

Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	4.30 pm on Tuesday, 8 September 2015
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454512)

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

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

## AGENDA

Item	Pages
<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 4 August 2015.	<b>5 - 12</b>
<b>4. PLANNING APPLICATIONS AND OTHER MATTERS</b>	
Report of the Head of Planning and Regeneration.	<b>13 - 16</b>



## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	<p><b>15/00306/OUTM: Residential development of up to 91 dwellings and associated infrastructure (outline access only)</b></p> <p>Land North Of Butt Lane And East Of Hepworth Road Woodville/Blackfordby Swadlincote</p>	Permit - Subject to a Section 106 Agreement	17 - 44
A2	<p><b>15/00032/FULM: Construction of 30 dwellings with associated access and open space</b></p> <p>Land Off Forest Road Hugglescote Leicestershire</p>	Permit - Subject to a Section 106 Agreement	45 - 68
A3	<p><b>15/00499/FULM: The development of a new solar farm of up to 5MW of generating capacity, comprising the installation of solar photovoltaic panels and associated infrastructure including electrical inverter and transformer cabins, switchgear and meter house, access tracks, fencing, CCTV, landscape planting and grid connection.</b></p> <p>Land To The East Side B4116 Ashby De La Zouch And North Of Measham Road</p>	Permit	69 - 102
A4	<p><b>15/00500/FULM: The development of a new solar farm of approximately 1MW of generating capacity, comprising the installation of solar photovoltaic panels and associated infrastructure including electrical inverter and transformer cabins, switchgear and meter house, access tracks, fencing, CCTV, landscape planting and grid connection.</b></p> <p>Land To The East Of B4116 Ashby De La Zouch And North Of Measham Road</p>	Permit	103 - 136
A5	<p><b>15/00510/FUL: Removal of the existing 10KW wind turbine and installation of a 75KW wind turbine and associated infrastructure</b></p> <p>Forest Way Area Special School Warren Hills Road Coalville</p>	Permit	137 - 154
A6	<p><b>15/00749/PDNATR: Prior approval notification for change of use from agricultural building to a residential dwelling</b></p> <p>Lowlands Farm Measham Road Oakthorpe</p>	No Objections	155 - 166
A7	<p><b>15/00710/FUL: Erection of two storey and single storey side and rear extensions</b></p> <p>10 Churchill Close Ashby De La Zouch Leicestershire</p>	Permit	167 - 174

## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A8	<b>15/00648/VCI: Variation of conditions 2 and 6 of planning permission 12/01006/FUL, subsequently amended by application reference 13/00695/NMA, to retain "As Built" changes</b>  Breedon Hall Main Street Breedon On The Hill	Permit	175 - 184
A9	<b>15/00637/LBC: Retrospective application for conversion of unlisted former stable block within curtilage of listed building into 3 residential units including external works and off-street parking</b>  Breedon Hall Main Street Breedon On The Hill	Permit	185 - 192

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MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 4 AUGUST 2015

Present: Councillor D J Stevenson (Chairman)

Councillors R Adams, G A Allman, R Boam, R Canny, J Cotterill, J G Coxon, D Everitt, D Harrison (Substitute for Councillor N Smith), J Hoult, R Johnson, G Jones, J Legrys, V Richichi, M Specht and M B Wyatt

In Attendance: Councillors J Geary and T J Pendleton

Officers: Mr C Elston, Mr J Knightley, Mrs A Lowe, Mr J Mattley, Mr J Newton, Mrs R Wallace and Ms S Worrall

### **31. APOLOGIES FOR ABSENCE**

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

### **32. DECLARATION OF INTERESTS**

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

Councillor R Boam declared a pecuniary interest in item A4, application number 15/00451/FUL as the applicant; therefore he would leave the meeting during the consideration and voting thereon.

Councillor J Coxon declared a non pecuniary interest in item 6 – Receipt of advice in respect of application nos. 14/00769/OUTM and 15/00354/OUTM as a Member of Ashby Town Council.

Councillor R Johnson declared a non pecuniary interest in item A3, application number 15/00527/VCI as a Member of Hugglescote and Donington le Heath Parish Council. Also he would be addressing the Committee as a Ward Member; therefore he would leave the meeting during the consideration and voting thereon.

Councillor M B Wyatt declared a non pecuniary interest in item A1, application number 15/00227/OUTM as he was addressing the Committee as a Ward Member; therefore he would leave the meeting during consideration and voting thereon.

Members declared that they had been lobbied without influence in respect of various applications below:

Item A1, application number 15/00227/OUTM

Councillors R Adams, G A Allman, R Boam, R Canny, J Cotterill, J G Coxon, D Everitt, D Harrison, R Johnson, J Legrys, V Richichi, M Specht and D J Stevenson.

Item A2, application number 14/01132/FULM

Councillors G A Allman, R Boam, J Cotterill, D Harrison, J Legrys, M Specht and D J Stevenson.

Item A3, application number 15/000527/VCI

Councillors G A Allman, R Boam, J Cotterill, D Harrison, J Legrys, M Specht and D J Stevenson.

Item 6 – Receipt of Advice in Respect of Application Nos. 14/00769/OUTM and 15/00354/OUTM

Councillor J G Coxon.

### 33. MINUTES

Consideration was given to the minutes of the meetings held on 23 June and 7 July 2015.

Councillor R Canny requested an amendment to be made to the minutes of the meeting held on 23 June 2015 under item 15 to include her concerns regarding the development being outside the limits to development and the reduction in the area of separation between the villages.

Councillor G A Allman requested on behalf of Councillor J Bridges that the following statement be inserted into the minutes of the meeting held on 23 June 2015 under item 13:

'In accordance with Section 17.1 of Part 4 of the Council's Constitution, Councillor J Bridges moved that the business be continued as it was not unusual for minutes to take more than two weeks to produce.'

RESOLVED THAT:

Subject to the above amendments, the minutes of the meetings held on 23 June and 7 July 2015 be approved and signed by the Chairman as a correct record.

### 34. PLANNING APPLICATIONS AND OTHER MATTERS

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

### 35. **A1 15/00227/OUTM: PROPOSED RESIDENTIAL DEVELOPMENT OF UP TO 122 DWELLINGS (USE CLASS C3), RETAIL UNIT (UP TO 400 SQ M USE CLASS A1), ACCESS AND ASSOCIATED INFRASTRUCTURE (OUTLINE ALL MATTERS RESERVED)**

Land Off Greenhill Road Greenhill Road Coalville

Officer's Recommendation: Refuse

The Principal Planning Officer presented the report to Members.

The Development Control Team Manager read out the following letter received from Andrew Bridgen MP:

'I am writing to notify the Committee of several objections I have received regarding the above application. I would ask that all the concerns previously raised by the objectors to the proposed development are once again taken into account, especially the concerns of the Leicestershire and Rutland Wildlife Trust as this site is part of Charnwood Forest, and this application does represent significant encroachment into the Forest. I also believe there are questions surrounding highways and the risk of flooding to residents living in Kenmore Crescent.

I believe given the natural beauty of this area there are far more suitable areas around Coalville to open up to housing development and I would therefore ask that your Committee support the Planning Officer's decision in refusing this application.'

Councillor M Wyatt, Ward Member, addressed the Committee. He stated that he had lobbied to protect the site due to its natural beauty and was pleased that officers were also in agreement. He expressed concerns regarding the additional traffic the development

would create on an already busy road especially as a development had recently been approved at a nearby site on the other side of the road. He also commented that the site was outside the limits to development and it was important to protect the countryside. He concluded that all Members could agree that on this occasion building on the proposed site was unacceptable.

At this point, as Councillor M B Wyatt had declared an interest in the item, he left the meeting and took no part in the consideration or voting thereon.

Ms J Tebbatt, objector, addressed the Committee and raised the following points:

- The proposed site was a Greenfield site, outside the limits to development.
- The development encroached on Charnwood Forest.
- The development would result in the loss of wildlife habitat which supported a huge variety of species.
- An adverse impact would be had on the environment
- The token offer of planting on the site was not sufficient.
- The Council had a housing land supply of over six years; therefore further development was not required.
- The published draft Local Plan identified preferred areas for development.
- There would be increased traffic congestion on the surrounding road network which would lead to the air quality exceeding the national limit.
- The proposed flood solutions were unacceptable.

She concluded that sites such as this one should be protected for the enjoyment of future generations and urged Members to refuse the application.

Mr L Lane, applicant, addressed the Committee. He reported that the number of dwellings had been reduced from the previous application and that there were no outstanding technical objections. He stated that he was aware that the housing land supply calculations used by the Council were not sufficient and this development would help towards increasing the numbers. He believed that the policies regarding building in the countryside were out of date and that the development was no different to the nearby David Wilson site. He confirmed that the Landscape Officer had no objections and asked members to disregard the objections regarding the illustrative design as the application was for outline matters. He also confirmed that he was happy to make the library and civic amenity contributions as referred to within the report.

The Head of Planning and Regeneration assured Members that the five year housing land supply was based on the Leicester and Leicestershire SHMA, which is calculated Countywide and that the figures were correct.

The officer's recommendation to refuse the application was moved by Councillor M Specht and seconded by Councillor J Legrys.

Councillor D Everitt commented that it was wrong for the applicant to compare the proposed site of development with the neighbouring development as they were very different. He expressed the importance of protecting the area as it was valued by local people. He believed that if the application was permitted, the Committee would be doing a great injustice to the area and the natural beauty.

Councillor R Adams thanked the objector for speaking well and declared that he was in support of the proposal to refuse the application.

The Head of Planning and Regeneration recommended that providing written notice was received from the applicant stating the acceptance of the suggested contributions to library and civic amenity as referred to in the address to Committee, recommended reason for refusal could be deleted.

RESOLVED THAT:

The application be refused in accordance with the recommendation of the Head of Planning and Regeneration (save for the deletion of reason for refusal 3 subject to written confirmation from the applicant that it would pay the library and civic amenity contributions sought).

36.

**A2**  
**14/01132/FULM: DEMOLITION OF EXISTING COMMERCIAL BUILDING AND ERECTION OF 188 DWELLINGS, B2 MANUFACTURING UNIT AND ASSOCIATED DEVELOPMENT INCLUDING VEHICULAR ACCESS, PEDESTRIAN AND CYCLE LINKS, PUBLIC OPEN SPACE, CAR PARKING, LANDSCAPING AND DRAINAGE**  
 Slack And Parr Ltd Long Lane Kegworth Derby DE74 2FL

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

The Principal Planning Officer presented the report to Members.

The Head of Planning and Regeneration referred to the additional comments submitted by Kegworth Parish Council regarding open space and leisure facilities, children's play, traffic and parking, and the library. He reported that the applicant was happy to provide a contribution towards the zebra crossing; therefore the planning officers would negotiate this with the Highway Authority.

Ms H Tansley, Parish Councillor, addressed the Committee. She commented that the Parish Council wants Kegworth to be sustainable with enough local facilities and the proposed factory would employ people for the foreseeable future. She believed that the children's safety was important when accessing the playground so it was encouraging that the applicant agreed to contribute towards it. She expressed concerns regarding the lower than average figure for affordable homes within the development.

Mr D Bainbridge, agent, addressed the Committee. He explained that the application was a good example of a high quality mixed use development and was grateful for the support and advice provided by officers. He reported that there were no technical objections and referred to the benefits the development would bring which were listed on page 75 of the application. He commented that the developers had engaged with the Parish Council and held very productive meetings which had contributed towards the good application Members had in front of them.

The officer's recommendation to permit was moved by Councillor J Houlton and seconded by Councillor R Adams.

Councillor D J Stevenson commented that the Parish Councillor addressed the Committee very well as it could be very daunting. He expressed the importance of supporting the Parish Councils and in doing so he would like to move that the Section 106 Agreement be amended so that the police contributions be transferred to the Parish Council as he believed it would be better spent. It was seconded by Councillor J Legrys and agreed.

Councillor R Adams commented that he shared the Parish Council's disappointment regarding the low number of affordable housing but overall he was in support of the application.

Councillor D Harrison felt that it was a good application which provided homes and jobs, as well as keeping a local business in the area.



Councillor J Coxon commented that he was pleased with the work that had been undertaken with the Parish Council as he felt it was important to have their involvement. He would like to see more of this joint working in the future.

Councillor V Richichi stated that he was pleased that we are listening to the people and that is the most important thing, and supported the development of Brownfield sites instead of countryside.

Councillor J Legrys commented that the fact there had been no objections to the application, proved that dialogue between developers and Parish Councils did work. He also stated that he was very happy with the transfer of Section 106 money to the Parish Council.

Councillor R Johnson referred to the Parish Council's request to place conditions on the hours of operation and asked if that was possible. The Head of Planning & Regeneration advised not to add such conditions as it would be very difficult to enforce and stray into the local planning authority taking an inappropriate role in how the business would operate.

#### RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Head of Planning and Regeneration, with the amendment to the Section 106 Agreement to the effect that the contribution of £12,859 to the police be instead made to Kegworth Parish Council for sports and recreation, and that it be delegated to the Head of Planning & Regeneration to negotiate a suitable crossing of Side Ley between the site and the play area opposite.

37.

**A3**

**15/00527/VCI: REMOVAL OF CONDITIONS 6 AND 11 FROM PLANNING PERMISSION 14/00311/VCI IN ORDER TO ALLOW THE EXISTING SPORTS HALL TO BE ABLE TO PLAY AMPLIFIED MUSIC, AND TO ALLOW DOORS AND WINDOWS TO BE OPENED WHILST OTHERWISE IN USE**

Newbridge High School Forest Road Coalville Leicestershire LE67 3SJ

Officer's Recommendation: PERMIT

The Senior Planning Officer presented the report to Members.

Councillor R Johnson, Ward Member, addressed the Committee. He explained that since being elected in 2011 and being a Member of the Planning Committee he had always looked at the merits of applications and what was in the public's best interest, it was his opinion that this application had neither. As both a District and Parish Councillor, Councillor R Johnson had always supported the school and encouraged the applicant to engage with residents about everything the school was planning but on this occasion only minimal contact has been made. He reported that the school had admitted that it had breached the conditions already imposed on many occasions and as an authority, the Council should be protecting the resident's amenities no matter what and enforcing the conditions. Councillor R Johnson had experienced the noise disturbance personally due to living approximately a mile away from the school and had decided to approach the caretaker regarding the noise level. His main concern was the exposure to noise that the very young children had to endure. He asked Members to imagine what residents would have to cope with being in closer proximity of the facility. Residents had to tolerate high noise levels from the school facilities being used late at night when trying to enjoy their gardens. Councillor R Johnson referred to a resident who was a carer for his long term seriously ill wife who needs the quietness to recuperate; the amended conditions would make their lives hell. He also referred to another resident who slept in the afternoon until

he started work in the early hours of the morning as a long distance HGV driver, his sleep was affected by the noise which put his life in danger whilst driving.

At this point, as Councillor R Johnson had declared an interest in the item, he left the meeting and took no part in the consideration or voting thereon.

Mr N Mann, noise assessor on behalf of the applicant, addressed the Committee. He explained that he had attended the site and undertaken a noise assessment while the noise was at maximum volume to calculate the most appropriate levels to ensure World Health Organisation guideline limits were not breached. This was what Members had before them. He confirmed that the facility would be used in the evening not at night time and that he had worked with the planning officers to agree on how to manage the situation to achieve an acceptable noise level.

At the request of Councillor D J Stevenson, the Senior Planning Officer confirmed that the recommended hours of operation to be 8.00am to 9.00pm Monday to Friday, 8.00am to 7.00pm Saturdays and 9.00am, to 4.00pm on Sundays and Bank Holidays. During these times the windows and doors were to be closed.

Councillor G Jones moved the officer's recommendation to permit and it was seconded by Councillor D Harrison.

Councillor D Everitt commented that it was good to see the facilities being used to its full potential and he had benefited from facilities such as this all his life.

Councillor J Legrys commented that as a neighbouring Ward Member, he was aware that the school had not been a good neighbour over the years and he shared Councillor R Johnson's concerns. The residents currently had to put up with unauthorised noise levels and vehicles parking badly in the surrounding area, blocking drives. He believed that if the application was approved it would result in a high number of complaints. He also commented that the noise assessment was not undertaken in reality but at a desk using software. He asked Members to imagine not being able to use their gardens in an evening due to the noise levels. He understood that schools needed to diversify but letting an independent body use the facilities to run events was not the way to do it. He asked that if the application was permitted, would it be possible to add a 6 month trial period to it.

Councillor V Richichi stated that he could not vote against the application as he was responsible for playing loud music at times but he believed maybe the removal of using the facilities on a Sunday might be appropriate.

Councillor R Canny commented that the school had a fantastic facility and as they could not even put a CD player on at the moment, she could understand the need for the application. She could also understand the concerns of the residents and agreed with the suggestions to remove Sundays from the conditions. She also suggested removing Bank Holidays.

Councillor M Specht reported that the Parish Council objected to the application and had requested the conditions be placed on school hours and during term time only. As the Parish Council had not been supported, he would not be voting in support.

Councillor D Harrison believed in dual use of schools and liked the idea of the noise limiter. He agreed with permitting the application for a trial period, but felt that six months was too short, twelve months would be more appropriate.

Councillor R Adams stated that he valued people's quality of life and therefore moved the amendment to the conditions to remove Sundays and Bank Holidays and permit for a trial period of twelve months. The meeting signified its assent to the proposed amendment.

The Senior Planning Officer assured Members that the noise assessment was undertaken at the facility and was not a desk exercise.

The Chairman put the proposed amendment to the vote and it was agreed.

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Head of Planning and Regeneration, with an amendment to condition 4 to delete Sundays and Bank Holidays, and for the permission to be for a trial period of twelve months.

**38. A4  
15/00451/FUL: ERECTION OF A DETACHED DWELLING ALONG WITH ASSOCIATED GARAGE**

Oak Tree Stables School Lane Newbold Coalville Leicestershire LE67 8PF

Officer's Recommendation: PERMIT

Having declared a pecuniary interest, Councillor R Boam left the meeting and took no part in the consideration or voting thereon.

The Development Control Team Manager presented the report to Members.

The officer's recommendation to permit was moved by Councillor J Legrys and seconded by Councillor R Adams.

RESOLVED THAT:

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

**39. EXCLUSION OF PRESS AND PUBLIC**

The officers consider that the press and public should be excluded during consideration of the following items in accordance with Section 100(a) of the Local Government Act 1972 as publicity would be likely to result in disclosure of exempt or confidential information.

RESOLVED THAT:

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

**40. RECEIPT OF ADVICE IN RESPECT OF APPLICATION NOS. 14/00769/OUTM AND 15/00354/OUTM**

The Principal Planning Officer presented the report to Members.

RESOLVED THAT:

Option 2, and option 3 in part, be agreed as the next steps to be taken as detailed within paragraph 3.1 of the report.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 6.25 pm

**APPENDIX B**

**Report of the Head of Planning and Regeneration  
To  
Planning Committee  
8 September 2015**

**PLANNING & DEVELOPMENT REPORT**



## **PLANNING COMMITTEE FRONT SHEET**

### **1. Background Papers**

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

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

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

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

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

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

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

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

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

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

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

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

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

## **7 Amendments to Motion**

An amendment must be relevant to the motion and may:

1. Leave out words
2. Leave out words and insert or add others
3. Insert or add words

as long as the effect is not to negate the motion

If the amendment/s makes the planning permission incapable of implementation then the effect is to negate the motion.

If the effect of any amendment is not immediately apparent the Chairman will take advice from the Legal Advisor and Head of Planning and Regeneration/Planning and Development Team Manager present at the meeting. That advice may be sought during the course of the meeting or where the Officers require time to consult, the Chairman may adjourn the meeting for a short period.

Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of. The amendment must be put to the vote.

If an amendment is not carried, other amendments to the original motion may be moved.

If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendment, or if there are none, put it to the vote.

## **8 Delegation of wording of Conditions**

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

to the Head of Planning and Regeneration.

