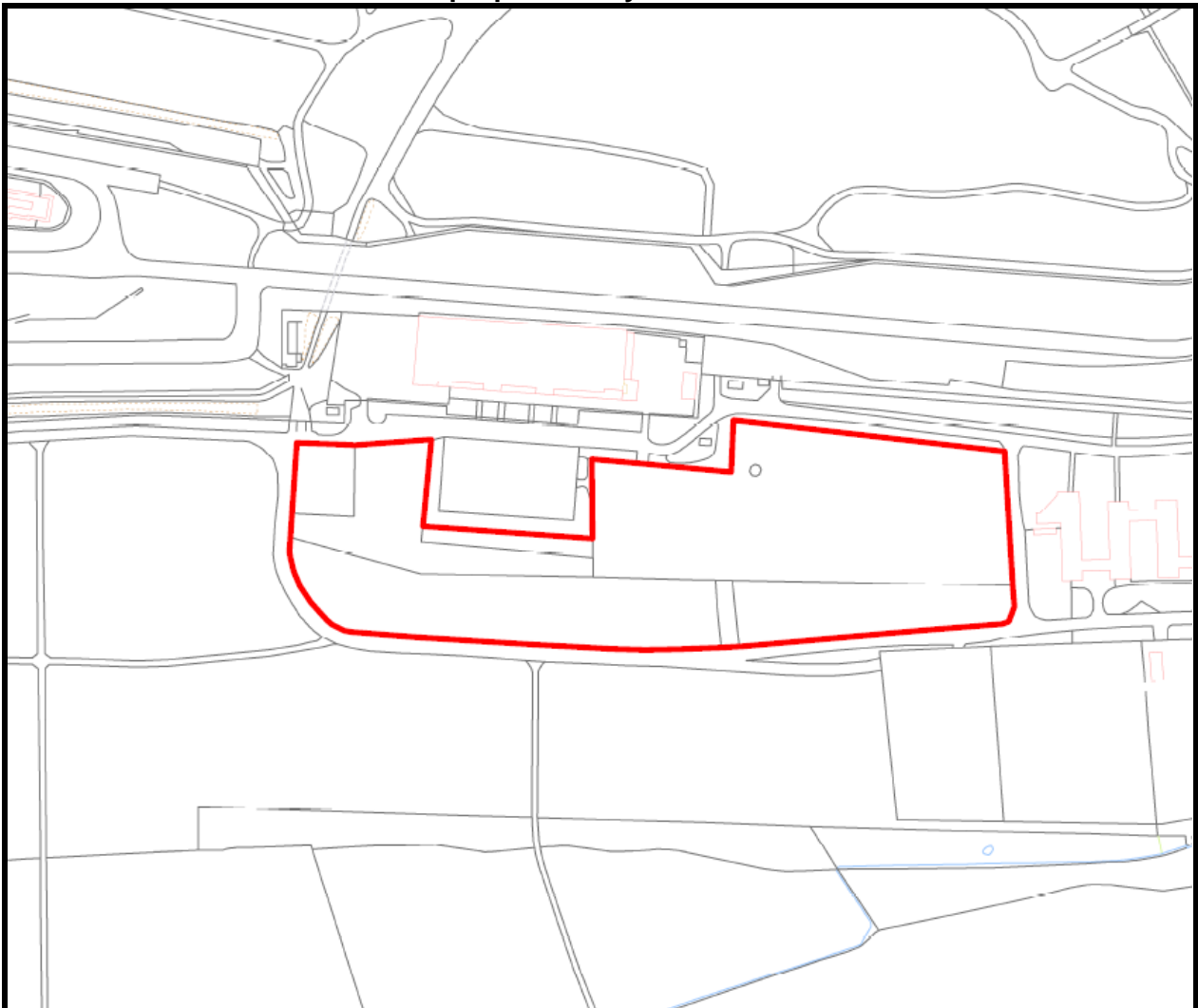
**Date Registered
24 October 2014**

**Case Officer:
James Knightley**

**Target Decision Date
23 January 2015**

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

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Proposal

This application seeks planning permission for the change of use of a site within the Donington Park complex of 4.87ha to use for the sale of plant and machinery by auction.

It is intended to hold five auctions per year. Each auction would be for one or two days only, but a total period of eight weeks per auction would be required with plant and machinery being brought onto and off the site. In addition, an area of permanent storage of plant and machinery is also proposed (i.e. for use at all times, not just in connection with auction events).

Consultations

Members will see from the main report below that objections have been received in respect of the proposals, and including from Castle Donington Parish Council. No objections are raised by other statutory consultees.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application, however, is the need to consider whether the proposals would, overall, constitute sustainable development in the context of the National Planning Policy Framework (NPPF).

Conclusion

The report below indicates that, whilst the use has some visual impacts on the surrounding countryside site, having regard to the good standard of public transport serving the site, and the other positive contributions to sustainable development overall, subject to some additional strategic landscaping being provided to assist in reducing the wider visual impact, the proposals would be acceptable.

RECOMMENDATION:-

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

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

MAIN REPORT

1. Proposals and Background

This application is for the change of use of land within the Donington Park complex (and including an existing car park) to use for the sale of plant and machinery by auction. The proposed use would appear to be a sui generis use.

The site area is 4.87ha in size, and is located to the southern side of the existing motor racing circuit. Part of the site was previously used as car parking / vehicle storage associated with an approved vehicle auctions use of the site's exhibition centre dating from a planning permission granted in 2001 (ref. 99/00764/FUL). By 2008, the vehicle auction use had ceased, and planning permission granted for the use of the site (together with a separate area to the west of the Melbourne Loop) as general car parking, limited to use by persons visiting or working at the circuit, and for use by vehicles not exceeding 3,000kg (unladen weight) (ref. 08/00086/FULM).

Planning permission was first granted for the use of the site for plant and machinery auctions in February 2012, subject to a maximum number of four events per year and on a temporary (five year) basis (ref. 11/00204/FULM); a subsequent Section 73 planning permission amending one of the conditions relating to storage of goods was approved in October 2013 (ref. 13/00118/VCIM). In June 2014 planning permission was granted for amended proposals (ref. 13/00941/FULM), allowing for the use to take place on five occasions per year (but, again, for a temporary period only, expiring in February 2017).

The current application seeks permission for the use (and based on five events per year) on a permanent basis. Insofar as the five annual events are concerned, whilst each auction itself would be for one or two days only, a total period of eight weeks per auction would be required with plant and machinery being brought onto and off the site (i.e. four weeks prior to the auction, and four weeks afterwards). The applicants' supporting statement advises that the majority of plant arrives and leaves within a period of three weeks either side of the auction itself, and that "for each auction the majority of the use will be concentrated for a period of two weeks either side of the auction day". In addition, permission is sought for the storage of some items to be stored on site on a permanent (i.e. 365 days per year) basis; the eastern end of the application site is proposed to be designated for this purpose (2.2ha approx).

The application is referred to Planning Committee for a decision at the request of Councillor Saffell.

2. Publicity

5 no. neighbours have been notified (Date of last notification 6 November 2014)

Press Notice published 12 November 2014

Site Notice published 06 November 2014

3. Consultations

Castle Donington Parish Council consulted 6 November 2014
 Isley cum Langley Parish Meeting consulted 6 November 2014
 County Highway Authority consulted 6 November 2014
 Head of Environmental Protection consulted 6 November 2014
 Airport Safeguarding consulted 6 November 2014
 Highways Agency- affecting trunk road consulted 6 November 2014

WARD MEMBER (delegated)2 consulted 8 January 2015

4. Summary of Representations Received

Castle Donington Parish Council objects on the following grounds:

- Not related to motor racing as required under Parish Council / District Council policy
- Area is designated as countryside
- Large yellow plant can be seen from a number of locations
- HGV vehicles have damaged kerbs and grass verges when accessing the site

Highways Agency has no objections

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

North West Leicestershire District Council Environmental Health has no objections

Third Party representations

One representation has been received, objecting on the following grounds:

- A firm policy of not allowing developments at the circuit not associated with motor racing should be followed
- If permanent permission is granted, will set a precedent for permitting almost any industrial development on circuit land
- Is aware of complaints being made regarding noise from reversing beepers from machinery being moved around the site

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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 listed 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 (Presumption in favour of sustainable development)

Paragraph 28 (Supporting a prosperous rural economy)

Paragraph 34 (Promoting sustainable transport)

North West Leicestershire Local Plan

The site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Whilst part of the wider Donington Park complex is also subject to Policy L20, the application site appears to fall outside of this area as defined on the adopted Local Plan Proposals Maps. The following Local Plan policies are relevant to this application:

Policy S3 - Countryside
 Policy E4 - Design
 Policy T3 - Highway Standards

6. Assessment

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 Leicestershire 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.

At the time that the original temporary planning permission was granted, the final version of the NPPF had not as of yet been published, and the application was assessed against a number of former National policies, including PPS 4, PPS 7 and PPG 13, along with the then draft NPPF and the former East Midlands Regional Plan. Whilst the application was permitted, in approving the application the Local Planning Authority noted as follows in its formal reasons for approval:

The site is outside Limits to Development as defined in the North West Leicestershire Local Plan; Local Plan Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development. The use of the site on a permanent basis for the purposes proposed would represent unnecessary and inappropriate development within the countryside, potentially with a significant visual impact, contrary to the provisions of Local Plan Policy S3, and to the detriment of the character of the countryside within which the site is located. Furthermore, the site is not particularly well served by public transport, with the result that the majority of users of the facility would be likely to access the site by private car. However, the Local Planning Authority recognises the importance that Donington Park plays in the local economy, and the current financial difficulties being experienced by its operators. Having regard to the temporary nature of the proposals, and the manner in which they would contribute to the continued operation of Donington Park as a motor racing venue, the Local Planning Authority considers that, as a temporary expedient, the harm caused to the interests above would be outweighed by the wider economic and cultural benefits resulting during the temporary period of the proposed use...

In coming to the view that, notwithstanding the unacceptable nature of the use in terms of its impacts on the countryside and the site's poor accessibility by modes other than the private car, the use was acceptable on a temporary basis, regard was had to arguments put forward by the operators of the circuit that the income from the proposed auctions use would, over the then proposed five year period, assist in addressing a lack of investment in the circuit over the

previous 10 years, and that there was a need for immediate and significant medium-term investment in improvement works which, in the absence of the additional income generated, could not take place, thus jeopardising the future of the circuit. The view was taken that, having regard to advice in the then Circular 11/95, there appeared to be a reasonable prospect that, within the life of the five year permission sought, the track's financial position would have been "normalised" and there would therefore no longer be any need for what was considered to be an essentially inappropriate use. In support of the current application the applicants now advise that the investment required to operate the race circuit is ongoing and significant, trading at a loss, and that track activities need to be supported by the additional income, including that from the auctions use; this, therefore, appears to indicate that the position previously understood (i.e. that the temporary approval would allow for the circuit's financial issues to be addressed) no longer applies.

As set out above, the Local Planning Authority identified two principal areas of concern identified at the time that the original temporary planning permission was granted, namely the impact on the character of the area given the site's location within the countryside, and the accessibility of the site, having regard to the location of the motor racing circuit away from any established settlement. Further consideration is given to these issues below.

Countryside / Visual Impact Issues

As set out under Relevant Planning Policy above, the application site appears to fall outside of the area subject to Local Plan Policy L20 (which, in effect, allows for development essential in association with the motor racing use of the circuit, notwithstanding its countryside location) and, as such, it is not necessary to assess the proposals' compliance with this policy. Regardless, however, as concluded at the time that the original temporary planning permission (ref. 11/00204/FULM) was granted, it is not considered that the use of the site for the sale of plant and machinery by auction would constitute a use with a clear operational need or functional relationship to the principal use of the site as a motor racing circuit. In coming to this view, it is noted that, in dismissing an appeal in 2002 in respect of the use of an existing building at the circuit for purposes associated with a vehicle auction use formerly operating at the circuit (Local Planning Authority ref. 000725), the Inspector in respect of that appeal concluded that the vehicle auction use was neither essential to the operational needs of the racetrack, nor functionally related to it. On this basis there would similarly appear to be no motor racing-related rationale for the proposed plant and machinery auction use.

In terms of the visual impact, at the time that the original temporary planning permission was considered, it was anticipated that, given the topography of the area, the southerly direction would be the one from which the greatest impact would be likely to result, together with some impacts from the east (i.e. in the area adjacent to the site entrance). In view of the fact that the auction use is now operational (i.e. in accordance with the temporary permissions expiring in February 2017), it is now possible to observe the visual impacts of that use.

Insofar as the impacts from the easterly direction are concerned, the plant and machinery available for sale are clearly visible from the public highway (C8214), and particularly so in view of the brightly coloured finishes typically applied to this kind of plant and machinery. However, the visual impact is to some extent mitigated in this direction by an existing hedgerow and the backdrop of existing buildings in the vicinity, albeit it does, it is considered, add to the visual "clutter" and has some urbanising effects.

From the southerly direction, the separation between the plant and machinery and the nearest

public viewpoint (A453) is greater, and there is also an intervening tree belt. Nevertheless, the equipment is still clearly visible from the A453, and particularly so during the winter months when the intervening trees provide less screening.

Whilst there is permission for other forms of vehicle to be parked in the approximate location of the proposed sales and storage areas, (and including the parking area approved under planning permission ref. 08/00086/FULM), this is limited to smaller vehicles and, hence, their visual impact is considerably less pronounced than that arising from the siting of plant and machinery. In addition, the vehicles of visitors to the auctions need to be accommodated; the area subject to the application itself is, on the basis of the submitted plans, limited to sale and plant storage only and, hence, the car parking area approved under planning permission ref. 08/00086/FULM would no longer be available for this use. The submitted documents show provision of a dedicated car parking area on adjacent land to the south and west; there appears to be no existing planning permission for parking on these adjacent areas but, it is considered, their availability for car parking on auction days could be secured by way of condition if required. This, however, would add to the overall visual impacts of the use, albeit over a relatively short period relating to each auction; to secure its use as a permanent car parking area would, it is considered, be likely to require planning permission.

It should also be borne in mind that, whilst the use (and hence visual impact) would be limited to five events per year, the associated plant could be located on the site for a total of 290 days per year (i.e. 5 x 2 day events plus two 4 week periods either side of each of those 5 auction events). Furthermore, the application as now submitted includes for an area for storage of items on a permanent basis (i.e. not just in the periods leading up to and following an auction event).

As anticipated prior to the use commencing, the auction use has an element of visual impact on the surrounding countryside, and broadly in line with the range of viewpoints expected to be affected in the original temporary permission Planning Committee report. However, further, additional impacts are now apparent, and including from more distant viewpoints such as from Breedon on the Hill and Wilson. Whilst it is accepted that the impacts to the immediate locality are to some extent limited by virtue of the plant's viewing against a backdrop of other features / buildings, it is considered that it would be appropriate to require mitigation to address the more distant impacts such as those outlined above. Whilst the visual impact of the equipment is to some extent diminished by virtue of the greater distance, the plant is nevertheless considered to "jar" visually more than would otherwise be the case at this distance given its brightly coloured finish. Having regard to this, the view is taken that, in order to assist in mitigating the impact, some additional landscaping ought to be provided of a type and in a location designed to address more distant views, and some further mitigation to the A453 would also appear possible. Subject to this being undertaken, it is considered that, on balance, the visual impact would not be so unreasonable as to warrant a refusal when having regard to the overall contribution to sustainable development as assessed in more detail below.

Accessibility

At the time that the original application was considered, concerns were expressed that the circuit was not particularly well served by public transport, and that customers of the proposed use would therefore be heavily reliant on use of the private car to access the facility. Since that time Donington Park has benefitted from improvements in public transport services, and the bus services available from outside of the circuit include daytime services at 20 minute intervals to each of Derby, Leicester and Nottingham, plus an hourly service to Coalville. Whilst, in practice, it may remain the case that a significant proportion of users of the facility would continue to access it by private car, it is nevertheless the case that the site is now well served by public

transport, and a reasonable transport choice would hence be available for customers. On this basis, it is accepted that the earlier concerns regarding accessibility would no longer apply. For its part, the County Highway Authority considers that limited numbers of visitors and employees would be likely to walk or cycle to the site but, having regard to its location in close proximity to East Midlands Airport, notes that the site benefits from what it describes as very frequent bus services (up to 6 an hour) and, on balance, considers the scheme acceptable in accessibility terms.

