

Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	4.30 pm on Tuesday, 12 November 2013
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454512)

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

## **AGENDA**

### **PART A**

<b>Item</b>	<b>Pages</b>
<b>1. APOLOGIES FOR ABSENCE</b>	
<b>2. DECLARATION OF INTERESTS</b>	
Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
<b>3. MINUTES</b>	
To confirm and sign the minutes of the meeting held on 1 October 2013.	<b>5 - 8</b>
<b>4. PLANNING APPLICATIONS AND OTHER MATTERS</b>	
Report of the Head of Regeneration and Planning.	<b>9 - 240</b>

## Index of Applications to be considered

Item No	Application Number	Application Details and Address	Recommendation	Page No
A1	13/00335/OUTM	<p>Development of 605 residential dwellings including a 60 unit extra care centre (C2), a new primary school (D1), a new health centre (D1), a new nursery school (D1), a new community hall (D1), new neighbourhood retail use (A1), new public open space and vehicular access from the A511 and Woodcock Way (outline - all matters other than part access reserved)</p> <p>Money Hill site, north of Wood Street, Ashby de la Zouch, Leicestershire</p>	PERMIT Subject to a Section 106 Agreement	15
A2	12/01094/FUL	<p>Erection of 4 no. two-storey (with habitable accommodation in the roof space) dwellings and associated garaging (revised scheme)</p> <p>191 Loughborough Road, Whitwick, Coalville, Leicestershire</p>	PERMIT	70
A3	13/00460/FUL	<p>Use of land as a camping and caravan site with 20 pitches and change of use of outbuilding to a shop</p> <p>The Globe Inn, 6 Main Street, Snarestone, Swadlincote</p>	PERMIT	94
A4	13/00205/FUL	<p>Retrospective application for the change of use of land for the storage of military equipment including tanks, armoured fighting vehicles, heavy vehicles and trailers, off road 4 x 4 vehicles and associated servicing and maintenance equipment</p> <p>Tank Mania, Measham Lodge Farm, Gallows Lane, Measham</p>	PERMIT	120

<b>A5</b>	<b>13/00290/FULM</b>	<b>Retrospective application for the retention of the use of the land for the operational use of military and civilian "off road vehicles" (including tanks, armoured fighting vehicles, heavy duty vehicles and off-road 4x4"s)</b>	<b>REFUSE</b>	<b>137</b>
		Measham Lodge Farm, Gallows Lane, Measham, Swadlincote		
<b>A6</b>	<b>13/00648/FULM</b>	<b>Erection of 14 dwellings along with conversion of ticket sales office to residential, demolition of redundant buildings and creation of new access.</b>	<b>PERMIT Subject to a Section 106 Agreement</b>	<b>155</b>
		Swainspark site, Spring Cottage Road, Overseal, Swadlincote		
<b>A7</b>	<b>12/00922/OUTM</b>	<b>Erection of up to 105 dwellings, public open space, earthworks, balancing pond, structural landscaping, car parking, and other ancillary and enabling works (Outline - All matters other than vehicular access off Grange Road reserved)</b>	<b>PERMIT Subject to a Section 106 Agreement</b>	<b>179</b>
		Land south of Grange Road, Hugglescote, Leicestershire		
<b>A8</b>	<b>13/00695/NMA</b>	<b>Non material amendment to planning permission 12/01006/FUL to allow reduction in number of roof windows proposed and removal of existing (Non Original) chimney previous proposed for retention</b>	<b>PERMIT</b>	<b>213</b>
		Breedon Hall, Main Street, Breedon On The Hill, Derby		

A9	13/00677/LBC	<p><b>Change of use of former stable block into 3 residential units including external alterations and works along with the erection of a single storey side extension (Amended Scheme to LBC 12/01007/LBC to now include removal of non-original chimney and formation of three rooflights on north east roof plane)</b></p>	PERMIT	219
		<p>Breedon Hall, Main Street, Breedon On The Hill, Derby</p>		
A10	13/00666/FUL	<p><b>Conversion and extension of existing barn to form one dwelling</b></p>	PERMIT	225
		<p>The Croft, Moor Lane, Tonge, Melbourne</p>		

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 1 OCTOBER 2013

Present: Councillor D J Stevenson (Chairman).

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

In attendance: Councillors D De Lacy and L Spence.

Officers: Mr C Elston, Mr D Hughes, Mr A Mellor, Mrs M Meredith, Mr S Stanion and Ms S Worrall.

#### **19. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors R Adams, J Hoult and G Jones.

#### **20. DECLARATION OF INTERESTS**

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

Councillor J Bridges declared a non-pecuniary interest in item A1, application number 13/00141/OUTM as a Member of Ashby Canal Trust.

Councillors J Geary, R Johnson, N Smith and M B Wyatt declared that they had been lobbied without influence in respect of item A2, application number 12/01094/FUL.

Councillors J Legrys and D J Stevenson declared that they had been lobbied without influence in respect of item A3, application number 13/00605/FUL.

#### **21. MINUTES**

Consideration was given to the minutes of the meeting held on 3 September 2013.

The Chairman advised that in respect of item A2, application number 13/00218/OUTM, Councillor T Neilson had moved that the application be refused and that there had been no objection from Highway Authority.

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 3 September 2013 be approved and signed as a correct record.

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

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

A1

13/00141/OUTM

Development of up to 450 residential dwellings and reinstatement of 1.1km of associated canal, provision of public open space and vehicular, emergency and footpath access (Outline application - All matters reserved except access)

Land at Measham Waterside, Burton Road, Measham, Derby

The Senior Planning Officer presented the report to Members.

Mr P Leaver, agent, addressed the Committee. He stated that the site had been the subject of extensive discussion and public consultation over the past six years, and the suitability of the site for housing had been established in principle. He added that the proposals were contained and would not lead to pressure to release further land. He stated that the proposals were sustainable and would help the Council to fulfil its five year housing land supply requirement. He drew Members' attention to the significant benefits of the scheme, including the reinstatement of the canal, the rejuvenation of the town centre, improved connectivity with the wider area, enhanced landscaping and a solution to the River Mease phosphate issue. He endorsed the officer's recommendation to approve the application subject to discussions being held in respect of the Section 106 Agreement. He referred to the objections from the Parish Council in respect of the access and reminded Members that this view was not supported by the Highway Authority who had no objections to the scheme.

Mr P Oakden, supporter, addressed the Committee. He advised Members that he had lived in the area for forty years and was Chairman of the Canal Association. He expressed support for the restoration project and highlighted the proactivity of the Canal Association in respect of fundraising and providing volunteers. He stated that the aim of the association was to restore the canal from Snarstone to Moira, and this project had the full support of the Local Authority. He added that the restoration of the Measham section of the canal would enable further funding opportunities. He highlighted the social, economic and environmental benefits the restoration of the canal would bring to the area. He added that the canal would become a tourist and leisure destination in its own right.

Councillor N Smith moved that the application be approved, subject to discussions in respect of the Section 106 Agreement. He referred to the regeneration of Measham which had taken place in recent years. He stated that the canal would be a major asset to the whole of the District. He highlighted the importance of the tourism industry at present and added that the Council had no money to reinstate the canal and this provided an excellent opportunity to do so. He referred to the lack of objection from local residents and stated that to refuse the application would be absolute lunacy. He added that there was no objection from the Highway Authority and there was no one present speaking in objection to the application.

The motion was seconded by Councillor J Bridges.

Councillor T Neilson stated that he had no objection to the application which would be a very good development for Measham and would bring much-needed housing and investment. He referred to the access and the current issues regarding speeding on Burton Road, and added that installing a roundabout would improve this problem. He noted that the emergency access would be utilised in the preliminary construction phase, and following this, there would not be a significant increase in vehicle movements on High Street. He stated that he was happy to support the application.

Councillor J Geary stated that there was great potential in respect of this development,

as he had seen on the site visit and at the exhibition he had attended. He expressed support for the development and felt it would benefit Measham and the whole District. He stated that the whole scheme would be dependent upon the canal being reinstated. He stated emphatically that the reinstatement of the canal was imperative.

Councillor A Bridges reiterated the importance of the canal and stated that she would be disappointed if the development went ahead without the Section 106 contributions to support the reinstatement.

Councillor J Legrys expressed his support for the application. He stated that he was aware the application would be brought back before the Committee at a later date if the issues between the District Valuer and the developer could not be resolved. He referred to the fact that every £1 invested in heritage resulted in a £9 return, and stated that Measham and the rest of the District would benefit from the canal. He sought clarification on what would happen in the event that no agreement could be reached.

The Head of Regeneration and Planning stated that ultimately the matter in respect of the Section 106 Agreement was a decision for the District Council. He added that there was a clear steer that the application would be permitted on the basis that the canal was fundamental, and this would be reflected in the negotiations between the District Valuer and the developer. He added that if an impasse was reached, the matter would be brought before the Committee.

The Legal Advisor stated that if Members felt that the application was unacceptable without the reinstatement of the canal, this would ultimately need to be reflected in the later decision of the Committee.

Councillor J Bridges reiterated the importance of tourism to the present economic climate. He referred to the desperate need for housing, and added that a way of life was also needed. He felt that there would be cross-party support in the approach to the application and ensuring that there was a benefit to the District.

Councillor J G Coxon stated that the application could be the making of Measham. He added that the village had been much improved in recent years. He stated that the reinstatement of the canal was worthwhile for Measham and for the District, and was key to the success of Measham. He expressed support for the application.

Councillor D J Stevenson expressed his full support for the application.

RESOLVED THAT:

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

A2

12/01094/FUL

Erection of 4 no. two-storey (with habitable accommodation in the roof space) dwellings and associated garaging (revised scheme)

191 Loughborough Road, Whitwick, Coalville, Leicestershire

Councillor R Woodward moved that the application be deferred due to the issues which had been identified on the site visit in respect of the development being overbearing to neighbouring residents and loss of visual amenity. He expressed concerns that the applicant would not be able to dig the properties into the ground as suggested due to the solid granite below. He added that there were flooding problems, the distances

between the proposed and existing dwellings did not accord with the Council's policy and the Parish Council had suggested single storey properties if the site were to be developed.

The motion was seconded by Councillor D Howe.

RESOLVED THAT:

The application be deferred to enable further investigation of the issues raised.

A3

13/00605/FUL

Erection of two storey side extension and single storey rear extension (Including Demolition of existing detached garage) to form integral garage, en suite bedroom (Enlarged) and new Kitchen/Dining Room  
Woodlands, Main Street, Wilson, Melbourne

The Planning Officer presented the report to Members.

It was moved by Councillor T Gillard, seconded by Councillor J Legrys and

RESOLVED THAT:

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

The meeting commenced at 4.30pm and closed at 5.07pm.



**APPENDIX B**

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

**12 November 2013**

**PLANNING & DEVELOPMENT REPORT**

## **PLANNING COMMITTEE FRONT SHEET**

### **1. Background Papers**

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

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

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

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

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

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

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

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

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

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

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

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

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

## **7. Delegation of wording of Conditions**

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

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

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.

## CONTENTS

### Section A – Planning Applications

<b>A1</b>	<b>13/00335/OUTM</b>	<b>Development of 605 residential dwellings including a 60 unit extra care centre (C2), a new primary school (D1), a new health centre (D1), a new nursery school (D1), a new community hall (D1), new neighbourhood retail use (A1), new public open space and vehicular access from the A511 and Woodcock Way (outline - all matters other than part access reserved)</b> Money Hill Site North Of Wood Street Ashby De La Zouch
<b>A2</b>	<b>12/01094/FUL</b>	<b>Erection of 4 no. two-storey (with habitable accommodation in the roof space) dwellings and associated garaging (revised scheme)</b> 191 Loughborough Road Whitwick Coalville
<b>A3</b>	<b>13/00460/FUL</b>	<b>Use of land as a camping and caravan site with 20 pitches and change of use of outbuilding to a shop</b> The Globe Inn 6 Main Street Snarestone
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<b>A5</b>	<b>13/00290/FULM</b>	<b>Retrospective application for the retention of the use of the land for the operational use of military and civilian "off road vehicles" (including tanks, armoured fighting vehicles, heavy duty vehicles and off-road 4x4"s)</b> Measham Lodge Farm Gallows Lane Measham
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**A9**      **13/00677/LBC**      **Change of use of former stable block into 3 residential units including external alterations and works along with the erection of a single storey side extension (Amended Scheme to LBC 12/01007/LBC to now include removal of non-original chimney and formation of three rooflights on north east roof plane)**  
Breedon Hall Main Street Breedon On The Hill

**A10**      **13/00666/FUL**      **Conversion and extension of existing barn to form one dwelling**  
The Croft Moor Lane Tonge

**Section B – Other Matters**

There are items in this section

## SECTION A- PLANNING APPLICATIONS

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Development of 605 residential dwellings including a 60 unit extra care centre (C2), a new primary school (D1), a new health centre (D1), a new nursery school (D1), a new community hall (D1), new neighbourhood retail use (A1), new public open space and vehicular access from the A511 and Woodcock Way (outline - all matters other than part access reserved)

Report Item No  
A1

Money Hill Site North Of Wood Street Ashby De La Zouch  
Leicestershire

Application Reference  
13/00335/OUTM

Applicant:  
Mr Matthew Inman

Date Registered  
3 May 2013

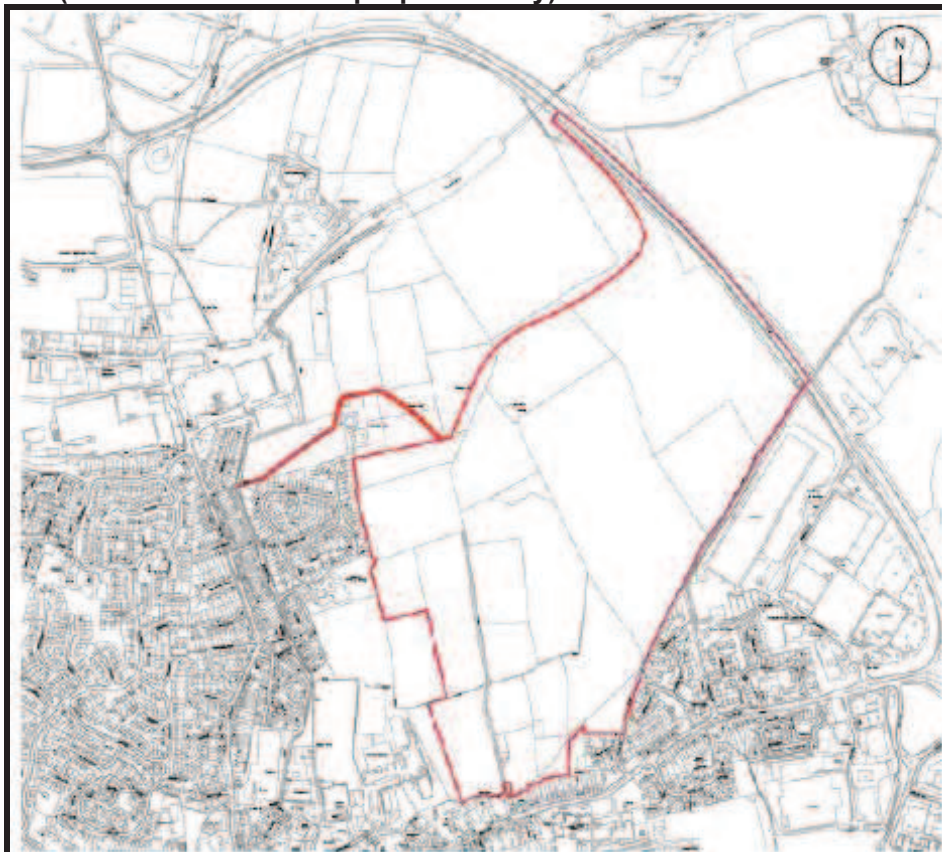
Case Officer:  
James Knightley

Target Decision Date  
28 June 2013

Recommendation:  
PERMIT Subject to a Section 106 Agreement

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Site Location (Plan is 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 605 dwellings together with an extra care centre, primary school, health centre, nursery school, community hall and retail development as well as new public open space served via vehicular accesses from the A511 and Woodcock Way.

### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposals (and including from Ashby de la Zouch Town Council); the application is also the subject of a holding Direction issued by the Highways Agency on behalf of the Secretary of State for Transport.

### **Planning Policy**

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

### **Conclusion**

The report below indicates that, whilst the majority of 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. Whilst the Local Highway Authority raises a number of issues in respect of the proposed means of access to the site, the Highway Authority does not raise objection and these are not considered to be issues of such concern so as to warrant a refusal of planning permission; there are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities, albeit with a reduced contribution to affordable housing required so as to ensure the development remains viable.

### **RECOMMENDATION:-**

**PERMIT, SUBJECT TO THE WITHDRAWAL OF THE SECRETARY OF STATE FOR TRANSPORT'S TR110 DIRECTION, 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 the mixed development of a site of approximately 44 hectares to the north / north east of Ashby de la Zouch currently used primarily for agricultural purposes. Whilst some matters are reserved for subsequent approval, an illustrative masterplan has been submitted which shows:

- 605 new dwellings
- A 60 unit extra care facility
- A health centre (2,000sqm (gross), including 1,200sqm GP area, 150sqm pharmacy and 400sqm future expansion space)
- A primary school (210 pupil capacity on a site of 1.5ha)
- A nursery school (adjacent to the primary school)
- A community hall
- Retail development (total 560sqm) located in two areas of the site
- Public open space, and play areas (14.3ha)
- Pedestrian and cycle links, including connections to Featherbed Lane, Plantagenet Way, Wood Street, North Street and Smisby Road (and including via existing rights of way)

The southern part of the site is the subject of a separate application for those works indicated within that area of the site as a whole (and including for up to 130 dwellings); this application is currently undetermined (ref. 13/00041/OUTM).

As set out above, the application is in outline. All matters are reserved save for the access insofar as it relates to the proposed means of vehicular access into the site (and including for the principal route through the site connecting the two site vehicular entrances). The remainder of the "access" matters (i.e. including the pedestrian and cycle links to adjacent land and circulation routes through the site itself as shown on the illustrative masterplan) are reserved for subsequent approval. In terms of the proposed *vehicular* access arrangements, the applicants propose that, initially, the Phase 1 residential development (i.e. 130 dwellings) plus the proposed health and community centres would access the site via Woodcock Way but that, following implementation of the later phases of development (and including the balance of the 605 dwellings), the extent of the development proposed to be accessed from this direction would be reduced to 30 dwellings plus the proposed health and community centres.

The application is accompanied by an Environmental Statement.

### 2. Publicity

554 no neighbours have been notified. (Date of last notification 21 May 2013)

Site Notice posted 24 May 2013

Press Notice published 29 May 2013

### 3. Consultations

Ashby De La Zouch Town Council consulted 7 May 2013

County Highway Authority consulted 31 July 2013

Highways Agency- Article 15 development consulted 31 July 2013

Environment Agency consulted 8 July 2013

County Highway Authority consulted 12 August 2013

LCC Development Contributions consulted 25 September 2013  
Severn Trent Water Limited consulted 8 May 2013  
Head of Environmental Protection consulted 8 May 2013  
Natural England consulted 8 May 2013  
NWLDC Tree Officer consulted 8 May 2013  
County Archaeologist consulted 8 May 2013  
LCC ecology consulted 8 May 2013  
Airport Safeguarding consulted 8 May 2013  
NWLDC Conservation Officer consulted 8 May 2013  
NWLDC Urban Designer consulted 8 May 2013  
English Heritage- Ancient Monument consulted 8 May 2013  
County Planning Authority consulted 8 May 2013  
NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 8 May 2013  
Development Plans consulted 8 May 2013  
Head Of Leisure And Culture consulted 8 May 2013  
Manager Of Housing North West Leicestershire District Council consulted 8 May 2013  
Police Architectural Liaison Officer consulted 8 May 2013  
LCC/Footpaths consulted 8 May 2013  
National Forest Company consulted 8 May 2013  
South Derbyshire District Council consulted 8 May 2013  
Coal Authority consulted 8 May 2013  
DEFRA consulted 8 May 2013  
LCC Fire and Rescue consulted 8 May 2013  
FRCA (MAFF)- loss of agricultural land consulted 8 May 2013  
Head Of Street Management North West Leicestershire District consulted 8 May 2013

#### 4. Summary of Representations Received

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

- Exacerbation of traffic problems on Nottingham Road and the Ashby bypass
- Site is not a sustainable development in terms of the NPPF - it will provide housing for commuters, will cause severe traffic problems and, although claiming to be close to the town centre, provides shops and other services already found in the town centre
- Will materially affect the character of the town
- Previous application for 130 houses with access via Woodcock Way is confusing and should be withdrawn by the developers

**Coal Authority** has no objections subject to conditions

**English Heritage** recommends that the Local Planning Authority determines the application in accordance with advice previously given and in accordance with the advice of the County Archaeologist and the District Council's Conservation Officer

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

**Highways Agency** directs that planning permission not be granted in view of unresolved issues relating to the potential impacts on the A42 trunk road

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

**Leicestershire County Council Education Authority** requests provision of a primary school or a financial contribution in respect of the primary sector of £1,756,776.25, a financial

contribution in respect of the high school sector of £1,081,508.29, and a financial contribution in respect of the upper school sector of £1,110,487.18.

**Leicestershire County Council Library Services Development Manager** requests a developer contribution of £32,800

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

**Leicestershire County Council Highway Authority** has no objections subject to conditions and planning obligations

**Leicestershire County Council County Planning Authority** advises that the Mineral Planning Authority has no information to support or refute the applicants' conclusions that the coal seams are unlikely to be of interest for future surface mining, and advises that the Coal Authority be consulted

**Leicestershire County Council Rights of Way Officer** has no objections subject to conditions securing the upgrading and diversion of various rights of way in the vicinity of the site

**Leicestershire Fire and Rescue Service** has no objections

**Leicestershire Police** requests a policing contribution of £203,187

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

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

**NHS England (Leicestershire and Lincolnshire Area)** requests a healthcare contribution of £201,878.28

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

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

**South Derbyshire District Council** has no objections

### **Third Party representations**

353 representations have been received, together with an online petition containing 28 signatures, raising the following concerns:

- Carriageways and footways of Nottingham Road / Wood Street too narrow for current traffic flows and have a poor safety record
- Exacerbation of existing queuing / congestion issues, particularly at peak times
- Woodcock Way junction on a blind bend / accident black spot close to a school
- Woodcock Way too narrow for increased use generated by the proposed development
- Previous application for new housing off Woodcock Way refused on appeal on highway safety issues
- North West Leicestershire Local Plan Inquiry Inspector indicated additional access from Woodcock Way would be inappropriate
- Transport Assessment ignores committed developments elsewhere and the proposed Wood Street / Upper Church Street junction traffic lights
- Transport Assessment based on a one day snapshot when no significant queuing took

- place
- A511 and its junctions with Nottingham Road and the A42 would be overwhelmed by additional traffic
- Additional sewage generated greater than the residual headroom available at Packington Sewage Treatment Works
- Adverse impact on viability of Market Street due to trade being drawn towards the new retail / community development and by visitors being deterred by traffic congestion
- Unsustainable for residents of the new development to drive to the town centre (a round trip of up to 8.5 / 9km)
- Premature ahead of the Core Strategy Examination in Public
- No further shops required in Ashby de la Zouch - Market Street already full
- Medical centre proposed on the Holywell Spring Farm site
- Vehicular access should be via the A511 or the town centre only
- Adverse impact of traffic on congestion and safety on Smisby Road / Derby Road
- Insufficient infrastructure (including schools, healthcare, and highway network capacity)
- Noise / vibration
- Pollution
- Insufficient parking provision in Ashby de la Zouch
- Loss of agricultural land
- Impact on wildlife / habitat
- Insufficient employment opportunities for new residents
- Adverse impact on historic character / heritage assets
- Previous application (13/00041/OUTM) should be withdrawn
- Increased use of public footpath linking the site with Wood Street
- Increased unauthorised parking on / obstruction of the public footpath linking the site with Wood Street which is also a private drive
- Medical centre should not be relocated from the town centre due to accessibility concerns, particularly for the elderly
- Insufficient parking for proposed medical centre
- Congestion will lead to late / missed appointments at the proposed medical centre
- Brownfield sites should be used in preference to greenfield ones
- Loss of green space
- Flooding
- Contrary to Leicestershire County Council Highways standards
- Inaccurate assumptions in Transport Assessment / traffic modelling
- A masterplan for the proposals are required
- House building being undertaken in the area more quickly than required
- Poor strategic planning
- Lack of consultation
- Poor design quality
- Adverse impact on water quality
- Reduced efficiency / effectiveness of A511 Ashby bypass
- Proposed access arrangements would create a ghetto
- Anti-social behaviour / impact on law and order

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

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

NPPF contains a number of references to the presumption in favour of sustainable development.

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

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

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

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

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

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

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

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

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

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

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

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

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

"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."

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

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

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

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

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

"61 Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections

between people and places and the integration of new development into the natural, built and historic environment."

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

"101 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding."

[Further advice on flooding is contained within the DCLG's Technical Guidance to the National Planning Policy Framework.]

"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..."

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

"121 Planning policies and decisions should also ensure that:

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

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

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

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

"132 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting...."

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

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

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

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

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

The majority of the site falls outside of Limits to Development as defined in the adopted North West Leicestershire Local Plan.

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

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

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

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



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

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

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

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

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

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

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

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

Policy E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplains of, amongst others, the Gilwiskaw Brook.

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

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

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

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

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

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

## **Other Policies**

### **North West Leicestershire District Council Affordable Housing SPD**

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

### **Ashby de la Zouch Conservation Area Appraisal and Study SPG**

The south western part of the application site abuts the Ashby de la Zouch Conservation Area. The Ashby de la Zouch Conservation Area Appraisal and Study identifies individual factors considered to have a positive impact on the character of the Conservation Area. These factors include principal listed buildings and unlisted buildings of interest in the vicinity of the site.

### **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**

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

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

Notwithstanding the countryside location, and whilst the proposals would be contrary to the adopted Development Plan, in determining the application, regard must be had to other material considerations, including other policies, such as other Development Plan policies and National policies.

In terms of the North West Leicestershire Local Plan, Policy H4/1 identifies that, in releasing appropriate land for housing, the Council will have regard to:

- up-to-date housing land availability figures;
  - the latest urban capacity information;
  - the need to maintain an appropriate supply of available housing land;
  - lead times before houses will be expected to be completed and build rates thereafter;
- and
- other material considerations.

Whether or not this site would be considered "appropriate" is a matter of judgement; having regard to its location primarily outside Limits to Development, it could be argued that it would not be. This policy nevertheless sets out criteria relevant to release of land. Insofar as the site's location is concerned, and whilst it is for the most part outside Limits to Development, it is well related to the existing built up area of the town.

In terms of the site's primarily 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. Furthermore those provisions in Policy H4/1, that relate to the supply of housing need to be considered in the context of Paragraph 49 of the NPPF (as set out in more detail under Housing Land Supply and Limits to Development below).

#### *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 and include an additional buffer of 5% or 20% depending on previous performance in terms of delivery of housing. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, found that the "Sedgefield" approach should be used (an approach to assessing land availability also suggested as appropriate within the draft National Planning Practice Guidance) and that a buffer of 20% should be allowed for. On this basis, the District Council's most recent calculations indicate that the Council is only able to demonstrate a supply of 4.33 years which represents a significant shortfall vis-à-vis the requirements of the NPPF.

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". Policy S3 of the adopted Local Plan (Limits to Development) is not considered to be a relevant policy for the supply of housing (see the recent judgment in respect of the application to quash the Secretary of State's decision to dismiss the Stephenson Green appeal), notwithstanding that a contrary view has been taken elsewhere (and including by the Secretary of State on appeal), and accordingly the policy should not be considered to be out of date. Nevertheless, as the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements up until the end of the Plan Period (i.e. to 2006) less weight should be attributed to any conflict with Policy S3 in the overall planning balance.

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

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

perform well in terms of need to travel and the movement towards a low carbon economy subject to the provision of suitable pedestrian and cycle linkages to nearby services.

In terms of the proposed residential element of the development, it is considered that there is a strong case for permitting the development, particularly given the need to demonstrate a 5 year (plus buffer) supply of housing land. In this regard, the weight to be attributed to this issue needs to take into account the likely five year housing land supply contribution provided by the application; on the basis of the District Council's housing trajectory contained within the former draft submission Core Strategy, 100 units would be anticipated to be delivered by 2017/18, with a further 50 by 2018/19.

The issue of housing land supply does not affect the associated non-residential development forming part of the proposals in the same way, although it is noted that there is an obligation to provide for the needs of business within the NPPF, and it is also accepted that, to a degree, much of the associated development is appropriate in principle, given the need to deliver such development in association with new major residential development.

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

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

The majority of the site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and, as such, the scheme would be in conflict with the relevant Development Plan and other policies designed to protect the countryside from inappropriate development.

However, it is also necessary to consider any other relevant material considerations, including the Government's current intentions in respect of the need to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF), and the current position in the District in terms of housing land supply. An important consideration is that the Council must demonstrate and maintain a five year supply of housing land (with a 20% buffer) as required by the NPPF, which is considered to be a material consideration of some significance (albeit regard also needs to be had to the extent of the contribution that this site would be likely to make within the next five years).

Thus, overall, the proposed development of the site is considered acceptable in principle.

#### **Detailed Issues**

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

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

As set out in the introduction above, the application is in outline with all matters reserved save for the access insofar as it relates to the vehicular access points into the site (and including the principal route through the site connecting the A511 with Woodcock Way (albeit with no through route for "general" traffic)).

In terms of the applicants' proposals for *vehicular* access, the application proposes that, initially, the Phase 1 residential development (130 dwellings) plus the proposed health and community centres would access the site via Woodcock Way but that, following implementation of the later

phases of development (and including the balance of the 605 dwellings), the extent of the development proposed to be accessed from this direction would be reduced to 30 dwellings plus the proposed health and community centres.

The remainder of the "access" matters (i.e. including circulation routes through the site itself) are reserved for subsequent approval, albeit routes through the site are indicated on the illustrative masterplan.

As set out in the summary of representations above, the County Highway Authority has not raised objection to the application, subject to conditions. However, one of these conditions requires the limitation of the number of dwellings accessed via either of the two vehicular accesses to no more than 400 whereas, as set out above, the intention is, eventually, for all but 30 of the proposed dwellings (i.e. 575) to be accessed via the A511 junction. There are a number of other issues arising out of the County Highway Authority's comments, and these are set out in more detail below.

*Woodcock Way Access:*

The proposed access arrangement at Woodcock Way includes for the upgrading of the existing priority junction to a ghost island junction, the widening of Woodcock Way to provide a 6m carriageway width, and a Traffic Regulation Order on both sides of Woodcock Way between its junctions with Nottingham Road and Lockton Close (to protect the turning movements of an 8.8m bus).

The County Highway Authority advises that, based on a survey carried out on behalf of the County Council on 18 July 2013, measured 85th percentile speeds on Nottingham Road within the vicinity of Woodcock Way were recorded as 36.8mph north east bound and 34.6mph south west bound. In accordance with the County Highway Authority's adopted highway design guidance (6Cs Design Guide), visibility requirements for a new access junction based on the 85th percentile measured speeds are 65m (73m for a bus route); 73m visibility splays are achievable at this location in both directions within highway land.

The County Highway Authority also advises that the 6Cs Design Guide states that the minimum carriageway width for internal roads within new developments is 6.75m for up to 1,000 dwellings and that the width of Woodcock Way is proposed to be widened to 6m along its length, which is hence below the minimum width of 6.75m. However, the County Highway Authority notes that Woodcock Way itself is not a "new" development, and the bus route is proposed to be operated by a bus 8.8m in length (i.e. a "midi" bus). The County Highway Authority confirms that submitted vehicle tracking has demonstrated that a bus of this size is able to access and egress Woodcock Way and its junction with Nottingham Road, although tracking of the "left in" movement shows encroachment into the ghost island junction on Nottingham Road, and the opposing lane on Woodcock Way. Whilst, it is understood, that the applicants do not dispute this point, they comment that, based on the proposed bus route (as set out in more detail under Bus Provision below), buses would not normally be expected to undertake this particular manoeuvre.

The County Highway Authority advises that the applicant has subjected the submitted proposals for this junction to an independent stage 1 Road Safety Audit which has raised the issue of adequate stacking space within the right turn lane. The County Highway Authority reports that the applicants' response is that, notwithstanding the safety audit issue, the submitted junction will nevertheless operate within capacity, hence no issue would be likely to arise. However, it should be noted that this assessment is based on 130 dwellings and a healthcare facility only; whilst the community centre appears to have been excluded, it is understood that the flows likely to be generated by that particular use are likely to be insignificant.

Insofar as the capacity of this junction is concerned, the County Highway Authority confirms that the submitted Picady assessment is agreed, and that it is agreed (as noted above) that this junction will operate within capacity. Again, however, this is based on 130 dwellings and the health centre only. Therefore, notwithstanding that imposing the County Highway Authority's suggested limitation of 400 dwellings on the A511 access would not be the development for which the applicants had applied, this also appears to raise issues regarding the ability to impose such a condition in any event given that the imposition of such a condition would result in a *minimum* of 205 dwellings accessing the site via Woodcock Way (i.e. because there would be a maximum of 400 via the A511), which is a scenario that has not been tested at this junction.

*A511 Access and Internal Link Road*

The proposed access arrangement at the A511 Ashby bypass includes for a new roundabout junction with a "free flow link" on the A511 south east bound (i.e. a separate lane whereby vehicles travelling south east on the A511 past the site could bypass the new site entrance roundabout; vehicles travelling in the opposite direction would need to negotiate the roundabout regardless).

The proposed access arrangement also includes for an internal link road into the site. This internal link road is designed to a minimum carriageway width of 6.75m for purposes of providing access to the proposed primary school and for use as a bus route.

The County Highway Authority advises that no levels information, cross sections, details of structures over watercourses, design speed details etc. have been submitted to the Highway Authority at this stage. As such, the County Council advises that it is not possible to confirm that the link road is deliverable on the proposed alignment. Insofar as the determination of the application is concerned, however, whilst the County Highway Authority has flagged up that such a link may not in fact be able to be delivered, it is not considered that this in itself would be an overriding reason not to permit the application (i.e. it would be open to the Local Planning Authority to grant planning permission; if it subsequently transpired that the applicants were unable to implement their permission, it would be open to them to apply for an alternative scheme).

The County Highway Authority notes that the applicant has subjected the submitted proposals for this junction to an independent stage 1 Road Safety Audit which has raised issues in respect of the continuation of footway / cycleway provision on the A511 and the internal link road. Whilst the County Highway Authority suggests that this could be addressed at detailed design stage, it would appear that the extent to which this would be possible may be dictated by the extent of the changes necessary to address the junction safety issues (i.e. the application has included details of this element of the access for consideration at the outline stage so, if the Local Planning Authority were to permit the application, the junction as shown on the submitted plans would be approved). Nevertheless, it is noted that no objection is raised and, should any further changes be required by Leicestershire County Council as part of other approval processes (e.g. Section 38 or 278 approvals), the developers may need to address the requirement for any such changes to also be permitted for the purposes of planning permission (for example, by way of an application for a non material or minor material amendment of the planning permission if applicable).

In terms of the junction capacity on the proposed A511 roundabout access, the County Highway Authority confirms that the submitted Arcady assessment, based on 575 dwellings accessed via the A511, is agreed. The assessment predicts a worst case queue length of 10 passenger car

units on the A511 north west bound arm between 17:45 and 18:00. It is noted that no objection has been raised by the County Highway Authority in terms of this impact, and it would seem unlikely that a queue of this magnitude would (when having regard to the test in Paragraph 32 of the NPPF) be considered to have severe impacts, and would not appear likely to have a significant effect on the safe and efficient functioning of the A511 as a bypass and strategic route.

*Other Junction Capacity Issues*

In addition to the proposed site access capacities as outlined above, the County Highway Authority has also provided comments on two further key junctions in the vicinity, as follows:

*A511 / A42 roundabout junction (A42 Junction 13):*

The County Highway Authority confirms that the submitted Linsig assessment is agreed. However, it advises that the assessment is only based on a "with mitigation" scenario, and it is not therefore possible to determine the impact of the development at this junction.

In terms of mitigation of this junction, this is one of a number of junctions that the District Council and County Council have been seeking, in conjunction with the Highways Agency, to include within a contributions strategy primarily in respect of the accommodation of anticipated growth in the Coalville area. At the present time, the Highways Agency (on behalf of the Secretary of State for Transport) has issued a TR110 Direction preventing the Local Planning Authority from permitting the application pending the resolution of unresolved issues in respect of the impacts on Junction 13 of the A42. It is understood from the Agency that it is of the view that, in principle, an appropriate solution is achievable (and likely to be by way of the formulation of an appropriate contributions mechanism) but, until such time as that is resolved, its Direction must remain in place. Whilst the Highways Agency has previously indicated that a sum of £130,982 towards mitigation could be appropriate (and the applicants are agreeable to this), given the need for any contribution to have regard to other developments elsewhere in the District, the extent of any contribution (if such an approach were acceptable to the Agency) would need to be resolved in due course, having regard to the tests for contributions as set out in the NPPF and CIL Regulations. On this basis, whilst a solution to this issue seems achievable and there would seem to be potential for the Highways Agency's Direction to be removed, the Local Planning Authority would, at this time, be unable to issue any planning permission. Nevertheless, there appears to be no overriding reason why the Planning Committee cannot *resolve* to grant permission subject to this issue being concluded to the Highways Agency's satisfaction (and the TR110 Direction hence being removed and any additional conditions required by the Agency imposed). Alternatively, however, if Members were minded to refuse the application, reference to this issue in the reason(s) for refusal would be considered appropriate.

*Wood Street / Upper Church Street signalised junction:*

This junction has been assessed based on the signalised junction to be delivered in association with development at Leicester Road, Ashby; the County Highway Authority confirms that the submitted Linsig assessment is agreed.

*Committed Development*

The County Highway Authority advises that the submitted Transport Assessment has considered the following committed development:

Leicester Road - 258 dwellings

Smisby Road - 125 dwellings

Holywell Spring Farm - 400 dwellings

Whilst other developments including Aldi, Ivanhoe Business Park and Lounge are not included directly as committed development, the County Highway Authority is content that these are

likely to be adequately covered in terms of general background growth predictions.

*Issues Relating to the Limitation to 400 dwellings from a Single Point of Access / Bus Gate Issues*

As set out above, the application is in outline with some elements of access reserved. Therefore, other than the principal link between the two vehicular points of access, internal layout is a reserved matter. However, the supporting information submitted with the application includes for provision of a bus gate which would restrict vehicular access off Woodcock Way in accordance with the scenario outlined above. In particular, the applicants advise that a bus rising bollard (bus gate) would be built to adoptable standards and would conform to any additional requirements imposed by the emergency services. They advise that they could either introduce a transponder that adhered with the emergency services' standards, or alternatively provide an override code / key to allow the bollard to be dropped by the emergency services. In the event that the bollard was required to be lowered by the emergency services, the applicants confirm that this would provide unrestricted emergency access to the site from Woodcock Way and the link to the A511. They also advise that there would be at least two further emergency routes into the estate (both secured by padlocked gates / bollards), one also accessed via Woodcock Way, and one via the existing access to Moneyhill Farm.

The County Highway Authority confirms that it is of the view that there is no highway justification for the inclusion of the bus gate, and notes that its inclusion by the applicants is understood to be on the grounds of the residential amenity of occupiers of existing properties on Woodcock Way. Based on the fact there is no *highway* justification for the bus gate, the County Highway Authority has questioned its deliverability in that the implementation of a bus gate on the adopted public highway would require the introduction of a Traffic Regulation Order which, in turn, would require justification in highway terms; any Traffic Regulation Order would be subject to public consultation. In response to these concerns, the applicants advise that the internal road layout would be built to an adoptable standard but would not be offered for adoption (i.e. would remain private) until such time as the bus gate had been implemented. Furthermore, they suggest, new residents would be informed of the proposals at the time of purchase and would therefore not have reason to object.

Notwithstanding this position, however, the County Highway Authority remains concerned in that the proposal for the internal layout to remain in private ownership until such time as the bus gate is implemented could result in a scenario whereby the developer did not enter into an Agreement under Section 38 of the Highways Act, roads were not built to an adoptable standard, and the Highway Authority was subsequently petitioned under Section 37 of the Highways Act by residents to adopt the internal road network. This, the County Highway Authority comments, could result in a significant financial cost to the Highway Authority to both "make good" and maintain the internal road network. Furthermore, the County Highway Authority notes, if the roads were adopted prior to the implementation of the bus gate, this would not resolve the issue of there being no highway justification for its implementation as already set out above. As an alternative scenario, the County Highway Authority suggests that a situation could arise whereby the developer entered into a Section 38 Agreement with the Highway Authority, the internal layout received technical approval and was inspected during construction but with a clause in the Agreement stating that the internal network would not be adopted until such time as the bus gate had been implemented and residents' concerns satisfactorily addressed. However, the County Highway Authority comments that, at this outline application stage, there is not (and can not be) any commitment from the applicant to this approach. Therefore, the County Highway Authority advises that its concerns remain, and would also be raised again at any subsequent reserved matters stage.



As already set out, the scheme as proposed would result in a development including a total number of dwellings accessed via the A511 junction greater than the maximum 400 that is acceptable under the Local Highway Authority's 6Cs Design Guide. On this basis, the County Highway Authority advises that an additional point of vehicular access to the site would need to be provided for connectivity and for emergencies. Whilst emergency access is indicated on the illustrative material submitted with the application (i.e. via the two principal routes into the application site, with the "through" access function being provided for emergency vehicles via a bus gate), the County Highway Authority notes that this does not form part of the application and, furthermore, confirmation would be required from the emergency services that this provision would be adequate for a development of this size. Whilst the emergency services are not a statutory consultee insofar as the Local Planning Authority is concerned (i.e. it is the role of the Local Highway Authority to provide highway safety advice), it is understood that it is common practice for applicants to liaise with emergency services direct on emergency access issues. As far as officers are aware, no such liaison has been undertaken but the Local Planning Authority has, nevertheless, forwarded details of the proposals to the County Highway Authority's emergency service contact (within Leicestershire Police) who has no objection in principle to the use of a rising bollard as proposed; any additional comments subsequently received from the other services whom Leicestershire Police have also notified, will be reported on the Update Sheet. Whilst the County Highway Authority expresses concern over the proposed arrangements, it is understood that there are three principal issues regarding this concern: (i) access of more than 400 dwellings off a single point of access would conflict with the County Highway Authority's adopted 6Cs standard; (ii) directing / "facing" the majority of development "away" from the town is not good practice in terms of encouraging sustainable travel patterns; and (iii) the suitability of the proposed emergency access has not been demonstrated. However, it is understood that the concerns over "general" accessibility and conflict with the 6Cs Design Guide are not considered to represent an overriding problem, and no objection is raised as of such. Insofar as the emergency access is concerned, it is understood that, on the basis that no objections were raised by the emergency services, the County Highway Authority would be generally satisfied with the application in this regard (albeit the above comments in respect of future adoption etc. would still need to be taken into account by the development at any future reserved matters stage). However, as set out above, officers do not consider that a condition limiting any single access to no more than 400 dwellings would be appropriate.

#### *Travel Plan*

The County Highway Authority confirms that the submitted Travel Plan Framework is agreed.

#### *Bus Provision*

The submitted Transport Assessment includes for a diverted bus service between Ashby town centre and the development site. This shows a route whereby buses 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. The Applicant has submitted information (a letter from Macpherson Coaches) to the County Highway Authority indicating that that operator would be willing to operate such a service and, as such, the County Highway Authority is satisfied that the applicants have demonstrated that a bus service is deliverable. The imposition of a condition requiring a scheme of new / diverted bus services has been recommended by the County Highway Authority.

#### *Public Rights of Way / Connectivity of the Site*

The County Highway Authority notes that the submitted Transport Assessment includes for improvements to a number of existing rights of way to provide connections both within the site

and to the surrounding area, and contributions in respect of this are sought by the County Council. It is considered that these improvements would be necessary to ensure that the site is adequately accessible by pedestrians and cyclists, not only to the town centre, but also to other nearby development (including employment sites to the east).

In terms of town centre connectivity, the most direct route between the site and the centre is via the existing right of way O89 which crosses the south eastern and southern areas of the application site and, to the south west, connects the site to North Street. Whilst the illustrative information also suggests the use of right of way O90 (which connects to Wood Street, the issues surrounding which are discussed in more detail under Neighbours' and Future Occupiers' Amenities below), O89 would be the shortest connection to the town centre (if taken to be the core town centre shopping area as defined in the adopted North West Leicestershire Local Plan).

Whilst the applicants do not consider that it is entirely necessary having regard to other means of connection, they have offered a unilateral undertaking which would provide for a financial contribution of £336,657 for the District Council to use for the enhancement of connections between the site and the town centre. Whilst the precise nature of such measures would need to be determined at a later date, such measures could (if possible) include for improvements to the existing North Street right of way connection which, at present, is narrow and / or unsurfaced in places, and passes through a yard forming part of an employment use, all of which are considered to diminish its attractiveness as a pedestrian route; the route is not presently suitable at all for cycle use. If improvement of this route were not possible, however, appropriate improvements to other links between the site and town centre would also, it is considered, be appropriate measures towards which the contribution could be used. Notwithstanding the applicants' view on this matter, the view is taken that such a contribution would be necessary, and would meet all the relevant CIL Regulation and NPPF tests set out in more detail later in this report and, as such, should be attributed weight as a material consideration in the determination of this application.

#### *Other Transportation Contributions*

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

- Submission / approval of a construction traffic routeing agreement so as to ensure that all construction traffic associated with the development does not use unsatisfactory roads to and from the site.
- A total contribution of £105,651 towards the upgrading and surface improvements of various Public Rights of Way routes which lead to/from the development site so as to encourage new residents generated by the development to travel by sustainable means as follows:
  - (i) Surface improvements to footpath O89 between North Street and footpath O90 (£37,495) (save for any separate improvements to accessibility potentially provided under the separate connectivity improvements as set out above)
  - (ii) Surface improvements to footpath O89 between Plantagenet Way and proposed footway/cycle track through the development (£28,670)
  - (iii) Surface improvements to bridleway O92 north of Featherbed Lane, between footpath O89 and O91 (£25,046)
  - (iv) Legal and advertising costs for the conversion of footpath O89 to bridleway between Resolution Road and bridleway O92 (£2,000)
  - (v) Legal and advertising costs for the diversion of footpath O91 between Plantagenet Way and bridleway O92 (£2,000)
  - (vi) Provision of a cycle ramp to existing concrete steps to connect bridleway O92 to existing

- cycle facilities on the A511 (£10,440)
- A contribution of £11,674.00 for the upgrade of the two bus stops on Nottingham Road nearest the development to include raised access kerbs, and information display cases at both stops and a passenger shelter at the bus stop on the southern side of Nottingham Road so as to encourage use of alternative modes to the private car
- One Travel Pack per dwelling/employee to inform new residents/employees from first occupation what sustainable travel choices are available in the surrounding area (these can be provided by the County Council at a cost of £52.85 per pack/dwelling)
- Two six-month bus passes per dwelling to encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour (these can be provided by the County Council at a cost of £325 per pass)
- Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development so as to ensure effective implementation and monitoring of the site wide Travel Plan submitted in support of the Planning Application.
- A contribution of £11,337 towards iTrace monitoring (transportation monitoring software) so as to enable Leicestershire County Council to provide support to the appointed Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure that Travel Plan outcomes are being achieved, and to take responsibility for any necessitated planning enforcement.
- A contribution of £5,000 for Leicestershire County Council to draft, consult upon, and implement a no waiting Traffic Regulation Order on Woodcock Way so as to restrict on-street parking within the vicinity of the proposed access, thus enabling an 8.8m bus to manoeuvre freely, and in the interests of highway safety

*Access, Highways and Transportation Conclusions*

In summary, in respect of the access and transportation issues, whilst the County Highway Authority's comments raise a number of issues, the County Council does not object to the proposed development, and is content that its concerns can be addressed by way of conditions.

As set out above, the application proposes that 130 dwellings (subsequently reducing to 30 dwellings) would be accessed via Woodcock Way, hence there would be 475 (rising to 575) accessed via the A511 Ashby Bypass. Whereas the County Highway Authority advises that it would be unacceptable to access more than 400 dwellings off a single point of access, and whilst the County Highway Authority is of the view that there is no apparent highway justification for limiting the numbers of dwellings accessing via Woodcock Way in the manner proposed, the form of development proposed were such a condition imposed to ensure that the 6Cs standard were met would be a different form of development from that which has been applied for. Furthermore, it would appear that the impact of accessing at least 205 dwellings via Woodcock Way (which would be the result of such a condition) has not been modelled and, hence, its impacts have not been demonstrated.

As discussed, there appear to be three principal issues regarding the County Highway Authority's concern: (i) access of more than 400 dwellings off a single point of access would conflict with the County Highway Authority's adopted 6Cs standard; (ii) directing / "facing" the majority of development "away" from the town is not good practice in terms of encouraging sustainable travel patterns; and (iii) the suitability of the proposed emergency access has not been demonstrated. In terms of (i) above, this point is accepted, although, it is also considered that some form of harm arising from this non-compliance needs to be demonstrated. Whilst (ii) is accepted, and it is agreed that, by ensuring that the majority of car journeys must be made via the bypass, residents may be more likely to work / shop etc further afield than in the town centre, this needs to be balanced against the other (residential amenity) issues that could result by way of accessing additional numbers of dwellings via Woodcock Way. Insofar as (iii) is

concerned, the County Highway Authority has not to date confirmed its satisfaction with the proposed emergency access solution, although it accepts that, in principle, an appropriate solution could be found by the applicants, and would not object subject to the support of the emergency services. At the time of preparing this report, Leicestershire Police had indicated that, in principle, the applicants' solution would be appropriate, and any further comments relating to this aspect of the proposals subsequently received from the County Highway Authority or the other emergency services will be reported on the Update Sheet. However, in the absence of any adverse comments, and having regard to the role of the Local Highway Authority as the relevant statutory consultee, it is otherwise accepted that there appears to be no particular basis for refusing the application on the grounds of the emergency access issue. As set out above, the County Highway Authority has requested the imposition of a condition limiting access off either point of access to no more than 400 dwellings but, as discussed, the imposition of such a condition would not be considered appropriate having regard to its impact on the nature of the proposals in that this would result in a scheme different to that to which the application relates (and would result in an intensity of use of the Woodcock Way junction which has not been tested / modelled).

It is also noted that the Highways Agency has issued a Direction preventing issuing of a planning permission at this present time. Until such time as the Highways Agency can be satisfied that there would be no unacceptable (and unmitigated) impacts on the safe and efficient functioning of the strategic highway network (and, in particular, at Junction 13 of the A42), it would be inappropriate to release the site for development and, indeed, the Direction prevents the Local Planning Authority from so doing. Nevertheless, it is considered that any resolution to permit could be framed in such a way as to allow the development to proceed if and when the Highways Agency's concerns had been resolved.

Subject to the satisfactory resolution of the issues affecting Junction 13 of the A42, and on the basis that no significant concerns regarding the proposed emergency access arrangements are raised by the emergency services, therefore, the proposed development is considered acceptable in respect of access and transportation issues.

### **Landscape and Visual Impact**

The development has been assessed in terms of its landscape and visual effects both during and after construction. The Environmental Statement identifies the elements of the site and its surroundings that are important in terms of landscape resources and landscape character, and the extent to which these would be affected by the proposals. In terms of other evidence in respect of the landscape and visual impacts, it is noted that the District Council's Settlement Fringe Assessment, undertaken on behalf of the Council as part of its Core Strategy evidence base considered the application site as part of a wider area between Ashby de la Zouch and the A511 north east of the town, identifying that the eastern part of the application site is a sensitive landscape, but that the site had potential to achieve mitigation in keeping with its landscape character. In particular, it suggested that the wider study area *"..is a large site that rises to a high point along the A511. It is prominent in views from the countryside to the south where the higher ground is visible above large warehouse development. It would be difficult to develop the site, particularly the higher ground without increasing the scale and prominence of the settlement within the wider landscape to the south. It would be difficult to retain the views towards Ashby Castle and St Helens Church. Development on the lower ground close to the settlement edge could be accommodated provided it appeared as a dispersed edge set within trees and had an advanced and established woodland structure to reduce the scale and frequency of built form within the view. Carefully sited woodland could help to reduce the prominence of built form particularly within the western part of the site."* For the reasons set out in more detail below, and having regard to the conservation / heritage issues considered

elsewhere in this report, it is considered that the submitted scheme generally accords with these principles.