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

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



Residential development of up to 91 dwellings and associated infrastructure (outline access only)

Report Item No  
A1

Land North Of Butt Lane And East Of Hepworth Road  
Woodville/Blackfordby Swadlincote DE11 7BY

Application Reference  
15/00306/OUTM

Applicant:  
Mr Tom Dickens

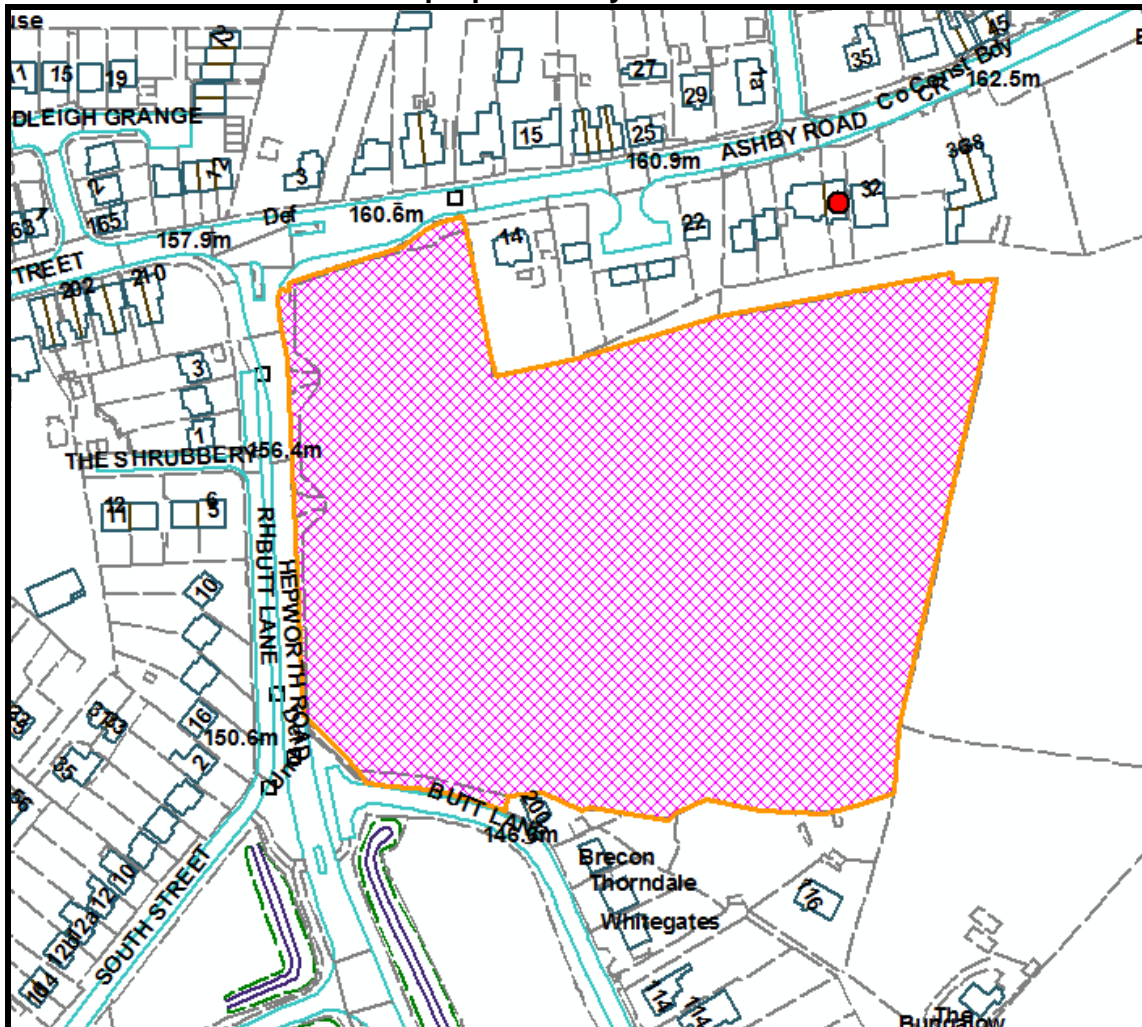
Date Registered  
18 May 2015

Case Officer:  
Ebony Mattley

Target Decision Date  
17 August 2015

Recommendation:  
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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

### **Reason for Call In**

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

### **Proposal**

This application seeks outline planning permission for up to ninety-one dwellings, at land to the north of Butt Lane and east of Hepworth Road, Blackfordby.

The application is in outline at this stage with details of means of access only included for consideration. The vehicular access into the site would be off Butt Lane.

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

### **Consultations**

Members will see from the main report below that there are 54 objections to the scheme, and an objection from Ashby Town Council, Woodville Parish Council and concerns raised by South Derbyshire District Council. There are no other objections raised from statutory consultees.

### **Planning Policy**

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

### **Conclusion**

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

Paragraph 14 of the NPPF requires an assessment to be undertaken to establish whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole.

When having regard the sustainability credentials of the settlement of Woodville, in addition to Blackfordby, combined with the fact that the site is well related to Woodville and is adjoined by existing built development and the Limits to Development, it is considered that a strong case has been made concerning the sustainability of the site.

The proposed development would be acceptable in terms of density, design, impact upon the heritage assets, trees, residential amenities, highway safety, coal mining and land contamination, flood risk and drainage, ecological impacts and impact on the River Mease

SAC/SSSI and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services. There are no other relevant material planning considerations that indicate planning permission should not be granted.

It is therefore recommended that planning permission be granted, subject to conditions and the signing of the S106 Agreement.

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

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

Outline planning permission is sought for the erection of up to 91 residential units. The application is in outline at this stage with details of means of access included for consideration. Vehicular access into the site would be off Butt Lane, to the south of the site.

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

The site area is 3.4 hectares and is currently in agricultural use. Public Footpath P12 runs along the southern periphery of the site.

Whilst the site falls within North West Leicestershire District Council's boundary, the site abuts the border of Woodville, which falls within South Derbyshire District Council.

To the south, the site borders residential properties on the east side of Butt Lane, Blackfordby and borders No's 14-38 Ashby Road, Boundary to the north. The site immediately bounds Hepworth Road to the west, which abuts residential properties on Butt Lane, which are located within Woodville.

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

The application is accompanied by:-

- o Amphibian Survey
- o Arboricultural Report
- o Design and Access Statement
- o Ecological Appraisal
- o Flood Risk Assessment and Drainage Strategy
- o Geotechnical and Geo-environmental Desk Study
- o Noise Assessment
- o Planning Statement
- o Precautionary Method of Works: Great Crested Newts and Reptiles
- o Statement of Community Engagement
- o Transport Assessment
- o Travel Plan

### Planning History:-

No relevant planning history.

### 2. Publicity

70 No neighbours have been notified (date of last notification 19 May 2015)

Site Notice displayed 4 June 2015

Press Notice published 27 May 2015

### 3. Consultations

NWLDC Footpaths Officer  
Ashby de la Zouch Town Council  
County Highway Authority  
Environment Agency  
Severn Trent Water Limited  
Head of Environmental Protection  
Natural England  
NWLDC Tree Officer  
County Archaeologist  
LCC ecology  
Airport Safeguarding  
NWLDC Conservation Officer  
NWLDC Urban Designer  
National Forest Company  
LCC Fire and Rescue  
English Heritage- major dev in CA  
County Planning Authority  
LCC Development Contributions  
NHS Leicester, Leicestershire And Rutland Facilities Management  
Development Plans  
Head Of Leisure And Culture  
Manager Of Housing North West Leicestershire District Council  
LCC/Footpaths  
LCC Flood Management  
Coal Authority  
South Derbyshire District Council  
Derbyshire County Council

### 4. Summary of Representations Received

#### Statutory consultees:

**Ashby de la Zouch Town Council** raise objections on the following grounds:-

- o Greenfield site, outside village limits and would remove the area of separation between Blackfordby and Woodville;
- o Serious traffic problems in the village which would be exacerbated;
- o Vehicular access from Butt Lane is inappropriate and Hepworth Road would be the preferred route;
- o The site is not sustainable, relying on the use of Woodville services; and
- o Concerns about sewers coping with the additional discharge and exacerbating flooding which already occurs in Blackfordby.

**South Derbyshire District Council** raise the following concerns:-

- o The local doctor's surgery may be subject to undue impact without any necessary funding for mitigation and there has been no approach to Southern Derbyshire CCG;
- o The local highway network may also be subject to impact affecting highway safety and are not aware of any approach to Derbyshire Highway Authority to seek its comments in

- o this regard; and
- o There may be impact upon the local sport and recreation facilities with no offer of mitigation.

**Woodville Parish Council** object to the application.

**County Highways Authority** has no objections subject to conditions and subject to securing developer contributions through a legal agreement.

**Environment Agency** does not consider the proposal to be high risk and does not wish to provide detailed site-specific comments.

**Severn Trent Water Ltd** raises no objection subject to a drainage condition.

**Coal Authority** raises no objection subject to a condition.

**Natural England** raises no objections subject to the development according with the requirements of the River Mease Developer Contribution Scheme.

**Historic England** do not consider it necessary to be consulted on this application.

**National Forest Company** advises that 20 percent of the site area should be woodland planting and landscaping.

**East Midlands Airport** raises no objection.

**Lead Local Flood Authority** raises no objection subject to conditions.

**Leicestershire County Council - Ecology** raises no objections subject to conditions.

**Leicestershire County - Archaeology** raises no objections subject to conditions.

**Leicestershire County Council - Footpaths** requests notes to the application in respect of Public Footpath P12.

**NWDLC Head of Housing** advises that the rural housing needs survey for Blackfordby identified a need for affordable homes. In line with the Council's Supplementary Planning Document, 30% affordable housing should be secured.

**NWLDC Urban Designer** is not satisfied that the indicative layout scheme is acceptable and proposes a condition for a scheme to produce a Building for Life based design code.

**NWLDC Conservation Officer** raises no objections.

**NWLDC Tree Officer** raises no objections subject to conditions.

**NWLDC Head of Environmental Protection** raises no objection, subject to a noise condition.

**NWLDC Street Action Team** raises no objection, subject to a contaminated land condition.

No comments have been received from:-

Derbyshire County Council

54 letters of objection have been received raising the following concerns:-

- a) Greenfield and not a brownfield site;
- b) High agricultural quality land;
- c) The Council have a 5 year supply;
- d) Loss of green wedge and green belt;
- e) Merging and coalescence of the two settlements;
- f) Contrary to local plan policies and NPPF;
- g) Other suitable brownfield sites;
- h) Increase in size of village by 25%;
- i) Not sustainable village;
- j) Existing inadequate infrastructure/services/amenities;
- k) Loss of view;
- l) Density is too high;
- m) Layout concerns;
- n) Planting is vague and non-specific;
- o) Impact upon amenities of existing local residents;
- p) Pollution from noise and traffic;
- q) Highway safety;
- r) Exacerbate congestion;
- s) Lack of footpath;
- t) No school parking;
- u) Impact upon wildlife;
- v) Drainage issues and floodrisk;
- w) A full Environmental Impact Assessment is required;
- x) Set a precedent for future developments;
- y) Similar developments have been rejected;
- z) Inadequate documents submitted and profound statements given; and
- aa) De-valuation of property prices

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

## 5. Relevant Planning Policy

The Planning (Listed Buildings and Conservation Area) Act 1990

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

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

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

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

application:

Paragraph 14 (Presumption in favour of sustainable development)  
 Paragraph 32 (Promoting sustainable transport)  
 Paragraph 34 (Promoting sustainable transport)  
 Paragraph 47 (Delivering a wide choice of high quality homes)  
 Paragraph 49 (Delivering a wide choice of high quality homes)  
 Paragraph 54 (Delivering a wide choice of high quality homes)  
 Paragraph 57 (Requiring good design)  
 Paragraph 59 (Requiring good design)  
 Paragraph 61 (Requiring good design)  
 Paragraph 64 (Requiring good design)  
 Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)  
 Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)  
 Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)  
 Paragraph 109 (Conserving and enhancing the natural environment)  
 Paragraph 112 (Conserving and enhancing the natural environment)  
 Paragraph 118 (Conserving and enhancing the natural environment)  
 Paragraph 119 (Conserving and enhancing the natural environment)  
 Paragraph 129 (Conserving and enhancing the historic environment)  
 Paragraph 131 (Conserving and enhancing the historic environment)  
 Paragraph 134 (Conserving and enhancing the natural environment)  
 Paragraph 143 (Facilitating the sustainable use of minerals)  
 Paragraph 203 (Planning conditions and obligations)  
 Paragraph 204 (Planning conditions and obligations)

**North West Leicestershire Local Plan:**

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

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

Policy S3 - Countryside  
 Policy E2 - Landscaped Amenity Open Space  
 Policy E3 - Residential Amenities  
 Policy E4 - Design  
 Policy E7 - Landscaping  
 Policy E8 - Crime Prevention  
 Policy E30 - Floodplains  
 Policy F1 - National Forest General Policy  
 Policy F2 - Tree Planting  
 Policy F3 - Landscaping and Planting  
 Policy T3 - Highway Standards  
 Policy T8 - Parking  
 Policy H4/1 - Housing Land Release  
 Policy H6 - Housing Density  
 Policy H7 - Housing Design  
 Policy H8 - Affordable Housing  
 Policy L21 - Children's Play Areas

**Other Guidance**



National Planning Practice Guidance - March 2014.

The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').

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

River Mease Water Quality Management Plan - August 2011.

River Mease Development Contributions Scheme - November 2012.

### **North West Leicestershire District Council Affordable Housing Supplementary Planning Document (SPD)**

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

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

### **North West Leicestershire District Council Play Area Design Guidance Supplementary Planning 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.

### **Blackfordby Conservation Area Appraisal and Study Supplementary Planning Guidance (SPG)**

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

### **6Cs Design Guide (Leicestershire County Council)**

The 6Cs Design Guide sets out the County Highway Authority's requirements in respect of the design and layout of new development.

## **6. Assessment**

The main considerations with regards to this application are the principle of development, including sustainability credentials of the site and cross boundary impacts, loss of agricultural land, access and highway safety, public footpaths, density and layout, impact upon residential amenity, impact upon heritage assets, protected species/ecology, archaeology, trees, coal mining and land contamination, drainage and flood risk, the impact upon the River Mease SAC/SSSI, developer contributions and other matters.

### **Principle of Development and Impact upon the Countryside**

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

The application site lies outside the Limits to Development of Blackfordby, as defined by the proposals map of the adopted Local Plan and therefore falls to be considered against Saved

Policy S3 of the Local Plan. In applying weight to any conflict with Policy S3 in the overall planning balance, it is important to bear in mind the fact that the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements only up until the end of that Plan Period (i.e. to 2006). It is therefore considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan.

Saved Policy H4/1 is also of relevance and identifies the criteria for in releasing "appropriate" land for housing.

Whilst the site falls within North West Leicestershire District Council's (NWLDC) boundary, the site abuts the border of Woodville, which falls with the jurisdiction of South Derbyshire District Council (SDDC). It is considered that the application site would relate reasonably well to the boundaries of existing residential properties to the north of No's 14-38 Ashby Road, Boundary (NWLDC) and to the south with a linear row of residential properties to the east of Butt Lane, Blackfordby (NWLDC). The site immediately bounds Hepworth Road to the west, which abuts residential properties on Butt Lane, Woodville (SDDC).

In terms of the concerns raised about the impact upon the countryside, the application site abuts the settlement boundary of Boundary to the north - with Ashby Road, the settlement boundary of Blackfordby to the south and the settlement boundary of Woodville to the north and west. As such it is considered that the development on this site would be viewed against this backdrop of existing, adjacent built development and therefore, would not appear an isolated development in the countryside. Therefore having regard to all of the above considerations (existing landscaping and the scope for mitigation in the detailed layout, design and landscaping of the scheme), whilst there would be moderate and localised harm to the countryside it is considered that it would be limited and not be so significantly detrimental to justify a reason for refusal based on the proposal resulting in an adverse impact on the character of this locality and the countryside.

In respect of the concerns raised about the merging of the settlements, it is acknowledged that the site would adjoin the settlement boundary of Woodville to the north, whilst adjoining the most northerly point of the settlement boundary of Blackfordby to the south. However, it is considered that a suitably designed scheme could be provided at the reserved matters stage(s) which proposes a layout with a landscaping buffer (and not built - residential development) to the south of the site, as presented in the illustrative layout, which would result in both a physical and visual separation.

As the Authority is able to demonstrate a five year supply of housing, including an additional 20% buffer, Saved Policies S3 and H4/1 are considered to be relevant in determining this application, in the context of Paragraph 49 of the NPPF (subject to the weight to be attached to Policy S3 as a material consideration being adjusted having regard to the plan period issue as set out above).

Insofar as the site's location is concerned, whilst the site it is located outside of Limits to Development, the site is well related to existing settlement boundaries and bounded by existing development, as set out above and is not therefore considered to be an isolated development in the countryside.

### **Sustainability credentials of the site**

In terms of distance to amenities, the Institute of Highways and Transportation (IHT) document 'Providing for Journeys on Foot' details the distance of 800 metres is considered to be the preferred maximum walking distance to a town centre with 400 metres acceptable and 200 metres being desirable.

Consideration should also be given to the appeal decision at land South of Moira Road, Ashby. In terms of the distance to amenities, the inspector referred to DoT statistics which show that the average trip length regularly undertaken by the population of Great Britain is, on average, walking about 1km, cycling about 4.5km and by bus about 8km.

#### *Services within South Derbyshire*

The following services are available in Woodville off the A511, measured from the proposed pedestrian connection to the north east of the site:-

- o Shop - 230 metres
- o Convenience Store (Tesco) 615 metres
- o Post Office - 615 metres
- o Pharmacy - 615 metres;
- o Doctors - 920 metres
- o Primary School (Woodville Infant and Woodville C of E Junior School) - 570 metres
- o Secondary School - 1,735 metres

The County Highway Authority (CHA) have also commented upon transport sustainability within this application, stating that the site is within a reasonable walking and cycling distance of many facilities within Woodville and Swadlincote, including an hourly bus service along the A511 within 400 metres of the site and can therefore be considered a sustainable location in transport terms.

The CHA have also confirmed that whilst the westerly bound bus stop to the east of the site does not have a continuous footway linking it to the site, the next bus stop to the west of the site is a similar walking distance and does benefit from a continuous footway.

#### *Services within North West Leicestershire*

The now withdrawn submission version North West Leicestershire Local Plan: Core Strategy did identify Blackfordby as a "sustainable village".

Below are the approximate distances to services within Blackfordby, measured from the access point at Butt Lane:-

- o Recreation Ground - 870 metres
- o Primary School - 1,250 metres
- o Village Hall - 1,280 metres
- o Public Houses - 1,280 - 1,450 metres
- o Chapel 1,320 metres
- o Bus Service - (nearest stop opposite 23 Main Street) - 1,150 metres

Bus Service 9/9A provides an hourly service between Coalville and Burton on Trent calling at Swannington, Ashby de la Zouch, Blackfordby, Moira, Swadlincote and Brizlincote. This service

runs Monday to Friday between the hours of 0659 and 1939 hrs and on Saturdays between the hours of 0719 and 1939 hrs. A slightly reduced hourly bus service 9E runs on Sundays (this does not stop at Moira) between the hours of 0935 and 1935.

### *Summary*

Having regard to the location of the site, it is considered that residents of the site would have easy access to services and facilities in Woodville by walking, with some reasonable access to facilities in Blackfordby by walking and cycling and reasonable access to facilities that neighbouring settlements (Swadlincote and Norris Hill) have to offer by cycling or using public transport.

Whilst the services available within Blackfordby are more limited, the site is well related to Woodville and it is considered that cumulatively, with the services within Woodville and Blackfordby, overall there would be a good range of services and facilities, for the occupiers of the proposed dwellings.

### **Cross Boundary Impacts**

South Derbyshire District Council (SDDC) have raised concerns regarding the potential impacts upon the local doctor's surgery, highway network and local sport and recreation facilities, in South Derbyshire, without appropriate mitigation.

NHS England originally confirmed that the proposal would trigger the need to provide health funding of £551 per dwelling. Officers have liaised with NHS England to seek clarification as to where the money would be provided, which specific project and whether this should be within South Derbyshire, North West Leicestershire, or both. NHS England have subsequently contacted Southern Derbyshire CCG who have confirmed that they are unable to give a definitive answer where the contribution would be spent and would rather have a strategic, robust view and model that can be applied to all developments. Accordingly as there are no specific requests for either a project or scheme towards a specific surgery or practice, there is insufficient information to satisfy that the request would be directly related to the proposed development and would therefore fall foul of satisfying the relevant legal tests. Therefore neither a contribution to be used in North West Leicestershire or South Derbyshire can be sought in this case.

In response to the comments raised by SDDC in respect of the local highway network and leisure and recreation facilities, there has been no response or request from Derbyshire County Council, during the course of the application, despite Officers requesting responses on 25 June 2015 and 31 July 2015 (in addition to the initial consultation). As such it is not possible to suggest appropriate mitigation, in the absence of any evidence or requests from Derbyshire County Council.