In terms of other access issues, the County Highway Authority notes that Melbourne Road is of limited width and has issues with regard to vertical and horizontal alignment and, as such, is not suitable for larger delivery vehicles etc. Similarly, the County Highway Authority considers that all HGVs associated with the proposal should avoid travelling through Castle Donington village. The County Highway Authority therefore raises no objections subject to conditions and Section 106 obligations (relating to vehicle routeing).

In terms of other transportation issues, the Highways Agency accepts that there would be no material impact on the strategic highway network.

Contribution to Sustainable Development

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 and social dimensions having regard to the associated economic activity and employment opportunities. Insofar as the environmental role is concerned, however, whilst it is accepted that the earlier concerns regarding accessibility have to a significant degree now been addressed given the current level of public transport provision serving the site, it is considered that issues remain in respect of the visual impact on the wider countryside within which the application site is located. Whilst this harm to the environmental dimension could, to some degree, be mitigated by enhanced landscaping, it is considered that the overall impact in terms of the environmental dimension remains adverse. However, when having regard to the reduced adverse impacts that would result in the event that additional landscaping were secured, and to the overall positive impacts in terms of the economic and social dimensions, it is accepted that, overall, the proposals would represent sustainable development in NPPF terms and, as such, the presumption in favour of such development applies. Approval is therefore recommended.

The current temporary permission is subject to Section 106 obligations in respect of, amongst others, HGV routeing and, having regard to the views of the County Highway Authority, it is again considered that such provisions should apply.

In terms of other issues, whilst it is noted that objections have been raised in respect of noise, it is considered that, in the context of the area's noise environment (including the circuit, airport and roads), materially adverse noise impacts on sensitive receptors arising from the use would be unlikely; no objections have been raised by the District Council's Environmental Protection team.

Approval is therefore recommended subject to conditions, and subject to Section 106 obligations.

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

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

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

- 2 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
- Site location plan (10610 DPR/RB/Applic) deposited with the Local Planning Authority on 24 October 2014
 - Site layout plan (10863/DPR/Ritchies) deposited with the Local Planning Authority on 24 October 2014

Reason - To determine the scope of this permission.

- 3 The use hereby permitted shall not be undertaken at any time other than in accordance with the following:
- (i) No more than five auction events in any calendar year
 - (ii) No single auction event shall exceed two days in duration
 - (iii) No storage / display of plant / machinery anywhere within the site other than within the areas coloured in blue and yellow on drawing no. 10863/DPR/Ritchies
 - (iv) No storage / display of plant / machinery at a height exceeding 7m in height above the relevant ground level at any time save for on the days of an auction event or on the two days immediately prior to that event
 - (v) Notwithstanding (iv) above, no storage / display of plant / machinery at a height exceeding 18m in height above the relevant ground level at any time on the day of an auction event or on the two days immediately prior to that event
 - (vi) Notwithstanding (iii) above, save for the days of an auction event and the period 28 days immediately prior to or immediately following the relevant auction, no storage / display of plant / machinery anywhere within the site other than within the area coloured in blue on drawing no. 10863/DPR/Ritchies

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, in the interests of visual amenity.

- 4 No auction hereby permitted shall take place on a day where reasonable estimates of attendance at any event at the race circuit indicate that the number of visitors is likely to exceed 10,000.

Reason - To minimise the likelihood of the proposals giving rise to both congestion and increased dangers on the strategic and local highway networks.

- 5 The use hereby permitted shall not be undertaken at any time save in full accordance with the details of mitigation to the traffic signal controlled junction of the Castle Donington Road with the A453 agreed by the Local Planning Authority on 27 July 2012 in respect of Condition 4 of planning permission ref. 11/00204/FULM or in accordance with alternative details first submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure the road network is of satisfactory geometry and design to cater for all types of traffic generated by the proposal such that the development does not impact on the free flow of traffic or introduce dangers to road users.

- 6 Notwithstanding the submitted details nor Condition 2 above, the use hereby permitted shall not be commenced until such time as a detailed scheme of off-street car parking for auction attendees' vehicles has been submitted to and agreed in writing by the Local Planning Authority. No auction event shall take place at any time unless the whole of the agreed parking provision is available for use as off-road car parking in association with the use hereby permitted.

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

- 7 Notwithstanding the submitted details nor Condition 2 above, the use hereby permitted shall not be commenced until such time as a detailed scheme of off-site strategic landscaping (and including a timetable for its implementation) has been submitted to and agreed in writing by the Local Planning Authority. No auction event shall be held, nor shall any items for sale be stored on the site at any time unless all landscaping required to be provided at that time in accordance with the agreed scheme and timetable has been implemented in full.

Reason - To ensure that landscaping is provided at an appropriate time to mitigate the visual impact of the development on the wider locality.

- 8 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.

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 For the purposes of complying with Condition 6 above, the applicants are advised that a detailed scheme of car parking in the general location indicated in green on drawing no. 10863/DPR/Ritchies would be likely to be acceptable in principle. However, the applicants are advised that this area is located outside of the application site and approval of any details pursuant to this condition would, in effect, only authorise its use as car parking as a temporary arrangement during auctions, and for auction-related uses only, and without any associated engineering operations. Any permanent change to use as car parking, or any engineering operations required to make any area proposed to be made available for car parking use during auctions suitable for such use would be likely to require an application for planning permission in the usual manner.
- 3 For the purposes of complying with Condition 7 above, the applicants are advised that particular attention should be paid to reducing the visual impact of the use when viewed from public viewpoints in areas to the south and south west of the application site,

- including views from the A453, Breedon on the Hill and Wilson.
- 4 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport.
 - 5 This planning permission is in accordance with the decision of the Planning Committee of 3 February 2015, and is subject to a Section 106 obligation.

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Erection of timber framed commercial growing house (greenhouse), a building containing barn, stabling and car port for associated smallholding use, single storey garden room and balcony to dwelling, change of use to residential curtilage including landscaping works and realignment of existing driveway.

Report Item No
A4

Dishley Farm Main Street Swebstone Coalville Leicestershire
LE67 2SG

Application Reference
14/00519/FUL

Applicant:
Mr & Mrs A Parkes

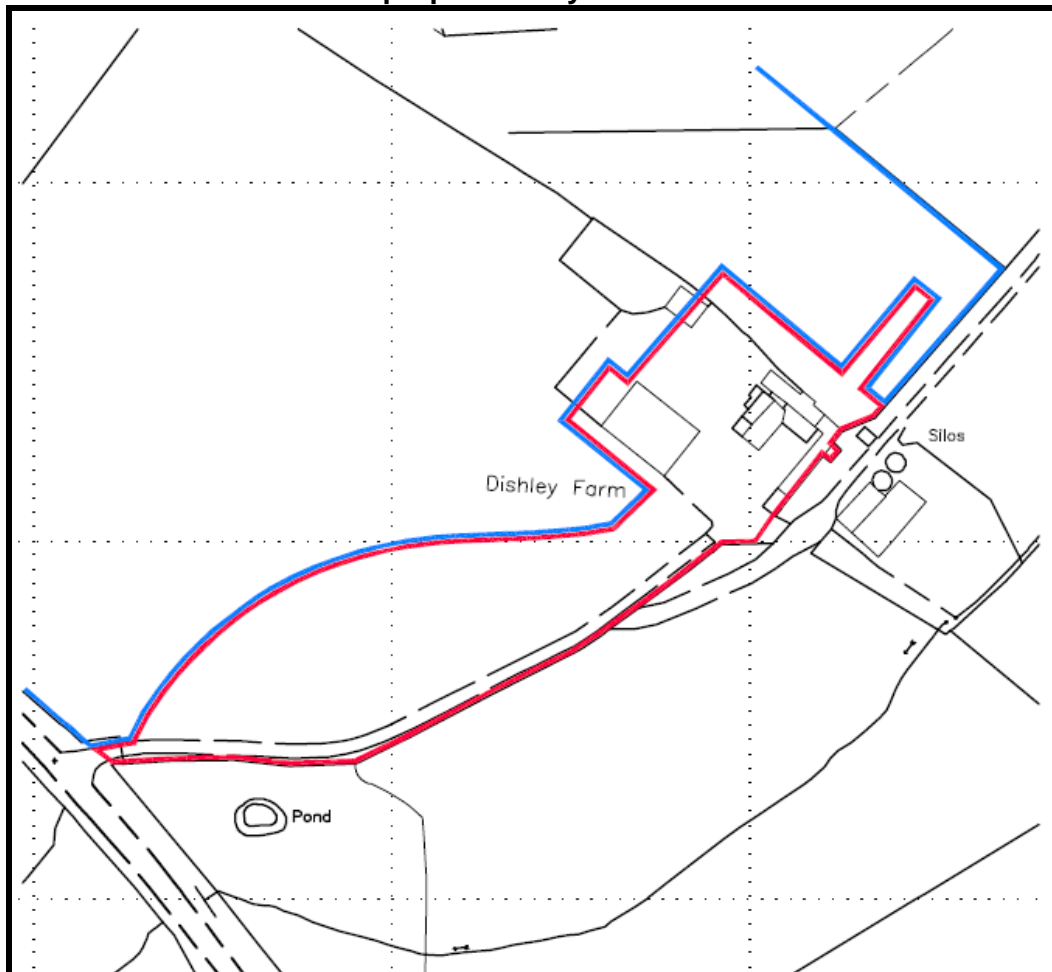
Date Registered
2 July 2014

Case Officer:
Jenny Davies

Target Decision Date
27 August 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application is reported to the Planning Committee at the request of Councillor Richard Blunt as a matter of local concern.

Proposal

Planning permission is sought for the erection of a timber framed commercial growing house (greenhouse), a building containing a barn, stabling and car port for associated smallholding use, a single storey garden room and balcony to the dwelling, a change of use to residential curtilage including landscaping works and re-alignment of the existing driveway at Dishley Farm, Main Street, Swebstone.

Consultations

Members will see from the main report that there are four letters of objection from two neighbours, with no objections from statutory consultees.

Planning Policy

The site lies outside Limits to Development, as defined by the North West Leicestershire Local Plan Proposals Map 2002.

Conclusion

Whilst the activities on the site may not be agricultural in planning terms and therefore contrary to the provisions of Policy S3, they are similar in nature to such activities and as such it is considered that on balance a reason for refusal on the basis of the proposed buildings being contrary to Policy S3 could not be justified in this case.

The proposals would not adversely affect the setting of listed buildings and would retain their significance, thereby resulting in less than substantial harm to these designated heritage assets which can be justified. The new buildings would not be so significantly detrimental to the character and appearance of this countryside location nor be so prominent within the landscape to justify a reason for refusal on these grounds. It is considered that a reason for refusal relating to impact on highway safety could not be justified in this case. The proposal is unlikely to result in significant levels of noise and disturbance nor loss of light, overshadowing or creation of an oppressive environment, and the proposal unlikely to affect any protected species. It can be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposed development therefore accords with the planning policies stated above. It is therefore recommended that planning permission be granted.

RECOMMENDATION:- PERMIT SUBJECT TO THE IMPOSITION OF CONDITIONS

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

responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

Main Report

1. Proposals and Background

Planning permission is sought for the erection of a timber framed commercial growing house (greenhouse), a building containing a barn, stabling and car port for associated smallholding use, a single storey garden room and balcony to the dwelling, a change of use to residential curtilage including landscaping works and realignment of the existing driveway at Dishley Farm, Main Street, Swepstone. The site is located on the northern side of Main Street, to the north west of the village of Swepstone. The site comprises a dwelling with attached outbuildings and a detached modern farm building and is surrounded by open fields and areas of hardstanding which were formerly occupied by agricultural buildings and used in association with the former farm that operated from the site. Permission was granted in March 2013 for a change of use of land to garden area, area for growing vegetables and area for housing pigs and orchard, formation of new driveway, pond and feeder ditch and erection of gates (13/00018/FUL), which has been implemented in part. A barn located to the south east of the farmhouse is in separate ownership and benefits from planning permission for conversion to a dwelling (04/00458/FUL refers), which it is understood has been implemented.

The growing house/greenhouse would be located 16 metres to the north east of the dwelling, on an area of land that is used for the growing of vegetables. The greenhouse would measure 13.87 metres wide by 4.4 metres deep by 4.01 metres to its highest ridgeline and would be used for growing produce to extend the growing season.

The barn/stables/car port building would be located in part on the site of an existing building, some 9.5 metres to the west/south west of the dwelling. The building would have a C-shaped footprint with a maximum width of 25.43 metres, a maximum depth of 15.85 metres and a maximum ridge height of 6.745 metres and would contain a barn, two stables, a log store and three carports. The barn would be used for the housing of vehicles and machinery used in the operation of the site and for storage of produce. One of the stables would be used for lambing and farrowing.

The single storey garden room would project 6.84 metres from the original dwelling's north western elevation and the first floor balcony would be located on the north western elevation of the former barn that now forms part of the dwelling.

A garden area was approved under the 2013 permission (13/00018/FUL) which would be extended and in part be landscaped along with a terrace, immediately to the north west/north east of the dwelling. Some of the work relating to the garden area has already been undertaken.

The site is currently accessed via a driveway that leads off Main Street, which serves the site and then splits to serve the surrounding agricultural land and barn which are in separate ownership. The new driveway would be four metres wide and follows a similar route to the approved driveway (which had not been constructed at the time of the officer site visit), extending from the western end of the existing drive through an open field to an area of hardstanding to be formed to the front of the dwelling and proposed barn/stables/carport building. The western portion of the existing drive would be retained as it is in separate ownership, with the remainder of the existing drive to the site being removed.

Amended plans and additional information has been received following concerns raised in respect of the need for and scale of the proposed buildings and their visual impact.

Tempe Farm, which is located to the north of the site, is a Grade 2 listed building. The site lies within the catchment area of the River Mease Special Area of Conservation. The site's planning history is set out in the report for planning permission ref. no. 13/00018/FUL.

2. Publicity

6 no. neighbours have been notified (Date of last notification 27 October 2014)

Site Notice displayed 25 July 2014

Press Notice published 23 July 2014

3. Consultations

Nicola Land Swepstone Parish Council consulted 15 July 2014

County Highway Authority consulted 15 July 2014

Environment Agency consulted 15 July 2014

Natural England consulted 15 July 2014

LCC ecology consulted 15 July 2014

NWLDC Conservation Officer consulted 26 August 2014

4. Summary of Representations Received

Four letters of representation (from the occupiers of two nearby dwellings) have been received which object to the application on the following grounds:

Principle/Need

- not clear what the proposed buildings would serve;
- assumption that there is a hidden agenda relating to the need for a large building and its future use;
- no evidence that a genuine farming enterprise has been established at a scale and nature that justifies the new buildings;
- not usual practice to erect buildings in the hope that future activity may develop to support its use;
- no evidence of a commitment to the buildings' agricultural use and so they could be used for domestic purposes;
- insufficient land and agricultural activity to justify buildings of this size;
- genuine intention and ability to engage in agriculture needs to be properly considered;
- unlikely that an agricultural operation of this size could justify the expense of a tractor and other machinery;
- not enough land on the site to cater for three horses and therefore hay would need to be brought on site;
- greenhouse is too large for its location and the produce grown will be too much for the family's consumption;
- greenhouse is elaborate and domestic in character;
- existing barn could be refurbished and is capable of accommodating machinery and equipment;
- new buildings are domestic and will serve residential needs of the occupiers;
- contradiction to require large car port spaces for the applicant's disabled son and then move them away from the dwelling;
- range of existing outbuildings could be upgraded to provide these parking spaces;
- lack of need for development given existing garaging/stabling attached to the dwelling;
- personal needs of the applicant's son are a material consideration in respect of one of the

garages but do not outweigh the harmful aspects of or justify the proposal;

- applicants have not demonstrated that the buildings are essential for the efficient long term operation of agriculture and is contrary to Policy S3 of the Local Plan;
- amended information does not provide additional information in respect of some matters nor justification for the scale of and need for the proposal;
- intention presumably is to sell produce off-site which implies vehicle movements;
- level of production could result in an application for a farm shop;
- vegetable production at this scale is a business and not a domestic/hobby use;
- the site should be assessed for business rates;

Visual Impact

- new barn would be much larger than the existing building;
- misleading to state that the new barn would only be 10% larger than the existing building as it would be 71% larger;
- scale of the proposals with new courtyard and formalisation of surrounding domestic activity would have a far greater impact on the countryside than the existing situation
- the barn would not easily assimilate into the landscape and would not appear smaller than the existing building;
- the dwelling would be overwhelmed by the scale and size of the new buildings;
- new driveway would cut across open countryside and alongside a courtyard and parking/turning area would compound impact on the countryside;
- the proposals would therefore be contrary to Policy E4 of the Local Plan;

Highway Safety

- additional traffic associated with intended use as a 'smallholding';
- increase in traffic using a below standard access;
- existing access is already overloaded due to use in connection with existing dwelling, adjacent approved dwelling, pig rearing and adjacent farmland;
- additional traffic would be generated relating to sheep rearing, greenhouse production, sale of apples, import of hay and foodstuffs and potential livery operation;
- previous refusal of a business at the site on highway safety grounds;
- introduction of retail sales should be resisted;
- creation of a separate access close to junction with Main Street could lead to confusion for visitors and result in reversing along the access drives;

Other Matters

- extent of garden land and curtilage is not clear;
- not clear whether full impact on nearby listed building and its setting has been appreciated;
- full assessment relating to impact on River Mease SAC/SSSI is required;
- land within the site is not within the applicant's ownership and no authority given for this land to be developed.