In its description of the site and its landscape characteristics, the Environmental Statement suggests that the topography of the application site means views are contained by surrounding urban form within the lower levels of the site, whilst on the higher land along the northern boundary of the site views are contained by the A511. It suggests that the gently sloping nature of the site, towards the central area and associated watercourse along with the A511 to the north, and the urban edges of Ashby to the south, east and west means that the application site is very well contained and generally screened from surrounding areas beyond the first line of residences and commercial buildings bordering the site. It indicates that it is possible to view the application site from elevated locations to the north (A511), properties bordering the site to the west, south and east, and from further afield (including from the Ivanhoe Way and Corkscrew Lane).

In terms of mitigation, the Environmental Statement states that key aspects of the design that were particularly informed by the landscape assessment include:

- Reflecting the landscape, ecological and historic character of the area when designing green infrastructure (e.g. tree species selection)
- "Capturing" on-site green infrastructure features wherever possible - consolidating and adding to them (e.g. trees, hedgerows and water features)
- Exploiting "borrowed" landscape assets on adjoining sites (e.g. visually prominent trees and countryside views)
- Achieving a high quality interface between the built environment and its wider landscape setting (e.g. housing to face on to green space)
- Avoiding fragmentation of green infrastructure across development sites (e.g. achieving connectivity for landscape, ecological, recreation and public access benefits)
- Consolidating green space into large areas, capable of accommodating forest-scale trees (e.g. Oak, Ash, Lime)
- Designing green space to achieve sustainable, cost effective, long-term management (e.g. using an annual residents' charge and/or commuted sums for green space management).

The Environmental Statement considers the impacts on six principal viewpoints, assessing the impact, and taking into account the proposed mitigation. In terms of these impacts (expressed in the context of magnitude, significance and "valency" respectively), their predicted significance is as follows :

*Construction Phase:* (Magnitude:Significance:Valency)

High:Moderate:Adverse 1, Medium:Moderate:Adverse 1, High:Major-Moderate:Adverse 1, Medium-Low:Moderate:Adverse 2, Low:Slight:Adverse 1

*Year 1 (following construction):*

High:Moderate:Adverse 1, Medium:Moderate:Adverse 1, High:Major-Moderate:Adverse 1, Medium-Low:Moderate:Adverse 2, Low:Slight:Adverse 1

*Year 15:*

Medium:Moderate-Slight:Adverse 1; Low:Slight:Neutral 3, Medium:Moderate:Adverse 1, Negligible:Minimal:Neutral 1

Whilst there would clearly be some adverse impacts both during and immediately following construction of the development, it is considered that, having regard to the scale of development and the need for the Local Planning Authority to permit developments of significant scale to

meet its housing land supply obligations, the impacts would not be so unacceptably severe. In terms of the longer term impacts, as set out in the Environmental Statement, the extent of harm would be expected to reduce over time as mitigation planting matured, such that, whilst there would inevitably be *changes* to the character of the area in this regard (and particularly in respect of the site itself), the adverse impacts would be limited.

A separate lighting assessment has been provided, assessing the impact of proposed external lighting to the proposed development, including car park lighting, general façade lighting and pathway lighting to the proposed non-residential buildings (such as the proposed health centre, primary school, community centre and retail development). The assessment indicates that the proposed development would be designed in adherence to relevant lighting design guidance. The assessment suggests that following this approach would achieve sufficient lighting for comfort and safety requirements without creating excessive, unwanted light spill or façade brightness (and thus avoiding perceived intrusion to neighbouring properties or harm to ecological interests).

The application is also accompanied by arboricultural supporting information, including an arboricultural implications report. There are no trees within the application site subject to a Tree Preservation Order (TPO). Whilst the arboricultural implications report indicates that some tree / hedgerow removal would be required in order to facilitate the proposed development, this suggests that the loss of the trees in question would not have a significant or severe impact on the local landscape. In this regard it is noted that the trees assessed include those which would appear likely to be required to be removed to enable the site access to be formed but, on balance, these losses would not be considered unacceptable, with the majority of vegetation proposed to be removed falling within retention categories C and below. Insofar as other trees within the site are concerned, their removal would need to be considered in more detail at the reserved matters stage(s). However, in principle, there appears to be no reason why development of the site would necessarily result in unacceptable loss of vegetation.

Overall, it is accepted that, whilst a site of considerable size, by virtue of the topography of the surrounding area, it is not particularly visible from further afield, thus assisting in limiting the visual impact of the proposed development. When taking this into account, together with the proposed mitigation, it is considered that the landscape and visual effects of the proposed development would be acceptable.

### **Drainage, Ecology and the River Mease SAC**

The Environmental Statement includes assessment 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*

The Environmental Statement includes a Flood Risk Assessment (FRA) and Drainage Strategy, which set out how the site is proposed to be drained, and assess the existing flood risk to the site along with any resulting flood risk associated with the proposed development.

Insofar as river flooding is concerned, save for a small section where the site boundary includes the existing farm access emerging near Northfields which crosses the Gilwiskaw at this point, the application site lies within Flood Zone 1 (i.e. low probability - less than 1 in 1,000 year probability of flooding in any one year); the Environmental Statement indicates that there is no record of any flooding of the site from the Gilwiskaw Brook. The NPPF and its Technical Guidance set out the relevant requirements in respect of the Sequential Test, and indicate that

the Local Planning Authority's Strategic Flood Risk Assessment will provide the basis for applying this test. Having regard to the site's location within Flood Zone 1, it is considered that the proposed development passes the Sequential Test. Whilst, as set out above, part of the site appears to fall outside of Zone 1 (and within Zone 3), having regard to the extent of this (approximately 30sqm) and the fact that no built development would be likely to take place in this area, it is not considered that any further consideration of the sequential test would be necessary.

In terms of surface water run-off, the FRA indicates that the greatest flood risk to the proposed development itself would arise from surface water flooding due to the increase in hard standing and that the Money Hill Brook, into which the application site currently drains into, is near capacity and that, during high intensity rainfall events, surface water ponding is sometimes experienced towards the southern section of the site. The proposed surface water drainage strategy would, the FRA suggests, improve upon current conditions, therefore reducing this ponding.

In terms of proposed mitigation of these impacts, the developers' proposed surface water strategy consists of a series of retention basins connected by open swales or pipes which convey the surface water from the proposed development into the Money Hill Brook and onwards to the Gilwiskaw Brook, with maintenance of swales and culverts under roads carried out by a management company. The supporting information indicates that the majority of surface water run-off would leave the site via the Money Hill Brook, with a smaller proportion of the site leaving via the Falstaff Brook to a second drainage point at Fairfax Close; all surface water would drain across the site and discharge from it by gravity. The supporting information also provides that the retention basins are assumed to be dry, but that there would be potential to create a further wetland area utilising reed beds or meadow grasses in these areas to provide both contamination treatment for run-off water and an improved ecological environment, and that the contamination treatment has the potential to reduce phosphate levels in the water discharged from the site which would ultimately be discharged to the River Mease. It provides that highways drainage would be collected by gullies parallel to the road which would be subject to future adoption by the County Highway Authority; these would drain to the nearest open swale or pipe into the appropriate retention basin. The strategy also indicates that the measures would ensure that there would be no increase in surface water run-off from the current estimated run-off rate (4.01 l/s/Ha). On this basis, there would appear to be no reason why the proposed development would lead to increased run-off rates (and, hence, discharge to the relevant watercourses), and would therefore not be likely to result in any exacerbation of existing flooding issues within the vicinity of the site and further downstream. The Environment Agency and Severn Trent Water raise no objections to the proposed development in this regard subject to the imposition of appropriate conditions.

Insofar as foul sewage is concerned, the supporting information indicates that the development would connect into the existing combined sewer in Nottingham Road. The site would gravity drain to a pumping station located in the south west of the site at a topographical low point; from here the foul flows would be pumped to a high point in the south west corner where it would discharge via a new gravity sewer into the existing combined sewer in Nottingham Road. Again, no objections are raised by the relevant statutory consultees. Given its location within Ashby de la Zouch, the site's foul drainage would discharge to the Packington sewage treatment works; Severn Trent Water has however confirmed that there is sufficient capacity in the sewerage system and at the Packington sewage treatment works for the proposed development. The issues relating to the River Mease SAC are addressed in more detail below.

*Ecological Issues*

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

The Environmental Statement provides that the closest statutorily designated site of nature conservation interest to the application site is approximately 2km from the site (being the Lount Meadows Site of Special Scientific Interest (SSSI)). Also relevant is the River Mease SAC and SSSI, 2.6km approx. from the site, the impacts on which are considered in more detail below; no adverse impacts are however anticipated in terms of either of these designated sites. In terms of non-statutory designation, the existing "Green Lane" route (following the line of Right of Way O92, a Parish level site), the Environmental Statement suggests minimising direct access onto the Parish level site so as to reduce any impact.

In terms of the various ecological features / habitat identified, these include arable, semi-improved grassland, hedgerows, scrub and wooded areas. The Environmental Statement suggests that, of these, the hedgerows and wooded areas are of the greatest interest, but that these are, in the main, proposed to be retained and / or enhanced under the illustrative scheme, with any losses compensated for elsewhere within the development. There are, the Environmental Statement advises, 44 hedgerows within the site, albeit the majority are "gappy" and relatively species poor (i.e. dominated by only one or two species). The two principal wooded areas are considered to be relatively small, and include a range of species.

Insofar as the effects upon wildlife are concerned, the following conclusions are reached within the Environmental Statement:

**Bats:** No bat roosts have been recorded within the application site. Bat activity surveys completed have recorded low levels of common species foraging and commuting along the boundary features of the application site. The Environmental Statement suggests that the enhancement of existing habitats and the provision of new landscape planting would provide enhanced foraging opportunities for bats and would maintain connectivity across the application site and to the wider area. Artificial bat boxes to provide a net increase in roosting opportunities post-development are also proposed.

**Badger:** No direct evidence indicating use of the site has been found.

**Dormice:** No direct evidence indicating use of the site has been found, nor are the habitats within the site considered particularly suitable.

**Birds:** Based on the surveys undertaken, the habitats present, and the site's size, the Environmental Statement indicates that it is not considered to be of any special ornithological interest, albeit any clearance of suitable habitat should nevertheless be undertaken outside the breeding season; bird boxes are also proposed to be provided.

**Water Vole and Otter:** No direct evidence indicating use of the site has been found, nor are the habitats within the site considered particularly suitable.

**Great Crested Newts:** The Environmental Statement advises that there are no ponds located within the application site, nor immediately adjacent to the application site. The closest pond is located approximately 95 metres from the application site, which is beyond the maximum dispersal distance of newts. The Environmental Statement suggests that, whilst newts can disperse up to 500 metres through suitable terrestrial habitat from their breeding pond, surveys completed on ponds within the wider area recorded no Great Crested Newts.



Reptiles: Some parts of the site are considered to have some potential to support common reptile species due to the lack of formal management they receive; however, no reptiles were recorded during the surveys undertaken.

Invertebrates: The application site is expected to support a range of common invertebrate species but the Environmental Statement provides that there is no evidence to suggest that any protected or notable species are likely to be present.

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

In addition to those mitigation measures set out above (e.g. maximising of feature retention), the Environmental Statement indicates that habitat mitigation would be provided by way of, amongst others, protection of existing features during construction and provision of buffer zones and checking of vegetation prior to removal. Subject to such mitigation and other enhancement, the Environmental Statement indicates that the overall impacts would be positive at the local - national level and would be of minor - moderate significance. The proposed mitigation measures would, it suggests, ensure no net loss in biodiversity terms and enhancements would aim to increase the overall biodiversity of the application site.

The County Ecologist and Natural England have been consulted in respect of the application and raise no objections subject to conditions. Under Regulation 53 of the Habitat Regulations 2010, activities which would otherwise contravene the strict protection regime offered to European Protected Species under Regulation 41 can only be permitted where it has been shown that the following three tests have been met:

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

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

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

#### *River Mease Special Area of Conservation (SAC)*

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The Habitat Regulations 2010 set out how development proposals within an SAC should be considered. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a

significant effect on the SAC is required.

Waste water from Ashby de la Zouch drains into the River Mease which, as referred to above, is a Special Area of Conservation. The Packington sewage treatment works discharges in to the river and, as at March 2012, it was estimated by Severn Trent Water that the works had headroom (i.e. available capacity within the terms of the permit agreed by the Environment Agency) to accommodate 1,218 dwellings. However, the Water Quality Management Plan (WQMP) for the SAC (see below) clarifies that, whilst there may be volumetric headroom or capacity available for new development within the specific limits of the existing wastewater treatment work consents that discharge to the River Mease, the availability of such headroom is reliant on the WQMP being in place.

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

One of the actions of the WQMP was to establish a developer contribution framework in accordance with planning obligations best practice to be known as a Developer Contribution Scheme (DCS). The DCS was agreed in November 2012 and developer contributions will fund a programme of actions to restore and provide new benefits to the River Mease. The contribution scheme provides a mechanism through which new development which increases phosphorous load to the river will mitigate the negative effects of development, as part of the overall package of reductions being delivered through the wider WQMP and the permit modifications identified through its review. It confirms that new development that contributes to the scheme will not conflict with the overall objectives and purposes of the WQMP.

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

The WQMP is entirely concerned with reducing levels of phosphate to enable the conservation objectives target to be met. It is therefore directly connected with and necessary to the management of the River Mease SAC. As such, both the plan itself and the Developer Contribution Scheme are excluded from the assessment provisions of the Habitats Regulations.

The Environmental Statement assesses the impacts of the proposed development on the River Mease, and including in respect of those in terms of noise, recreational / visual disturbance, air quality and light pollution, as well as the hydrological impacts. Mitigation proposed in respect of the impacts on the River Mease include implementation of the applicants' Construction Environmental Management Plan. The applicants have also confirmed that they are agreeable to making a DCS contribution, and estimate that the contributions made would total £134,310 (albeit the precise amount payable would be 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 insofar as the residential element of the proposals are concerned, and the estimated increased phosphorous loading to the river associated with the proposed non-residential development). As such, and subject to the implementation of appropriate obligations, the proposals would comply with the relevant planning policies and the Habitats Regulations. On the basis of the applicants' proposed

payment to the DCS, the Environment Agency has no objection to the proposals. For its part, 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.

On this basis, it is accepted that the proposed development would not have an adverse impact on water quality (nor would there be any other impacts on other aspects of the SSSI / SAC), 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.

### Historic Environment

The submitted Environmental Statement includes a detailed assessment of the archaeology and historic environment implications of the proposed development. The Environmental Statement indicates that the site itself does not contain any Scheduled Monuments, listed buildings or Conservation Areas, but there are Grade II listed buildings in close proximity (existing properties on Wood Street, the closest four of which are assessed in more detail in the Environmental Statement) as well as the Ashby de la Zouch Conservation Area which abuts the site. The Environmental Statement also considers the impacts on other designated heritage assets including Ashby Castle (a Scheduled Monument and Grade I listed building) and the Parish Church of St Helen (listed Grade II\*).

In terms of the effects upon these designated assets, the Environmental Statement concludes that the development would have the following impacts during construction:

- Ashby Castle: Neutral
- Parish Church of St Helen: Neutral
- Wood Street dwellings (4 no.): Neutral
- Ashby de la Zouch Conservation Area: Low magnitude, minor (significance) impact

The impact on the Conservation Area would be, the Environmental Statement indicates, an indirect, minor effect caused by the introduction of modern development into the immediate setting of the Conservation Area and a consequent marginal alteration to the townscape extent; no mitigation is proposed. No post-completion mitigation is also proposed given the findings of the construction stage impacts. The findings of the Environmental Statement in this matter are generally accepted, and it is noted that the detailed design of the proposed development in the areas of the site closest to the Conservation Area would need to be considered at the reserved matters stage(s) (and the setting of the Conservation Area would be a material consideration in the determination of any such application(s)). The District Council's Conservation Officer is of the view that, whilst the proposals would significantly alter the boundary of the historic settlement of Ashby, they would not have a significant impact on designated heritage assets, nor would they harm their immediate setting and, as such, no objection is raised. For its part, English Heritage comments that, whilst the supporting documents identify no harm upon the significance of the castle as a result of this development, this may be something of an over simplification but, nevertheless, English Heritage has not identified substantial harm in this case. Whilst English Heritage disagrees with some of the applicants' assertions regarding the importance of the defensive views / tactical surveillance from the castle when it was designed, the view out to Money Hill does not, English Heritage advises, appear to be an axis with particular special significance over and beyond being part of the landscape that was visible around town from the tower, and no objection is raised in this regard.

In terms of non-designated heritage assets, a number of sites (including those of archaeological interest) are considered in the Environmental Statement, with the potential impacts on four of those in particular assessed as having potential impacts. Two of these fall within the application

site, namely a "findspot" indicative of potential for prehistoric background activity in the vicinity of the proposed A511 vehicular access and an area of earthwork ridge and furrow within five fields towards the south eastern part of the site. Insofar as the "findspot" is concerned, the Environmental Statement indicates that there would be a low magnitude adverse impact but that its significance would be negligible; for the ridge and furrow, the impact is identified as medium magnitude adverse of minor significance. The Environmental Statement comments in respect of the ridge and furrow that this asset survives in an incomplete state, and that it is not of sufficient quality or significance to require preservation in situ (although localised areas would be preserved within areas of public open space). In respect of the ridge and furrow issue, the County Archaeologist notes that the submitted archaeological Desk Based Assessment suggests that these remains are poorly preserved and incomplete, attributing to them significance at a local level. The County Archaeologist advises that Ashby de la Zouch appears to have been substantially enclosed by 1601, although an Act of Parliament for the enclosure of fields and several commons was passed in 1768; given that the 1735 estate plan appears to show most of the field boundaries within the development area, this would suggest, he advises, that the current site was enclosed prior to the Enclosure Act. Regarding the quality of the earthworks, based purely on aerial photographic evidence and LIDAR (a remote sensing technology) data, he advises that the surviving earthworks appear reasonably intact, forming a coherent set of lands / furlongs, abutting a stream course to the north and the historic town and a former warren to the south. The County Archaeologist strongly recommends that significant attention is given to accommodating these features within any development scheme; he is of the view that they have a strong local significance and their sensitive treatment within the context of the wider development would accord well with paragraph 131 of the NPPF. The County Archaeologist notes that the current development details (i.e. the illustrative Masterplan) offer only an indication of the intended uses, but that development impacts are likely to include foundations, services and landscaping associated with the planned residential, commercial, industrial and infrastructure elements of the scheme. He advises that archaeological remains, where they occur and survive, are likely to be close to the existing ground surface; consequently, the proposals are likely to have a destructive impact where they coincide with those deposits. In view of this, he recommends that the application is approved subject to conditions for an appropriate programme of archaeological mitigation, commencing with and initial phase of fieldwalking and trial trenching. A note to applicant is also recommended so as to ensure that the layout of the scheme proposed at any future reserved matters stage seeks to accommodate the site's ridge and furrow features. Insofar as its advice in respect of the ridge and furrow is concerned, English Heritage is of the view that the significance of the ridge and furrow is a material consideration which the Local Planning Authority needs 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). English Heritage advises that such features are highly characteristic of the Midlands landscape and support the setting of the Conservation Area by way of giving a sense of the relationship between town and fields in the medieval and early modern period. English Heritage is of the view that these particular earthworks are of at least local interest in their own right, and in their historic landscape context can be seen to support the significance of the Conservation Area. It also advises that the water carrying and storage capacity of extant ridge and furrow should be born in mind in the context of their contribution to land drainage. Overall, however, English Heritage recommends that the application be determined in accordance with the advice of the County Archaeologist and, on this basis, no objections are raised.

Overall, in respect of heritage issues, whilst still outline, there would appear to be no overriding reason why the proposed development could not be designed in a manner so as to maximise retention of features of interest (and, in particular, the existing ridge and furrow) and, on this

basis, is considered acceptable in heritage terms, subject to appropriate layout solutions being proposed at the reserved matters stage(s).

### **Air Quality**

There are no Air Quality Management Areas (AQMAs) within close proximity of the site (the closest being at Coalville), but the Environmental Statement nevertheless assesses the impacts on dust, particulates and nitrogen oxides associated with the construction and post-construction phases of the proposed development. The Environmental Statement considers likely effects in two principal categories: dust, particulates and nitrogen oxides during the construction phase, and road traffic during the operational phase. The Environmental Statement suggests that, subject to the implementation of appropriate mitigation measures, impacts on local air quality would be negligible.

Insofar as the impact of the construction phase is concerned, the Environmental Statement indicates that the main effects during this stage are likely to be dust deposition and elevated particulate concentrations from construction dust, including from activities such as site preparation, earthworks, materials handling, construction of temporary roads, movement of construction traffic, construction of infrastructure and buildings, and disposal of waste. However, the Environmental Statement sets out a range of mitigation measures which ought to be employed / incorporated within the Construction Environmental Management Plan and, subject to these, indicates that the risk can be reduced to medium or low.

In terms of the operational phase of the development, and the resulting impacts arising from changes to traffic, the Environmental Statement provides that the predicted pollutant concentrations at the selected receptors indicate that annual mean nitrogen dioxide concentrations are predicted to be well below the air quality objective of 40 micrograms per cubic metre ( $\mu\text{g}/\text{m}^3$ ) at all receptors (with the highest being  $31.1\mu\text{g}/\text{m}^3$  in 2028, an increase of  $0.3\mu\text{g}/\text{m}^3$  over the no development scenario, and with the greatest increase over the no development scenario being an increase of  $0.6\mu\text{g}/\text{m}^3$ , taking the total in that location to  $19.6\mu\text{g}/\text{m}^3$ ). It also assumes from these results that the hourly mean nitrogen dioxide objective would be met at all receptors and for all assessment scenarios as the annual mean is less than  $60\mu\text{g}/\text{m}^3$ . All of the predicted increases in nitrogen oxide are assessed as having a magnitude of either "imperceptible" or "small", with significance of the effect being defined as "negligible".

Insofar as particulates are concerned, none of the receptor locations are anticipated to experience any increase of more than  $0.1\mu\text{g}/\text{m}^3$  over the 2028 no development scenario with the results indicating that annual mean concentrations are forecast to be well below the objective of  $40\mu\text{g}/\text{m}^3$  at all receptors and for all assessment scenarios (the highest figure being  $19.2\mu\text{g}/\text{m}^3$ , albeit in a location where no increase would be predicted in 2028 over and above the no development scenario).

Overall in terms of air quality, therefore, the proposed development would not be expected to result in any significant harm to air quality (either during or post construction), and the development is considered acceptable in air quality terms; no objections in respect of air quality issues have been raised by the District Council's Environmental Protection team.

### **Neighbours' and Future Occupiers' Amenities**

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

*Construction Noise*

The submitted Environmental Statement does not contain detailed analysis of the nature of construction noise but states that, following dialogue with the District Council's Environmental Protection team any associated impacts could be adequately dealt with by way of appropriate conditions relating to hours of construction, with time limits of 0800 - 1800 on Mondays to Fridays, 0800 - 1300 on Saturdays and no working on Sundays / public holidays suggested. Hours of construction conditions are not routinely applied to planning permissions as this is a matter generally controlled under separate (environmental protection) legislation. Nevertheless, this matter would, in effect, be one of the measures controllable under a condition relating to approval of precise details of mitigation identified in the Environmental Statement; other mitigation is also suggested in respect of the development which could also be secured in this way. No objections are raised by the District Council's Environmental Protection team in respect of this issue.

*Suitability of the Site for Residential Development*

The Environmental Statement considers the suitability of the site for residential development in noise climate terms, having regard to how it is affected by current noise sources (including noise emanating from nearby roads and the operation of nearby commercial / industrial type uses). In respect of the issue of road traffic noise, the applicants' assessment indicates that the impacts on proposed dwellings' occupants would be imperceptible during the daytime, and minor at night.

However, insofar as the impacts of nearby commercial uses are concerned, the Environmental Statement identifies potential impacts from the nearby United Biscuits warehouse (and principally due to HGV manoeuvring to the rear of that unit); the Environmental Statement assumes the closest proposed residential units would be approximately 95m from the noise source. In terms of mitigation, the Environmental Statement suggests that an extension of the existing acoustic screen in this location would be appropriate. For its part, the District Council's Environmental Protection team raises no objections subject to the implementation of this mitigation.

*Other Residential Amenity Impacts*

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 Woodcock Way access (serving up to 130 dwellings plus the health and community centres) 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 a not insignificant increased use of this route by vehicles (at least until such time as the access arrangements were reconfigured so as to access more units via the A511 as suggested by the applicants) 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.

Also of relevance are the likely impacts on amenity of properties in the vicinity of likely pedestrian and cycle routes serving the site. In this regard, whilst it is considered that, given the location of the site in relation to existing pedestrian routes / public rights of way, and based on the illustrative material submitted with the application, there would be likely to be increased use of these routes, these elements of the access are reserved matters, and do not form part of the outline application. As such, these are more issues for the reserved matters stage. Having said this, however, in principle, it is considered that there would be no overriding reason why unacceptably adverse impacts from use of routes indicated on the illustrative masterplan would necessarily arise were the development to proceed in the manner indicated. Particular concern has also been raised over the potential increased unauthorised use of a private drive off Wood Street by users of the proposed development, particularly given the applicants' indication that this private drive would act as a non-vehicular link to the site (as it is also a public right of way at present). At present there are no measures on site preventing unauthorised use of this drive (and, say, to prevent its use for unauthorised parking by users of the public footpaths accessed via it) and, in this sense, there would not necessarily be any change, save in respect that there could be increased use of the public rights of way over and above the existing situation. In principle, it is not considered that this issue would be one which would render the development unacceptable; nevertheless, it is a matter which would more properly be considered at any future reserved matters stage (which would be the relevant stage to consider means of access other than those applied for under this application) if this route were indeed included as a proposed link to the site, and including consideration of whether any measures (e.g. physical measures or signage, say) could be provided so as to minimise any potential increased unauthorised vehicular use.

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves, whilst an illustrative masterplan has been submitted, all matters except part access are reserved for subsequent approval. The illustrative masterplan indicates that built development would be located adjacent to a number of residential properties to areas to the north west, south west and south east of the application site, including properties on Money Hill, Allison Close, Wood Street, Nottingham Road and Plantagenet Way. 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.

### **Loss of Agricultural Land**

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

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to the five year housing land supply issue as set out above, it would seem inevitable that land outside Limits to Development (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification. The Environmental Statement includes an assessment of the agricultural quality of the 43.6ha application site, suggesting the following distribution of land quality:

Grade 2:                      0.5ha (1%)

Grade 3a:	37.5ha (86%)
Grade 3b:	3.0ha (7%)
Urban:	2.6ha (6%)

On this basis, 87% of the application site (38ha) would be BMV, and primarily incorporating the southern sections of the site (mainly Grade 3a) and the area through which the A511 access would pass (Grade 2). In terms of assessing the significance of this loss, the Environmental Statement has regard to accepted practice of classifying the impact as "moderate" where loss of between 20 and 50ha of BMV would result (with "slight" and "major" impacts defined as those resulting in loss of less than 20ha and more than 50ha respectively). It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process. The Environmental Statement also classifies the significance of the impact as "moderate adverse". In support of the proposals, the Environmental Statement argues that, although the development involves the loss of BMV, it is important to consider that the land quality across the study area is typical of the surrounding area, and that there are some areas where sites of a similar size could comprise of a far higher amount of BMV, hence its release would not be unacceptable.

Also relevant is the extent to which change of use of the BMV land is irreversible. Whilst the submitted masterplan is illustrative only, it is noted that it indicates that a proportion of the areas identified as BMV would be given over to National Forest planting and public open space which, it is considered, would not necessarily preclude its future re-establishment in active agricultural use if circumstances so dictated.

Nevertheless, in terms of agricultural land quality, it is not considered that the proposed development sits particularly comfortably with the requirements of the NPPF and, in particular, the aims of Paragraph 112. However, this would need to be weighed against other material considerations and, whilst there would be adverse impacts in this regard, 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 suggest that planning permission should be refused. Also, and as pointed out within the Environmental Statement, the quality of land within the application site, whilst primarily BMV, is not untypical of the surrounding area and, as such, if the Local Planning Authority is required to release significant areas of land within the Ashby de la Zouch area, it would seem likely that this would need to include significant proportions of BMV land. DEFRA has been consulted on this issue, but no response has been received.

### **Geotechnical Issues and Land Contamination**

The applicants have undertaken a non-intrusive Geo-environmental and Geotechnical Desk Study, and the Environmental Statement assesses the potential impacts of the proposed development to various receptors, including residents of the proposed development, controlled waters, flora and fauna and the built environment; mitigation, and including more detailed ground investigations, is recommended. Nevertheless, the Environmental Statement concludes that it is anticipated that there will be no significant residual effects related to land quality and remediation. The District Council's Environmental Protection team raises no objection to the application in this regard subject to conditions, and the proposals are considered acceptable in this regard.

The Environmental Statement and other supporting documents also consider the impacts of coal on the proposed development of the site. In terms of the potential risk from former



workings, supporting information provided on behalf of the applicants (and based on Coal Authority data) indicates that, whilst parts of the site have the potential to be underlain at shallow depth by coal seams, there are no records of any underground workings within the site (albeit the potential for unrecorded workings could not be ruled out). In terms of surface workings, a small area of the site is understood to have been worked in the 1940s to a depth of approximately 12 metres. Insofar as potential risk from these former workings is concerned, the supporting information suggests that this would be likely to be limited to the standard of the restoration work (i.e. how well they were backfilled), but that, given the length of time since the site was worked, any settlement of the backfill would probably have now ceased (albeit there is no means of confirming this). Also, there remains a possibility of accumulated gas, but this could be established by drilling of exploratory boreholes, and any risk eliminated by the inclusion of protective measures. For its part, the Coal Authority considers that the supporting documentation is sufficient for the purposes of the planning system and meets the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development, and raises no objections subject to the imposition of an appropriate condition.

In terms of the potential for further mineral workings to take place on the site, the applicants' supporting information indicates that, although it is likely that two coal seams may underlie the southern part of the site at shallow depths, these are very thin in nature and hence unlikely to be economically viable for future exploitation by surface mining methods. Given that no concerns are raised by the Coal Authority in respect of this issue, Leicestershire County Council in its capacity as Mineral Planning Authority raises no objections.

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

The proposal includes for retail space as part of two new local centres (comprising A1 retail stores selling convenience goods of 100sqm floorspace in the proposed northern district centre and 460sqm in the proposed southern district centre), and the planning application is accordingly supported by information in respect of the sequential test. This supporting information has been assessed on behalf of the Local Planning Authority by planning consultants with a retail specialism. [Given the scale of the proposed retail development (which falls below the 2,500sqm threshold set out in the NPPF), no supporting information in respect of retail impact is required].

In terms of the findings of the Local Planning Authority's consultants, these can be summarised as follows:

- The applicant states that the site is edge-of-centre. The District Council's consultants consider that this is not clear cut as the site is extensive and the proposed northern district centre would be considerably further than 300 metres from the Core Shopping Area of Ashby de la Zouch
- The applicants' assertions that the use is provided for in [the then emerging] Core Strategy Policy CS37 are not concurred with, nor that the proposed retail floorspace is (as suggested by the applicants) not a main town centre use
- The area of search, in and around the town centre, is considered to be reasonable and appropriate
- It is agreed that it is necessary to conduct a search for sites that are capable of accommodating approximately 500sqm of retail floorspace
- In terms of the sequential sites considered (including eight alternative sites in Huntingdon Court, Market Street, Rushton's Yard, Bath Street and Kilwardby Street), it is agreed that none of these appear to be available or suitable as alternatives to the application site - in coming to this conclusion, the Council's consultants have borne in mind that the stated purpose of the proposed convenience retail floorspace is to provide

"top-up" shopping facilities within the application site (and, therefore, that none of the vacant units in the town centre would be suitable in terms of meeting this location-specific requirement)

On the basis of the above, therefore, whilst some elements of the submitted retail supporting information is not accepted, the District Council's consultants conclude that the applicants have satisfied the NPPF's sequential test requirements and, as such, it is considered that the proposed development would be acceptable in retail / town centre policy terms, and would not adversely affect the vitality and viability of the town centre.

### Design

The proposed scheme is outline only, with all matters other than part access reserved for later consideration. The proposal has been assessed by the District Council's Urban Designer and was also, prior to the application's submission, subject to Design Review by OPUN (the Architecture and Design Centre for the East Midlands). In its comments on the pre-application Design Review, OPUN's Panel was of the view that the main issues that needed to be addressed were the provision of strong, legible and safe connections to the town centre (and between the two phases of the development), the provision of a strong and simplified street hierarchy supported by green links / infrastructure, the strengthening the site entrance / sense of arrival from the Nottingham Road direction, and the potential relocation of the community facilities (and including a possible "village green") to a location that would be well located, accessible and visible. The Panel also felt that further clarification regarding the identity and character of the development to be created was required, making more of the landscape context as a "driver" for the design, including the National Forest, existing hedgerows, trees and the topography of the site, so as to enable the creation of an even stronger landscape strategy, and including the provision of a range of green / open spaces that would be well integrated into the development.

The scheme has also been assessed by the District Council's Urban Designer who had advised that there were some strategic design issues raised by OPUN (and by the Local Planning Authority at the pre-application stage) that required resolution if he was to be able to support the application. In summary, he advised that these unresolved issues would affect the Building for Life report for this scheme and related to:

- "- *Character and identity - the need for a stronger sense of identity driven by landscape and the need for the development to have a clear idea whether or not it was part of Ashby. There is a real opportunity here to capitalise on the site's location in the National Forest.*
- *Stronger connections between the two phases of development and Ashby are required. The key connection between the town centre and the development is weak and must be stronger and more direct if it is to be well used and attractive. Currently it appears as an after thought. For example, why not have a strong, tree lined, well lit pedestrian and cycle way that enters the development and forms a strong 'backbone' for the development linking to other principal spaces? This would help to stitch the development to the existing urban fabric, something that also needs reconsideration.*
- *Location of facilities*
- *Response to topography and the opportunity to better integrate SUDS into the development in addition to a series of linear/multi-use spaces along the valley.*
- *The lack of a suitable gateway to the development from the north."*

In response, the applicants have expressed concern over the timing of the comments, but have responded as follows:

**Character and Identity:**

The applicants consider they have achieved this objective, particularly in relation to the National Forest context, and that character was strengthened in the proposal as a response to the Design Review, including a restructure to allow landscape and sustainable drainage principles to take priority. This is now, they consider, implicit in the proposals and includes structural woodland belts which integrates into the National Forest beyond the site, enhanced hedgerows retaining nature corridors, meadows, wetland areas and a series of squares and greens.

**Stronger Connections:**

The applicants consider that they have ensured that the crossings of the brook between phases 1 and 2 are enhanced, including two street crossings and three additional pedestrian crossings. They accept that town centre pedestrian connections are weak, but propose that pedestrian routes linking to the town centre (including existing Right of Way O89 linking the site to North Street) are well lit, resurfaced and useable by cycles. They suggest that the existing adjacent industrial uses are likely to relocate over time, thus enabling the District Council's Urban Designer's aspiration for tree lines along the route to be provided in the future.

**Location of Facilities:**

The applicants consider that it should be recognised that the proposed on-site facilities are not local centre uses specific to a self-contained neighbourhood, but town centre uses with strong associations serving the people of Ashby de la Zouch. They therefore consider that the location of facilities within the proposal close to and associated with the town centre is the better solution.

**Topography:**

The applicants consider that they have provided opportunities for interpreted SUDS and have provided a series of linear / multi-use spaces along the valley and, as a result of the OPUN Design Review, the landscape section of the proposal has been greatly expanded, an approach they consider is supported by the National Forest, the County Council's Rights of Way officer, and the Environment Agency.

**Northern Gateway:**

The applicants consider that there is ample opportunity for an appropriate entrance from the north to be provided, and that this could be secured by way of a suitable condition.

On this basis, whilst there appear to be unresolved concerns in respect of design, and whilst an entirely satisfactory form of development has not at this time been formulated, the view is taken that there still nevertheless appear to be significant opportunities to provide for a robust design solution in this case. As such, whilst further work is clearly required in respect of this issue as the scheme evolves, it is not considered that approval of the outline application would unacceptably fetter the prospects of achieving a sound design approach and, on balance, it is not considered that this, in itself, warrants refusal of the application. In response to the applicants' comments, the District Council's Urban Designer agrees with the applicants' suggestion regarding a condition in respect of the Northern Gateway, and further suggests that conditions in respect of a Design Code and Building for Life also be attached to any approval. Whilst it is considered that a condition in respect of the Northern Gateway along the lines suggested by the applicants would not necessarily be required (i.e. given the outline nature of the application), it is nevertheless considered appropriate to attach a Note to Applicant advising of the Local Planning Authority's expectations at the reserved matters stage. Subject to this, it is considered that, in principle, it has been demonstrated that an appropriate form of design could be provided at the reserved matters stage(s) and, on balance, the design-related concerns are considered to have been addressed to a satisfactory degree at this outline stage.

## Other Matters

### Developer Contributions and Development Viability

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 proposed infrastructure and other developer contributions / Section 106 obligations are as set out in the preceding sections of this report (including in respect of accessibility / transportation and the River Mease DCS) and as listed below.

Notwithstanding the various contributions proposed by the applicants (and sought by consultees), the applicants do not propose to make a full affordable housing contribution (the content of which is set out in more detail below). In proposing this, they point to what they suggest is an "overprovision" of contributions in respect of education and connectivity between the site and the town centre (the issue of the need to improve pedestrian and cycle connections to the town are discussed above under Means of Access, Highways and Transportation Issues; education matters are set out in more detail below). The contribution offered in respect of enhanced connectivity is £336,657, proposed to be used by the District Council for the enhancement of connections between the site and the town centre. As set out in more detail under Education below, based on the Local Education Authority's "usual" contribution requirements for a development generating the number of pupils anticipated, a contribution to the primary school sector of £1,756,776.25 would usually be required. However, in this case, having regard to the scale of the development, the applicants had agreed the provision of a new school with the Local Education Authority, the cost of which, the applicants advised, would be £4.5m (i.e. approximately £2.74m more).

In effect, the applicants have argued that, because they are proposing to pay an "additional" £3.8m (i.e. the £2.74m plus the £336,657), it is appropriate to reduce contributions elsewhere to reflect this and, in this regard, are proposing a reduced affordable housing contribution (a *minimum* of approximately 10% instead of the policy-compliant 30%) (albeit the final position in respect of primary education remains to be clarified by the Local Education Authority). The applicants also argue that this would render the overall contributions (expressed in terms of cost per dwelling) comparable with other developments elsewhere.

As set out under Relevant Planning Policy above, the NPPF requires that development of sites identified in an Authority's plan should not be subject to such a scale of obligations that their ability to be developed viably is threatened. At the time of preparing this report, whilst the applicants suggest that reduced contributions would be appropriate, no detailed evidence has been submitted indicating that such contributions would threaten viability or prevent provision of competitive returns to the landowners / developers; it also appears to be the case that the applicants are not only suggesting that the contributions sought would render the proposed development unviable, but also that the case for reduced contributions is based on comparison with other developments elsewhere in the District.

Until such time as evidence in the form of a viability appraisal had been undertaken indicating that such measures would threaten viability as set out in Paragraph 173 of the NPPF, it is not

considered that it would be appropriate to agree to reduced affordable housing contributions. Nevertheless, it is not considered that there is an overriding reason why this scenario could not be assessed on the assumption that evidence for the assumed figures can subsequently be provided (and be robustly assessed on behalf of the Local Plan) in due course.

In terms of the argument relating to comparative contributions with other developments, however, whilst it is noted that any contributions would need to be fairly and reasonably related in scale and kind to the development, it would not be considered appropriate to just accept the proposed affordable housing "reduction" on the basis of a comparison of the average amount per dwelling to other developments elsewhere where land values and returns may be very different. Any detailed viability assessment would need to be based on a set of assumptions of development value and costs agreed with the Local Planning Authority's advisors (likely to be the District Valuer), and including private residential and affordable housing development values, commercial values, build costs, infrastructure costs, developer contributions, fees, finance costs, profit levels and land value.

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

*Affordable Housing*

Under the provisions of the District Council's Affordable Housing SPD, a site of this scale in Ashby de la Zouch requires a minimum affordable housing contribution of 30% (i.e., for a development of total number 605 dwellings, 182 affordable units (rounded up to the nearest whole number of units, in accordance with the SPD)). As set out above, however, the development is proposed to provide a reduced proportion of affordable housing.

Insofar as property and tenure mix are concerned, the District Council's Affordable Housing Enabler advises that the following mix had previously been agreed with the developers as acceptable, and with a tenure mix of 65% affordable rented and 35% intermediate housing:

- 1 bed - 31%
- 2 bed - 51%
- 3 bed - 15%
- 4 bed - 3%

In terms of the proposed reduced contribution, following discussions with the District Council's Strategic Housing team regarding the property / tenure mix of the affordable housing contribution, the applicants propose the provision of a minimum of 10% of the dwellings to be affordable (61 units minimum). The application as submitted included for this contribution to be solely in the form of the proposed 60 unit extra care facility but, following amendment, the applicants advise that, *if* a 10% contribution can be demonstrated as being the maximum viable, the following is proposed:

- 15 affordable "extra care" homes (as part of a wider 60 unit extra care scheme, the remainder of which would be open market flats)
- 46 units as "general needs" affordable housing (i.e. "conventional" affordable housing - houses, flats etc.)

Notwithstanding this proposed contribution, however, the District Council's Affordable Housing Enabler expresses concern over the ability to implement such a proposal in that it may not be possible to attract a Registered Provider to take on 15 affordable units in what will essentially be a 60 unit private care scheme. In view of this, a "fallback" position is also proposed whereby, if no Registered Provider can be found, the contribution would be 61 units as "general needs" affordable housing. [NB These figures would need to be increased in the event that a higher level of contribution was found to be viable by the District Valuer.]

As set out above, the above scenario is considered acceptable by the District Council's Strategic Housing team solely on the basis that the scheme is otherwise unviable and, generally, there is concern that the proposed reductions in contributions to render the development viable are focussed on the affordable housing contribution. This is considered to be an entirely reasonable concern, and there would clearly be implications of a reduced contribution towards affordable housing in order to secure the development's viability which would represent a departure from the Council's current affordable housing policies. In terms of the impacts, it should be noted that a significant housing need already exists within the District. The last housing needs study for the District which was undertaken in 2008 as part of the Strategic Housing Market Assessment (SHMA), indicated that the level of affordable housing provision within the district required to meet the identified need is at least 355 new affordable dwellings per annum. In the years 2010/11, 2011/12 and 2012/13, the numbers of affordable houses built in the District were 42, 57 and 82 respectively, representing approximately 25% of all dwellings completed. Therefore even at current levels of provision, and notwithstanding an increase in 2012/13, the housing needs of many people within the District are not being met, and securing a reduced level of contribution in this instance would not, on the face of it, assist; a lack of affordable housing in the District would be likely to impact upon some of the most vulnerable people within the District and has the potential to increase the number of homelessness cases. However, this needs to be balanced against:

- (i) The Government's support for Local Planning Authorities taking a proportionate approach to developer contributions and viability so as to enable development to come forward;
- (ii) The need to consider the potentially harmful impact on other service areas were the shortfall in viability to be addressed by way of reductions in contributions to other areas of infrastructure; and
- (iii) The fact that, whilst the contribution that this development would make would fall below that which would usually be secured in terms of affordable housing, the scheme would nevertheless still make a significant contribution to the affordable stock (in numbers terms, at least 61 units) and that, should the development not take place due to viability concerns, no affordable housing contribution would be made at all.

On balance, however, whilst the contribution proposed would be substandard vis-à-vis the current affordable housing standards set out in the District Council's SPD, should the applicants be able to demonstrate to the District Valuer's satisfaction that the contribution proposed is the maximum that could be provided (or, if higher than 10%, the applicants also provide this), it is considered that the overall amount of affordable housing proposed would be appropriate in this case, and when balanced against all other viability considerations. If, however, agreement in terms of the figures could not be reached (i.e. that a higher contribution was found as viable by the District Valuer and the applicants were not agreeable to making that level of contribution), this matter may need to be considered further by the Planning Committee.

#### *Transportation and Accessibility Contributions*

These are as set out under Means of Access, Highways and Transportation Issues above.

#### *Education*

The applicants had proposed to provide a site and construct a new 210 pupil capacity primary school, to be provided prior to the occupation of 300 dwellings on the site; the applicants advised that the cost of such a facility had been costed at approximately £4.5m.

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

Primary School Requirements:

This site falls within the catchment area of Ashby Church of England Primary School. The school has a net capacity of 315 and 540 pupils are projected on roll should this development proceed, a deficit of 225 places (of which 79 are existing and 146 would be created by this development). There are three other primary schools within a two mile walking distance of the development, namely Ashby Willesley Primary School (with a surplus of 23 places), Ashby Hill Top Primary School (with a deficit of 1 place) and Woodcote Primary School (with a deficit of 126 places). When taking these into account, there would be an overall deficit in the primary sector of 329 pupil places, and the 146 pupil places created by the development could not therefore be accommodated at nearby schools.

In order to provide the additional primary school places anticipated by the proposed development the County Council requests a contribution for the Primary School sector of £1,756,776.25. The Local Education Authority advises that a financial contribution would normally be used to accommodate the capacity issues created by the proposed development (by, for example, remodelling or extending the existing facilities at the local catchment school which, in this case, would be Ashby Church of England Primary School). However, the County Council also advises that there is insufficient capacity within the nearby schools to accommodate the additional 147 pupils generated by the proposed development and, as it is not considered possible to extend any of the local primary schools within the vicinity of the development proposal to accommodate all of the additional pupils generated by the proposed development, a new school (or first phase thereof) would be required within the site of the development. Leicestershire County Council advises therefore that the education contribution would be likely to be a non financial contribution to provide suitable land for a new school of 1.5ha, together with the costs of providing the infrastructure (e.g. hall, offices, staff room) for a 210 place school. The County Council has advised that the option is available for the developer to either (i) provide the site and build the school; or (ii) make a financial contribution representing the cost of the provision of the new primary school. However, the County Council has also advised that the commuted sum figure generated from the development (i.e. £1,756,776.25) would not be sufficient to provide a new school and, therefore, the County Council has sought further clarification from the applicants in respect of the funding strategy.

In respect of the building's design etc., it is understood that the Local Education Authority would be content for this matter to be addressed at the reserved matters stage. In response the applicants had advised (as set out above) that the primary school has been costed at approximately £4.5m but if, for whatever reason, the developers did not provide the school, then the County Council had requested a fall back mechanism (i.e. that the developer would pay a contribution equal to the amount of the new school). Having regard to the recent resolution to permit a scheme of residential development at Holywell Spring Farm (which also includes for a new school), the County Council has suggested that, on the basis that two new schools would be unlikely to be required, were the proposed development on the Money Hill site also to be permitted, the Local Education Authority would need to consider which of those development sites would be likely to be most appropriate for a new school taking account of current pupils and possible future development sites.

Overall, therefore, it is understood that the County Council is in effect advising that (i) were a "normal" contribution to provide for expansion of an existing school possible, the sum required would be £1,756,776.25. However, in this instance, given the scale of expansion required, there is no opportunity to do this (unless the school at the Holywell Spring Farm were to be built). As such, unless a contribution towards that school is made (together with any associated costs of securing the necessary land for expansion etc.), a new on-site school would be required (which could then, for example, accommodate increases to capacity from this and other sites). For their

part, however, the applicants now advise that they understand the County Council's position to be that the primary contribution would be the sum of £1,756,776.25 regardless (with a site for a school on the Money Hill development safeguarded), and that this contribution would be combined with that secured from the Holywell Spring Farm site, with the only remaining issue being whether the Money Hill or Holywell Spring Farm site would be the location of the proposed new school. It is not clear how this would work in terms of delivering a school in the event, say, that the Money Hill development progressed but the Holywell Spring Farm one did not (i.e. the £1,756,776.25 sum would not, on its own, be sufficient to deliver the school). At the time of preparing this report, clarification from Leicestershire County Council on its final position was awaited, however, and any further comments on this matter will hence be reported on the Update Sheet.

**High School Requirements:**

The site falls within the catchment area of Ivanhoe College. The College has a net capacity of 949 and 1,042 pupils are projected on roll should this development proceed; a deficit of 93 places (of which 32 are existing and 61 would be created by this development). The Local Education Authority advises that there are no other high schools within a three mile walking distance of this development. The 61 deficit places created by this development can therefore not be accommodated at nearby schools and, in order to provide the additional high school places anticipated by this development, the County Council requests a contribution for the high school sector of £1,081,508.29. 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. The applicants have confirmed that they are agreeable to making this contribution.

**Upper School Requirements:**

The site falls within the catchment area of Ashby School. The school has a net capacity of 1,841 and 1,915 pupils are projected on roll should this development proceed; a deficit of 74 places (of which 13 are existing and 61 are created by this development). The Local Education Authority advises that there are no other high schools within a three mile walking distance of this development. In order to provide the additional upper school places anticipated by the proposed development, the County Council requests a contribution for the upper school sector of £1,110,487.18. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Ashby School. The applicants have confirmed that they are agreeable to making this contribution.

***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 applicants have estimated a contribution of £134,310 would be payable, although the precise amount payable would need to be based upon the precise nature of the development proposed at the reserved matters stage(s).

***Play and Public Open Space***

The supporting documents proposed development would provide for significant areas of open space / green infrastructure, including on-site children's play facilities with a local play area designed to cater for younger age ranges from toddler to approximately 12 year olds and, in the wider landscape, informal play spaces and play "stations" created as part of the overall landscape structure. The Design and Access Statement also suggests that educational play items and interpretation boards would be provided to encourage engagement with local wildlife, ecology and the history of the area. The details of the areas of open space would need to be addressed as part of the reserved matters, but there appears to be no reason in principle why



the detailed scheme could not provide for appropriate play areas in accordance with the District Council's Play Area Design Guidance Note SPG.

The submitted illustrative masterplan indicates the provision of significant areas of open space throughout the site, including to its northern, eastern and southern boundaries (and including areas of open space separating proposed built development from existing dwellings on Woodcock Way, Lockton Close, Bosworth Close and Plantagenet Way), and through a central swathe of it. The applicants confirm that the proposals would, overall, provide for public open space of 14.3 hectares (and equating to approximately 33% of the site as a whole).

In terms of future management of the open space, under the usual procedures provided for in the District Council's Play Area Design Guidance Note Supplementary Planning Guidance, this would normally be conveyed to the Town Council for future adoption / maintenance as the relevant open space authority. At this stage, the applicants have not determined whether they intend to do this or, instead, convey the relevant areas to a management company. It is considered that this issue could be addressed via the detailed negotiations on the Section 106 agreement (and including with Ashby de la Zouch Town Council; the Town Council has not however provided any detailed comments on this aspect of the application).

In terms of recreational open space / sports pitches, whilst no detailed, separate, provision appears to have been made in respect of youth / adult type facilities in accordance with the SPG, there would appear to be no overriding reason why this could not be adequately accommodated as part of the overall open space contribution as and when the detailed proposals were progressed.

Whilst, on the basis of the information submitted with the application, the details in respect of play appear to be limited at this stage, it is nevertheless considered that the proposed development has the potential to provide for an overall acceptable solution in terms of public open space facilities, subject to detailed resolution in due course.