Consideration has also been given to the potential impacts upon Derbyshire County Council's schools, given the proximity of the site to schools within South Derbyshire and officers have undertaken discussions with the Education contacts at both Leicestershire and Derbyshire County Councils. Leicestershire County Council have confirmed that they are un-able to take into account any primary or secondary schools, within any other Country (even though they may be closer) as they have no information on the capacity, number on roll, forecasts, admission arrangement or housing developments in other Counties and have no jurisdiction over the allocation of places at schools in other Counties. For the avoidance of doubt, Derbyshire do not include places in Leicestershire schools for the same reasons. The County Councils have also

confirmed that any parent has the right to request a place at any school which maybe in another Authority or in a different catchment, however, that preference can only be agreed if spaces are available. As such financial contributions have only been sought by Leicestershire County Council for the schools that fall within Leicestershire and in this case the District of North West Leicestershire.

The County Highway Authority (CHA) have confirmed that the closest primary school in the catchment area is St. Margaret's C of E Primary School, in Blackfordby, which is about 1 mile from the site, and the closest Secondary school in the catchment is 2.8 - 3 miles away. The CHA have confirmed that all schools are within a walking distance and that there exist safe walking routes from the site to both schools. The CHA does however, confirm to encourage walking trips the existing footway along Butt Lane should be widening to a minimum of 1.2 metres, where possible.

*Summary: Principle of Development*

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

- o Economic - in this respect developments should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to support growth, and by coordinating development requirements, including the provision of infrastructure. It is considered that the development would benefit the local economy through both the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and maintenance of local infrastructure. Accordingly the site is considered to be consistent with the 'economic role'.
- o Social - in this respect, developments should support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The new population could support and help sustain the local services and facilities that meet local needs and contribute to the creation of sustainable communities. The development would provide both open market and affordable housing, appealing to a wider spectrum with the local market, thus increasing local market choice and appealing to groups whom may have otherwise been excluded from the locality. The proposal would include the provision of public open space and financial contributions will be secured towards the provision of local services and facilities. Accordingly the site is considered to be consistent with the 'social role'.
- o Environmental - to fulfil this role development should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change. The site is located outside the limits to development, but is well related to the existing settlement of Woodville. Furthermore, as set out in this report, it is considered that the proposal would not be contrary to the aims of protecting or enhancing the natural and historic environment. Accordingly the site is considered to be consistent with the 'environmental role'.

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

Paragraph 14 of the NPPF requires an assessment to be undertaken to establish whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole.

When having regard to the sustainability credentials of the settlement of Woodville and Blackfordby, combined with the fact that the site is well related to existing built development and the Limits to Development of Woodville, it is considered that a strong case has been made concerning the sustainability of the site.

### **Loss of Agricultural Land**

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. The Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The applicant has confirmed that the land would be assigned to Class 3, however the information does not specify whether the land would fall within a 3a (BMV) or 3b (not BMV) classification.

Whilst, the NPPF does not suggest that the release of smaller BMV site is acceptable, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost and therefore given the relatively limited extent of the potential loss of the site, at 3.4 hectares, it is considered that the potential agricultural land quality issue is not sufficient to sustain a reason for refusal in this case.

### **Access and Highway Safety**

All matters are reserved for subsequent approval, except for access. The point of access proposed shows vehicular access from Butt Lane.

The County Highways Authority has been consulted on the application and although concern has been raised by local residents about traffic generation, point of access and highway safety matters, the County Highways Authority has raised no objections (subject to conditions) to the proposed development in respect of highway safety implications. The CHA have also confirmed that they are satisfied with the submitted Travel Plan.

The CHA confirms that to encourage walking trips the existing footway along Butt Lane should be widening to a minimum of 1.2 metres, where possible and have requested a series of developer contributions, which is discussed later in this report.

In these circumstances, subject to conditions and S106 contributions, which the applicant has agreed to, it is considered that the development would accord with Policy T3 of the Local Plan.

### **Public Footpaths**

Public Footpath P12 runs along the southern periphery of the site. The County Footpaths Officer (CFO) has confirmed that there is no objection to the application as it should not affect the public's use and enjoyment of the Right of Way, subject to adding a note to applicant to

make them aware of safety, security, obstructions, surfacing, planting and any proposed diversions or temporary closures.

Whilst layout is not for consideration at this time, from the illustrative layout provided the existing Public Footpath would not be obstructed by any proposed dwellings and it would appear that a diversion would not be required and it is considered acceptable in terms of its impact on the existing Public Footpath. Nevertheless, as layout is not for consideration, it is considered appropriate to impose a note to applicant to inform the applicant of the comments of the CFO for future consideration.

The CHA have also confirmed that in order to provide the most convenient pedestrian and cycle links, Public Footpath P12 should be improved to a 2 metre wide hard surface, the proposed footway link between Plot 5 and the Public Footpath should be to an adoptable standards and the link to Hepworth Road to the north of the site should be a shared cycleway/footway to a width of 3 metres. It is considered that conditions shall be imposed to this affect.

## **Density and Layout**

### *Density*

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

The application proposes up to 91 dwellings on a 3.4 hectare site equating to a net density of 26.7 dwellings per hectare (dph). Policy H6 requires a minimum of 40 dph in town centre locations and accessible locations and 30 dph in other locations. As the site is considered to be accessible by public transport and accessible to services and facilities, then in this case the 40 dph would be applicable.

This density at 26.7 dph is, however is considered appropriate having regard to the location of the site, which is currently countryside, and it is not considered that a higher density of development could be achieved on the site, without having detrimental impacts upon the proposal. Therefore, the scheme is considered to be acceptable in relation to the advice contained in the NPPF and Policy H6 of the Local Plan.

### *Layout*

For the avoidance of doubt this application is in outline at this stage with details of means of access only included for consideration. Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application.

The Council's Urban Designer has raised concerns that the layout would fail to meet the Building for Life criteria, however when having regard to the outline nature of the scheme and the fact that it is not seeking consent for layout and appearance, it is not necessary to seek the submission of amended plans as these matters could be dealt with by appropriately worded condition which requires a Design Code to be agreed based on Building for Life 12.

Subject to these requirements, it is considered that an acceptable design solution for the development of the site could be achieved and therefore, the proposal is considered acceptable for the purposes of Policy E4 and H7 of the Local Plan and the design provisions of the NPPF.

### **Impact upon Residential Amenity**

The impacts upon the occupiers of existing neighbouring dwellings and proposed dwellings would need to be assessed at the reserved matters stage(s); notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 91 units could not be provided on the site in a manner which would not adversely impact upon neighbouring residential amenities, in terms of loss of privacy, loss of light or overbearing impact.

It is, therefore, considered 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.

### **Impact upon Historic Assets**

The proposed development must be considered against sections 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that when considering a planning application for development that affects a listed building or its setting the decision maker, "shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possess" and that "special regard shall be had to the desirability of preserving or enhancing the character or appearance of a Conservation Area", respectively.

Paragraph 131 of the NPPF states that 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. It further indicates (at paragraph 132) 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.

It is a statutory requirement that any new development should at least preserve the character of the Conservation Area and significant weight has been given to preserving the setting of Listed Buildings.

The Blackfordby Conservation Area lies approximately 570 metres to the south east of the site, at its closest point and there is a distance of approximately 660 metres to the closest Listed Building (42 Butt Lane).

The scheme has been considered by the Council's Conservation Officer who raises no objection.

When having regard to the distances involved, the relationship between the site and the Conservation Area and the intervening land uses/development, it is not considered that the development of the site for housing would adversely affect the setting of the Blackfordby Conservation Area nor is it considered that the site part of the setting of the Listed Building and would therefore be unlikely to be adversely affected by the proposed development.

### **Protected Species/Ecology**

The application submission has been accompanied by an Ecological Appraisal, Amphibian Survey and Precautionary Method of Works Report which has been considered by the County



Ecologist who has confirmed that the land is currently arable, of minor wildlife value. The County Ecologist has stated that Great Crested Newts (GCNs) are known to be close by, but accepts the proposal for precautionary working methods to minimise risks to GCNs and does not require any further mitigation in this respect.

The County Ecologist raises no objection to the scheme, subject to the imposition of planning conditions.

### **Archaeology**

The County Archaeologist advises that the site is of archaeological interest and it is recommended that conditions are imposed for an appropriate programme of archaeological mitigation, including as necessary intrusive and non-intrusive investigation and recording.

Accordingly, subject to the imposition of conditions to secure an appropriate programme of archaeological investigation and recording, it is considered that the proposal would comply with the provisions of the NPPF.

### **Impact upon Trees**

An Arboricultural Report accompanies this application submission. The Council's Tree Officer has been consulted on the application and considers that there should be no significant impact on trees, if the Arboricultural Report is followed. The Council's Tree Officer states that the root protection area radii have not been specified, the root protection areas are vague, the use of fastigiated tree varieties should be specified in front gardens and a focal tree should be shown at the junction in front of plot 22. As neither layout nor landscaping are for consideration at this stage, it is not possible to state whether a plot would be positioned within a root protection area or where proposed planting will be undertaken, as this will be determined at the reserved matter stage(s).

### **Coal Mining and Land Contamination**

The site lies within the Coal Authority Referral Area and the Coal Authority has been consulted on the application and concurs with the recommendations of the Geotechnical and Geo-environmental Desk Study and requires further investigation and any necessary mitigation measures, to be undertaken prior to development commencing.

The Council's Environmental Protection Team have raised no objections to the development with regards to ground contamination or land instability, subject to conditions.

This application has been considered by the Council's Environmental Protection Team and the Coal Authority who raise no objections, subject to conditions.

Subject to the imposition of conditions, the proposed development is considered acceptable in terms of land contamination and coal mining.

### **Drainage and Flood Risk**

The application has been accompanied by a Flood Risk Assessment (FRA).

The Lead Local Flood Authority have confirmed that the scheme is acceptable subject to the imposition of conditions for a surface water drainage scheme and the scheme to be undertaken

in accordance with the specified discharge rate, contained within the FRA. Conditions to this affect are recommended to be imposed.

In respect of the protection of controlled water, the Environment Agency have not raised any formal observations as they do not consider the proposal to be high risk.

### **Impact on the River Mease Special Area of Conservation/SSSI**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required.

The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS is considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

When having regard to the existing agricultural use of the site, the proposal for 91 dwellings would increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS. The contribution is provided later on in the report, under the heading "Developer Contributions".

The flows from the new dwellings will need to be taken into account against the existing headroom capacity (recently revised) at Packington Treatment Works, which serves Blackfordby. At the time of writing sufficient capacity exists for the 2420 dwellings.

Natural England has considered the scheme and raises no objections in relation to impact on the SAC/SSSI subject to conditions and provision of the developer contribution.

Therefore based on the above it can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

### **Developer Contributions**

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

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

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

### *Affordable Housing*

The Council's Strategic Housing Team have been consulted on the application and have

advised that there is a need for affordable housing and that the full 30% should be secured through the proposed development, in accordance with the Council's Affordable Housing SPD.

The Council's preferred position is to seek delivery on site through a Registered Provider. The Council's Strategic Housing Team have requested the split to be 79% rented and 21% intermediate housing, with the unit types to be 4 x 1 bed apartments/houses, 4 x 2 bed bungalows, 12 x 2 bed houses and 8 x 3 bed houses.

#### *Play Area/Open Space*

Under the Council's Play Area SPG, on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 91 dwellings are proposed, this would require a play area of not less than 1820 square metres. The indicative masterplan shows that provision is proposed to be made for open space within the site, including a naturalist play space and it is considered that whilst layout is not for consideration, a suitable sized children's equipped play area could be provided at the reserved matters stage(s). Therefore, the proposal is considered to be in accordance with Local Plan Policy L21 and the SPG. In terms of the range of equipment necessary, for developments of this number of dwellings, the 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.

#### *River Mease DCS*

A contribution under the River Mease DCS is required (as outlined earlier in the report) but an exact figure for the contribution cannot be determined at this stage (although the maximum amount would be £32,214 - assuming all properties were 4 beds and constructed to the lowest code or equivalent of 1/2) as the number of bedrooms in each dwelling would not be finalised until the reserved matters stage(s).

#### *Other Developer Contributions*

As a result of the Developer Contributions consultation, the following contributions have been requested:-

Leicestershire County Council (Libraries) request £2,670 towards additional resources at Ashby de-la Zouch Library.

Leicestershire County Council (Education) request a contribution of £249,723.57 for the primary school sector, for St. Margaret's C of E Primary School; a contribution of £153,735.06 for the high school sector, for Ivanhoe College and a contribution of £157,854.38 for the upper school sector, for Ashby School. At the request of officers, Leicestershire County Council have also provided additional information during the course of the application to demonstrate that the request is for either a new, discrete and separate project or that no more than five obligations (including this proposed) have been sought for the scheme project. It is therefore considered that no issues arise in respect of pooling (insofar as the limitations on pooled contributions as set out within the CIL Regulations are concerned).

Leicestershire County Council (Highways) request:-

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

- Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car
- o Improvements to the nearest bus stop, including raised and dropped kerbs to allow level access, to support modern bus fleets with low floor capabilities at £3263.00 per stop.
- o A Bus shelters at the nearest bus stops (east bound stop to the east of the site) at £4908.00.

The National Forest Company require 20% of the site area to be for woodland planting and landscaping, which equates to a requirement of 0.68 hectares.

NHS England have confirmed that the proposal would trigger the need to provide health funding of £551 per dwelling, based upon a 2.3 person occupancy. Officers have sought additional information from NHS England, as to where the money would be provided and for which specific project. NHS England have confirmed that they are unable to give a definitive answer where the contribution would be spent and would rather have a strategic, robust view and model that can be applied to all developments. Accordingly as there is insufficient information to prove that the request would be directly related to the proposed development, it is not considered that the request would be able to satisfy the relevant legal tests and therefore the contribution cannot be sought.

Leicestershire County Council (Civic Amenity) have confirmed that they are not requesting a contribution.

No response has been received from Leicestershire Police.

On consideration of these requests received in respect of this application it is considered that the following meet the tests and should members be minded to approved this application a Section 106 Agreement would secure the following, which the applicant is agreeable to:-

- o Affordable Housing (30% on site)
- o Play and Open Space (on-site)
- o Education (£561,313.01)
- o Libraries (£2,670)
- o River Mease
- o National Forest (on site planting and/or contribution)
- o Transport (Travel Packs, Bus Passes, Bus Stop Improvements, and Bus Shelter).

### Other Matters

An outline application was refused in 1984 (ref: 84/0675/P) for residential development. The District Plan and approved Structure Plan have subsequently been replaced since 1984 and as such carry no weight in the determination of this application. Furthermore, the County Highway Authority have considered this scheme and do not consider that there is any reason to sustain a highway objection.

### Letters of Representation

In respect of other objections received which have not already been addressed within the report above:-

- o Layout and planting, this is not for consideration at this time.

- o A right to a view and de-valuation of property prices are not material planning considerations.
- o The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraph 10(b) of Schedule 2 to the Regulations it has been concluded that this proposal does not constitute EIA development under the 2011 Regulations as its impacts, are not considered to be significant and can be considered as part of the planning application.

### Conclusion

In conclusion, when having regard the sustainability credentials of the settlement of Woodville, in addition to Blackfordby, combined with the fact that the site is well related to Woodville and is adjoined by existing built development and the Limits to Development, it is considered that a strong case has been made concerning the sustainability of the site.

The proposed development would be acceptable in terms of density, design, impact upon the heritage assets, trees, residential amenities, highway safety, coal mining and land contamination, flood risk and drainage, ecological impacts and impact on the River Mease SAC/SSSI and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services within North West Leicestershire. There are no other relevant material planning considerations that indicate planning permission should not be granted.

### RECOMMENDATION - PERMIT, subject to section 106 obligations and the imposition of conditions:

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

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

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

*Reason- this permission is in outline only.*

- 3 The reserved matter application(s) shall include precise details of finished ground levels across the site and the finished floor levels of all buildings in relation to an existing datum point.

*Reason - to ensure a satisfactory relationship with the adjacent dwellings/the streetscene, as insufficient details have been provided.*

- 4 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, surfacing and width of footpaths through the site, 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.*

- 5 The first reserved matters application shall be accompanied by a Building for Life 12 assessment.

*Reason - to provide evidence that demonstrates detailed compliance with Building for Life 12.*

- 6 The first reserved matters application in respect of the matter of layout shall provide for:-
- a) The submission of a scheme of intrusive site investigations for the shallow coal workings and mine entries for approval and the undertaking of these intrusive site investigations
  - b) The submission of a report of findings from these intrusive site investigations
  - c) The submission of a layout plan which identifies appropriate zones of influence for the mine entries, and the definition of suitable 'no build' zones, if required
  - d) The submission of a treatment for the mine entries on site for approval, if required
  - e) The submission of a scheme of remedial works for the shallow coal workings for approval.

The development shall thereafter be implemented in accordance with the approved details prior to the commencement of development.

*Reason - To ensure the stability of the development, having regard to the comments of the Coal Authority and good engineering practice.*

- 7 The proposed development shall be carried out strictly in accordance with the following drawings, unless otherwise required by a condition of this permission: Location Plan Drawing No. 40180/001 A received by the Authority on 18 May 2015.

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

- 8 A total of no more than 91 dwellings shall be erected.

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

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

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

No demolition/development shall take place other than in accordance with the approved Written Scheme of Investigation.

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

- 10 The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 9 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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

- 11 The first reserved matters application in respect of the matter of landscaping shall provide for an biodiversity management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), together with a timetable for its implementation. The development shall be carried out in accordance with the landscape management plan, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To ensure the protection of wildlife and supporting habitat, to secure opportunities for the enhancement of the nature conservation value of the site in line with National planning policy and to provide for an appropriate form of development.*

- 12 No development shall commence on site until details of the design:-
  - a) for off-site highway works being widening of the existing footway on Butt Lane south of the site and north of the junction with Forest Road to 1.2m wide (where achievable)
  - b) of Public Footpath P12 west of the new access road showing a 2m wide tarmac (or similar hard bound materials) surface
  - c) of a shared cycleway/footway 3m wide to an adoptable standard, to connect the site to the existing shared cycleway/footway on the A511

have first been submitted to and approved in writing by the Local Planning Authority.

Schemes a) and b) shall be implemented in accordance with the approved details prior to the first occupation of any dwelling. Scheme c) shall be implemented in accordance with the approved details prior to the first occupation of the 26th dwelling.

*Reasons: To ensure a safe and convenient walking route is available to the primary school in Blackfordby and to bus stops and services in Woodville and Swadlincote and to ensure a safe and convenient walking and cycling route is available to bus stops and services in Woodville and Swadlincote.*

- 13 Notwithstanding the submitted details, no development shall commence until details of a revised vehicle access road (by moving it 1m to 2 m to the west), has first been submitted to and approved in writing by the Local Planning Authority. The access shall be implemented in accordance with the approved details prior to the first occupation of any dwelling.

*Reason: To ensure adequate inter-visibility between pedestrians crossing the access road and vehicles turning left out of the access.*

- 14 Prior to the first occupation of any dwelling, visibility splays of 2.4 metres by 43 metres shall be provided at the junction of the access with Butt Lane. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

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

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

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

- 16 The development hereby permitted shall be carried out in strict accordance with the 'Travel Plan' by "M-EC" (ref: 21072/04-15/3858) dated April 2015 submitted to the Local Planning Authority on 18 May 2015.

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

- 17 No development shall commence until a scheme for surface water drainage has been first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:-

- a) The utilisation of holding sustainable drainage techniques with the incorporation of two treatment trains to help improve water quality;



- b) The limitation of surface water run-off to equivalent greenfield rates;
- c) The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of the drainage calculations; and
- d) The responsibility for the future maintenance of drainage features

The scheme shall be implemented and maintained in accordance with the agreed details and timetable, unless subsequently timing and phasing arrangements are agreed in writing by the Local Planning Authority.

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

- 18 The discharge rate for the proposed site should be based on the Qbar calculation contained within the Flood Risk Assessment 1.8 l/s/ha (6.6 l/s for the current proposal) and not the 5 l/s/ha estimate.

*Reason - To prevent flooding by ensuring that there is no increased discharge from the proposed development.*

- 19 No development shall commence until drainage plans for the disposal of foul drainage have first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

- 20 No development shall commence on site until a Further 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:

- a. BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
- b. BS 8576 Year 2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)
- c. BS8485 Year 2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- d. 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:

- e. 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:

- f. Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
- g. 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.*

- 21 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:

- a. Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- b. Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- c. 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;
- d. Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- e. Demonstrate the effectiveness of the approved Remedial Scheme; and
- f. 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.*

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

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

- 23 The development hereby permitted shall be carried out in strict accordance with and including the recommendations contained within the 'Noise Assessment' by Acute Acoustics Ltd dated 14 April 2015 received by the Local Planning Authority on 18 May 2015.