One of the letters also refers to inaccuracies in the application submission:

- the site is no longer a farm and cannot be described as an 'agricultural holding';
- it is a private dwelling and its curtilage has been delineated;
- the site is not a smallholding and has limited land ownership with a small area capable of productive use as land also given over to National Forest planting, parkland and a pond;
- if applicant wishes the site to become a smallholding he should apply for planning permission;
- the application gives the impression the property was derelict when purchased and the proposal would help to address this dereliction. However the property had been improved by the previous owners;
- the existing barn could be improved;

- goats are on the site but no evidence of pigs or sheep.

The Conservation Officer has no objections.

The County Highway Authority has no objections subject to a condition.

Natural England has no objections.

The Environment Agency advises there would be no additional foul drainage and has no further comments to make.

The County Ecologist has no objections.

The Conservation Officer has no objections.

No response has been received from Swepstone Parish Council by the date of this report.

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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 listed 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 (Presumption in favour of sustainable development)
Paragraph 17 (Core planning principles)
Paragraph 28 (Supporting a prosperous rural economy)
Paragraph 57 (Requiring good design)
Paragraph 119 (Conserving and enhancing the natural environment)
Paragraph 134 (Conserving and enhancing the historic environment)
Paragraph 204 (Planning conditions and obligations)

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. The following Local Plan policies are relevant to this application:

Policy S1 - Overall Strategy
Policy S3 - Countryside
Policy E2 - Landscaped Amenity Open Space

Policy E3 - Residential Amenities
Policy E4 - Design
Policy E7 - Landscaping
Policy F1 - National Forest - General Policy
Policy F2 - Tree Planting
Policy F3 - Landscaping & Planting
Policy T3 - Highway Standards
Policy T8 - Parking

Other Guidance

National Planning Practice Guidance - March 2014.
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.
River Mease Development Contributions Scheme - November 2012.

6. Assessment

The main issues for consideration in the determination of this application relate to the principle and sustainability of the development, its impact on a nearby listed building, its design and visual impact and its impact on highway safety, residential amenities, protected species and on the River Mease Special Area of Conservation.

Principle and Sustainability

The application site is located outside the limits to development where permission for new development would not normally be granted unless it is essential for the efficient long term operation of agriculture or forestry, and other specific uses, as set out in Policy S3 of the North West Leicestershire Local Plan. However there can be scope for ancillary development associated with existing sites in the countryside, including the erection of extensions to dwellings. The landscaping of part of the approved garden area and its extension would be immediately adjacent to the dwelling and would form part of this domestic area of the site. The drive would largely replace an existing driveway to the site and mostly follows the route of the driveway approved in 2013.

Under the 2013 application the activities proposed for the site were considered to fall outside the definition of agriculture on the basis that the activities were primarily for the personal use of the applicant and his family. It was however acknowledged that the activities would be very similar in nature to an agricultural use and as such it would be difficult to refuse the application based on non-compliance with Policy S3.

Under the current application, the supporting information refers to the site as a smallholding and advises that the site would be operated by the applicants as a family and they would not be employing any staff although they may require casual assistance in the autumn to help with apple picking. The application also advises that the site would produce approximately 10 times the level of produce used by an average family and that surplus produce would not be sold but given to a nearby pub or donated to local schools. It is therefore difficult to ascertain whether an agricultural use is taking place on the site. Even if the activities were considered to not be agricultural, they are similar in nature to an agricultural use.

The consideration therefore turns to whether the proposed buildings are acceptable in principle in this countryside location when considering the proposal against the NPPF and Policy S3. Regardless of whether the buildings are required for an agricultural or domestic/hobby use, consideration of whether they are reasonably necessary for the operation and needs of the site is required, in terms of overall need and the buildings' scale and design. Concerns have also been raised that buildings should not be erected in the hope that future activity may develop that requires such buildings.

Given the existing/proposed activities it would not be unreasonable to expect a building to be provided in connection with these uses, for storage of machinery, equipment and produce, nor for a greenhouse to be provided on a site where produce is grown. Although it is acknowledged that the greenhouse is larger than most domestic greenhouses, it is also noted that the applicants grow significantly more produce than most families and have the space to do so. The supporting information advises that the barn is required for the housing of vehicles and machinery necessary for the operation of the site and for storage of produce and hay and that the greenhouse would be used to grow vegetables/fruit in order to extend the growing season.

The barn element is considered to be an appropriate design for a storage building in a rural location. Furthermore some activities are already taking place at the site which would require machinery/equipment and space for storage, e.g. vegetable growing, apple trees, keeping of animals. It may be likely that hay would need to be imported and therefore stored on site. In addition, parts of the site form National Forest planting and grassland/parkland, which in themselves are likely to require some equipment for maintenance. Whilst the greenhouse has a somewhat domestic appearance it would not be overly detailed and would appear and function as a greenhouse.

As the stables would primarily be used for recreational purposes they are acceptable in principle under Policy S3. There is nothing within the application to suggest that a commercial equestrian use/livery would be operated from the site. Using the guidance relating to the number of horses and required grazing land provided by the British Horse Society it appears that there is sufficient land available within the site to graze two horses.

It would be desirable for the car ports and log store to be located within the single storey outbuildings attached to the dwelling and permission was previously granted in May 2006 (06/00395/FUL) for conversion of these outbuildings in part to car ports, which has not been undertaken. It is however acknowledged that in order to provide covered parking spaces some alterations would need to be undertaken in particular due to larger spaces being required due to the need for larger vehicles due to the personal circumstances of the applicants' son. The applicants were asked to consider this option but advise that the future accommodation requirements of their disabled son need to be addressed and these outbuildings have the potential to provide this accommodation. Given that the car ports/log store would not form the dominant element to the new building, it is considered that it would be difficult to justify a refusal of the proposals on the basis of the inclusion of the car ports/log store within this building.

It is noted that there is an existing barn on the site, although it is of poor design quality, would require some refurbishment (in particular to upgrade/replace the large timber boards that for the walls) and currently is not used in connection with the activities taking place on the site. The proposed building would be of an appropriate design for its proposed uses and would result in the benefit of removing an unsightly building. The floor area of the barn/stables/car port would be smaller than the existing building (approximately 311 square metres compared with 350 square metres) although this does not include the courtyard (which would increase the floor area to 401 sqm - not significantly greater than the existing building). It is also acknowledged

that the new building would in part be taller than the existing structure although this only relates to the barn area. It is also not unusual to find an area of hardstanding associated with stables and this area is small in scale. Both the barn building and the greenhouse have been reduced in size, with reductions in their height, depth and width, which in turn have resulted in a reduction in the floor area of the barn and the removal of a lambing/farrowing area, store and toilet and large passageway. It is however considered that the area of hardsurfacing proposed between the eastern end of the new driveway, the new building and the dwelling would be excessive in size and have an impact on visual amenities. As such it is considered that a condition should be imposed requiring a revised layout for this area.

Given the above, it is considered that if the buildings are reasonably necessary for the requirements of the activities taking place on the site, in regard to overall need and the buildings' scale and design. Paragraph 28 of the NPPF advises that plans should support the sustainable growth and expansion of all types of business and enterprise in rural areas, through conversion of existing buildings and well designed new buildings and although the activities on the site may not constitute a business it can be argued that they form an enterprise. Whilst the activities on the site may not fall within the definition of agriculture and would therefore be contrary to the provisions of Policy S3, they are similar in nature to such activities. As such it is considered that on balance a reason for refusal on the basis of the proposed buildings being contrary to Policy S3 could not be justified in this case.

Concerns have been raised that the scale of the proposals means that an element of commercial activity is proposed. As noted above the 2013 application referred to some commercial sales but that produce would be delivered, and this application notes that produce would be used by the family or donated/given away. A condition can be imposed to prevent any retail sales from the site and there is no evidence on the site or within the application that large scale commercial sales are proposed. However it should also be noted that if activities took place which resulted in the uses falling within the definition of agriculture, then planning permission would not be required for the use of land and buildings for such use. It is also deemed necessary in this case to impose a condition only allowing use of the buildings for the uses specified or for agricultural use given that other uses could have other planning impacts that would need to be considered.

Historic Environment

Tempe Farm lies 250 metres to the north of the site and St Peter's Church and No. 1 Church Street, Swepstone and its gate piers and wall lie over 500 metres to the south east; all are designated heritage assets as defined in the NPPF as they are Grade 2* and Grade 2 listed buildings. Tempe Farm originates from the 18th/early 19th century and stands on its own within the landscape, surrounded by open fields and young woodland plantations and is therefore prominent in some views from Main Street and the surrounding area. It is understood that the former farmhouse and surrounding land was owned by the Bakewell family from the 17th to 19th centuries, with the original farmhouse being extended in the late 18th century by Robert Bakewell (information taken from leaflet 'Tempe - 1657-2007 - A Brief Guide by Donald and Gerhild Donald).

St Peter's Church is a mainly fourteenth century structure with some fifteenth century alterations. The tower of the church was refaced in ashlar in 1842 and the furnishings of the church re-ordered by Henry Isaac Stevens (1806-1873) of Derby in 1842. (St Peter's Church, 1980, p3). The closed north door may have formerly provided access to the demolished Swepstone Hall and one of the bells is a memorial to those of the parish whom fell in the First and Second World Wars (St Peter's Church, 1980, p3). The church has a very prominent

position within the village and is visible from all approaches.

No. 1 Church Street was mainly built in the 18th century on a 16th and 17th century core with 19th century alterations although in its external appearance the building is largely a product of subsequent re-buildings in local red brickwork. The survival of stone plinths suggests that the existing building occupies the site of an earlier timber framed property. No. 1's gate piers and wall also date from the 18th century.

Therefore the listed buildings form an important part of the history of this locality and are considered to be heritage assets of some significance which have value for this and future generations.

The land rises up gradually from the road from the south towards the dwelling but there are higher viewpoints of the site from surrounding land in particular from the south and south east. The existing buildings on the site and adjacent land form part of the foreground to Tempe Farm and part of the backdrop to the church and No. 1 Church Street, and have done so, along with other modern farm buildings at the site which have now been demolished, for some time. The new buildings and garden land would be in close proximity to existing development at the site, including on the site of an existing building and the extensions would be small in scale and not prominent in the settings. The driveway would extend development within the foreground but given its nature and scale it would not be overly prominent in their settings. It is therefore considered that the proposals would not adversely affect the setting of the listed buildings and would retain their significance, thereby resulting in less than substantial harm to these designated heritage assets.

Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal. The less than substantial harm to the heritage assets is in this case considered on balance to be outweighed by the removal of an unsightly building and the supporting of enterprise within the countryside.

Design and Visual Impact

The extension and balcony would be small in scale when compared to the scale of the existing dwelling and neither would be overly prominent within the countryside. Although neither element reflects the traditional design of the dwelling, they would not be so detrimental to the dwelling's character to justify a reason for refusal. Although the landscaped and extended areas of the garden would be large in scale, it would be well related to the dwelling and would not be unduly prominent within the rural landscape. On this basis it is considered that the garden would not be significantly harmful to the character of the area. Conditions can be imposed limiting the extent of the garden to this area only and removing permitted development rights.

The driveway would run through an open field but most of the existing driveway would be removed, and as noted above it would largely follow the route of the approved driveway.

The greenhouse is considered to be domestic in its appearance, and based on the original plans, where it was located 23.6 metres from the rear of the dwelling, this was exacerbated by its isolation from the dwelling. Subsequently the greenhouse has been reduced in scale and repositioned 16 metres from the dwelling. Concerns were also raised in relation to the scale of the barn building and amended plans have been submitted which reduce its footprint and height.

The buildings would be visible in some public views due to higher viewpoints and lesser screening from lack of vegetation, e.g. from the adjacent National Forest woodland, and lower or gappy hedgerows. However from most public viewpoints some screening is available, either from hedgerows, woodland or the existing buildings at and adjacent to the site. Furthermore whilst in some viewpoints the buildings would be prominent, e.g. from the adjacent woodland and parts of Main Street to the south/south east, in most other views the buildings would be seen at a longer distance alongside the existing dwelling and the adjacent barn and silos.

The existing barn that would be demolished can also be seen in these views and the new building would occupy an almost identical position. It is acknowledged that the new building (including courtyard) would have a larger footprint (by approximately 50 square metres), although without the courtyard its footprint would be smaller, and that the barn element would be taller by 1.15 metres. However the stables and car port element would both have lower ridge heights (the car ports by 0.1 metres and the stables by 1.1 metres) and it is considered that the overall mass of the building would be less due to the design and shape of the new building when compared to the current structure, and the inclusion of a central open courtyard. Furthermore the existing building is of poor design quality, being constructed of some form of large timber panels and a corrugated roof, and is dilapidated to some extent and the proposal would result in the removal of an unsightly structure. The new building would be constructed of horizontal timber boarding and plain clay roof tiles, which are considered to be acceptable materials for a countryside location. As noted above the greenhouse would be more domestic in nature than would be expected for a commercial agricultural operation, but it would not be overly detailed and would appear and function as a greenhouse. Therefore on balance it is considered that the new buildings would not be so significantly detrimental to the character and appearance of this countryside location nor be so prominent within the landscape to justify a reason for refusal on these grounds.

Highway Safety

Concerns have been raised by nearby residents, including the owners of the adjacent barn, which benefits from an extant permission for conversion to one dwelling, in relation to impact on highway safety, in particular in relation to confusion between the two access drives in close proximity to the junction with Main Street and an increase in traffic using a sub-standard access which is already in heavy use.

The layout of the new access is similar to that on the 2013 approval. The existing drive is currently used by the applicant and his family who live at Dishley Farm, who undertake some of the activities which were approved under the 2013 permission, and farm vehicles accessing the surrounding farm land (which is not in the applicant's ownership). The new drive would serve Dishley Farm only and its associated uses, with the existing drive serving the adjacent agricultural land and the barn conversion once completed. The stables would be for use solely in connection with Dishley Farm and there is no reference to a commercial/livery operation.

The County Highway Authority advised in respect of the 2013 scheme that it was satisfied with the internal driveway arrangements due to the small amount of traffic that would use the access. The Highway Authority has no objections to the current scheme subject to a condition requiring the buildings to remain ancillary to the use of the site and not be used separately, on the basis that the access is adequate to cater for traffic generated by the use of the site but not for additional traffic is sub-divided. A previous application for use of an outbuilding at the site for a carpentry workshop (08/01299/FUL) was refused in October 2008 on highway safety grounds relating to an increase in turning traffic onto an unrestricted and unlit road, with a lack of appropriate visibility and where turning manoeuvres would be dangerous. The workshop was a

commercial operation of the then occupiers of Dishley Farm who had employees and vehicles (including LGVs) coming to and from the site.