#### *National Forest Planting*

The applicants' proposals show the provision of on-site National Forest planting as part of their wider landscaping and public open space proposals, and the National Forest Company notes that the illustrative proposals exceed the minimum National Forest woodland planting and open space standard of 30% of the site area. The National Forest Company raises a number of detailed issues in respect of the proposed planting strategy, but there appears to be no overriding reason why such measures could not be satisfactorily accommodated within the proposed development at the reserved matters stage. 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.

#### *Library Services*

A contribution is proposed to be made by the developer for library services in accordance with the requirements of Leicestershire County Council (initially calculated by the County Council at £32,800, but subject to amendment depending on the detailed breakdown of dwelling types to be erected on the site).

#### *Healthcare*

In respect of healthcare contributions, the application includes for the erection of a 2,000sqm health centre (including 1,200sqm GP area, 150sqm pharmacy and 400sqm future expansion space), together with parking area (80 spaces); the applicants advise that these proposals have been formulated in consultation with the former PCT. The supporting documents advise that

access to the new health centre would be provided via two principal routes; vehicular access would be provided from Woodcock Way, together with a secondary car park to the north of the proposed health centre, which would be located on the northern side of the proposed bus gate (i.e. served from the proposed A511 access). The documents also confirm that pedestrian linkages would also be provided from North Street, along an upgraded Ivanhoe Way.

In terms of the form of the proposed contributions, the intention is to either deliver the health centre as set out above or, alternatively, make a financial contribution of £201,878.28 as per the contribution request from the NHS. In support of the financial contribution request, the NHS advises that the development would result in an increased patient population of approximately 1,452, and that these additional residents of the proposed housing development would access healthcare in the two existing Ashby Health Centre and North Street surgeries (resulting in approximately 1,220 and 232 new patients respectively). Whilst the North Street practice is understood to have sufficient capacity, the Ashby Health Centre does not. The NHS advises that this practice has been identified as a priority for primary care premises investment, and that NHS England is supporting a new surgery for the practice, with the ability to be extended to meet the needs arising from the proposed Money Hill development.

In addition to the proposed health centre forming part of these proposals, the scheme for which a resolution to permit was made on the Holywell Spring Farm site also includes for such a facility. It is understood that there is only likely to be a requirement for one additional health centre and, in effect, the proposed contribution would ensure that, were the current development permitted, there would be a choice for the NHS / surgery as to where to develop the new health centre (i.e. Holywell Spring Farm, Money Hill (or, potentially, somewhere else)). The NHS confirms, however, that it is satisfied with the approach suggested by the developer (i.e. to either build the centre, or contribute towards its construction elsewhere) in that this would enable a flexible approach to be taken as the proposals to provide the additional facilities progress. It is also considered by officers that such an approach would allow for the sensible delivery of essential services regardless of which developments are eventually delivered within the Ashby de la Zouch area, and would meet the relevant legal and policy tests for obligations as set out in the CIL Regulations and NPPF.

#### *Community Hall*

As set out above, it is the applicants' intention to provide a community hall as part of the development which, they advise, was a facility requested by members of the public during the public consultation exercise. The applicants anticipate that this community hall could accommodate activities such as Scouts, Guides, yoga and / or a community film club. This community hall would, they advise, be part of a cluster of mixed uses forming a civic space. This space will, they argue, be highly accessible from the town centre, with a pedestrian and cycle entrance and would be a short-distance from a new bus linkage to be created through the site. A new landscaped pocket park would form a new gateway feature to the square. The applicants advise that they have had strong interest from the local Scout group in the building which would be 410sqm in terms of floorspace, and would be provided upon the occupation of the first 130 homes, with the ownership of the building transferred by way of a "Community Asset Transfer".

The proposed facility would, it is considered, represent an appropriate component of the development, providing a necessary community facility as part of the wider area of growth to the north of the town.

#### *Contributions sought by Leicestershire Police*

Leicestershire Police requests a developer contribution of £203,187 in respect of policing as set out in the consultation response above. The contribution sought comprises:

Start up equipment / training	£25,456
Vehicles	£17,073
Additional radio call capacity	£1,240
Police National Database	£786
Additional call handling	£1,414
ANPR	£8,222
Mobile CCTV	£1,500
Additional premises	£146,286
Hub equipment	£1,210

In officers' view, the contributions do not appear to be justified at this time as there appears a limited relationship between the contribution requested and the development proposed. In other words, the request appears to relate to general contributions towards policing costs in the area, rather than being directly related to the residential development scheme under consideration and mitigating identified impacts on infrastructure provision specifically arising from the development. Whilst a detailed breakdown of how this sum would be spent has been provided, it is not clear how it would be able to be considered to comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 given the lack of justification as to:

- (i) what existing policing infrastructure capacity is;
- (ii) what the specific requirement for infrastructure arising from this particular development would be;
- (iii) whether the existing infrastructure has sufficient capacity to accommodate that requirement;
- (iv) if the existing infrastructure does not have sufficient capacity, the extent to which there would be a shortfall (and within which service areas given existing capacities and the nature of the development);
- (v) what works would be necessary to mitigate the shortfall;
- (vi) how much those works would cost; and
- (vii) what would be an appropriate, proportionate contribution towards those works

As such, it is considered unclear as to how the contribution sought is directly necessary such that it would render an otherwise unacceptable development acceptable. It is not considered that it has been demonstrated sufficiently that the contribution sought is required and that, in its absence, planning permission should be refused.

Overall, in terms of planning obligation issues, however, 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, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development.

### Conclusions

As set out above, the site is considered suitable in principle for the proposed development. Whilst the majority of the site is outside Limits to Development and, therefore, would be contrary to existing National and Development Plan policies designed to protect the countryside from unnecessary development, regard also needs to be had to other material considerations and, not least, the requirement to demonstrate and maintain a five year supply of housing land as set out in the NPPF. Whilst the majority of 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.

In terms of technical issues affecting the proposed development, whilst the majority of the conclusions as set out in the applicants' Environmental Statement are accepted, a number of issues have been raised by the Local Highway Authority in respect of access and transportation. However, no objections are raised by the Local Highway Authority subject to the imposition of conditions. Whilst it is not considered that the recommended condition in respect of limiting vehicular access to no more than 400 dwellings from each point of access would be appropriate, it is nevertheless considered that the omission of such a condition would not render the development unacceptable in accessibility or highway safety terms. The scheme is considered to be acceptable in terms of other technical issues such that there appear to be no other reasons to prevent the site's development.

Whilst the proposed development would, for viability reasons, be unlikely to be able to support the full range of infrastructure requirements necessary to accommodate the development, the applicants are proposing to address this by way of making a reduced contribution to affordable housing as detailed in the report above. Whilst this would result in a reduced affordable housing contribution, on the assumption that the extent of the reduction vis-à-vis the usual requirement applicable to the Ashby de la Zouch area could be demonstrated as being the minimum reduction necessary to render the development viable, an appropriate contribution would nevertheless be considered to be made, and it is therefore recommended that outline planning permission be granted, subject to the Local Planning Authority's advisors (i.e. the District Valuer) being satisfied with the applicants' evidence in this regard. It is noted that the affordable housing "offer" relates to a *minimum* of 10%; hence if the District Valuer's findings indicate that a higher contribution can in fact be provided, it is recommended that the relevant Section 106 obligations secure this higher amount (up to a maximum of the policy-compliant 30% level).

**RECOMMENDATION- PERMIT, subject to the withdrawal of the Secretary of State for Transport's TR110 Direction dated 22 May 2013, subject to Section 106 Obligations, subject to the following conditions, and subject to any additional conditions as directed by the Secretary of State for Transport:**

- 1 Save for the details of vehicular access into the site from Woodcock Way and the A511, details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for the relevant phase (as defined under Condition 5 below) 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 Woodcock Way and the A511), 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 for the relevant phase (as defined under Condition 5 below) 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 for that phase 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:
- Site location plan (020 Rev J 21.03.2013)
  - Parameters plans (021 Rev K 2.07.2013, 023 Rev J 21.03.2013, 024 Rev J 21.03.2013 and 025 Rev J 21.03.2013)
  - Site Access plans (04 Rev D and 06 Rev F)

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

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

*Reason - To ensure that the development of the site (including where undertaken in a phased manner) takes place in a consistent and comprehensive manner, and to ensure that the proposed development delivers the proposed residential and non-residential development at the appropriate time.*

- 6 A total of no more than 605 dwellings shall be erected.

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

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

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

- 8 No development shall commence on the site until such time as a Design Code for the entirety of the site has been submitted to and agreed in writing by the Local Planning Authority. The Design Code shall substantially accord with the principles and parameters described and illustrated in the Design and Access Statement, and demonstrate compliance with Building for Life 12 (or any subsequent replacement standard issued by the Design Council / CABI or any successor organisation). The development shall thereafter be carried out in accordance with the agreed details, or in accordance with

any amendment to the Design Code subsequently agreed in writing by the Local Planning Authority.

*Reason - To ensure an appropriate form of design, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 9 Notwithstanding the submitted details, no work shall commence on site until such time as intrusive site investigation works in respect of potential risks to the proposed development arising from former coal mining operations together with precise details of any required mitigation and a timetable for its implementation have been submitted to and agreed in writing by the Local Planning Authority. Where the agreed details indicate that mitigation is required, the development shall be carried out strictly in accordance with the agreed mitigation and timetable.

*Reason - To ensure the safe development of the site.*

- 10 The development hereby permitted shall not be carried out other than in strict accordance with the submitted Flood Risk Assessment (FRA) dated 14 March 2013, ref. 031052 (ES Appendix 14-1) and Drainage Strategy Revision 01, Dated 20 March 2013, ref. 031052 (ES Appendix 14 -2) and the following mitigation measures detailed within the FRA:

- Limiting the discharge rate for surface water run-off and provision of surface water attenuation storage on the site, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site - FRA sections 6.0 and 7.4, and Drainage Strategy sections 3.1, 5.1, 7.1 to 7.3.6;
  - Management of Silt and the prevention of pollution of the watercourse during the construction phase - FRA section 7.3;
  - Provision of safe access and egress within the site - FRA section 7.2; and
  - Finished floor levels - FRA section 7.1
- 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 by ensuring the satisfactory storage / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.*

- 11 Notwithstanding the submitted details, nor Condition 7 above, no 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 agreed in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the agreed details and timetable. The scheme shall include:
- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;
  - Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;

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- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm;
  - Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
  - Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.
- No development shall be carried out, nor any part of the development brought into use at any time unless in accordance with the agreed scheme and timetable.

*Reason - To prevent the increased risk of flooding, to improve and protect water quality, to improve habitat and amenity, and to ensure the development is provided with a satisfactory means of drainage.*

- 12 The development hereby permitted shall not be commenced until such time as a scheme to detail each individual watercourse crossing (including pedestrian footbridge and vehicular crossings) and demonstrating that no raising of ground levels, nor bridge soffit levels as set will result in elevated flood levels, and that there will be no loss of flood plain storage due to the provision of any new crossing of the Money Hill Brook, has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Environment Agency and Lead Local Flood Authority (LLFA). The scheme shall include, but not be exclusive of:
- Limiting the number of crossings of the Money Hill Brook, and removal / upgrade of any existing crossings;
  - Crossings to be provided as clear span bridges or arches in preference to any culverting (including the upgrading of existing crossings, where upgrading is required or proposed);
  - Bridge soffits set a minimum of 600mm above the modelled 100 year plus 20% (for climate change) flood level applicable at the crossing site;
  - Bridge abutments set back beyond the top of the natural bank of the watercourse;
  - Where necessary, culverts designed in accordance with CIRIA C689 (including up sizing to provide a free water surface and natural bed), and to have a minimum width / length of culvert essential for access purposes;
  - Provision of compensatory flood storage for all ground levels raised within the 100 year flood plain applicable at any crossing sites, including proposed location, volume (calculated in 200mm slices from the flood level) and detailed design (plans, cross, and long sections) of the compensation proposals;
  - Compensatory flood storage provided before (or, as a minimum, at the ground works phase) of the vehicle bridge and any other crossing construction;
  - Detailed designs (plans, cross, long sections and calculations) in support of any crossing;
  - Details of how the scheme shall be maintained and managed after completion; and
  - A timetable for the relevant works.
- The scheme shall be fully implemented and subsequently maintained in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the Local Planning Authority in consultation with the Environment Agency and LLFA.

*Reason - To avoid adverse impact on flood storage, to reduce the risk of flooding to the proposed development and future occupants, to reduce the risk of flooding to adjacent land and properties, to improve and protect water quality, to improve habitat and*

*amenity, and to ensure future maintenance of the surface water drainage system.*

- 13 No development shall commence on the site until such time as a construction working method statement to cover all watercourse works (including pedestrian and vehicular crossings and any other works within 8 metres of any watercourse) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme (or any amended method statement subsequently submitted to and agreed in writing by the Local Planning Authority).

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

- 14 Notwithstanding the submitted details, nor Condition 7 above, no development (save for demolition works) shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a further Risk Based Land Contamination Assessment has been submitted to and agreed in writing by the Local Planning Authority. The Risk Based Land Contamination Assessment shall identify all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination at the site and shall be carried out in accordance with:
- BS10175 Year 2011 Investigation of Potentially Contaminated Sites Code of Practice;
  - 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.

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

- 15 If, pursuant to Condition 14 above, any unacceptable risks are identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004, and the Verification Plan (which shall identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action) 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, and 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 shall cease on the affected part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. No work shall recommence on that part of the site until such time as a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be undertaken in accordance with the agreed details and thereafter be so maintained.

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



*Planning Policy Framework.*

- 16 None of the development hereby permitted shall be brought into use until such time as a Verification Investigation for the relevant part of the site has been undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme relevant to either the whole development or that part of the development. No part of the development (or, in the case of phased development, no part of the relevant phase) shall be brought into use until such time as a report showing the findings of the Verification Investigation has been submitted to and 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 for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
  - Contain Test Certificates of imported material to show that it is suitable for its proposed use;
  - Demonstrate the effectiveness of the approved Remedial Scheme; and
  - Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

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

- 17 There shall be no infiltration of surface water drainage into the ground at any time other than in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To protect controlled waters receptors.*

- 18 Unless any alteration is first agreed in writing by the Local Planning Authority, the development hereby permitted shall be undertaken strictly in accordance with the submitted Outline Construction Environmental Management Plan (Revision 01, March 2013, ref. 031052).

*Reason - To minimise the environmental impacts of the development during construction.*

- 19 Notwithstanding the submitted details, nor Condition 7 above, no development shall commence on the site until such time as a timetable for the undertaking of updated surveys in respect of 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 surveys have been undertaken and the results (including mitigation measures and a timetable for such mitigation where appropriate) have been submitted to and agreed in writing by the Local Planning Authority, and the development shall thereafter be undertaken strictly in accordance with the agreed mitigation measures and timetable.

*Reason - In the interests of nature conservation.*

- 20 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.*

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

*Reason - In the interests of nature conservation and to ensure the development contributes to the meeting of BAP and LBAP priorities.*

- 22 Notwithstanding the submitted details, all reserved matters applications for the erection of dwellings shall include full details of the proposed dwellings' anticipated level of achievement in respect of criteria / sub-categories contained within the Code for Sustainable Homes. None of the dwellings hereby permitted shall be occupied until such time as evidence to demonstrate the relevant dwelling's compliance with the relevant criteria has been submitted to and agreed in writing by the Local Planning Authority.

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

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

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

- 24 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking or re-enacting that Order), the total gross floorspace of uses falling within Class A1 of that Order shall not exceed 560 square metres at any time, nor shall the total gross floorspace of any single retail unit exceed 460 square metres at any time, unless planning permission has first been granted by the Local Planning Authority.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority, for the avoidance of doubt, to ensure satisfactory control over the impact of the development on nearby centres, and to comply with Policy R1 of the North West Leicestershire Local Plan.*

- 25 The first reserved matters application submitted pursuant to this permission (or, in the case of phased development, the first reserved matters application in respect of the relevant phase) shall include a detailed Archaeological Mitigation Strategy for the respective area(s). The Strategy shall be based upon the results of a programme of exploratory archaeological fieldwalking and trial trenching undertaken within the relevant area(s) in accordance with a Written Scheme of Investigation (WSI) first submitted to and agreed in writing by the Local Planning Authority. Both the WSI and final Strategy shall include an assessment of significance and research questions, and:
- The programme and methodology of site investigation, recording and post-investigation assessment (including the initial fieldwalking and trial trenching, assessment of results and preparation of an appropriate mitigation scheme);
  - The programme for post-investigation assessment;
  - Provision to be made for analysis of the site investigation and recording;
  - Provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - Provision to be made for archive deposition of the analysis and records of the site investigation;
  - Nomination of a competent person or persons / organisation to undertake the works set out within the Written Scheme of Investigation; and
  - A detailed timetable for the implementation of all such works / measures
- Unless any alternative measures are first agreed in writing by the Local Planning Authority, no development shall take place at any time other than in accordance with the agreed Written Scheme of Investigation, Strategy and timetable.

*Reason - To ensure satisfactory archaeological investigation and recording.*

- 26 Notwithstanding the submitted details, nor Conditions 1, 2 and 7 above, no development shall commence on the site until such time as a scheme of structural landscaping to the A511 (indicating species, densities, sizes and numbers of proposed planting both within and outside of the application site, as appropriate, together with all existing trees and hedgerows on the land including details of those to be retained, and those to be felled / removed), together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. No development shall be undertaken or occupied at any time unless all measures specified in the agreed scheme required to be implemented by the relevant stage / phase have been undertaken in full.

*Reason - In the interests of amenity, and to ensure that the development is appropriate in this National Forest setting.*

- 27 Notwithstanding the submitted details, nor Conditions 1, 2 and 7 above, no development shall commence on the site until such time as details specifying which of the proposed tree protection measures shown on drawing no. SJA TPP 12139-02a are proposed to be implemented in respect of the construction of the proposed accesses / roads (together with a timetable for their implementation) have been submitted to and agreed in writing by the Local Planning Authority. No development shall be undertaken at any time unless all of the agreed protection measures relating to the relevant stage / phase are in place. 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.*

- 28 Save for any works associated with the formation of the access as shown on drawing no. 06 Rev F, no development shall commence on site until such time as the A511 site access junction as shown on drawing no. 06 Rev F has been provided in full and is available for use by vehicular traffic.

*Reason - To provide vehicular access to the site, including for construction traffic, in the interests of highway safety, and to comply with policy T3 of the North West Leicestershire Local Plan.*

- 29 No part of the development hereby permitted shall be brought into use until such time as the site access junction at Woodcock Way as shown on drawing no. 04 Rev D has been provided in full and is available for use by vehicular traffic.

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

- 30 No development shall commence on the site until such time as a scheme for the provision of a new or diverted bus service serving the development, and providing a connection between the site and Ashby de la Zouch town centre, has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall include hours of operation, service frequencies, routeing and provision of necessary on and off site infrastructure (including pole and flag, bus shelter, raised kerbs and information display cases). The scheme shall include any works / measures required for the initial implementation of the scheme, together with a phased programme for the implementation of any measures required by the scheme as the development progresses. No more than 130 dwellings shall be occupied within the application site until such time as the whole of the approved scheme is fully operational.

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

- 31 No development shall commence on the site until such time as a construction management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and agreed 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 associated with the development does not lead to on-street parking problems in the area.*

- 32 No more than 130 dwellings shall be occupied within the application site until such time as the link road between the A511 and Woodcock Way as shown on drawing no. 06 Rev F has been provided in full and is available for use by vehicular traffic.

*Reason - To allow for bus penetration through the site so as to ensure that adequate steps are taken to provide a choice in mode of travel to and from the site.*

**Plus any additional conditions recommended / directed by the Highways Agency / Secretary of State for Transport**

**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 Your attention is drawn to the attached report of the Coal Authority.
- 3 Your attention is drawn to the attached report of Severn Trent Water Limited.
- 4 Your attention is drawn to the attached report of the Environment Agency.
- 5 Your attention is drawn to the attached report of the Highways Agency.
- 6 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highways and transportation matters.
- 7 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer.
- 8 Your attention is drawn to the attached report of Leicestershire County Council's Principal Planning Archaeologist. The applicant is advised that the issues raised should be taken into account in the formulation of the detailed scheme at the reserved matters stage(s), and including the need to accommodate existing ridge and furrow features within that scheme.
- 9 Your attention is drawn to the attached report of Natural England.
- 10 Your attention is drawn to the attached report of the National Forest Company; the applicants are advised to have regard to the advice provided when formulating the detailed proposals at the reserved matters stage(s).
- 11 The applicants are advised that the Local Planning Authority will expect any associated reserved matters application to demonstrate compliance with Building for Life 12 and, in particular, to include have regard to the provision of a suitable gateway to the site from the A511.
- 12 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at [www.defra.gov.uk](http://www.defra.gov.uk)
- 13 For the avoidance of doubt, all references within phases of development within the conditions above should be construed as being those phases of development to be set out and agreed pursuant to Condition 5.
- 14 This decision is in accordance with the resolution of the Planning Committee of 12 November 2013 and is subject to a Section 106 Obligation.

Erection of 4 no. two-storey (with habitable accommodation in the roof space) dwellings and associated garaging (revised scheme)

Report Item No  
A2

191 Loughborough Road Whitwick Coalville Leicestershire

Application Reference  
12/01094/FUL

Applicant:  
Mr S Hall

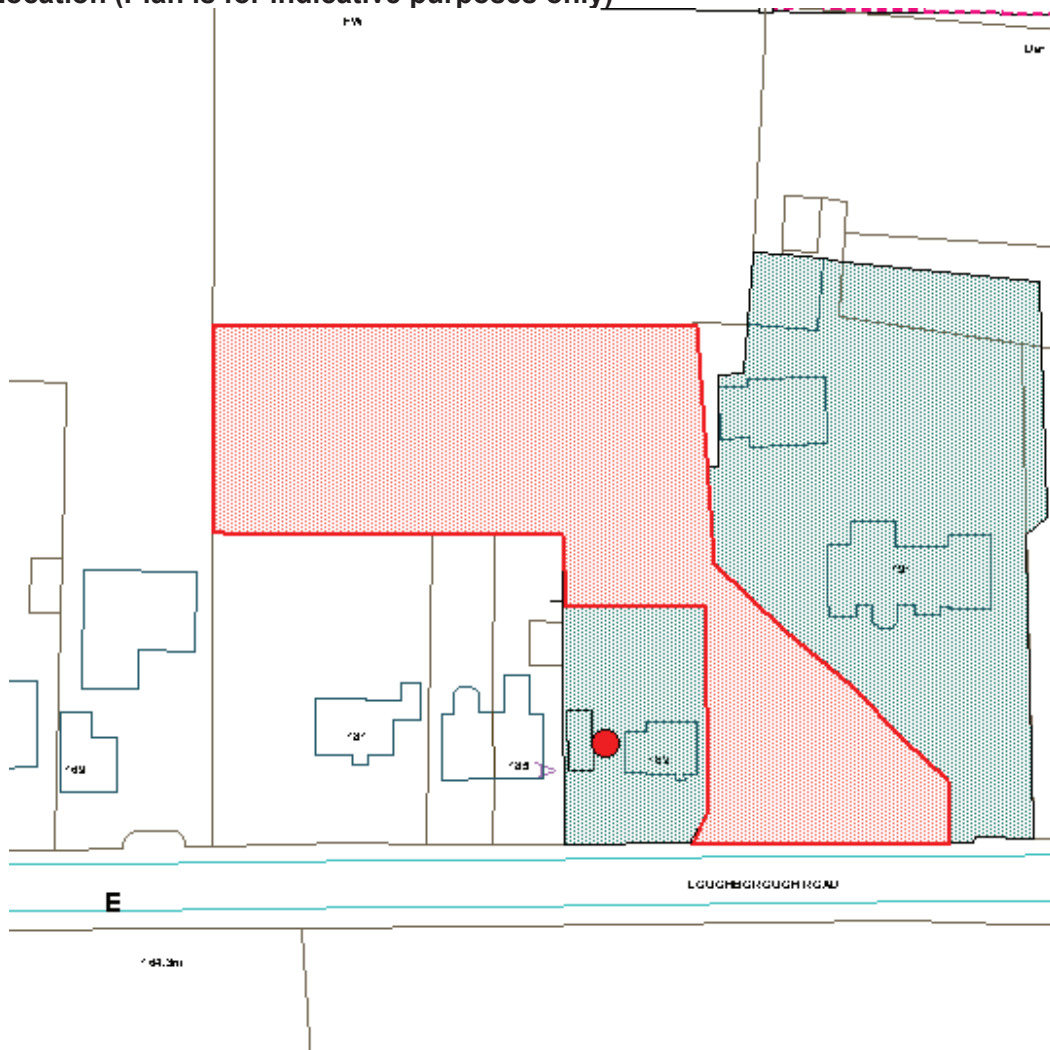
Date Registered  
21 December 2012

Case Officer:  
Adam Mellor

Target Decision Date  
15 February 2013

Recommendation:  
PERMIT

Site Location (Plan is for indicative purposes only)



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Planning Committee 12 November 2013  
Development Control Report

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

The application has been brought to the Planning Committee at the request of Councillor Woodward due to the potential impacts of the development on the amenities of surrounding residents.

**Proposal**

The application seeks to obtain planning permission for the erection of 4 no. two-storey detached dwellings (habitable accommodation in the roof space) on 0.325 hectares of land that currently forms part of the gardens and paddock land to No. 191 Loughborough Road, Whitwick. The application site is positioned to the north of Loughborough Road, to the west of its junction with Swannymote Road, and comprises land to the south and north-west of the dwelling at No. 191, as well as land to the north of the dwellings at Nos. 181 - 189 Loughborough Road. The existing property at No. 191 (which is within the applicant's ownership but not within the application site) is a two-storey dwelling set back from the highway by approximately 33.0 metres. The neighbouring dwellings at Nos. 181 - 189 comprise of two-storey detached and semi-detached dwellings that follow a building line much closer to the highway at approximately 10.0 metres.

**Consultations**

232 letters of representation have been received and Whitwick Parish Council also objects to the application. All other statutory consultees have no objections subject to conditions on any consent.

**Planning Policy**

It is considered that the development would accord with all relevant policies of the North West Leicestershire Local Plan as well as Paragraphs 14, 49, 53, 57, 60, 61, 103, 118, 120 and 121 of the National Planning Policy Framework (NPPF). Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System) would also be appropriate in any assessment.

**Conclusion**

The site is located within the limits to development where the principle of residential development would be acceptable and Whitwick would be considered a sustainable settlement for new development given that it would fall within the Coalville Urban Area. The loss of part of the residential garden to No. 191 would also not impact adversely on the streetscape or surrounding area given the amenity area retained and the fact that the land is not be protected open space or countryside. On this basis the development would accord with Paragraphs 14, 49 and 53 of the NPPF and Policy H4/1 of the North West Leicestershire Local Plan. Although the density of the scheme would be below that recommended within current planning policy as it is important to factor into any assessment good design, landscaping and association with other forms of development it is considered that the density proposed would be acceptable and would accord with Policy H6 of the Local Plan. It is considered that the heights of the properties now proposed, the distances to existing properties and the fact that they would be 'dug-into' the ground would ensure that the development as a whole would not have a significantly detrimental overbearing, overshadowing or overlooking impact on the amenities of existing residents. An acceptable relationship with the existing property on the site (No. 191) would also be maintained and the Plots themselves would also have acceptable relationships, as such the scheme as a whole would not conflict with Policy E3 of the Local Plan. It is considered that the proposed dwellings would be read in conjunction with their relationship with No. 191 and as such their floor areas would not be out of keeping with the surroundings. In the circumstances that built

forms of development also exist which do not directly front onto Loughborough Road, as well as the fact that the site would be well screened, this would also ensure that the development would not have an adverse impact on the character and appearance of the surrounding area or the streetscape. In these circumstances the development would accord with Paragraphs 57, 60 and 61 of the NPPF and Policies E4, F1 and H7 of the Local Plan. The proposed access road into the site has been considered acceptable by the County Highways Authority and given that sufficient off-street parking would be provided it is considered that the scheme would accord with Policies T3 and T8 of the Local Plan. No ecological species would be adversely affected which would ensure compliance with Paragraph 118 of the NPPF and Circular 06/05. The integrity of the protected trees would be retained and a landscaping scheme would be conditioned as part of any consent to ensure compliance with Policies E7, F1, F2 and F3 of the Local Plan. The drainage solution for the site would be agreed with Severn Trent Water and Building Regulations and any solution agreed would be on the basis that it would not exacerbate any localised flooding issues, as such the development would not conflict with Paragraph 103 of the NPPF. It is also anticipated that there would be no land contamination or land instability issues associated with the site which will ensure compliance with Paragraphs 120 and 121 of the NPPF. The development therefore accords with the planning policies stated above.

**RECOMMENDATION - APPROVE SUBJECT TO CONDITIONS.**

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



## MAIN REPORT

### 1. Background

Members may recall that the application was deferred at the October Planning Committee Meeting in order to try and receive clarity on whether the land structure under which the dwellings would be constructed is solid granite, allow for a further assessment to be carried out on the relationship between No. 191 Loughborough Road and Unit 1, ascertain whether the applicant would accept the provision of single storey properties on the site and to address any flooding issues around the site entrance. Following discussions with the agent for the application it was indicated that no changes would be forthcoming to the scheme as submitted, however, an email received from the agent on the 14th October 2013 has stated the following: -

*"Further to our brief telephone conversation last Friday (11th Oct 2013) regarding the deferred planning application for the proposed residential development in the grounds of No. 191 Loughborough Road, Whitwick, I now write as discussed enclosing 3 no. photographs taken by the applicant of a small trial hole positioned under the proposed plot no. 2.*

*As is self evident from the said photographic images - there appears to be **NO** granite that would interfere with the excavation process in construction the foundations to the same dwellings (should a planning permission be forthcoming at the Nov' P/Committee meeting); notwithstanding the fact that were any stone to be discovered upon excavation - this would be an issue to be dealt with via the current Building Regulations Act 2000 (and amendments).*

*The same excavation trial hole was taken down to a depth of 485mm (19")*

*Additionally, we are given to understand that several of the Planning Committee members sitting at the October 2013 meeting, appeared to have concerns regarding the "run off surface water" on the private access drive that may/may not become problematical given that it is located higher than the proposed new road junction with Loughborough Road.*

*Again, whilst this is an issue (should it arise) that would normally be evaluated and dealt with under the current Building Regulations Act 2000 (and amendments), may we suggest in order alleviate members concerns - a condition be imposed that the surface treatment of the private access drive is to be agreed in writing with the LPA **prior** to commencement of works on site?*

*It may well be that the surface of the private driveway would be laid in 14mm Breedon buff coloured stone chippings to provide a permeable finish to assist with SUDS.*

*I trust the attached both assists and informs the P/C members (for November P/Committee) in their deliberations in granting a planning permission for the said application - as these four detached dwellings - set within the defined settlement boundary for Whitwick are **very likely to be delivered during the course of following next year!!**"*

The photographs show the trial hole provided on the site with a tape measure indicating the depth and a copy of a newspaper displaying the date the photograph was taken which was the 12th October 2013.

It is considered that the 'Other Matters' section of this report covers the issues associated with the construction of the properties and any issues associated with the management of surface water run-off, which essentially advise that these would be matters addressed by separate legislation, and Conditions 7 and 13 have requested that details of the hard surfacing of the site and a scheme to deal with surface water run-off at the site entrance be agreed as part of any

permission granted.

With regards to the provision of single storey properties on the site and the relationship between No. 191 Loughborough Road and Plot 1 it is considered that the 'Residential Amenity' and 'Design' sections of the report address these issues and the development as presently proposed is considered to be in accordance with all relevant planning policies. As such there is no change to the recommendation.

## 2. Proposals

Planning permission is sought for the erection of 4 no. two-storey (with habitable accommodation in the roof space) dwellings and associated garaging (revised scheme) on 0.325 hectares of land that currently forms part of the gardens and paddock land to No. 191 Loughborough Road, Whitwick. The application site is positioned to the north of Loughborough Road, to the west of its junction with Swannymote Road, and comprises land to the south and north-west of the dwelling at No. 191, as well as land to the north of the dwellings at Nos. 181 - 189 Loughborough Road. The existing property at No. 191 (which is within the applicant's ownership but not within the application site) is a two-storey dwelling set back from the highway by approximately 33.0 metres. The neighbouring dwellings at Nos. 181 - 189 comprise of two-storey detached and semi-detached dwellings that follow a building line much closer to the highway at approximately 10.0 metres.

The site is located on the northern edge of the village of Whitwick. Loughborough Road comprises of a mix of detached and semi-detached two-storey dwellings on both sides of the road. The properties on the southern side of Loughborough Road do not extend as far east as those on the northern side, and opposite the application site to the south of Loughborough Road lies an area of open land defined in the North West Leicestershire Local Plan as being an area of particularly attractive countryside and outside limits to development. The application site is located within the defined limits to development with the northern boundary abutting the line of the defined limits. To the north of the site lies Cademan Wood, an area also defined on the Local Plan Proposals Map as an area of particularly attractive countryside.

This application is a revised submission following the withdrawal of application reference 12/00292/FUL on the 16th July 2012.

The majority of the site currently comprises areas of open lawn and hard standing with minimal landscaping within the front amenity area to No. 191 (to the south of the dwelling) and open grassed paddock to the north-west of No. 191. Along the highway boundary (southern boundary) are a number of substantial trees of which three (Beech, Lime and Sycamore) are protected by Tree Preservation Order (TPO) 430. A new vehicular access to No. 191 would be constructed and a private access drive would be formed through the site to access the dwellings.

Throughout the course of the application amendments have been made to the dwellings and as such the scheme being assessed would consist of the following: -

Unit 1 would be situated to the east of No. 189 Loughborough Road, with a projection of 2.8 metres beyond this properties northern (rear) elevation, and would have a width of 10.79 metres by 6.29 metres and use of a pitched gable ended roof with an eaves height of 4.6 metres and overall height of 7.5 metres. A single storey extension would project 2.25 metres from the western (side) elevation of the dwelling with a length of 5.85 metres and use of a mono-pitched roof with an eaves height of 2.40 metres and overall height of 4.40 metres. It is indicated on the floor plans that the dwelling would provide an entrance hallway, washroom, utility room, sitting

room, study, wood store and breakfast/kitchen area at ground floor level and three bedrooms, family bathroom and en-suite at first floor level for the occupants.

Unit 2 would be situated to the north west of No. 191 and north of No. 189 and would have a width of 14.62 metres by 11.12 metres in length and use of a pitched gable ended roof with an eaves height of 4.0 metres and overall height of 7.9 metres. It is indicated on the floor plans that an integral double garage, study, sitting room, washroom and open plan breakfast/kitchen/dining area at ground floor level and five bedrooms, family bathroom and en-suite at first floor level would be provided for the occupants.

Unit 3 would be situated to the north-west of No. 191 and to the north of Nos. 183 and 185 and would have a width of 13.27 metres by 8.99 metres in length and would utilise a pitched gable ended roof with an eaves height of 4.0 metres and overall height of 7.8 metres. It is indicated on the floor plans that a utility room, washroom, breakfast/kitchen area, dining area and sitting room at ground floor level and four bedrooms, family bathroom and two en-suites at first floor level would be provided for the occupants.

Unit 4 would be situated to the north-west of No. 191, north of No. 181 and north-east of No. 168 and would have a width of 13.27 metres, length of 12.38 metres and use of a pitched gable ended roof with an eaves height of 3.9 metres and overall height of 7.8 metres. It is indicated on the floor plans that a breakfast/kitchen/dining area, garden room, washroom, sitting room, utility room and study at ground floor level and four bedrooms, family bathroom and en-suite at first floor level would be provided for the occupants.

Unit 3 would have detached garage which would have dimensions of 5.84 metres in width by 5.84 metres in length and use of pitched gable ended roof with an eaves heights of 2.7 metres and overall heights of 5.9 metres. Unit 4 would have a detached garage which would have dimensions of 5.84 metres in width by 5.84 metres in length and use of a pitched hipped roof with an eaves height of 2.7 metres and overall height of 5.9 metres.

A design and access statement, ecological survey and tree report have been submitted in support of the application.

Following the receipt of comments from the County Ecologist a revised ecological survey was requested from the agent for the application. An updated ecological survey was received on the 25th January 2013 and the County Ecologist has been reconsulted on the proposals.

The planning history of the site is as follows

- 97/00354/FUL - Erection of ground and first floor extensions to dwelling - Approved 11th June 1997;
- 03/00276/FUL - Erection of a single storey rear extension and alterations - Approved 10th April 2003;

## **2. Publicity**

42 no neighbours have been notified. (Date of last notification 8 April 2013)

Site Notice displayed 9 January 2013

## **3. Consultations**

Clerk To Whitwick Parish Council consulted

County Highway Authority consulted 4 January 2013

Severn Trent Water Limited consulted 4 January 2013  
 Head of Environmental Protection consulted 4 January 2013  
 Natural England consulted 4 January 2013  
 NWLDC Tree Officer consulted 4 January 2013  
 LCC ecology consulted 4 January 2013

#### 4. Summary of Representations Received

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

**Leicestershire County Council - Ecology** initially objected to the application and stated: *"I can confirm that the ecology report submitted is partially satisfactory (Wildlife Consultants Ltd, Nov 2012) and many of the issues I had previously raised in connection with a previous application (12/00292/FUL) have been addressed; However, one outstanding issue is the survey of the paddocks adjacent to the SSSI, which will be lost to the development. There is still no reference to the SSSI. The Phase 1 Habitat survey information presented is inadequate, and has not been revised in any significant way from the previous report by Wildlife Consultants, dated Nov 2011. One problem is that November is simply too late to do a survey of grasslands - the standard methodology for a Phase 1 Habitat Survey allows surveys between late March and mid-October; I repeat again my views on the previous survey report: 'My chief concern is for the paddocks at the rear of the existing houses, which abut the Grace Dieu and High Sharpley SSSI to the north. These are described as being 'mainly poor grasses.' This statement is unclear; do they mean poor in terms of grazing for ponies, poor in terms of appearance, poor in terms of appearance, poor in terms of species-richness and habitat quality, or what? I find it strange that the presence of the SSSI has not been noted; it is only 70m from the backs of the existing properties on Loughborough Road. There is no evidence that a survey and assessment of these paddocks has been carried out...Until a satisfactory habitat survey of the grassland is carried out, I would like to place a holding objection on this application.' I feel that protected species issues have been dealt with adequately, and the consultants have also carried out proper data search and desk study."* Following the receipt of a revised ecology report the County Ecologist has no objections.

**Leicestershire County Council - Highways** has no objections subject to conditions.

**Natural England** has no objections.

**NWLDC - Environmental Protection** has no objections.

**NWLDC - Tree Officer** made the following observations: - *"Unit 1 is shown on the proposed site layout plan approximately 7 metres from the stems of T1 Beech, T2 Lime and T3 Sycamore. Crown spreads are inaccurately represented on the site layout plan and also on the tree survey schedule of the tree report by Wildlife Consultants Ltd; The Root Protection Areas (RPA's) recommend in the tree report are also insufficient and have not been calculated in accordance with BS 5837. All three trees are important and protected by Tree Preservation Order 430 Accurate RPA's are: T1 Beech: 8.5m radius; T2 Lime: 7.7m radius; T3 Sycamore: 7.2m radius; Any drive construction within the RPA would need a method statement specifying "No dig" construction using Geo-cell or similar product in accordance with Arboricultural Practice Note (APN) 12 and BS 5837:2012 paragraph 6.2.3.3. Adjacent building construction levels would have to take new drive levels into consideration; Consideration also needs to be given to living conditions and the effect trees have on daylight and sunlight. The design should avoid unreasonable obstruction of light. Shadow pattern drawings would assist when considering shading and need to be shown on a Tree Constraints Plan. A Tree Protection Plan should*

*specify root protection areas, necessary tree surgery work and methods of tree protection. I consider that the nearest feasible distance for house construction would be 12m from tree stem (T1, T2, T3) to front elevation to provide a sustainable and compatible living environment."* Following the receipt of a revised layout the tree officer has no objections subject to conditions on any consent granted.

**Severn Trent Water** has no objections.

**Whitwick Parish Council** initially had no objections to the application, however, following reconsultation on amendments objections are now raised on the basis that *"the development as currently proposed would be contrary to the rural character of this area on the edge of the Charnwood Forest and could set an undesirable precedent; the current height of the properties would be overbearing and over-intensive."*

### **Third Party Representations**

232 No. individual letters of objection have been received which are broken down as follows: -

- 207 No. letters across six different letter templates;
- 2 No. from the occupants of 62 Loughborough Road;
- 2 No. from the occupants of 107 Loughborough Road;
- 2 No. from the occupants of 109 Loughborough Road;
- 5 No. from the occupants of 169 Loughborough Road;
- 2 No. from the occupants of 181 Loughborough Road;
- 3 No. from the occupant of 183 Loughborough Road;
- 1 No. from the occupant of 185 Loughborough Road;
- 2 No. from the occupants of 189 Loughborough Road;
- 1 No. from the occupant of 97 Hermitage Road;
- 1 No. from the occupant of 130 Greenhill Road;
- 1 No. from the occupants of 25 Templars Way;
- 1 No. from a Planning Solicitor acting on behalf of the occupants of Nos. 161, 181, 183, 185 and 189 Loughborough Road;
- 2 No. from unknown addresses;

The objections raised are summarised as follows: -

- *"Ridge heights of the new properties would still be visible from the roadside and wider context and very overbearing and incongruous within the existing building line;"*
- *"Gathering of refuse items on Loughborough Road would be detrimental to the street scene and impact on the amenity of No. 189;"*
- *"Proximity to driveway to the junction with Swannymote Road which has a record of accidents;"*
- *"Loss of openness and countryside in conflict with core planning principles within Paragraph 17 of the NPPF; impact on views from the footpath and further long range views would have an unacceptable landscape and visual impact;"*
- *"As a small scheme no contribution will be made to schools, play areas, health services, public transport or any community facilities and as such further strain will be placed on these facilities;"*
- *"Approval of this application will set a precedent for further backland development along Loughborough Road;"*
- *"Development does not accord with planning policies H7, S2, E3, E4, T3 and T8;"*
- *"Overlooking from the properties;"*

- *"Development changes this side of Loughborough Road into a high density development and not singular detached or semi-detached dwellings that have made this road what it is for many years;"*
- *"Amount of parking appears excessive;"*
- *"Dwellings are of a considerable size and would not be 'affordable';"*
- *"Dwellings will be visually overbearing and are of an inappropriate design for this part of the village;"*
- *"Flooding issues at Nos. 169, 181, 183, 185 and 189 Loughborough Road by virtue of the increased areas of hardstanding and dwellings themselves;"*
- *"Impact on trees protected by Tree Preservation Orders by virtue of the positioning of Unit 4;"*
- *"Outdoor lighting would impact on amenities;"*
- *"Construction noise would be detrimental to amenities and as such should be restricted;"*
- *"Site is not within a sustainable location due to the proximity to services and it would not support local facilities;"*
- *"Land should be designated as open space or recreational land due to proximity to nearest children's play area;"*
- *"Devaluation in properties values;"*
- *"Need for blasting of granite rock to excavate channels for drainage would impact on amenities and cause dangers;"*
- *"Dwellings do not reflect the character of housing on Loughborough Road given that they are far larger than existing dwellings;"*
- *"Dwellings would not provide for local needs;"*
- *"Application represents 'garden grab' which is contrary to Local and National Policy;"*
- *"Vehicle noise due to the amount of properties and positioning of the access road;"*
- *"Changes to protect the trees now means that the windows on Unit 1 are only 13.0 metres from 191 Loughborough and as such the local planning authority must consider the future residents of both Unit 1 and 191 Loughborough Road."*

## **5. Relevant Planning Policy**

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

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

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

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

Paragraph 35 outlines that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments

should be located and designed where practical to:

- accommodate the efficient delivery of goods and supplies;
- give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
- create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
- incorporate facilities for charging plug-in and other ultra-low emission vehicles; and
- consider the needs of people with disabilities by all modes of transport;

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

Paragraph 53 outlines local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area;

Paragraph 57 outlines that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes;

Paragraph 60 outlines that planning policies and decisions should not impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness;

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

Paragraph 103 indicates that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere;

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

Paragraph 120 outlines that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution should be taken into account. Where a site is affected by contamination or land instability issues, responsibility for securing safe development rests with the developer and/or landowner;

Paragraph 121 outlines that planning policies and decisions should also ensure that, amongst other things:

- the site is suitable for its new use taking account of ground conditions and land

instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;

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

**North West Leicestershire Local Plan**

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

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

Policy E4 seeks to achieve good design in new development and requires new development to respect the character of its surroundings;

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

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

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

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

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

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

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

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

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



**Submission Core Strategy (April 2012)**

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

**Other Guidance**

**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.

**6. Assessment**

**Principle and Sustainability**

The site is located within the limits to development where the principle of residential development is considered acceptable subject to compliance with the relevant policies of the adopted North West Leicestershire Local Plan and other material considerations. Policy H4/1 of the Local Plan aims to direct new development to sustainable locations and in doing so sets out a sequential approach to the release of housing land. Regard should also be paid to Paragraphs 14 and 49 of the NPPF.

The application site is currently residential garden and paddock land within Whitwick, which would fall within criterion (c) allocated and other appropriate land within Coalville. The second section goes on to outline a set of criteria relating to the sustainability of the location. Whilst the site is situated on the periphery of the limits to development the distance of the dwellings to the services and facilities within the Whitwick Local Centre is considered to be acceptable and as such would not preclude the use of other forms of transport in order to access these services. In these circumstances the site is considered to be within a sustainable location within the Greater Coalville settlement and as such would comply with the aims of Policy H4/1 of the Local Plan.

As part of the land constitutes residential garden associated with No. 191, Paragraph 53 of the NPPF would be of relevance which 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 proposal given the fact that the development would be to the rear of the properties fronting onto Loughborough Road (Nos. 181, 183, 185, 189). 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.

**Density**

Policy H6 of the North West Leicestershire Local Plan seeks to permit housing development which is of a type and design to achieve as high a net density as possible taking into account factors such as housing mix, accessibility to centres and design. Policy H6 of the North West Leicestershire Local Plan also requires a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services and a minimum of 30 dwellings per hectare elsewhere.

With a site area of 0.33 hectares, the proposal would have a density of 12.12 dwellings per hectare. Whilst the density would fall below that advised in Policy H6 this policy also identifies that it is important to factor into any assessment the principles of good design as well as green space and landscaping requirements. In the circumstances that the Local Authority values good design in its approach to residential development and there would be a need to incorporate a strong landscaping scheme, given the site's setting within the National Forest, it is considered that the density proposed would represent an efficient use of the land. In these circumstances the proposal would not substantially conflict with the principles of Policy H6 of the Local Plan as to warrant a refusal of the planning permission.

### Residential Amenity

It is considered that the properties most immediately affected by the proposed development would be Nos. 181, 183, 185 and 189 Loughborough Road, two storey detached and semi-detached dwellings, situated to the south of the site and No. 169 Loughborough Road, a single storey detached dwelling, situated to the south-west of the site.

In formulating an assessment between the application currently under consideration and the withdrawn application (12/00292/FUL) it is considered necessary to outline the proposed heights of the dwellings in order for a comparison to be made. These would be as follows: -

#### 12/00292/FUL

**Plot 1** - Ridge Height = **8.8 metres**; Eaves Height = **6.4 metres**;  
**Plot 2** - Ridge Height = **8.7 metres**; Eaves Height = **5.4 metres**;  
**Plot 3** - Ridge Height = **8.7 metres**; Eaves Height = **5.5 metres**;  
**Plot 4** - Ridge Height = **8.8 metres**; Eaves Height = **5.5 metres**;

#### 12/01094/FUL

**Plot 1** - Ridge Height = **7.5 metres**; Eaves Height = **4.6 metres**;  
**Plot 2** - Ridge Height = **7.9 metres**; Eaves Height = **4.0 metres**;  
**Plot 3** - Ridge Height = **7.8 metres**; Eaves Height = **4.0 metres**;  
**Plot 4** - Ridge Height = **7.8 metres**; Eaves Height = **3.9 metres**;

This identifies that the properties have had their ridge heights reduced by around 1.0 metre with the eaves heights being reduced by at least 1.5 metres. In terms of the ridge heights of the properties above ground level application reference 12/00292/FUL proposed that the heights would be **16.95 (Plot 1)**, **17.43 (Plot 2)**, **16.83 (Plot 3)** and **16.23 (Plot 4)** the current application now proposes that these heights would be **15.83 (Plot 1)**, **16.30 (Plot 2)**, **15.70 (Plot 3)** and **15.10 (Plot 4)**. The existing property on the site (No. 191) has a ridge height of **18.80** above ground level. With the properties being sunk into the ground this has led to the ridge levels, above ground level, being reduced by over a metre across all the plots with most plots now having ridge heights which would be over 2.0 metres lower than No. 191.

With regards to the distances between Plots 2, 3 and 4 and the properties to the immediate south these would be as follows: -

- Front to rear elevation between Plot 2 and No. 189 Loughborough Road would be **31.4 metres** with Plot 2 being set **17.2 metres** from the northern (rear) boundary of No. 189;
- Front to rear elevation between Plot 3 and No. 185 Loughborough Road would be **28.6 metres** with Plot 3 being set **8.2 metres** from the northern (rear) boundary of No. 185;
- Front to rear elevation between Plot 3 and No. 183 Loughborough Road would be **34.5 metres** with Plot 3 being set **8.7 metres** from the northern (rear) boundary of No. 183;
- Side to rear elevation between Plot 4 and No.181 Loughborough Road would be **34.0**

- metres** with Plot 4 being set **11.4 metres** from the northern (rear) boundary of No. 181;
- Detached Garage to Plot 4 and rear elevation of No.181 Loughborough Road would be **25.0 metres** with the detached garage being set **0.8 metres** from the northern (rear) boundary of No. 181;

Plot 1 would be set **1.2 metres** from the eastern (side) boundary of No. 189 Loughborough Road and Plot 4 would be set **22.0 metres** from the north-eastern corner of No. 169 Loughborough Road with the detached garage being set **7.2 metres** from the same corner of No. 169.

The District Council's Development Guidelines, which are now out-dated due to the forms of development which can now be constructed without planning permission, specifies that the distance between a principal window of a habitable room and the blank wall of an adjacent dwelling should be no less than 14.0 metres (in the case of two two-storey properties), that a rear elevation to rear elevation distance (or front elevation to rear elevation distance) should be no less than 22.0 metres with the distance between the rear/front elevation of a property and the rear boundary of an adjacent property being 11.0 metres. Although the Development Guidelines may be out-dated in many respects separation distances are still considered to be of relevance and conform to an accepted national standard,

Although accepting that the land levels rise from the rear elevations of those properties on Loughborough Road to the site, with No. 169 being set at a lower land level than the majority of properties, the section drawing indicates that the properties would be 'dug-into' the ground and this will assist in alleviating their visual massing. In the circumstances that the distances achieved between Plots 2, 3 and 4 and the properties most immediately affected would be well in excess of those contained in the Council's Development Guidelines, even taking into account the differences in land levels, it is considered that a reason for refusal on the basis of a significantly detrimental overbearing or overshadowing impact could not be sustained in this instance given that the proposed relationships exist on numerous sites throughout the District. In terms of the distance between Plot 3 and the rear boundaries of Nos. 183 and 185 it is noted that this would be below the recommended 11.0 metres and as such amendments have been made to Plot 3 to ensure that no habitable room windows exist at first floor level which would cause overlooking concerns, a condition would also be imposed on any consent to ensure that the windows which do exist at first floor level are obscured glazed and non-opening (unless the opening part is more than 1.7 metres above the internal floor level). In the circumstances that the properties on Loughborough Road would be to the south of the site it is also considered that there would be no substantial overshadowing implications.