*Reason: In the interests of residential amenity.*

- 24 The development hereby permitted shall be carried out in strict accordance with precautionary working methods for Great Crested Newts as set out in the 'Preliminary Ecological Appraisal' by Ramm Sanderson Ref: RSE-012-01-V1 dated 25 September 2014 received by the Local Planning Authority on 18 May 2015.

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

- 25 Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to September inclusive, unless otherwise agreed in writing by the Local Planning Authority that breeding birds will not be adversely affected by any works.

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

#### **Notes to applicant**

- 1 In relation to Condition 11, the Local Planning Authority would expect the biodiversity management plan to specify the retention of hedgerows and include buffer zones of at least 5m from natural vegetation along the boundaries of the site except for the proposed vehicular access point.
- 2 The applicant's attention is drawn to the attached comments of The Coal Authority dated 8 June 2015.
- 3 The applicant's attention is drawn to the attached comments of Leicestershire County Council Lead Local Flood Authority Officer dated 28 May 2015.
- 4 The applicant's attention is drawn to the attached comments of The Council's Tree Officer dated 25 June 2015.
- 5 The applicant's attention is drawn to the attached comments of Leicestershire County Council Footpaths Officer dated 20 May 2015. The applicant should be aware that, if any of the public footpaths crossing the site are to be diverted because the development crosses a footpath making the footpath unviable for use of the footpath would not be there once the development is completed then a footpath diversion application will need to be to the District Council at the Reserved Matters Stage. Further information can be obtained from Julia Harley by calling 01530 454604 or emailing [julia.harley@nwleicestershire.gov.uk](mailto:julia.harley@nwleicestershire.gov.uk)
- 6 The applicant's attention is drawn to the attached comments of Leicestershire County Council Highways Authority Officer dated 5 June 2015.

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Construction of 30 dwellings with associated access and open space

Report Item No  
A2

Land Off Forest Road Hugglescote Leicestershire

Application Reference  
15/00032/FULM

Applicant:  
Mr Louis Masserella

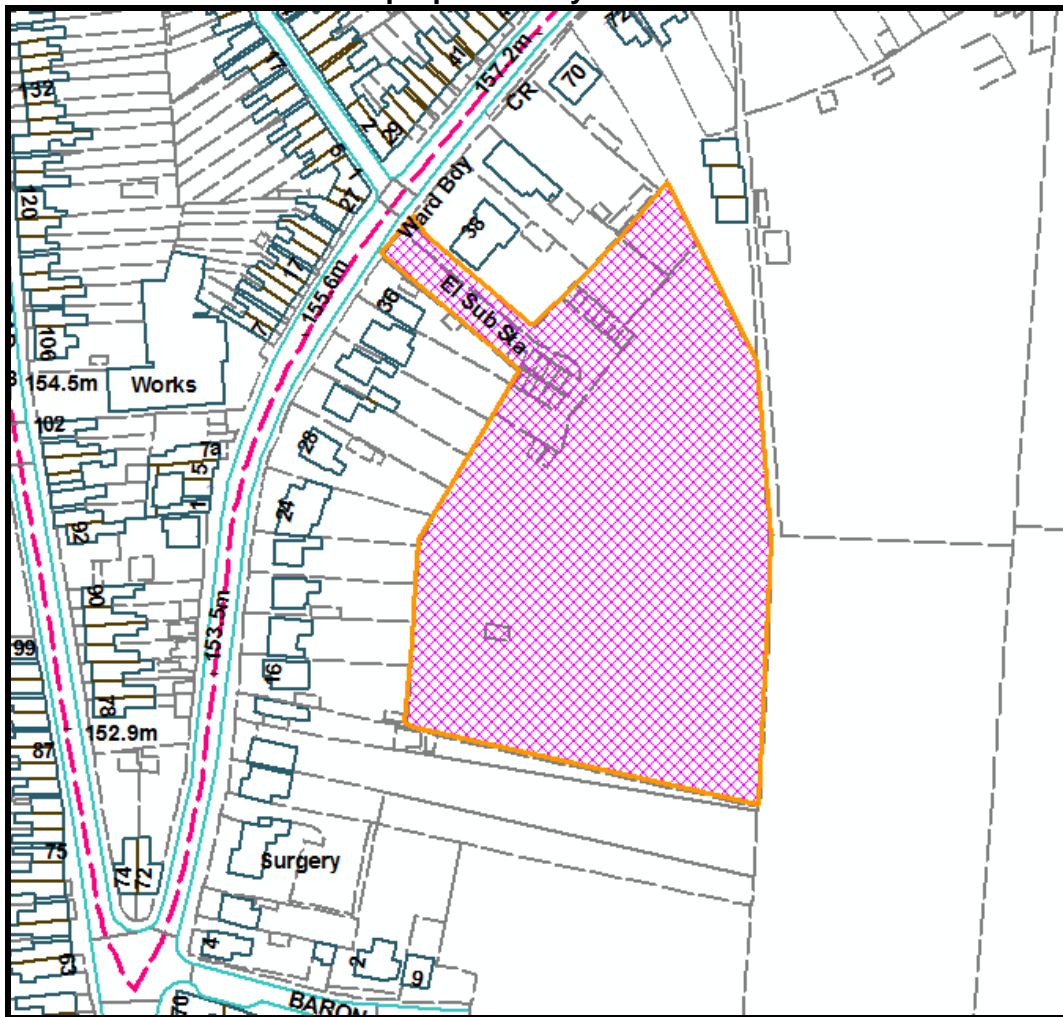
Date Registered  
4 February 2015

Case Officer:  
James Mattley

Target Decision Date  
6 May 2015

Recommendation:  
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

### Proposal

Planning permission is sought for the erection of 30 residential units with associated access on land off Forest Road, Hugglescote.

### Consultations

Members will see from the report below that some objections have been received from surrounding neighbours but no objections have been received from any statutory consultees. The Parish Council has raised concerns over highway safety and other comments in relation to trees and bin storage and collection points.

### Planning Policy

The application site lies within the limits to development and in a sustainable settlement where the principle of residential dwellings are considered to be acceptable. Also material to the determination of the application, however, is the supply of housing in the context of the National Planning Policy Framework (NPPF) and whether the scheme represents sustainable development.

### Conclusion

The site is located in a sustainable settlement and the principle of the development is considered to be 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 design that would be in keeping with the locality subject to the imposition of relevant conditions. 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 there would be no flood risk or drainage issues. There are no other relevant material planning considerations that indicate planning permission should not be granted.

A viability appraisal has been submitted by the applicants to demonstrate that the scheme would not be viable with the provision of 20% on-site affordable housing and with the full range of other developer contributions and that the scheme can only afford to provide for a reduced off-site contribution towards affordable housing. This has been independently assessed by the District Valuer and they have confirmed that a reduced level of developer contribution in respect of affordable housing would be acceptable in this particular instance.

### **RECOMMENDATION:- PERMIT, SUBJECT TO THE IMPOSITION OF CONDITIONS AND SUBJECT TO A SECTION 106 AGREEMENT TO SECURE RELEVANT CONTRIBUTIONS**

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of 30 residential units with associated access on land off Forest Road, Hugglescote. The site is located in a predominantly residential area with dwellings surrounding the site to the north and west. Immediately on the eastern boundary is public footpath N85 and further to the east is land that has a resolution to grant outline planning permission for up to 2,700 dwellings and associated development under planning reference 13/00956/OUTM. A full planning application has been submitted under planning reference 13/00802/FULM by Davidsons for a residential development of 81 dwellings with associated road and service infrastructure, drainage ponds and features, landscaping and open space which is immediately adjacent to the application site. A full planning application has also been submitted under planning reference 15/00641/FULM by Davidsons and David Wilson Homes for a residential development of 190 dwellings with associated road and service infrastructure, drainage ponds and features, landscaping and open space, together with demolition of 104 Forest Road although this does not immediately border the application site. The application site is within Limits to Development as defined in the adopted North West Leicestershire Local Plan.

The application site totals 1.18 hectares of predominantly agricultural land but also includes for a number of single storey garages in the northern part of the site which would be demolished to make way for the proposed development. The original scheme included for open space, allotments and off-road car parking spaces for properties along Forest Road but these elements of the scheme have been removed following the submission of amended plans during the course of the application. A number of amended/additional plans have been submitted during the course of the application to address concerns in respect of design, highway safety and comments made by the Parish Council. The amended plans now propose 2 x 2 bed bungalows, 7 x 2 bed houses, 10 x 3 bed houses and 11 x 4 bed houses which, with the exception of the bungalows, would all be two-storey and comprise semi-detached and detached properties. Access to the site would be gained from an existing vehicular entrance point along Forest Road.

The application is accompanied by a design and access statement, ecology and protected species survey, building for life assessment, transport statement and flood risk assessment. In addition a viability report has been submitted which demonstrates that the scheme cannot afford to make the full contribution towards affordable housing.

The application has been called to Planning Committee by Councillor Johnson because of residents concerns and highway safety.

No relevant planning history found.

### 2. Publicity

35 Neighbours have been notified (Date of last notification 15 June 2015)

Site Notice displayed 27 February 2015

Press Notice published 4 March 2015

### 3. Consultations

Hugglescote And Donington Le Heath Parish Council consulted 23 February 2015

County Highway Authority consulted 24 February 2015

Environment Agency consulted 24 February 2015  
 Severn Trent Water Limited consulted 24 February 2015  
 Head of Environmental Protection consulted 24 February 2015  
 NWLDC Tree Officer consulted 24 February 2015  
 County Archaeologist consulted 24 February 2015  
 LCC ecology consulted 24 February 2015  
 NWLDC Urban Designer consulted 24 February 2015  
 National Forest Company consulted 24 February 2015  
 LCC Development Contributions consulted 24 February 2015  
 NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 24 February 2015  
 Head Of Leisure And Culture consulted 24 February 2015  
 Head Of Street Management North West Leicestershire District consulted 24 February 2015  
 Manager Of Housing North West Leicestershire District Council consulted 24 February 2015  
 LCC/Footpaths consulted 27 February 2015  
 County Archaeologist consulted 14 May 2015  
 Manager Of Housing North West Leicestershire District Council consulted 14 May 2015  
 Head Of Street Management North West Leicestershire District consulted 14 May 2015

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

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

**Hugglescote and Donington Le Heath Parish Council** provided comments on the originally submitted scheme and raised concern over the highway safety impacts of the development, requested that off-street car parking should be concealed, requested the removal of public open space on the site and made comments in relation to drainage and the positioning of the bungalows on the site. Following the submission of amended plans the Parish Council welcomes the various variations that have taken place but still raises concerns regarding highway safety and makes other comments in relation to trees and bin storage and collection points.

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

**Leicestershire County Council Ecologist** raises no objection in principle to the development of the site but originally raised a holding objection to the scheme on the basis of the submitted layout plan as it would have impacted upon the hedgerow and trees along the eastern boundary of the site which form a wildlife corridor. Following the submission of an amended plan which shows a buffer zone to the wildlife corridor, the County Ecologist has removed the holding objection subject to the imposition of relevant ecological conditions.

**Leicestershire County Council Footpath Officer** originally requested that pedestrian links were provided between the application site and public footpath N85 as well as a financial contribution towards improvement works to this footpath. The scheme has been amended to include pedestrian links and amended comments are awaited from the County Council Footpath Officer which will be included on the update sheet (if received).

**Leicestershire County Council Highway Authority** originally had reservations regarding the geometry and layout of the proposed access and requested additional information. Following



the submission of additional plans in respect of the access arrangements the County Highway Authority are of the view that the residual cumulative impacts of development can be mitigated and are not considered severe subject to relevant conditions and contributions. However, the County Council Highway Authority subsequently requested the submission of a traffic speed survey to ensure that the visibility splays being provided were appropriate. Following the submission of this additional information the County Highway Authority raises no objections subject to the inclusion of conditions and obligations.

**Leicestershire County Council Local Education Authority** requests a contribution of £140,741.38.

**Leicestershire County Council Highway Transportation & Waste Management Authority** requests a developer contribution of £1,961 in order to mitigate the impact on civic amenity waste facilities in the local area.

**Leicestershire County Council Library Services Development Manager** requests a contribution of £900.

**National Forest Company** requests a contribution of £4,600 towards off-site National Forest Planting.

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

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

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

### **Third Party Representations**

A total of eight letters of objection have been received from surrounding occupiers objecting to the application on the following grounds:

- highway safety issues given on street parking, location of other access points and the speed and volume of traffic along Forest Road;
- noise and pollution during construction;
- impact upon property prices;
- loss of a greenfield site;
- impacts upon residential amenity;
- impact upon pedestrians and cyclists;
- there is no need for additional dwellings;
- there is inadequate infrastructure to accommodate the development;
- the land was left in trust to be used for grazing land;
- impact upon existing views;
- impact upon protected species;
- request double yellow lines along the access road if planning permission were to be granted;
- windows looking towards existing properties should be obscure glazed;
- the amended vehicle tracking plan is misleading and fails to take into account other relevant highway safety issues.

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

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

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

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

Paragraph 14 (Presumption in favour of sustainable development)  
 Paragraph 17 (Core planning principles)  
 Paragraph 32 (Promoting sustainable transport)  
 Paragraph 34 (Promoting sustainable transport)  
 Paragraph 47 (Delivering a wide choice of high quality homes)  
 Paragraph 49 (Delivering a wide choice of high quality homes)  
 Paragraph 57 (Requiring good design)  
 Paragraph 59 (Requiring good design)  
 Paragraph 60 (Requiring good design)  
 Paragraph 61 (Requiring good design)  
 Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)  
 Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)  
 Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)  
 Paragraph 118 (Conserving and enhancing the natural environment)  
 Paragraph 123 (Conserving and enhancing the natural environment)  
 Paragraph 173 (Ensuring viability and delivery)  
 Paragraph 203 (Planning conditions and obligations)  
 Paragraph 204 (Planning conditions and obligations)

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

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

Policy S2 - Limits to Development  
 Policy E3 - Residential Amenities  
 Policy E4 - Design  
 Policy E7 - Landscaping  
 Policy E8 - Crime Prevention  
 Policy F1 - National Forest General Policy  
 Policy T3 - Highway Standards  
 Policy T8 - Parking  
 Policy H4/1 - Housing Land Release  
 Policy H4g - Housing Allocations (Grange Road, Hugglescote)  
 Policy H6 - Housing Density  
 Policy H7 - Housing Design

Policy H8 - Affordable Housing  
 Policy L21 - Children's Play Areas

**Other Policies**

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

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

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

**6Cs Design Guide (Leicestershire County Council)**

The 6Cs Design Guide sets out the County Highway Authority's requirements in respect of the design and layout of new development.

**6. Assessment**

**Principle**

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

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

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The application site is located within Hugglescote which is located within Greater Coalville and benefits from a range of local services/facilities and is easily accessible via public transport. Therefore the proposal is considered to score well against the sustainability advice in the NPPF.

The site also forms part of Housing Allocation H4g, the majority of which already benefits from a resolution to grant outline planning permission for a development of up to 2,700 dwellings, up to 2 Ha for a new local centre including up to 2000 sqm for A1, A2, A3, and A5 uses, up to 499 sqm for public house restaurant, up to 400 sqm for children's day nursery and up to 500 sqm for new medical centre; new primary school, on-site National Forest planting and areas of public open spaces, new bus routes and bus infrastructure and associated highways and drainage infrastructure under reference 13/00956/OUTM. A full planning application has been submitted under planning reference 13/00802/FULM by Davidsons for a residential development of 81 dwellings with associated road and service infrastructure, drainage ponds and features, landscaping and open space and this scheme would be located to the east of the application site.

Policy H4g of the Local Plan requires any development to be undertaken in a comprehensive

and phased manner and, therefore, it is necessary to ensure that the proposed scheme would not prejudice development as part of 13/00956/OUTM or 13/00802/FULM. Planning application 15/00641/FULM is less relevant to the determination of this application as it does not immediately border the application site. As planning application 13/00956/OUTM has been submitted in outline, the precise position of the dwellings has yet to be established although the indicative details show the access to the south of the application site. However, Davidsons have an application currently under consideration under reference 13/00802/FULM and this shows dwellings positioned away from the western boundary (and away from the eastern boundary of the application site under consideration).

The proposed layout of the dwellings put forward as part of this application shows dwellings that are sited away from the southern and eastern boundaries such that the proposed dwellings would not cause overlooking towards any new dwellings on the adjacent development. The proposed layout also includes for pedestrian linkages along the eastern boundary into the adjacent development site. A consultation has been sent to Pegasus group who are the agents for planning application 13/00956/OUTM and no response has been received. Having regard to all of these issues, it is not considered that this development would prejudice the wider housing allocation site and the scheme is considered to be acceptable in relation to Policy H4g of the Local Plan.

The NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. 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.

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

- Social, in this respect, developments should support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The new population could support and help sustain the local services and facilities that meet local needs and contribute to the creation of sustainable communities. The proposal would include for contributions towards the provision of most local services and facilities. However, the scheme would not provide the full contribution towards affordable housing so this would have to be weighed in the overall planning balance (discussed in more detail in the 'Developer Contributions' section below). Accordingly, the site is not considered to be wholly consistent with the 'social role'.

- Environmental, to fulfil this role development should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change. The site is within the limits to development and is well related to the existing settlement of Hugglescote. Furthermore, as set out in this report, it is considered that the proposal would not be contrary to the aims of protecting or enhancing the natural environment. Accordingly the site is considered to be consistent with the 'environmental

role'.

Based on the above discussions, the proposed scheme is considered to generally comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable.

### **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 ha elsewhere. The NPPF states that Local Planning Authorities should set out their own approach to housing density to reflect local circumstances.

With a site area of 1.18 hectares, the proposal would have a density of 25.4 dwellings per hectare. It is noted that the policy does not set a maximum density requirement and requires a minimum density of 40 dwellings per hectare in sustainable locations. Whilst the proposed density is lower than that advised in Policy H6, it is not considered unreasonable in this instance given the density of surrounding development and when having regard to the need to provide a buffer to the wildlife corridor on the eastern boundary (discussed further in the 'ecology' section below). On this basis, the density of the scheme is considered to be appropriate although other considerations need to be taken into account including design which is considered in more detail below.

### **Design**

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

The character of the surrounding area is distinctive in places but some developments are less distinctive. The distinctive parts are the terraced streets and the suburban 1930-1950 housing stock. The surrounding dwellings are an eclectic mix of brick, render and timber facades with a mixture of gable and hipped roofs. The scheme seeks to draw upon the distinctive parts of the surrounding area and includes for a variety of materials in order to try and respect surrounding development.

The scheme has been the subject of extensive discussions and negotiations with the District Council's Urban Designer during the course of the application, and has been amended in order to address previously expressed concerns regarding the design quality of the scheme. The concerns principally related to the appearance of the dwellings and whether they were in keeping with the character and appearance of the surrounding area, future connectivity, views in and out of the site, parking provision, demarcation between public and private spaces and bin

storage. Amended plans have been submitted which represent an improvement over the originally submitted plans. The District Council's Urban Designer considers that the scheme now addresses the majority of the previous concerns which have been raised although it would be necessary to attach planning conditions in respect of landscaping and boundary treatments.

In terms of design issues, therefore, it is considered that the proposed dwellings are appropriate in this area, and the requirements of Local Plan Policies E4, H7 and the design advice in the NPPF are considered to be met by the scheme subject to the inclusion of relevant design conditions.

### **Residential Amenity**

Consideration has been given to the impact of the development on surrounding residential properties. The most immediately affected dwellings would be those located off Forest Road which back onto the site and which are adjacent to the proposed access.

Plots 1-7 and 10-13 would be two storey properties although they would have rear garden lengths of at least 11 metres which would ensure that no significant overlooking, overbearing or overshadowing issues would arise. Plot 8 would be located closer to the boundary with No.34 Forest Road but given that it would be single storey in height it is not considered to result in any significant impacts upon residential amenity.

Plot 14 would be two storeys in height and would be located around 1.5 metres away from the rear boundary with No's 16 and 18 Forest Road. Whilst this relationship is not ideal and would result in some overbearing and overshadowing issues, they are not considered to be so severe as to warrant a refusal of the application as the rear gardens to these properties are some 26 metres in length. Plot 14 would not contain any first floor side windows which would ensure that no significant overlooking issues arise.