Although it appears there may be some commercial sales associated with the uses already approved at the site it is understood that no retail sales would take place from the site (which can be restricted by condition) and produce would be delivered. The buildings are required for uses similar in nature to agriculture and given their scale and proposed mode of operation are unlikely to generate significant levels of traffic. However it should also be noted that if more commercial activities took place which resulted in them being defined as agricultural, then planning permission would not be required. Furthermore restrictions on the operation of the site as suggested by one of the letters of objection cannot be imposed via planning conditions; such restrictions would not meet the tests of planning conditions set out in the national planning practice guidance as they would be unenforceable and unreasonable, in particular as they would place disproportionate requirements on the applicants and prevent the use of land for agriculture which does not require planning permission.

Therefore on the basis of the current application and submitted information there is unlikely to be a significant increase in the amount of traffic visiting the site and using the new driveway. In view of the above it is considered that a reason for refusal relating to impact on highway safety could not be justified in this case.

Residential Amenities

Currently the nearest dwellings are Tempe Farm, some 250 metres to the north of the site, and Dishley Grange and Spring Cottage, some 250 metres to the south. The planning permission to convert the nearby barn has been implemented but has not been completed and so the building is not currently used as a dwelling. Extant planning permissions are a material consideration and the impact on this proposed dwelling needs to be taken into account. The new driveway would not be any closer to the proposed dwelling than the existing driveway. The garden area would be used in connection with residential occupation of Dishley Farm and a garden close to other dwellings is a common occurrence. The greenhouse would be 26 metres from this barn and the barn building would be over 48 metres away. As noted above if any retail sales take place in the future then the Authority can investigate and it is likely that an application for planning permission for such use would be required. Given these distances the level of traffic and activity associated with the proposal is unlikely to result in significant levels of noise and disturbance nor loss of light, overshadowing or creation of an oppressive environment.

Protected Species

A pond and a stream lie to the south east of the site and a pond has been created on the southern part of the site. There are hedgerows, trees, young woodland, overgrown grass/vegetation and pastureland close to the site. All of these are features that could be used by European Protected Species (EPS) and as such species may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions.

An Ecology Survey was undertaken in June 2014 with particular reference to bats, breeding birds, reptiles and great crested newts (GCN). No evidence of bat or bird activity, roosts or current bird nesting was found in the building to be demolished. Although habitat around this barn is considered suitable for reptiles and amphibians, this is a new habitat created due to demolition works on the site and is effectively an island habitat within an intensively managed landscape. The pond on adjacent land was scored below average suitability for GCN under a

Habitat Suitability Index assessment. The previous Ecology Report under the 2013 application found that the habitat around the pond is good for GCN. However the pond and immediate habitats are outside the application site and would not be directly affected by the works. The habitat within the application site on which the drive would be constructed is largely sub-optimal for GCN due to the dominance of short mown grassland. Main Street is also considered to be a barrier to GCN entering the site from the land to the south of the road. No GCN were found during the fencing off for the construction of the new pond. Therefore the survey suggests that no precautionary measures would be required save for contractors to be made aware of the potential for GCN. The County Ecologist is satisfied with this approach and advises that GCN are unlikely to be present on or near to the site.

Neither the submitted report nor the County Ecologist has advised that other protected species are likely to be affected by the proposal. The greenhouse would be erected on mown grassland and the barn building in place of the existing barn. The stream is not immediately adjacent to the site and the existing driveway and road are also likely to act as barriers for any species entering the site from this stream. None of the existing hedgerows, trees or young woodland would be affected by the proposal.

Given the above it is considered that the proposal is unlikely to affect any protected species. Therefore the Authority considers that the proposal would not offend against Article 12(1) of the Habitats Directive and that an EPS licence would not be required.

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). Furthermore a nearby brook appears to be a tributary of the River Mease. 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 would have a significant effect on the SAC is required.

The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). 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 is considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

As no staff would be employed (other than potentially casual labour who would make use of existing facilities and which would not result in a significant permanent increase of people on the site), no retail sales would take place from the site and any water used in association with the stabling of horses is likely to be low in quantities and is unlikely to discharge into a septic tank on site. As such there is unlikely to be an increase in foul drainage discharge from the site and therefore the DCS does not apply. Natural England and the Environment Agency have no objections. Although no details have been provided of the location of the septic tank, given that foul discharge is unlikely to increase such information is not required. A condition can be imposed requiring surface water from additional roof areas/hardsurfacing to discharge to soakaway or other suitable sustainable drainage system which can be designed to include measures to prevent pollution of the nearby stream. Given the proximity of this stream and that the driveway would cross a land drain that discharges into the stream a condition could be imposed relating to submission of a construction management plan.

Therefore it can be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features

of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Other Matters

The site lies within Flood Zone 1 and the area to be developed under the current application is less than one hectare in size. Therefore, there is no requirement for the submission of a Flood Risk Assessment under the Environment Agency's Standing Advice.

It is noted that part of the site (understood to be in the region of the new driveway and site access) is outside the applicant's ownership and that the owners have not given permission for their land to be developed. However no evidence has been provided to suggest that such consent would not be given in the future and in any case this land forms a small part of the site and would not affect the provision of the new buildings/garden/extensions.

In response to the other matters set out in the letters of representation that are not addressed above, the application of business rates is not a planning matter. Applications have to be considered on the basis of the information submitted with an application and the potential future use of the site (for different uses than those referred to in the application) cannot be taken into account. Should such uses occur then the Authority has powers to investigate. It is considered that the works that have already taken place at the site and to the dwelling have no weight in the consideration of this application as they have occurred without the need for the proposed development.

Conclusion

Whilst the activities on the site may not be agricultural in planning terms and therefore contrary to the provisions of Policy S3, they are similar in nature to such activities and as such it is considered that on balance a reason for refusal on the basis of the proposed buildings being contrary to Policy S3 could not be justified in this case. The proposals would not adversely affect the setting of listed buildings and would retain their significance, thereby resulting in less than substantial harm to these designated heritage assets which can be justified. The new buildings would not be so significantly detrimental to the character and appearance of this countryside location nor be so prominent within the landscape to justify a reason for refusal on these grounds. It is considered that a reason for refusal relating to impact on highway safety could not be justified in this case. The proposal is unlikely to result in significant levels of noise and disturbance nor loss of light, overshadowing or creation of an oppressive environment, and the proposal unlikely to affect any protected species. It can be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposed development therefore accords with the planning policies stated above. It is therefore recommended that planning permission be granted.

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

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

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

1990 (as amended).

- 2 The proposed development shall be carried out strictly in accordance with the following schedule of plans unless otherwise required by a condition of this permission:
- Location Plan (1:2500) received by the Local Planning Authority on 2 July 2014;
 - Drawing No. 430-PY.09 (As Existing Drawings) received by the Local Planning Authority on 2 July 2014.
 - Drawing No. 12.2952.01 (Topographical Survey - Sheet 1 of 3) received by the Local Planning Authority on 2 July 2014;
 - Drawing No. 12.2952.02 (Topographical Survey - Sheet 2 of 3) received by the Local Planning Authority on 2 July 2014;
 - Drawing No. 12.2952.03 (Topographical Survey - Sheet 3 of 3) received by the Local Planning Authority on 2 July 2014;
 - Drawing No. 12.2952.09C (Detailed Planning Proposals - Sheet 1 of 5) received by the Local Planning Authority on 29 September 2014;
 - Drawing No. 12.2952.10C (Detailed Planning Proposals - Sheet 2 of 5) received by the Local Planning Authority on 29 September 2014;
 - Drawing No. 12.2952.11A (Detailed Planning Proposals - Sheet 3 of 5) received by the Local Planning Authority on 2 July 2014;
 - Drawing No. 12.2952.12B (Detailed Planning Proposals - Sheet 4 of 5) received by the Local Planning Authority on 29 September 2014;
 - Drawing No. 12.2952.13B (Detailed Planning Proposals - Sheet 5 of 5) received by the Local Planning Authority on 29 September 2014;

Reason- To determine the scope of this permission.

- 3 No development shall commence on site in relation to the construction of any part of the barn/stable/carport building hereby approved until the existing farm building shown on Drawing Nos. 12.2959.09C, 13.2952.10C and the topographical surveys has been demolished in full, unless an alternative timescale for its 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.

- 4 Notwithstanding the submitted plans, no development shall take place in respect of the new driveway and barn/stable/carport building until revised details of the layout of the driveway and parking/turning area adjacent to the barn/stable/carport building and dwelling have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained.

Reason- the extent of the proposed area would be detrimental to the visual amenities of the area.

- 5 The external materials to be used in the new driveway/parking/turning area, barn/stables/carport building, greenhouse, extension and balcony hereby permitted shall be in strict accordance with those specified in the application unless alternative materials are first agreed in writing with the Local Planning Authority.

Reason- to ensure a satisfactory standard of external appearance.

- 6 Before first use of the barn/stable/carport, greenhouse, amended and extended garden area and driveway, details of a soft landscaping and boundary treatment scheme for the relevant part of the development shall be submitted to and agreed in writing by the Local Planning Authority. The agreed soft landscaping scheme shall be provided in the first planting and seeding season following the first use of the relevant part of the site and the agreed boundary treatment scheme shall be provided before first use of the relevant part of the site, unless alternative details or alternative implementation programmes are first agreed in writing with the Local Planning Authority.

Reason- to ensure a satisfactory landscaping scheme is provided within a reasonable period; in the interests of visual amenity.

- 7 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.

- 8 The curtilage relating to the garden area hereby approved shall be confined to the area hatched on the attached plan number LPA/14/00519/FUL.

Reason - To enable the Local Planning Authority to retain control over future development in view of the form of the development proposed and its location.

- 9 Notwithstanding the provisions of Class E 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) no building, enclosure, swimming or other pool shall be provided within the curtilage of the dwelling shown on Plan No. LPA/14/00519/FUL 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 site's location in the countryside.

- 10 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting these Orders) the buildings hereby approved shall only be used for the purposes specified in the application or for agricultural purposes, shall always remain ancillary to the use of the Dishley Farm site, shall not be used or occupied independently and the stables shall not be used in connection with a riding school, livery stables or any other business or commercial use.

Reason: Although the vehicular access is adequate to cater for traffic generated by the use of the premises, it is inadequate to cater for additional traffic that alternative uses and subdivision of the site could bring about; alternative uses could also result in other planning impacts, e.g. impact on the River Mease SAC/SSSI.

- 11 No retail sales of produce (including from any animals) shall take place from the site.

Reason- retail sales may not be acceptable due to the site's location outside a settlement and may have impacts on highway safety.

- 12 No development shall commence in relation to the driveway and parking/turning areas hereby approved until the following details have been submitted to and agreed in writing by the Local Planning Authority:
- (i) a scheme for the disposal, storage and use of the spoil excavated to form the driveway, including details of areas on which the spoil will be deposited to alter ground levels and the existing and proposed ground levels in these areas;
 - (ii) a detailed method statement for construction of the driveway and parking/turning areas. The method statement should set out methodologies to remove any risk of fuel, soils, building materials and waste water entering the brook 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;
 - (iii) details of the bridge that will cross the feeder ditch;
 - (iv) details of surface water runoff to the surrounding land to prevent discharge directly to the feeder ditch;
 - (v) removal of the existing driveway.

Construction works relating to the driveway shall be carried out in accordance with the agreed method statement. Any spoil excavated to form the driveway shall be stored/used in accordance with the scheme agreed under criterion (i). The driveway shall be constructed in accordance with the schemes agreed under criteria (iii) and (iv) and shall thereafter be so retained. The existing driveway shall be removed in accordance with the scheme agreed under criterion (v) within three months of the new driveway being provided.

Reason: to prevent an adverse impact on the River Mease Special Area of Conservation/SSSI; in the interests of visual amenities.

- 13 No development shall commence on site until a detailed method statement for the relevant part of the development (other than the driveway) 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 brook 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 each relevant part of the development 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/SSSI.

- 14 Before the external materials to the roof are installed to the extension and new buildings, details of the means of surface water discharge from the new roofs to the buildings and extension to soakaway, or another alternative sustainable drainage system so that the surface water does not enter the mains sewer system, shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be provided before the external materials to the roof are installed and shall thereafter be so retained.

Reason: to prevent an adverse impact on the River Mease Special Area of Conservation; to ensure a sustainable drainage system is provided on the site.

- 15 No development shall commence on site in respect of the stables until a scheme for the storage of manure has been submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall be provided before first use of the development hereby approved and shall thereafter be retained.

Reason: to prevent an adverse impact on the River Mease Special Area of Conservation/SSSI.

- 16 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.

- 17 Notwithstanding condition 5, before first use of the driveway hereby approved, it shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 10 metres behind the highway boundary which shall thereafter be so retained.

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

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England)) Order 2010 (as amended).
- 2 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at www.defra.gov.uk
- 3 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.
- 4 Under the terms of the Land Drainage Act 1991, the prior written consent of Lead Local Flood Authority (Leicestershire County Council) is required for any proposed works affecting the flow of any ordinary watercourse. An Environmental Permit may also be required from the Environment Agency.
- 5 Great crested newts are a rare and declining group of species. Hence, great crested newts and their breeding sites/resting places are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats &c.) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection. If great crested newts or their breeding sites/resting places are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0845 601 4523) should be notified and further advice sought. Failure to comply with this advice may result in

prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000 or to imprisonment for a term not exceeding six months, or both.

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

- Collapse of shallow coal mine workings.
- Collapse of, or risk of entry into, mine entries (shafts and adits).
- Gas emissions from coal mines including methane and carbon dioxide.

Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.

- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

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

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

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

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

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

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal

Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

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Erection of two-storey detached dwelling with detached garage

Report Item No
A5

28 Elder Lane Griffydam Coalville Leicestershire LE67 8HD

Application Reference
14/01073/FUL

Applicant:
Mr & Mrs B Fisher

Date Registered
5 December 2014

Case Officer:
Adam Mellor

Target Decision Date
30 January 2015

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought to the Planning Committee as the agent for the application is related to three serving councillors (Caroline Large, Charles Meynell and Richard Blunt).

Proposal

The application relates to the erection of one two-storey detached dwelling on 0.06 hectares of residential garden land to the north of No. 28 Elder Lane. Vehicular access into the site would be gained by utilising the existing access into the site with a double garage being provided to serve the new dwelling and off-street parking being provided for No. 28. The site is situated within the defined limits to development, as identified in the Local Plan, and the supporting information identifies that the proposed dwelling would serve a local need due to the occupants of No. 28 moving into the new dwelling and the current occupant's daughter and her family, who reside in Coalville, moving into No. 28.

Consultations

No representations against the development have been received with one supporting representation being received. Worthington Parish Council supports the development proposals and all other statutory consultees have no objections.

Planning Policy

It is considered that the development would comply with all relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant Policies of the North West Leicestershire Local Plan and guidance within the National Planning Policy Guidance (NPPG) document.

Conclusion

In conclusion, the site lies within limits to development where there is a presumption in favour of development subject to all other matters being addressed.

Whilst Griffydham would not be considered a sustainable settlement for new residential development it has been demonstrated that the dwelling would meet a local need and that this need could not be met by current housing stock available within the area. As a result the scheme is considered compliant with Paragraphs 10 and 55 of the NPPF and the Rural Housing Paragraph of the NPPG. The imposition of a condition to improve the sustainability of the construction will also mitigate against potential increased levels of private vehicle movements.

Sufficient amenity space would be available to both the new and existing dwelling with the dwelling also respecting the character and building line of Elder Lane which would ensure compliance with Paragraph 53 of the NPPF.

It is considered that the scheme would not result in sufficient detriment to the amenities of any existing or future occupants in accordance with Policy E3 of the Local Plan.

An acceptable design of dwelling and relationship with the surrounding environment have been achieved which ensures compliance with Paragraphs 57, 60, 61 and 75 of the NPPF as well as Policies E4, F1 and H7 of the Local Plan.