Plot 1 would project 2.8 metres beyond the two-storey part of the northern (rear) elevation of No. 189, 1.0 metre beyond an existing single storey rear extension, with the western (side) elevation of the single storey side extension being set 1.2 metres from the boundary and the main two-storey western (side) elevation being set 3.4 metres from the boundary. Given the overall projection of Plot 1 beyond the rear elevation of No. 189, as well as the distance of the two-storey element from the boundary, it is considered that it would not have a significantly detrimental overbearing or overshadowing impact on the occupant's amenities. Any views established from the first floor windows of Plot 1 would also be directed to the latter parts of the rear amenity area to No. 189 and as such there would not be a significant overlooking impact.

Plot 4 would be set 9.6 metres from the eastern (side) boundary of No. 169 and given that amendments have been made to ensure that no habitable room windows exist at first floor level in the western (rear) elevation it is considered that there would be no adverse overlooking implications with a condition being imposed to ensure that the window which does exist is

obscure glazed. Any view established from the window serving the master bedroom in the southern (side) elevation of the dwelling would also not cause any adverse overlooking impacts given the aforementioned distance to the rear of No. 169 as well as the fact that any view towards the rear amenity area would be at an oblique angle. Although No. 169 lies at a lower land level it is considered that the amendments made to the detached garage, in order to incorporate a hipped roof, would reduce the overbearing impacts on the occupant's amenities given that it would not be directly visible in views established from the property as well as the fact that No.169 benefits from a substantial rear amenity area.

Concerns have been expressed about the potential noise generated by vehicles utilising the access road, however, it is considered that the level of traffic generated by the occupants of Plots 2, 3 and 4 would not be significant and would not be too dissimilar to having a development on a corner site with a road running close to the dwelling and its rear garden, which was considered in an appeal to be an acceptable yardstick for an acceptable standard (Appeal Ref: APP/G2435/A/08/2065885/WF). In any case the road running behind Nos. 181, 183 and 185 would only serve Plot 4 and the road is set away from the rear boundary of No. 189 with a landscaping scheme being proposed between the road and the boundary. A condition would be imposed to ensure that any external lighting proposed for the road and parking areas for the dwellings would be agreed with the Local Planning Authority and a scheme of boundary treatments for the site would also be conditioned to prevent any adverse implications on the amenities of the properties on Loughborough Road from people utilising the proposed pavement.

With regards to the impacts on any future occupants of the residential properties it is considered that although the dwellings on Loughborough Road would be to the south of Plots 2, 3 and 4 they would be situated a sufficient distance from the elevations of these dwellings to ensure that there is no adverse overbearing and overshadowing impacts. Given the aforementioned distances there would also be no adverse overlooking implications on these Plots. In terms of Plot 1 it is considered that as this property would be set slightly further back than the rear elevation of No. 189 Loughborough Road there would be no adverse overlooking implications and the orientation of the dwelling to this property would also ensure there would not be any significantly detrimental overbearing or overshadowing impacts. No. 191 would be set 13.0 metres to the north-east of the rear elevation of Plot 1 and this distance, as well as the fact that it would not be directly behind the dwelling, would ensure that there would be no adverse overbearing or overshadowing impacts. Although a bay window exists on the front elevation of No. 191 at first floor level, within close proximity to the boundary with Plot 1, the rear amenity area has been designed so that there would be no direct overlooking impacts given that any view would be at an oblique angle, or directed towards the latter part of the rear amenity area should a view be established from the window in the western side of the bay window. In any case should this relationship be deemed inappropriate a condition could be imposed to ensure that the first floor bay window was obscured glazed and had a restricted opening given that it is within the applicant's control.

Plots 1 and 3 would also not impact significantly on the amenities of No. 191 Loughborough Road given the position of these dwellings in relation to the existing dwelling as well as the position of habitable room windows not creating any overlooking implications.

The actual relationships between the Plots would also be acceptable with a distance of 13.8 metres being maintained between the eastern (front) elevation of Plot 4 and the side boundary of Plot 3 to ensure there would not be an adverse overlooking impact.

It is considered that a condition could be imposed on any consent to ensure that a bin store is

provided near to the vehicular access of the site to ensure that bins/recycling containers are not distributed in the highway on collection days.

In terms of the objections raised over construction noise it is considered that this is an inevitable temporary, manifestation of any development project, which is not the concern of the planning system unless there would be exceptional amenity harm. When this is the case, a planning condition restricting hours is often applied but in this instance as Environmental Health has raised no issues to the development in this regard, it is considered that the imposition of an hours condition would be unreasonable.

Overall the development would not significantly conflict with the principles of Policy E3 of the Local Plan.

### **Design**

The need for good design in new residential development is outlined not only in Local Plan Policies E4 and H7 but also Paragraphs 57, 60 and 61 of the NPPF with Paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. The site is also located within the National Forest and as such Policy F1 of the Local Plan would also be of relevance.

The application site is sloped with the land along the western boundary being lower than that along the eastern boundary by around 2.2 metres. Residential properties within the immediate vicinity of the site predominately front onto Loughborough Road with the two exceptions being Nos. 169 and 191 Loughborough Road and the dwellings generally consist of detached or semi-detached types. Nos. 183 and 185 Loughborough Road also exhibit high quality in their architectural design including the use of eaves detailing, painted stone headers, mid-course details and chimneys and the majority of properties are set back from the highway to allow off-street parking to be provided to the frontage.

Views of the development site would be established from the entrance to the site off Loughborough Road, although the existing vegetation and protected trees would be retained on either side of the access roads, and public footpath O27 runs through Cademan Wood (to the north of the site) as well as between Nos. 121 and 127 Loughborough Road which lies 139.0 metres to the west of the site. The orientation of Plot 1 had to be altered due to the relationship with the protected trees and whilst the side elevation of Plot 1 would now be presented to the access road amendments have been made to ensure that the property is 'dual fronted' which have enhanced the overall appearance of the scheme. It is also proposed that the stone boundary wall along the site frontage would be continued around the perimeter of Plot 1 which would respect the character of the surrounding area. Although the termination of a vista within the site would be of a detached garage for Plot 4 it is considered that the property itself would still be visible in any view established from the access road and in the circumstances that the position of the dwelling would be compromised by the relationship with neighbouring properties it is considered that this arrangement would be acceptable in this instance and would not compromise the scheme as a whole. The implications of the development on the enjoyment of people utilising public footpath O27 would also not be sufficiently detrimental given that any view established from the north would be of the dwellings fronting Loughborough Road and No. 191 and its associated structures and as such this view would not be substantially altered by the provision of the proposed dwellings and the dwellings themselves would not restrict views onto significant features beyond the site when viewed from the west.

Although the dwellings themselves would not reflect the current building line of properties which, in the majority, front onto Loughborough Road it is considered that built forms of development exist behind these properties, such as Nos. 169 and 191 (and its associated outbuildings) Loughborough Road and the structures to the rear of No. 149 Loughborough Road, and in these circumstances it is considered that the provision of Plots 2, 3 and 4 would not have a significantly detrimental impact on the character of the area to warrant a refusal of the application. It is also considered that an approval of this scheme would not set a precedent for development of a similar nature within the vicinity of the site given that other areas where development of this nature could be proposed are outside the defined limits to development and as such a presumption against residential development exists. In terms of the implications of the development on the appearance of the surrounding area and streetscape it is considered that substantial woodland exists to the north and west of the site, which would restrict views from these areas, and the sections provided indicate that the dwellings would be 'dug into' the ground in order to reduce their visual height with only Plot 4 being substantially prominent due to the overall heights of Nos. 169 and 181 Loughborough Road being lower. Whilst Plot 4 would be visible the gable end of the dwelling would be presented in the direction of the public domain (to a height of 2.5 metres above the ridge of No. 181), which would lessen the visual massing, and in the circumstances that this gable would only be substantially prominent when viewed directly from in front of Nos. 169 and 181 it is considered that the implications of the scheme as a whole would not be significantly detrimental to the appearance of the streetscape or surrounding area to justify a refusal of the application.

The design of the properties themselves are considered to be acceptable and would include chimneys, eaves and verge detailing and use of headers, which would be in keeping with the positive characteristics of dwellings within the vicinity of the site, as well as timber porches, windows and doors to reinforce the National Forest identity of the dwellings. Although the dwellings would have a larger footprint than those dwellings fronting Loughborough Road it is considered that the dwellings on the site would be read in conjunction with their relationship with No. 191 Loughborough Road, which is larger than those properties on the frontage, and in the circumstances that their scales would not be substantially larger than those within the area, and less than No. 191, the footprint of the dwellings would be acceptable and would not impact significantly on the overall character and appearance of the area. The access road has also been amended to ensure that it would not be of an 'over-engineered' design which has enhanced the aesthetics of this element of this scheme.

Although the materials to be used in the construction of the dwellings have been partially specified in the application forms not all the materials have been noted and as such it is considered that it would be appropriate to condition any planning consent to ensure that samples of the materials to be used are submitted for approval to ensure that appropriate materials are utilised.

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

### **Highway Safety**

The County Highways Authority has raised no objections to the proposal subject to appropriate conditions on any grant of planning permission. It is considered that the new vehicular access to serve the site would improve the visibility achieved when looking in an eastern direction (towards the Swannymote Road junction) and sufficient space would exist at the entrance to the site to ensure that vehicles could pull clear of the highway whilst awaiting for another vehicle to

exit.

Areas have been provided within the site to allow for vehicles to manoeuvre so that they would exit in a forward direction and sufficient off-street parking would also be provided for each dwelling. Overall, therefore, the development would accord with the principles of Policies T3 and T8 of the Local Plan.

### **Ecology**

The County Ecologist, as well as Natural England, has raised no objections to the development on the basis of the findings of the submitted Ecology Scoping Survey of the 2nd November 2012 and Ecology Scoping Survey of the 24th January 2013. The surveys concluded that the site is of low ecological value and primarily consisted of species poor grassland, formal lawned areas, a vegetable garden and a few semi mature orchard trees which do not offer roosting opportunities. It is also concluded that the topography of the site would ensure that the Grace Dieu and High Sharpley Site of Special Scientific Interest (SSSI) would not be adversely affected by run-off of excess waters or additional pollutants. On the basis of these findings no mitigation measures would be required. In the circumstances that protected species would not be adversely affected by the proposals it would ensure compliance with Paragraph 118 of the NPPF and Circular 06/05.

### **Landscaping and Impact on Trees**

Three trees along the southern boundary of the site are protected by Tree Preservation Order (TPO) 430 and the Council's Tree Officer initially raised concerns with regards to the proximity of Unit 1 to these trees. The scheme has been revised so that Unit 1 would now be set 12.0 metres from the tree stems to the protected trees and given that the area under the trees would now be retained as a front garden for Plot 1 there would be no impacts from vehicles parking or structures on the integrity of these trees.

Paragraph 5.11 (1) (ii) of Tree Preservation Orders - A Guide to the Law and Good Practice outlines, amongst other things, that *"layouts may require careful adjustment to prevent trees from causing unreasonable inconvenience, leading inevitably to requests for consents to fell."* Further to this BS 5837:2012 ('Trees in Relation to Design, Demolition and Construction - Recommendations'), which has replaced BS 5837:2005 (Trees in Relation to Construction), indicates that *"layouts sited poorly in relation to retained trees, or the retention of trees of an inappropriate size or species may be resented by future occupiers and no amount of legal protection will ensure their retention or survival."* Although the retained trees are significant in stature, and are located to the south of Plot 1, it is considered that the distance achieved would be satisfactory in ensuring that the occupants amenities would not be adversely affected given that only one first floor habitable room window would face in the direction of the trees, which would also be served by a roof light. This relationship would therefore ensure that there would not be pressure on the trees to be removed.

Given that the trees would be retained and a condition could be imposed to request that a landscaping scheme be agreed it is considered that the development would accord with Policies E7, F1, F2 and F3 of the Local Plan.

### **Other Matters**

It is noted that the application site and the properties within the vicinity of the site do not fall within a Flood Zone. In terms of the representations received relating to drainage issues associated with surface water run-off it is considered that the details of drainage would be dealt with under separate legislation (Building Regulations and Severn Trent Water) and as such any issues relating to how surface water run-off would be managed would be addressed at that time.

In the circumstances that the site is not within a Flood Zone it is anticipated that any surface water run-off solution would not further exacerbate any localised flooding issue. As such the development would not conflict with Paragraph 103 of the NPPF.

The Council's Environmental Protection team have raised no objections to the development with regards to ground contamination or land instability and given that the site does not fall within the Coal Mining Referral Area it is considered that the proposals would not lead to land instability issues to neighbouring properties which would ensure compliance with Paragraphs 120 and 121 of the NPPF. Should any future issue arise with regards to land stability then this would be a civil matter between the residential properties affected and the developers of the site.

There is no evidence to suggest that the 'blasting' of granite rock would be required to form the drainage channels and in any case this method of construction would be covered by separate legislation and would not form a material planning consideration. The implications of the development on property values and the right to a view are also not material considerations which can be taken into account in the determination of this application.

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

The site is located within the limits to development where the principle of residential development would be acceptable and Whitwick would be considered a sustainable settlement for new development given that it would fall within the Coalville Urban Area. The loss of part of the residential garden to No. 191 would also not impact adversely on the streetscape or surrounding area given the amenity area retained and the fact that the land is not be protected open space or countryside. On this basis the development would accord with Paragraphs 14, 49 and 53 of the NPPF and Policy H4/1 of the North West Leicestershire Local Plan. Although the density of the scheme would be below that recommended within current planning policy as it is important to factor into any assessment good design, landscaping and association with other forms of development it is considered that the density proposed would be acceptable and would accord with Policy H6 of the Local Plan. It is considered that the heights of the properties now proposed, the distances to existing properties and the fact that they would be 'dug-into' the ground would ensure that the development as a whole would not have a significantly detrimental overbearing, overshadowing or overlooking impact on the amenities of existing residents. An acceptable relationship with the existing property on the site (No. 191) would also be maintained and the Plots themselves would also have acceptable relationships, as such the scheme as a whole would not conflict with Policy E3 of the Local Plan. It is considered that the proposed dwellings would be read in conjunction with their relationship with No. 191 and as such their floor areas would not be out of keeping with the surroundings. In the circumstances that built forms of development also exist which do not directly front onto Loughborough Road, as well as the fact that the site would be well screened, this would also ensure that the development would not have an adverse impact on the character and appearance of the surrounding area or the streetscape. In these circumstances the development would accord with Paragraphs 57, 60 and 61 of the NPPF and Policies E4, F1 and H7 of the Local Plan. The proposed access road into the site has been considered acceptable by the County Highways Authority and given that sufficient off-street parking would be provided it is considered that the scheme would accord with Policies T3 and T8 of the Local Plan. No ecological species would be adversely affected which would ensure compliance with Paragraph 118 of the NPPF and Circular 06/05. The integrity of the protected trees would be retained and a landscaping scheme would be conditioned as part of any consent to ensure compliance with Policies E7, F1, F2 and F3 of the Local Plan. The drainage solution for the site would be agreed with Severn Trent Water and Building Regulations and any solution agreed would be on the basis that it would not exacerbate any localised flooding issues, as such the development would not conflict with Paragraph 103 of the NPPF. It is also anticipated that there would be no land contamination or land instability



issues associated with the site which will ensure compliance with Paragraphs 120 and 121 of the NPPF. It is therefore recommended that the application be permitted.

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

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

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

- 2 This development shall be implemented in accordance with the site location plan (1:1250); HMD/PD/0255/04; HMD/PD/0255/05 and HMD/PD/0255/010, received by the Local Authority on the 21st December 2013, drawing numbers HMD/PD/0255/08.A and HMD/PD/0255/09.A, received by the Local Authority on the 28th March 2013, the location plan showing the position of the sections, received by the Local Authority on the 27th June 2013, and drawing numbers HMD/PD/0255/01.B; HMD/PD/0255/02.B; HMD/0255/03.B; HMD/PD/0255/06.A; HMD/PD/0255/07.A; HMD/PD/0255/011 and HMD/PD/0255/012.A, received by the Local Authority on the 3rd September 2013, unless otherwise required by another condition of this permission.

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

- 3 Notwithstanding the details shown on the approved plans, no development shall commence until a schedule of external materials and brick bonds to be used in the new dwellings and external finishes to the window and door units have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details which shall thereafter be so retained.

*Reason - 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, no development shall commence until detailed drawings (including cross-sections) of porches, dormer windows, projecting bay windows, oriel windows, roof lights and window and door units (including heads and cills) to be used in the new dwellings to a scale of 1:10 have been submitted to and agreed in writing by the Local Planning Authority. The works 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 as no precise details have been submitted.*

- 5 No development shall commence on site until the positioning and treatment of utility boxes and details of rainwater goods including external finishes have been submitted to and agreed in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved details which shall thereafter be so retained.

*Reason - in the interests of neighbouring amenities and the visual amenities of the locality.*

- 6 Notwithstanding the details shown on the approved plans, no development shall commence on site until detailed drawings of the chimney stacks and eaves/verge

## PLANNING APPLICATIONS- SECTION A

detailing to the properties have been submitted to and agreed in writing by the Local Planning Authority. The works 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 as no precise details have been submitted.*

- 7 Notwithstanding the details showed on the approved plans before first occupation/use of the dwellings, hereby approved, a scheme of a soft and hard landscaping scheme (including for retention of existing trees and hedgerows) and boundary treatment scheme for the site (with the detailed design, height and brick bond for the boundary walls to a scale of 1:10 being provided, and including retaining walls), 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 unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. The approved hard landscaping and boundary treatment schemes shall be provided in full prior to the occupation of any of the dwellings unless otherwise agreed in writing by the Local Planning Authority and shall thereafter be so retained.

*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.*

- 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.*

- 9 No development shall commence on site until details of the location and design of a bin collection area have been submitted to and agreed in writing by the Local Planning Authority. The development shall then be carried out in accordance with the agreed scheme which shall thereafter be so retained.

*Reason - to ensure the development takes the form envisaged by the Local Planning Authority, in the interests of amenity and highway safety.*

- 10 No external lighting shall be installed to the access road or the driveways and parking and turning areas of the new dwellings unless details of the position, height and type of lights have first been submitted to and agreed in writing by the Local Planning Authority. The external lighting shall be installed and operated in accordance with the agreed scheme.

*Reason - in the interests of residential amenities.*

- 11 Notwithstanding the provisions of Classes A, B, C and 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) the new dwellings, and the detached garage serving Plot 4, shall not be enlarged, improved or altered nor shall any building, enclosure, swimming or other pool required for a purpose incidental to the enjoyment of

the dwellinghouse be provided within the curtilage of the new dwellings 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 and relationship with residential properties.*

- 12 The windows serving the first floor family bathroom and galleried landing in the southern (front) elevation of Plot 3 and first floor family bathroom in the western (rear) elevation of Plot 4 shall be glazed with obscure glass, to Pilkington Standard 3 or its equivalent, and non-opening, unless the opening part is more than 1.7 metres above the internal floor level of the room in which the window is installed, and once provided the windows shall thereafter be so maintained.

*Reason - in the interests of residential amenities.*

- 13 Before first occupation of any dwelling on the site the following shall be provided: -
- A drainage scheme within the site such that surface water does not drain into the public highway;
  - 4.0 metre control radii on both sides of the vehicular access;
  - Visibility splays of 2.4 metres by 90.0 metres at the junction of the access with Loughborough Road which shall be in accordance with the standards contained in the current County Council design guide.
- Once provided the measures shall thereafter be so retained in perpetuity with nothing being allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

*Reasons - to reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users; 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; to afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.*

- 14 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 10 metres behind the highway boundary and shall be hung so as the open inwards only.

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

- 15 The gradient of the access drive shall not exceed 1:12 for the first 5 metres behind the highway boundary.

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

- 16 The existing vehicular access to No. 191 that becomes redundant as a result of this proposal shall be closed permanently and the existing vehicular crossings reinstated in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority 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.*

- 17 No development shall commence on site until protective fencing for the trees protected by Tree Preservation Order (TPO) 430 has been provided in accordance with the details specified on drawing number HMD/PD/0255/01.B, received by the Local Authority on the 3rd September 2013, and as stated in the document titled '*Tree protection will be provided throughout the construction period supported via planning conditions*', received by the Local Authority on the 21st December 2012. The protective fencing shall be kept in place until all works relating to the development proposals are complete.

*Reason - in the interest of health and safety and the amenity value of the trees protected by Tree Preservation Order 430.*

- 18 There shall be no storage of materials, plant, skips, equipment and/or other items associated with the development hereby approved, mixing of materials, vehicular movements or fires or other ancillary works associated within any of the areas bounded by the protective fencing.

*Reason - in the interests of health and safety and the amenity value of the trees protected by Tree Preservation Order 430.*

**Notes to applicant**

- 1 Planning permission 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 proposal is situated in excess of 45.0 metres from the highway. In order to cater for emergency vehicles the drive and turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
- 4 This planning permission does NOT allow the applicant to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, you are advised to visit the County Council website as follows: -  
For 'major' accesses - see Part 6 of the "6Cs Design Guide (Htd) at [www.leics.gov.uk/Htd](http://www.leics.gov.uk/Htd).  
For minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.
- 5 The highway boundary is the wall fronting the premises and not the edge of the carriageway/road.
- 6 The proposed roads do not conform to an acceptable standard for adoption and therefore they will NOT be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all

plots served by all the private roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see [www.leics.gov.uk/htd](http://www.leics.gov.uk/htd) or phone 0116 3057198.

7 Any street furniture or lining that requires relocation or alteration shall be carried out entirely at the expense of the applicant, who shall first obtain the separate consent of the Highway Authority.

8 The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

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

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**Use of land as a camping and caravan site with 20 pitches and change of use of outbuilding to a shop**

**Report Item No  
A3**

**The Globe Inn 6 Main Street Snarestone Swadlincote**

**Application Reference  
13/00460/FUL**

**Applicant:  
Mr & Mrs Costello**

**Date Registered  
19 July 2013**

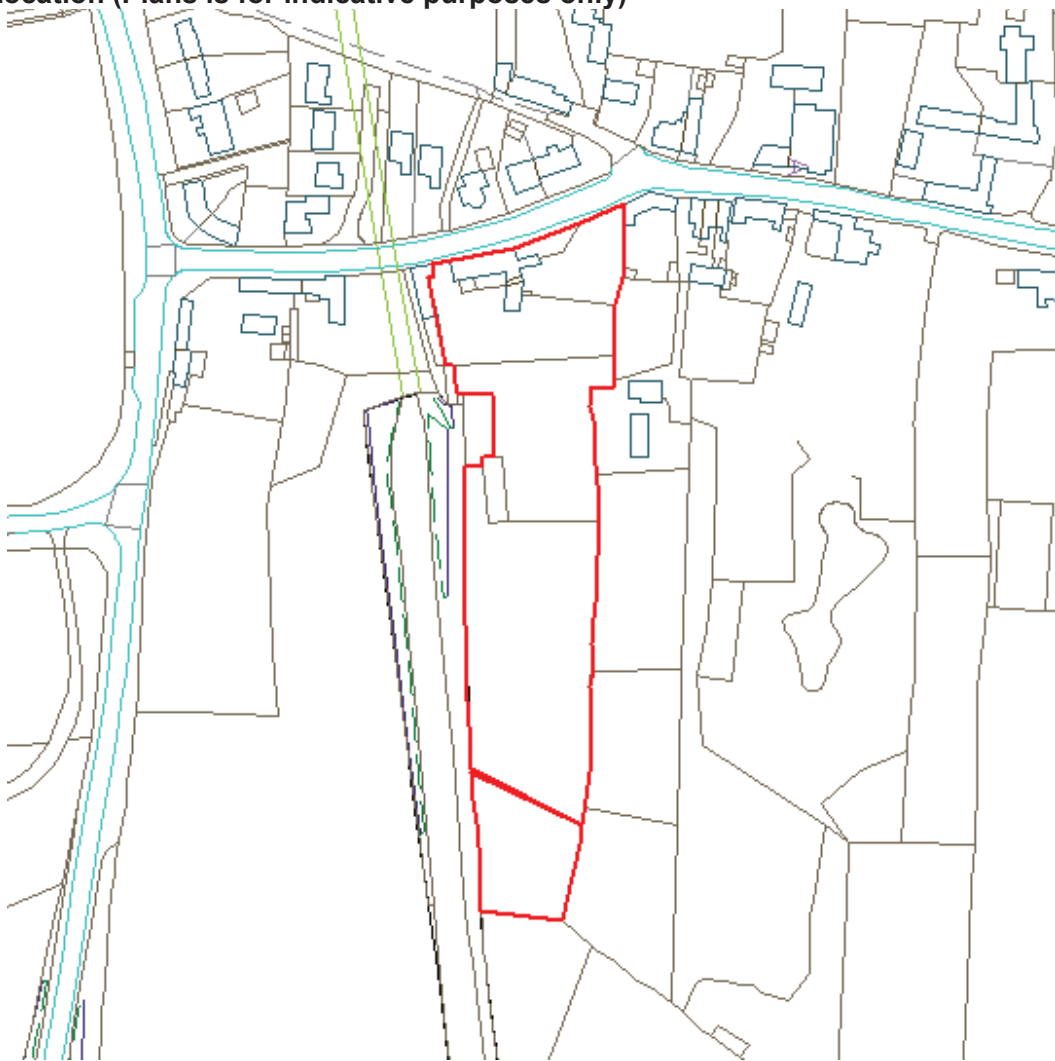
**Case Officer:  
Jenny Davies**

**Target Decision Date  
13 September 2013**

**Recommendation:  
PERMIT**

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**Site Location (Plans is for indicative purposes only)**



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Planning Committee 12 November 2013  
Development Control Report

## EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

### Proposal

This application seeks planning permission for the use of land as a camping and caravan site with 20 pitches and change of use of outbuilding to a shop on land at the Globe Inn, Main Street, Snarestone. The site is located on the southern side of Main Street and relates to a narrow piece of grassland extending 178.5 metres from the southern boundary of the pub car park. The application initially proposed 30 pitches but this has been reduced to 20 pitches which will be available for temporary use by touring caravans, campervans, motorhomes and tents. A row of nine pitches is proposed on the eastern side of the site and 11 on the western side. A store to the rear of the main pub building will be converted into a shop. Access to the site will be via the pub's existing vehicular entrance off Main Street and then across the pub car park onto a hardsurfaced track which extends approximately 55 metres into the site. The application has been submitted following the opening of an enforcement investigation in February 2012 into the operation of an unauthorised caravan site.

### Consultations

Members will see from the main report below that objections have been received in respect of the proposals, including from Snarestone Parish Council with 63 letters being received from members of the public. The objections cover several different issues, broadly but not exclusively relating to the principle and sustainability of the proposal, its potential occupation by permanent residents, highway safety, impact on the historic environment and character of the area, impact on residential amenities and impact on ecology. No objections have been received from any statutory consultees including the County Highway Authority, Natural England, the County Ecologist, English Heritage, the Council's Environmental Protection team and the Canal and River Trust.

### Planning Policy

The application site is outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan. The National Planning Policy Framework sets out national guidance on such proposals.

### Conclusion

The proposal is acceptable in principle in this countryside location and would not be in a unsustainable location for this type of development. The proposal would not be significantly detrimental to the character and appearance of the Snarestone and Ashby Canal Conservation Areas nor to the character of the surrounding countryside. The settings of the nearby listed buildings will not be adversely affected and their settings will therefore be preserved. The proposal would not detract from the character of the surrounding countryside nor be out of scale with the setting of the village nor significantly intensify activity on the site to such an extent that it would significantly harm the village's character. On balance reasons for refusal on the grounds of significant impact from noise and disturbance and on significant impact on highway safety could not be justified in this case. The Ashby Canal SSSI, protected species and important habitats are unlikely to be adversely affected by the proposal. 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. The application is therefore recommended for planning permission.

**RECOMMENDATION -PLANNING PERMISSION BE GRANTED subject to conditions:**

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



## MAIN REPORT

### 1. Proposals and Background

This application has been brought to Planning Committee at the request of Councillor Blunt. Permission is sought for the use of land as a camping and caravan site with 20 pitches and change of use of outbuilding to a shop at the Globe Inn, Main Street, Snarestone. The site lies on the southern side of Main Street and is a narrow piece of grassland and woodland, measuring 178.5 metres long with a maximum width of 22 metres. It is located to the south of the pub car park (which itself lies to the rear of the pub) and is bounded on its eastern side by open fields, to the south by the remainder of the grassland and then open fields and to the west by the Ashby Canal.

The application initially proposed 30 pitches but this has been reduced to 20 pitches which will be available for temporary use by touring caravans, campervans, motorhomes and tents. The application advises that the site/pitches will not be occupied permanently. The ground levels on the site will not be altered and no hardstandings will be provided nor will the existing drive be extended. Electric hook up points are already in place. The pub toilets will be open to people staying at the site and a shower and toilet is also available solely for their use. A disposal point is in place for waste from those vehicles that have on-board toilet facilities.

A store to the rear of the main pub building will be converted into a shop for use by people staying at the site as well as canal users and local residents. No external alterations to this store are proposed and the existing timber door will be retained.

The site layout has been revised from the original submission so that 9 pitches will be located on the eastern side of the site and 11 on the western side. The first pitches will be located eight metres from the site's northern boundary, with a landscaped area provided between these pitches and the pub car park. The pitches on the eastern side are set five metres away from the centre line of the hedgerow that forms the eastern boundary and those on the western side lie adjacent to the woodland that forms the boundary with the Ashby Canal.

Access will be via the pub's existing vehicular entrance off Main Street and then across the pub car park onto a hardsurfaced track which extends approximately 55 metres into the site and which runs down the centre of the site between the two rows of pitches. Each pitch will provide space for a caravan/tent/motorhome and one parking space. Two parking spaces will be lost to provide the access to the site.

The application has been submitted following the opening of an enforcement investigation in February 2012 into the operation of an unauthorised caravan site (12/00041/UD).

The site is located within the catchment area for the River Mease Special Area of Conservation (SAC) and the Ashby Canal is also a Site of Special Scientific Interest (SSSI). The pub and most of its car park lie within the Snarestone Conservation Area and the Ashby Canal Conservation Area adjoins the site to the west. The southern Snarestone Tunnel Entrance which lies approximately seven metres to the west of the pub car park at the entrance to the canal tunnel is a Grade 2 listed building as is No. 2 Main Street, which lies to the west/north west of the site. The pub itself is considered to be an unlisted building of interest as are 8, 10 and 12 Main Street which lie to the west of the site and Church Walk Farm which lies to the north of the site.

Planning history back to 2001:

- Crown reduction of two willow trees (unprotected trees in a conservation area) (12/00997/TCA)

approved January 2013;

- Display of internally and externally illuminated signs (03/01145/ADC) refused November 2003.

## **2. Publicity**

19 no neighbours have been notified.(Date of last notification 20 September 2013)

Site Notice displayed 25 July 2013

Press Notice published 31 July 2013

## **3. Consultations**

Snarestone Parish Council consulted 22 July 2013

Development Plans consulted 29 August 2013

Severn Trent Water Limited consulted 20 September 2013

LCC ecology consulted 20 September 2013

County Highway Authority consulted 20 September 2013

Environment Agency consulted 20 September 2013

Natural England consulted 20 September 2013

Severn Trent Water Limited consulted 20 September 2013

NWLDC Conservation Officer consulted 20 September 2013

Head of Environmental Protection consulted 20 September 2013

Natural England consulted 16 September 2013

NWLDC Tree Officer consulted 23 July 2013

County Archaeologist consulted 23 July 2013

English Heritage- Ancient Monument consulted 23 July 2013

Christine James consulted 23 July 2013

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

### **Statutory Consultee Responses**

**Snarestone Parish Council** has the following objections:

1) The applicant is also currently the landlord at the Odd House, within the parish of Snarestone, and the Odd House already has permission for 25 caravan pitches thereon, most of which are permanently sited and we suspect permanently occupied, in contravention to the existing planning consent granted by NWLDC in October 2008.

2) There are very few touring caravans visiting the Odd House, if any, setting a clear precedent as to how the proposed site at the Globe would be operated - Please see Appendix 1 which is an extract from ukcampsite.co.uk website, which gives an independent, non village based opinion of the Globe Caravan Site, covering 2011 and 2012.

3) There have been many complaints already about the activities at the Odd House, and the Parish Council remains unhappy that NWLDC has never sorted out the occupation at that site - please see appendix 2 for a list of complaints raised at Parish Council meetings and contacts with NWLDC by the PC alone.

4) The Rt. Hon Eric Pickles MP recently issued guidelines to Local authorities dated August 2013, entitled 'Dealing with illegal and unauthorized encampments - A summary of available powers'. Whilst we appreciate that the Odd House Caravan Site, and the proposed site at the Globe do not yet fall into the category of travellers, they are both run outside of the permission (of lack of it in the case of the Globe) granted. As such, the caravans are unauthorized, and we would now ask that NWLDC take all enforcement action necessary. Certainly it would appear that various Sections (170C & E in particular) of the Town and Planning Act 1990 are relevant where:

a) There is evidence of continual planning breaches for the caravans located at the Odd House

Caravan Site many of which have been there for over 28 days; we would also suggest that NWLDC write to clarify the definition of a 'touring caravan', where return of any visitor or caravan within a 12 month period would not be consistent with the original application designed to assist tourism.

b) There should be NO Caravans located at the Globe, where there No permissions currently exist. Additionally, we would also suggest that the Caravan and Control of Development Act 1960 is currently being breached at the Globe, where caravans are sited, and where no site license currently exists.

5) The Local Plan states that the increase in the population of Snarestone is anticipated to be by small in-fill only. An influx of permanent occupiers to 30 caravans, at say 2 per van, would increase the village population by 60. Given a current voter's role of 256, then this would represent a 23% increase, in direct contravention to the local plan. In terms of increased accommodation units within the village centre, then this would represent an increase of 29% (30/102), and including the Odd House, the proportion of permanently sited non tax paying caravan residents to fixed houses would be 48% (55/123).

6) We have received many complaints already about the smell, following weekend caravan rallies, and we are concerned that the sewerage facilities cannot cope with the additional number of caravans proposed in addition to the existing pub users.

7) The residents of the village pay their council tax and utilities, despite having fewer facilities than larger urban areas. Permanent caravan residents make no such contribution to our community.

8) The River Mease impact statement accompanying the plan states that 'any increase equivalent to less than 10 dwellings will not attract objection' - Given the current planning breaches at the Odd House site, then this application would see an increase equivalent to 30 new dwellings in direct contravention of that policy.

9) The Planning Statement states that the Globe site has been used under the Caravan and Camping Club License scheme - it should be noted that the license has been rescinded given complaints received to date and non-compliance with their rules. As such, no license currently exists, and therefore there should be no caravans to the rear of the Globe - the pictures on the Ecology survey clearly show 5-10 Caravans in occupation, and currently there are between 5 and 20 located thereon without planning.

10) For villagers living adjacent and around the Globe, the continuous noise levels that accompany such a site rise with the external temperature, and provide an ever present disturbance to the existing village ambience, inconsistent with the conservation area status afforded to both the village centre and the Canal.

11) Point 2.5 of the planning statement states that 'no caravan would be permitted to stay for more than 28 days in a single stay'. This breach has been ongoing both the Odd House site and more recently at the Globe, in some cases for years.

12) Point 3.5 of the application also points out that the proposal should 'respect the Character of the countryside'. In my opinion 30 caravans, most likely permanently sited does not respect the Conservation area or the character of the village I moved into. The Sept 2001 Snarestone Conservation study, adopted by the council as supplementary planning guidance, makes great play of the importance 'that local planning authorities, in exercising their planning powers, pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas (section 72)'. It also refers to the Ashby de la Zouch Canal (to Snarestone) Conservation area - both areas border the site, and would be impacted adversely by this planning application. The policy goes on to suggest that preservation of open spaces is vital to the character of the conservation area.

13) The application makes much play of tourism, but let us not be misled, this is not about tourism, as evidenced at the Odd House. This applicant has no desire to accommodate touring caravans and join or comply with any known caravan organization - this is an application for permanent residents. It is impossible to think that you would allow a further application to be

approved when clearly the landlord has no intention of accommodating touring caravans to the area, and will just duplicate the unsightly mess already evident at the Odd House Caravan Site, where sheds and other permanent features remain visible from the road today, and on Google Street view dated May 12, demonstrating their permanency.

14) I would also point out that over the last 12 months, there have been well over 5 caravans located to the rear of the Globe, many in permanent occupation until only recently (some moved I am sure to coincide with the planning submission). During this time the sewerage system has smelt dreadfully, and clearly was not made to handle such volumes, yet alone the proposed 30 caravans.

15) The current facilities total one shower, one toilet, and one waste disposal point. Should this application be granted, then such facilities would prove inadequate, and we would then be presented with an application for a new toilet block and washing facility, requiring a new permanent construction to be built adjacent to two conservation areas.

16) It should also be pointed out that the proposed site is within the Canal and village Conservation Area, where many more houses are listed than detailed within the applicant's Heritage Statement. The point of a conservation area is to preserve the nature and character of that place - this application will alter for ever the nature of that part of the conservation area.

17) You will also note that the applicant has made no provision for waste collection facilities, and states that no work has started, despite the electrical hook up points and caravans already in situ.

18) With regards to access, then the Village Main Street, particularly in the evenings, at Weekends, and during School times is full of parked vehicles, and the local farmers can no longer access some of their fields due to traffic obstructions. Modern caravan and car combinations are over 30+ feet long, and access will at times be difficult. At times when the pub car park is full, this will be even trickier, and there is no consideration given to access by Emergency vehicles if required.

These objections are clearly of concern to the residents of Snarestone. This is a rural community where small infill development only should be undertaken. There are already 7 sites within a 5 mile radius, incorporating over 202 pitches, with another proposed / recently granted in Appleby Magna.

We fully expect NWLDC to reject this proposal, and to preserve the status quo in Snarestone. The site at the Odd House is already located within our parish, and the residents see no reason why we should be subjected to another site when clearly the applicant continues to contravene the existing planning granted for that site.

**The Conservation Officer** has no objections to the original and amended schemes.

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

**The County Planning Archaeologist** recommends no further archaeological involvement.

**The Environmental Protection team** has no observations relating to land contamination, has no objections in relation to impact from noise and disturbance and advises that a caravan site licence will be required if planning permission is granted.

**The Tree Officer** has no objections.

The County Ecologist initially made some recommendations to protect the Ashby Canal SSSI and raised concerns in relation to the submitted ecology survey. Following submission of a

further ecological survey the County Ecologist raised further concerns regarding great crested newts and impact on the eastern hedgerow. Subsequently following a site visit the County Ecologist advises that issues relating to great crested newts and the hedgerow have been addressed.

**The Environment Agency** has no objection provided the relevant contribution is paid under the River Mease Developer Contribution Scheme.

**Natural England** has no objections in relation to impact on the River Mease SAC and SSSI subject to consideration of whether the Developer Contributions Scheme is applicable, to the Ashby Canal SSSI subject to a condition and impact on bats and great crested newts.

**Severn Trent Water** has no objections subject to a condition.

**The County Highway Authority** has no objections to the original or amended plans subject to conditions.

**The Canal and River Trust** advises that it has no objections to the proposed development, subject to the imposition of suitably worded conditions relating to impact on the Ashby Canal SSSI.

**Ashby Canal Association** makes the following comments:

1. We think the proposal for 20 caravan pitches is the absolute maximum that should be permitted.
2. The caravan pitches should be for touring - i.e. not for permanent residential caravans.
3. We assume that electricity outlets will be provided to the caravans, - if not a condition should be required restricting the use of generators by caravanners to the hours which would not create a nuisance to occupants of boats moored nearby along the canal.
4. The pitches which are shown on the plan as backing onto the towpath hedge should be screened from the canal - i.e. all the existing trees and hedge must be retained, and additional screening if necessary should be provided.
5. The proposal for a small shop is welcomed.

### **Third Party Representations**

63 letters of representation have been received which object to the application on the following grounds:

#### *Principle/Sustainability*

- intention is for site to be occupied by permanent residents and not for it to operate as a tourist facility;
- permanent caravan residents do not pay Council Tax nor for utilities;
- potential for 30 new dwellings to be provided in Snarestone which will increase the population of the village by 30%;
- impact on amenities and facilities from additional permanent residents, in particular the school;
- there have been previous attempts to buy land within the village to provide a permanent caravan site under the pretence of it being for recreation;
- applicant has no desire to accommodate touring caravans or join or comply with a caravan organisation;
- it appears that this is an attempt to turn a loss making pub into a profitable one by introducing a permanent residents and effectively turning it into a hotel without the required licences/regulations;

## PLANNING APPLICATIONS- SECTION A

- there is already a large caravan site at the Odd House and traffic travels between this and the application site;
- no need/demand for another caravan site as there are already five sites in the area and a further site seems excessive;
- insufficient space for the demands of caravan users would be available if the Odd House was operated properly;
- poor online reviews from people that have previously stayed at the site so doesn't appear to be a popular site;
- sanitation facilities on the site are inadequate for the number of caravans;
- it appears to be the intention to build more facilities for the site in the future;
- suggests that number of caravans is restricted to 10, length of stay restricted to 7 or 14 days and no return within 28 days and a temporary permission is granted;
- disproportionate to the size of the village;
- poor transport links;
- new dwellings are not allowed in the village;
- no benefits to the local community;
- no jobs created or local involvement;
- can the caravan site contribute towards speed calming measures in the village?;
- this is a rural community where only infill development should take place;
- proposed shop is unlikely to be viable;
- detrimental impact on existing farm shop in the village and shops in nearby village which are used by local residents;
- existing events at the pub would no longer continue which would be detrimental to the community;
- one third of residents objected at a recent meeting and therefore it appears that the community's and the applicant's priorities are not the same;

### *Enforcement*

- the Caravan and Control of Development Act 1960 has been breached and the Caravan & Camping Club licence has been revoked and as such there should be no caravans on the site;
- previous breaches at the site have occurred under previous owners;
- is the site going to be approved by the Camping & Caravan Club as certain facilities have to be provided to comply with their membership;
- enforcement breaches, including permanent occupation of caravans at the Odd House on a permanent basis which has not been dealt with by the Council;
- further permission for a caravan site should not be allowed when the Odd House has not been operated properly;
- concern that future breaches of planning permission will occur given what has happened at the Odd House site and the application site;
- what is to stop people being resident at the site and the Odd House for 28 days on a rotating basis?;
- illegal encampments have not been dealt with by the Council and it appears unlikely that the site will be properly used and monitored;
- similar concerns were made in respect of the planning application for the Odd House caravan site;

### *Residential Amenities*

- noise and disturbance to local residents including from traffic, motor bikes, drinking, BBQs, dogs and music during the day and night;
- noise pollution from existing events held at the pub;

### *Visual Impact/Historic Environment*

- not an example of the Council upholding its legal duty to have particular regard to the desirability of preserving or enhancing the character and appearance of a Conservation Area and the setting of a listed building;
- over bearing, out of scale and ugly and will have a negative impact on the character of the Conservation Areas and village;
- a higher standard of design is expected in an historic environment;
- not in line with the aims for the canal and village conservation plan;
- preservation of open spaces is vital to the character of the conservation area;
- impact on tranquil surroundings and visitor to/users of canal;
- breach of Policy E10 of the Local Plan;
- impact on setting of nearby listed building which will be worsened due to removal of two conifer trees as well as on setting of canal;
- the pub is an unlisted building of historic interest;
- impact on view from historic bridleway for canal barges which lies on the edge of the entrance to the pub;
- the site is clearly visible from the village and from the canal tow path;
- impact on eastern hedgerow and trees which have already been cut back;

#### *Drainage*

- drainage system smells and has been blocked when site in use by only five caravans;
- existing drainage system will not be able to cope with large increase in volumes of waste;
- impact on drainage system will be contrary to Policies E30 and E31 of the Local Plan;
- no details/provision for waste collection facilities;

#### *Ecology*

- potential to damage the adjacent Ashby Canal which is a SSSI;
- lack of toilet facilities will not encourage disposal of waste water properly adjacent to an SSSI and impact of phosphates on algal growth is a concern;
- negative impact on and damage to nature conservation area, its flora and wildlife and protected species, including grass snakes, adders, great crested newts, water voles, badgers and bats;
- insufficient information to assess impact on nature conservation, protected species and trees;

#### *Highway Safety*

- high vehicle speeds along Main Street which is used as a cut through and has no speed calming measures;
- poor visibility at the site entrance and close to a bend;
- increase in traffic using the entrance from caravan residents;
- impact on users of school bus stop which is opposite the entrance;
- cars emerge too quickly from the site;
- lots of on-street parking nearby especially when local football team playing which makes driving through the village difficult and impedes visibility;
- users of the site will park on the street reducing space for residents;
- no visibility from footpath to the recreation ground;
- the school has an arrangement with the pub for parents and visitors to park in the pub car park which will make it difficult for caravans to get through the car park;
- more lorries visiting the site;
- difficult access for emergency vehicles;
- not enough space to turn into/out of the site with a caravan;
- no allowance for amount of farm traffic that uses Main Street;
- increase in use of the access would be dangerous and will cause parking and traffic chaos;
- the junction and road should be made safer;

*Other Matters*

- application advises no work has started on site but electric hook up points have been provided and caravans are in situ;
- impact on the Green Belt;
- mess and litter on the site;
- no details of health and safety risk assessments;
- fire prevention and access for emergency vehicles is essential;
- impact on property values;
- not enough time to comment on the planning application;
- several errors within the application documentation;
- no details of the works required to provide the shop;
- the Canals & Rivers Trust has not been consulted;
- no comments from Natural England showing on the internet.

A letter has been received from The Inlands Waterways Association which advises that the Ashby Canal is a historic waterway and a valuable amenity and recreational corridor, providing leisure boating, walking, angling, cycling and nature conservation benefits to the area. The site is well screened from the canal by existing trees and the proposed 10 metre wide buffer zone is considered adequate to protect the canal and its Conservation Area. Therefore, the Inland Waterways Association has no objection to the application.

Copies of all letters of representation are available to view in full on the planning file.

**5. Relevant Planning Policy**

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

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

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

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

- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity;
- take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- support the transition to a low carbon future in a changing climate;
- promote mixed use developments and encourage multiple benefits from the use of land in urban and rural areas;
- conserve heritage assets in a manner appropriate to their significance;



- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
- take account of and support local strategies to improve health, social and cultural wellbeing.

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

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

The sections of the NPPF that are relevant to this application are:

- 3 - Supporting a Prosperous Rural Economy;
- 4 - Promoting Sustainable Transport;
- 7 - Requiring Good Design;
- 8 - Promoting Healthy Communities;
- 10 - Meeting the Challenge of Climate Change, Flooding and Coastal Change;
- 11 - Conserving and Enhancing the Natural Environment;
- 12 - Conserving and Enhancing the Historic Environment.

**North West Leicestershire Local Plan:**

The East Midlands Regional Plan (RSS8) has now been revoked and therefore no longer forms part of the development plan. The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

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

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

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

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

Policy E4 seeks to achieve good design in new development.

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

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

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

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

Policy R20 sets out the criteria for the development of individual local shops away from existing or proposed shopping centres.

Policy L5 states that tourist accommodation will be permitted if the proposal is appropriate in scale and location and would not result in an unacceptable level of traffic generation.

### **Other Guidance**

*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.

*The Wildlife and Countryside Act 1981* set outs provisions regarding the notification, protection and management of Sites of Special Scientific Interest (SSSIs).

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

*Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)* sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. It also sets out guidance in relation to Sites of Special Scientific Interest (SSSI).

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

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

*Good Practice Guide on Planning for Tourism 2006* sets out guidance relating to the key planning considerations for tourism developments.

### **6. Assessment**

The main issues for consideration in the determination of this application relate to the principle and sustainability of the proposal and its impact on the historic environment and character of the area, on residential amenities, on highway safety, on protected species and the Ashby Canal SSSI and on the River Mease Special Area of Conservation.

#### **Principle and Sustainability**

The site is located outside the limits to development where permission for new development would not normally be granted unless it is for the leisure, recreation or tourism-related development and other specific uses as set out in Policy S3 of the Local Plan. As the scheme relates to a camping/caravan site it can be acceptable in the countryside. Policy CS8 of the Submission Core Strategy supports tourism development where it requires a rural location and Policy CS13 supports sustainable tourism developments that utilise their rural location. Policy

L5 of the Local Plan also supports the development of tourist accommodation, subject to its impact on the local environment and the highway network.

The site is located on the edge of Snarestone which is a village with a limited number of services (church, pub, school, playing field, farm shop). A bus service (No. 7) appears to run through the village Monday to Saturday with six services running between 9am and 6pm. A shop is proposed as part of the application which would be open for use by users of the site although given the scale of the site and the size of the building in which it will be located it maybe that it is small in scale and may only sell basic provisions. There is some potential for people to stay at the site who have not travelled by car given its location adjacent to the Ashby Canal which is a recreational facility used for boating, walking, cycling and fishing. There are also two National Cycle Routes that pass near to the village through Measham, Newton Burgoland and Shackerstone (Routes 52 and 63). For those that have travelled by car there are some opportunities to visit facilities/services without using a vehicle, in particular to access the canal and pub, but some visitors will use their car for the majority of journeys.

However as noted above there is policy support for tourism accommodation within the countryside. The site is not completely isolated from existing development or services and the 2006 Good Practice Guide acknowledges that some tourism developments will be car dependent. Furthermore the proposal is likely to help support and diversify the rural economy (including tourism facilities) which is supported in the NPPF, in particular as money will be put back into the economy from visitors to the pub, proposed shop and other local services/facilities, it will support the pub and may contribute to its long term viability (although no evidence has been put forward to suggest that without the caravan/camp site the pub will not be viable) and should provide some employment opportunities albeit seasonal ones.

Concerns have been raised about the need for/viability of the proposal given that there are several other camp sites nearby and that the site will be occupied by permanent residents or a gypsy/travellers site and result in a permanent housing site which would place a strain on existing services, e.g. the school, doctors surgery. Also that as the applicant has breached conditions on a planning permission (08/00516/FUL) for another site in his operation (the Odd House - located between Snarestone and Swepstone) and breached the permitted development rights for the site, it is likely that this will occur again.

An enforcement investigation into breaches of the planning permission for the Odd House site has found that caravans are being permanently kept on the Odd House site, domestic paraphernalia (e.g. sheds, hardstandings, decking) has been installed and it appears that some people are permanently living in the caravans. The enforcement investigation is ongoing and as result the sheds, decking and other ancillary development have largely been removed, residents have been given notice that they and their caravans cannot permanently remain on site and the owner has given an undertaking to comply with the conditions on the permission.

The enforcement investigation (12/00041/UD) relating to the Globe Inn has found that some caravans were occupied on a permanent basis, caravans have been permanently left on the site and that more than five caravans had been sited which exceeds the site's permitted development rights.

There is no evidence that the proposed 20 pitch site will be occupied by permanent residents or gypsies/travellers. Indeed the original application submission makes reference to the land being used for touring caravans and camper vans and a subsequent letter from the agent advises that planning conditions could be imposed relating to the types of units that can use the site (touring caravans, camper vans, motor homes and tents) and the length of time they and their occupiers

can stay on the site. Such conditions would be imposed as the site may not be appropriate for permanent dwellings in particular due to a different visual impact ensuing and the pressure on local services. Need for tourism accommodation elsewhere in the District has not been considered as an issue in other appeal decisions (04/01922/FUL and 07/01434/FUL). Furthermore the Council has powers to deal with illegal gypsy/traveller encampments but this not relevant at the current time as neither the Odd House nor the Globe are being used as such a site.

The breaches at the Odd House site and the application site also relate to a different site and a different situation to the application proposal (i.e. breach of permitted development rights) and therefore limited weight can be given to this as a reason to refuse planning permission for the proposal. Furthermore the Authority can impose conditions to restrict the use of the site and has enforcement powers to investigate any breaches should permission be granted.

The provision of a shop is supported by paragraph 28 of the NPPF and Policy R20 of the Local Plan. Although there is already a farm shop operating from Snarestone Lodge Farm it appears that this only sells produce from the farm and is located at least 200 metres from the western edge of the village. The proposed shop is likely to be of a different nature selling a wider range of goods and will be accessible by users of the site and canal, as well as by local residents as it is located within the village and is therefore unlikely to adversely impact on the operation of the farm shop.