The existing access is sited between the side elevations of Plots 36 and 38 Forest Road and has historically been used to access garages which are located on the site. Whilst it is accepted that a residential scheme of 30 dwellings would result in an intensification of the use of the access, it is not considered that the level of additional comings and goings would result in significant noise and disturbance to No.36 and 38 Forest Road. In addition, an appeal decision elsewhere in the district found that situations where access drives run close to existing dwellings would not be dissimilar to having a development on a corner site with a side road running close to the dwellings and their rear gardens, which was considered to be a yardstick for an acceptable standard. Therefore, it is considered that a reason for refusal on the grounds of impact from noise and disturbance and fumes resulting from use of the access drive cannot be justified.

It is considered that construction noise 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 the Environmental Services Manager raises no issues to the development in this regard, it is not considered necessary. The Environmental Services Manager raises no issues over fumes, noise or any other pollution arising from this residential development.

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

### **Highway Safety**

The application is accompanied by a transport statement which indicates that vehicular access to the site would be provided by upgrading the existing access onto Forest Road. The County Highway Authority (CHA) originally had reservations regarding the geometry and layout of the proposed access and requested additional information. Following the submission of additional plans in respect of the access arrangements the CHA are of the view that the residual cumulative impacts of development can be mitigated and are not considered severe subject to relevant conditions and contributions. However, the CHA subsequently requested the submission of a traffic speed survey to ensure that the visibility splays being provided were appropriate.

This information was supplied by the applicants and after reviewing the submitted information the CHA have confirmed that the access width and radii shown on the submitted plans are regarded as appropriate and will cater for the largest anticipated vehicles, even taking into account existing car parking on the road network. Of greater concern to the CHA was the provision of appropriate visibility to the north of the access, but, taking into consideration the speed survey information provided, satisfactory visibility splays can be provided to the north of the access, without the need for the removal of existing street furniture and statutory undertakers apparatus. On the basis of the above, the CHA have confirmed that it would not be possible to sustain a reason for refusal of the proposals on highway safety grounds.

A range of conditions and obligations are recommended by the County Highway Authority should planning permission be granted.

In terms of proposed parking, the Local Plan includes parking standards in the Annex (based on Leicestershire County Council parking standards) that seeks to ensure that no more than an average of 1.5 off-street car parking spaces are provided per dwelling, and were based on the advice contained in PPG3. PPG3 has now been superseded by the advice in the NPPF which is less prescriptive in terms of parking standards. The advice in the NPPF is that Local Planning Authorities should, amongst other things, take account of expected levels of car ownership, the type, mix, accessibility and use of the development and the opportunities for public transport.

A total of 79 car parking spaces are proposed which equates to an average of 2.63 car parking spaces per dwelling. Despite the fact that the provision of car parking spaces will exceed the maximum number set out in the Local Plan, given the change in policy with the introduction of the NPPF and the fact that no objections have been raised by the County Highway Authority, it is considered that the level of car parking for this development is acceptable.

A letter of representation from a surrounding neighbour has indicated that the proposed development should include for parking restrictions along the access road. The County Highway Authority considers the scheme to be acceptable without the need for parking restrictions and, therefore, conditions in this respect would not be necessary or justified.

In conclusion, the County Highway Authority has no objections to the proposed development subject to relevant highway conditions. Therefore, it is not considered that the proposal would conflict with highway safety policies T3 and T8 in the Local Plan or the advice in the NPPF.

### **Flood Risk and Drainage**

Amended plans have been submitted during the course of the application to include for two

balancing ponds in the eastern section of the site. The Environment Agency flood zone maps indicate that the site lies within Flood Zone 1, and on this basis the site would appear suitable for development in principle (and in flood risk sequential terms, would meet the requirements of the NPPF). Conditions would need to be attached to any planning permission to ensure that detailed and satisfactory surface water and foul drainage schemes are provided on the site.

Overall, in terms of issues of Flood Risk and Drainage, it is considered that the scheme is acceptable, and would provide for appropriate drainage solutions to accommodate the proposed development. In coming to this conclusion it is noted that the Environment Agency and Severn Trent Water raise no objections to the proposed development subject to the inclusion of relevant planning conditions and notes to applicant. The Lead Local Flood Authority (LLFA) has been consulted on the application and whilst no comments have been received at this stage, any comments received will be reported on the update sheet.

### **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 30 dwellings are proposed, this would require a play area of not less than 600 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.

The scheme originally included for an area of open space which could have included a children's play area. However, the Parish Council specifically requested that the public open space be removed from the site with a connecting footpath link being provided to gain access through to open space areas and facilities proposed as part of the South East Coalville development. The plan has now been amended in accordance with the request from the Parish Council. Whilst such an approach would result in a shortfall of children's play provision (as it would be unreasonable for any adjacent developer to have to provide additional areas/equipment for children's play) and could also result in a deficit of children's play areas should the adjacent scheme never be delivered, this has to be weighed against the viability issues on the site (see 'Developer Contribution' section) and the specific request made by the Parish Council. In conclusion, although the scheme would not wholly comply with Policy L21, it is considered an acceptable approach in this instance.

### **Ecology**

The County Ecologist originally raised no objection in principle to the development of the site as the grassland habitats on site are not of significant value. However, concerns were raised over the originally submitted layout as it failed to adequately protect the hedgerow and trees along the eastern boundary of the site which included a disused badger sett along with bat and bird activity.

Following a fundamental re-design of the site layout, dwellings are now positioned away from the eastern boundary. The County Ecologist now considers that the layout includes a reasonable buffer zone protecting the badger sett and eastern hedgerow. Conditions are recommended in respect of an updated badger survey prior to site clearance, if this does not take place within a year of the submitted survey, and a condition requiring vegetation removal/site clearance outside the bird-nesting season. Subject to the imposition of these conditions it is considered that the proposed development would have an acceptable impact



upon ecological interests.

### **Trees**

The application is accompanied by an arboricultural assessment which has been considered by the Council's Tree Officer. The Council's Tree Officer considers that the trees along the eastern boundary are important as a hedgerow and the majority of these trees are shown as being retained. It would be necessary to attach a condition requiring an arboricultural method statement to show how root damage will be prevented when the shared access driveway is constructed.

In the south-eastern corner of the site is an Ash tree (T17) which is considered important for retention. However, the latest plans for the site have necessitated the introduction of a balancing lagoon and pumping station in this area of the site that would result in the loss of the tree. Whilst this is regrettable, the Council's Tree Officer notes that the tree could be felled without the need for a TPO and replacement with advanced nursery stock would mitigate the loss.

The Council's Tree Officer recommends that a detailed landscape plan is conditioned and particular attention should be had to the landscaping of the pumping station.

Having regard to these matters, and subject to conditions, it is considered that the scheme would have an acceptable impact upon existing trees and the scheme is considered to be acceptable in relation to Policy E7 of the Local Plan.

### **Developer Contributions**

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

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

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

The relevant developer contributions are listed below.

#### *Affordable Housing*

The Council's Affordable Housing Officer comments that the scheme should provide for 20% affordable housing within the site (which would equate to 6 dwellings). The Council's preferred approach is for this agreed provision to be made on site. Where a developer considers that there are exceptional circumstances why on site provision is not appropriate then an off site commuted sum can be paid in lieu of on site provision.

#### *Transportation Contributions*

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

- Provision of Travel Packs; to inform new residents from first occupation what sustainable travel

choices are in the surrounding area (can be supplied by LCC at £52.85 per pack);

- Provision of 6 month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £350.00 per pass;

- Contribution towards equipping the nearest bus stop with Real Time Information (RTI) system; to assist in improving the nearest bus service with this facility, in order to provide a high quality and attractive public transport choice to encourage modal shift. At a total of £5840.

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. This would not apply in this instance as the scheme is for less than 50 dwellings.

### *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 Primary School. The School has a net capacity of 420 and 959 pupils are projected on the roll should this development proceed; a deficit of 539 pupil places. There are currently 453 pupil places at this school being funded by S106 agreements from other developments in the area to be discounted. This reduces the deficit to 86 pupil places (of which 78 are existing and 8 are created by this development).

There are 4 other primary schools within a two mile walking distance of the development. The overall deficit including all schools within a two mile walking distance of the development is 55 pupil places. A total of 875 pupil places have been discounted that are being funded from S106 agreements for other developments in the area. The 8 deficit places created by this development can therefore not be accommodated at nearby schools and a claim for an education contribution of 8 pupil places in the primary sector is justified.

In order to provide the additional primary school places anticipated by the proposed development the County Council would request a contribution for the Primary School sector of £87,112.87 which would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Hugglescote Primary School.

#### High School Requirements:

This site falls within the catchment area of Newbridge High School. The School has a net capacity of 590 and 740 pupils are projected on roll should this development proceed; a deficit of 150 pupil places. A total of 141 pupil places are included in the forecast for this school being funded from S106 agreements for other developments in this area and have to be discounted. This reduces the total deficit for this school to 9 (of which 6 are existing and 3 are created by this development).

There are 2 other high schools within a three mile walking distance of the development. The overall deficit including all high schools within a three mile walking distance of the development

is 21 pupil places. A total of 286 pupil places have been discounted that are being funded from S106 agreements for other developments in the area. The 3 deficit places created by this development can therefore not be accommodated at nearby schools and a claim for an education contribution of 3 pupil places in the high school sector is justified.

In order to provide the additional high school places anticipated by the proposed development, the County Council requests a contribution for the high school sector of £53,628.51. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Newbridge High School.

**Upper School Requirements:**

The site falls within the catchment area of King Edward VII School. The College has a net capacity of 1193 and 1232 pupils are projected on the roll should this development proceed; a deficit of 39 pupil places.

There is one other upper school within a three mile walking distance of the development. There is an overall surplus in this sector after including all upper schools within a three mile walking distance of the development of 177 pupil places. An education contribution will therefore not be requested for this sector.

*National Forest Planting*

The National Forest Company request a financial contribution of £4600 given that no woodland planting or landscaping is proposed on site.

*Civic Amenity*

A contribution of £1961 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 £900 is proposed to be made by the developer for library services in accordance with the requirements of Leicestershire County Council.

*Conclusions in respect of Developer Contributions*

The following requests have been made:

National Forest Company	£4,600
Education	£140,741.38
Civic Amenity	£1,961
Library	£900
County Highway Authority	£12,675 (based on 25% take up of bus passes)
Affordable Housing	£180,000 (approx. - based on a commuted sum of 30k per unit)
<b>Total</b>	<b>£340,877.38</b>

Whilst the need for the contributions per se is not disputed, the applicants are of the view that, should all of the contributions requested above be sought, the scheme would become unviable. The applicants have therefore provided a viability assessment, which has been reviewed on the

Local Planning Authority's behalf by the District Valuer. The viability assessment indicates that the scheme could only afford to pay a total of £182,625 and the District Valuer confirms that the findings in the viability assessment are accurate.

The applicant's current position is that they are willing to make full contributions with the exception of affordable housing which the scheme could only afford to provide £21,747.62. Whilst it is noted that some schemes will be acceptable without any affordable housing on site (or any off-site contribution) it is necessary to have regard to the particular circumstances of each application.

Clearly the absence of a full affordable housing contribution would fail to comply with the provisions of the District Council's Affordable Housing SPD which seeks to secure a minimum 20% contribution from new housing development in the Greater Coalville area. As set out above, the NPPF contains a presumption in favour of sustainable development, the dimensions of which include a social dimension, with the planning system's role being to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations. It is considered that, in this sense, the scheme would not perform well. On balance, however, given that the applicants have been able to demonstrate to the District Valuer's satisfaction that the full affordable housing contribution could not be provided from a viability point of view, and that full contributions are being made to other service areas including education, it is considered that a reduced contribution towards affordable housing would not be unacceptable in this case, and when balanced against all other viability considerations and other aspects of sustainable development.

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

### **Other**

The County Footpath Officer originally requested that pedestrian links were provided between the application site and public footpath N85 as well as a financial contribution towards improvement works to this footpath. The existing public footpath is considered to provide connectivity to the adjacent housing development as well as other services to the south of the application site such as the doctor's surgery. The scheme has been amended to include pedestrian links and amended comments are awaited from the County Council Footpath Officer in this respect which will be included on the update sheet should they be received. A Grampian condition is recommended in respect of improvement works to Public Footpath N85.

Of those neighbour objections raised that have not already been addressed the impact of the proposal upon property prices, whether the land has been left in trust and the loss of a view are not material planning considerations. The proposed windows to the new properties would be located a sufficient distance away from rear gardens and, therefore, it is not necessary to attach conditions requiring windows to be obscure glazed.

### **Conclusion**

The site is located in a sustainable settlement and the principle of the development is considered to be 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 design 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 and there would be no flood risk or drainage issues. There are no other relevant material planning considerations that indicate planning permission should not be granted.

The recommendation to grant planning permission has arisen following careful consideration of the development plan and all other relevant considerations.

Therefore, it is recommended that full planning permission be granted, subject to relevant planning conditions and entering into a Section 106 legal agreement.

**RECOMMENDATION - PERMIT, subject to the following conditions and subject to a legal agreement to ensure appropriate contributions are made;**

- 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 150M (Proposed Site Plan) deposited with the Local Planning Authority on 25 August 2015;

Drawing number 270A (Proposed Plot 30) deposited with the Local Planning Authority on 3 August 2015;

Drawing number 271 (Proposed Plot 18) deposited with the Local Planning Authority on 3 August 2015;

Drawing number 251C (Proposed Plot 1, 2 and 3 - Elevations) deposited with the Local Planning Authority on 6 July 2015;

Drawing number 252B (Proposed Plot 4, 5, 6 and 7 - Floor Plans) deposited with the Local Planning Authority on 6 July 2015;

Drawing number 250B (Proposed Plot 1, 2 and 3 - Floor Plans) deposited with the Local Planning Authority on 6 July 2015;

Drawing number 253C (Proposed Plot 4, 5, 6 and 7 - Elevations) deposited with the Local Planning Authority on 6 July 2015;

Drawing number 261C (Proposed Plot 21 - Plans and Elevations) deposited with the Local Planning Authority on 29 June 2015;

Drawing number 259C (Proposed Plot 15, 19 and 28 - Plans and Elevations) deposited with the Local Planning Authority on 29 June 2015;

Drawing number 267 (Proposed Plot 20 - Plans and Elevations) deposited with the Local Planning Authority on 29 June 2015;

Drawing number 254C (Proposed Plots 8 and 9 - Plans and Elevations) deposited with the Local Planning Authority on 29 June 2015;

Drawing number 255C (Proposed Plot 10, 13 and 18 - Plans and Elevations) deposited with the Local Planning Authority on 29 June 2015;

Drawing number 258B (Proposed Plots 14 and 27 - Plans and Elevations) deposited with the Local Planning Authority on 29 June 2015;

Drawing number 256B (Proposed Plot 11 and 29 - Plans and Elevations) deposited with the Local Planning Authority on 12 June 2015;

Drawing number 260B (Proposed Plot 16 and 17 - Floor Plans and Elevations) deposited with the Local Planning Authority on 12 June 2015;  
Drawing number 263B (Proposed Plots 22 and 23 - Floor Plans and Elevations) deposited with the Local Planning Authority on 12 June 2015;  
Drawing number 257B (Proposed Plot 12 - Plans and Elevations) deposited with the Local Planning Authority on 12 June 2015;  
Drawing number 264B (Proposed Plots 24 and 25 - Plans and Elevations) deposited with the Local Planning Authority on 12 June 2015;  
Drawing number 450 B (Proposed Street Scenes) deposited with the Local Planning Authority on 12 June 2015;  
Drawing number 265A (Proposed Plot 26 - Plans and Elevations) deposited with the Local Planning Authority on 12 June 2015;  
Drawing number 158A (Proposed Land to be Maintained by Management Company) deposited with the Local Planning Authority on 25 August 2015;  
Drawing number 157A (Proposed Fencing Plan) deposited with the Local Planning Authority on 25 August 2015.

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

- 3 Notwithstanding the submitted plans, nor condition 2 above, no dwelling shall be erected above damp proof course until full details of both hard and soft landscaping works and boundary treatments have first been submitted to and approved in writing by the Local Planning Authority. These details shall include:
- a) Means of enclosure and boundary treatments to and within the site;
  - b) Hard surfacing materials;
  - c) Details of soft landscaping including schedules of plant species, plant sizes, planting plans and proposed numbers/densities where appropriate;
  - d) An implementation programme for the hard and soft landscaping and boundary treatments.

*Reason - In the interests of visual and residential amenities.*

- 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 No dwelling shall be erected above damp proof course until such time as a scheme for the parking courtyards, including numbering of spaces and illumination, has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be carried out in accordance with the agreed details.

*Reason - To ensure the development provides for a satisfactory form of design, in the interest of amenity.*

- 6 No development (except any demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit

for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

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

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

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

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

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

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

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

- 7 Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
- Contain Test Certificates of imported material to show that it is suitable for its proposed

use;

- Demonstrate the effectiveness of the approved Remedial Scheme; and
- Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

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

- 8 Notwithstanding the submitted details, no development shall commence on site until such time as a tree protection plan and arboricultural method statement (including foundation designs and/or no-dig construction) has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be carried out in accordance with the agreed details.

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

- 9 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on site until such time as precise details of the treatment of all hard surfaces (including all access roads, footways, drives and parking / manoeuvring areas) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure the development provides for a satisfactory form of design, in the interest of amenity.*

- 10 Notwithstanding the submitted plans, nor Condition 2 above, no dwelling shall be occupied until such time as precise details of the positioning and finishes of utility boxes to individual units have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure an appropriate form of design.*

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

The scheme shall also include:

- Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site - As outlined in the approved Flood Risk Assessment dated January 2015, Ref: CO14\_474\_12 undertaken by JMS;
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall



arrangements;

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

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

- 12 No development shall commence on site until such time as a scheme to dispose of foul drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the agreed details and timescales.

*Reason - To protect the water environment.*

- 13 If site clearance has not commenced by 30 November 2016 then an updated survey in relation to badgers (which shall include any mitigation measures) shall be submitted to and agreed in writing with the Local Planning Authority. Once agreed the development shall thereafter be carried out in accordance with the agreed recommendations and any mitigation measures once provided shall thereafter be so retained.

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

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

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

- 15 No development shall commence on the site until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation first submitted to and agreed in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:

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

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

deposition has been secured.

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

- 16 Before first occupation of any dwelling hereby permitted, a visibility splay of 2.4 metres by 43 metres to the left hand side (south-west) shall be provided at the junction of the access with Forest Road; this shall thereafter be so maintained in future. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splay.

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

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

*Reason - In the interests of pedestrian safety.*

- 18 Off-street car parking and turning facilities shall be provided within the application site in accordance with the details shown on the submitted plan; the parking and turning areas shall be surfaced and marked out prior to the development being brought into use, and shall thereafter be so maintained at all times.

*Reason - To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.*

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

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

- 20 Nothing shall be set, nor allowed to grow to a height exceeding 0.6 metres above the level of the adjacent adopted carriageway.

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

- 21 Before first occupation of any dwelling, its access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose

aggregate) for a distance of at least 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.)*

- 22 Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway including private access drives, 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 Unless any alternative timescale is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be brought into use until such time as a scheme for the hard surfacing of public right of way N85 has been implemented in full in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To provide for improved pedestrian access to nearby services, in the interests of ensuring the development is sustainable in transportation terms.*

- 24 Notwithstanding the submitted details, nor Condition 2 above, no work shall commence in respect of the construction of the proposed pumping station until such time as precise details of all associated above-ground works have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

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

### Notes to applicant

- 1 The pumping station requires landscape screening and it is recommended that suitable details are contained within the detailed landscaping scheme (Condition 4).
- 2 Your attention is drawn to the advice provided by the Environment Agency (Ref: LT/2015/119256/03-L01).
- 3 A section 106 legal agreement is required in order to secure the following:
  - partial contribution towards an off-site affordable housing contribution (£21,747.62)
  - Off site National Forest Planting contribution (£4,600)
  - education contribution (£140,741.38)
  - library contribution (£900)
  - civic amenity contribution (£1,961)
  - travel packs (can be supplied by LCC at £52.85 per pack)
  - 6 month bus passes, two per dwelling (£350 per pass)
  - equipping the nearest bus stop with Real Time Information (RTI) system (£5840)
  - review of the viability of the scheme within a certain period (i.e 3 years)
  - section 106 monitoring
- 4 Your attention is drawn to the comments made by the Council's Waste and Recycling Team dated Mon 20/07/2015 12:29.
- 5 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 2015.

- 6 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.