The provision of one dwelling would not result in substantial harm to vehicular or pedestrian safety along Elder Lane, given the levels of vehicular activity and their relative speeds, which would ensure compliance with Paragraphs 32 and 75 of the NPPF and Policies T3 and T8 of the

Local Plan.

No protected species would be adversely affected by the proposal, or any trees of particular merit, and suitable means of foul and surface water discharge from the site would be agreed with the relevant authorities under separate legislation. As such the scheme would accord with Paragraphs 103 and 118 of the NPPF, Policies E7, F1, F2 and F3 of the Local Plan and Circular 06/05.

Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION - APPROVE, subject to conditions and the completion 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, 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 with detached garage at 28 Elder Lane, Griffydam. No. 28 Elder Lane is a two-storey detached dwelling situated on the eastern side of the lane, where it is set back 9.0 metres from the public highway. An existing vehicular access into the site provides off-street car parking and access to a detached double garage. The site is situated within the defined limits to development, as outlined on the North West Leicestershire Local Plan Proposals Map, with the surrounding area consisting of residential properties and open countryside to the north of the site.

As part of the development an existing detached double garage and detached shed would be removed. The proposed dwelling would be constructed at a distance of 7.0 metres from the northern (side) elevation of No. 28 and would have dimensions of 7.9 metres in width by 10.4 metres in length and use of a pitched gable ended roof, on a 5.3 metre section of the length of the dwelling, with an eaves height of 4.3 metres and overall height of 6.8 metres. The 5.1 metre section of the length to the rear of the property would utilise a pitched gable ended roof with an eaves height of 2.5 metres and overall height of 6.1 metres. Two dormer windows would be provided on the western (front) elevation of the dwelling which would project 1.5 metres with widths of 1.9 metres and pitched gable ended roofs with eaves heights of 0.5 metres and overall heights of 1.2 metres. It is indicated on the floor plans that the dwelling would provide a lounge, kitchen, utility, bathroom, hall and dining/bedroom at ground floor level and three bedrooms, a bathroom and en-suite at first floor level for the occupants.

It is proposed that the existing vehicular access into the site would be utilised to serve the existing and new dwelling with a detached double garage being constructed to serve the new dwelling which would have dimensions of 5.6 metres in width by 5.5 metres in length and use of a pitched gable ended roof with an eaves height of 2.9 metres and overall height of 4.4 metres. This garage would be positioned 8.8 metres to the east of the proposed dwelling. A new parking area would be provided to the rear of No. 28 in order to provide off-street parking.

A design and access statement has been submitted in support of the application which indicates that the new dwelling would be occupied by the current occupants of No. 28 Elder Lane (the applicants) with their daughter and her family, who currently reside at Oakham Drive Coalville, moving into No. 28. In these circumstances the proposed dwelling would meet a local need and would allow the applicant's to benefit from on-site assistance and care as they become older.

Following the site visit it was requested that section and finished floor level information be provided, due to the variance in land levels in relation to surrounding development, in order to make an informed assessment. These details were received on the 8th January 2015 and have been fully considered in the assessment of the application undertaken.

The planning history of the site is as follows:-

- 76/1709/P - Domestic extensions - Approved 12th January 1977;
- 79/0169/P - Garage - Approved 27th March 1979;
- 90/1068/P - Erection of part two-storey side extension and single storey rear extension - Approved 21st November 1990.

2. Publicity

13 no. neighbours have been notified (Date of last notification 15 December 2014)

Site Notice displayed 16 December 2014

3. Consultations

Clerk To Worthington Parish Council consulted 15 December 2014

County Highway Authority consulted 15 December 2014

Severn Trent Water Limited consulted 15 December 2014

Head of Environmental Protection consulted 15 December 2014

NWLDC Tree Officer consulted 15 December 2014

LCC ecology consulted 15 December 2014

4. Summary of Representations Received

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

Leicestershire County Council - Ecology has no objections subject to clarification being provided on the whether the double garage to be demolished has a ceiling or enclosed roof space.

Leicestershire County Council - Highways considers that whilst the existing vehicular access would not meet current Highway Authority Standards and there would be an increase in vehicular traffic along Elder Lane, which would be undesirable, the overall implications to highway safety would not be sufficiently detrimental given the proposal relates to one dwelling.

NWLDC - Environmental Protection has no objections.

NWLDC - Tree Officer no representation received.

Severn Trent Water has no objections.

Worthington Parish Council has no objections and supports the development proposals.

Third Party Representations

One representation from the occupant of No. 39 Elder Lane has been received supporting the application due to it continuing to support the sustainability of the settlement as well as the wellbeing of the applicants.

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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 listed 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 10 (Achieving sustainable development);
Paragraph 14 (Presumption in favour of sustainable development);
Paragraph 17 (Achieving sustainable development);
Paragraph 28 (Supporting a prosperous rural economy);
Paragraph 32 (Promoting sustainable transport);
Paragraph 49 (Delivering a wide choice of high quality homes);
Paragraph 53 (Delivering a wide choice of high quality homes);
Paragraph 55 (Delivering a wide choice of high quality homes);
Paragraph 57 (Requiring good design);
Paragraph 60 (Requiring good design);
Paragraph 61 (Requiring good design);
Paragraph 75 (Promoting healthy communities);
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);
Paragraph 118 (Conserving and enhancing the natural environment);
Paragraph 203 (Planning conditions and obligations);
Paragraph 204 (Planning conditions and obligations);

Adopted North West Leicestershire Local Plan (2002)

The application site is within the Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

Policy S2 - Limits to Development;
Policy E3 - Residential Amenities;
Policy E4 - Design;
Policy E7 - Landscaping;
Policy F1 - General Policy;
Policy F2 - Tree Planting;
Policy F3 - Landscaping and Planting;
Policy T3 - Highway Standards;
Policy T8 - Parking;
Policy H4/1 - Housing Land Release;
Policy H7 - Housing Design;

Other Policies

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;

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 information in relation to motor cycle/cycle parking, the design of on/off-street parking and other highway safety/design matters;

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

Circular 06/2005 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in

order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites;

National Planning Practice Guidance

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

6. Assessment

Principle of the Development

The site is located within the limits to development where the principle of residential development is considered acceptable subject to compliance with the relevant policies of the adopted North West Leicestershire Local Plan and other material considerations.

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.

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted. Whilst a sequential approach is outdated in the context of the NPPF, the sustainability credentials of the scheme would still need to be assessed against the NPPF.

Whilst Griffydam has a limited range of facilities and services, it does contain a primary school (Griffydam County Primary School, Top Road), a place of worship (Wesleyan Reform Church, Rempstone Road), a meeting/community place (Wesleyan Reform Church, Rempstone Road and Beaumont Social Centre, Nottingham Road) and a two hourly bus service to other neighbouring towns and villages, where a greater range of facilities are available (nearest bus stop located on Top Road). Whilst the agent has referred to the village benefitting from a public house it is noted that the public house in Griffydam, The Waggon and Horses, is not currently open and has a planning permission in place for conversion to a residential dwelling under application reference 12/00809/FUL.

This level of service availability would not result in Griffydam being considered a sustainable settlement for new residential development, however, the intentions of the application are that the dwelling would serve a 'local need.' The now withdrawn Submission Core Strategy contained a Policy (CS7) which outlined that local needs housing may be acceptable where there is demonstrable local housing need that cannot be met from existing housing stock and where there is an established local connection. Whilst this policy is not applicable to the determination of the application there is policy within the NPPF which draws upon these recommendations including Paragraph 10 which identifies that: *"Plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas;"* and Paragraph 55 which states that: *"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities."* The National Planning Policy Guidance (NPPG) within Paragraph 001 associated with Rural Housing also identifies the following: -

- *"It is important to recognize the particular issues facing rural areas in terms of housing supply and affordability, and the role of housing in supporting the broader sustainability of villages and smaller settlements;"*
- *"A thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities such as schools, local shops, cultural venues, public houses and places of worship. Rural housing is essential to ensure viable use of these local facilities;"*

It is proposed that the current occupants of No. 28 (the applicant's) would move into the new dwelling with the applicants daughter and her family moving into No. 28 from their current property at Oakham Drive, Coalville. The applicants wish to remain in the area but need a property of smaller scale due to their age with the intended solution also ensuring that a family member is available for future care and assistance.

It is considered that the supporting information demonstrates that the applicants would have met the 'local needs' criteria formerly identified in Policy CS7 (i.e. a person or persons and their dependents residing permanently in the parish or adjoining parish, for at least 5 years or more in the previous 20 years; or a person or persons required to live close to another person who satisfies the aforementioned criteria and is in essential need of frequent attention and/or care due to age, ill health, disability and/or infirmity) given that they have resided in Griffydham for a period of ten years.

As part of the application process information has also been submitted to demonstrate that the 'need' for a dwelling of a smaller scale cannot be met from the existing housing stock and in this regard the agent has identified the following *"based on an estimated build cost of £100 per square foot for the erection of a dwelling which includes high quality materials a 1300 square foot three bedroom dwelling would cost approximately £130,000."* Using build cost figures of the 12th January 2015 (www.homebuilding.co.uk) the District Council finds that build costs for a two-storey 1300 square foot dwelling, minus the detached double garage, in the area using the most expensive build route (Main Contractor) and building to an Excellent specification, which would take into account better quality material as well as VAT, would amount to £197,831. Using Subcontractors would bring this price down to £179,646. Incorporating a detached garage of the scale proposed into the equation would raise the prices to £219,531 and £201,346 respectively. As such there is some discrepancy between the costing figures supplied by the agent and those of the District Council.

This discrepancy, however, needs to be considered in relation to similar sized housing stock available in the locality and information on such properties available at the time the application was submitted have been included as part of the submission. The Best Guide price produced by Howkins and Harrison LLP (Atherstone) demonstrates that 3+ bedroom dwellings available at present within a 0.5 mile radius of Griffydham postcode LE67 8HD are limited to nine in number, and are at prices ranging from £185,000 to £399,950. Whilst one property of £185,000 is identified this has been discounted on the basis that it is not directly relevant to the proposal (i.e. it is a terraced property in need of renovation). This would therefore make the cheapest property £279,950 which is coincidentally a three bedroomed detached property on Elder Lane (Rainbows End). In this context, therefore, the potential discrepancy between the agent's and the District Council's estimate costing figure is a moot point since the highest build cost identified by the District Council, on a property without a garage, would be £82,119 less than the lowest house price identified in the Estate Agent's Best Guide Price information thereby clearly indicating that the applicant's housing need could not be met from the existing housing stock in the locality.

Whilst the agent has also agreed to the dwelling being constructed to meet Code Level 4 of the

Code for Sustainable Homes, in order to offset any potential increase from CO2 emissions associated with trips undertaken by the private car, it is noted that the Code for Sustainable Homes has been abolished and will not be replaced until October 2015 with a set of core standards. Whilst this is the case it is considered that an appropriately worded condition could be imposed on the consent to ensure that the construction techniques employed ensure that the dwelling has improved sustainability credentials.

In conclusion, therefore, whilst Griffydham would not be considered a sustainable settlement for new residential development the fact that the proposal will satisfy a local need, which would be secured by the completion of a relevant Section 106 Agreement tying down the occupation of the dwelling to any persons meeting a local need in perpetuity. Appropriate conditions would be used so that the property was constructed using sustainable techniques, and this would enable the development to be sustainable in the context of Paragraphs 10 and 55 of the NPPF as well as the Rural Housing Paragraph of the NPPG.

Paragraph 53 of the NPPF outlines that inappropriate development of residential gardens should be resisted where there is the potential that development would cause harm to the local area. The implications of the development to the character and appearance of the streetscape and surrounding area (as discussed in more detail below) would not be sufficiently detrimental to justify a refusal of the application, given that the dwelling would respect the existing building line of Elder Lane and would have a design which would respect the characteristics of the surrounding area. A sufficient amenity area to the existing property would also be retained and as the dwelling is not protected, nor is the land protected open space or countryside, it is considered that the principle of the development would not conflict with the aims of Paragraph 53.

Residential Amenity

In respect of impacts on residential amenities it is considered that the properties most immediately affected by the proposed works would be No. 28 Elder Lane and Nos. 35 and 37 Elder Lane situated on the western side of the lane.

No windows exist in the northern (side) elevation of No. 28 with the proposed dwelling set 7.0 metres from this elevation. The new dwelling would not project beyond the western (front) elevation of No. 28 but would project 4.6 metres beyond its eastern (rear) elevation. Given the setting of the new dwelling away from No. 28 and the fact that the latter parts of the dwelling utilise a roof which has a lower eaves and ridge height it is considered that there would be no adverse overbearing or overshadowing impacts on the amenities of No. 28. Although the new dwelling would be set to the north of No. 28 the positioning of the new dwelling, as well as the windows of habitable rooms, would ensure that the future occupants amenities would not be adversely impacted on as a result of any adverse overbearing or overshadowing implications.

In respect of overlooking impacts it is considered that the windows on the eastern (rear) elevation would not result in any direct overlooking implications to the proposed rear amenity area to the new dwelling or any overlooking impacts into the dwelling given the oblique angle of view. Although roof lights serving a habitable room would be installed in the southern (side) elevation of the new dwelling, at a height of 1.4 metres above the internal floor level, it is considered that these would not result in a sufficiently detrimental overlooking impact on the amenities of No. 28, as to warrant a refusal of the application. This is due to the natural view established from roof lights, which is not a direct overlooking impact, the distance of the roof lights from the assumed curtilage boundary of No. 28 and the amount of private amenity space afforded to No. 28.

The detached garage would be set 13.6 metres from No. 28 and this distance would be considered sufficient in preventing any adverse impacts on the amenities of this property.

The ground levels on the western side of Elder Lane are lower than those of the eastern side of the lane. A section plan has been provided to show the relationship of the new dwelling with the highway and this shows that the finished floor level of the dwelling would be 22.33 metres, to match No. 28, with the road level being 19.07 metres. Whilst the properties on the western side of Elder Lane are situated at a lower level there would be a distance of 18.0 metres between the front elevation of the new dwelling and Nos. 35 and 37 which would be sufficient in ensuring that there would not be a significantly detrimental overbearing or overshadowing impact. This distance, coupled with the presence of vegetation on a strip of land between the application site and the highway, would also prevent any adverse overlooking impacts.

Overall, therefore, the development would accord with Policy E3 of the Local Plan.

Design

The need for good design in new residential development is outlined not only in Local Plan Policies E4 and H7 but also Paragraphs 57, 60 and 61 of the NPPF with Paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

It is proposed that the land levels on the site would be altered in order to provide a level base for the dwelling, which would have an overall height 0.35 metres higher than No. 28, with the proposed front elevation of the new dwelling also being set slightly further back than No. 28. The streetscape of Elder Lane is characterised by dwellings which either front onto the highway or are set back with the ridge heights of properties also varying due to the changes in land levels. In this regard, therefore, the position and height of the dwelling would not detract from the characteristics of the streetscape. In respect of the impacts on the surrounding area it is considered that although located in a prominent position adjacent to open countryside, with public footpath M43 running to the north of the site, the development would be viewed in the context of its relationship with other built forms and in this context its implications to the surrounding environment would not be sufficiently detrimental as to warrant a refusal of the application.

In terms of the design of the dwelling itself it is considered that it would be acceptable and would include design features which the Local Authority considers desirable (chimneys, eaves and verge detailing, stone cills, brick headers, a canopy and timber windows and doors) with the features also being consistent and in keeping with the design of properties within the village which are considered to make a positive contribution to the visual amenity of the area (such as 47 Elder Lane and 79 Elder Lane). The inclusion of timber windows and doors, along with a timber canopy, would also reinforce the National Forest identity of the dwellings. The overall footprint of the dwelling and detached garage are also considered to be consistent with dwellings within the vicinity of the site and as such the overall design of the dwellings would be positive to the character and appearance of the wider area.

The scale of the detached garage is subservient in relation to the main dwelling and its positioning would ensure that it would not have significant visual implications to the surrounding environment.