On this basis, it is considered that a caravan/camp site and provision of a shop are acceptable in principle in this countryside location and would not be in a unsustainable location for this type of development.

#### **Historic Environment and Character of the Area**

The pub and most of its car park lie within the Snarestone Conservation Area and the site is adjoined to the west by the Ashby Canal Conservation Area. The southern Snarestone Tunnel Entrance which lies approximately seven metres to the west of the pub car park at the entrance to the canal tunnel is a Grade 2 listed building. No. 2 Main Street is also a Grade 2 listed building, which lies approximately 30 metres to the west/north west of the site although its curtilage appears to extend to the rear of No. 4 Main Street. Nos. 13-15 and 19 Main Street and Snarestone Primary School, lie further to the west of the site on the opposite side of Main Street and are also all Grade 2 listed buildings. The pub itself is considered to be an unlisted building of interest as are 8, 10 and 12 Main Street which lie to the west of the site and Church Walk Farm which lies to the north of the site, as identified in the Snarestone Conservation Area Appraisal and Study (September 2001). Therefore the Conservation Area and listed buildings are designated heritage assets and the unlisted buildings of interest are undesignated heritage assets, as defined in the NPPF.

The site of the caravan/campsite is set back from the main part of the Snarestone Conservation Area which mainly covers Main Street and its frontage buildings although it does extend back to cover some of the land to the rear. The site forms a natural backdrop to views of the Globe through the vehicular access and the pub garden (although it is largely well screened by mature trees, other vegetation, front railings/pillars and play equipment within the pub garden), but this locality is not very open due to the linear nature of the rear fields and mature vegetation along their boundaries. As such the site makes a contribution to the character of the Area as it is part of the natural landscape that frames and penetrates the village in particular on its southern side.

No. 2 Main Street dates from the early 18th century and is a prominent building within the Conservation Area in particular due to the open view of its principal eastern elevation from Main

Street and its northern gable end which fronts directly onto Main Street. There are views of No. 2 from the site, mainly from the pub car park, which have been opened up with the recent removal of two conifers. The other listed and unlisted buildings are located further along Main Street to the west and form part of the wider streetscene background to the pub. The pub itself is also prominent within the streetscene, partly due to its scale, proximity to the road and that it is separate from other buildings and also forms the backdrop to views towards the Conservation Area from the proposed caravan/campsite.

The Ashby Canal was built in the late 18th century and was in use until the mid-20th century and is of importance within the village's historical context although it largely bypassed the village due to the tunnel which is 229 metres long and as such there is not significant evidence of industrial development adjoining this stretch of the canal. As there was no towpath in the tunnel horses had to be taken across what is now the playing fields, through a narrow path onto Main Street and then via the pub access before rejoining the canal by the southern tunnel entrance. This route is still in evidence today although the towpath that ran immediately alongside the canal now appears to have disappeared in part and a more informal track is in its place.

The canal runs alongside the western boundary of the site with the towpath in-between and then veers slightly away from the site to enter the tunnel that runs under Snarestone. The southern tunnel entrance is close to northern part of the site and is constructed of rusticated and vermiculated stonework with string courses. An area of woodland and bank (which are within the site) lies between the towpath and the proposed caravan site and forms part of the character of the Conservation Area as the planting is dense and overhangs the towpath and canal in places and with the vegetation on the western side of the canal creates a sense of enclosure which forms part of the canal's character. The pub and Nos. 2 and 4 Main Street are the most prominent landmarks within the village when viewed from the canal, although longer views of the pub and the grassed area that will form the caravan/camp site are largely screened by the woodland and the pub and No. 2 are most visible in immediate views before the tunnel entrance. The site of the caravan/campsite forms part of the natural backdrop to the canal and is visible in some places through the woodland. As such all these are heritage assets of some significance which have value for this and future generations and the setting of these designated heritage assets is considered to make an important contribution to their significance.

The County Archaeologist has advised that as no ground works are proposed, there is unlikely to be a significant archaeological issue and therefore recommends no further archaeological involvement.

The provision of the shop is unlikely to have any significant impacts on the setting of the listed and unlisted buildings nor on the character and appearance of either of the Conservation Areas or the setting of any of the listed/unlisted buildings as an existing building will be used, no external alterations are proposed and the existing timber doors will be retained. The existing access, driveway and pub car park will also be retained in their current form.

In terms of the caravan/camp site, no buildings/structures, areas of hardstanding or changes to land levels are proposed. The site is visible through the existing access off Main Street (which includes the historic route for canal horses) and through the pub garden. However it will be seen with the car park, garden, mature trees and vegetation and some pub paraphernalia (e.g. garden furniture, play equipment) in the foreground. Although two conifers located adjacent to No. 4 Main Street have recently been removed which open up views towards the site, in particular from and within the setting of No. 2 Main Street, there are mature trees/hedgerows along the site's western boundary. Views from further east along Main Street are screened by existing development and vegetation. Furthermore the layout has been amended so that the

pitches will be sited eight metres from the boundary with the car park, with a landscaped area in-between, thereby positioning the pitches in less prominent locations which are unlikely to be significantly visible from Main Street or from No. 2. There will be views from the car park but the existing and proposed vegetation at the northern end of the site will act as a screen and the pitches will be linear, thereby reducing the impact.

Caravans stationed on the site are visible from the Ashby Canal Conservation Area. The site's position at a higher level at its northern end alleviates this impact to some extent, although the levels are lower at the site's southern end. The existing woodland belt provides screening although there are some gaps, which need to be planted up to provide further screening. Views through the trees will be greater in the winter but there is likely to be much lower occupancy at this time. There are likely to be limited long range views from the canal due to screening by existing vegetation and that its northern stretch is within the tunnel. The caravans will not be prominent in views of the listed tunnel entrance as it is at a slightly lower land level and they will be screened by vegetation and those caravans stationed closer to the tunnel will be at a higher land level, with those at a lower land level being some distance from the entrance.

Longer views towards the Conservation Areas, No. 2 and the unlisted pub from the surrounding countryside and public rights of way are unlikely to be significantly affected as the site is well screened by vegetation along all its boundaries and vegetation outside the site. The other nearby listed and unlisted buildings are screened from the proposal by existing buildings and vegetation. English Heritage does not wish to comment on the application and the Conservation Officer has no objections subject to the imposition of a condition requiring additional landscaping along the site's western boundary to further screen views from the canal. Given the number and layout of the pitches and that they will be temporarily occupied it is considered that the site will not be disproportionate to the scale of the local environment.

No trees/hedges are proposed to be removed and impact on the eastern hedgerow is addressed in the ecological section of this report. A condition relating to a landscaping/boundary treatment scheme can be imposed. Works to the trees/hedges that line the proposed caravan/camp site can be undertaken without the Authority's consent as they are not protected, although removal of any of the hedges may require consent under the Hedgerow Regulations. However trees within/adjacent to the car park/pub garden are protected as they are within a Conservation Area and therefore works to these trees would require the Authority's consent.

Although part of the natural backdrop to both Conservation Areas will be affected, given the above circumstances and that the site will not be permanently occupied by caravans/tents/motorhomes it is considered that the proposal would not be significantly detrimental to the character and appearance of the Snarestone and Ashby Canal Conservation Areas. Furthermore the settings of the nearby listed buildings will not be adversely affected and their settings will therefore be preserved. Therefore the historic significance of the designated and undesignated heritage assets will be sustained. It is also considered that the proposal would not detract from the character of the surrounding countryside nor be out of scale with the setting of the village nor significantly intensify activity on the site to such an extent that it would significantly harm the village's character.

### **Residential Amenities**

There will be an increase in the level of comings and goings from the current situation which could increase the level of noise and disturbance, in particular to the occupiers of No. 4 Main Street, whose property immediately adjoins the existing pub access. However this arrangement would not be dissimilar to having a development on a corner site with a side road running close

to dwellings and their rear gardens, which was considered in a 2008 appeal decision (07/00624/OUT) to be a yardstick for an acceptable standard. Furthermore the access is already in use by visitors to the pub and to some extent to those visiting the canal although they are mostly likely to be on foot or bike. The car park does not immediately adjoin any other dwellings. On this basis it is considered that any increase in noise and disturbance from use of the access and car park would not significantly impact on residential amenities.

Concerns have been raised by local residents and the Parish Council in respect of the potential for noise and disturbance to occur from occupiers of caravans/tents. The caravan/camp site does not immediately adjoin any dwellings although it shares part of its boundary with what appears to be the garden to No. 8 Main Street. The caravan/camp site is over 54 metres from No. 8, which also has a large rear garden and is also 23 metres from No. 4 Main Street. There is already some noise associated with users of the pub and its garden which has a drinks licence to stay open until 12am every night. Conditions can be imposed to prevent the use of generators and to prevent the playing of amplified music after 11pm. The Environmental Protection team do not have any objections in respect of this matter and have advised that there are no specific reasons why this site would be noisier than any of the other caravan/campsite in the District and that they also have separate powers under the Environmental Protection Act to deal with noise pollution. On this basis it is considered that on balance a reason for refusal on the grounds of significant impact from noise and disturbance could not be justified in this case.

### **Highway Safety**

The existing pub access has been in place for some time and is bounded on both sides by older buildings which restrict visibility. However the County Highway Authority advises that this does not appear to have had any adverse impact on highway safety, as there is no record of injury accidents at the access in the last five years. The Highway Authority also advises that given the nature of the use of the pub, the access is likely to be busy at times, and the additional traffic generated by the caravan site is not significant. It goes onto to say that the access appears to be of adequate width to cater for caravans, and inter-visibility between vehicles entering and leaving the site is good, making conflict unlikely. Furthermore it requests the imposition of a condition requiring the parking spaces that will be lost to access the caravan/camp site to be replaced. The Highway Authority has not requested that a contribution be made to speed calming measures along Main Street and given the likely level of additional traffic such a request would not meet the requirements of the CIL Regulations. The agent also advises that cars associated with users of the caravan/camp site will be parked within the pitches and that most users of the site will arrive in the afternoon and leave by 12pm, thereby not conflicting with peak pub hours.

However concerns have been raised by local residents and the Parish Council in relation to highway safety in particular the following matters high speeds of traffic using Main Street; a significant increase in the use of the access; existing on-street parking causes congestion, affects access for farm vehicles (and could affect access for caravans), affects visibility and will prevent caravans from turning safely out of the site; increase in on-street parking; impact on the school bus; and lack of visibility splays. Furthermore a Park-and-Stride scheme operates from the pub car park which encourages families to park in the pub car park in order to reduce on-street parking at school drop-off and collection times.

The Highway Authority has subsequently made the following comments:

(i) speeds on Main Street close to the site access were measured in 2004 and the 85th percentile speeds were 32 mph easterly and 31 mph westerly. There is no reason to expect speeds to be significantly different from this now, and such speeds are consistent with the speed limit in place and the presence of parked cars;

- (ii) the access is not ideal, as visibility is restricted by buildings located at the highway boundary. However it is an existing access and the additional traffic generated by the proposal as compared to the existing use to provide parking for the pub is only minor. In combination with the fact that there are no recorded injury accidents in the last 5 years at the access, it is not reasonable to argue that the small amount of additional traffic will lead to a highway safety problem sufficient to recommend refusal;
- (iii) on street parking is a common occurrence in village centre locations and does not in itself cause any safety issues. This is an existing situation which although may cause delays when football matches are on, has not lead to safety problems. Main Street is a reasonably wide road and can accommodate parking on both sides of the street without blocking access;
- (iv) parking is provided at the new football pitches so there should not be additional parking demand on the existing car park;
- (v) the park and stride scheme is unlikely to coincide with peak demand for parking for the pub. The application should make no difference to the existing situation as the parking provision should be maintained if a suitable condition is imposed, and the new development has its own separate parking facility.

Given the Highway Authority's lack of objection it is therefore considered that on balance a reason for refusal on the grounds of significant impact on highway safety could not be justified.

### **Ecology**

The Ashby Canal is a Site of Special Scientific Interest (SSSI) which was designated in 1988 as it supports communities of aquatic and emergent plants that are representative of eutrophic standing water bodies in the English lowlands and the diversity of aquatic plants and invertebrates makes this one of the most important water bodies of its type in the East Midlands. Natural England has published a list of operations that are likely to damage the canal's special interest and which if carried out may be an offence, some of which are operations that could be caused by human activity close to the canal, including damage to vegetation, the discharge of materials and recreational activities. Natural England's document entitled 'Views about Management' also advises that "...Activities which may lead to an increase in nutrients include pollution from direct discharges into the canal..." However there is already public access to the canal along the former towpath and it is used for recreational boating. There are also toilet facilities available at the pub and a condition can be imposed requiring all chemical toilets to be emptied in the existing disposal point at the pub. The caravan/camp site is also separated from the SSSI by the existing strip of woodland. Natural England, the County Ecologist and the Canal and River Trust have no objections in relation to impact on the SSSI subject to the imposition of a condition requiring a 10 metre buffer to be provided on the western boundary of the site.

The site is bounded by mature hedgerows and trees and is covered with grass, as are other adjacent sites. Furthermore the canal and some ponds are close to the site. All these are habitats that can be home to protected species. The assessment found no evidence of badgers, reptiles or bats/roosts but that the site could support these species and be used for foraging. Furthermore no evidence was found of water voles or otters and although birds were observed visiting the site the only evidence of a nest was within a nearby hut which is not affected by the proposal. The assessment advises that no further surveys are required in relation to the above species. The County Ecologist agrees with this recommendation and advises that any water voles will be protected by the 10 metre buffer to the canal, adders are unlikely to be present, the small loss of habitat is not likely to have any significant impact on grass snake, the site is unsuitable for bats and a condition should be imposed requiring re-survey work for badgers if the proposal is not implemented within three years. Furthermore the vegetation around the site will not be removed and so bat foraging habitat will be retained.



However the County Ecologist raised concerns with the ecological assessment that was submitted with the application relating to the methodologies of habitat surveys, impact on the hedgerow along the eastern boundary which is species-rich and possibly of historic value, notable plant species and potential proximity of great crested newts.

Following the submission of further information and meeting the applicant's ecologist on site, the County Ecologist advises that the issues relating to methodologies have been addressed and the two notable plants are not a constraint on the development. The County Ecologist also advises that there are no great crested newt habitats on site that would be affected by the proposed use, as the grassland is now close-mown improved amenity grassland, and the 5 metre buffer zone to the east and the 10 metre to buffer to the west will effectively preserve the hedges and margins of the site as potential great crested newt corridors/habitats. She therefore advises that great crested newt surveys of the nearby ponds are not required. An area of ideal great crested newt habitat is located at the southern end of the site but is too far away from the development.

The amended plan shows the eastern row of pitches to be sited five metres from the centre line of the eastern hedgerow which is acceptable as the stretch of hedgerow adjacent to the pitches is not as good quality as the southern stretch, which will not be affected by the proposal. On this basis it is considered that protected species and important habitats are unlikely to be adversely affected by the proposal.

#### **River Mease Special Area of Conservation/SSSI**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC)/SSSI, which was designated in 2005. The Ashby Canal does not connect to the River Mease and the nearest part of the river is over 500 metres from the site. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

The River Mease Water Quality Management Plan (WQMP) has been drawn up to ensure there is no adverse impact on the SAC from further development and includes an action to establish a developer contribution framework to fund a programme of actions to restore and provide new benefits to the river. In November 2012 the Council published its River Mease Developer Contribution Scheme (DCS) 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. There is also a requirement to assess non-mains drainage schemes against the DCS as the discharge of foul waste into the ground can potentially adversely affect the SAC. 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 advises that one toilet and shower are available solely for the caravan/camp site along with the pub toilets and a disposal point for chemical toilets. Washing up facilities are also available but a laundry facility will not be provided. Natural England has no objection in relation to impact on the River Mease SAC/SSSI although it does advise that it needs to be considered

whether the DCS is applicable to the proposal. The Environment Agency advises that it has no objection subject to the relevant DCS contribution is secured.

Foul drainage from the site will discharge into the mains sewer and then in turn into Severn Trent Water's Snarestone Treatment Works. There is currently capacity equivalent to 34 dwellings available at this treatment works (taking into account sites under construction and those with planning permission). Given that 20 pitches are proposed and that these pitches will not be occupied on a permanent basis nor at full occupancy all year round there is sufficient capacity available at the treatment works.

In terms of a DCS contribution, the figures provided by the agent indicate 30-40% occupancy from April to October which equates to eight pitches/day, with occupation likely to be much less in the winter. These figures relate to Cumbria which is a popular holiday destination and occupancy rates may therefore also be higher for such an area. Furthermore a caravan site with five pitches can be operated under permitted development rights. The caravan/camp site will also operate alongside the existing pub, which also holds its own events and some village events and the pub toilets are also available to canal users/visitors. Therefore foul drainage from the pub and the caravan/camp site will vary over the year. As such it is considered that over a year it would be difficult to demonstrate that there would be a increase in foul drainage discharge from the whole of the site (including the pub) when compared to the existing situation.

No new permanent buildings or hard surfaces are proposed within the site and the access drive and car park are already in place. Surface water from the driveway and caravans will discharge directly into the ground which can be secured by condition. 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**

Concerns have been raised by local residents that there is not sufficient capacity within the local sewage network to cater for the additional foul waste generated by the proposal and that in the last 12 months since caravans have been located on the site the drains have smelt. As noted above, there is capacity at Snarestone Waste Water Treatment Works for the proposal. Severn Trent Water also has no objections subject to a condition relating to details of foul and surface water discharge. Whilst a condition relating to details of foul drainage would not normally be imposed in this case the proposal would not be subject to the Building Regulations and therefore it is considered appropriate for such a condition to be imposed. The agent also advises that there have been no problems with drainage in the past including when large village events, e.g. bonfire night, are held at the site and that the site is likely to have an average of 40% occupancy throughout March to October and significantly less during the rest of the year. It is also not clear that it is the use of the caravan site that has caused previous drainage blockages/smells. Therefore on this basis and given that Severn Trent Water has no objection it is considered that a reason for refusal relating to impact on the drainage system could not be justified.

The site does not lie within Flood Zones 2 or 3, which are the areas of higher risk of flooding and as the site size is under one hectare, a Flood Risk Assessment is not required. The Environment Agency has not raised any concerns in relation to flood risk.

The agent has advised that there are already recycling bins at the site and an extra commercial waste bin will be ordered. There is nothing to suggest that higher levels of littering will occur as a result of the proposal.

An area at the southern end of the site has been cleared of any waste other than vegetation/brush which appears to be periodically burnt. Although it appears that some re-grading/re-seeding of part of the site may have been undertaken recently, this has not been included within the application.

As the proposal is considered to be acceptable in planning terms it is considered that a temporary permission would not be appropriate in this case.

In response to the matters raised by the Parish Council and in the letters of objection that are not covered above, there are no areas of Green Belt in the District. Policies E10, E11, E13, E14, E15, E16, E27 and E31 of the adopted Local Plan are not saved policies and therefore cannot be taken into account. Policy H18 of the Local Plan relates to historic parks and gardens (e.g. Staunton Harold and Whatton Hall) and is therefore not relevant. Health and safety issues, impact on property values, the quality/quantity of the facilities to support the caravan/campsite and obtaining Caravan and Camping Club approval of a larger site are not planning matters and cannot be taken into account in the determination of the application. This proposal does not set a precedent for further development to be approved on the site; any future applications will be determined on their own merits. The Council has no control over the timing of application submissions and all statutory consultations have been undertaken. All correspondence received in relation to the application is available to view on the planning file.

### **Conclusion**

The proposal is acceptable in principle in this countryside location and would not be in a unsustainable location for this type of development. The proposal would not be significantly detrimental to the character and appearance of the Snarestone and Ashby Canal Conservation Areas nor to the character of the surrounding countryside. The settings of the nearby listed buildings will not be adversely affected and their settings will therefore be preserved. The proposal would not detract from the character of the surrounding countryside nor be out of scale with the setting of the village nor significantly intensify activity on the site to such an extent that it would significantly harm the village's character. On balance reasons for refusal on the grounds of significant impact from noise and disturbance and on significant impact on highway safety could not be justified in this case. The Ashby Canal SSSI, protected species and important habitats are unlikely to be adversely affected by the proposal. 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. The application is therefore recommended for planning permission.

### **RECOMMENDATION, PERMIT subject to the following conditions:**

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

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

- 2 The development shall be carried out strictly in accordance with the following schedule of plans, unless otherwise required by a condition of this permission:  
- Drawing No. TTP/CX.1 (Location Plan) received by the Local Planning Authority on 19

July 2013;

- Drawing No. AT/CX.2C (Proposed Pitch Layout) received by the Local Planning Authority on 19 September 2013;

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

- 3 The caravan/campsite hereby approved shall be limited to use by touring caravans, camper vans, motor homes or tents only be occupied by people whose permanent residence is elsewhere and shall not be used for permanent residential accommodation or for any other purposes whatsoever and shall not be subdivided from the rest of the land edged in red Drawing No. AT/CX.2C (Proposed Pitch Layout).

*Reason - a permanent form of development may not be acceptable in this location; in the interests of visual amenities and impact on the historic environment.*

- 4 The siting of touring caravans, camper vans, motor homes or tents shall only take place within the 20 pitches shown on Drawing No. AT/CX.2C (Proposed Pitch Layout), with a maximum of 20 touring caravans, camper vans, motor homes or tents being stationed on the site and notwithstanding the provisions of any Class of the Schedule to Town and Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that order with or without modification), no other part of the application site shall be used to site touring caravans, camper vans, motor homes or tents once the caravan/camp site hereby approved has been brought into use.

*Reason - a larger development may have different impacts in terms of highway safety, impact on the historic environment and rural locality, residential amenities, ecology and the River Mease SAC/SSSI.*

- 5 No caravan, camper van, motor home, tent or vehicle shall remain on the site for more than 21 days in any one visit and upon leaving the site shall not return to the site within 28 days.

*Reason - a permanent form of development may not be acceptable in this location; in the interests of visual amenities and impact on the historic environment.*

- 6 No development shall commence on site in relation to the caravan/camp site until details of the means of disposal for foul drainage and surface water have been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be provided in full before the caravan/camp site hereby approved is first brought into use and shall thereafter remain in perpetuity.

*Reason- to ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem; to minimise the risk of pollution; to prevent an adverse impact on the River Mease SAC/SSSI.*

- 7 Before first use/occupation of any part of the caravan/campsite hereby approved, details of the following shall be submitted to and agreed in writing by the Local Planning Authority:

(i) soft landscaping for and boundary treatments to the site, including retention of the existing hedgerow to the eastern boundary and the woodland belt along the site's western boundary, additional planting within the gaps along the western boundary and

- planting within the landscaped area at the northern end of the caravan/camp site;
- (ii) fencing to the eastern side of the 10 metre buffer to the adjacent Ashby Canal SSSI shown on Drawing No. AT/CX.2C (Proposed Pitch Layout);
- (iii) location and details of the facilities for waste management/recycling;

The agreed facilities for disposal of rubbish/recycling and boundary treatments shall be provided before the caravan/campsite is first brought into use/occupied and shall thereafter be so retained. The soft landscaping shall be provided in full in the first planting season following the first use/occupation of the caravan/campsite, unless an alternative timescale is first agreed in writing by the Local Planning Authority.

*Reason- in the interests of visual amenities and impact on the historic environment; to ensure satisfactory waste management arrangements are made; to protect the Ashby Canal SSSI.*

- 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.*

- 9 Prior to the erection of any lighting to the caravan/camp site, details of the lighting scheme shall be submitted to and agreed in writing with the Local Planning Authority. The works shall be undertaken in accordance with the agreed details.

*Reason- in the interests of preserving the amenities of residents and the rural character of the area; to prevent adverse impact on bats which may use the area for foraging.*

- 10 If the caravan/camp site hereby approved has not been brought into use within three years of the date of this decision, then its use/occupation shall not commence until a further survey of the site and surrounding land for badgers and any mitigation measures if badgers are found has been undertaken and submitted to and agreed in writing by the Local Planning Authority.

*Reason- to prevent an adverse impact on badgers.*

- 11 No electricity/power generators shall be used on the site.

*Reason- in the interests of residential amenities.*

- 12 There shall be no playing of amplified music in connection with the use of the caravan/camp site hereby approved between the hours of 23:00 and 09:00.

*Reason- in the interests of residential amenities.*

- 13 Before first use/occupation of any part of the caravan/campsite hereby approved a scheme showing the provision of additional parking for the pub so the overall number of spaces remains the same after the development shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be provided in full before any part of the caravan/campsite is first brought into use/occupied and shall

thereafter be so retained in perpetuity.

*Reason- To ensure adequate off-street parking is provided for the pub.*

- 14 All vehicles that visit the site in association with a caravan/tent, along with all camper vans/motor homes, shall be parked on the 20 pitches shown on Drawing No. AT/CX.2C (Proposed Pitch Layout).

*Reason - to ensure the proposal does not result in on-street parking in the vicinity of the site.*

- 15 The shop hereby approved shall only operate from the part of the pub building identified in red on the 1:2500 plan on Drawing No. AT/CX.2C (Proposed Pitch Layout) and all retail sales shall be ancillary to the caravan/camp site hereby approved and it shall not be subdivided from the rest of the land edged in red Drawing No. AT/CX.2C (Proposed Pitch Layout).

*Reason- a larger shop and/or one that is subdivided from the rest of the site may have harmful impacts on highway safety, the historic environment and on the River Mease SAC/SSSI.*

#### **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 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority on 01530 454666 for further details.
- 3 You are advised that you will need to apply to the Council for a caravan site licence. The site will therefore need to meet the requirements of the Model Standards for Touring Caravan Sites 1983.
- 4 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at [www.defra.gov.uk](http://www.defra.gov.uk)
- 5 The area is known to support Great Crested Newt, a species that is fully protected by law. In order to avoid harm to this species, the applicant must exercise care when managing any habitat on site that could harbour Great Crested Newts - for example: hedges, ditches, long grass, scrub, tall herbs and piles of rubble/brush/timber and other materials. Management actions requiring care include: cutting long grass/weeds/hedges and other vegetation; burning or shredding timber and brush; cleaning out ditches and removing large items of fly-tipped litter and other rubbish. It is recommended that all these actions are carried out by hand as far as possible, checking beforehand for the presence of newts, and that all bonfires are located on areas of open close-mown grass.
- 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](http://www.groundstability.com)

**Retrospective application for the change of use of land for the storage of military equipment including tanks, armoured fighting vehicles, heavy vehicles and trailers, off road 4 x 4 vehicles and associated servicing and maintenance equipment**

**Report Item No  
A4**

**Tank Mania Measham Lodge Farm Gallows Lane Measham**

**Application Reference  
13/00205/FUL**

**Applicant:  
Tankmania Ltd**

**Date Registered  
27 February 2013**

**Case Officer:  
Adam Mellor**

**Target Decision Date  
24 April 2013**

**Recommendation:  
PERMIT**

**Site Location (Plan is for indicative purposes only)**



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Planning Committee 12 November 2013  
Development Control Report



## EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

### Call In

This application has been brought to Planning Committee given its association with application reference 13/00290/FULM, for the continued use of land adjacent to this site for the operational use of military vehicles, although it is noted that this application is assessed on its own merits.

### Proposal

The proposed storage area for the vehicles would be on an area 20 metres by 20 metres and would be situated to the north-west of the farmhouse, although during the course of the application this storage area was relocated so that it would not impinge on public footpath P85. The storage area, however, would be within a similar area to that initially proposed.

### Consultation

Six representations have been received to the application and one in support of the application from an unknown address. Measham Parish Council support the development and no objections are raised from all other statutory consultees.

### Planning Policy

The development would accord with all relevant policies of the Local Plan as well as Paragraphs 7, 17, 18, 19, 28, 32, 75 and 118 of the NPPF. The Habitats Regulations, Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System); River Mease Water Quality Management Plan - August 2011 and Circular 03/99 (Planning Requirement in Respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development).

### Conclusion

Although the site would be situated outside the defined limits to development it is considered that the retention of the use would constitute an acceptable form of farm diversification and the site would not be considered unsustainable for the use given that it would not be too dissimilar to any other form of farm diversification storage use at other farm sites, in these circumstances the proposal would accord with Paragraph 28 of the NPPF, as well as Policy S3 of the Local Plan. Subject to conditions being imposed on any consent to control the hours where vehicle movements and servicing and maintenance would be conducted it is considered that the retention of the use would not have an adverse impact on the amenities of neighbouring properties and as such would accord with Policy E3 of the Local Plan. The storage would be conducted to the rear of the Grade II Listed Building in an area where significant levels of mature landscaping exists and in the circumstances that the retained use would have no greater impacts on the setting of the listed building, surrounding landscape or street scene than the storage of agricultural vehicles, which would be unrestricted, it is considered that the development would accord with Paragraphs 75, 131, 132 and 134 of the NPPF and Policy E4 of the Local Plan. There would be no significant implications to highway safety given that the existing accesses would be utilised and the speed of the tanks would not be too dissimilar to that of an agricultural vehicle. The relocation of the storage area would ensure that the integrity of the footpath is preserved and overall the retention of the use complies with Paragraphs 32 and 75 of the NPPF and Policies T3 and T8 of the Local Plan. It is unlikely that the storage of the military vehicles would lead to a substantial increase in surface water run-off from the site and foul drainage discharge from the site would be dealt with via an unsealed septic tank which given the distance to the River Mease SAC would not have an adverse impact on its integrity by virtue of the effluent which would be discharged to the ground. On this basis the development would accord with Paragraph 118 of the NPPF; the 2010 Habitats Regulations and Circular 06/05. The use of the unsealed septic tank would also accord with the aims of Circular 03/99.

## PLANNING APPLICATIONS- SECTION A

Sufficient landscaping would be maintained to the boundaries of the site to ensure that the development would be adequately screened and as such the development would accord with Policies F1, F3 and E7 of the Local Plan. The retention of the use would also not prejudice the reinstatement of the Ashby Canal or prevent the establishment of transport corridors along the disused railway routes and as such the development would accord with Policies T14 and T16 of the Local Plan. The development therefore accords with the planning policies identified above.

**RECOMMENDATION - APPROVE, subject to conditions.**

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

## MAIN REPORT

### 1. Proposals and Background

Retrospective planning permission is sought for the change of use of land for the storage of military equipment including tanks, armoured fighting vehicles, heavy vehicles and trailers, off-road 4 x 4 vehicles and associated servicing and maintenance equipment at Tank Mania, Measham Lodge Farm, Gallows Lane, Measham. Measham Lodge Farm is situated on the eastern side of Gallows Lane at a distance of 110.0 metres from the public highway. An existing vehicular access provides off-street parking for the site although a secondary access, to the north of the existing access, also exists. The site is situated outside the defined limits to development with the surrounding area being predominately rural although residential properties do exist within the vicinity of the site. Public footpath P85 also runs through the application site and it is noted that Measham Lodge Farm is a Grade II Listed Building which the listing describes as: *"House of earlier C18 with c1800 wings. Red brick, Flemish bond, with brick dentilled eaves and twin span roof of C20 tiles with 4 rebuilt end stacks. Wing to right of Measham gobs with slate roof. Gauged brick lintels and ground floor stone sills. Main range front of 2 storeys, 1st floor, 3 windows, 3 light casements with central 2-light, all with top lights. Central oeil-de-boeuf above. Ground floor 3 2/2 sashes, one added c1800. C20 canopied doorcase with overlight. 1 storey extension left end. Wing, side facing, 2 storeys upper original blank window, lower a 2/2 sash. End has dentilled pediment band and recessed giant arch below gauged brick arch and tripartite 2/2, 6/6, 2/2 sash both floors. To rear an early C19 extension with plain tiled roof and ridge stack. 2 storeys of 2 3-light casements with cambered lintels. Main range rear as front with sash replacing 3-light, and C20 porch. Interior: C18 staircase, 6-panelled doors, beams and 2 inglenooks. The wing is almost certainly the only example of the use of Measham gobs on an elegant house remaining uncovered."*

The proposed storage area for the vehicles would be on an area 20 metres by 20 metres and would be situated to the north-west of the farmhouse.

Following the consultation response from the County Council Rights of Way Officer the area for the storage of vehicles has been amended to avoid conflict with public footpath P85 and as such it would now be to the west of the farmhouse. The plans also indicated that a storage container would be retained on the site.

A design and access statement, heritage impact assessment and statement assessing the impact of the development on the integrity of the River Mease Special Area of Conservation (SAC) have been submitted in support of the application.

No previous planning history was found.

### 2. Publicity

6 no. Neighbours have been notified (Date of last notification 9 May 2013)

Site Notice displayed 21 March 2013

Press Notice published 20 March 2013

### 3. Consultations

Measham Parish Council consulted

Environment Agency consulted 29 August 2013

Natural England consulted 28 March 2013

LCC/Footpaths consulted 16 July 2013  
County Highway Authority consulted 15 March 2013  
Severn Trent Water Limited consulted 15 March 2013  
Head of Environmental Protection consulted 15 March 2013  
NWLDC Conservation Officer consulted 15 March 2013  
Christine James/ Matt Savage consulted 15 March 2013  
LCC/Footpaths consulted 4 April 2013

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

The following summary of representations is provided.

**Environment Agency** has no objections subject to notes to the applicant being imposed on any grant of planning permission

**Leicestershire County Council - Highways** has no objections.

**Leicestershire County Council - Rights of Way** initially objected to the application due to the safety of users of public footpath P85 being compromised by the placement of vehicles on the route of the footpath. Following on-site discussions with the applicant the Rights of Way Officer has removed their objection on the basis that the precise route of public footpath P85 has been plotted on the ground and the storage area relocated to ensure that it does not obstruct this right of way. A condition would be imposed on any consent granted.

**Measham Parish Council** has no objections subject to the existing footpaths being maintained at an acceptable level.

**Natural England** has no objections.

**NWLDC - Conservation Officer** has no objections.

**NWLDC - Environmental Health** have stated that in order to protect local amenity any permission should have the operating hours restricted.

**Severn Trent Water** no representation received.

#### **Third Party Representations**

A total of six representations have been received from the occupants of Nos. 2, 3 and 4 Bosworth Grange and Bosworth House, Bosworth Grange which object to the application along with one representation in support of the application from an unknown address. The objections raised are on the following grounds: -

- o *"operators of Tank Mania have demonstrated complete indifference to the legal requirements of planning applications and local neighbour's appeals for moderation with regard to operating hours and noise;"*
- o *"operated military vehicles on the local public highways (with members of the public aboard) causing potential traffic hazards and damage to both road and verges;"*
- o *"left mud and debris on the public highways again a potential traffic hazard;"*
- o *"operated their vehicles for extended periods both in the week and at weekends causing unpleasant and excessive noise;"*
- o *"I cannot conceive that their intention is ONLY for storage as this could not possibly support 9 - 10 full time employees;"*
- o *"since Tank Mania stopped UK Coal plc have started an opencast operation next to our*

- house. This is also very noisy but it has permission. The opencast mine operates Monday to Saturday from 7am to 7pm (midday finish on Saturday). They will continue for another 4 years;"
- o "The existing noise from the opencast is already severe. I have been monitoring the noise with Class 1 noise equipment. In the last 5 months the noise at our house has exceeded 50dB on over 100 days and over 55dB on over 20 days. World Health Organisation criteria state that most people would be moderately annoyed by a noise of over 50dB and seriously annoyed by over 55dB. Thankfully we have at least quiet on Saturday afternoon, Sunday and Bank Holidays;"
  - o "the Ashby Canal is going to be restored at the rear of our garden as part of the planning gain from the opencast site. This will also add further noise;"
  - o "tank driving site is very near to the Minorca Surface Mine. The noise from this facility can be overwhelming for those that live nearby. The operating hours of the mine are strictly controlled leaving Saturday afternoons, Sundays and Bank Holidays free of operations; these are just the times when the tank driving is at its most intense. It is simply not fair on those who are presently enduring the noise of the surface mine to grant a permission that in any way facilitates the tank driving activity which generally coincides with the quiet periods at the surface mine;"

The representation in support of the application comments that: -

- o "It is an ideal location for this sort of activity and because of the size of the facility (some 28 acres I believe) should allow the paying customers to have a very enjoyable experience."

## 5. Relevant Planning Policy

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

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

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

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

Paragraph 7 indicates that the planning system needs to perform a number of roles which include, amongst others, an economic role which means contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

Paragraph 17 indicates that in decision making planning should always seek to secure high

quality design and a good standard of amenity for all existing and future occupants of land and buildings as well as take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;

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

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

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

- o 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;
- o Support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres;

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

- o 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;
- o Safe and suitable access to the site can be achieved for all people; and
- o Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe;

Paragraph 75 outlines that planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails;

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

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

- o avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;

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

Paragraph 131 outlines that in determining planning applications, local planning authorities should take account of:

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

Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional;

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

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

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

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

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

**North West Leicestershire Local Plan**

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

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open

space and secures the retention of important natural features, such as trees;

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

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

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

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

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

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

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

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

#### **Submission Core Strategy (April 2012)**

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

#### **Other Guidance**

##### **The Habitat Regulations**

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs) and the key issues relating to protected species;

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

Circular 06/2005 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites;

##### **River Mease Water Quality Management Plan - August 2011**

This plan draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of



the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

**Circular 03/99 (Planning Requirement in Respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development)**

This document sets out the planning controls on non-mains sewerage and associated sewerage disposal aspects of future development.

**6. Assessment**

**Principle of the Development**

The site is located within the countryside and, as such, permission for new development would not normally be granted unless it is for certain uses as set out in Policy S3 of the adopted North West Leicestershire Local Plan.

It is considered that the use of excess land on a farmholding for the storage of military vehicles would not be too dissimilar to the use of land at farms for the storage of caravans and leisure vehicles which is generally considered to be a form of farm diversification. In the circumstances that rent would be paid to the owner of the site, the occupant of Measham Lodge Farm, in order for the storage land to be available it is considered that this would subsidise any agricultural income and as such represents a form of farm diversification. As Paragraph 28 of the NPPF, as well as Policy S3 of the Local Plan, support farm diversification and rural enterprise developments it is considered that the use of the site for the proposed purposes would be acceptable in principle.

The site lies 1440 metres to the south-east of the settlement of Measham and there are no bus stops close to the site, although a frequent bus service would be available in Measham, and no public footways along Gallows Lane. As a result those travelling to work at the site are likely to be heavy reliant on the private car. Whilst this may be the case it is considered that should there be an influx of workers required for the agricultural operation on the site then they would have to access the site in the same way that any employees of Tank Mania would and on the basis that Paragraph 28 of the NPPF indicates that planning should support *"diversification of agricultural and other land based rural businesses"* it is considered that the site would not be significantly detached from the settlement of Measham to warrant a refusal of the application on sustainability grounds. This view is further supported by the fact that the retention of the use would be no different to farm diversification schemes for storage at other farm sites in the District.

**Residential Amenity**

The nearest residential property to the site would be Measham Lodge farmhouse although properties do exist within the vicinity of the site including Coronet House, Gallows Lane which lies 350 metres to the south of the site.

It is considered that the storage of the vehicles on the site would not result in any overbearing, overshadowing or overlooking impacts on the amenities of any neighbouring properties and as such the main issue would relate to the noise generated by the movement of vehicles and any servicing and maintenance which is carried out.

The Council's Environmental Protection team have no objections to the application subject to the servicing and maintenance of the vehicles, as well as their movements being restricted to certain times, which would prevent any activity on Sunday's and Bank Holidays and any activity to cease by 13:00 on Saturdays in order to protect local amenity. Whilst there would be no restrictions on the movement of agricultural vehicles associated with the site these are not likely

to generate the same level of noise as the tanks and as such it is deemed appropriate to restrict the operations on the basis of the noise which could be generated.

Should this restriction be put in place the retention of the use would not conflict with Paragraph 123 of the NPPF or Policy E3 of the Local Plan.

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

The storage of the military vehicles would be conducted on land situated 87.0 metres from the Grade II Listed Measham Lodge Farmhouse. Although the retention of the land for the applied purposes would impact on the setting of the heritage asset, it is considered that these impacts would not be sufficiently detrimental to the historic significance of the heritage asset to warrant a refusal of the application. This view is taken on the basis that there are no controls on the land for where agricultural vehicles would be stored, which would have the same degree of impact on the setting of the heritage asset, as well as the fact that the relocation of the area where storage would be carried out would now lead to any views established of the building from public footpath P85 being unrestricted, as such the setting of the heritage asset, at the very least, would be preserved.

In terms of the wider area and streetscape it is considered that no views of the storage area would be obtained from outside the site given the scale of the vehicles and the fact that mature vegetation exists along the boundaries which acts as a natural screen. Although views would be obtained from public footpath P85 and P90 it is considered that the retention of the use would not have an adverse impact on people's enjoyment of these rights of way given that the military vehicles would not restrict views beyond the site and in any case agricultural vehicles could be stored on the site in a similar manner.

The retention of the storage container would also not have significant implications to the significance of the heritage asset or rural environment given it would be suitably screened by the mature landscaping.

Overall the development would not conflict with Paragraphs 75, 131, 132 or 134 of the NPPF or Policies E4 and F1 of the Local Plan.

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

The County Highways Authority raised no objections to the storage of the military vehicles and whilst the County Rights of Way Officer initially raised objections to the application this objection has been removed following the relocation of the storage area.

In the circumstances that existing vehicular accesses into the site would be utilised to enable the vehicles to access the storage area it is considered that there would not be a substantial conflict with highway safety given that these accesses could also be used for agricultural vehicles which would be of a similar size, as well as have similar speeds, to the military vehicles which would be stored. On the basis that Paragraph 32 of the NPPF outlines that "*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe;*" it is considered that the retention of the storage use would not have a significantly detrimental impact on highway safety and as such would accord with Policy T3 of the Local Plan.

The area proposed for the storage of vehicles would also be sufficient so that no vehicles are stored in the public highway which would ensure compliance with Policy T8 of the Local Plan.

Discussions with the County Council Rights of Way Officer have also led to their objections

being removed on the basis that the area for the storage of vehicles has been relocated so that it does not obstruct the official route of public footpath P85. The Rights of Way Officer has suggested conditions which would ensure any user of the public footpath would be aware of the movement of military vehicles and in the circumstances that these conditions could be imposed on any grant of planning permission it is considered that the proposal would accord with the aims of Paragraph 75 of the NPPF.

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

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to Paragraph 118 of the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewerage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

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

It is considered that surface water run-off from the site would not increase as part of the proposals given that the vehicles would be externally stored on land which would be permeable but the distance of the site from the River Mease SAC would ensure that the any discharge of surface water run-off would not be sufficiently detrimental to its integrity. Notes to the applicant, as suggested by the Environment Agency, would be attached to any consent to make them aware of their requirements.

With regards to foul drainage discharge the River Mease statement indicates that the storage component would not result in any increase in foul drainage discharge from the site as any employee of the business would utilise the existing facilities on the site. The existing farmholding utilises an unsealed septic tank for the disposal of foul drainage and this type of system would only require emptying once a year. Following discussions with the Senior Habitats Directive Specialist at David Tyldesley and Associates (the authors of the River Mease Water Quality Management Plan), it is considered that the position of the unsealed septic tank would be situated a sufficient distance from the nearest watercourse to ensure that any phosphate discharged into the ground as part of its function would be sufficiently diluted by the time it reached the River Mease SAC. The fact that this type of system would only require emptying once a year would also ensure that it would not be necessary for the applicant to enter into a unilateral undertaking under the terms of the DCS.

Overall it can be ascertained that the continuation of the use on the site will not, either alone or in combination with other plans or projects, have a significant effect on the internationally

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

### **Suitability of Non-Mains Drainage**

Proposals for non-mains drainage systems should be assessed against the tests set out in Circular 03/99. The first presumption is to use public sewers for foul drainage connections although in this particular circumstance no connection to the mains sewer exists for the site.

After public sewers consideration should be given to the use of a package sewerage treatment plant. An unsealed septic tank is utilised for foul drainage disposal which acts in a similar manner to a package treatment plant and as such it falls under the second criteria of Circular 03/99. This states: *"If by taking into account the cost and/or practicability, it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, a package sewerage treatment plant incorporating a combination of treatment processes should be considered. The plant should offer full treatment (including secondary and if necessary tertiary treatment) with the final effluent discharge from it meeting the standard and conditions set by the Environment Agency where applicable. The proposal for a package plant should also set out clearly the responsibility and means of operation and maintenance to ensure that the discharge consent is not likely to be infringed in the life of the plant."* As it has been demonstrated that a connection to the mains sewer would not be feasible, by virtue of no mains drainage existing within the vicinity of the site, the second option has been selected which would be acceptable under the criteria of Circular 03/99. The Environmental Permitting (England and Wales) Regulations 2010 would also ensure the ongoing maintenance, design and installation of the unsealed septic tank would not have a detrimental impact on the integrity of the River Mease SAC by virtue of the fact that it would be managed accordingly throughout the lifetime of the development.

In the circumstances that the unsealed septic tank would only require emptying once a year it is considered that the movements of a tanker collecting the wastage would be less infrequent than those associated with waste collectors who visit the site every two weeks and as such the amount of fuel consumption and CO2 emissions would be less which would not lead to the development being environmentally unsustainable in respect of foul sewerage disposal.

### **Other Matters**

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

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

The route of the proposed Ashby Canal appears to follow public footpath P85 and as such it is likely that at some point in the future the canal would dissect through the Measham Lodge Farm site and bypass the storage area for the military vehicles. At present the retention of the use would not prejudice the re-opening of Ashby Canal given that it is likely that the developers of

the canal will be in a position to acquire the land once the development is to be progressed and as such there would not be conflict with Policy T16 of the Local Plan.

**Summary Reasons for Granting Planning Permission**

Although the site would be situated outside the defined limits to development it is considered that the retention of the use would constitute an acceptable form of farm diversification and the site would not be considered unsustainable for the use given that it would not be too dissimilar to any other form of farm diversification storage use at other farm sites, in these circumstances the proposal would accord with Paragraph 28 of the NPPF, as well as Policy S3 of the Local Plan. Subject to conditions being imposed on any consent to control the hours where vehicle movements and servicing and maintenance would be conducted it is considered that the retention of the use would not have an adverse impact on the amenities of neighbouring properties and as such would accord with Policy E3 of the Local Plan. The storage would be conducted to the rear of the Grade II Listed Building in an area where significant levels of mature landscaping exists and in the circumstances that the retained use would have no greater impacts on the setting of the listed building, surrounding landscape or street scene than the storage of agricultural vehicles, which would be unrestricted, it is considered that the development would accord with Paragraphs 75, 131, 132 and 134 of the NPPF and Policy E4 of the Local Plan. There would be no significant implications to highway safety given that the existing accesses would be utilised and the speed of the tanks would not be too dissimilar to that of an agricultural vehicle. The relocation of the storage area would ensure that the integrity of the footpath is preserved and overall the retention of the use complies with Paragraphs 32 and 75 of the NPPF and Policies T3 and T8 of the Local Plan. It is unlikely that the storage of the military vehicles would lead to a substantial increase in surface water run-off from the site and foul drainage discharge from the site would be dealt with via an unsealed septic tank which given the distance to the River Mease SAC would not have an adverse impact on its integrity by virtue of the effluent which would be discharged to the ground. On this basis the development would accord with Paragraph 118 of the NPPF; the 2010 Habitats Regulations and Circular 06/05. The use of the unsealed septic tank would also accord with the aims of Circular 03/99. Sufficient landscaping would be maintained to the boundaries of the site to ensure that the development would be adequately screened and as such the development would accord with Policies F1, F3 and E7 of the Local Plan. The retention of the use would also not prejudice the reinstatement of the Ashby Canal or prevent the establishment of transport corridors along the disused railway routes and as such the development would accord with Policies T14 and T16 of the Local Plan. It is therefore recommended that the application be permitted.

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

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

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

- 2 The development shall be carried out in strict accordance with the Site/Location Plan (1:1250), received by the Local Authority on the 12th July 2013, unless otherwise required by another condition of this permission.

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

- 3 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order) the land identified on the

Site/Location Plan (1:1250), received by the Local Authority on the 12th July 2013, shall only be used for the storage of military equipment (including tanks, armoured fighting vehicles and trailers and off road 4x4's) and the maintenance of such vehicles and for no other purpose whatsoever.

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

- 4 No servicing or maintenance of vehicles shall be carried out on the site until a scheme to install a sealed drainage system with an impermeable base and sealed bunded perimeter, within which the servicing and maintenance will be carried out, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a maintenance plan for the drainage associated with the servicing and maintenance activities. The scheme shall be implemented as approved.

*Reason - the site is located in the River Mease catchment, that is designated Site of Special Scientific Interest (SSSI) and a European Special Area of Conservation (SAC).*

- 5 The use, hereby permitted, shall only operate between the hours of 09:00 - 18:00 Monday to Friday and 09:00 - 13:00 on Saturday with no workings on Sunday or Bank Holidays.

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

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

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

- 7 Within three months of the date of this permission details of advisory notes to be erected for the benefit of pedestrians and drivers of military vehicles on public footpath P85, where the military vehicles would cross the route, shall be submitted to and approved by the Local Authority, in conjunction with the County Highways Authority, in writing. Once agreed the signs shall be installed in accordance with the approved details and shall thereafter be so retained.

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

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through early engagement with the applicant at the pre-application stage which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 As of April 6th April 2008 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 The applicant must comply with the oil storage regulations for any fuel and lubricants that are stored on site by referring to the following guidance:  
<http://publications.environment-agency.gov.uk/PDF/PMHO0811BUCR-E-E.pdf>

- and  
<http://publications.environment-agency.gov.uk/PDF/PMHO0811BUBP-E-E.pdf>.
- 4 If the washing down of vehicles is to take place, the Environment Agency's Pollution Prevention Guideline 13 (PPG 13) must be adhered to. There is currently uncertainty whether there is adequate containment if washing down on hard standing is to take place. Any washing down will need to be direct to the foul sewer or to a sealed sump to be disposed of by a licensed contractor.
- 5 It is understood that the proposal may include the possibility of servicing the AFV432 series vehicles. This, combined with other vehicle servicing would likely result in excess of 500kg of hazardous waste being produced. If over 500kg of hazardous waste is produced then the Hazardous Waste regulations will apply. All precautions must be taken to avoid discharges and spillages to ground. For advice on pollution prevention measures, the applicant should refer to the Environment Agency's guidance:  
 'PPG1 - General guide to prevention of pollution,'  
 'PPG2 - Above ground storage tanks,'  
 'PPG8 - Safe storage and disposal of used oils,' available from our website.
- 6 The Environment Agency's 'Groundwater Protection: Principles and Practice' (GP3) document, available from the Environment Agency website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk), includes the following position statements regarding surface water drainage:  
 G11 - Discharges from areas subject to contamination.  
*Discharges of surface water run-off to ground at sites affected by land contamination, or the storage of potential pollutants are likely to require an environmental permit. This applies especially to sites where storage, handling or use of hazardous substances occurs (such as for example, garage forecourts, coach and lorry parks/turning areas and metal recycling/vehicle dismantling facilities). The site will need to be subject to a risk assessment with acceptable effluent treatment provided;*  
 G13 - Sustainable Drainage Systems.  
*The Environment Agency support the use of sustainable drainage systems (SuDS) for new discharges. Where infiltration SuDS are to be used for surface water run-off from roads, car parking and public amenity areas, they should have a suitable series of treatment steps to prevent the pollution of groundwater. For the immediate discharge catchment areas used for handling and storage of chemicals and fuel, handling and storage of waste and lorry, bus and coach parking or turning areas, infiltration SuDS are not permitted without an environmental permit.*
- 7 The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk).  
 Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal

## PLANNING APPLICATIONS- SECTION A

Authority permission for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).