The development of a new solar farm of up to 5MW of generating capacity, comprising the installation of solar photovoltaic panels and associated infrastructure including electrical inverter and transformer cabins, switchgear and meter house, access tracks, fencing, CCTV, landscape planting and grid connection.

Report Item No  
A3

Land To The East Side B4116 Ashby De La Zouch And North Of Measham Road Packington Leicestershire

Application Reference  
15/00499/FULM

Applicant:  
Solstice Renewables Ltd

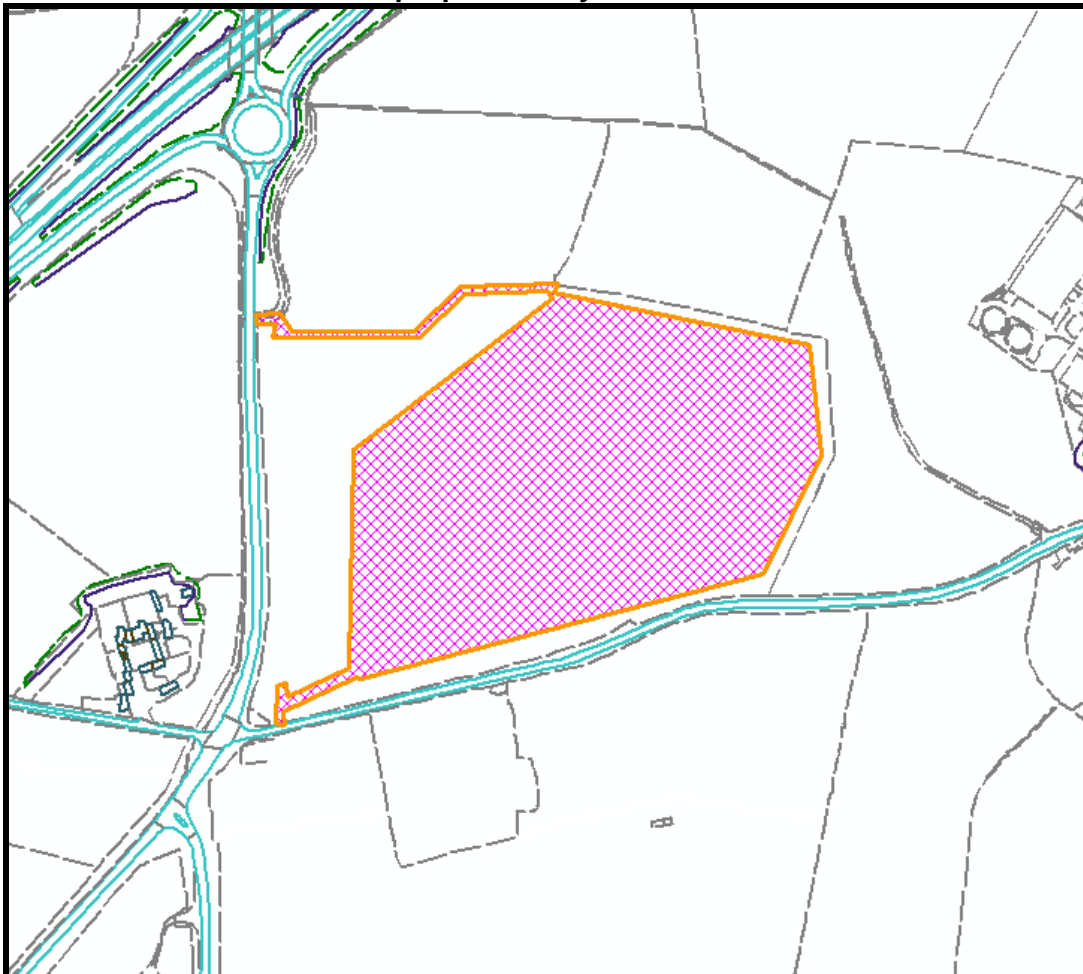
Date Registered  
26 May 2015

Case Officer:  
Jenny Davies

Target Decision Date  
25 August 2015

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

### Proposal

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

Planning permission is sought for the development of a new solar farm of up to 5MW generating capacity on land to the east of the B4116, Ashby de la Zouch and to the north of Measham Road, Packington. The site is 11.08 hectares in size and comprises the eastern and central parts of one field which is currently used for arable farming. The proposal relates to a commercially operated solar farm. An application has also been submitted concurrently for the development of a community-owned solar farm of up to 1MW generating capacity (15/00500/FULM) on the western part of the field. A separate Committee report has been prepared in respect of that application.

### Consultations

Members will see from the main report below that 23 letters of objection and 34 letters of support have been received. Packington Parish Council and the National Forest Company raise concerns in respect of the application. No other objections have been received from statutory consultees.

### Planning Policy

The proposed development would form a renewable energy development in the countryside, but would also represent farm diversification of an existing agricultural operation and would, therefore, be in accordance with the requirements of Countryside Policy S3 of the Adopted Local Plan. Technical reports to address agricultural land classification, heritage assets, landscape and visual impact, highway safety, flood risk and ecological matters have been submitted as part of the application and assessment of these in relation to national and development plan policies is set out in detail in the main report.

### Conclusion

There is specific planning policy support for renewable energy projects at both national and local level. In the circumstances that the proposal would accord with the aims of Policy S3 of the Local Plan and as the NPPF does not explicitly prevent renewable energy proposals from being located within the countryside, it is considered that the principle of the development would be acceptable. It is, however, considered that the positive benefits of renewable energy of the proposed development must be carefully balanced against the potential harmful impacts.

The proposal is not considered to give rise to any significant adverse impacts in respect of trees/hedgerows, residential amenities, archaeology, drainage and flood risk, protected species and ecological features and highway safety. On balance it is considered that a reason for refusal based on lack of assessment of alternative sites and the loss or impact on BMV agricultural land could not be justified in this case. It is also on balance considered that a reason for refusal relating to significant detrimental impact on the character of the area, its visual amenities and the overall experience of the immediate landscape, wider countryside and National Forest could not be justified in this case. The less than substantial harm to heritage assets has been balanced against public benefits of energy generation, farm diversification and provision of biodiversity enhancements. It can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely 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 proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

**RECOMMENDATION:- PERMIT SUBJECT TO THE IMPOSITION OF CONDITIONS**

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

## MAIN REPORT

### 1. Proposals and Background

This is a full application for the development of a new solar farm of up to 5MW generating capacity, comprising the installation of solar photovoltaic panels and associated infrastructure including electrical inverter and transformer cabins, switchgear and meter house, access tracks, fencing, CCTV, landscape planting and grid connection on land to the east of the B4116, Ashby de la Zouch and to the north of Measham Road, Packington. The site is 11.08 hectares in size and comprises the eastern and central parts of one field which is currently used for arable farming. Permission is sought for a 25 year time period and the scheme would be a commercial operation.

An application has also been submitted concurrently for the development of a community-owned solar farm of up to 1MW generating capacity (15/00500/FULM) on the western part of the field. A separate Committee report has been prepared in respect of that application. The overall site area for both applications is approximately 13.2 hectares.

The scheme seeks consent for the erection of 19,228 solar panel modules. The associated infrastructure relates to two transformer sub-stations, a Distribution Network (DNO) substation (shared with the 1MW scheme), a customer switchgear building, a storage container, a wind sensor pole and a satellite pole. Cables would either be attached to the rear of the panels or buried underground. The point of connection to the grid would be via existing overhead power lines which cross the site and which would be redirected. The scheme also proposes two metre high deer proof fencing around the perimeter of the site, and 17 CCTV cameras (five of which would be shared with the 1MW scheme) at approximately 2.5 metres high to be installed alongside the fencing. No external lighting is proposed during the operational phase of the development although some could be erected during construction under permitted development rights.

Access to the site for construction purposes would be via a temporary track running from an existing access (which would be widened) off the B4116 through the western part of the field (to the north of the 1MW solar farm). This track would run through a temporary construction compound which would be sited on the north western part of the field and both would be removed following construction of the solar farm. An access track with turning spaces, approximately 412 metres in length, would run from an existing access at the western end of Measham Road into the centre of the site to the transformer substations, which would be for used for maintenance and monitoring visits only. Both accesses would also be used to serve the 1MW solar farm.

The development would consist of rows of solar panels which are aligned east to west so the panels would face south, with the panels being dark blue in colour and having a non-reflective coating. The front of each panel would be approximately 0.8 metres above ground level and the back of each array being a maximum of 2.7 metres above ground level, giving a tilt angle of 22 degrees. The panels would be mounted on metal supporting frames and pile driven into the ground. Land levels generally rise across the site from the south by 8-16 metres.

Existing hedgerows and trees would be retained save for the removal of approximately 10 metres of hedgerow at the north western boundary to widen the construction access. The landscaping scheme proposes new hedgerows and trees and an area of dense native shrub planting. The grassland under and around the panels would be grazed by sheep for some months of the year and planted with species rich grassland, with rough grassland maintained



around the edge of the site. A swale for surface water drainage is proposed close to the eastern boundary of the field.

The site is bounded by Measham Road to the south with open fields and woodland beyond, land associated with Severn Trent Water's Treatment Works to the east, the site of the 1MW solar farm to the west with the B4116, open fields and residential properties at Park Farm beyond and open fields to the north with the A42 beyond.

The site is located approximately 690 metres south east of Packington, 1.5km south of Ashby de la Zouch and 1.48km to the north east of Measham. The nearest listed buildings are located at Park Farmhouse on Willesley Wood Side to the west of the site on the opposite side of the B4116 which are Grade 2 listed. Other nearby Grade 2 listed buildings include Field Farmhouse on Ashby Road, Measham, the Church of St Thomas at Willesley and several buildings at Packington both within and outside the Conservation Area, including the Church of the Holy Rood which is Grade 2\* listed.

Public footpath O68 runs from Packington to junction 12 of the A42 and passes through the fields to the north of the site, and footpath O66 runs through fields and woodland to the south of the site. The site lies within the catchment area of the River Mease Special Area of Conservation.

The application submission was accompanied by the following supporting documents; Design and Access Statement, Flood Risk Assessment, Construction Traffic Management Plan, Tree Survey, Landscape and Visual Appraisal, Ecological Assessment, Heritage Assessment and Geophysical Survey, Agricultural Assessment, Landscape and Ecological Management Plan, Statement of Community Involvement and a and a Phase 1 Environmental and Mining Report.

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraph 3(a) of Schedule 2 to the Regulations it has been concluded that this proposal does not constitute EIA development under the 2011 Regulations as its impacts are considered to not be significant and can be considered as part of the planning application.

## **2. Publicity**

55 No neighbours have been notified. (Date of last notification 7 August 2015)

Site Notice displayed 10 July 2015

Press Notice published 17 June 2015

## **3. Consultations**

Ashby De La Zouch Town Council consulted

LCC ecology consulted 28 July 2015

Ashby de la Zouch Town Council consulted 18 June 2015

Measham Parish Council consulted 18 June 2015

Packington Parish Council Victoria Roe consulted 18 June 2015

County Highway Authority consulted 17 June 2015

Environment Agency consulted 17 June 2015

Severn Trent Water Limited consulted 17 June 2015

Head of Environmental Protection consulted 17 June 2015

Natural England consulted 17 June 2015

NWLDC Tree Officer consulted 17 June 2015

County Archaeologist consulted 17 June 2015  
Airport Safeguarding consulted 17 June 2015  
NWLDC Conservation Officer consulted 17 June 2015  
National Forest Company consulted 17 June 2015  
English Heritage- major dev in CA consulted 17 June 2015  
County Planning Authority consulted 17 June 2015  
Development Plans consulted 17 June 2015  
LCC Flood Management consulted 17 June 2015  
Highways Agency- affecting trunk road consulted 17 June 2015  
Ramblers' Association consulted 17 June 2015

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

**Packington Parish Council** wish to make the following observations:

1. Councillors are of the opinion that the land is Grade 2 and is perfectly good agricultural land currently. Councillors are sure that there was a directive from Government which states that Solar Farms should be erected on land that is of a lesser grade and are surprised that this has not been picked up on.
2. Councillors are concerned about the visual impact of the Solar Farm when coming into Packington village. Also, during summer months the hedge alongside the field will provide some screening however in the winter, this will not be the case.
3. There is the potential for a cycle track around the edge of the field. Creating a cycle track would mean that cyclists could link up with the National Cycle Way. As a Parish Council we would like to see the village linked by a cycle track to the Hicks Lodge Centre near Willesley and hence to the other cycle tracks. At present this is possible by leaving Packington on the Measham Road up to the junction with the B 4116 (5 lane ends) and then straight across, over the A 42, past Willesley and on to Hicks Lodge. However, the Measham Road is busy, twists and turns and is potentially dangerous for cyclists. We have been considering the possibility of having a footpath/cycle track running alongside the Measham Road as far as Normandy Wood and with the proposed Solar Farm it was thought this could be extended on the other side of the road as far as the B 4116.
4. Another issue which was raised was the very tight turn into Measham Road for traffic coming from the direction of Ashby and going to Packington. After the A 42 was opened traffic from the South West/Birmingham direction for Packington comes in this way rather than travelling through Measham. There is a large tree on the corner but the question was asked as to whether a "slip road" could be built to the north of this tree making access much easier and safer.

**Ashby de la Zouch Town Council** supports the application.

**Environment Agency** advises that the proposal is outside the scope of matters on which it is a statutory consultee.

**The Lead Local Flood Authority** has no concerns regarding surface water discharge.

**Severn Trent Water** has no objection.

**Natural England** has no objections.

**County Ecologist** has no objections subject to conditions.

**The Council's Environmental Protection team** has no environmental observations.

**National Forest Company** advises that the proposal has the potential to have a detrimental visual impact on the area, requests that biodiversity enhancements are secured by condition and seeks additional planting along the site's southern boundary.

**County Highway Authority** is of the view that the residual cumulative impacts of the development can be mitigated against and are not considered to be severe.

**Highways England** has no objection.

**The Ramblers Association** has no comments to make.

**Historic England** sets out the heritage and landscape issues that should be considered in respect of this type of application, advises that the Authority will need to consider whether the assessment provided is sufficiently far-reaching and thorough in its analysis of the impact on the setting of heritage assets and recommends the application is determined in line with national and local policy and with the benefit of the Authority's specialist conservation and archaeological advisors.

**The County Archaeologist** considers that the proposal does not present a significant archaeological impact to known or potential archaeological remains.

No comments have been received from Measham Parish Council, East Midlands Airport and the County Planning Authority by the date of this report. Any comments subsequently received will be reported on the Update Sheet.

### **Third Party Representations:**

23 letters of objection have been received which raise the following concerns:

23 letters of objection have been received which raise the following concerns:

- not screened and would be readily visible from the adjacent dwellings, roads, from Packington, from Normandy Wood and from nearby public rights of way;
- site is in a very prominent position and land levels rise towards its centre;
- site is an integral part of the rural scene;
- visual amenities of the area would be spoiled;
- additional encroachment on the countryside;
- approach to Packington is already blighted by the treatment works and does not deserve to have a further blot on the landscape;
- impact on nearby Normandy Wood which has elevated views of the site;
- vegetation will not provide adequate screening during the winter months;
- lack of landscaping on the northern boundary;
- measures will need to be enforced rigorously to screen the solar farm;
- unwelcome view to the Ashby gateway to the National Forest;
- danger of blighting the National Forest which has made the area more popular for tourists;
- the area has changed and re-established itself with National Forest planting;
- will stand out more than the coal mines and clay pits which have recently been removed;

- solar farm at Shellbrook is regarded as diabolical by the public and impact from these proposals will be much worse with roads on three sides;
- cumulative visual impact from the number of solar farms in close proximity to one another;
- impact on nearby listed buildings at Park Farmhouse;
- possible impact on views of the Church of the Holy Rood in Packington and on the Conservation Area;
- noise and radiation from generators and other equipment;
- sensitivity to machinery that generates electromagnetic fields;
- impact on enjoyment of dwellings;
- lack of screening from nearby dwellings;
- detrimental impact on protected species and other animals including bats, buzzards, badgers and their setts;
- badgers use the site for foraging;
- other solar farms have a gap of around 45 cm underneath fencing to allow badgers access to the site;
- proximity of the Measham Road access to a dangerous road junction;
- the junction of Measham Road/B4116 has been under review due to the number of accidents and volume of traffic which will now be exacerbated;
- distraction to motorists;
- site access will be opposite existing access serving land used for storage of farm goods which will create an extra hazard at a very busy junction;
- substandard visibility at the Measham Road access;
- impact on surface water drainage outlet from Park Farm which runs into a ditch on the site;
- government guidelines are against using productive fields for solar farms and recommends they are sited on existing buildings, housing and industrial sites;
- site should be used for efficient production of crops rather than inefficient production of electricity;
- demand for crops will have to be met by importation which will incur carbon dioxide emissions;
- loss of good quality agricultural land;
- land has always been used for crop rotation or grazing horses and no business reason for the proposal;
- loss of farming jobs;
- proximity to the other solar farm in Packington;
- Packington has had its fair share of renewable energy schemes;
- enough solar farms have been provided within the District and the area is over-saturated;
- what is the Council's required uptake for solar farms?;
- government subsidies for solar farms over 5MW capacity have been stopped;
- the government has put a block on any further applications for schemes above 5MW as they are a blight on the countryside;
- two applications have been submitted to overcome the end of these subsidies which goes against the spirit of the regulations;
- it now seems that government subsidies and tariffs for solar farms below 5MW are being changed which will affect community owned projects the most;
- need for a viability study due to reduced tariffs and similar schemes elsewhere going into liquidation to avoid a redundant solar farm in the future;
- output figures produced by the applicant are grossly overstated;
- financial support to Thringstone Community Centre should not be allowed as it is not near the solar farm and is not of any benefit to residents close to the site;
- the solar farm should be sited at Thringstone if that village wishes to benefit;
- other cash benefits to school and parish beneficiaries should also not be taken into account;
- if contributions are to be made to local communities then these should be given to Packington Parish Council and Packington Primary School as it is the nearest settlement and would be the

most affected;

- is the community-owned solar farm a requirement of the Council?;
- local electricity grid does not have any capacity;
- HS2 should be consulted on the application as the site lies within its buffer zone;
- route of HS2 has not yet been finalised and therefore a decision should not be made on the application until its route has been decided;
- impact on route and construction of HS2;
- HS2 causing blight to properties at Park Farm and additional blight will be caused by the proposal;
- some information within the application submission is inaccurate;
- poor public consultation process carried out by the applicant before submission of the application;
- insufficient number of site notices posted;
- impact on property prices.

34 letters of support including one from Leicestershire and Rutland Community Council (31 of which are identical letters) have been received which make the following comments:

- the application clearly adheres to government planning policy for solar farms;
- the proposals would be one of the first commercial/community 'split-ownership' renewable energy projects in the UK and are therefore also in accordance with other government strategies/frameworks;
- local people will have the opportunity to benefit directly from the solar farms by buying shares in the community solar farm and participate in educational activities offered by the applicant;
- substantial benefits will accrue to Thringstone House Community Centre;
- the proposal will make an important contribution to local and national renewable energy targets;
- land will stay in agricultural use with sheep grazing around the panels;
- additional extensive improvements to biodiversity and wildlife habitats are proposed;
- site will be well screened from the surrounding area due to existing hedgerows and will have minimal visual impact;
- land can be completely restored after the 25 temporary period;
- the community solar farm would be community owned which will directly benefit the Thringstone Trust with the creation of a community fund;
- the proposals would generate enough electricity to power the equivalent of 1,800 average homes;
- allowing the community to invest in the solar farm will provide economic, social and environmental benefits;

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

## **5. Relevant Planning Policy**

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

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

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

Paragraph 14 (Presumption in favour of sustainable development)  
Paragraph 17 (Core planning principles)  
Paragraph 32 (Promoting sustainable transport)  
Paragraphs 57 and 61 (Requiring good design)  
Paragraphs 97, 98, 99 and 100 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraphs 112, 118, 119 and 123 (Conserving and enhancing the natural environment)  
Paragraph 131, 132, 134, 135 and 139 (Conserving and enhancing the historic environment)  
Paragraphs 188 and 189 (Pre-application engagement and front loading)

### **North West Leicestershire Local Plan:**

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

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

Policy S1 - Overall Strategy  
Policy S3 - Countryside  
Policy E2 - Landscaped Amenity Open Space  
Policy E3 - Residential Amenities  
Policy E4 - Design  
Policy E6 - Comprehensive Development  
Policy E7 - Landscaping  
Policy F1 - National Forest - General Policy  
Policy F2 - Tree Planting  
Policy F3 - Landscaping & Planting  
Policy T3 - Highway Standards  
Policy T8 - Parking

### **Other Guidance**

National Planning Practice Guidance - March 2014  
The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations')  
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)  
River Mease Water Quality Management Plan - August 2011  
6Cs Design Guide (Leicestershire County Council)

### **6. Assessment**

The main considerations in respect of this application are the principle of development and impact upon the environmental value of the land, the character and visual amenities of the landscape including cumulative impact, trees and landscaping, the historic environment, archaeology, residential amenities, drainage and flood risk, River Mease SAC/SSSI, protected species and highway safety.