The agent for the application has stipulated that the dwelling would be constructed from hand

made red brick, clay tiles with either stained or painted timber joinery and the use of these materials will be acceptable and would respect the characteristics of the area. A condition would be imposed on any consent to ensure that these materials are utilised with relevant samples being submitted to the District Council for approval.

Overall the layout, design and scale of the dwelling is considered to be appropriate and would ensure that the development accords with Paragraphs 57, 60, 61 and 75 of the NPPF and Policies E4, F1 and H7 of the Local Plan.

Highway Safety

The County Highways Authority has no objections to the application due to it only relating to the provision of one additional dwelling which would not result in a significant increase in the levels of vehicular activity on Elder Lane and as such there would not be any significant implications to pedestrian or highway safety. It is proposed that the existing vehicular access would be utilised to serve both dwellings and whilst the width of this vehicular access would not be in compliance with the County Council standards it is considered that the likelihood of conflict between vehicles entering and exiting the site would be fairly infrequent. The level of traffic, and their relative speeds, along Elder Lane would also not result in significant detriment to highway safety on the occasions where a vehicle may need to wait in the highway whilst another vehicle exits the site. On this basis the development would accord with Paragraph 32 of the NPPF and Policy T3 of the Local Plan.

In respect of off-street car parking it is considered that the proposed double garage for the new dwelling, and external off-street parking for the existing dwelling, would be sufficient and would accord with the principles of Policy T8 of the Local Plan.

Elder Lane also acts as a footpath/bridleway/cycleway and whilst the County Council Footpaths Officer has not been consulted on the application it is considered that the development would not have significant implications to the safe usage of this right of way for the reasons given above. Whilst this is the case the relevant notes to applicants imposed on consents where rights of way may be affected will be included on any consent granted. This would ensure compliance with Paragraph 75 of the NPPF.

Ecology

The County Ecologist has commented that clarification needed to be provided on whether the detached garage to be removed has a ceiling or enclosed roof space due to the possibility of bats inhabiting the building. Confirmation from the agent for the application has been received to identify that the detached garage does not have a ceiling or enclosed roof area and as a result of this it is unlikely that bats would utilise the building for feeding or roosting purposes. In any case the garage and shed are domestic structures which could be demolished at anytime without planning permission and such demolition would result in the same implications to protected species as the current proposal. Therefore it is considered that the development would not have significant conflict with the principles of Paragraph 118 of the NPPF or Circular 06/05 as to warrant a refusal of the application. Although this is the case a relevant note to applicant would be attached to any planning consent to make them aware of the guidance that should be adhered to should bats be discovered.

Landscaping

The substantial vegetation which existed on the site at the time pre-application advice was provided has been removed prior to the submission of the application. Although this is the case vegetation is retained within the grounds of No. 28 as well as to the boundaries of the parcel of land which exists between the site and Elder Lane. The position of the dwelling in relation to the

retained vegetation would ensure that it would not impact significantly on its integrity and replacement planting to mitigate that already removed could be secured via the imposition of a landscaping scheme condition on any consent granted. It is considered that on this basis the development would accord with Policies E7, F1, F2 and F3 of the Local Plan.

Other Matters

Severn Trent Water have no objections to the application and as a result of this it is considered that there would be no issues in respect of foul or surface water drainage for the development. In these circumstances there would be no conflict with Paragraph 103 of the NPPF.

Conclusion Summary Reasons for Granting Planning Permission

In conclusion, the site lies within limits to development where there is a presumption in favour of development subject to all other matters being addressed.

Whilst Griffydam would not be considered a sustainable settlement for new residential development it has been demonstrated that the dwelling would meet a local need and that this need could not be met by current housing stock available within the area. As a result the scheme is considered compliant with Paragraphs 10 and 55 of the NPPF and the Rural Housing Paragraph of the NPPG. The imposition of a condition to improve the sustainability of the construction will also mitigate against potential increased levels of private vehicle movements.

Sufficient amenity space would be available to both the new and existing dwelling with the dwelling also respecting the character and building line of Elder Lane which would ensure compliance with Paragraph 53 of the NPPF.

It is considered that the scheme would not result in sufficient detriment to the amenities of any existing or future occupants in accordance with Policy E3 of the Local Plan.

An acceptable design of dwelling and relationship with the surrounding environment have been achieved which ensures compliance with Paragraphs 57, 60, 61 and 75 of the NPPF as well as Policies E4, F1 and H7 of the Local Plan.

The provision of one dwelling would not result in substantial harm to vehicular or pedestrian safety along Elder Lane, given the levels of vehicular activity and their relative speeds, which would ensure compliance with Paragraphs 32 and 75 of the NPPF and Policies T3 and T8 of the Local Plan.

No protected species would be adversely affected by the proposal, or any trees of particular merit, and suitable means of foul and surface water discharge from the site would be agreed with the relevant authorities under separate legislation. As such the scheme would accord with Paragraphs 103 and 118 of the NPPF, Policies E7, F1, F2 and F3 of the Local Plan and Circular 06/05.

Accordingly the application is recommended for approval of planning permission, subject to the imposition of planning conditions.

RECOMMENDATION - PERMIT, subject to the following conditions and the completion of a Section 106 Agreement;

- 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 site plan (1:1250) and drawing number 56/1/2014, received by the Local Authority on the 5th December 2014, as well as the block plan (1:250) and drawing number 56/2/2014, received by the Local Authority on the 8th January 2015, unless otherwise required by another condition of this permission.

Reason - to determine the scope of the permission.

- 3 Notwithstanding the details shown on the approved plans, no development shall commence until the following have been submitted to and agreed in writing by the Local Planning Authority: -
- A sample of the hand made red brick;
 - A sample of the clay roof tile;
 - Details of the colour/stain finish of the timber joinery;
 - Details of the brick bond;
 - Details of the rainwater goods;
 - Details of the eaves and verge detail;
- The development shall then be carried out in accordance with the approved details which shall thereafter be so retained.

Reason - to enable the Local Planning Authority to retain control over the external appearance in the interests of the amenities of the area.

- 4 Notwithstanding the details shown on the approved plans before first occupation/use of the dwelling, hereby approved, a scheme of soft and hard landscaping (including for the retention of any existing trees and hedgerows) shall be submitted to and agreed in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the first occupation/use of the dwelling with the hard landscaping scheme being provided in full prior to the first occupation/use of the dwelling unless alternative implementation programmes are first agreed in writing with the Local Planning Authority.

Reason - to ensure a satisfactory landscaping scheme is provided within a reasonable period and in the interests of visual amenity given the site's location in the National Forest.

- 5 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.

- 6 Notwithstanding the details shown on the approved plans before first occupation/use of the dwelling, hereby approved, a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railings and other means of enclosure) shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be provided in full prior to the first occupation of any dwelling hereby

approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.

Reason - to preserve the amenities of the locality, in the interests of highway safety and because insufficient information has been submitted as part of the application.

- 7 The proposed site levels and finished floor level of the dwelling shall be provided in strict accordance with those shown on the block plan (1:250) and drawing number 56/2/14, received by the Local Authority on the 8th January 2014, unless alternative site levels and finished floor levels are first submitted to and agreed in writing by the Local Planning Authority.

Reason - to determine the scope of the permission and in the interests of residential amenity.

- 8 Prior to the first occupation of the dwelling, hereby approved, the detached garage and parking and turning areas for both the new dwelling and No. 28 Elder Lane shall be provided in accordance with those shown on the block plan (1:250) and once provided shall thereafter be maintained and kept available for use at all times.

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.

- 9 No development shall commence until such time as a statement outlining the range of measures proposed to be incorporated into the proposed development in respect of construction techniques to improve the sustainability credentials of the dwelling are first submitted to and agreed in writing by the Local Planning Authority. The development shall then be carried out in accordance with the agreed details.

Reason - to ensure that the development takes the form envisaged by the Authority and for the purposes of sustainability.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 The applicant will be responsible for ensuring that footpath/bridleway/cycleway along Elder Lane is not affected by any operations associated with the development during the implementation of the planning consent, and that free access can be exercised safely by pedestrians at all times. Care should be taken to ensure that pedestrians are not exposed to any elements of danger associated with construction works, and wherever appropriate they should be safeguarded from the site by a secure fence.
- 4 Any damage that may be caused to the surface of the footpath which is directly

- attributable to works associated with the development will be the responsibility of the applicant to repair at his own expense to the satisfaction of the Highway Authority.
- 5 Bats are a rare and declining group of species. Hence, all British species of bat and bat roosts are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection or disturb bat roosts. If bat or bat roosts are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0115 929 1191) should be notified and further advice sought. Failure to comply with this advice may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both.
- 6 The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in prosecution any anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both, as it is an offence to disturb nesting/breeding birds.

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Change of use of agricultural barn to commercial use to include B2 and B8 use and associated parking/service area. (re-submission of 11/00748/FUL)

**Report Item No
A6**

**Cattle Shed South Of Service Station Atherstone Road
Appleby Magna DE12 7AP**

**Application Reference
14/01082/FUL**

**Applicant:
Mr R Phizacklea**

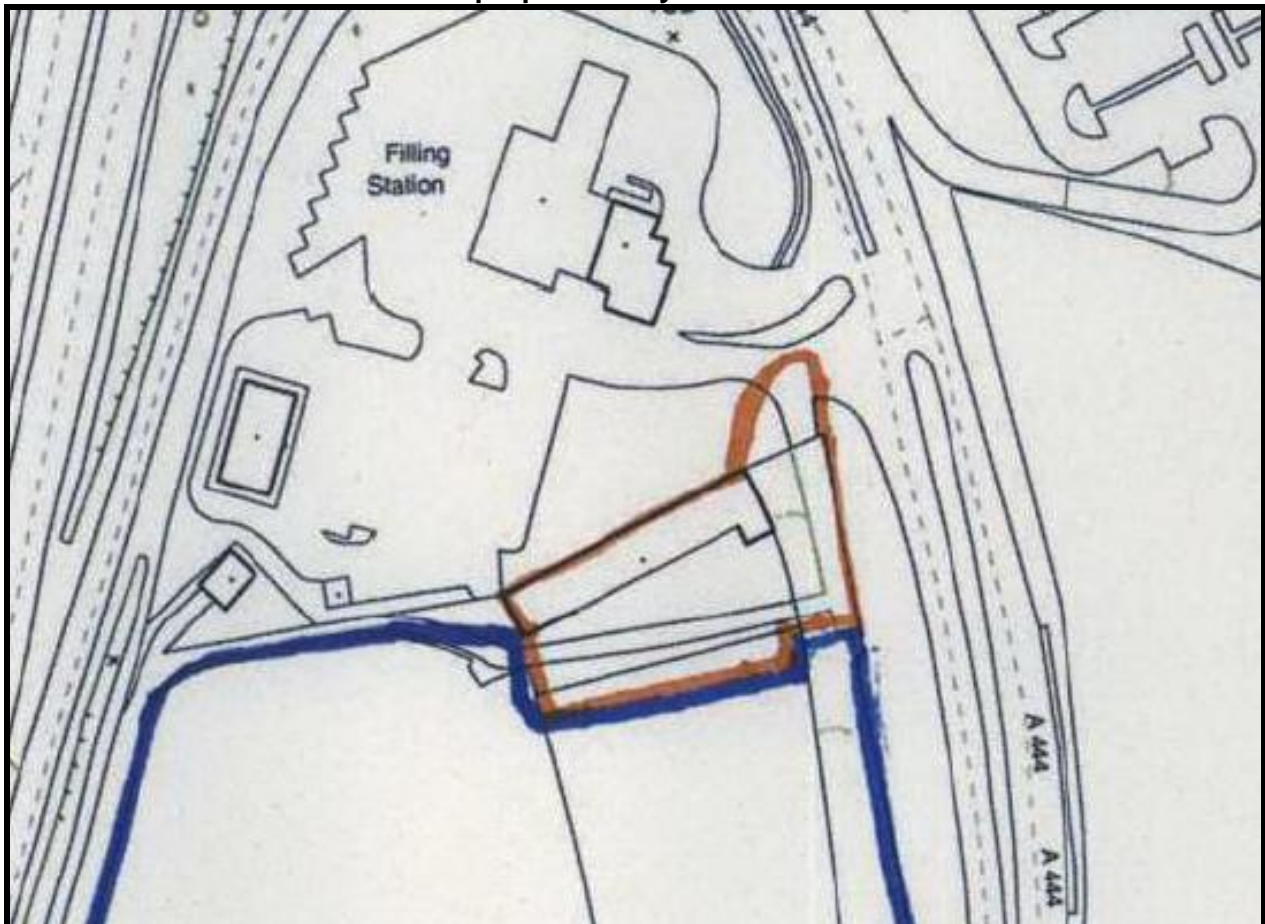
**Date Registered
15 December 2014**

**Case Officer:
Ebony Mattley**

**Target Decision Date
9 February 2015**

**Recommendation:
PERMIT**

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application falls to be determined by the Planning Committee as Councillor Caroline Large is the sister-in-law of the agent.

Proposal

Planning permission is sought for a change of use of agricultural barn to commercial uses within B2 and B8 use classes with associated parking/service area at an agricultural barn to the south of M42 Junction 11 Service Area, Atherstone Road, Appleby Magna.

Consultations

Members will see from the main report that there are no objections to the application, with the exception of the County Highway Authority. The County Highway Authority raises no objection in respect of highway safety, subject to the imposition of conditions, but raises an objection on sustainability grounds.

Planning Policy

The site lies outside Limits to Development, as defined by the North West Leicestershire Local Plan Proposals Map 2002.

Conclusion

Whilst the site is situated outside the defined limits to development Policy E24 allows for the re-use or conversion of rural buildings. It is considered that the building is structurally sound for conversion, would not be significantly altered to accommodate the use, would not be visually detrimental to the landscape and would accommodate sufficient space for parking.

The scheme does not give rise to any significant material impacts upon visual or residential amenity and the character of the area, or highway safety and 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. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION:- PERMIT SUBJECT TO THE IMPOSITION OF CONDITIONS

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

MAIN REPORT

1. Proposals and Background

Planning permission is sought for a change of use of agricultural barn to commercial uses within B2 and B8 use classes with associated parking/service area at an agricultural barn to the south of M42 Junction 11 Service Area, Atherstone Road, Appleby Magna.

At present a corrugated sheet metal and block work agricultural storage building exists on the site with dimensions of 46.0 metres in width by 9.0 metres in length and use of a mono-pitched roof with a height of 3.4 metres on the rear and 4.7 metres on the front. In order to facilitate the change of use it is proposed that all existing openings on the south-eastern (front) elevation would be utilised by either the installation of new roller shutter doors or infilling with facing block work and cladding to match the existing as well as new doors and windows. Along with these works a new personnel door would be inserted in the south-eastern (front) elevation along with a window in the south-western (side) elevation and a front projection to the building would be removed.

A revised access would be proposed for the site which would allow access for Heavy Goods Vehicles (HGV's) due to the existing access not being suitable for use by these types of vehicles given its position in relation to the entrance to the site off Atherstone Road.

The site is situated outside the defined limits to development, as defined by the North West Leicestershire Local Plan Proposals Map 2002, and lies adjacent to the boundary with the service area on Atherstone Road.

The application is accompanied by a design and access statement, structural survey and protected species survey.

Planning History

The planning history of the site is as follows: -

11/00748/FUL - Erection of a single storey three classroom block to the rear of the school and provision of additional parking spaces - Approved 29 February 2012;
 08/01164/FUL - Change of use to commercial use (B1, B2 and B8) with associated parking/service area - Withdrawn 26th September 2008.
 84/0384/P - Proposed 2 agricultural dwellings with access (outline) - Approved 20th June 1984;
 81/0741/P - Erection of an agricultural dwelling (outline) - Refused 3rd March 1982;
 79/1398/P - Erection of two agricultural dwellings (outline) - Refused 27th August 1980.

2. Publicity

No neighbours have been notified.

Site Notice displayed 2 January 2015

Press Notice published 7 January 2015

3. Consultations

Appleby Magna Parish Council consulted
 Head of Environmental Protection consulted
 County Highway Authority consulted 24 December 2014

Environment Agency consulted 24 December 2014
Severn Trent Water Limited consulted 24 December 2014
Head of Environmental Protection consulted 24 December 2014
Natural England consulted 24 December 2014
LCC ecology consulted 24 December 2014

4. Summary of Representations Received

The following summary of representations is provided.