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



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**Retrospective application for the retention of the use of the land for the operational use of military and civilian "off road vehicles" (including tanks, armoured fighting vehicles, heavy duty vehicles and off-road 4x4"s)**

**Report Item No  
A5**

**Measham Lodge Farm Gallows Lane Measham Swadlincote**

**Application Reference  
13/00290/FULM**

**Applicant:  
Tank Mania Limited**

**Date Registered  
8 April 2013**

**Case Officer:  
Adam Mellor**

**Target Decision Date  
8 July 2013**

**Recommendation:  
REFUSE**

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**Site Location (Plan is for indicative purposes only)**



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## EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR REFUSAL

### Call In

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

### Proposal

The application proposes that an area of 2.2 hectares would be continued to be used for the operational use of military and civilian "off road vehicles" which would include tanks, armoured fighting vehicles and off-road 4 x 4's. It is indicated on the application forms that the use commenced in approximately 2002 - 2003 with two enforcement investigations being carried out over the use of the land which are referenced 08/00218/UD, which was closed on the 12th April 2011, as well as 11/00272/UD, which resulted in an enforcement notice being issued on the 1st August 2012.

### Consultation

19 representations have been received to the application, 17 from the occupants of 5 individual properties objecting to the application, one from the Ashby Canal Association objecting to the application and one in support of the application from an unknown address. Measham Parish Council support the development and no objections are raised from all other statutory consultees.

### Planning Policy

The development would conflict with the principles of Policy E3 (Residential Amenities) of the Local Plan and Paragraph 123 of the NPPF. It would, however, accord with all other relevant policies of the Local Plan as well as Paragraphs 7, 17, 18, 19, 28, 32, 61, 75 and 118 of the NPPF. The Habitats Regulations, Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System); River Mease Water Quality Management Plan - August 2011 and Circular 03/99 (Planning Requirement in Respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development).

### Conclusion

Although the retention of the unique use would be of economic benefit to the District and the leisure and recreational uses promoted by the National Forest, in the circumstances that the overall level of noise generated would result in a significantly detrimental impact on the amenities of neighbours, and would be so severe that a noise abatement notice could be issued, it is considered that any economic benefit would not outweigh the harm caused to nearby residential properties and as such to permit the proposal would be contrary to Paragraph 123 of the NPPF and Policy E3 of the Local Plan. The absence of an ecological report which would adequately address and mitigate the potential impacts of the development on Great Crested Newts, a protected species, would also lead to the development being contrary to Paragraph 118 of the NPPF and Circular 06/05. It is therefore recommended that the application should be refused.

### RECOMMENDATION - REFUSE for the reason set out below.

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

## MAIN REPORT

### 1. Background

Members may recall that the above application was deferred, at the applicant's request, at the September Planning Committee Meeting to allow the Council's Environmental Health team to enter into discussions with the applicant to ascertain if the level of noise generated by the proposed use could be mitigated to an extent that its implications to the amenities of residents would not be significantly detrimental. A further noise assessment and mitigation strategy was supplied to the Local Authority on Monday 30th September 2013 and Environmental Health have assessed the revised information and outlined the following on the 11th October 2013: -

*"I am in receipt of a further noise assessment document dated 27 September 2013 in relation to the above mentioned planning application.*

*Having read the further noise assessment the report indicates that a 3 metre bund would provide sufficient attenuation of noise to meet World Health organisation Guidelines on Community Noise. However this would need to be accompanied by a management plan and include the following conditions of operation:*

*Operational hours until 6th June 2017 or sooner if the current Minorca planning application cease earlier than this date:*

*Monday - Friday 7am - 7pm*

*Saturday 9am - 4pm*

*Sunday 10am - 4pm*

*Operational hours from 6th June 2017 or sooner if the current Minorca planning application cease earlier than this date:*

*Monday to Friday 9am - 6pm*

*Saturday 9am - 4pm*

*Sunday 10am - 4pm*

*Only one tank to be in operation on the site at a time.*

*I must highlight that if planning permission is granted it does not preclude the premises from causing a statutory nuisance under the Environmental Protection Act 1990 to one or more neighbouring properties.*

*Should a statutory nuisance be established then the Council would have limited options as these have been considered during planning stage and included:*

*Providing an acoustic bund;*

*Carrying out works to the vehicles to reduce noise;*

*Limiting the hours of operation and use of the vehicles.*

*Therefore if a statutory nuisance is established the only available option may be for all activity on the site to cease."*

Further clarity was requested from Environmental Health as to what would be contained in the management plan and a response of the 15th October 2013 outlined that: *"the management plan is a document that the applicant needs to put together to address the noise but can include the following suggestions: hours of operation; details of how the bund would be maintained, details on how the track will be used to ensure maximum benefit of the bund as per the noise report, details of how the applicant will manage one tank on site at a time; details of how the*

*applicant will continually review the noise sources of the tank e.g. look to lower the exhaust height, details of servicing of vehicles."*

Given the extent of the amendments which would be required to the proposal to make it acceptable it is considered that a new application would need to be submitted to allow adequate assessment of the revised proposals as well as allow for further consultation with statutory consultees and neighbours. Further to this Natural England have commented that the additional ecological survey submitted has not adequately addressed the potential impacts of the development on Great Crested Newts given that it was not carried out at the right time of year using recognised techniques, this conclusion has been further supported by the County Council Ecologist. As Great Crested Newts are a protected species it would be important to ensure that this species was not impacted on by the proposed use of the land and in the absence of information to adequately address this matter, as well as the fact that any relevant survey season would be March - May (with February and June sub-optimal times).

The applicant has been given the option to withdraw the current application and resubmit once all the relevant information, including surveys, can be provided but in the absence of any request to withdraw the application at this current time it is brought before the Planning Committee to allow a decision to be made with the recommendation remaining that, in its current form, the application should be refused.

## **2. Proposals**

Retrospective planning permission is sought for the retention of the use of the land for the operational use of military and civilian "off road vehicles" (including tanks, armoured fighting vehicles and off-road 4 x 4's) at Measham Lodge Farm, Gallows Lane, Measham. The site in question is situated on the south-eastern side of Gallows Lane on the opposite side of the road to Measham Lodge Farm and has a vehicular access direct from Gallows Lane. The site lies outside the defined limits to development in the North West Leicestershire Local Plan with the surrounding area being predominately rural although residential properties do exist within the vicinity of the site. Public footpath P85 also runs through the application site.

The application proposes that an area of 2.2 hectares would be continued to be used for the operational use of military and civilian "off road vehicles" which would include tanks, armoured fighting vehicles and off-road 4 x 4's. It is indicated in the supporting information that the experience offered is *"a realistic soldier experience riding/driving military vehicles with instructions on military driving for groups, parties, individuals and youngsters using 'mini-tanks;' combat fatigues and helmets provided, camouflage cream applied; detailed briefing including Health & Safety followed by syndicate grouping with army training on a variety of vehicles, mess tins and army style food and tea provided plus smoke grenades and thunderflashes when appropriate."* It is indicated on the application forms that the use commenced in approximately 2002 - 2003 with two enforcement investigations being carried out over the use of the land which are referenced 08/00218/UD, which was closed on the 12th April 2011, as well as 11/00272/UD, which resulted in an enforcement notice being issued on the 1st August 2012.

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

A design and access statement and statement assessing the impacts of the development on the integrity of the River Mease Special Area of Conservation (SAC) have been submitted in support of the application.

During the course of the application an operational noise assessment, phase 1 habitat survey

and information to address highway safety and rights of way concerns have been submitted following responses from statutory consultees.

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

## 2. Publicity

8 no neighbours have been notified.

Site Notice displayed 16 April 2013

Press Notice published 17 April 2013

## 3. Consultations

Measham Parish Council consulted 9 April 2013

LCC ecology consulted 31 July 2013

Natural England consulted 31 July 2013

Head of Environmental Protection consulted 25 July 2013

County Highway Authority consulted 9 April 2013

Environment Agency consulted 9 April 2013

Severn Trent Water Limited consulted 9 April 2013

Head of Environmental Protection consulted 9 April 2013

Natural England consulted 9 April 2013

LCC/Footpaths consulted 9 April 2013

Christine James/ Matt Savage consulted 9 April 2013

## 4. Summary of Representations Received

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

**Environment Agency** initially commented that they had no objections to the proposal but requested clarity on whether vehicles would be serviced on the site. Following receipt of additional information the Environment Agency maintain no objection to the development but specify that an Environmental Permit would be required for the storage of 'end-of-life' vehicles.

**Leicestershire County Council - Ecology** initially objected to the application on the basis that unsatisfactory information had been provided in the ecology report to address the potential impacts of the development on Great Crested Newts. The ecology report also did not contain a Phase 1 Habitat Survey. Following the receipt of a Phase 1 Habitat Survey the County Ecologist has removed the objection subject to a condition/note to applicant being placed on any consent for future surveys to be undertaken on the ponds to monitor for Great Crested Newt populations. Despite this following the receipt of a consultation response from Natural England the County Ecologist has stated the following: *"I agree with NE (Natural England) that the surveys were not done to approved methodology, and that there are suitable terrestrial habitats on site for GCN's. There is certainly good connecting habitat with Minorca; As NE are the national licensing authority and the national experts in protected species legislation and conservation I think you should follow their advice in respect of GCN's - it would be rash not to, and possibly a breach of planning regulation and the law regarding protected species - and I would defer to their judgement in cases like this; Therefore, the application should be refused or withdrawn, pending further surveys at an appropriate time of year and to appropriate methodology. As pond surveys can only be done in the GCN breeding season (March to May with Feb and June as sub-optimal), all that can be done at this time of year is a standard 'HIS' assessment of all ponds*

*within the site or within 500m of the site boundary."*

**Leicestershire County Council - Highways** initially objected to the application on the basis that Gallows Lane is a well used Class II Highway (B4116) with vehicle speeds being high and a large proportion of heavy goods vehicles using the route, both accesses would be substandard with regard to their surfacing and visibility and the use of tanks caused damage to the road surface. Following receipt of additional information the County Highways Authority has removed its objection subject to the conditions being imposed on any consent granted.

**Leicestershire County Council - Rights of Way** initially objected to the application on the basis that the information supplied did not show the proposed use of the land in relation to public footpath P85 and as such they could not be satisfied that the activities would not compromise the safety of pedestrians when using the public right of way or cause damage to the surface. Following on-site discussions with the applicant the Rights of Way Officer has removed their objection subject to a condition requiring signage to be displayed where vehicles would cross the right of way.

**Measham Parish Council** has no objections subject to the existing footpaths being maintained at an acceptable level.

**Natural England** has no objections subject to a condition on any consent for pollution controls to be installed to limit the impacts on the River Mease SAC/SSSI. Following the receipt of an additional ecological survey Natural England objects to the application on the basis that the impacts on Great Crested Newts has not been satisfactorily addressed given that there *"are suitable habitats on, or in the vicinity of the application site for great crested newts" and that "the ecological survey has not been carried out at the right time of year using recognised techniques."*

**NWLDC - Environmental Health** initially stated that the noise impact assessment would not be sufficient and that a noise assessment would need to be provided taking into account the requirements of BS4142. Following receipt of a revised noise survey the Council's Environmental Health section has raised concerns that the report gives no consideration to the *"background noise levels reverting back to a lower level once the temporary operations at Minorca Open Cast cease in approximately four years."* They have also indicated that the representations received from the occupants of No. 2 Bosworth Grange are valid.

**Severn Trent Water** no representation received.

### **Third Party Representations**

A total of 19 representations have been received from the occupants of Nos. 2, 3 and 4 Bosworth Grange, Valley Farm House, Bosworth Road, The Bungalow, Gallows Lane and the Ashby Canal Association which object to the application along with one representation in support of the application from an unknown address. The objections raised are on the following grounds: -

- o *"operators of Tank Mania have demonstrated complete indifference to the legal requirements of planning applications and local neighbour's appeals for moderation with regard to operating hours and noise;"*
- o *"operated military vehicles on the local public highways (with members of the public aboard) causing potential traffic hazards and damage to both road and verges;"*
- o *"left mud and debris on the public highways again a potential traffic hazard;"*
- o *"operated their vehicles for extended periods both in the week and at weekends causing*

- unpleasant and excessive noise;"*
- o *"several commercial ventures carried out on land, except farming, including "Boot Sales," "Light aircraft flying" which results in noise and or litter, with little regard for the environment or neighbours;"*
- o *"tank driving site is very near to the Minorca Surface Mine. The noise from this facility can be overwhelming for those that live nearby. The operating hours of the mine are strictly controlled leaving Saturday afternoons, Sundays and Bank Holidays free of operations; these are just the times when the tank driving is at its most intense. It is simply not fair on those who are presently enduring the noise of the surface mine to grant a permission that in any way facilitates the tank driving activity which generally coincides with the quiet periods at the surface mine;"*
- o *"they have shown no consideration whatever, for near neighbours by operating at unsocial hours and causing excessive noise and disturbance;"*
- o *"since Tank Mania stopped UK Coal plc have started an opencast operation next to our house. This is also very noisy but it has permission. The opencast mine operates Monday to Saturday from 7am to 7pm (midday finish on Saturday). They will continue for another 4 years;"*
- o *"The existing noise from the opencast is already severe. I have been monitoring the noise with Class 1 noise equipment. In the last 5 months the noise at our house has exceeded 50dB on over 100 days and over 55dB on over 20 days. World Health Organisation criteria state that most people would be moderately annoyed by a noise of over 50dB and seriously annoyed by over 55dB. Thankfully we have at least quiet on Saturday afternoon, Sunday and Bank Holidays;"*
- o *"the Ashby Canal is going to be restored at the rear of our garden as part of the planning gain from the opencast site. This will also add further noise;"*
- o *"proposal is in conflict with North West Leicestershire Policy Document CS33 which places the proposed site in the River Mease Special Area of Conservation. Policy CS33 seeks to protect landscape and character and natural environment and especially the River Mease SAC. Change of use of land should, because of this and the Government directives on which this is based, require an EIA before changes are allowed;"*
- o *"the ecology survey is not thorough enough to assess whether newts could have migrated into the area from the Minorca site from where they have been actively displaced;"*
- o *"Tank Mania was set up as company in 2008 and the present owner of the company began illegal operations in 2012;"*
- o *"There are 3 maps which show the site boundary and they are inconsistent;"*
- o *"they have demonstrated they cannot be trusted to comply with ANY conditions that may be attached to planning approvals and since the LCC are not in a position to police their activities I strongly object to this application;"*
- o *"we would not wish the peace and tranquillity of this canal site and the nearby area to be significantly affected, and would request the provision of noise abatement methods on vehicles and the provision of substantial noise screening or mounding;"*

The representation in support of the application comments that: -

- o *"It is an ideal location for this sort of activity and because of the size of the facility (some 28 acres I believe) should allow the paying customers to have a very enjoyable experience."*

## 5. Relevant Planning Policy

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

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

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

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

Paragraph 7 indicates that the planning system needs to perform a number of roles which include, amongst others, an economic role which means contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

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

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

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

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

- o 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;
- o Support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities



in appropriate locations where identified needs are not met by existing facilities in rural service centres;

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

- o 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;
- o Safe and suitable access to the site can be achieved for all people; and
- o Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe;

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

Paragraph 75 outlines that planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails;

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

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

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

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

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

Paragraph 206 states that planning conditions should only be imposed where they are

necessary, relevant to planning and to the development to be permitted, enforceable precise and reasonable in all other respects;

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

**North West Leicestershire Local Plan**

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

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

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

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

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

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

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

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

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

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

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

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

**Submission Core Strategy (April 2012)**

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

## **Other Guidance**

### **The Habitat Regulations**

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs) and the key issues relating to protected species;

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

Circular 06/2005 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites;

### **River Mease Water Quality Management Plan - August 2011**

This plan draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

### **Circular 03/99 (Planning Requirement in Respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development)**

This document sets out the planning controls on non-mains sewerage and associated sewerage disposal aspects of future development.

## **6. Assessment**

### **Principle of Development**

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

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

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

location.

In terms of Policies L2 and L3 of the Local Plan it is considered that a rural location would be necessary for the pursuit of this type of recreation/leisure use given the amount of land which would be required to carry out the functions of the business as well as the fact that the use would not be easily adapted into a built environment. It is also considered that the retention of portable buildings on the site would be ancillary to the recreational/leisure use carried out. In terms of criteria (b) and (c) of Policy L3 it is considered that the portable buildings are located next to an area of dense vegetation with borders public footpath P85 and whilst they are presently white two have been painted green and black, camouflage colours, in order to assist in 'assimilating' the development into a rural environment. It is considered that a planning condition could secure the painting of the remaining two portable buildings and in the circumstances that the site is bordered by dense mature vegetation it is considered that the retention of these structures would not have a sufficiently adverse impact on the rural environment. Public footpath P85 also runs through a dense vegetation corridor adjacent to these structures and although some views would be established it is considered that no substantial views beyond or within the site would be impacted on due to the present boundary treatments and the overall scale of these structures. As such the proposals would not substantially conflict with the principles of Policies L2 and L3 of the Local Plan.

### **Residential Amenity**

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

Given the nature of the proposal, and the scale of the retained portable buildings, there would be no adverse overbearing, overshadowing or overlooking impacts on the amenities of neighbours with the main concerns relating to noise.

The Council's Environmental Health team raised initial objections to the application on the basis that the noise impact assessment initially submitted was not sufficient and that a noise assessment to the requirements of BS4142 would need to be supplied. An operational noise assessment was received in July 2013 and this concluded that *"an assessment of combined noise levels from vehicle movements and plant has found that the rating noise levels are not expected to exceed daytime background noise levels by more than 3.8 dB(A) (Monday - Saturday) and are expected to be of marginal significance during Sunday daytime periods; A noise intrusion assessment of combined noise levels from vehicle movements and plant has shown that noise levels from the activity centre are predicted to be below the BS 8233 'good' criteria at nearby sensitive receptor locations with windows open. The proposal is therefore not expected to have an 'adverse impact' on health or quality of life."* The Council's Environmental Health team reviewed the revised assessment and concerns are still expressed that no consideration has been given to the background noise reverting back to a lower level once the Minorca Open Cast Mining site ceases, in approximately four years time, and in any case no consideration has been given to the fact that on a Saturday the Minorca site would not operate beyond 12:00. In objecting to the application one of the third party representations received has included a critical evaluation of the operational noise assessment which has raised concerns over the findings and, 'in principle,' the Council's Environmental Health team have concluded that there is merit in the argument presented within the representation. In the circumstances that the operational noise assessment has included the background noise generated by the Minorca Open Cast site as well as the Measham Car Boot Sale for justification that the activities would not generate significant noise impacts on Saturday and Sunday would lead to the results being

flawed given that the Minorca Open Cast ceases operations on a Saturday around midday, and has no working on a Sunday, and the Measham Car Boot only runs for 30 days a year.

Although it is acknowledged that the retention of the use would provide economic benefits to the District and would promote the leisure and recreational uses advertised by the National Forest, given the unique nature of the activity offered and the substantial interest from television companies, this benefit would need to be weighed against the substantial harm caused by the noise generated when the activity is operational.

Whilst Officers are extremely sympathetic to the circumstances of the applicant and the amount of work put into employing local people and ex-military personnel, the activity conducted would only be profitable and viable should it operate at weekends, given that it is a leisure/recreational use, and on the basis that this operation at weekends would have a significant adverse noise impact on the occupants of nearby residential properties, as well as the fact that the Environmental Health team have identified that should permission be granted the activities would be subject to a noise abatement notice by virtue of the unacceptable noise impacts, it is considered that, overall the potential economic benefits would not outweigh the harm caused to residential amenities and as such to permit the development would be contrary to Paragraph 123 of the NPPF and Policy E3 of the Local Plan.

The overall concerns associated with the noise generated by the use could also not be mitigated by the imposition of conditions or planning obligations on any consent and as such the refusal of the application would not be contrary to the aims of Paragraphs 187 or 203 of the NPPF.

Although further noise assessment work has been carried out, following the deferral of the application at the September Planning Committee, and the Council's Environmental Health consider the development could be made acceptable subject to the provision of bunds and strict restrictions on the operations conducted from the site. It is considered that the extent of the works/changes to the current application to facilitate these measures would require the submission of a revised application in order for adequate consultation and discussions to be held on the detailing and appearance of any potential bund. As such it is concluded that the current application should be assessed on its own merits without prejudice to any potential mitigation measures which may be incorporated into a revised scheme and as such the development, in its current form, remains contrary to the aforementioned policies.

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

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

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

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

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

Although both the County Highways Authority and County Rights of Way Officer raised objections to the application further discussions have been carried out between the applicant and these bodies and as a result the initial objections have been removed.

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

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

Discussions with the County Council Rights of Way Officer has also led to their objections to the application being removed in the circumstances that appropriate conditions are imposed on any consent to ensure that the more easterly vehicular access is levelled and surfaced with a hard material, to a standard similar to the westerly crossing, the hedges which border the public footpath being cut back to improve visibility and waymarkers being installed at these points as well as the erection of advisory notes at the two crossing points for the benefit of pedestrians as well as the drivers of military vehicles. On the basis that these works could be conditioned as part of any consent it is considered that the safety of pedestrians would be maintained in accordance with the aims of Paragraph 75 of the NPPF.

### **Ecology**

Following the receipt of a revised Phase 1 Habitat Survey Natural England have objected to the application in the circumstances that the survey has not been carried out to approved methodology and was conducted at the wrong time of year to adequately address the potential impacts of the development on Great Crested Newts. Although the County Ecologist did not initially object to the revised Phase 1 Habitat Survey, subject to a planning condition being included on any consent granted, they have advised that as Natural England are the national

licensing authority and national experts in protected species legislation their views should be followed.

Adequate surveys to assess the impacts of development on Great Crested Newts cannot be carried out until the breeding season which would be March to May (with February and June as sub-optimal). Paragraph 118 of the NPPF outlines that *"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."* In the absence of information that would conclude that the proposal would not have a sufficiently detrimental impact on Great Crested Newts it is considered that to permit the proposal would be contrary to Paragraph 118 of the NPPF and Circular 06/05.

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

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to Paragraph 118 of the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewerage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

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

The application indicates that foul drainage discharge is dealt with via a sealed tank beneath the toilet block which would be emptied approximately once a month. A sealed tank would hold all the effluent from the toilet block and would not discharge into the ground. The sealed tank would need to be emptied regularly, with the effluent being collected by a tanker and taken to a sewerage treatment works. It will need to be ensured that the effluent is taken to a sewerage treatment works outside the SAC catchment area, as the discharge from such treatment works has contributed to the increased phosphate levels within the river. As required by both the Environment Agency and Natural England, and also in planning terms, the Authority needs to have enforceable control over the collection and treatment of this waste. The Environment Agency would also require enforceable contingency plans to be in place to deal with any future failures or replacement of the sealed tank.

An appeal decision relating to a site at Atherstone Road, Measham (09/00519/FUL) concluded that planning conditions cannot be used to secure these matters and therefore a Section 106 Agreement would be required. Such an agreement would need to relate to a management scheme for the operation and maintenance of the sealed tank to ensure that its contents are discharged outside the SAC catchment area and contingency plans to address potential

failure/replacement. Under the Habitat Regulations and Circular 06/05 the Authority has to have certainty that a proposal, including any mitigation measures, would not adversely affect the SAC. Following discussions with the Senior Habitats Directive Specialist at David Tyldesley and Associates (the authors of the River Mease Water Quality Management Plan), it is considered that the position of the sealed tank would be situated a sufficient distance from the nearest watercourse to ensure that any phosphate discharged accidentally from the sealed tank into the ground would be sufficiently diluted by the time it reached the River Mease SAC.

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

Overall it can be ascertained that the continuation of the use on the site will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

#### **Suitability of Non-Mains Drainage**

Proposals for non-mains drainage systems should be assessed against the tests set out in Circular 03/99. The first presumption is to use public sewers for foul drainage, although no foul drainage discharge exits within the confines of the site which would allow this connection to occur. As the portable toilet building already exists, with the associated sealed tank, it would not be practical to install a new package treatment plant and as such the only viable option would be the continued use of the sealed tank.

Circular 03/99 states that problems have occurred with the use of sealed tanks/cesspools, including frequent overflows due to poor maintenance, irregular emptying, lack of suitable vehicular access for emptying and through inadequate capacity. The Environment Agency, whilst not objecting to a properly maintained sealed tank/cesspool, states that it does not promote their use and also sets out some of their common problems. Circular 03/99 therefore advises that *"...the local planning authority may wish to adopt the same process of considering the possibility of significant problems arising as described in paragraph 6 above..."* An assessment of the continued use of a sealed tank on the site against the criteria in Circular 03/99 conclude that, against nine of the criteria, the sealed tank would not pose a problem, as there would be no discharge into the ground nor would it prejudice, contravene or breach any statute or similar law/regulation.

The remaining two criteria relate to problems from health hazards/nuisance or damage to the environment/amenity, in particular from leaks or from being susceptible to damage by third parties. The sealed tank is situated below ground and although a public footpath runs through the site it is considered that the location of the development would likely lead to its visitation by unaccompanied members of the public being fairly infrequent and as such the integrity of the system should be preserved. As identified above a legal agreement could be entered into requiring a contingency plans to be in place which would address environmental problems but on the basis of the distance of the sealed tank from the River Mease SAC it is considered that



any leakage would not be sufficiently detrimental to its integrity. Therefore it is concluded that use of a sealed tank is unlikely to lead to significant environmental, amenity or public health problems in this case and as such the proposal would not conflict with Paragraph 6 of Annex A of Circular 03/99.

The emptying of the sealed tank is unlikely to result in any adverse noise impacts on the amenities of neighbours given the distances involved and any collection tanker would enter/exit the site in the same manner as is conducted now which would not raise any objections from the County Highways Authority. In the circumstances that no connection to the mains sewer is available and the location of the development is dictated by the nature of its operation it is considered that the frequent emptying of the sealed tank would not result in an unsustainable form of development given that it is likely that any tanker would visit other properties in the vicinity of the site.

### **Other Matters**

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

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

Although the Ashby Canal Association have raised concerns about the noise from the development impacting on the 'tranquillity' of the canal site it is noted that the canal route will also bypass the Hansons brickworks which would also generate noise implications to any potential user of the canal network. In the circumstances that any measures to mitigate the impacts of the retained use on the canal could be conditioned as part of any consent it is considered that the noise implications would not be sufficiently detrimental. The route of the canal also appears to follow the route of public footpath P85 and as such it is likely that at some point in the future the canal would dissect through the operational site of Tank Mania. At present the retention of the use would not prejudice the re-opening of Ashby Canal given that it is likely that the developers of the canal will be in a position to acquire the land once the development is to be progressed and as such there would not be conflict with Policy T16 of the Local Plan.

It is also considered that the development would not require the submission of a Environmental Impact Assessment (EIA) given that it would not constitute one of the forms of development identified in Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

### **Conclusion**

Although the retention of the unique use would be of economic benefit to the District and the leisure and recreational uses promoted by the National Forest in the circumstances that the overall level of noise generated would result in a significantly detrimental impact on the amenities of neighbours, and would be so severe that a noise abatement notice could be issued, it is considered that any economic benefit would not outweigh the harm caused to

nearby residential properties and as such to permit the proposal would be contrary to Paragraph 123 of the NPPF and Policy E3 of the Local Plan. The absence of an ecological report which would adequately address and mitigate the potential impacts of the development on Great Crested Newts, a protected species, would also lead to the development being contrary to Paragraph 118 of the NPPF and Circular 06/05. It is therefore recommended that the application should be refused.

**RECOMMENDATION - REFUSE, for the following reason;**

- 1 Although the retention of the unique use would be of economic benefit to the District and the leisure and recreational uses promoted by the National Forest, in the circumstances that the overall level of noise generated by the proposed development would be severely detrimental to the residential amenities of nearby properties, any economic benefit would not outweigh the significant harm caused to nearby properties and as such to permit the proposal would be contrary to Paragraph 123 of the National Planning Policy Framework (NPPF) and Policy E3 (Residential Amenities) of the North West Leicestershire Local Plan.
- 2 In the absence of an ecological report which would satisfactorily address, and mitigate, the potential impacts of the development on Great Crested Newts it is considered that to permit the proposal would be contrary to Paragraph 118 of the National Planning Policy Framework (NPPF) and Circular 06/05 Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System.

**Notes to applicant**

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Local Planning Authority acted pro-actively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Local Planning Authority has therefore acted pro-actively in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

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**Erection of 14 dwellings along with conversion of ticket sales office to residential, demolition of redundant buildings and creation of new access.**

**Report Item No  
A6**

**Swainspark Site Spring Cottage Road Overseal Swadlincote**

**Application Reference  
13/00648/FULM**

**Applicant:  
Mr C Hill**

**Date Registered  
21 August 2013**

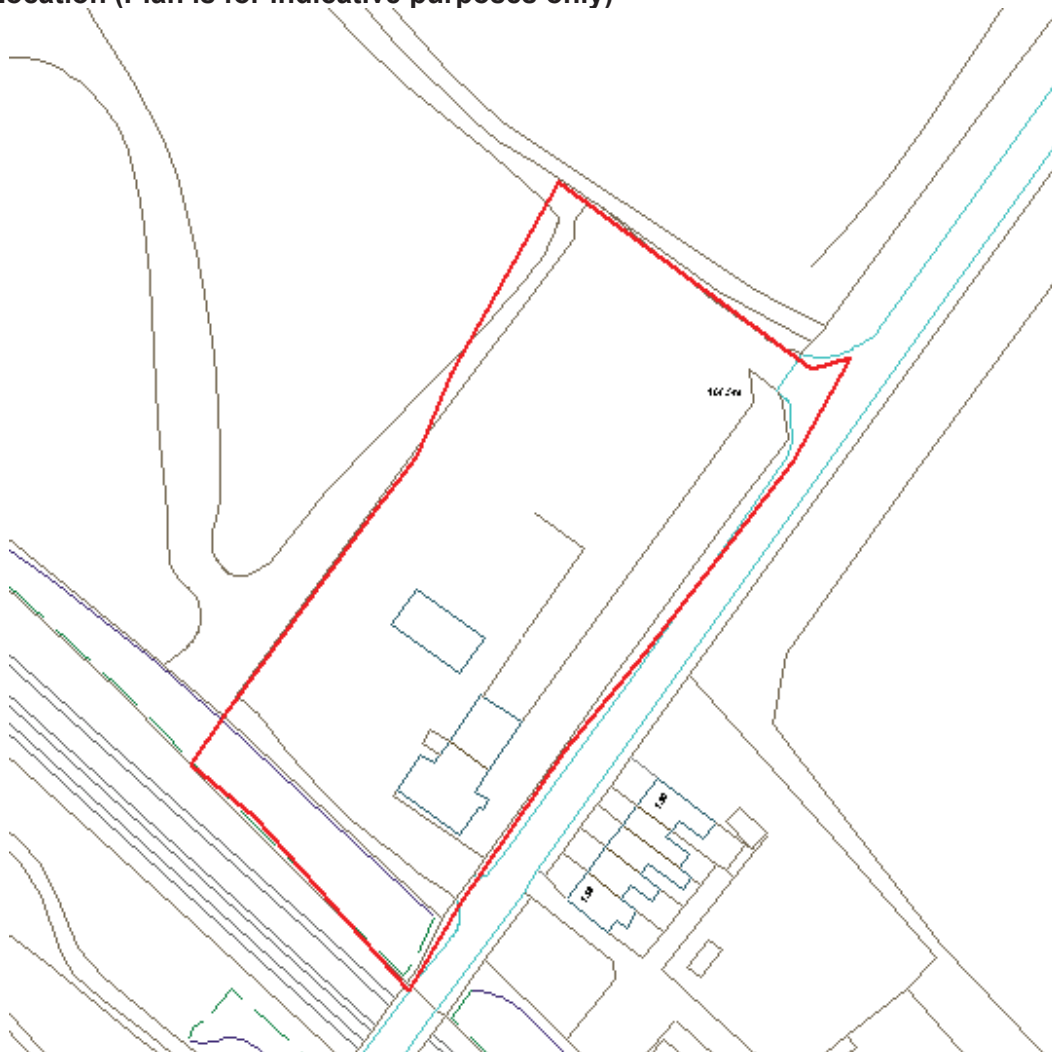
**Case Officer:  
Hannah Exley**

**Target Decision Date  
20 November 2013**

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

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**Site Location (Plan is for indicative purposes only)**



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Planning Committee 12 November 2013  
Development Control Report

## EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

### Call In

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

### Proposal

This is a full application for fifteen residential units comprising 14 new build dwellings and one converted dwelling within a former ticket sales office on 0.5 hectares of land located to the western side of Spring Cottage Road adjacent to a railway line. The site was historically used as the headquarters for an open cast mine and some of the existing buildings are to be demolished as part of the proposals. The converted dwelling would be served by an existing vehicular access and the new build units would be served by a separate new vehicular access off Spring Cottage Road. The accommodation mix comprises two, three and four bed units (detached and terraced units) and four of the homes would be provided as Affordable Housing.

### Consultations

A total of four letters of objections have been received from members of the public along with one letter of support. The Town Council supports the application. No other objections have been received from statutory consultees.

### Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and in the countryside which is protected by Policy S3. Also material to the determination of the application and the weight that can be attached to these policies is the supply of housing in the context of the National Planning Policy Framework (NPPF).

### Conclusion

The site that is subject to this application is located outside the Limits to Development in the adopted Local Plan and its development for housing would be contrary to Policy S3 and H4/1 of the Local Plan. However, it is evident that the Council cannot identify sufficient deliverable sites to provide 5 years worth of housing against the Framework and as such a reason for refusal on the basis of the site's location outside limits to development under Local Plan Policies S3 and H4/1, could not be sustained. Spring Cottage, in conjunction with the nearby settlement of Overseal have some local services and facilities which would help to ensure that occupiers are not heavily reliant on the use of the private car to access such services and facilities. It is also recognised that the housing development would be relatively well related to the existing settlement of Spring Cottage and would not result in isolated housing in the countryside. Overall, taking all of these matters into account it is considered that the principle of this development is acceptable.

The proposed development would be acceptable in terms of the residential amenities of existing and future occupiers, and would provide for an appropriate form of development that would be in keeping with the locality. The proposal would be acceptable in relation to highway safety subject to appropriate planning conditions. The scheme would not result in significant impacts upon protected species or trees and subject to a developer contribution 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. The scheme provides for an appropriate range of other developer contributions along with the inclusion of four affordable houses. There are no other relevant material planning considerations that indicate planning permission should not be granted. Therefore, it is recommended that full planning

permission be granted, subject to Section 106 obligations and relevant planning conditions.

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

## MAIN REPORT

### Proposals and Background:

Approval is sought for the erection of 14 new dwellings and the conversion of a former ticket sales office to residential accommodation on 0.5 hectares of land located to the western side of Spring Cottage Road adjacent to a railway line. The application also includes the formation of a new vehicular access along in a central position along the site frontage.

The site was historically used as the headquarters for an open cast mine and the existing buildings are now derelict and have been boarded up. The remainder of the site which was used as a car park has become overgrown in places. The application includes the demolition of two-storey building fronting the side and a single storey flat roof building further within the site.

Amended plans were received during the course of the application following concerns raised by officers about the limited contribution that the northern section of the site frontage made to the streetscene and the poor detailing of the prominent corner units on entrance to the site.

The application submission was accompanied by the following supporting information:

- Coal Mining Risk Assessment (dated 22 August 2013) by Wardell Armstrong;
- Design and Access Statement by the Agent;
- Building for Life Assessment by the Agent;
- Bat Survey (dated September 2012) by EMEC Ecology;
- Bat Activity Survey (dated August 2013) by EMEC Ecology;
- Noise Assessment (dated 22 August 2012) by Soundsolution Consultants;
- Structural Report (dated 7 September 2012) by Sheldon Bosley;
- Alternative Uses Report (dated 7 September 2012) by Rushton Hickman Property Consultants;
- Environmental Assessment (dated 20 August 2013) by Wilbourn and Co.;
- Findings of Local Authority Environmental Search dated 27 August 2013.

### Planning History:

- 05/01840/CLE - use of offices (B1), access and parking area (Certificate of Lawful Existing Use) - Permitted.
- 01/01190/FUL - Telecommunications Mast - Permitted.
- 01/00463/FUL - Telecommunications Mast - Refused.
- 95/0546 - Reclamation of former mineral workings (County Matter) - Permitted
- 96/0591 - Extraction of coal by open cast methods (County Matter) - Permitted
- 98/0569 - Non-Enforcement of conditions concerning lorry movements (County Matter)

## 2. Publicity

15 no. Neighbours have been notified (Date of last notification 4 October 2013)

Site Notice displayed 9 September 2013

Press Notice published 28 August 2013

## 3. Consultations

- Ashby Woulds Town Council consulted 21 August 2013
- LCC/Footpaths consulted 29 August 2013
- County Highway Authority consulted 25 September 2013
- Head of Environmental Protection consulted 21 August 2013
- Natural England consulted 21 August 2013
- LCC ecology consulted 21 August 2013

LCC Development Contributions consulted 21 August 2013  
Manager Of Housing North West Leicestershire District Council consulted 21 August 2013  
Coal Authority consulted 21 August 2013  
National Forest Company consulted 17 September 2013  
Development Plans consulted 3 September 2013  
Severn Trent Water Limited consulted 30 August 2013

#### 4. Summary of Representations Received

Five letters of representation have been received, one letter stating support for the application proposals and four raising objection:

*Supporting comments:*

- the redevelopment of the site would put an end to anti-social behaviour on the site and smarten up the site;
- the proposals would mirror the appearance of nearby housing and therefore, would be in keeping;
- the proposals would bring a family atmosphere to the locality.

*Objections:*

- concern about the re-opening of the old access to serve the converted dwelling as this was closed due to poor visibility when exiting the site when it was in use by coal contractors and also road traffic accidents have occurred;
- the new access will be on the brow of hill and will not be highly visible to oncoming traffic;
- the new access will be next to speed humps which only slow down 50 percent of traffic at most;
- the original access towards the northern end of the site is clearly visible to oncoming traffic and allows visibility for vehicles exiting the site and it was made to a standard road junction by the former owners;
- impact on existing wildlife occupying the site including newts, frogs, grass snakes, bats and birds;
- disruption to the character of the locality as new buildings would not be appropriate in this rural village location;
- increased traffic onto Spring Cottage Road;
- congestion from the use of the new access;
- inconvenience to existing residents;
- noise;
- loss of view to properties opposite the site;
- the adverse impact on the character of the local area will adversely impact on local tourism businesses that depend on attracting people into the area;
- loss of property value;
- no need for additional dwellings as there are numerous properties available to buy or rent;
- the redevelopment of the site would be more suitable if the properties were single storey and fewer in number and this would also present opportunities for those in the community wanting to downsize.

Ashby Woulds Town Council raises no objections but makes the following observations:

*'The Town Council is pleased to see development on this derelict site and delighted this area will be transformed. It is agreed the proposed terrace dwellings are more in keeping with existing properties. It was suggested the development should be slightly re-positioned further back as it is considered to be located very close to the road. The Town Council would also like to see the footpath extended over the bridge on the side of the recreation ground to provide a safe access to the recreation ground. Perhaps something to be suggested out of a Section 106*

*contribution.'*

County Highways Authority has no objections subject to conditions.

Environmental Protection has no objections subject to contaminated land conditions.

Natural England has no objections subject to a condition concerning bats.

County Ecologist has no objections subject to conditions concerning mitigation.

Leicestershire County Council requests the following developer contributions:

- Library Services requests a contribution of £910 for additional materials (eg. Books, audio books, newspapers and periodicals) for loan or reference use to account for additional use from the proposed development.

- Education contribution of £26,064.33 is sought to accommodate the capacity

Issues created by the proposed development by improving, remodelling or enhancing existing facilities at Ashby School.

Manager of Housing is satisfied with the proposal and confirms that the affordable housing element of the proposal meet the requirement to provide a mix of housing types and tenures that suit local requirements set out in Building for Life.

Coal Authority has no objections subject to a condition requiring further investigation to establish the exact situation regarding coal mining legacy issues on the site.

Severn Trent Water has no objections subject to a condition concerning drainage.

National Forest Company requests a commuted sum of £2,000 for off-site planting due to the difficulties of accommodating planting on a small site and a boundary treatment condition.

County Footpaths Officer advises that nearby footpaths should not be obstructed during the construction phase.

## **5. Relevant Planning Policy**

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

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

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

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

- be a creative exercise in finding ways to enhance and improve the places in which people live their lives;



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

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

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

The sections of the NPPF that are relevant to this application are:

- 3 - Supporting a Prosperous Rural Economy;
- 4 - Promoting Sustainable Transport;
- 6 - Delivering a Wide Choice of High Quality Homes
- 7 - Requiring Good Design;
- 8 - Promoting Healthy Communities;
- 11 - Conserving and Enhancing the Natural Environment;

**North West Leicestershire Local Plan:**

The East Midlands Regional Plan (RSS8) has now been revoked and therefore no longer forms part of the development plan. The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

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

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

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

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

Policy E4 seeks to achieve good design in new development.

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

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

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

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

Policy F1 requires new development within the National Forest to reflect the importance of its setting.

Policy F2 sets out the criteria for maximising the potential for landscaping/planting as set out under Policy F1.

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

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

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

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

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

#### **Submission Core Strategy (April 2012)**

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

#### **Other Guidance:**

##### *The Habitat Regulations:*

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

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

Circular 06/05 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

##### *River Mease Water Quality Management Plan - August 2011:*

This plan draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

*The River Mease Developer Contributions Scheme - November 2012:*

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

*The Community Infrastructure Levy Regulations 2010:*

The 2010 Regulations provide a legislative requirement that an obligation must meet the following tests:

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

## **6. Assessment**

### **Principle and Sustainability**

In this instance the site is located outside the limits to development as defined on the Proposals Map to the North West Leicestershire Local Plan, where new residential development does not fall within the list of acceptable uses set out in Policy S3 of the Local Plan. Although, Policy S3 does refer to Policy E24 of the Local Plan which, subject to certain criteria, does allow for the re-use and adaptation of existing buildings to residential use subject to certain criteria being met. The proposal includes the conversion of the former ticket sales office to residential accommodation and therefore, the proposal would need to be considered against this policy. Policy E24 provides that the conversion of existing buildings to residential use will only be permitted where it can be demonstrated that every reasonable attempt has already been made to secure suitable employment, tourism or recreational re-use of the building. As part of the application, the applicant's agent has submitted details of the marketing that has been undertaken on the premises since 2006, which although has generated some interest for employment, leisure and housing uses, has never materialised into an offer. The building was also put to auction in 2008 but no bids were forthcoming. The property consultant who prepared the supporting information considers that the existing consent for offices is not ideal in this particular location, due to its remote location away from major highways and large conurbations. The alternative uses information, accompanying the application is limited and does not cover the range of uses that may be suitable for the premises. For example, small workshops, tourist uses or tourist accommodation (particularly given the location of the site within the National Forest).

Whilst the site is outside the limits to development, the NPPF does provide a range of special circumstances where homes in the countryside may be acceptable, this includes where development would re-use redundant or disused buildings and would lead to an enhancement to the immediate setting. The proposal would represent the re-use of a rural building and would allow for the retention of a building that is considered to make a positive contribution to the character of the locality. Therefore, whilst the alternative uses information accompanying the application is limited, when having regard to the support for the re-use of rural buildings as set out in the NPPF, and the merits of retaining the building, it is not considered that a request for further information could be justified in this case.

In terms of the remaining criteria set out in Policy E24 of the Local Plan, a structural report has been provided which concludes that the building is structurally sound, and would be capable of conversion without significant extension or alteration. The building appears in keeping with its surroundings and any alterations to the building would not be detrimental to its character and appearance, or that of the surrounding countryside within which it is set. The building is accessible from the public highway and parking provision for the proposed residential use is available within the site. The conversion element of the proposal, is therefore, considered to be acceptable for the purposes of the provision of Policy E24 in the context of advice contained within the NPPF.

The site is previously developed land within the countryside and would fall to be determined at the bottom of the hierarchy under Policy H4/1 of the Local Plan i.e within criterion (f) in locations where appropriate in the context of the Local Plan. The application site is located within the settlement of Spring Cottage which is relatively isolated with few services and facilities with just a public house, play area and football pitch. However, the site is reasonably well related to Overseal and although this settlement is outside the District boundary (within South Derbyshire) it does have a good range of services and facilities, which could be used by occupiers of the proposed dwellings. These include a primary school, doctor's surgery, shops, public houses and a village hall within 800m of the site. There is also a bus stop approximately 380m from the site with an hourly service during the day to Swadlincote, Burton on Trent and Ashby de la Zouch, along with smaller settlements. However, due to the site being outside the limits to development, the proposal as submitted would not accord with Local Plan Policies S3 and H4/1.

The NPPF requires that the Council should be able to identify a five year supply of housing land and include an additional buffer of 5 percent or 20 percent depending on previous performance in terms of delivery of housing. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, found that the 'Sedgefield' approach should be used and that a buffer of 20 percent should be allowed. On this basis, the District Council's most recent calculations indicate that the Council is able to demonstrate a supply of 4.33 years which represents a significant shortfall vis-à-vis the requirements of the NPPF.

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". The Council would not, in these circumstances, be able to rely on adopted Local Plan Policy S3 (Limits to Development) or Local Plan Policy H4/1 (Housing Land Release) as, being policies constraining the supply of housing land, they would be considered to be out of date.

Therefore Policy H4/1 cannot be considered to be up-to-date. However based on the approach taken in the recent judgment in respect of the application to quash the Secretary of State's decision to dismiss the Stephenson Green appeal, given that Policy S3 does not specifically relate to the supply of housing, notwithstanding the approach taken elsewhere (and including by the Secretary of State on appeal), the provisions of paragraph 49 of the NPPF may not necessarily be applicable to Policy S3 and that, in this sense, the policy would not be considered to be out of date. Nevertheless, 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 given the presumption in favour of such as set out in the NPPF.

As set out above, whilst the site is located outside the Limits to Development, it is located within the settlement of Spring Cottage, which although does not benefit from a range of services and

facilities, is well related to Overseal which could provide occupiers of the proposed dwellings with services and facilities to meet day to day needs. Furthermore, it is considered that the development would be reasonably well related to existing built development such that the proposal would not result in truly isolated housing in the countryside. Therefore, taking these factors into account, along with matters of five year housing land supply, it is considered that the principle of residential development on this site is considered acceptable.

**Housing 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.

With a site area of 0.5 hectares, the proposal would have a density of 30 dwellings per hectare. Whilst the density is low in relation to Local Plan Policy H6, it is considered appropriate in this instance in view of the rural location of Spring Cottage and the terraced nature of properties within the locality that the proposed development is seeking to emulate along the site frontage, and the fact that the proposed scheme would have a suitable layout. Therefore, the scheme is considered to be acceptable in relation to the advice contained in Policy H6 of the Local Plan and the advice in the NPPF.

**Design and Character of the Area:**

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

The application site is a relatively flat piece of land located to the north of a railway line on Spring Cottage Road. The surrounding residential development is predominantly characterised by traditional terraced properties located toward the front of linear plots with boundaries well defined and with buildings that are well detailed with strong chimneys and window and brick detailing, and generally well-proportioned dwellings with a strong vertical emphasis that provides a rhythm to the streetscene. Although some of these properties have been modified, the street contains buildings that generally make a positive contribution to the locality, and therefore, it is considered that such properties should be used to inform the redevelopment of the application site.

The existing former ticket sales office that is to be retained as part of the application proposals is of red-brick construction with a slate roof with large, well-proportioned window units and architectural detailing such that it is also considered to make a positive contribution to the built character of the locality, and therefore, should be retained as part of the redevelopment of the site. It is not considered that the proposed alterations and extensions to the building to allow its conversion to one two-storey dwelling would be out of keeping with its character and appearance.

The proposed new development on the site comprises development along the site frontage and in depth development served by a centrally positioned access road off Spring Cottage Road. Development along the site frontage comprises a row of terraced properties and two larger detached properties. The proximity of the dwellings to the highway is similar to that of the

nearest terraced properties opposite the site and the ticket office which is to be retained. The front boundaries to each dwelling are shown to be well-defined with boundary treatments and some tree planting is also proposed forward of the dwellings. The units either side of the access drive have well detailed elevations facing both onto Spring Cottage Road and onto the internal access road and the key view into the site through the new vehicular access is terminated by a building. The development within the site comprises a mix of terraced, FOG (flat over garage) and detached units. Parking provision within the site comprises a mix of in-plot parking, on-street parking and a parking courtyard, such that parking provision would not be overly dominant within the development.

The Town Council has suggested that the frontage properties should be set back further within the site as the development would be located very close to the road. However, it is considered that the siting, form and detailing of the buildings are characteristic of properties found within the locality, and therefore, the development would be in keeping with the character and appearance of properties in the locality. The changes required in to convert the existing building into one dwelling would also be sympathetic to the character and appearance of that building.

The site lies within the National Forest and some indicative planting is shown on the submitted layout plan. With a site area of 0.5 hectares, the National Forest Planting Guidelines would expect 20 percent of the site to be occupied by woodland planting and landscaping. However, given the small-scale of the site and the resulting difficulty of accommodating planting, the National Forest Company has advised that it would be appropriate to secure a commuted sum for off-site planting in this case. The applicant has agreed to the payment of such a commuted sum.

Subject to conditions to control detailed elements of the scheme along with details of the treatment of landscaping and boundaries, the proposal would comply with the policies E4, H7, F1, F2 and F3 of the Local Plan and the advice contained in the NPPF.

**Impact on Residential Amenities:**

The nearest neighbouring residential properties are located on the opposite side of Spring Cottage Road, across from the converted building and the southern end of the row of terraced properties along the site frontage. The proposed dwellings are considered to be at sufficient distance from these nearest neighbouring properties in order to prevent any significant overbearing, overshadowing or overlooking impacts arising from the proposed development, or any significant noise issues associated with comings and goings to the site. Any noise nuisance generated by the construction of the dwellings would be covered by separate legislation, and therefore, is not relevant to the determination of this application.

In terms of the amenities of the proposed occupiers, a noise assessment has been provided in support of the application due to the proximity of the site to the railway line. The report concludes that with the inclusion of appropriate mitigation measures within the design of the proposed dwellings, noise should not be a detrimental issue for residential development on the site. Environmental Protection have been consulted on the application and have advised that they are satisfied with the information provided within the noise assessment. It is, therefore, deemed that the development would not have any significant detrimental impact upon neighbouring residential amenities and is considered to be acceptable in relation to Policy E3 of the Local Plan.

**Access and Highways Safety:**

Concern has been raised by local residents about the suitability of the accesses and the implications of the development for traffic levels and congestion. There are currently two

existing accesses into the site. The access to the southern end of the site frontage will be retained and serve as an individual access for the converted dwelling. The access to the northern end of the site frontage will be blocked off and it is proposed to serve the remaining fourteen new build units via a new vehicular access positioned centrally along the site frontage. Parking is provided for all the dwellings within the site on the basis of two spaces for dwellings with up to three bedrooms and three spaces for dwellings with four or more bedrooms. The County Highways Authority has been consulted on the application proposals and is satisfied with the proposals from a highway safety viewpoint. The proposal is considered to comply with the provisions of Policies T3 and T8 of the Local Plan.

**River Mease:**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

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

The proposal for fifteen 15 dwellings (included one converted unit) are on a previously developed site which was last occupied as offices, and therefore, should the use re-commence, there would be some foul drainage discharge from the site. No details have been provided by the applicant about existing foul drainage levels from the site. The application proposes that foul drainage would be dealt with via the mains sewer system, and given the number of units proposed it is considered that the proposal will increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS. The applicant has confirmed their agreement to payment of a contribution in accordance with the DCS, along with the Council's monitoring fee.

A condition relating to the technical details of foul drainage is not required as the principle of connecting to the mains sewer has been established and the details of drainage are dealt with by separate legislation under the Building Regulations and by Severn Trent Water. However a condition requiring that only a mains connection is used at the site would be required as the use of other means for foul drainage discharge could adversely affect the SAC. Surface water from all elements of the proposal will need to discharge to soakaway to ensure that unnecessary water volume does not go to the sewage treatment plant and this can be required by condition.