#### **Principle of Development**

The application site is located outside the limits to development where permission for new development would not normally be granted unless it is for certain uses as set out under Policy S3 of the Local Plan. The proposal represents a diversification opportunity for an existing

arable agricultural operation. As such, the proposal can be considered to be a farm diversification scheme and would fall within category (b) of Policy S3.

The overarching principle of the NPPF is to protect the countryside, but to allow sustainable development where appropriate. The NPPF states that there are three dimensions to sustainable development: - economic; social; and environmental. There is support and encouragement for sustainable development and the sensitive exploitation of renewable energy sources within the NPPF.

Paragraph 97 of the NPPF outlines that Local Planning Authorities should "recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources" in order to help increase the use and supply of renewable energy, and one of the core planning principles at Paragraph 17 of the NPPF is that decisions should "support the transition to a low carbon future and encourage the use of renewable resources (for example by the development of renewable energy)."

At Paragraph 98 it also states that applicants should not be required to demonstrate the overall need for renewable energy and that planning applications should be approved if their impacts are or can be made acceptable. Notwithstanding Paragraph 98, since the introduction of the Planning Practice Guidance, this now confirms that the Authority would need to consider the energy generating potential. The solar farm is estimated to generate 5 megawatts of renewable energy and in conjunction with the 1MW scheme, would power approximately 1,800 homes.

In the circumstances that the NPPF supports proposals which provide energy from renewable energy, as well as support from Policy S3 for renewable energy projects in the countryside, it is considered that the overall principle of the solar farm would be acceptable.

In summary, there is specific planning policy support for the development of renewable energy projects both at national and local level, and it is considered that the proposed installation of the solar farm would provide a valuable contribution to the overall output of renewable energy within the area and thus will be consistent with the intentions of national and local planning policy. Accordingly whilst there is no in-principle objection to the proposal, this must be carefully balanced against all other planning matters being adequately addressed.

### **Environmental Value of the Land**

The Planning Practice Guidance states that the Authority will need to consider encouraging the effective use of land by focusing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value, and where a proposal involves greenfield land, whether:

- i. the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and
- ii. the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

The Written Ministerial Statement made on 25 March 2015 (which is referenced in the Planning Practice Guidance) states '*...where a proposal involves agricultural land, being quite clear this is necessary and that poorer quality land is to be used in preference to land of a higher quality...we want it to be clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence...*'

In addition, paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poor quality land should be used in

preference to that of a higher quality.

In a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25 April 2013, he said:- "Where solar farms are not on brownfield land, you must be looking at low grade agricultural land which works with farmers to allow grazing in parallel with generation".

The application has been accompanied by an Agricultural Assessment which has found that (across the whole of both application sites) 35% of the land is classified as Grade 2 and 65% is classified as Grade 3a, with none classified as Grade 1 or Grades 3b, 4 and 5. This shows that the whole of the site is agricultural land which is of the highest quality (i.e. Best and Most Versatile land (BMV)).

Letters from the agent state that the Government defines large scale solar farms as those being 5MW or more and as this proposal would generate no more than 5MW it can be considered to be small-scale. The reference in the Planning Practice Guidance is to *'the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms'* and this is also reflected within the Ministerial Statement which also refers to large scale solar farms. Therefore it appears that the issues set out for consideration in these two documents relate to solar farms over 5MW. Whilst with the 1MW scheme they would generate a total of 6MW, each scheme has its own separate equipment and substations, are separated from each other by fencing and the agent advises are in separate legal ownerships and could therefore operate separately from each other. Furthermore they were submitted as separate planning applications.

However the NPPF and the speech by Gregory Barker MP do not make explicit reference to large scale solar farms and so consideration of the impact on BMV is still required. The magnitude of change in the loss of BMV can also be considered. A large magnitude of change would result from schemes over 50ha on BMV agricultural land, a medium change for schemes between 20ha and 50ha, a small change for schemes less than 20ha and negligible change where a less than 1ha of agricultural land would be affected. The application site on its own is approximately 11.08 hectares and combined with the 1MW scheme is around 13.5 hectares, therefore meaning that the magnitude of change would be small. In addition Grade 3a ALC (which covers the majority of the site) can be considered to be of medium value (where Grade 1 is highest value and Grade 5 is the lowest). The application also indicates that the Grade 3a land is limited by seasonal waterlogging and as the Grade 2 land is surrounded by Grade 3a land, it cannot be used separately and is therefore not farmed to its fullest potential.

The land forms part of a farming business operated by the landowner which extends to approximately 850 hectares, with the majority in arable use and some sheep grazing. In this case, the fields are currently in arable use and are not used for grazing. However, the submitted details confirm that the solar farms will allow for continued agricultural use as it would be re-seeded with species rich grassland which will be available for periodic sheep grazing during the autumn and winter.

Guidance published in 2014 by the Building Research Establishment (BRE) notes that where panels are mounted above the ground using posts, over 95% of the land would still be accessible for plant growth and complementary agricultural activities.

There will be a loss of potential agricultural production across the site, i.e. during construction and whilst the grassland establishes, and once operational the type of agricultural use would change, as it appears this land has consistently been in arable use rather than for grazing, and



there is no guarantee that the land would be used for grazing. However the proposal is unlikely to lead to an irreversible long term loss of BMV, due to the means of fixing the panels to the ground, which would result in minimal soil disturbance and would mean that the arrays could be removed without permanent loss of agricultural land quality. Those parts of the proposal that could permanently affect BMV, e.g. the substations, would be limited to small areas. In any case these more permanent structures would be removed during decommissioning and land could then be returned to agricultural use. The proposal would be temporary for a maximum of 25 years so the agricultural land would not be permanently lost since the scheme would be reversible.

Furthermore the scheme encourages biodiversity improvements with species rich grassland being provided across the site with wider areas of rough grassland around the site's edges under a separate management scheme to encourage diversity. Additional hedgerow planting is proposed, along with the retention of existing trees, the filling of hedgerow gaps, provision of an area of dense scrub and native trees alongside the whole of the site's southern boundary, provision of bird boxes and a swale. The County Ecologist advises that the proposal would allow for the creation and management of species-rich grassland which will be of greater biodiversity value than the site's current arable use and this conforms to advice within the Planning Practice Guidance.

An assessment of potential alternative sites and use of poorer quality agricultural land and/or existing developments has not been submitted as the agent considers that such an assessment is not required in respect of small scale solar farms. Such assessments have accompanied other nearby solar farm applications in the District, including at Normanton le Heath, Shellbrook and Burton Road, Ashby de la Zouch, which would have similar search areas to the application sites, with the Burton Road scheme also being a small scale project. These assessments have all considered that the use of lower grade agricultural land, previously developed land and the roofs of existing buildings in the area would not be suitable or feasible alternatives for solar farms in this part of the District.

In conclusion, whether or not the grazing of sheep takes place in this case (as this cannot be guaranteed and no mechanism exists to ensure that it would), it is considered that, as the proposal would not result in a permanent loss of BMV agricultural land, that biodiversity enhancements would be provided and that other assessments have not found suitable or feasible alternative sites, a reason for refusal based on lack of assessment of alternative sites and the loss or impact on BMV agricultural land could not be justified in this case.

### **Impact upon the Visual Landscape**

As discussed earlier in this report the application site in policy terms lies outside the limits to development, and is therefore within an area designated as countryside.

Paragraph 17 of the NPPF states that planning should recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it, and paragraph 109 states that the planning system should protect and enhance valued landscapes. Paragraph 97 of the NPPF supports this, stating that cumulative landscape and visual impacts of renewable energy sources should be addressed. Paragraph 98 of the NPPF also states that when determining wind turbine planning applications, local planning authorities should "approve the application if its impacts are (or can be made) acceptable."

This section of the report considers the impact of both the 5MW solar farm in its own right and alongside the smaller 1MW scheme. For clarity, Landscape Impacts and Visual Impacts will be considered separately below.

*Landscape Impacts*

Landscape impacts are the effects of a proposed development on the fabric, character and quality of the landscape and are concerned with the degree to which a proposed renewable energy development will become a significant or defining characteristic of the landscape.

The site lies within Natural England's Landscape Character Area of the Leicestershire and South Derbyshire Coalfield (National Character Area (NCA) 71) and some of its key characteristics include mixed and arable pasture, gently undulating landform of shallow valleys and ridges and localised areas of small fields and dense hedgerows. NCA71 provides the overriding landscape features and characteristics of the site within a wider landscape context and a more localised assessment of character can be found within the County Landscape Character Assessment undertaken by Leicestershire County Council in 2001 and the National Forest Strategy 2004-2014.

The site would lie within 'The Coalfield' Character Area identified in the County Landscape Character Assessment. The Coalfield is distinguished by a denser settlement pattern than almost any other part of Leicestershire. Whilst it is recognised that there is a distinctive landscape character found to the very north east of 'The Coalfield' area towards Coleorton, most of the area is characterised by a gently undulating landform. The area is characterised as having relatively dense settlement patterns, mixed farmland with low woodland cover and effects of past and present coal and clay working.

The site itself is open, gently sloping in a partly elevated location and arable in nature and is bounded by largely strong hedgerow boundaries and sits in a gently undulating landscape. Some areas of woodland planting are located close to the site, at Park Farmhouse, Brickyard Plantation and Normandy Woodland. It is also considered that the lack of any statutory landscape designations on or around the site is significant in assessing the level of harm arising from the proposal. However it is noted that the site lies within the National Forest with public rights of way lying to the north and south of the site.

As such, although it is acknowledged that the land in question is currently undeveloped and there would be some major/moderate impacts on the landscape character of the site and its immediate environs, this is not considered to be significant or permanent and the landscape could accommodate the solar farm on its own and alongside the 1MW scheme without its overall character being significantly harmed.

*Visual Impacts*

Visual Impacts concern the degree to which the solar farm would become a feature in particular views and the impact this has upon the people experiencing those views. The application has been accompanied by a Landscape and Visual Appraisal including a visual envelope which illustrates the extent to which the site is potentially visible and a preliminary zone of visual influence (ZVI) which defines the area within which the proposal may have an influence or effect on visual amenity.

The visual envelope and ZVI identify that the site would be visible from the public rights of way to the north and south of the site, and from parts of the A42 and Normandy Woodland in the immediate vicinity of the site. They also identify that the site could be visible from areas beyond the immediate site area; predominantly from the east and south east in the area of countryside located to the south of Packington towards Normanton le Heath and also from areas to the north east of Packington. It is also considered that longer views would be available from areas close to Swepstone. There are unlikely to be medium to longer views from the north, west and south

due to topography and screening from vegetation and existing development. The National Forest and the Council's Tree Officer have concerns regarding the detrimental visual impact on the local area.

The site forms a large part of one open field. Although a new field pattern would be introduced due to the northern part of the field remaining in agricultural use and the western part forming the 1MW scheme, the resulting parcels of land would be similar in scale to other nearby fields. Existing boundary hedgerows and trees would remain, save for the removal of approximately 10 metres at the north western boundary. A new hedgerow is proposed along the north western boundary with another hedgerow, tree planting and dense shrub planting close to the southern boundary.

The development is considered to be low level in height, in comparison to some of the existing hedgerow boundaries and existing nearby established woodland areas. New planting would address gaps in existing hedgerows and where landscaping does not exist and would strengthen planting and provide additional screening to the southern part of the site and at its south western corner. It is also proposed that hedgerows would be managed to maintain a height of three metres. Overall it is considered that the topography of the land, combined with the existing and proposed planting, would provide some natural screening to large parts of the site.

The associated infrastructure would be small in scale and seen alongside the panels other than one substation located in the south western corner. Although fencing is proposed around the site perimeter its design would give it a lightweight appearance and the proposed colour of this equipment and the perimeter fencing (Moss Green) would be akin to the agricultural setting and assimilate into the countryside. The CCTV cameras would be half a metre taller than the fencing and in part would be shared between the two sites. The temporary construction compound and access route would in place for the duration of construction and would then be removed and the land reinstated. As such these ancillary elements of the proposal would not in themselves be harmful to the visual amenities of the locality.

The Landscape and Visual Appraisal uses seven viewpoints from the public right of way and road network to provide a representation of the landscape and visual impact. Taking into account the Appraisal and photomontages, viewpoints assessed during the site visits, the topography of the land and screening from vegetation, it is considered that the public footpath to the north of the site, Measham Road, the B4116 and their junction are the most sensitive visual receptors and the solar farm would have its greatest visual impact when viewed from these locations. It is considered that views from Park Farm would be limited due to the adjacent area of dense hedgerow and woodland which would provide a screen even during the winter months and that there would be no views from Gallows Lane or Ashby Road to the south due to topography and vegetation.

From the public footpath the view of the site would be of the rear of the panels and it would largely be seen in a wide panorama of the landscape, which includes the treatment works in the foreground and the A42 as the backdrop. In views from Measham Road, the greatest impact is likely to be at its western end although the existing and additional planting close to the site's southern boundary would provide a screen along with the panels being set back between 30-40 metres. In addition this road is predominantly used by vehicles rather than pedestrians due to the 60mph speed limit and lack of footways, who would be positioned at a lower level than from which the photomontage was taken.

Views from the B4116 would be limited by the mature hedgerow along the eastern side of this

road which is currently over two metres high and the panels would be over 75 metres from this road, although when cumulatively considered with the 1MW scheme the panels would be much closer in places.

Views from the junction of Measham Road/B4116 are elevated and site levels also rise up so the panels would be more visible. However some screening is currently provided by the mature trees and additional landscaping is proposed at this corner which over time will further screen the panels. In addition the panels would be set back 50-90 metres from this junction.

In all of the above views it is acknowledged that the site would become more visible in winter as a result of seasonal leaf loss although it is considered that additional planting would help to mitigate against this and filtered views would be available.

There would be some views from public footpath O66 to south/south east and also from the permissive paths within Normandy Wood but these would be more distant views and glimpses due to screening from vegetation. From the A42 limited screening would be available in places but these views would be limited glimpses due to the speed of traffic.

Longer views would be available from the east and south east. The view of the site from public footpath O62 which runs through Plummer's Wood on Redburrow Lane and which forms a short section of the National Forest Way would be in a panorama of the wider landscape and views would be of the side profile of panels. The proposal may be visible in views from further to the south east, towards Normanton le Heath and Swepstone, in particular from public footpaths, from Tempe Farm and surrounding woodland and from Swepstone Church but these would be distant views, with glimpses of the site due to screening by topography, other development and vegetation.

Concerns have been raised by some local residents about the impact on the National Forest. It is acknowledged that the localised adverse impacts set out above could have some impact upon the enjoyment and recreational value for users of the local public right of way network and nearby woodland/permissive paths. However, it is also acknowledged that nearby routes are local routes and do not form part of a wider strategic network, and that these routes benefit from good interconnectivity, both with other public routes as well as permissive paths and woodland providing a choice of routes within the area where views would be less affected or unaffected by the development. Views from the stretch of the National Forest Way would be more distant and a 300 metre section of a 75 mile route would be affected. The impact would also be short term as users of the rights of way, permissive paths and woodlands pass through the area with glimpses or longer views of the site.

It would be difficult to quantify that the solar farm on its own or cumulatively with the 1MW scheme would result in people not visiting the National Forest or nearby rights of way, paths and woodland as this is very much down to people's preference and it is not clear how it would be demonstrated that the proposal would reduce visitors to the area. Furthermore there does not appear to be any evidence that the proposal would undermine the regeneration achievements of the area. As such a reason for refusal on the basis of the proposal resulting in a reduction in visitors to the area and an impact the National Forest could not be justified.

Given the topography of the site and its surroundings, along with existing and proposed screening and the direction the panels would face, it is considered that the proposal would not result in glint and glare that would be significantly detrimental to visual amenities.

Overall it is therefore concluded that there would be an impact on visual amenities in some parts

of the immediate locality of the site although mitigation is available from existing and proposed landscaping. It is therefore considered that the landscape has the capacity to accommodate the scale of the proposal on its own and cumulatively with the 1MW scheme with localised landscape and visual effects and that the development would not have unacceptable adverse impacts upon the use and enjoyment of the public rights of way network and the National Forest. Therefore on balance a reason for refusal relating to significant detrimental impact on the character of the area, its visual amenities and the overall experience of the immediate landscape, wider countryside and National Forest could not be justified in this case.

### **Cumulative Landscape and Visual Impacts**

The Planning Practice Guidance states that the approach to assessing cumulative landscape and visual impact of large scale solar farms should be the same as assessing the impact of wind turbines. Cumulative visual impacts may arise where two or more of the same type of renewable energy development will be visible from the same point, or will be visible shortly after each other along the same journey. Simultaneous effects include viewing a number of schemes from a single fixed viewpoint without an observer turning their head, and repetitive effects where the observer is able to see two or more schemes, but only if they turn around. Sequential effects on visibility occur when an observer moves through a landscape and sees two or more schemes.

The cumulative impact of the proposal alongside the adjacent 1MW proposal has been considered in the previous section. Applications for solar farms have recently been approved and constructed at Prestop Park Farm, Ashby de la Zouch (14/00635/FULM), Walnut Yard, Diseworth (14/00408/FULM) and Babelake Street, Packington (14/00535/FUL). Permission has been granted for solar farms close to Normanton le Heath (14/00786/FULM) and at Nottingham Road, Ashby de la Zouch (14/00862/FULM) which have not been implemented. An application has also been received for a solar farm at Burton Road, Ashby de la Zouch (15/00714/FULM) which has not yet been determined.

The solar farms may be visible simultaneously alongside the Babelake Street scheme in long range views from the south east, including from public footpaths at and close to Swepstone and Normanton le Heath. However the proposals would be at a greater distance from these viewpoints than the Babelake Street scheme, with screening from intervening topography and vegetation. Furthermore it may be possible to have simultaneous, repetitive and sequential views of both the Babelake Street scheme and the proposals from Normandy Wood and some public footpaths to the south although these views would be distant or glimpses. The solar farms would not be seen in simultaneous and repetitive views alongside any of the other aforementioned proposals. The proposals could be seen sequentially with the Babelake Street and Normanton le Heath schemes but given their locations this is only likely to be via the use of public rights of way and so some time would pass between viewing each scheme. A view of the proposals and the Prestop Park Farm scheme could occur in the same journey but this would usually involve travelling through Ashby de la Zouch so they would not be seen in the same rural landscape. The proposals and the schemes at Nottingham Road and Walnut Yard may also be seen in the same journey but this is likely to be from the A42 where vehicle speeds are high and glimpses of the schemes would be seen.

Given the above circumstances it is considered that the proposals would not contribute to an overall impression of a landscape with solar farms. Therefore, the overall impact in terms of sequential cumulative effects would not be significantly harmful.

### **Landscaping and Impact upon Trees/Hedgerows**

The scheme proposes the retention of all existing trees and hedgerows save for approximately

10 metres to be removed at the north western boundary to provide the construction access.

The proposed landscaping scheme has been considered by the Council's Tree Officer, the National Forest and the County Ecologist. The Tree Officer has requested that a shelterbelt of planting would be required close to its northern boundary to screen the site from the A42. However given that only glimpses would be available from this road, it is considered that the proposed hedgerow along the north western boundary would be satisfactory alongside existing planting adjacent to the A42. Both the Tree Officer and the National Forest requested additional tree and shrub planting adjacent to the site's southern boundary to link into the existing Brickfield Plantation located opposite the site on the southern side of Measham Road and amended plans have been received which show the extension of the dense shrub planting alongside the whole of the southern boundary.

### **Impact upon the Historic Environment**

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects a listed building or its setting or a Conservation Area, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess and to the desirability of preserving or enhancing the character or appearance of that Area. Paragraph 131 of the NPPF requires, amongst other things, new development to make a positive contribution to local character and distinctiveness. Paragraph 132 of the Framework 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.