Leicestershire County Council - Highways raises no objection in respect of highway safety, subject to the imposition of conditions, but raises an objection on sustainability grounds.

Leicestershire County Council - Ecology raises no objection.

NWLDC Environmental Protection has no environmental observations.

Third Party Representations

No third party representations have been received.

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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 listed 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 (Presumption in favour of sustainable development)
Paragraph 34 (Promoting sustainable transport)
Paragraph 57 (Requiring good design)

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. The following Local Plan policies are relevant to this application:

S3 - Countryside
E3 - Residential Amenities

E4 - Design
 E24 - Re-Use and Adaptation of Rural Buildings
 T3 - Highway Standards
 T8 - Parking

Other Guidance

National Planning Practice Guidance - March 2014.
 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.
 River Mease Development Contributions Scheme - November 2012.

6. Assessment

The main issues for consideration in the determination of this application relate to the principle of development, design, impact upon residential amenity, highway considerations and impact upon the River Mease Special Area of Conservation/SSSI.

Principle of Development

The principle of the conversion of the agricultural barn to commercial units has already been established by the granting of full planning permission ref: 11/00748/FUL which is still extant (until 28 February 2015).

Whilst the site is situated outside the defined limits to development Policy S3 does allow for proposals which would represent acceptable farm diversification and which would involve the re-use or conversion of rural buildings in accordance with Policy E24.

A structural survey has been submitted in support of the application which concludes that the building, with an element of strengthening, could be converted without major reconstruction and is of sound and permanent construction. Visually the building is a relatively small scale agricultural building and is typical of many buildings in the countryside. Whilst not of any visual merit it does not detract from the character or appearance of the locality. The alterations proposed would result in a more industrial appearance, especially to the front of the building. However, the building is not easily open to view due to its orientation and landscaping. It is considered that the conversion works would not result in a building which would be out of keeping with the visual character of the area given the existing building and adjacent service area.

The planning statement states that the building has been used for agricultural purposes and is no longer needed for such uses due to the evolution of the farm practices. There is no evidence to suggest that the building was not intended for agricultural purposes or that it has not been used for farming. The building has an existing access which is shared with the service station and the site can accommodate a satisfactory level of parking and services on an existing hard surfaced area.

On this basis the development would accord with Policy E24 of the Local Plan.

Design

The present building is of modern construction but is not of a scale which would make it visually dominant on the surrounding landscape. At present the building is in a state of disrepair and the alterations to incorporate the change of use would ensure the preservation of the building. Whilst the building would become industrial in character it is considered that its visual implications to the character and appearance of the rural landscape and surrounding area would not be sufficiently detrimental given the context of the site's setting. The presence of landscaping to the southern and eastern boundaries of the site will also reduce the visual prominence of the building and, if necessary, additional landscaping could be conditioned as part of any planning permission.

The hard surface where vehicles would turn and park is already in existence on the site and as such there would be no further impacts on the character of the rural landscape.

It is proposed that the cladding and profile sheeting would be similar to that already utilised on the building and the use of this material is considered acceptable in preserving the overall character and appearance of the premises as well as the surrounding area

Overall the design, scale and appearance would be acceptable and would accord with Policy E4 of the Local Plan.

Impact upon Residential Amenity

No residential properties exist within close proximity to the site, although a hotel lies 110 metres to the north east of the site. Given the presence of other commercial uses within the vicinity of the site, as well as the proximity of the A42, it is considered that the proposed change of use would not be sufficiently detrimental to the amenities of neighbours in terms of noise or smells. The proposal would also not impact significantly on the other users of the site (service station and McDonalds), by virtue of a larger number of vehicles entering the site, given the limited scale of the building.

Highway Considerations

The scheme has been considered by the County Highway Authority (CHA) who have repeated their previous comments made on application ref: 11/00748/FUL.

The CHA have concerns with the regard to the location of the proposal and its accessibility to other forms of transport other than the car, however state that should the Local Planning Authority be minded to approve the application, they would wish to see conditions imposed in the interests of highway safety.

It is considered that potentially any barn conversion in the countryside, by virtue of its location, will be in conflict with sustainability policies, however the development plan through Policy E24, looks favourably on the conversion of the appropriate buildings as the retention of such buildings is important in retaining and maintaining the character of the countryside. Accordingly, the conflict in terms of sustainability is considered to be outweighed by the benefit found in the retention and re-use of this rural building.

The CHA have requested a condition for the provision of signage to inform visitors to the site that when exiting they must turn. It is not considered that this request falls within the remit of the planning system, as it is a separate highway consideration, and would not be enforceable.

In any case, the one way system is already in operation and vehicles are restricted from turning right at this point in the site due to the presence of a large traffic island.

Sufficient parking is indicated within the boundaries of the site for cars as well as commercial vehicles and on this basis the proposal would accord with Policy T8 of the Local Plan.

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.

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). 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 would have a significant effect on the SAC is required. The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). 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 is considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

The previous application ref: 11/00748/FUL concluded that a River Mease Developer Contribution was not applicable, and there have been no changes since that was determined. It is not therefore considered that it would now be possible to argue that the development would result in any higher rates of discharge in order to require that a River Mease Developer Contribution would now be required. Furthermore, the original application could be implemented, as it does not expire until 28 February 2014.

It is considered that a condition relating to the technical details of foul drainage is not required as the principle of connecting to the mains sewer has been established and the details of drainage are dealt with under separate legislation under the Building Regulations and by Severn Trent Water. However, a condition requiring that only a mains connection is used at the site would be required as the use of other means for foul drainage discharge could adversely affect the SAC. Surface water run-off would also be directed to soakaways which would further ensure the preservation of the River Mease SAC.

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

Ecology

The scheme has been considered by the County Council Ecologist who has no objections to the application as the building is completely unsuitable for bats. As an active collared dove nest was discovered during the survey of the building and it is therefore recommended that any works are carried out outside the main breeding season.

Conclusion

In conclusion, whilst the site is situated outside the defined limits to development, Policy E24 allows for the re-use or conversion of rural buildings. It is considered that the building is structurally sound for conversion, would not be significantly altered to accommodate the use, would not be visually detrimental to the landscape and would accommodate sufficient space for parking. Accordingly on this basis it would accord with Policy E24 of the Local Plan. The scheme does not give rise to any significant material impacts upon visual or residential amenity and the character of the area, or highway safety and 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. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION:- Permit, subject to the following conditions:-

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

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

- 2 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission: Site Location Plan (1:2500); Site Plan (1:500), Plans and Elevations Proposed Drawing No. APM.PRP.001 Revision A, received by the Local Authority on the 15 December 2015, unless otherwise required by another condition of this permission.

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

- 3 The external materials to be used in the development hereby permitted shall be in strict accordance with those specified in the application and as shown on Plans and Elevations Proposed Drawing No. APM.PRP.001 Revision A, received by the Local Authority on the 15 December 2015, unless alternative materials are first agreed in writing with the Local Planning Authority.

Reason - To ensure a satisfactory standard of external appearance.

- 4 The use of the building hereby approved shall be limited to Use Classes B2 (General Industrial) and B8 (Storage and Distribution) of the Town and Country Planning (Use Classes) Order 1987 or any order revoking and re-enacting that Order.

Reason - To prevent an adverse on the River Mease Special Area of Conservation; to preserve the amenities of any users of the building; other uses may have different highway safety implications.

- 5 The development shall be carried out in strict accordance with the details and timings specified in paragraphs 5.2 of Section 5 (Evaluation and Mitigation Recommendations) of the "Protected Species Survey of a Cattle Shed near Appleby Magna Services at Junction 11 of the M42" by EMEC Ecology dated July 2011, received by the Local

Authority on the 15 December 2014.

Reason - To ensure that bird species are protected and their habitat enhanced.

- 6 The development hereby approved shall only use the mains sewer system for its foul drainage discharge.

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

- 7 Before first use of the development hereby approved, the surface water shall be disposed from the site to soakaways or another sustainable drainage system, unless it is first agreed in writing with the Local Planning Authority that these suggested means of drainage are not suitable for the site and surface water discharge would be to the mains sewer.

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

- 8 Before first use of the development hereby permitted the following shall be carried out: -
- a) The access drive shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 15.0 metres from its junction with the main service area access road and shall thereafter be so maintained;
 - b) The existing access gates to the vehicular access shall be removed. Details of any new vehicular access gates, barriers, bollards, chains or other such obstructions erected shall be submitted to the Local Planning Authority for approval in writing;
 - c) The car parking and manoeuvring facilities shown on Site Plan (1:500) and Plans and Elevations Proposed Drawing No .APM.PRP.001 Revision A, received by the Local Authority on the 15 December 2015, shall be provided, hard surfaced and available for use and shall thereafter be so maintained;
 - d) The off-road lorry parking/manoeuvring/service yard as shown on Site Plan (1:500) and Plans and Elevations Proposed Drawing No .APM.PRP.001 Revision A, received by the Local Authority on the 15 December 2015, shall be brought into use and shall thereafter be so maintained;
 - e) The vehicular access to the site shown on Site Plan (1:500) and Plans and Elevations Proposed Drawing No .APM.PRP.001 Revision A, received by the Local Authority on the 15 December 2015 shall be provided and thereafter be so maintained.

Reasons - To provide a satisfactory form of access to enable ease of use and reduce the possibility of the access introducing problems on the main service access drive; to enable a vehicle to stand clear of the main site access road whilst the gates are opened/closed and protect the free and safe passage of traffic in the public highway; 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; to ensure that adequate off-street parking provision is made to reduce the possibilities of the

proposed development leading to parking problems in the area and the vicinity of the site access with the main access serving the service area; to enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety and to afford easy access to the site and protect the free and safe passage of traffic in the public highway.

- 9 The gradient of the access drive shall not exceed 1:12 for the first 5 metres from its junction with the main service area access road.

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

- 10 The existing vehicular access that becomes redundant as a result of this proposal shall be closed permanently and the existing vehicular access reinstated as a verge within one month of the new access being brought into use.

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

- 11 For the period of 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.

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).

APPENDIX TO THE REPORT OF THE HEAD OF PLANNING AND REGENERATION

SUMMARY OF RELEVANT NATIONAL AND LOCAL PLANNING POLICIES AND MATERIAL CONSIDERATIONS

NATIONAL PLANNING POLICIES

National Planning Policy Framework

The NPPF reiterates the statutory requirement that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. It also states that the document should be read in conjunction with the policy statement on Gypsies and Travellers.

Achieving sustainable development –

The purpose of the planning system is to contribute to the achievement of sustainable development. There are 3 dimensions to sustainable development:

- An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places to support growth and innovation;
- A social role – supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built development with accessible local services; and,
- An environmental role – contributing to protecting and enhancing our natural, built and historic environment.

At the heart of the NPPF is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision making.

For decision making the following key paragraphs are:

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."

Building a strong, competitive economy

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

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

Ensuring the vitality of town centres

"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."

Supporting a prosperous rural economy

"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..."

Promoting sustainable transport

"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."
- "38 For larger scale residential developments in particular, planning policies should promote a mix of uses in order to provide opportunities to undertake day-to-day activities including work on site. Where practical, particularly within large-scale developments, key facilities such as primary schools and local shops should be located within walking distance of most properties."

Delivering a wide choice of high quality homes

- "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."

Requiring good design

- "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."
- "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."

"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."

Meeting the challenge of climate change, flooding and coastal change

"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..."

Conserving and enhancing the natural environment

"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; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate."

"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..."
- "121 Planning policies and decisions should also ensure that:
- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;...
 - adequate site investigation information, prepared by a competent person, is presented."
- "123 Planning policies and decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development..."
- "124 Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan."

Conserving and enhancing the historic environment

- "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..."
- "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 of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."
- "140 Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies;"

Business

- "160 Local planning authorities should have a clear understanding of business needs within the economic markets operating in and across their area. To achieve this, they should:
- work together with county and neighbouring authorities and with Local Enterprise Partnerships to prepare and maintain a robust evidence base to understand both existing business needs and likely changes in the market; and
 - work closely with the business community to understand their changing needs and identify and address barriers to investment, including a lack of housing, infrastructure or viability."
- "161 Local planning authorities should use this evidence base to assess:
- the needs for land or floorspace for economic development, including both the quantitative and qualitative needs for all foreseeable types of economic activity over the plan period, including for retail and leisure development;
 - the existing and future supply of land available for economic development and its sufficiency and suitability to meet the identified needs..."

Ensuring viability and delivery

- "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."

Planning conditions and obligations

- "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."

MEMBERS ARE ADVISED THAT OTHER PARAGRAPHS IN THE NPPF MAY BE RELEVANT TO A PARTICULAR PLANNING APPLICATION AND THESE WOULD BE REFERRED TO IN THE OFFICER REPORT IN THE MAIN AGENDA AS AND WHEN NECESSARY.

NORTH WEST LEICESTERSHIRE LOCAL PLAN

STRATEGY

Policy S1 - Overall Strategy

Policy S1 sets out the overall strategy of the Local Plan.

Policy S2 - Limits to Development

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

Policy S3 - Countryside

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

ENVIRONMENT

Policy E1 – Sensitive Areas

Policy E1 seeks to prevent development within the Sensitive Areas, which would adversely affect or diminish the present open character of such areas.

Policy E2 - Landscaped Amenity Open Space

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 – Residential Amenities

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 - Design

Policy E4 seeks to achieve good design in new development that respects the character of its surroundings.

Policy E6 – Comprehensive Development

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 - Landscaping

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 – Crime Prevention

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

Policy E9 - Mobility

Policy E9 seeks to provide for access to new developments by all persons with restricted mobility, including those with impaired vision.

Policy E17 – Historic Byways

Policy E17 seeks to prevent development which would significantly diminish the contribution, setting or amenity value of a historic byway.

Policy E20 – Green Wedge

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

Policy E21 – Separation of Settlements

Policy E21 presumes against development which would result in a reduction in the physical separation between the built-up areas of adjoining settlements as identified on the Proposals Map.

Policy E22 – Areas of Particularly Attractive Countryside

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

Policy E24 – Re-use and Adaptation of Rural Buildings

Policy E24 sets out the circumstances under which existing buildings outside Limits to Development can be converted to a residential use

Policy E26 - Sites of County or District Ecological or Geological Interest

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

Policy E30 - Floodplains

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 Trent.

Policy E36 – Derelict Land

Policy E36 sets out the general approach to proposals for the reclamation and re-use of derelict land.

Policy E37 – Derelict Sites

Policy E37 sets out potential individual reclamation uses for stated derelict sites.

NATIONAL FOREST**Policy F1 – General Policy**

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 – Tree Planting

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 – Landscaping and 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 F5 – Forest Related Development

Policy F5 sets out the circumstances under which new development is permitted in the National Forest.

TRANSPORT**Policy T2 – Road Improvements**

Policy T2 seeks to protect strategic road scheme sites.

Policy T3 – Highway Standards

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

Policy T4 – Road Related Services – Commitments

Provides for services on land East of Finger Farm on the A453 and at land adjoining Flagstaff Interchange, A42, Ashby de la Zouch.

Policy T5 – Road Related Services at A50/B6540 Junction

Policy T5 provides for the provision of one off-line road related service facility at the junction of the B6540 and A50.

Policy T8 - Parking

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

Policy T10 – Public Transport

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

Policy T13 – Cycle Parking

Policy T13 requires adequate provision for cycle parking.

Policy T14 – Former Transport Routes

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

Policy T15 – Moira-Measham Trail

Policy T15 seeks to protect the route of the Moira-Measham trail.

Policy T16 – Ashby Canal

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

Policy T17 – Ashby Canal

Policy T17 provides for the reconstruction of the Ashby Canal between Snarestone and Swains Park subject to various criteria.

Policy T18 – Airport Limits of East Midlands Airport

Policy T18 sets out the criteria for dealing with applications for airport operational development within the airport limits of East Midlands Airport as defined on the proposals map.