Therefore it can be ascertained that the erection of fourteen dwellings and the conversion of an existing building into one dwelling on the site will not, either alone or in combination with other

plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

**Children's Play Area:**

Under the District Council's Play Area Design Guidance Supplementary Planning Guidance (SPG), on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 15 dwellings are proposed, this would require a play area of not less than 300 square metres. No on-site children's play area is proposed as part of this proposal and no off-site commuted sum is proposed. The Council's SPG regarding children's play areas specifies that the Council will not seek any additional provision where existing play areas, within 400 metres walking distance, satisfy the needs of the area, including the proposed development.

There would be a distance of around 200 metres between the proposed housing site and the existing children's play area and, therefore, this would be considered a reasonable walking distance in accordance with the Council's SPG. The Town Council as the open space authority has been contacted to establish whether the existing play area is of sufficient size and with a sufficient level of equipment to satisfy the needs of the area, including the proposed development. The comments of the Town Council will be reported via the update sheet.

**Affordable Housing:**

The Council's Affordable Housing Supplementary Planning Document (SPD) states that in the Spring Cottage area schemes for more than five dwellings should provide 30 percent of the proposed units as affordable housing. As this proposal is for 15 dwellings then this would require a total of five Affordable Houses on the site (actual figure is 4.5 but the SPD states that this should be rounded up). The Strategic Housing Team indicated in their consultation response that four affordable properties would be sought on this site to aid viability.

The applicant's agent is aware of the need to provide affordable housing in the Spring Cottage area. Therefore, it is proposed to provide four affordable houses on the site on plots 5, 6, 7 and 8, which would provide x1 two bed FOG unit, x2 two bed houses and x1 three bed house. All the units would be affordable rented properties with the exception of the three bed unit which would be intermediate housing. The Council's Affordable Housing officer raises no objections to the proposed scheme and considers that the property types reflect the identified housing need from within the village.

In addition to affordable housing, the NPPF also provides in paragraph 50 that 'To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should: plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community'. The accommodation mix comprises 2, 3 and 4 bed dwellings provided by a mixture of detached and terraced properties which is considered to represent an appropriate housing mix on the site. Therefore, the scheme is considered to be acceptable in relation to the advice contained in the NPPF.

**Developer Contributions:**

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

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

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



Regulations 2010.

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

- County Library Services requests a contribution of £910 for additional materials (eg. Books, audio books, newspapers and periodicals) for loan or reference use to account for additional use from the proposed development. The applicants are agreeable to this contribution.
- County Education Service request a contribution of £26,064.33 is sought to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Ashby School. The applicants are agreeable to this contribution.
- National Forest Company requests a commuted sum of £2,000 for off-site planting due to the difficulties of accommodating planting on a small site and a boundary treatment condition. The applicants are agreeable to this contribution.
- River Mease Contribution in accordance with the requirements of the DCS. The applicants are agreeable to this contribution.

Insofar as the various developer contributions are concerned, the view is taken that, save where indicated otherwise above, the proposed obligations would comply with the relevant policy and legislative tests as set out in Circular 05/2005 and the CIL Regulations.

**Protected Species:**

Concern has been raised by local residents about the impact of the proposed development on wildlife on the site/in the locality.

There are hedgerows, trees, overgrown grass/vegetation close to the site. The site is occupied by derelict buildings and a car park which is overgrown with vegetation. All of these are features that could be used by European Protected Species (EPS) and as such species may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions.

The County Ecologist is satisfied with the bat surveys which found evidence of a bat roost within the buildings on the site, along with a birds nest. The report therefore suggests mitigation measures to deal with the impact on the bat roosts as well the potential for breeding birds to use the buildings, which the County Ecologist requests is secured by condition. Natural England is satisfied that the proposed mitigation is broadly in accordance with the requirements of the Bat mitigation guidelines and should maintain the population identified in the survey report. The County Ecologist and Natural England have not identified that any other protected species would be likely to be affected by the proposals. On this basis it is considered that the proposal will not adversely affect any protected species.

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

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

Until recently, these tests had only really been examined as part of the EPS licensing process carried out by Natural England. However, a recent court case (R (on the application of Simon Woolley) v Cheshire East Borough Council and others [2009] EWHC 1227), has held that Local Planning Authorities must engage with these three tests at the planning application stage and

demonstrate that they are satisfied that the three tests have been met prior to granting planning permission.

In this case the development is considered to be in the over-riding public interest as there is a need for new dwellings in the District within sustainable locations and the proposal would allow the re-use of an existing building which makes a positive contribution to the locality. Mitigation measures are proposed to avoid adverse impacts on protected species so their favourable conservation status will not be affected. It is therefore considered that the proposal meets the requirements of the Habitats Regulations 2010 in respect of protected species.

**Other matters:**

The site lies within the Coal Authority Referral Area and accordingly a Coal Mining Risk Assessment accompanied the application submission which identifies that the site is located within an area where unrecorded underground coal mining activity may have taken place at shallow depth. It recommends that further investigation works be undertaken to confirm coal mining conditions and to enable the design of any necessary mitigation measures prior to development commencing on site. The Coal Authority has been consulted on the application and concurs with the recommendations of the Coal Mining Risk Assessment and considers that the applicant has sufficiently demonstrated that the application site is or can be made safe and stable for the proposed development. for the purposes of the NPPF. Subject to the imposition of conditions, the proposed development is considered acceptable in terms of coal mining risk.

Neighbour comments have been raised about the need for the dwellings and the impact of the proposal on property values and loss of views but these are not planning matters that can be taken into account in the determination of the application. It has been suggested that single storey development would be more appropriate in this location but for the reasons set out above, the current proposal is considered acceptable.

**Conclusion:**

The site that is subject to this application is located outside the Limits to Development in the adopted Local Plan and its development for housing would be contrary to Policy S3 and H4/1 of the Local Plan. However, it is evident that the Council cannot identify sufficient deliverable sites to provide the Framework requirement of 5 years worth of housing against the housing requirement. Furthermore, Spring Cottage in conjunction with the nearby settlement of Overseal have some local services and facilities which would help to ensure that occupiers are not heavily reliant on the use of the private car to access such services and facilities. It is also recognised that the housing development would be relatively well related to the existing settlement of Spring Cottage and would not result in isolated housing in the countryside. Overall, taking all of these matters into account it is considered that the principle of this development is acceptable.

The proposed development would be acceptable in terms of the residential amenities of existing and future occupiers, and would provide for an appropriate form of development that would be in keeping with the locality. The proposal would be acceptable in relation to highway safety subject to appropriate planning conditions. The scheme would not result in significant impacts upon protected species or trees and subject to a developer contribution 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. The scheme provides for an appropriate range of other developer contributions along with the inclusion of four affordable houses. There are no other relevant material planning considerations that indicate planning permission should not be granted.

The District Council's decision to grant planning permission arose following careful consideration of the development plan and all other relevant considerations. Therefore, it is recommended that full planning permission be granted, subject to Section 106 obligations and relevant planning conditions.

**RECOMMENDATION - PERMIT, subject to a S106 Agreement and subject to the following conditions:**

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

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

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

- Drawing number SCR.LAY.004 Rev D (Proposed Layout for 15 dwellings) deposited with the Local Planning Authority on 27 September 2013;
- Drawing number SCR.PRP.005 Rev A (Proposed Plans Plots 1 to 4) deposited with the Local Planning Authority on 27 September 2013;
- Drawing number SCR.PRE.006 Rev A (Proposed Elevations Plots 1 to 4) deposited with the Local Planning Authority on 27 September 2013;
- Drawing number SCR.PRP.009 Rev A (Proposed Plans and Elevations Plot 8) deposited with the Local Planning Authority on 27 September 2013;
- Drawing number SCR.SEC.24 Rev A (Proposed Site Sections and Elevations) deposited with the Local Planning Authority on 27 September 2013;
- Drawing number SCR.PRP.010 Rev B (Proposed Plans Plot 9) deposited with the Local Planning Authority on 27 September 2013;
- Drawing number SCR.PRG.025 Rev A (Proposed Garage Plot 5) deposited with the Local Planning Authority on 27 September 2013;
- Drawing number SCR.PRG.026 Rev A (Proposed Garages Plot 9, 10, 13 and 14) deposited with the Local Planning Authority on 27 September 2013;
- Drawing number SCR.GAR.29 (Garage for Existing Plot) deposited with the Local Planning Authority on 27 September 2013;
- Drawing number SCR.PRE.031 (Proposed Elevations Plot 13) deposited with the Local Planning Authority on 27 September 2013;
  
- Site Location Plan (Scale 1:2500) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.PRE.011 (Proposed Elevations Plot 9) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.PRP.012 Rev A (Proposed Plans Plots 10 and 11) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.PRE.013 (Proposed Elevations Plots 10 and 11) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.EXE.020 (Existing Elevations Ticket Office) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.EXP.019 (Existing Plans Ticket Office) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.PRP.021 (Proposed Plans Ticket Office) deposited with the

Local Planning Authority on 21 August 2013;

- Drawing number SCR.PRE.22 (Proposed Elevations Ticket Office) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.PRG.023 (Proposed Garages for Plots 11 and 12) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.PRG.027 (Proposed Garages for Plots 13 and 14) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.PRP.007 (Proposed Plans Plots 5 to 7) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.PRE.008 (Proposed Elevations Plots 5 to 7) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.PRP.015 (Proposed Plans Plot 12) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.PRE.016 (Proposed Elevations Plot 12) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.PRP.017 (Proposed Plans Plot 14) deposited with the Local Planning Authority on 21 August 2013;
- Drawing number SCR.PRE.018 (Proposed Elevations Plot 14) deposited with the Local Planning Authority on 21 August 2013.

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

- 3 Notwithstanding the details shown on the submitted plans, no development shall commence until details of boundary treatments and landscaping for the site (including hard and soft landscaping together with details of the demarcation/ numbering of parking bays, access gates and the bin store enclosures) have been submitted to and approved in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the bringing into use of the development hereby approved and the approved hard landscaping scheme and boundary treatments shall be implemented before to the development hereby permitted is brought into use, unless alternative implementation programmes are first agreed in writing by the Local Planning Authority.

*Reason - To ensure satisfactory landscaping and boundary treatments are provided within a reasonable period.*

- 4 Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

*Reason - To provide a reasonable period for the replacement of any trees.*

- 5 Notwithstanding the submitted plans, no works shall commence until detailed drawings (including cross-sections) of window/door units (including heads and cills), roof lights and garage doors have been submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

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

PLANNING APPLICATIONS- SECTION A

- 6 Notwithstanding the details shown on the submitted plans, no development shall commence until representative samples of the external materials to be used in existing and proposed buildings (and including all means of hard surfacing/enclosures), and details of the external finishes to the window/door units have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. Brick bonds shall be in accordance with the details provided on approved drawing SCR.LAY.004 RevD.

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

- 7 Notwithstanding the provisions of Class A Part 1 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) the dwelling hereby permitted on Plot 1 shall not be enlarged, improved or altered, unless planning permission has first been granted by the Local Planning Authority.

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

- 8 Notwithstanding the details shown on the submitted plans, no development shall commence until detailed drawings of the chimney stacks and eaves/verge to a scale of 1:1/1:2/1:5/1:10 have been first submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

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

- 9 No development shall commence until the positioning and treatment of utility boxes and details of rainwater goods have been submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

*Reason - In the interests of neighbouring amenities and the visual amenities of the locality.*

- 10 Operations that involve the removal of vegetation or buildings shall not be undertaken during the months of March to September inclusive, except when approved in writing by the Local Planning Authority, once they are satisfied that bats and breeding birds will not be adversely affected.

*Reason - Due to the potential for bats and breeding birds, it is imperative that any vegetation removal is undertaken outside the breeding bird season.*

- 11 No development shall commence on any works which may affect bats and or their habitat, until a detailed mitigation and monitoring strategy has been submitted to and agreed in writing by the Local Planning Authority. All works shall be carried out in accordance with the approved strategy, unless otherwise agreed in writing by the Local Planning Authority.

*Reason - To ensure that protected species are not adversely affected by the proposals.*

- 12 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:

- BS10175:2011+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.*

- 13 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

PLANNING APPLICATIONS- SECTION A

- 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.*

- 14 No development shall commence on site until a detailed scheme of noise insulation for the dwellings hereby permitted has been submitted to and agreed in writing by the Local Planning Authority. The dwellings shall not be occupied until the agreed scheme has been implemented.

*Reason - To preserve the residential amenities of the future occupiers from the potential effects of noise from road traffic and the nearby railway line.*

- 15 No development shall commence on site until the further research and site investigation works as outlined in the submitted Coal Mining Risk Assessment by Wardell Armstrong (dated 22 August 2013) has been carried out. In the event that the site investigations confirm the need for remedial works to treat any shallow mine workings and/or any other mitigation measures to ensure the safety and stability of the proposed development and/or special foundations, no development shall commence on site until these works have been carried out in full.

*Reason - To ensure the stability of the development, having regard to the comments of the Coal Authority and good engineering practice.*

- 16 No development shall commence on site until such time as a scheme for a new footway and new crossing facilities between footways on the development site side and the south-east side (including any lighting and surfacing) have been submitted to and agreed in writing with the Local Planning Authority. No dwelling shall be occupied until such time as the agreed scheme has been provided in full.

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

- 17 Prior to the first occupation of any dwelling hereby approved, visibility splays of 2.4 metres by 43 metres shall be provided at the junction of the main access with Spring Cottage 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.*

- 18 Prior to the first occupation of any dwelling hereby approved, a visibility splay of 2.4 metres by 43 metres to the south-west shall be provided at the junction of the existing northern access with Spring Cottage Road. These shall be in accordance with the guidance contained in the current County Council design guide and shall be so maintained in perpetuity. 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 an existing access/junction in the interests of general*

*highway safety.*

- 19 The proposed main access shall be a minimum of 4.8 metres wide for at least the first 5 metres behind the highway boundary; the access drive shall be provided before any dwelling hereby permitted is first occupied and shall thereafter be permanently so maintained.

NOTE: If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.

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

- 20 The car parking and turning facilities shown on drawing No. SCR.LAY.004 Rev. D shall be provided before any dwelling is occupied and shall thereafter permanently remain available for car parking and turning.

*Reason - To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.*

- 21 Before first occupation of any dwelling, its access drive and any turning space shall be surfaced with a hardbound material (as agreed with respect to condition 6) for a distance of at least 5 metres behind the highway boundary and shall thereafter be so maintained at all times.

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

- 22 Before first occupation of any dwelling, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained.

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

- 23 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected to the main access they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as to open inwards only.

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

- 24 The gradients of the access drives shall not exceed 1:12 for the first 5 metres behind the highway boundary.

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

- 25 Apart from the main access to the site, there shall be no form of access of any type



directly onto Spring Cottage Road.

*Reason - To reduce the possibilities of the proposed development leading to on-street parking problems in the area.*

- 26 No development shall commence until details of the means of surface water discharge from the new roofs and new hardsurfacing to soakaway, or another alternative sustainable drainage system so that the surface water does not enter the mains sewer system, have been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented before the external materials to the roof are installed or hardsurfacing is provided on the site, and once implemented shall thereafter be so retained.

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

- 27 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.*

- 28 The development shall be carried out in accordance with the Mitigation Proposals set out in Section 5 of the Bat Activity Survey (dated August 2013 ) by EMEC Ecology, unless an alternative mitigation strategy is first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To ensure that protected species are not adversely affected by the proposals.*

#### **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 With respect to condition 3, the applicant's attention is drawn to the attached report of the National Forest Company dated 10 September 2013, especially the suggestions concerning landscaping and boundary treatments for the site.
- 3 The applicant's attention is drawn to the attached report of the County Footpaths Officer dated 29 August 2013.
- 4 With respect to condition 11, the County Ecologist has advised that in order to discharge this condition, the applicant is advised that evidence in the form of either a written statement from and ecologist or clear photographic record of the roost replacement in situ and close up, must be provided.
- 5 Your attention is drawn to the following comments of the County Highways Authority:
  - 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

## PLANNING APPLICATIONS- SECTION A

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.

- This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, you are advised to visit the County Council website as follows: -

For 'major' accesses - see Part 6 of the "6Cs Design Guide" (Htd) at [www.leics.gov.uk/Htd](http://www.leics.gov.uk/Htd).

For other minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.

- A public footpath is adjacent to the site and this must not be obstructed or diverted without obtaining separate consent from Leicestershire County Council.

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

- You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences.

- The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.

6 This decision is subject to a Section 106 Obligation regarding the following matters:

- Contribution towards library facilities;
- Contribution towards education facilities;
- Provision of four on-site affordable houses;
- Contribution towards off-site tree planting;
- Contribution towards off-site play area provision;
- Contribution towards the costs of improving the quality of the water in the River Mease.

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

Report Item No  
A7

Land South Of Grange Road Grange Road Hugglescote  
Leicestershire

Application Reference  
12/00922/OUTM

Applicant:  
Mr Andrew Tildesley

Date Registered  
9 November 2012

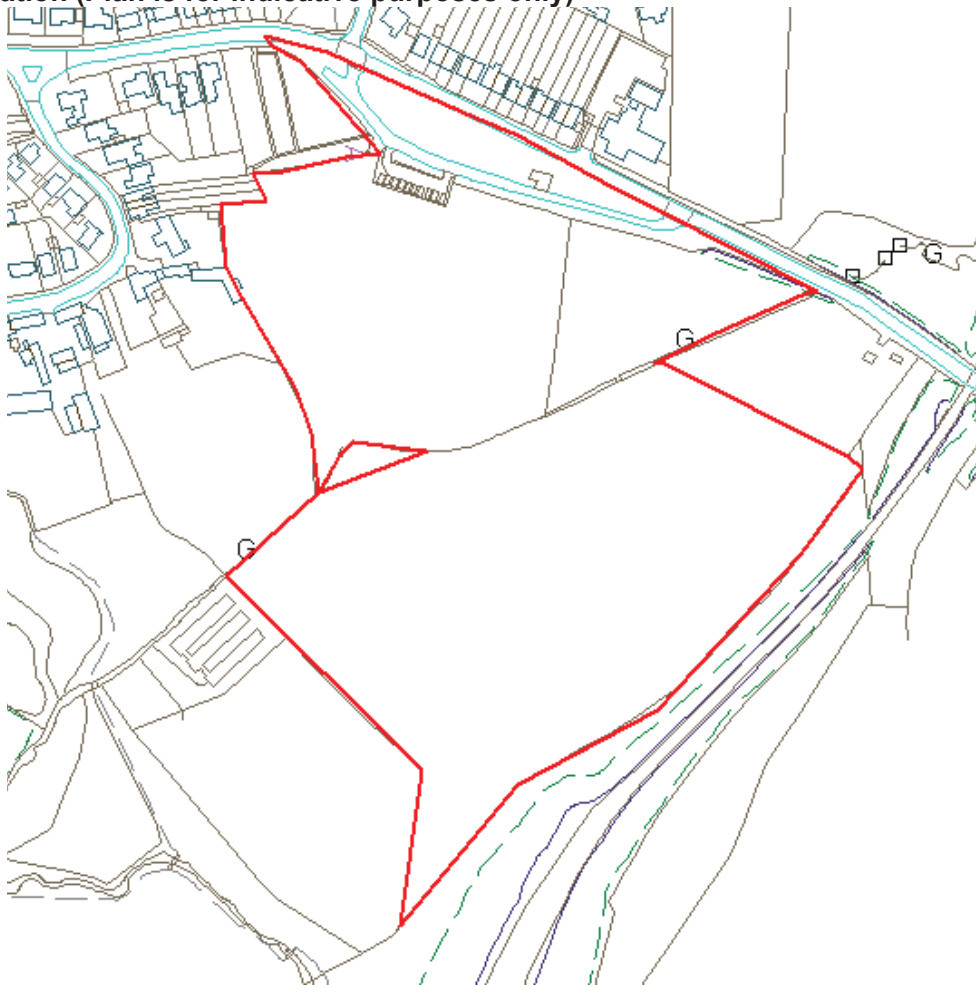
Case Officer:  
James Knightley

Target Decision Date  
8 February 2013

Recommendation:  
PERMIT Subject to a Section 106 Agreement

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Site Location (Plan is for indicative purposes only)



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Planning Committee 12 November 2013  
Development Control Report

## **Executive Summary of Proposals and Recommendation**

### **Proposal**

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

### **Consultations**

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

### **Planning Policy**

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

### **Conclusion**

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

### **RECOMMENDATION:-**

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

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

## MAIN REPORT

### 1. Proposals and Background

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

Consideration of the application was resolved to be deferred at the Planning Committee of 3 September 2013 to allow for the receipt of further information. This further information related to the then impending release of potential options for the improvement of Hugglescote Crossroads by Leicestershire County Council arising from a Freedom of Information request made to the County Council. This information was released by Leicestershire County Council on 6 September 2013, and relates to draft options for potential improvement schemes at the Hugglescote Crossroads.

All matters are reserved except for part access; whilst all other matters are reserved for subsequent approval, an illustrative masterplan has been submitted showing the proposed dwellings (provided in two main areas of the site), together with areas of public open space / children's play, proposed and retained tree planting / landscaping and surface water attenuation facilities. The application as originally submitted included the means of vehicular access (from Grange Road) for consideration at the outline stage. At the time that the application was previously considered by the Planning Committee, the proposed vehicular access was, following amendment of the application, also reserved. However, the applicants have subsequently amended the application further such that this matter is now once again included for consideration at the outline stage (albeit including a different proposed vehicular access arrangement to that previously applied for).

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

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

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

### 2. Publicity

44 no. Neighbours have been notified (Date of last notification 17 September 2013)

Site Notice displayed 21 November 2013

Press Notice published 28 November 2012

### 3. Consultations

Hugglescote & Donington Le Heath consulted 21 November 2012

LCC ecology consulted 5 February 2013  
 County Highway Authority consulted 21 November 2012  
 Environment Agency consulted 21 November 2012  
 Severn Trent Water Limited consulted 21 November 2012  
 Head of Environmental Protection consulted 21 November 2012  
 Natural England consulted 21 November 2012  
 NWLDC Tree Officer consulted 21 November 2012  
 County Archaeologist consulted 21 November 2012  
 NWLDC Urban Designer consulted 21 November 2012  
 LCC Development Contributions consulted 21 November 2012  
 NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 21 November 2012  
 Development Plans consulted 21 November 2012  
 Head Of Leisure And Culture consulted 21 November 2012  
 Manager Of Housing North West Leicestershire District Council consulted 21 November 2012  
 Police Architectural Liaison Officer consulted 21 November 2012  
 LCC/Footpaths consulted 21 November 2012  
 Highways Agency- Article 15 development consulted 21 November 2012  
 Network Rail consulted 21 November 2012  
 National Forest Company consulted 21 November 2012  
 DEFRA consulted 21 November 2012  
 FRCA (MAFF)- loss of agricultural land consulted 21 November 2012  
 Ramblers' Association consulted 21 November 2012  
 LCC Fire and Rescue consulted 21 November 2012  
 Head Of Street Management North West Leicestershire District consulted 21 November 2012  
 Office Of Rail Regulation consulted 11 January 2013

#### 4. Summary of Representations Received

**Environment Agency** has no objections subject to conditions (subject to the Local Planning Authority being satisfied in respect of the sequential test)

**Highways Agency** has no objections

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

- Flood risk
  - Proposed dwellings shown on top of an alleged culvert
  - Children's play area shown in an area liable to flooding
  - Additional congestion at Hugglescote Crossroads
  - Air pollution
  - Insufficient capacity at Hugglescote Primary School
  - Should provide for a green corridor between the current urban areas and the old mineral line, providing a green lung
  - Sign vehicular access and car parking for the closed cemetery should be maintained
  - The lay-by should be the route to and from the development
  - Amended site access unsafe / too narrow
  - Traffic calming / speed cameras required at proposed site access
  - Existing cemetery access, parking and turning should be retained
- In addition, the Parish Council comments as follows:
- A sum of £1,400 per dwelling towards youth and adult play facilities is requested unless they can be provided on site - the Parish is woefully short of formal recreation space and the proposed development would exacerbate the situation
  - Development has a significant impact on the need to make substantial changes to the

Hugglescote Crossroads including the subsequent loss of the Community Centre and a contribution of £1,000 per dwelling should be paid to the Parish Council to contribute towards the purchase of the property and the building of a new Parish owned community facility - the building is currently owned by the Church and any CPO monies would not be available to provide a new facility

- Requests confirmation of commuted sums for future maintenance of public open space on the development

**Leicestershire County Council Local Education Authority** requests developer contributions of £304,895.05 in respect of additional provision in the primary school sector

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

**Leicestershire County Council Highway Transportation & Waste Management Authority** requests a developer contribution of £7,462 in order to mitigate the impact on civic amenity waste facilities in the local area.

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

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

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

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

**Leicestershire Police** objects unless a developer contribution of £35,844 in respect of policing is provided

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

**Natural England** refers the Local Planning Authority to its standing advice in respect of protected species

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

**NHS England (Leicestershire and Lincolnshire Area)** requests a healthcare contribution of £8,703.55

**North West Leicestershire District Council Environmental Health** has no objections subject to conditions in respect of contaminated land.

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

#### **Third Party Representations**

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

- Site liable to flooding
- Site liable to subsidence

- Agricultural / greenfield sites should not be developed when previously-developed sites are available
- Insufficient infrastructure (including schools, healthcare, and highway network capacity)
- More dwellings proposed than allowed for in the Strategic Housing Land Availability Proforma
- Site should be a natural corridor for wildlife and recreation
- Site not originally part of the Bardon Grange development in the Core Strategy
- Unsafe access
- Speeding traffic on Grange Road
- Unsafe proposed pedestrian crossing
- Loss of countryside
- Impact on visual amenity
- Reduction in separation between Hugglescote and Ellistown
- Bardon bypass required to alleviate congestion at Hugglescote Crossroads and on Grange Road
- Access to site should be via existing lay-by
- Mini-roundabouts should be provided
- Hedge to site frontage should be maintained
- Additional pedestrian crossing should be provided
- Construction traffic should avoid passing by existing dwellings and the Grange Road Surgery

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

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

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

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

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

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

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:



- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted."

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

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

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

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

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

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

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

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

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

"100 Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it

safe without increasing flood risk elsewhere."

"101 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding."

[Further advice on flooding is contained within the DCLG's Technical Guidance to the National Planning Policy Framework.]

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

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

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

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

"121 Planning policies and decisions should also ensure that:

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

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

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

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

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

- necessary to make the development acceptable in planning terms;

- directly related to the development; and
- fairly and reasonably related in scale and kind to the development."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Other Policies**

#### **North West Leicestershire District Council Affordable Housing SPD**

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

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

#### **North West Leicestershire District Council Play Area Design Guidance SPG**

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

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

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

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

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

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

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

A Development Brief for the South East Coalville Strategic Development Area has been

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

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

### **Submission Core Strategy (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**

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

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

Notwithstanding the countryside location, and whilst the proposals would be contrary to the adopted Development Plan, in determining the application, regard must be had to other material considerations, including other policies, such as other Development Plan policies and National policies.

In terms of the North West Leicestershire Local Plan, Policy H4/1 identifies that, in releasing appropriate land for housing, the Council will have regard to:

- up-to-date housing land availability figures;
  - the latest urban capacity information;
  - the need to maintain an appropriate supply of available housing land;
  - lead times before houses will be expected to be completed and build rates thereafter;
- and
- other material considerations.

Whether or not this site would be considered "appropriate" is a matter of judgement; having regard to its location outside Limits to Development, it could be argued that it would not be. This policy nevertheless sets out criteria relevant to release of land. Insofar as the site's location is concerned, and whilst it is outside Limits to Development, it is well related to the existing built up area of the settlement.

In terms of 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. Furthermore in respect of Policy H4/1, this would represent a policy relating to the supply of housing and, as such, its relevance also needs to be considered in the context of Paragraph 49 of the NPPF (considered in more detail under Housing Land Supply below).

*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 and include an additional buffer of 5% or 20% depending on previous performance in terms of delivery of housing. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, found that the "Sedgefield" approach should be used (an approach to assessing land availability also suggested as appropriate within the draft National Planning Practice Guidance) and that a buffer of 20% should be allowed for. On this basis, the District Council's most recent calculations indicate that the Council is only able to demonstrate a supply of 4.33 years which represents a significant shortfall vis-à-vis the requirements of the NPPF.

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". Policy S3 of the adopted Local Plan (Limits to Development) is not considered to be a relevant policy for the supply of housing (see the recent judgment in respect of the application to quash the Secretary of State's decision to dismiss the Stephenson Green appeal), notwithstanding that a contrary view has been taken elsewhere (and including by the Secretary of State on appeal), and accordingly the policy should not be considered to be out of date. Nevertheless, as the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements up until the end of the Plan Period (i.e. to 2006) less weight should be attributed to any conflict with Policy S3 in the overall planning balance.

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

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

At the time that the then Pre-Submission Core Strategy was considered by the District Council in April 2012, the report considered by members included a proposed Study Area which was anticipated to form the basis of a defined extent of the proposed South East Coalville Broad Location. The application site falls within the identified Study Area. Whilst the site falls within the Study Area, the applicants are not currently part of the developer consortium which is intending to bring forward the wider South East Coalville development. Nevertheless, the application site

has been included within the consortium's emerging masterplan documents (including the South East Coalville Development Brief referred to above), and the general location of proposed development within this part of the Study Area as indicated by the consortium generally accords with that shown on the illustrative masterplan forming part of the application documents, as does the proposed use (i.e. residential). Insofar as the comprehensive development of South East Coalville is concerned, it would be considered preferable for the developers of the application site to be part of the consortium. Having said that, however, it is noted that, by virtue of the former railway (now used as an informal recreational route), the site (which is on the edge of the Study Area) is separated from other development areas (physically, visually and in terms of the logical means of vehicular access) within the Study Area. In view of this, it is considered that the bringing forward of this site in isolation from the remainder of the Study Area would not, in this case, lead to any material harm in terms of the proper planning of the area, nor would it prejudice the comprehensive development and proper planning of the South East Coalville area as a whole, and would therefore, in this regard, satisfy adopted Local Plan Policy E6. This position would appear to be supported by the overall form of development currently being proposed by the wider consortium. The site is also adjacent to a smaller parcel of "scrub" / woodland (understood to have formerly been used as a nurseries) to the north eastern corner of the site (adjacent to the former railway bridge) which also lies within the Study Area. On the basis of the illustrative masterplan, there would appear to be no reason why the proposed development would necessarily preclude development of this site if this were to be proposed in the future; the County Highway Authority also advises that, in capacity terms, the proposed access onto Grange Road would be likely to be more than sufficient to accommodate the number of dwellings likely to be achievable on a site of this size. Again, therefore, no prejudice of the development of adjacent land would appear likely.

#### *Loss of Agricultural Land*

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. Part of the site is currently in active agricultural use and, insofar as the proposed built development is concerned, this would result in an irreversible loss to non-agricultural use.

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

However, also of relevance to this issue is the limited size of the site (and, hence, the limited impact on loss of agricultural land). Whilst the NPPF does not suggest that release of smaller BMV sites is acceptable, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process. Also relevant is the extent to which change of use of the BMV land is irreversible. Whilst the submitted masterplan is illustrative only, it is noted that it indicates that a significant proportion would be given over to National Forest planting and public open space which, it is considered, would not necessarily preclude its future re-establishment in active agricultural use if circumstances so dictated.

Overall in terms of agricultural land quality, therefore, the evidence available indicates that the land would not constitute BMV but, even if some or all of it were, given the limited extent of land lost, it is not considered that this would be a significant loss. However, this would need to be weighed against other material considerations and, whilst some (albeit limited) adverse impacts

in this regard cannot be ruled out, these concerns would not be so significant as to outweigh the considerations in favour of the scheme. When considered in the context of the five year housing land supply issue, and the benefits of releasing the site to assist in maintaining such supply, it is considered that the agricultural land quality issue would not be sufficient to suggest that planning permission should be refused. DEFRA has been consulted on this issue, but no response has been received.

*Conclusions in respect of the Principle of Development and Planning Policy*

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

The site is outside Limits to Development in the adopted Local Plan and its development for housing would therefore be contrary to Local Plan Policy S3, a policy designed to protect the countryside for its own sake.

However, the site's general suitability for housing (including its proximity to the built up area of Coalville) is also material, together with the need for the District to release significant areas of land for housing to ensure the provision and 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). An important consideration is that the Council must demonstrate and maintain a five year supply of housing land (with a 20% buffer) as required by the NPPF, which is considered to be a material consideration of some significance.

Having regard to all of the above it is considered overall that the proposed development of the site is acceptable in principle.

**Detailed Issues**

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

**Means of Access and Transportation**

As set out above, all matters are reserved for subsequent approval except for access (insofar as vehicular access into and out of the site is concerned). The point of access proposed shows vehicular access via a new ghost island priority junction to Grange Road, with the access road passing through the existing grassed area of highway land separating the carriageway from the existing lay-by; the County Highway Authority confirms that this access has been subject to a Stage 1 Road Safety Audit. Under the proposed details, the existing lay-by would become a pedestrian route and new pedestrian crossings to Grange Road provided. The illustrative layout also shows other potential pedestrian links into and through the site; these would also be a matter for the reserved matters stage(s) (although their impact on the overall potential accessibility of the site still ought to be considered in those terms).

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

Insofar as the affected junctions on the wider highway network (and the associated junction



capacity assessments contained within the applicants' submissions) are concerned, the County Highway Authority comments as follows:

*Dennis Street / Grange Road priority junction:*

*The submitted PICADY assessment is agreed. It is agreed that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2017 "with development" scenario.*

*Hugglescote Crossroads:*

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

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

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

The need for improvements at the Hugglescote Crossroads is recognised in the South East Coalville Development Brief. This junction already experiences congestion and delays, and it is predicted that the growth will exacerbate these issues; this affects access to the town centre and local facilities (such as the Primary School) for all road users, including cyclists and pedestrians, and will impact on the quality of life for local residents (e.g. noise, visual intrusion and pollution impacts). There is, therefore, a clear link between growth in the town and the need to undertake improvements to the junction. However, the exact nature of such improvements and any associated costs are unknown; further assessment of this issue in the light of the recent release of potential options for works at the crossroads by Leicestershire County Council in response to a Freedom of Information request is set out below,

*Birch Tree roundabout:*

*The submitted ARCADY assessment is agreed. It is agreed that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2017 "with development" scenario.*

*Site access junction:*

*The submitted PICADY assessment is agreed. It is agreed that the junction would operate well within capacity in the 2017 "with development" scenario. [NB The revised access arrangements have been designed so as to have regard to the proposed development on land to the north of Wainwright Road (including that subject of a current full application for 75 dwellings, ref. 13/00802/FULM); the amended access design increases the separation between the proposed site access and the existing Wainwright Road junction, thus avoiding potential conflict between the two junctions, were the use of the Wainwright Road junction to increase as a result of development on the site to the north of Wainwright Road.]*

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

- A Construction Traffic Routeing Agreement to be submitted to and approved in writing by

Leicestershire County Council

- One Travel Pack per dwelling to inform new residents from first occupation what sustainable travel choices are available in the surrounding area (which can be provided through Leicestershire County Council at a cost of £50.18 per pack/dwelling if required)
- Two six-month bus passes per dwelling to encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour from first occupation (which can be provided through Leicestershire County Council at a cost of £325.00 per pass if required)
- Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development to ensure effective implementation and monitoring of the site wide Travel Plan submitted in support of the planning application;
- A contribution of £6,000 towards iTrace monitoring (transportation monitoring software)
- A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council (i.e. in accordance with the District Council's contribution strategy - addressed in more detail below)

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

Whilst Hugglescote and Donington le Heath Parish Council has raised concerns regarding the suitability of the proposed site access, the applicants confirm that it has been designed in accordance with relevant National and local design guidance (including the Design Manual for Roads and Bridges and the 6Cs Design Guide), and has been subject to a Road Safety Audit. They also advise that the visibility splays proposed are appropriate to traffic speeds along Grange Road, following the undertaking of a speed survey by the applicants' transportation consultants.

Insofar as access to the adjacent cemetery is concerned, the applicants confirm that the existing lay-by on Grange Road is shown to be removed, at the request of the Local Highway Authority, and that pedestrian access to the cemetery would remain.

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

The report to Cabinet of 15 January 2013 included an indicative list of potential transportation infrastructure measures to which the financial contributions made would be expected to

contribute; based on the figures available at that time, the calculations provided to Cabinet suggested a potential contribution of between £4,419 and £4,884 per dwelling. As of the current position, discussions are ongoing with the County Highway Authority and Highways Agency to establish an appropriate mechanism for securing contributions but, as matters stand, having regard to Local Highway Authority and Local Planning Authority officers' assessment of factors such as infrastructure scheme priority in terms of the importance on the wider highway network, estimated date of site delivery, and proximity of the respective potential developments to the relevant junctions / infrastructure schemes, the intention is that this site would be likely to need to contribute towards improvements at the Hugglescote Crossroads, and an appropriate contribution of £500,000 has been calculated. It is also noted that objection has been raised in terms of the impacts on air quality at the Hugglescote Crossroads. Whilst the District Council's Environmental Protection team have been monitoring air quality in this location for some time, air quality levels are not such that designation as an AQMA is currently proposed; no objections are raised by the Environmental Protection team on air quality grounds.

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

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

The intention of the District Council's contributions strategy is that the costs of undertaking improvements to the local and strategic highway networks necessary to accommodate anticipated growth are met by developers in an appropriate and equitable way. The contribution proposed in respect of this application is considered to be commensurate to its anticipated impact and the contribution will be used in line with the approved developer contribution strategy.

As set out under Proposals and Background above, Leicestershire County Council has recently released draft options for works to improve the Hugglescote Crossroads; at this time, no consultation on these (or, potentially, other) options has been undertaken by the County Council.

There are four draft options available at this time, all of which would appear to affect the existing Hugglescote Community Centre on the south eastern corner of the junction to a greater or lesser degree, and it is noted that Hugglescote and Donington le Heath Parish Council has requested a contribution of £1,000 per dwelling be made to the Parish Council to go towards the purchase of the existing Community Centre and the building of a new Parish Council owned

facility. As a final design for the improvement of Hugglescote Crossroads has yet to be decided upon, however, a specific contribution of this nature would not meet the statutory tests for planning obligations set out in the CIL Regulations. Obviously, the County Council should be encouraged to consider design options that retain the existing Community Centre if at all possible. If demolition of the Centre could not be avoided, however, the loss would need to be mitigated by the funding from the Developer Contribution Scheme of suitable replacement community facilities.

In terms of the accessibility of the site generally, this is considered in more detail above under Principle of Development. Whilst not part of the access proposals submitted at this outline stage, the illustrative masterplan indicates that non vehicular links to adjacent land would be anticipated at the reserved matters stage. The route of public Right of Way N84 passes through the northern part of the site (connecting Grange Road with Dennis Street), and the site abuts Right of Way N50 to the south east, which also connects the site with Dennis Street (Right of Way N79), along with the Millfield Recreation Ground and land to the south of Grange Road (via the former railway). Potential linkages are also shown to the south east of the site, again connecting to the former railway, currently used as an informal recreational route. Whilst all means of access other than the principal vehicular point of access into the site are reserved (and any other accesses would therefore need to be subject to a reserved matters application(s)), it is considered that the information submitted indicates that, in principle, a suitable range of non-vehicular connections could be provided between the site and adjacent land. However, it would need to be demonstrated at the relevant reserved matters stage that the scheme proposed provided an appropriate level of accessibility / permeability for pedestrians. In terms of Right of Way N84, Leicestershire County Council's Rights of Way Officer notes that the route of the right of way as shown on the illustrative masterplan does not follow the definitive map route (it appears to follow the currently walked route, the definitive map route not currently being passable), and advises that the applicants would need to apply for a diversion order, and should provide suitable surfacing of the route. Whilst the illustrative masterplan would not appear to preclude use of either the definitive or walked route, any matters relating to how the right of way were incorporated into the development would be more appropriately considered at the reserved matters stage(s); were a formal diversion necessary to accommodate the development subsequently proposed, this would need to be pursued under the appropriate legislation at that time if required.

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

### **Landscape and Visual Impact**

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

The Landscape and Visual Assessment considers the site's context in relation to surrounding development / landscape, and considers the impact upon a total of 16 viewpoints, both within and outside of the application site; longer distance views are, however, not considered likely given the surrounding topography and vegetation which serve to limit the visibility of the site from further afield. Overall, the Landscape and Visual Assessment concludes that development in accordance with the Illustrative masterplan would allow a sympathetic urban extension to be created that, subject to appropriate detailed design, would not appear discordant with the

character of the area, nor result in any material impact on the quality of the surrounding landscape. In view of the context of the site, it is accepted that these conclusions are reasonable.

In terms of retained / proposed planting, the site is in the National Forest, and the scheme's performance vis-à-vis the relevant National Forest standards is set out under the relevant section below. In terms of the extent of landscaping and other open space cover proposed in respect of the development, it is noted that the illustrative masterplan indicates that substantial areas of existing vegetation would be retained throughout the site and, in particular, to the central area of the site. Also proposed are other areas of landscaping within the site, with the total quantum of public open space / landscaping constituting approximately 55% of the total site area as indicated on the illustrative masterplan (or approximately 50% when excluding the retained highway verge forming part of the site). It is considered that the scheme as indicated on the illustrative masterplan represents a suitable balance between built development and landscaping, and the development of the site in the manner indicated on the illustrative masterplan (i.e. two principal parcels of development either side of a central open space based around the watercourse) would serve to provide for a suitable form of development which, whilst lying adjacent to the existing built up area of the town, is outside Limits to Development as defined in the adopted Local Plan, and would in a sense form a "semi-rural" gateway to the settlement of Hugglescote.

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

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

### **Flood Risk and Drainage**

A Flood Risk Assessment (FRA) and a Foul Water Drainage Strategy have been submitted in support of the application. The Environment Agency flood zone maps indicate that the majority of the site lies within Flood Zone 1, although parts of the central part of the site (i.e. adjacent to the existing watercourse) fall within Zones 2 and 3. However, it is not proposed to erect any dwellings within these higher risk areas, and the dwellings (which would be located in Zone 1 only) are proposed to have their finished floor levels 0.6m above the 1% with climate change flood level. Whilst the proposed dwellings would be located outside of Zones 2 and 3, the Environment Agency advises that the sequential test would nevertheless still need to be applied as the application site includes such areas. In this instance it is considered that the sequential

test would be satisfied given the limitation of proposed dwellings' siting to areas within Zone 1. Whilst the site includes land falling outside of Zone 1, it is considered reasonable to accept that this in itself should not prevent the sequential test being passed, particularly when having regard to the availability of alternative sites, and the need to release land for housing as set out above. It is noted that areas of public open space / children's play could be subject to flooding during extreme events. However, the approach to location of appropriate uses as set out in the NPPF does not preclude such uses, and it is accepted that no significant harm would be likely to result from the inaccessibility of these areas for a limited period during such extreme events, given the relatively low frequency of such events. The Environment Agency raises no objection to the application subject to the Local Planning Authority determining that the sequential test is passed. Insofar as the proposed access road crossing the watercourse is concerned, the FRA confirms that it will be designed so as to ensure that the performance of the floodplain remains unaffected; this is reflected in the conditions recommended to be attached by the Environment Agency. The FRA also confirms that, as the existing floodplain would be unaffected by the development, no compensatory storage would be required (in as far as the floodplain is concerned).

In terms of on-site surface water drainage, the application documents indicate that the development would direct surface water into the existing watercourse. In order to attenuate any increased rates of discharge into the watercourse, it is proposed to incorporate two storage ponds (i.e. one either side of the watercourse) so as to accommodate the 1 in 100 year plus 30% storm event.

Insofar as foul drainage is concerned, it is proposed to connect to existing combined sewers which cross the site. Given the topography of the site, it is proposed to discharge foul water by gravity to two new pumping stations (one either side of the watercourse) from which the foul sewerage would be conveyed into the public combined sewers. The Environment Agency and Severn Trent Water have no objections to this element of the proposals.

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

### **Design**

The application is supported by a Design and Access Statement (and including a Building for Life assessment) setting out the applicants' proposals, and explaining the approach taken in terms of design. Having reviewed the proposals and the Design and Access Statement, the District Council's Urban Designer considers that, when assessed against Building for Life 12, subject to the indicative pedestrian links being retained, the application would secure "Greens" in 3 of the 12 criteria, with the remaining 9 being "Amber" but with potential to raise to Green. He comments that, due to the outline nature of the application, it is not possible to determine conclusively the design quality of the scheme in many respects and, therefore, the "Amber" indicators should not be seen as a reason for concern at this stage. At any future reserved matters stage, however, the District Council's Urban Designer considers that careful consideration should be afforded to how the northern part of the development can robustly reflect the positive architectural characteristics of the settlement and how the southern half can reflect the ideas being developed for the south village area of the proposed wider South East Coalville development.

The development is therefore considered acceptable in this regard, and the District Council's Urban Designer raises no objections subject to the attachment of the note to applicant as set out in the recommendation below.

### **Residential Amenity**

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

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

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

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

### **Ecology**

The application is supported by an Ecological Appraisal of the site. This provides that the closest statutorily designated sites of nature conservation of importance to the application site are approximately 2km from the site (being the Bardon Hill Quarry and Bardon Hill Sites of Special Scientific Interest (SSSIs)); no adverse impacts are anticipated in terms of these sites. In terms of non-statutory designation, none are located within 1km of the application site, although the site itself includes a potential Local Wildlife Site, and a number of other potential Local Wildlife Sites are within close proximity. In terms of the potential Local Wildlife Site within the application site itself, it is proposed that this be retained within the proposals (i.e. as part of the public open space), and suitably buffered and protected in order to minimise potential effects during and after construction. In terms of the other potential Local Wildlife Sites located in close proximity to the site boundary, again the Appraisal recommends that appropriate protection during construction would be required in order to minimise disturbance effects.

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

Insofar as protected species are concerned, the Appraisal identifies potential habitat / foraging areas for bats, birds, badger, reptiles and great crested newt within the site (although no direct evidence of badger or great crested newts was found on the site). Having regard to the overall

findings, and subject to various recommendations in respect of mitigation measures and additional future survey work, the Appraisal concludes that no adverse impacts on ecological interests would result.

Leicestershire County Council's Ecologist has been consulted on the proposals, and raises no objections subject to conditions securing the various mitigation measures and a management plan for the potential Local Wildlife Site. Natural England has no objections but refers to its standing advice; this appears to indicate that the proposals are acceptable subject to conditions.

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

### **Heritage Issues**

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

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

### **Geo-Environmental Conditions**

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

### **Other Matters**

#### **Developer Contributions**

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

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

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

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

#### *Affordable Housing*

The applicants initially proposed to make an affordable housing contribution of 20% (i.e. up to



21 dwellings) as per the Local Planning Authority's current requirements for the Coalville area for a scheme of this scale. However, in response to the Cabinet report referred to above in respect of the prioritisation of transportation infrastructure over affordable housing, this would now appear likely to be reduced. As set out above, the applicants have undertaken some initial viability calculations, and that these indicate that, when allowing for the full range of CIL compliant contributions (and including the transportation infrastructure contribution as set out under Means of Access and Transportation above), the scheme would be unviable. In accordance with the approach to the prioritisation of transportation infrastructure over affordable housing as set out in the District Council's policy, they have also considered whether the scheme could be rendered viable by reducing affordable housing, and they advise that they are able to provide a minimum affordable housing contribution of 10%.

Clearly an affordable housing contribution of 10% would fall below the minimum 20% contribution the District Council's Affordable Housing SPD seeks to secure from new housing development in Coalville but, for the reasons as set out under Means of Access and Transportation above, is considered an acceptable approach if this level of contribution is the highest that can be demonstrated as viable; if a higher contribution is subsequently found to be viable by the Local Planning Authority's independent assessors, then it is considered that this higher level should be secured. Having regard to the approach suggested in the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy, and given the under-provision of affordable housing vis-à-vis the adopted Affordable Housing SPD, it would be considered appropriate to limit the implementation period of any planning permission granted accordingly.

#### *Children's Play and Public Open Space*

The illustrative masterplan shows a significant extent of the site given over to landscaping, retained and proposed tree / hedgerow planting and other open space, with the open space including an on-site equipped children's play area. In terms of the extent of the equipped parts of the play area, on the basis of the illustrative details, this would be in the order of 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 105 dwellings, an area for children's play of 2,100 square metres would normally be required. Whilst this represents a shortfall in this regard, the extent of the "play area" in its general terms (which is the figure to which the SPG relates) is normally calculated in its wider sense and, when taking into account the other landscaped open space in the immediate vicinity of the equipped play area (and as discussed under Landscape and Visual Impact above), the minimum requirements of the SPG would be comfortably met.

In terms of the range of equipment necessary, for developments of this number of dwellings, Local Plan Policy L22 and the District Council's SPG requires that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity, as well as a "kickabout" area. In addition, formal recreation open space (e.g. sports pitches) should also be provided for. Whilst on-site "kickabout" and recreational open space provision is not proposed, the applicants have advised that they would be agreeable to making a financial contribution to the nearby Millfield Recreation Ground subject to appropriate justification. As set out in the summary of representations above, Hugglescote and Donington le Heath Parish Council has requested a financial contribution of £1,400 per dwelling although, at this time, no information has been provided by the Parish Council in support of its requested sum setting out what impact on capacity would arise from the proposed development, what measures to remedy any identified capacity shortfall would be proposed, and how the level of contribution has been calculated. It is considered that, in principle, such a contribution could comply with the

requirements of the Community Infrastructure Levy (CIL) Regulations 2010 and National Planning Policy Framework (NPPF). However, whilst a contribution may be justified (and at a level also to be determined as appropriate), this issue needs to be addressed further, and will need to be resolved between the relevant parties in due course prior to any Section 106 agreement being entered into (and any planning permission issued). Again, the implications of making such a contribution would need to be taken into account in the detailed viability calculations.

As such, it is recommended that, subject to appropriate evidence to demonstrate these matters being provided, these issues (and including agreement on maintenance commuted sums) be concluded as part of the Section 106 agreement negotiations, and with the level of the any contribution(s) secured being delegated to the Head of Regeneration and Planning.

#### *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, as per the National Forest Company's comments as set out under the summary of representations above, the illustrative proposals meet the National Forest woodland planting and open space standards of 20% of the site area. The proposals are therefore considered appropriate in this regard, particularly when considered in the context of the conclusions reached under Children's Play and Public Open Space above.

#### *Education*

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

##### Primary School Requirements:

The site falls within the catchment area of Hugglescote Community Primary School. The School has a number on roll of 424 and 647 pupils are projected on the roll should this development proceed; a deficit of 223 places (of which 197 are existing and 26 would be created by this development).

The County Council also refers to four other primary schools within a two mile walking distance of the development, namely Belvoirdale Community Primary School, Ellistown Community Primary School, Broom Leys School and All Saints Church of England Primary School. Belvoirdale Community Primary School and Broom Leys School have surpluses of 94 and 46 places respectively; Ellistown Community Primary School and All Saints Church of England Primary School have deficits of 12 and 35 places respectively. Having regard to these other schools, the overall deficit including all schools within a two mile walking distance of the development is 130 places. The 26 deficit places created by this development could not therefore be accommodated at nearby schools and a claim for an education contribution in respect of 26 school places in the primary sector (equating to £304,895.05) is made. The County Council also comments that, as there are plans for a new primary school in this area, this contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing facilities at the primary school that the children from the development would be expected to attend.

##### High School Requirements:

The site falls within the catchment areas of Newbridge High School. The School has a net capacity of 590 and 635 pupils are projected on roll should this development proceed; a deficit of 45 pupil places (of which 34 are existing and 11 would be created by this development). However taking the two other high schools into account within a three mile walking distance of the development (namely Ibstock Community College and Castle Rock High School), there

would be an overall surplus for the area of 109 places, and no contribution in respect of the High School sector is therefore requested.

**Upper School Requirements:**

The site falls within the catchment area of King Edward VII Science & Sports College. The College has a net capacity of 1193 and 1105 pupils are projected on roll should this development proceed; a surplus of 88 places after taking into account the 11 pupils generated by this development, and no contribution in respect of the Upper School sector is therefore requested.

The applicants are agreeable to making the contributions requested.

*Civic Amenity*

A contribution of £7,462 is proposed to be made by the developer for Civic Amenity facilities in accordance with the requirements of Leicestershire County Council.

*Library Services*

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

*Healthcare*

NHS England requests a developer contribution of £8,703.55 in respect of healthcare as set out in the consultation response above. This request has been supported by detailed information setting out the projected impacts on capacity arising from the proposed development (with the principal impacts being on other surgeries rather than the nearby Hugglescote surgery) together with commensurate costs of mitigation. It is considered that this request would meet the relevant CIL and NPPF tests, and the applicants have confirmed that are agreeable to making the contribution sought.

*Contributions sought by Leicestershire Police*

Leicestershire Police requests a developer contribution of £35,844 in respect of policing as set out in the consultation response above.

In officers' view, the contributions do not appear to be justified at this time as there appears a limited relationship between the contribution requested and the development proposed. In other words, the request appears to relate to general contributions towards policing costs in the area, rather than being directly related to the residential development scheme under consideration and mitigating identified impacts on infrastructure provision specifically arising from the development. Whilst a detailed breakdown of how this sum would be spent has been provided, it is not clear how it would be able to be considered to comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 given the lack of justification as to:

- (i) what existing policing infrastructure capacity is;
- (ii) what the specific requirement for infrastructure arising from this particular development would be;
- (iii) whether the existing infrastructure has sufficient capacity to accommodate that requirement;
- (iv) if the existing infrastructure does not have sufficient capacity, the extent to which there would be a shortfall (and within which service areas given existing capacities and the nature of the development);
- (v) what works would be necessary to mitigate the shortfall;
- (vi) how much those works would cost; and
- (vii) what would be an appropriate, proportionate contribution towards those works

As such, it is considered unclear as to how the contribution sought is directly necessary such that it would render an otherwise unacceptable development acceptable. It is not considered that it has been demonstrated sufficiently that the contribution sought is required and that, in its absence, planning permission should be refused.

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 housing land supply (and the approach taken in respect of such within the NPPF). Whilst the site is located outside of Limits to Development as defined in the adopted Local Plan, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, benefit from a presumption in favour of such development as set out in that document. The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. Whilst the proposed development would, for viability reasons, be unlikely to be able to support the full range of infrastructure requirements necessary to accommodate the development (and, in particular, the necessary improvements to local transportation infrastructure), the applicants are proposing to address this by way of making a reduced contribution to affordable housing, in accordance with the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy, thus ensuring that appropriate infrastructure contributions are made. Whilst this would result in a reduced affordable housing contribution, an appropriate contribution would nevertheless be made, when having regard to the approach taken in the District Council's financial contributions priorities policy. It is therefore recommended that outline planning permission be granted.

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

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

*Reason - This permission is in outline only.*

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

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

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

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

- 4 The proposed development shall be carried out strictly in accordance with the following plan:
- Site location plan (CSa/1940/108 Rev B) deposited with the Local Planning Authority on 9 November 2012
  - Proposed site vehicular access (0058) deposited with the Local Planning Authority on 13 September 2013

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

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

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

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

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

- 7 The development permitted by this planning permission shall not be carried out other than in strict accordance with the approved Flood Risk Assessment (FRA) dated August 2012, ref. TRN10736/reports/fra Hugglescote undertaken by Waterman and the following mitigation measures detailed within the FRA:
- Finished floor levels set no lower than 600mm above the 100 year plus 20% (for climate change) flood level applicable at each phase of the development (to Ordnance Datum (AOD));
  - No built development within the 100 and 1,000 year flood plain outlines (Flood Zones 2 and 3) as established by this (see Appendix F);
  - Provision of watercourse crossings in accordance with current best practice guidance; and
  - Limiting the discharge rate for surface water run-off and provision of surface water attenuation storage on the site, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

Unless any alternative programme is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as

the mitigation measures have been fully implemented.

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

- 8 No development shall commence on the site until such time as a surface water drainage scheme for the site (or, in the case of phased development, for the relevant phase of the site), based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and timetable. The scheme shall include:
- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;
  - Limiting the surface water run-off generated by the all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
  - Provision of surface water attenuation storage on the site to accommodate the difference between the allowable discharge rate and all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm;
  - Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
  - Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

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

- 9 The development hereby permitted shall not be commenced until such time as a scheme to detail each individual watercourse crossing (including pedestrian footbridge and vehicular crossings) and demonstrating that there will be no raising of ground levels, that bridge soffit levels as set will not result in elevated flood levels, and that there will be no loss of flood plain storage due to the provision of any new crossing of the Hugglescote Brook, has been submitted to, and approved in writing by the Local Planning Authority, in consultation with the Environment Agency and Lead Local Flood Authority (LLFA). The scheme shall include, but not be exclusive of:
- Limiting the number of crossings of the Hugglescote Brook, and removal of the existing footpath crossing where applicable;
  - Crossings to be provided as clear span bridges or arches in preference to any culverting (including the upgrading of existing crossings, where upgrading is required or proposed);
  - Bridge soffits set a minimum of 600mm above the modelled 100 year plus 20% (for climate change) flood level applicable at the crossing site;
  - Bridge abutments set back beyond the top of the natural bank of the watercourse;
  - Where necessary, culverts designed in accordance with CIRIA C689 (including up sizing to provide a free water surface and natural bed), and to have a minimum width / length of culvert essential for access purposes;
  - Provision of compensatory flood storage for all ground levels raised within the 100 year

- flood plain applicable at any crossing sites, including proposed location, volume (calculated in 200mm slices from the flood level) and detailed design (plans, cross, and long sections) of the compensation proposals;
- Compensatory flood storage provided before (or, as a minimum, at the ground works phase) of the vehicle bridge and any other crossing construction;
  - Detailed designs (plans, cross, long sections and calculations) in support of any crossing;
  - Details of how the scheme shall be maintained and managed after completion;
  - Modelling - re-run with the detailed design of watercourse crossings; and
  - A timetable for the relevant works.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the Local Planning Authority in consultation with the Environment Agency and LLFA.

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

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

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

- 11 No development shall commence on the site (or, in the case of phased development, within the relevant phase of the site) until such time as a scheme of foul drainage for the site / phase, and including a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and timetable. The submitted scheme shall demonstrate that any additional flows discharging into the foul sewerage drainage network will not cause deterioration in the operation of any combined sewer overflows either upstream or downstream on the network and that there will not be an increase in spill frequency or volume from any CSOs affected by the increase in volume within the sewerage network.

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

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

*Reason - To ensure that the land is fit for purpose, and to accord with the aims and objectives in*

*respect of pollution as set out in the National Planning Policy Framework.*

- 13 No development shall commence on the site until such time as a Risk Based Land Contamination Assessment report on the further works outlined in section 9.1.1 of RSK report Project No. 301011-1(00) Grange Road, Hugglescote dated May 2012 has been submitted to and agreed in writing by the Local Planning Authority. The assessment shall be carried out in accordance with:
- BS10175 Year 2011 Investigation of Potentially Contaminated Sites Code of Practice;
  - BS8576 Year 2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);
  - BS8485 Year 2007 Code of Practice for the Characterization and Remediation from Ground Gas in Affected Developments; and
  - CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004)
- Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan shall be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004); the Verification Plan shall be prepared in accordance with the requirements of:
- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1 (Environment Agency 2010); and
  - CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004)

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

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

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



- use;
- Demonstrate the effectiveness of the approved remedial scheme; and
  - Include a statement signed by the developer or the approved agent, confirming that all the works specified in the Remediation Scheme have been completed

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

- 15 No work shall commence on site until such time as precise details of proposed mitigation and / or management measures (and including a timetable for their implementation) as set out in sections 4.1 to 5.10 (inclusive) of the Ecological Appraisal (Rev A dated 23.08.12), sections 5.1 to 5.6 (inclusive) of the Reptile Report (dated 27.09.12), and sections 4.1 to 5.10 (inclusive) of the Bat Survey Report (dated 16.01.13) (all prepared by FPCR) have been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative measures are first agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in strict accordance with the agreed measures and timetable.

*Reason - In the interests of nature conservation.*

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

*Reason - In the interests of nature conservation.*

- 17 All reserved matters applications for the erection of dwellings shall include full details of the proposed dwellings' anticipated level of achievement in respect of criteria / sub-categories contained within the Code for Sustainable Homes. Unless any alternative timescale is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as evidence to demonstrate compliance with the relevant criteria has been submitted to and agreed in writing by the Local Planning Authority.

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

- 18 None of the dwellings hereby permitted shall be occupied until such time as the Grange Road site access junction as shown on drawing no. 0058 has been provided in full 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.*

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

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

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

*Reason - In the interests of railway safety.*

- 21 No site works of any description in respect of the formation of the vehicular access to Grange Road shall take place on the site at any time unless the existing trees shown as retained on drawing no. 5104-A-04 Rev A deposited with the Local Planning Authority on 14 October 2013 are securely fenced off in accordance with measures for their protection as detailed within the submitted Arboricultural Assessment dated August 2012. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand, unless any alteration is first agreed in writing by the Local Planning Authority.

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

#### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through early engagement with the applicant both at the pre-application stage and during the application determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at [www.defra.gov.uk](http://www.defra.gov.uk)
- 3 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:
  - Collapse of shallow coal mine workings.
  - Collapse of, or risk of entry into, mine entries (shafts and adits).
  - Gas emissions from coal mines including methane and carbon dioxide.

- Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

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

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

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

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

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

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

- 4 Your attention is drawn to the attached report of Severn Trent Water Limited.
- 5 Your attention is drawn to the attached report of the Environment Agency.
- 6 Your attention is drawn to the attached report of Natural England.
- 7 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highway matters.
- 8 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.
- 9 Your attention is drawn to the attached report of the National Forest Company.
- 10 Your attention is drawn to the attached report of Network Rail.
- 11 The applicants' attention is drawn to the presence of protected and unprotected trees within the site, and any applications for the relevant reserved matters should have

**PLANNING APPLICATIONS- SECTION A**

regard to the need to minimise loss of trees in this National Forest setting, as well as be supported by an appropriate arboricultural report and impact assessment. Notwithstanding the details shown on the submitted illustrative masterplan, the details submitted at the reserved matters stage(s) should have regard to the presence of existing trees and, in particular, those subject to Tree Preservation Orders.

- 12 The applicants' attention is drawn to the attached assessment of the District Council's Urban Designer.
- 13 This decision is in accordance with the resolution of the Planning Committee of 12 November 2013 and is subject to a Section 106 Obligation.



## **EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL**

### **Call In**

The application is to be determined by the Planning Committee as Councillor Meynell is the applicant .

### **Proposal**

Planning permission was granted in February 2013 for the conversion of a detached former stable block within the grounds of the Grade II Listed Breedon Hall, to provide 3no. residential units, together with the erection of a single storey side extension.

The application now under consideration seeks a non-material amendment to the planning permission (12/01006/FUL) to allow a reduction in the number of roof windows to the stable block conversion and removal of an existing chimney, which was proposed for retention under the approved scheme.

The amendments to the approved scheme also form the subject of an associated application for listed building consent, ref. 13/00677/LBC.

### **Consultations**

Members will see from the report below that no letters of representation have been received.

### **Planning Policy**

The development is considered to comply with the relevant policies of the Local Plan, the emerging Core Strategy and provisions of the NPPF.

### **Conclusion**

The amendments proposed are deemed to be acceptable in design terms and would not be detrimental to the character or appearance of the approved scheme or its impact on heritage assets and the wider environment. Accordingly, it is recommended that no objections be raised to the proposed amendments.

### **RECOMMENDATION - No objection, subject to conditions.**

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission was granted under application reference 12/01006/FUL in February 2013 for the conversion of a former stable block into 3no. residential units at Breedon Hall, including external alterations and works along with the erection of a single storey side extension to accommodate a boiler.

Breedon Hall is a Grade II Listed Building located on the northern side of Main Street and to the west of The Delph in Breedon on the Hill. Listed Building Consent for the development was also approved under an associated application, 12/01007/LBC.

The application now under consideration seeks a non-material amendment to the planning permission (12/01006/FUL) to allow a reduction in the number of roof windows to the stable block conversion and removal of an existing chimney, which was proposed for retention under the approved scheme.

The amendments to the approved scheme also form the subject of an associated application for listed building consent, ref. 13/00677/LBC.

### 2. Publicity

5 no Neighbours have been notified (Date of last notification 5 September 2013)

### 3. Consultations

Gill Simkiss - Clerk To Breedon on the Hill Parish Council consulted 5 September 2013

NWLDC Conservation Officer consulted 10 September 2013

English Heritage- Ancient Monument consulted 10 September 2013

### 4. Summary of Representations Received

**Breedon Parish Council** - no response received.

**English Heritage** - no response received.

**County Ecologist** - no objections to the amended development subject to the imposition of the conditions recommended under the original application.

**Third party representations** - No representations have been received from members of the public.

### 5. Relevant Planning Policy

#### National Planning Policy Framework

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

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

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

Paragraph 131 provides that in determining planning applications, local planning authorities should take account of:

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

Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. ... Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments ... should be wholly exceptional."

Paragraph 133 of the NPPF outlines that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

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

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

#### **East Midlands Regional Plan**

Since the determination of planning permission under application ref. 10/00611/FUL, the Government has notified the Local Planning Authority that as of 12 April 2013 the East Midlands Regional Plan is revoked.

#### **Adopted North West Leicestershire Local Plan**

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

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



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

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

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

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

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

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

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

### **Submission Core Strategy (April 2012)**

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

### **Other policies**

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

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

### **6. Assessment**

In the assessment of the approved scheme (12/01006/FUL) it was concluded that the development would be an appropriate form of development in principle and in terms of sustainability, design, its impact on heritage assets, residential amenities and highway safety. Given the nature of the application and the amendments proposed, the main consideration in the determination of this submission is whether the proposed amendments would have any significant impact on the amenities of neighbours, the overall design of the scheme and its impact on heritage assets.

Given the nature of the proposed amendments, it is not considered that the amended development would have any greater impacts on the amenities of occupiers of any surrounding properties.

With regards to the proposed removal of the chimney, the chimney in question is not a significant feature of the roof-scape or an original part of the building. As such it is considered

that its loss would not be detrimental to the architectural or historic integrity of the building.

The proposed amendments would reduce the number of rooflights on the north-eastern roof slope facing The Delph, from six to three and it is considered that such an amendment would not be detrimental to the scheme in design terms. If permission is granted for this application, it would be subject to the conditions of the original permission, which would ensure that the rooflights are of 'conservation' style.

Overall therefore the amendments proposed are deemed to be acceptable in design terms and would not result in any greater harm to the special architectural and historic interest of the Grade II Listed Building than the previously approved scheme. The development proposed remains in accordance with the aims of Paragraphs 131, 132 and 133 of the NPPF. Accordingly, no objections are raised to the proposed amendments.

**RECOMMENDATION - NO OBJECTIONS, subject to the following condition;**

- 1 The development shall be carried out strictly in accordance with the conditions set out in planning permission reference 12/01006/FUL.

*Reason - for the avoidance of doubt.*

- 2 Notwithstanding Condition 1 above, nor Condition 2 of planning permission 12/01006/FUL, the development shall be carried out in accordance with the plans as listed under Condition 2 of planning permission 12/01006/FUL and as further amended by drawings numbered '2070 - 02 C, 2070 - 03 and 2070 - 04', received by the Local Planning Authority on the 9 September 20013.

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

**Change of use of former stable block into 3 residential units including external alterations and works along with the erection of a single storey side extension (Amended Scheme to LBC 12/01007/LBC to now include removal of non-original chimney and formation of three rooflights on north east roof plane)**

**Report Item No  
A9**

**Bredon Hall Main Street Bredon On The Hill Derby**

**Application Reference  
13/00677/LBC**

**Applicant:  
Mr & Mrs Charles Meynell**

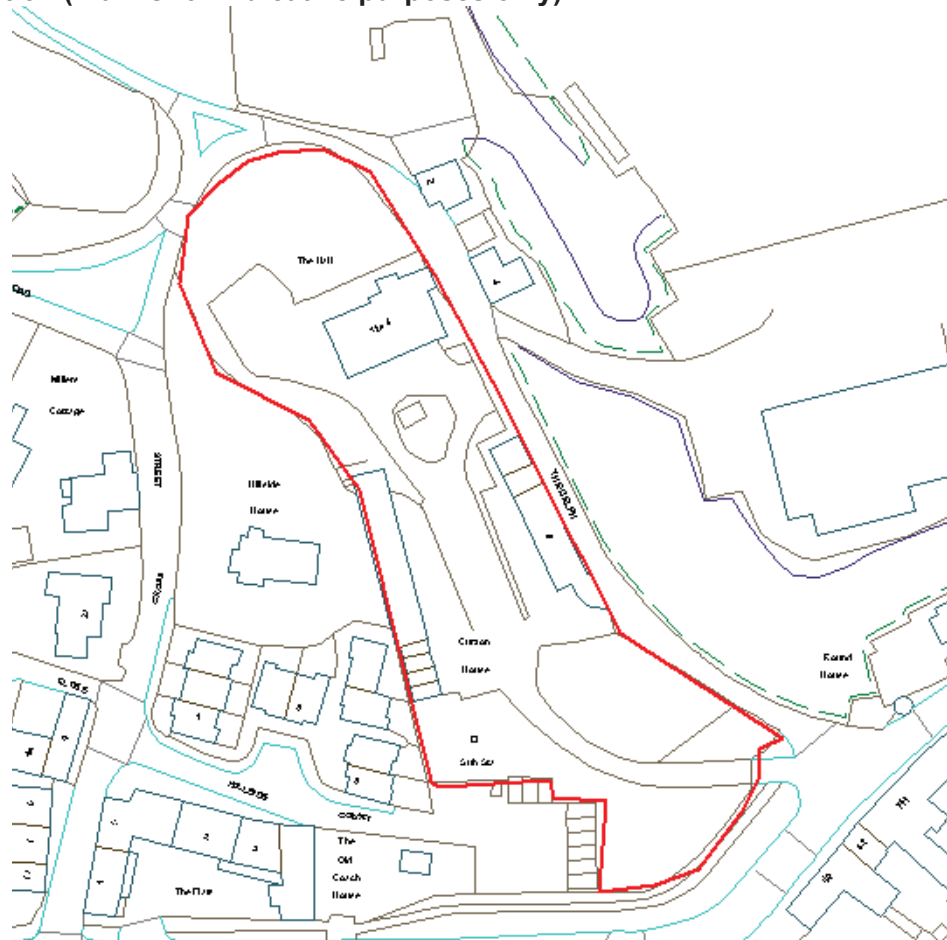
**Date Registered  
30 August 2013**

**Case Officer:  
Elizabeth Hindle**

**Target Decision Date  
25 October 2013**

**Recommendation:  
PERMIT**

**Site Location (Plan is for indicative purposes only)**



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Planning Committee 12 November 2013  
Development Control Report

## **EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL**

### **Call In**

The application is to be determined by the Planning Committee as Councillor Meynell is the applicant .

### **Proposal**

Breedon Hall is a Grade II Listed Building located on the northern side of Main Street and to the west of The Delph in Breedon on the Hill. The proposal relates to a change of use of the former stable block into 3 residential units including external alterations and works along with the erection of a single storey side extension to the north of the building in order to accommodate a boiler.

The application under consideration forms a resubmission of development approved in February 2013 under ref. 12/01007/LBC and seeks consent for amendments to the approved scheme. The amendments relate to a reduction in the number of roof windows to the stable block conversion and the removal of an existing chimney, which was proposed for retention under the approved scheme.

An associated application for a non-material amendment to the planning permission granted under 12/01006/FUL has also been received for the proposed changes (ref. 13/00695/NMA).

### **Consultations**

Members will see from the report below that no letters of representation have been received.

### **Planning Policy**

The development is considered to comply with the relevant policies contained in the NPPF and Policy CS34 (Conserving and Enhancing the Historic Environment) of the emerging Core Strategy.

### **Conclusion**

The amendments to the approved scheme would not result in any greater harm to the special architectural and historic interest of the Grade II Listed Building than the previously approved scheme. The development proposed remains in accordance with the aims of Paragraphs 131 and 132 of the NPPF and with Policy CS34 (Conserving and Enhancing the Historic Environment) of the emerging Core Strategy and therefore it is recommended that Listed Building Consent is granted, subject to conditions.

### **RECOMMENDATION - PERMIT, subject to conditions.**

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

## MAIN REPORT

### 1. Proposals and Background

Breedon Hall is a Grade II Listed Building located on the northern side of Main Street and to the west of The Delph in Breedon on the Hill. To the south of Breedon Hall the central approach is flanked by two detached brick outbuildings that are two storeys in height. The outbuilding to the west (known as 'Curzon House') a former coach house, was partially converted into residential use some time ago and has more recently been extended to provide four single garages. The other building, that is subject to this application, is a former stable block and lies opposite Curzon House and to the east of the approach to Breedon Hall.

The proposal relates to a change of use of the former stable block into 3 residential units including external alterations and works along with the erection of a single storey side extension to the north of the building in order to accommodate a boiler. Each unit that is to be converted would have a kitchen, toilet, entrance hall and lounge diner at ground floor and two bedrooms with en-suites at first floor.

The application under consideration forms a resubmission of development approved in February 2013 under ref. 12/01007/LBC and seeks consent for amendments to the approved scheme. The amendments relate to a reduction in the number of roof windows to the stable block conversion and the removal of an existing chimney, which was proposed for retention under the approved scheme.

An associated application for a non-material amendment to the planning permission granted under 12/01006/FUL has also been received for the proposed changes (ref. 13/00695/NMA).

#### Relevant planning history:

830736 - Conversion of four flats - Permitted.

830774 - Conversion to four flats (Listed Building Consent) - Permitted.

980347 - Works to trees and removal of one Silver Birch - No objection.

000969 - Change of use to offices - Permitted.

000970 - Internal alterations - Permitted.

010274 - Internal and external alterations to building in connection with conversion of hall into office accommodation (Listed Building Consent) - Permitted.

01/00630/FUL - Provision of oil tank and enclosure and extension to car parking area - Permitted.

11/01025/LBC - Change of use to C3 (Dwelling House) and internal alterations - Permitted.

11/01026/FUL - Change of use to C3 (Dwellinghouse) - Permitted.

12/01006/FUL - Change of use of former stable block into 3 residential units including external alterations and works along with the erection of a single storey side extension - Permitted.

12/01007/LBC - Change of use of former stable block into 3 residential units including external alterations and works along with the erection of a single storey side extension - Permitted.

### 2. Publicity

5 no. Neighbours have been notified (Date of last notification 5 September 2013)

Site Notice displayed 2 October 2013

Press Notice published 25 September 2013

### 3. Consultations

LCC ecology consulted 11 September 2013

Gill Simkiss - Clerk To Breedon on the Hill Parish Council consulted 5 September 2013  
NWLDC Conservation Officer consulted 5 September 2013  
English Heritage- major dev in CA consulted 5 September 2013

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

**Breedon Parish Council** - No response received.

**English Heritage** - This application should be determined in accordance with national and local policy guidance, and on the basis of your expert conservation advice.

**Third Party Representation** - No representations have been received from members of the public.

#### **5. Relevant Planning Policy**

##### **National Planning Policy Framework**

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

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

Paragraph 131 provides that in determining planning applications, local planning authorities should take account of:

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

Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. ... Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments ... should be wholly exceptional."

Paragraph 133 of the NPPF outlines that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably

not possible; and  
 - the harm or loss is outweighed by the benefit of bringing the site back into use."

**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**

The building which forms the subject of this application is a curtilage structure to the principle Grade II Listed Building, Breedon Hall. In the assessment of the previously approved scheme (12/01007/LBC) it was concluded that the development would not impact upon the special architectural and historic interest of this Grade II Listed Building and that the development would accord with the aims of Paragraphs 131 and 132 of the NPPF. It was noted that the Council's Conservation Officer raised no objection to the conversion works and was pleased to see the reinstatement of the internal plan form, which has been lost through previous unsympathetic works.

The application now under consideration seeks Listed Building Consent for an amended scheme of that approved under listed building consent 12/01007/LBC. The proposed amendments would reduce the number of rooflights on the north-eastern roof slope facing The Delph, from six to three and see the removal of a chimney that was proposed for retention under the approved scheme.

It is considered that a reduction in the number of roof windows would not be detrimental to the design of the scheme or upon the special architectural and historic interest of the Listed Building. The Council's Conservation Officer has advised that the chimney in question is not a significant feature of the roof-scape or an original part of the building. As such, it is considered that its loss would not be detrimental to the architectural or historic integrity of the building. The submitted drawings indicate that specialist Conservation Area rooflights would be used which would ensure that they were in keeping with the existing building and the surrounding Conservation Area.

In light of the above, it is considered that the amendments to the approved scheme would not result in any greater harm to the special architectural and historic interest of the Grade II Listed Building than the previously approved scheme. The development proposed remains in accordance with the aims of Paragraphs 131, 132 and 133 of the NPPF and therefore it is recommended that Listed Building Consent is granted, subject to conditions.

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

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

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

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

Drawing Number 2070 - 01 A received by the Local Planning Authority on 30 August 2013;

**PLANNING APPLICATIONS- SECTION A**

Drawing Number 2070 - 02 C received by the Local Planning Authority on 30 August 2013;

Drawing Number 2070 - 03 received by the Local Planning Authority on 30 August 2013.

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

- 3 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on site until details/samples (as appropriate) of the:-
- i. sample panel of the bricks, brick bond, and mortar (to be used on the extension and for infilling former openings)
  - ii. lintels
  - iii. roofing materials
  - iv. rain water goods (including outlet pipes and mechanical extraction systems)
  - v. windows and doors (including heads and cills)
  - vi. rooflights
- have been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the works shall be executed in accordance with that agreement.

*Reason - To ensure that the works are executed in an appropriate manner given the sites location within the curtilage of a Listed Building.*

- 4 No external lighting or floodlighting shall be installed without the prior written approval of the local planning authority.

*Reason - To ensure that any lighting does not impact on the special architectural or historic interest of the Listed Building.*

- 5 No demolition and no development shall take place/commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. No demolition and no development shall take place other than in accordance with the agreed scheme.

*Reason- To ensure satisfactory archaeological investigation and recording.*



**Conversion and extension of existing barn to form one dwelling**

**Report Item No  
A10**

**The Croft Moor Lane Tonge Melbourne**

**Application Reference  
13/00666/FUL**

**Applicant:  
Mrs Julia Stokes**

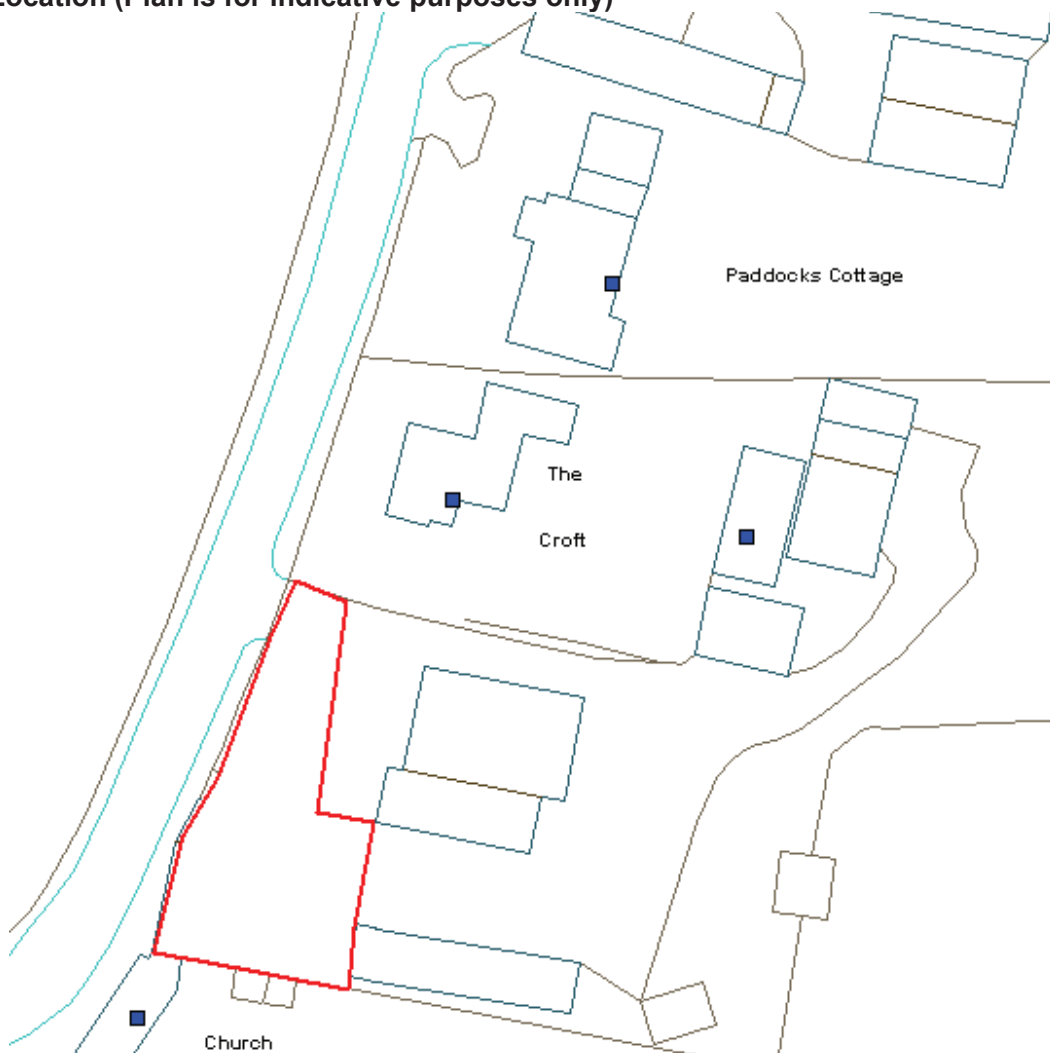
**Date Registered  
19 August 2013**

**Case Officer:  
Sarah Worrall**

**Target Decision Date  
14 October 2013**

**Recommendation:  
PERMIT**

**Site Location (Plan is for indicative purposes only)**



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Planning Committee 12 November 2013  
Development Control Report

## **EXECUTIVE SUMMARY OF PROPOSALS**

### **Call In**

The application has not been called in, but is brought before Planning Committee as the agent is the husband of Councillor Caroline Large.

### **Proposal**

This is a full application for the conversion and extension of an existing barn to form one dwelling at The Croft, Moor Lane, Tonge. The existing access to the Croft would be utilised to form a shared access for The Croft and the proposed conversion scheme.

### **Consultations**

Members will note that representations from local residents have been made in support of the application. In addition, all statutory consultees are satisfied that there are no matters that have not been satisfactorily addressed or cannot otherwise be satisfied by way of condition.

### **Planning Policy**

The site lies within the countryside outside the Limits to Development of Tonge which is not considered to be a sustainable village under Adopted Local Plan. However, weight has to be given to Policy E24 of the Adopted Local Plan which sets out the circumstances under which existing buildings outside Limits to Development can be converted to a residential use. Other material planning considerations of design, Conservation Area, residential amenity, and highway safety need to be taken into account in relation to the proposal. The previous appeal decision relating to application 12/00781/FUL is also a material consideration.

### **Conclusion**

Notwithstanding the fact that the site lies in the countryside, the proposal fully meets the requirements of Adopted Local Plan Policies S3 and E24, and also complies with Policies E3, E4, T3 and T8, and the provisions and intentions of the NPPF in relation to heritage assets. The proposed conversion scheme, including extensions and alterations, is substantially different to the proposal which was dismissed at appeal in terms of appearance and would result in a development which would not adversely impact on the Conservation Area. In addition, further alternative uses which were made apparent during the previous appeal have been explored within the current submission. The proposal, therefore, demonstrates that reasonable attempts have been made with regard to alternative uses other than residential. As such, and on balance, it is considered that the merits of the proposal overall outweigh the fact that there would be some visual impact on the Conservation Area. The proposal complies fully with Adopted Local Plan Policies as well as the NPPF and the application is, therefore, recommended for approval.

## **RECOMMENDATION - PLANNING PERMISSION BE GRANTED subject to conditions**

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the conversion and extension of an existing barn to form one dwelling at The Croft, Moor Lane, Tonge. The Croft is a two storey dwelling located to the east of Moor Lane. The Croft has a range of agricultural outbuildings located to the south and east including a brick/stone built barn that fronts onto Moor Lane which is subject to this application. Further residential properties are located to the north and south of the site and open fields are located to the west of the application site. The building is currently in use as a workshop and store but was previously used for agricultural purposes. The site is located in the Tonge Conservation Area and both The Croft and the outbuilding that fronts the road are identified as unlisted buildings of architectural or historic interest in the Tonge Conservation Area Appraisal and Study.

The existing building comprises the main barn building, a lean-to extension located to the north of the main barn building which is built up to the stone wall on the site frontage, and a cat-slide element that is located to the east of the building. The lean-to section at the north elevation would be removed and replaced with a gable end pitched roof extension which would project some 3.8m from the main barn building and have a gable end width of some 4.4m. The pitched roof would be some 3.8m high at roof ridge level, dropping to 2.3m at eaves level. A further extension would be formed at the east elevation to form a glazed porch section linking the end of the proposed extension to the north and the existing cat slide section element at the east elevation. The extension would be achieved by extending the barn roof over an area 4.2m long x 1.3m depth. The main barn building would provide kitchen/dining and lounge accommodation with a larder/store and bathroom in the cat slide element. The northerly extension would provide for a bedroom and the easterly extension would provide a porch area leading on to the lounge. A flue would be incorporated on the west elevation and the existing roof light retained, with the two existing rooflights at the east elevation being retained and a two further rooflight openings being proposed at that elevation.

The application is accompanied by a design and access statement, a protected species survey, a structural report and a conversion feasibility appraisal with an additional document relating further to holiday lets and craft workshop use.

Following receipt of the Highway Authority comments an amended plan was requested to illustrate the requirements associated with the visibility splays which would be sought should the development be permitted. The revised layout plan was received on 14 October 2013 and shows that implementation of the necessary visibility splays would result in part of the existing boundary wall being taken down and rebuilt. The agent advises that the wall would be rebuilt in the same way using lime mortar.

#### Relevant Planning History:

12/00781/FUL - Conversion and extension of existing barn to form one dwelling - refused and subsequently dismissed at appeal on conservation and alternative use grounds.  
 950600 - Erection of 5 dwellings and conversion of barn to single storey dwelling and garage (outline) - Refused and subsequently dismissed at appeal.  
 891455 - Single storey side and rear extension at The Croft - Permitted.  
 850608 - Two storey rear extension to The Croft - Permitted.

## **2. Publicity**

2 no. Neighbours have been notified (Date of last notification 28 August 2013)

Site Notice displayed 28 September 2013

Press Notice published 11 September 2013

## **3. Consultations**

County Highway Authority consulted 25 September 2013

Gill Simkiss - Clerk To Breedon on the Hill Parish Council consulted 28 August 2013

County Highway Authority consulted 28 August 2013

LCC ecology consulted 28 August 2013

NWLDC Conservation Officer consulted 28 August 2013

Building Control consulted 28 August 2013

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

Breedon on the Hill Parish Council - No objection.

LCC Highways - No objection subject to conditions.

LCC Ecology - No objection subject to works being undertaken outside the bird nesting season and that a replacement nest site for swallows is created.

NWLDC Building Control - No comments received.

NWLDC Conservation Officer - Objects to the proposal on the grounds that the proposed bedroom extension would result in the loss of the lean to extension and formation of an extension which would be at odds with the agricultural character of The Croft and would be prominent as one approaches the village, and the glazed composition of the porch would detract from the agricultural character of The Croft. The interventions required for domestic use of the premises would detract from the character of The Croft, and would fail to preserve or enhance the character and appearance of the Conservation Area.

Two representations from local residents have been received expressing their support of the proposal on the basis of local housing need and that the use would be compatible with its surroundings.

## **5. Relevant Planning Policy**

### **National Planning Policy Framework (NPPF)**

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

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

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

Paragraph 126 provides that local planning authorities should take into account the desirability of new development making a positive contribution to local character and distinctiveness.

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

Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.

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

#### **North West Leicestershire Local Plan**

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

Policy 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 indicates that in the determination of planning applications regard will be had to the wider settings of new buildings; new development should respect the character of its surrounding, in terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

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

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

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

**Submission Core Strategy (April 2012)**

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

**Other Relevant Policies**

*Tonge Conservation Area Appraisal and Study* - identifies both The Croft and the outbuilding that fronts the road as unlisted buildings of architectural or historic interest.

*6C's Design Guide (Highways, Transportation and Development) - Leicestershire County Council* - Paragraphs 3.171-3.176 set out the County Council's guidance in relation to parking standards for residential development. This document also provides further info in relation to motor cycle/cycle parking, the design of on/off-street parking and other highway safety/design matters.

**6. Assessment**

**Principle of Development**

The application site is located outside the limits to development of Tonge where permission for new development would not normally be granted unless, amongst other things, it is essential for the efficient long-term operation of agriculture or forestry, involves acceptable farm diversification or involves the re-use and adaptation of rural buildings. Policy E24 which is concerned with the re-use and adaptation of rural buildings states that the conversion of existing buildings to a residential use will be permitted only if:

- (a) It can be demonstrated that every reasonable attempt has already been made to secure suitable employment, tourism or recreational re-use for the building; or
- (b) The proposed residential conversion is a subordinate part of a scheme for employment, tourism or recreational re-use.

The application is accompanied by an alternative uses report that considers agricultural/equestrian use, holiday lets, employment uses including craft workshop units and residential use.

The report indicates that there is no substantial area of land allocated to the building and, therefore, no viable use for agricultural or equestrian purposes. Seeking to establish an agricultural or equestrian use is, on the basis of this information, considered to be uneconomic. The use of the building as holiday lets has also been considered but has been discounted due to the unproven track record of the local tourist industry and that such an approach would necessitate the building to be converted to a very high standard in order to qualify for inclusion within the advertising media. Therefore, the report concludes that holiday lets are considered to be a risky and expensive option. Additional information produced by Howkins and Harrisons also submits that the village of Tonge has no public house or similar facilities which would encourage holiday makers to choose to stay at the application site over similar conversion schemes which have such services within walking distance. The size of the barn would also limit the visitor market to couples or young families only.

In terms of employment opportunities, these are not considered viable due to locational factors, lack of demand, the presence of more attractive employment opportunities in Ashby de la Zouch and Melbourne and the incompatibility of employment uses with nearby residential properties. Additional information produced by Howkins and Harrisons also submits that a craft workshop

use would have limited interest for rent or sale due to its location since the ones which secure the highest occupancy rates are in more sustainable locations which have a higher existing footfall. A residential use has been considered and is deemed to be compatible with other properties in the immediate vicinity and there is considered to be strong demand for good quality barn conversions in rural locations.

In terms of the previous application for a conversion scheme it was considered by the District Council and The Planning Inspectorate that the holiday let market had not been fully explored but the revised information addresses those concerns. The revised information also addresses the craft workshop concept which was raised by the Inspector during the appeal for the previous application. As such, on the basis of the information now submitted, it is considered that 'every reasonable attempt' has already been made to secure alternative uses for the building and the proposal would comply with the first set of tests contained in Policy E24.

Policy E24 then goes on to outline that the conversion of existing buildings, outside limits to development, to any new use will only be permitted if:

- (i) The building is of a permanent and substantial construction, and is structurally sound;
- (ii) The building is capable of conversion without major or complete reconstruction, or significant alteration or extension;
- (iii) The form, bulk and general design of the building is in keeping with its surroundings;
- (iv) Any necessary extensions of or alterations to the building would not be detrimental to the character and appearance of the building itself, or to that of the surrounding countryside;
- (v) Where the building is or was an agricultural building, it can be demonstrated that it was originally constructed for an agricultural purpose and that it has been so used;
- (vi) The building is reasonably accessible for the public highway; and
- (vii) Satisfactory parking provision can be made within the curtilage of the building, and providing services to the building would not give rise unacceptable visual intrusion.

The main barn building is constructed from red brick walls and Staffordshire blue clay roof tiles. In terms of the specific tests in Policy E24, the scheme is accompanied by a structural survey which concludes that the building is of a permanent and substantial construction, is structurally sound and is capable of conversion without major or complete reconstruction. On this basis it is considered that the scheme would comply with (i) of Policy E24.

With reference to (ii) of Policy E24, the remaining part of the existing building would have a footprint of some 65.4 square metres and the proposed extensions would have a footprint of some 12.18 square metres. Therefore, the proposed extensions would be relatively minor and would not represent a significant extension. On this basis, it is considered that the scheme would comply with (ii) of Policy E24.

In relation to (iii) and (iv) the site is located in the countryside and the Tonge Conservation Area. Both The Croft and the outbuilding that fronts the road are identified as unlisted buildings of architectural or historic interest in the Tonge Conservation Area Appraisal and Study. The District Council's Conservation Officer has been consulted on the application and objects to the proposal. The objection raises a number of concerns including that the proposed extension would result in the loss of some of the building's character to the detriment of the Conservation Area. A balanced judgement has to be made in relation to the proposal considering all relevant factors and the design and conservation aspects will be explored in detail in a subsequent section of this report.

The building was originally constructed for agricultural purposes and appears to have been used

for these purposes and would, therefore, comply with (v) of Policy E24. The application site is located immediately adjacent to Moor Lane and would be accessible from the highway so would comply with (vi) and the tests of (vii) would be met as parking and servicing can be provided at the application site without resulting in unacceptable visual intrusions.

Taking all of the issues into account it is considered that the proposed extension would be in accordance with the tests i, ii, v, vi and vii contained within Policy E24 with tests iii and iv being considered below.

### **Sustainability**

Tonge has very limited services and the occupiers of the proposed dwelling would be likely to be heavily reliant on the private car for the most basic of services. The proposal would score poorly against the sequential approach to development locations set out in national and local planning policy.

However, it is noted that the existing outbuilding that fronts the road is identified as an unlisted building of architectural or historic interest in the Tonge Conservation Area Appraisal and Study. The building is redundant in terms of any agricultural use and, at present is disused. As such, unless a viable alternative use is found for the barn it is possible that in time, it would fall into disrepair and become visually detrimental visually to the character of the area. It is considered that the importance of securing a re-use for a redundant building that if left, is likely to decline and detract from the Conservation Area, would outweigh the lack of compliance with sequential approach to development locations.

Furthermore, the agent submits that the proposal would meet a local housing need under Policy CS7 of the Submission Core Strategy. However, it has been resolved to withdraw the Submission Core Strategy so this aspect is not relevant to the application. Notwithstanding this issue, the appropriateness of the scheme essentially lies with relevant national planning guidance in addition to Adopted Local Plan Policy E24 as set out previously.

### **Design and Conservation Area Issues**

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) requires that special regard shall be had to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Paragraph 126 of the National Planning Policy Framework (NPPF) expresses the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 132 of the NPPF stipulates that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Policy E4 of the Local Plan requires new development to respect the character of its surrounding.

It is noted that the proposed alterations and extensions are substantially different to those of the previous scheme which was dismissed at appeal, and that the whole proposal is now significantly scaled down in size. The Inspector's design and conservation concerns in relation to the previous scheme related to the substantial rear extension, with the loss of the cat slide roof, and its adverse impact on the simple form of the existing main barn and intrusion into the relatively open courtyard area which would be clearly visible on the approach into the village to the detriment of the Conservation Area.

The District Council's Conservation Officer objects to the current proposal and makes the following comments;



*"The proposed bedroom extension would result in the loss of the quite subservient extension which is currently integrated into the stone boundary wall. The proposed extension is of a domestic style and form which is at odds with the agricultural character of The Croft. It would also be quite prominent as one approaches the village. Additionally, the square form of the proposed extension has an alien relationship with the boundary wall, creating a void between the proposed extension and boundary wall. The highly glazed composition of the proposed porch would detract from the agricultural character of The Croft."*

*"I would question whether a domestic use is appropriate for this building as it would demand significant interventions which would detract from the character of The Croft, and consequently fail to preserve or enhance the character and appearance of the conservation area."*

The previous application proposed a substantial extension at the premises which amounted to almost the same footprint as the existing barn with the cat slide roof and lean to elements both being removed. The boundary wall would also have needed to be rebuilt as per the current proposal highway requirements. The current proposal involves the removal of the northerly lean to which has been built up to the boundary wall but the cat slide element at the eastern elevation of the barn would be retained.

The proposed gable end pitched roof single storey extension proposal has a completely different appearance to the existing lean to and it is noted that the Conservation Officer is of the view that the pitched roof extension would form a domestic appearance, and is concerned that there would be a space between the proposed extension and the boundary wall. However, the proposed northern extension would be very much subordinate to the main barn and it is not unusual for main barns to, historically, have smaller pitched roof side extensions which have evolved organically over time.

The small area which would be formed between the proposed extension and the existing stone wall would be grassed and form part of the associated curtilage. Whilst there would be some visual impact on the Conservation Area as a result of the proposal, such impact has to be taken into consideration with the barn being brought back into an appropriate use in order to maintain its future integrity as an unlisted building of architectural or historical interest as set out in the Conservation Area Appraisal.

In addition, the extension proposed at the eastern elevation would not be significant and would involve the main barn roof being extended downwards slightly to cover a glazed section to form a porch. This extension would be at the rear of the barn facing towards the proposed garden area for the premises and would not extend out as far as the existing cat slide roof. The use of glazing for this particular extension would ensure that the simple form and character of the original barn would remain evident in terms of reading the building.

Alternative nesting sites for swallows could be incorporated at the conversion scheme without adversely impacting on the character and appearance of the premises. The proposed flue on the west elevation and introduction of two further rooflights on the east elevation would have no adverse impact on the character and appearance of the building, its immediate setting, or the Conservation Area.

As such, and on balance, it is considered that the proposed development would not have any significant adverse impact on the views into the village or the Conservation Area, or the wider setting of the application site and neighbouring properties, which would warrant refusal of the proposal. The proposed development would, therefore, be in accordance with the 1990 Act, the

NPPF, Policy E4 of the Adopted Local Plan, and criteria iii and iv of Policy E24 of the Adopted Local Plan.

### **Residential Amenity Issues**

Consideration has been given to the impact of the development on surrounding residential properties despite not receiving any letters of representation during the course of the application. The most immediately affected property in relation to the proposal is Church View which is located to the south of the application site. The proposed extensions would not extend any further out from the main barn building than the existing cat slide element and would, therefore, have no adverse impact on the residential amenities of the occupiers of Church View in accordance with Policy E3 of the Adopted Local Plan.

In addition, adequate curtilage space would be available for the proposed residential use at the barn, and the dwelling known as The Croft as shown on the site layout block plan, in accordance with the intentions of Policy E3 of the Adopted Local Plan.

### **Highway Safety Issues**

The building was formerly used in relation to agriculture, which would, in all likelihood, have involved large and slow moving vehicles. The proposal for one residential dwelling would not result in significant additional vehicle movements using the shared access and would be likely to result in smaller vehicles using the premises and the surrounding roads.

The submitted plans provide for ample parking and turning arrangements for the proposed residential unit and the existing dwelling at The Croft, and would ensure that all vehicles can access Moor Lane in a forward gear. The County Highway Authority has no objections subject to relevant highway conditions and, therefore, it is not considered that the proposal would conflict with highway safety policies T3 and T8 in the Local Plan or the advice contained in the County Council's HTD document.

### **Ecological Issues - Protected Species**

The County Ecologist advises that the ecological survey is satisfactory in respect of bat activity, but recommends that due to the evidence of swallows at the premises, no work should take place during the bird nesting season and that alternative nesting places for swallows be provided. On this basis the proposal would be in accordance with national planning policy.

### **Conclusion**

Notwithstanding the fact that the site lies in the countryside, the proposal fully meets the requirements of Adopted Local Plan Policies S3 and E24, and also complies with Policies E3, E4, T3 and T8, and the provisions and intentions of NPPF in relation to heritage assets. The proposed conversion scheme, including extensions and alterations, is substantially different to the proposal which was dismissed at appeal in terms of appearance and would result in a development which would not adversely impact on the Conservation Area. In addition, further alternative uses which were made apparent during the previous appeal have been explored within the current submission. The proposal, therefore, demonstrates that reasonable attempts have been made with regard to alternative uses other than residential. As such, and on balance, it is considered that the merits of the proposal overall outweigh the fact that there would be some visual impact on the Conservation Area. The proposal complies fully with Adopted Local Plan Policies as well as the NPPF and the application is, therefore,

recommended for approval.

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

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

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

- 2 The development shall be built in accordance with the approved plans, unless required otherwise through a subsequent condition, as follows:

Site Location Plan 1:1250;  
TCT.EXP.001;  
TCT.PRP.002; all received 19 August 2013, and  
TCT.BLK.003 Rev A received on 14 October 2013.

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

- 3 Notwithstanding the submitted information no development shall commence on site until representative samples of the materials to be used in all external surfaces have been submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

*Reason- To enable the Local Planning Authority to retain control over the external appearance given the site's location within a historic environment.*

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

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

- 5 No development shall commence on site until precise details of the chimney/flue and rooflights, windows, glazed element and door have been submitted to and agreed in writing with the Local Planning Authority including section details of how these will be attached to the main building. These elements shall be installed in accordance with the agreed scheme and shall thereafter be retained unless otherwise agreed in writing with the Local Planning Authority.

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

- 6 Notwithstanding any details submitted and before development commences on the site a

detailed scheme for the boundary treatment, including a method statement in relation to the taking down and rebuilding of the stone wall at the site frontage and proposed mortar mix, of the site shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the dwelling is occupied, and the frontage boundary wall works shall be undertaken in accordance with the agreed method statement.

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

- 7 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a five year period from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

*Reason- To ensure the satisfactory overall appearance of the completed development.*

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

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

- 9 No development shall commence on site until details of alternative nesting sites for swallows have been submitted and approved in writing by the Local Planning Authority. The sites shall be provided in accordance with the agreed details prior to occupation of the dwelling and shall be maintained in perpetuity.

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

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

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

- 11 Notwithstanding the submitted information, no development shall commence on site until details of satisfactory access arrangements have been submitted to and agreed in writing with the Local Planning Authority. Before first occupation of the dwelling, the approved means of access shall be provided and shall thereafter be so maintained.

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

- 12 Notwithstanding the submitted details, prior to first occupation of the dwelling, visibility splays of 2.4 metres by 33 metres to the south and by 43 metres to the north shall be provided at the junction of the access with Moor Lane. These shall be in accordance with the guidance contained in the current County Council design guide and shall be so maintained in perpetuity. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.

*Reason- To afford satisfactory 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.*

- 13 Before first occupation of the dwelling hereby permitted, details of turning facilities on the site shall be submitted to and agreed in writing by the Local Planning Authority and shall be made available for use within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall thereafter be permanently so maintained.

*Reason- To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.*

- 14 Before first occupation of the dwelling, car parking shall be provided, hard surfaced and made available for use on the basis of 2 spaces; the parking spaces so provided shall thereafter be permanently so maintained.

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

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

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

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. 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 As of April 6th April 2008 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please

## PLANNING APPLICATIONS- SECTION A

- contact the Local Planning Authority on (01530) 454665 for further details.
- 3 On the basis of the submitted plans, the details of access radii are not in accordance with the guidance contained in the '6 C's Design Guide'. Before development commences, an amended plan should be submitted to and approved by the Local Planning Authority.
- 4 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001). The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.

## SECTION B- OTHER MATTERS

There are no items in this section

## Section A – Planning Applications

Item	Reference	Details	Amend	Print	Sign	Sent
A1	13/00335/OUT M					
A2	12/01094/FUL					
A3	13/00460/FUL					
A4	13/00205/FUL					
A5	13/00290/FULM					
A6	13/00648/FULM					
A7	12/00922/OUT M					
A8	13/00695/NMA					
A9	13/00677/LBC					
A10	13/00666/FUL					

## Section B – Other Matters

Item	Reference	Details	Amend	Print	Sign	Sent
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