Policy T19 – East Midlands Airport – Public Safety Zones

Policy T19 sets out the criteria for determining applications for development within Public Safety Zones in the vicinity of East Midlands Airport.

Policy T20 – East Midlands Airport – Airport Safeguarding

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

HOUSING**Policy H4 and subsequent Proposals H4(a) to H4(p) inclusive – Housing Allocations**

Policy H4 and subsequent policies set out above set out the housing allocation sites for the plan period.

Policy H4/1 – Housing Land Release

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 – Housing Density

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 – Housing Design

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

Policy H8 – Affordable Housing

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

Policy H10 – Agricultural and Forestry Workers Accommodation

Policy H10 sets out the circumstances in which an agricultural occupancy condition will be permitted. The proposal should demonstrate that the dwelling is no longer needed to serve the relative use, and that every possible effort has been made to dispose of the property at a price which reflects the existence of the occupancy condition and for an adequate period of time.

Policy H11 – Replacement Dwellings

Policy H11 provides that applications for replacement dwellings outside the Limits to Development will be considered in terms of the countryside policies of this Local Plan. Where the Planning Authority is satisfied that there is special justification development of a replacement dwelling may be permitted subject to certain criteria.

Policy H12 – Exceptional Affordable Housing Sites

Policy H12 sets out the circumstances in which affordable housing sites outside the Limits to Development will be permitted, and will only be permitted as an exception where the following criteria are fulfilled:

- (a) An up to date survey demonstrates that a genuine local housing need, which would not otherwise be met, exists in the village or particular locality;
- (b) A secure arrangement will be required to ensure that the benefits of affordable housing will be enjoyed by subsequent occupiers as well as initial occupiers. Such an arrangement will normally require:
 - (i) An appropriate managing institution, such as a housing association or charitable trust, to be in place, with an agreed letting/occupancy policy which ensures that the dwellings will only be made available as affordable housing to local people in need, who cannot be housed by other means; and
 - (ii) A legal agreement between the applicant/landowner/potential developer and management institution and the Planning Authority to ensure that the proposed dwellings are made available at a price or rent those in need can afford and will remain available as affordable housing to all subsequent as well as initial occupiers;

In addition to the above, Policy H12 requires that the development of any exceptional affordable housing site must:

- (i) Be well related to the built form and overall structure of an existing settlement and not adversely affect its present character;
- (ii) Adjoin the Limits to Development, identified on the Proposals Map;
- (iii) Not result in ribbon or detached development, or be prejudicial to the protection from development of any intervening or other land outside Limits to Development;
- (iv) Not be on land designated as a sensitive open area or any other area afforded special protection in this Local Plan or be in a position where it would detract from the appearance and general character of countryside worthy of protection for its own sake;
- (v) Be of a design and in materials of construction, which reflect the traditional rural character of the village concerned; and
- (vi) Comply with general environment and traffic policies and requirements of the Local Plan.

Policy H13 – Mobile Homes

Policy H13 sets out the criteria for assessing proposals for mobile home development.

EMPLOYMENT

Policy J3 – Employment Land Allocations

Policy J3 sets out sites for employment allocations within the Local Plan at the following sites, for which individual sub policies apply:

- (a) Swainspark, Occupation Road, Albert Village;
- (b) Smisby Road, Ashby de la Zouch;
- (c) Extension to Hilltop Industrial Estate, Bardon
- (d) South of Coalville Brickworks;
- (e) Former Ellistown Colliery;

- (f) South of Trent Lane, Castle Donington;
- (g) Extension to Westminster Estate, Measham; and,
- (h) Former Walton Way Drift Mine, Oakthorpe.

Policy J4 – High Quality Employment Site at Finger Farm

Policy J4 sets out appropriate employment uses for development at the Finger Farm site.

Policy J5 – High Quality Employment Site at Flagstaff Interchange, Ashby

Policy J5 provides for appropriate employment uses at the Flagstaff Interchange site.

Policy J8 – Redevelopment of the ADT Car Auctions site, Measham

Policy J8 sets out the criteria to be met in relation to proposals for the redevelopment of the car auctions site for employment purposes.

Policy J14 – Expansion of Existing Firms

Policy J14 sets out the criteria to be taken into account in the determination of applications for the expansion of existing firms.

CENTRAL AREAS AND RETAILING

Policy R1 – Central Areas Shopping

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 R2 – Belvoir Shopping Centre

Policy R2 provides that expansion of the centre which facilitates the continuing refurbishment and upgrading of the centre and its surrounding area will be permitted, subject to environmental and traffic considerations.

Policy R4 – Acceptable Uses in Town Centre Core Areas

Policy R4 provides that only specific uses will be permitted on ground floor frontages within the Core Areas of Coalville and Ashby de la Zouch Town Centres and that all ground floor frontage development permitted within a core shopping area should include a shop window display frontage and maintain an appropriate window display.

Policy R5 – Financial and Professional Services in Core Areas

Policy R5 requires that Class A2 uses will not be permitted where they would exceed 10 per cent of the total frontage, or form a run of more than three shop window units at the following locations:

- (a) The Belvoir Pedestrianised Shopping Centre;
- (b) Numbers 13 to 85 and 6 to 96 Market Street, Ashby de la Zouch;
- (c) Bath Street Corner, Ashby de la Zouch

Policy R6 – Window display frontages

Policy R6 sets out that no new shop window display frontages be permitted on the north side of North Street and along South Street, Ashby de la Zouch.

Policy R7 – Other Retail Uses

Policy R7 sets out uses which will not be permitted within Coalville and Ashby de la Zouch Town Centre core areas

Policy R8 – Potential Redevelopment Areas

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 R9 – Pedestrian Facilities

Policy R9 sets out the key areas for improvements to pedestrian facilities, environment and priority.

Policy R10 – Bridge Road Link

Policy R10 seeks to protect the land required for the construction of a road link between Bridge Road and London Road, Coalville.

Policy R11 – Outer Area of Coalville Town Centre

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 R12 – Town Centre Services

Policy R12 provides that uses within Classes A2, C2, B1(a) and D1, as well as community or other uses of a similar character, will be permitted within Town Centre Services Areas, subject to compliance with a number of criteria.

Policy R13 – Town Centre Services

Policy R13 sets out appropriate uses for service areas fronting on to the east side of Whitwick Road, Coalville and Bath Street/Station Road, Ashby de la Zouch.

Policy R14 – Town Centre Services

Policy R14 sets out appropriate uses for service areas fronting on to the west side of Whitwick Road, Coalville.

Policy R15 - Town Centre Services

Policy R15 provides that the following uses will be permitted within the Town Centre Services Area fronting onto Wolsey Road, Coalville:

- (a) Business use (Class B1);
- (b) Retail uses falling outside the definition of 'shop' (Class A1); and
- (c) Assembly and leisure uses (Class D2)

Policy R16 – Use of Upper Floors

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.

Policy R19 – Acceptable Uses in Local Centres

Policy R19 provides that, in addition to local shops, only certain ground floor frontage uses (listed under the policy) will be permitted within existing and proposed local shopping

centres, subject to environmental and traffic considerations, and other criteria relating to vitality and viability.

Policy R20 – Individual Shops

Policy R20 sets out the circumstances in which the development of individual local shops will be permitted away from existing or proposed shopping areas.

Policy R21 – Village Shops

Policy R21 states that the conversion of individual village shops to residential use will not be permitted unless it can be demonstrated that every effort has been made to secure a continued shopping or other suitable business use at the premises, or that the conversion would be subordinate to the main shopping or other business use.

LEISURE AND TOURISM

Policy L2 – Informal Recreation Facilities

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

Policy L3 – Built Development on Recreational Sites Outside Limits to Development

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

Policy L5 – Tourist Accommodation

Policy L5 sets out that the development of tourist accommodation will be permitted where the proposal:-

- (a) Is appropriate in scale and location to the local environment; and
- (b) Would not result in an unacceptable level of traffic generation, to the detriment of the local or wider highway networks or nearby settlements.

Policy L6 - New Rural Recreational Facilities to Relieve Charnwood Forest

Policy L6 sets out the criteria for proposals of large, new rural recreational facilities in the Ashby Woulds and Measham areas which would relieve pressure on the Charnwood Forest.

Policy L7 – Land adjoining Hermitage Leisure Centre

Policy L7 sets out the requirements for recreation use proposals to complement the existing facilities at the Hermitage complex.

Policy L8 – Snibston Colliery

Policy L8 provides that only development directly related to the purposes of an industrial heritage museum and its associated leisure activities will be permitted on the site of the former Snibston Colliery (and provided it does not have an adverse impact on the Local Nature Reserve within the museum complex).

Policy L9 – Land North of Snibston Heritage Museum

Policy L9 sets out a range of uses complimentary to the Snibston Discovery Park museum site acceptable on the land to the north of the museum, and fronting onto Ashby Road.

Policy L10 – Former Measham Railway Station

Policy L10 sets out the criteria for the development of recreation and tourism facilities at the site.

Policy L11 – Moira Furnace

Policy L11 sets out the criteria for the development of recreation and tourism facilities at the site.

Policy L12 – Sawley Marina

Policy L12 sets out the criteria for recreation and tourism development proposals on land to the south of Sawley Marina.

Policy L13 – Swannington Incline

Policy L13 provides for the restoration of the former Swannington railway incline and ancillary facilities including an open air museum.

Policy L20 – Donington Park Racing Circuit

Policy L20 sets out criteria for assessing uses which may be acceptable within the confines of the racetrack whilst protecting the character and appearance of the surrounding area.

Policy L21 - Children's Play Areas

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 - Formal Recreation Provision

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

Policy M2 – Redevelopment Potential

Policy M2 sets out criteria for redevelopment proposals for brick and pipe manufacturing works at Ibstock, Ellistown, Redbank (Measham) and Hepworths Albion (Woodville).

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Material Planning Considerations

When a decision is made on a planning application, only certain issues are taken into account; these are often referred to as 'material planning considerations'.

MATERIAL PLANNING CONSIDERATIONS:

Issues that may be relevant to the decision

(There may exist further material planning considerations not included here)

- Local, strategic, national **planning policies** and policies in the Development Plan
- Emerging new plans which have already been through at least one stage of public consultation
- **Pre-application planning consultation** carried out by, or on behalf of, the applicant
- **Government and Planning Inspectorate requirements** - circulars, orders, statutory instruments, guidance and advice
- **Previous appeal decisions** and planning Inquiry reports
- Principles of **Case Law** held through the Courts
- **Loss of sunlight** (based on Building Research Establishment guidance)
- **Overshadowing/loss of outlook** to the detriment of residential amenity (though not loss of view as such)
- Overlooking and **loss of privacy**
- **Highway issues:** traffic generation, vehicular access, highway safety
- **Noise or disturbance** resulting from use, including proposed hours of operation
- **Smells and fumes**
- Capacity of **physical infrastructure**, e.g. in the public drainage or water systems
- Deficiencies in **social facilities**, e.g. spaces in schools
- Storage & handling of **hazardous materials** and development of **contaminated land**
- Loss or effect on **trees**
- Adverse impact on **nature conservation** interests & biodiversity opportunities
- Effect on listed buildings and conservation areas
- **Incompatible or unacceptable uses**
- Local **financial considerations** offered as a contribution or grant
- **Layout and density of building** design, visual appearance and finishing materials
- Inadequate or inappropriate **landscaping** or means of enclosure

The weight attached to material considerations in reaching a decision is a matter of judgement for the decision-taker however the decision-taker is required to demonstrate that in reaching that decision that they have considered all relevant matters.

Generally greater weight is attached to issues raised which are supported by evidence rather than solely by assertion.

If an identified problem can be dealt with by means of a suitable condition then the Local Planning Authority is required to consider this rather than by issuing a refusal.

NON-MATERIAL PLANNING CONSIDERATIONS:

Issues that are not relevant to the decision:

(There exist further non-material planning considerations not included in this list)

- **Matters controlled under building regulations** or other non-planning legislation e.g. structural stability, drainage details, fire precautions, matters covered by licences etc.
- **Private issues between neighbours** e.g. land/boundary disputes, damage to property, private rights of access, covenants, ancient and other rights to light etc.
- **Problems arising from the construction period** of any works, e.g. noise, dust, construction vehicles, hours of working (covered by Control of Pollution Acts).
- Opposition to the **principle of development** when this has been settled by an outline planning permission or appeal
- **Applicant's personal circumstances** (unless exceptionally and clearly relevant, e.g. provision of facilities for someone with a physical disability)
- **Previously made objections/representations** regarding another site or application
- **Factual misrepresentation of the proposal**
- Opposition to **business competition**
- **Loss of property value**
- **Loss of view**

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Call: 0330 123 9244 or Email: advice@planningaid.rtpi.org.uk



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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE - 3 FEBRUARY 2015

Title of report	TO CONSIDER THE MAKING OF A TREE PRESERVATION ORDER AT 73 PARK LANE, CASTLE DONINGTON
Contacts	<p>Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Planning and Development Team Manager 01530 454668 chris.elston@nwleicestershire.gov.uk</p> <p>Tree Officer 01530 454683 julian.simpson@nwleicestershire.gov.uk</p>
Purpose of report	To consider the objection lodged by Mr. P. Neal, 75 Park Lane, Castle Donington.
Council Priorities	Homes and Communities
Implications	None
Financial/Staff	None
Link to relevant CAT	None
Risk management	None
Equalities Impact Screening	Equality Impact already undertaken, issues identified actioned.
Human Rights	Under the Human Rights Act, Article 8, there is a right to respect for private and family life, the home and correspondence. The making of a Tree Preservation Order potentially impacts on that right. However, in this case it is considered that the making of the Order is justified in the public interest.
Transformational Government	None
Comments of Head of Paid Service	Report is satisfactory

Comments of Section 151 Officer	Report is satisfactory
Comments of Deputy Monitoring Officer	Report is satisfactory
Consultees	None
Background papers	Held on file in the Planning Office
Recommendations	THAT THE TREE PRESERVATION ORDER BE CONFIRMED

1.0 INTRODUCTION AND BACKGROUND

- 1.1 Following a request made by the tree owner at 73 Park Lane to protect a Eucalyptus tree (T1) in the front garden and also secondary discussion with the Tree Officer about a Sycamore tree (T2) on the property frontage, a TEMPO (Tree evaluation method for preservation orders) assessment was carried out on both trees. TEMPO assessments are carried out to show a consistency in approach. Both trees score sufficiently in terms of condition, life expectancy and visibility to merit protection by TPO.
- 1.2 The tree owner has concerns that large branches overhanging the boundary could be cut back in a damaging way. The trees do not obstruct the adjacent property and are located to the north of the dwellings and therefore cast minimal shade over the property at no.75.
- 1.3 A provisional TPO was made on 1 October 2014.

2.0 OBJECTIONS AND OFFICER COMMENTS

2.1 Summary of Representations Received

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

One objection has been received from the neighbour at 75 Park Lane whose garden the trees overhang. He is of the opinion that the Eucalyptus is dead or dying, has canker, peeling bark, has lacked maintenance and is diseased. Part of the trunk split twenty-two years ago and he feels this may happen again. One minor branch has broken more recently.

Mr Neal is of the opinion that the TPO was not made for arboricultural reasons but because of a recent Anti Social Behaviour dispute and that T2 Sycamore has no public amenity value.

2.2 Officer Observations

The Eucalyptus is not dead or dying and peeling bark is natural for the species. There is no evidence of Phytophthora disease as suggested. There is a limited amount of decay at an old wound which the tree has naturally walled off. Some colonisation of dead wood by saprophytic fungus is evident but no serious fungal decay pathogens have been found.

Some dead branches are present in the crown which is part of the tree's natural life processes and these can be pruned out for safety reasons without LPA consent.

Located in the front garden, both trees have public amenity value. The TEMPO appraisal carried out is consistent with the method used for all other TPO requests and the TPO was made in accordance with planning requirements.

A TPO will help prevent unnecessary tree work which could be damaging and also enable the control of work quality so that it is carried out in accordance with British Standard 3998:2010.

Since the TPO was made both parties have agreed to a certain amount of pruning and both have made separate applications to carry out the work. The two applications were approved on 19 January 2015.

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