The nearest scheduled monument is Ashby Castle (approximately 2.6km to the north east) and Coleorton Hall Registered Park and Garden lies approximately 5km to the north east. The nearest listed buildings are located at Park Farmhouse on Willesley Wood Side to the west of the site on the opposite side of the B4116 which are Grade 2 listed. Other nearby Grade 2 listed buildings include Field Farmhouse on Ashby Road, Measham, the Church of St Thomas at Willesley and several buildings at Packington both within and outside its Conservation Area, including the Church of the Holy Rood which is Grade 2\* listed. Therefore the impact of the development on the setting of the listed buildings and the character and appearance of the Conservation Area should be given special regard as required by the 1990 Act.

Park Farmhouse is the closest listed building and comprises an early 19th century farmhouse with attached outbuildings forming a courtyard arrangement. The listed building is well screened from view from nearby roads and the site itself by mature hedgerows and woodland although there is a glimpse of the buildings through the access from Willesley Wood Side, with the existing trees forming the backdrop. Park Farmhouse has been historically separated from the application site with the presence of the B4116 and a tree belt running along its western side, which is shown on historic maps dating back to the late 19th century, and also has a secluded character due to the existing tree planting around the site. Therefore the listed building would not be seen in any views alongside the proposal. Any views of the solar farm would also be limited due to this existing planting. Therefore based on the above circumstances, it is considered that the site does not make a significant contribution to the setting and significance of this listed building and the proposal would result in less than substantial harm to the setting of the listed building.

The proposal would not be seen in the backdrop to Field Farmhouse on Ashby Road, Measham due to topography. The proposal would also not be seen in the wider setting of the Church of St Thomas at Willesley due to the distance from the site and intervening woodland screening.

Whilst there may be a historic relationship between the site and the Church of St Thomas due to the former presence of a tree-lined avenue linking the site with Willesley Hall and its environs (which included the church) this avenue was removed in the mid-20th century and this link is now no longer in evidence. As such it is considered that the proposal would not impact on the setting of the Church of St Thomas.

The site may also be visible in the setting of other listed buildings that are located over 1km from the site, in particular those buildings are located at a higher land level than the site, e.g. Tempe Farm and the Church of St Peter at Swepstone. The solar farm would not be seen in views of the church but can be seen from a small part of the churchyard, and in this view the solar farm may form part of the backdrop to Tempe Farm but it would form part of the distant backdrop to both listed buildings and would either in whole or in part be screened from view by topography and existing vegetation. As such the proposal would not form a prominent part of the setting of these buildings.

The Church of the Holy Rood in Packington is located in the western part of the Conservation Area and forms a landmark within this part of the village. It is considered that the matters that make the greatest significance to the setting of the church relate to its physical fabric, its value within and to the community and its immediate setting and location within the historic core of the village. The wider landscape can be of historic value and significance to the church and Conservation Area as it forms part of its historic economic development and changes to the historic and aesthetic appreciation and experience of the landscape could harm significance, in particular when viewed from nearby roads and public footpaths.

The church and Conservation Area are either not visible or barely perceptible in views from the site and nearby roads and public footpaths close to the site due to its distance, intervening topography, backdrop and vegetation, so neither forms a dominant landmark in these longer views. There are no views of the site from the churchyard and any views of the solar farm from the church tower or listed buildings and Conservation Area would be limited and seen in a landscape that has already been altered by the treatment works and the A42. Overall it is considered that the proposal would not form a key part of the foreground to the church and Conservation Area.

Given the distance from the church and Conservation Area, that farmland in their immediate vicinity would not be affected and that the development would not be permanent, the appreciation of the village's historic relationship with the surrounding countryside would not be significantly affected or eroded.

The Conservation Officer has no objections to the proposal. By virtue of the distances between the heritage assets and the proposed development, the limited height of the solar panels and the screening effects of the intervening topography and vegetation it is considered that the development would not adversely impact on the setting of the listed buildings nor harm the character and appearance of the Conservation Areas.

The proposed solar farm is not considered to result in substantial harm to the significance of the identified heritage assets and as such is considered to be determined in accordance with the aims of paragraph 134 of the NPPF which concludes that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal." The less than substantial harm to the heritage assets is in this case considered on balance to be outweighed by the public benefits of energy generation from a renewable source equivalent to that required to provide 1,800 homes per year with electricity (in conjunction with the 1MW scheme) and assist the wider

public interest of tackling climate change by reducing carbon emissions. Furthermore, the proposal would represent farm diversification and would provide biodiversity enhancements by improving the biodiversity value of the site. Overall, taking all the above matters into account, it is considered that the proposal would not conflict with the principles of paragraphs 131, 132 and 134 of the NPPF.

### **Archaeology**

The Heritage Assessment concludes that there is low potential for prehistoric remains and from the medieval period onwards the site was located within the agricultural landscape. The presence of remains from the Romano-British period cannot be excluded due to the site's location along the potential lines of two Roman roads. Consideration is also given to the former presence of a tree avenue linked to the landscaped park around Willesley Hall, for which good map and cropmark evidence survives. However the County Archaeologist advises that given the bisecting of the landscape as a result of the construction of the A42 and the complete removal of the avenue to the south-east of the motorway the significance of any buried remains is deemed negligible. The Geophysical Survey also did not identify any archaeological interest and concluded that the site has low archaeological potential. Therefore the County Archaeologist does not consider that the scheme would present a significant archaeological impact to either known (Willesley Park Avenue) or potential archaeological remains.

### **Impact upon Residential Amenities**

The nearest residential properties are at Park Farmhouse on the western side of the B4116 approximately 50 metres from the site. Sweethill Cottage on Willesley Wood Side lies approximately 315 metres to the west of the site and Meadow Cottage on Measham Road lies a similar distance to the east with other isolated dwellings beyond.

The dwellings at Park Farmhouse are separated from the site by the B4116 and an area of woodland, with dwellings to the east separated by an area of grassland/scrubland, the treatment works and associated land and some vegetation. Given these circumstances it is considered that these nearest dwellings are located at sufficient distance away from the site in order to prevent any significant impacts arising from the development in terms of overshadowing or an oppressive environment.

In terms of glint and glare the application advises that the panels would be dark blue in colour with a non-reflective coating and are designed to absorb light and to reduce the amount of reflected light, thereby minimising the potential for glint and glare. The panels would face southwards and so from Park Farmhouse those on the southern part of the site would be seen in profile. Whilst the land levels on the site rise to the north, the panels on the central and northern parts of the site would not face directly towards Park Farmhouse. Furthermore the panels would be sited approximately 140 metres from the dwellings with woodland planting and the hedgerow along the western boundary of the wider field in-between providing screening. The panels would also predominantly be in profile in any views from the dwellings to the east and would be over 300 metres away. It is therefore considered that glint and glare would not be significantly detrimental to occupiers of these dwellings.

In respect of noise, the substation and switchgear would generate some additional noise but they have been sited well within the site, being around 72 metres and 260 metres away respectively from the nearest dwellings. Furthermore, any alarm system for security purposes could be silent, and it is recommended that a condition to this effect be imposed. The Council's Environmental Protection team has not raised any concerns in respect of these matters. No external lighting is proposed during the operational phase of the development although some could be erected during construction under permitted development rights.



The construction phase is estimated to last approximately 8 weeks and the construction compound and access would only be in use for this period. A limited number of vehicular movements would take place during the operational phase (approximately one per month) which is unlikely to result in significant adverse impacts.

As such, it is not considered that there would be any significant adverse impact on neighbouring residential amenities and the proposal would comply with Policy E3 of the adopted Local Plan.

### **Drainage and Flood Risk**

The site itself is located within Flood Zone 1, which is in an area recognised as being at low risk of flooding. Ditches are located along the site's southern and north eastern boundaries which the submitted Flood Risk Assessment (FRA) indicates flow past the nearby treatment works to the Gilwiskaw Brook. The Lead Local Flood Authority (Leicestershire County Council) advises that it has no concerns in respect of the surface water proposals, as there is almost no change to the permeable area given the nature of the proposal and the site would be predominantly permeable following development. The Lead Local Flood Authority advises that the submitted surface water drainage strategy should mitigate any impact on surface water drainage from the site. The access roads would be constructed from a permeable material and a reduction in surface water runoff may also occur due to reduced soil compaction. In summary, subject to the imposition of a planning condition to secure the submitted surface water drainage scheme, it is considered that the proposed works would be in accordance with the overarching intentions of the NPPF.

Concerns have been raised regarding impact from works associated with the Measham Road access on a surface water drainage outlet from the Park Farmhouse site which runs into a ditch close to the southern boundary. The submitted plans appear to show that this ditch would run underneath the access road and the agent has advised that the width of this access would not change and so this ditch would not be affected.

### **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). As noted above the FRA indicates that ditches at the boundaries to the site eventually flow into the Gilwiskaw Brook some 850 metres to the east of the site. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required.

Natural England has no objections and the Environment Agency has not made any comments in respect of impact on the SAC/SSSI. The majority of surface water runoff would either infiltrate the soil or enter the proposed swale and any such runoff that enters the ditch would not be significantly greater than from the existing field, as the site would remain predominantly permeable. A reduction in surface water runoff may also occur due to reduced soil compaction. Silt runoff and the use of fertilisers/pesticides would also be reduced. Therefore whilst some surface water runoff may enter River Mease via these ditches it is unlikely to be of a greater amount or rate compared with the existing situation.

Therefore it can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

### **Protected Species and Ecology**

The site is an arable field with some rough grassland, ditches, hedgerows and trees forming boundaries. These features are also located close to the site, along with areas of woodland and a pond. Some of these are features that could be used by European Protected Species (EPS) and as such species may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions. The habitats could also be used by nationally protected species.

The application has been accompanied by an Ecology Survey which has been considered by the County Ecologist who is satisfied with the submitted survey and has no objections to the scheme. Natural England makes no comments in relation to protected species other than to refer to its Standing Advice but it does suggest that biodiversity enhancements should be sought. The County Ecologist advises that the proposed development is likely to increase the biodiversity value of the site.

The site and adjacent land is unlikely to be suitable for breeding birds as it is intensively managed, although the boundary vegetation offers potential nesting sites. The majority of trees and hedgerows would be retained, with additional planting and grassland provided and whilst some of this habitat may be inaccessible for birds during the construction period and birds are unlikely to nest in-between the panels, there are plenty of other areas of suitable habitat in close proximity to the site. Conditions could be imposed to secure bird boxes and works to take place outside the bird breeding season.

The site offers roosting and foraging opportunities for bats although no evidence of bats was found. The removal of approximately 10 metres of hedgerow is unlikely to significantly impact on bats. The 10 metre buffer distance between badgers setts and the fencing which is required by the County Ecologist can be achieved and as such no adverse impact on badgers is likely to occur during construction as the setts are unlikely to extend any further into the site due to its intensive arable use and frequent disturbance from farming activities. The County Ecologist considers that a 15cm gap below the fencing is acceptable to allow continued access to the site for badgers to forage. Badger mitigation measures during construction of the fencing and swale can also be secured via condition. Water voles and otters are unlikely to be adversely affected as the ditches are located outside the developed area of the site. The nearest pond is located on the opposite side of Measham Road within the Brickfield Plantation and is around 60 metres from the developed area of the site, with a well used road in-between. The intensive arable use of the site is also a barrier to great crested newt movement across the site. As such it is considered unlikely that the construction works associated with the proposal would adversely impact on great crested newts. The site habitats are considered to be of low potential for reptiles and it is unlikely to support such species. The provision of grassland across the site once the panels have been installed, along with additional vegetation close to the site's southern boundary, will introduce habitats for great crested newts and reptiles.

Overall, it is considered that the proposal would accord with the aims of paragraphs 118 and 119 of the NPPF, the Habitats Regulations and Circular 06/05 and would not result in adverse impacts on protected species and ecological features.

### **Highway Safety**

The application is accompanied by a Construction Traffic Management Plan which advises that construction vehicles would be required to avoid arriving or departing from the site between peak hours. A maximum of 50 construction workers are anticipated to be on site during peak

times during the construction period, and a temporary construction compound would be provided to provide on-site parking for smaller vehicles and unloading/turnings areas for HGVs.

Abnormal load vehicles would not be required and it is anticipated that an average of three HGV movements per day (Monday to Saturday) would be undertaken during the construction period of approximately 8 weeks. In addition to the HGV movements, there would be a number of smaller vehicles visiting the site each day predominantly for the transporting of construction personnel.

Construction traffic would use an existing access onto the B4116 at the site's north western boundary and then travel north on the B4116 to join the A42. A condition could be imposed requiring construction traffic to use the B4116 access as use of the Measham Road access would not be appropriate given its proximity to the nearby junction. The Highway Authority notes that a stretch of hedgerow would need to be removed to provide the visibility splays at the B4116 access but information has been provided to demonstrate that this may not be the case. After the construction period and during the site's operational phase, typically one visit to the site per month would be required for equipment maintenance and monitoring, which would be made using the access onto Measham Road.

The County Highway Authority has suggested the imposition of conditions including relating to access arrangements and visibility splays at both accesses. Highways England has raised no objections to the proposal and the County Highway Authority has not made any comments in respect of distraction to drivers.

It is therefore considered that the proposal would not result in severe impacts on highway safety and would comply with the provisions of Policies T3 and T8 of the Local Plan and the NPPF.

#### **Other Matters**

The Planning Practice Guidance states that authorities need to consider the proposal's visual impact of glint and glare in respect of aircraft safety. Any comments from East Midlands Airport will be reported on the Update Sheet.

There does not appear to be any evidence that solar farms have impacts on health or from radiation and the Council's Environmental Protection team has not raised any concerns in respect of this matter.

The Planning Practice Guidance advises that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use.

A de-commissioning condition could be attached which would secure the full details of the method undertaken to remove the development at the end of its 25 year life span (or sooner if the site is no longer used to generate electricity)

The supporting documentation advises that a community benefit fund would be established, paying £1000 per MW installed capacity per year for 25 years, which is likely to amount to £6,000 across both sites and that the applicant would work with Ashby de la Zouch Town Council and Packington Parish Council to determine how this would be used. It is also indicated that a further £2,000 per year would be allocated to each local school to be used for educational purposes linked to the solar farm. Following comments from Packington Parish Council space has also been provided for provision of a cycle track to link Packington with Willesley Wood Side. Some of the income from the 1MW proposal (the community scheme) would be provided

to Thringstone House Community Centre but this would not apply to the 5MW scheme.

For the reasons set out in the assessment above, the proposed development is considered acceptable and therefore, it is considered that these contributions are not necessary to make the development acceptable. Furthermore, the purpose for which these contributions would be used would not be directly related to the proposed development. Overall, it is considered that the proposed contributions would not comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and therefore do not form a material consideration and should not be taken into account in the determination of the application.

Concerns have been raised regarding the over-proliferation of solar farms within the District and that the Council's quota for solar farms must have been met. However there is no quota for the number of solar farms or for the provision of energy via solar farms in the District.

In respect of other objections received which have not already been addressed within the report above, impact on property values, the use of subsidies, the splitting of the site to form two separate solar farms, the viability of the solar farm and the possibility that the output figures from solar farms (including from the Babelake Street scheme) has been over-estimated are not material planning considerations and cannot be taken into account in the determination of the application.

Both the 1MW and 5MW schemes would adjoin the proposed route of HS2. HS2 has been consulted on the applications and have advised that it would not at this stage wish to make any specific comments, although it advises that it has made a note of the applications to inform ongoing work in this phase of the HS2 project as the sites may in the future be required by HS2 Ltd to construct and/or operate the railway. The Government is currently consulting on the proposed Phase 2 (i.e. West Midlands to Manchester and Leeds) connections, and the route is not fixed at this time. Phase 2 is not currently subject to the safeguarding mechanism which applies to the Phase 1 (London to West Midlands) section under which HS2 should be notified of any planning applications on or close to the route. On this basis it is considered that only limited weight can be attributed to HS2 as a material planning consideration at this stage in HS2's development.

Concerns have been raised in relation to the suitability of the public consultation undertaken by the applicants before submission of the application. However although the Localism Act 2011 is now in force, its provisions to require pre-application consultation on certain types of planning applications will not apply until secondary legislation is enacted.

Site notices were initially placed at four locations; at the eastern and western ends of the public footpath located to the north of the site, at Normandy Wood and at the junction of Willesley Wood Side and the B4116. Additional site notices were subsequently placed at these locations along with two further sets of site notices adjacent to the footway that runs alongside the B4116 (close to the A42 roundabout and opposite the junction with Gallows Lane.) Therefore adequate publicity of the application has been undertaken by the Authority.

Concerns have also been raised in respect of the accuracy of some of the submitted information. The application submission, together with information gathered during the site visit and consideration of the application allow for the application to be fully and adequately assessed.

## **Conclusion**

There is specific planning policy support for renewable energy projects at both national and

local level. In the circumstances that the proposal would accord with the aims of Policy S3 of the Local Plan and as the NPPF does not explicitly prevent renewable energy proposals from being located within the countryside, it is considered that the principle of the development would be acceptable. It is, however, considered that the positive benefits of renewable energy of the proposed development must be carefully balanced against the potential harmful impacts.

The proposal is not considered to give rise to any significant adverse impacts in respect of trees/hedgerows, residential amenities, archaeology, drainage and flood risk, protected species and ecological features and highway safety. On balance it is considered that a reason for refusal based on lack of assessment of alternative sites and the loss or impact on BMV agricultural land could not be justified in this case. It is also on balance considered that a reason for refusal relating to significant detrimental impact on the character of the area, its visual amenities and the overall experience of the immediate landscape, wider countryside and National Forest could not be justified in this case. The less than substantial harm to heritage assets has been balanced against public benefits of energy generation, farm diversification and provision of biodiversity enhancements. It can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely 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 proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

**RECOMMENDATION:- PERMIT, subject to the 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 and documents, unless otherwise required by a condition of this permission:

- Drawing No. 241308 Commercial P001 Revision A (Site Location Plan) received by the Authority on 6 August 2015;
- Drawing No. 241308 Commercial P002 Revision A (Site Location Plan) received by the Authority on 6 August 2015;
- Drawing No. PRIMR-ASHBY-001-101 (PV, Road and Fence Layout) received by the Authority on 26 May 2015;
- Drawing No. PRIMR-ASHBY-001-104 (PV, Road and Fence Layout - Commercial Scheme) received by the Authority on 6 August 2015;
- Drawing No. 241308/LA/PL001 Revision F (Landscape Strategy) received by the Authority on 12 August 2015;
- Drawing No. GM-200 (Access Track Section Details) received by the Authority on 26 May 2015;
- Drawing No. GM-280 (Wind Sensor Pole) received by the Authority on 26 May 2015;

- Drawing No. GM-808 (11kV DNO Building - Elevation and Plan Views) received by the Authority on 26 May 2015;
- Drawing No. GM-813 (Customer Switchgear - Elevations and Plan) received by the Authority on 26 May 2015;
- Drawing No. GM-814 (Site Storage Container - Elevations and Plan) received by the Authority on 26 May 2015;
- Drawing No. GM-828 (SMA MV Power Station 1250-1800SC - Elevation and Plan Views) received by the Authority on 26 May 2015;
- Drawing No. GM-841 (Framework Elevations - 5 Landscape Configuration) received by the Authority on 26 May 2015;
- Drawing No. GM-850 (Satellite Pole) received by the Authority on 26 May 2015;
- Drawing No. G06 (Fencing) received by the Authority on 9 July 2015;
- photograph of deer fencing received by the Authority on 25 August 2015;
- Drawing No. Figure 2.1 (Site Location and Construction Route Plan) received by the Authority on 26 May 2015;
- Drawing No. Figure 3.1 (Swept Path Analysis and Visibility at Temporary Construction Access) received by the Authority on 6 August 2015;
- Drawing No. Figure 3.2 (Proposed Temporary Access Arrangement at Measham Road) received by the Authority on 6 August 2015;
- Drawing No. Figure 3.3 (Construction Compound Layout Plan) received by the Authority on 26 May 2015;
- Drawing No. SK01 (Extent of Survey and Photographic Record) received by the Authority on 26 May 2015;
- Drawing No. Figure SK02 (Operational Access Arrangement, Visibility Splays and Swept Path Analysis) received by the Authority on 6 August 2015;
- Drawing No. 1502-1.0-AFP-TCP-NC (Tree Constraints Plan) received by the Authority on 26 May 2015;
- Flood Risk Assessment V5 (20 May 2015) produced by Clive Onions and received by the Authority on 26 May 2015;
- Ecological Assessment (May 2015) produced by Environgauge and received by the Authority on 26 May 2015;
- Landscape and Ecology Management Plan (August 2015) (Ref. EVG-15-002-LEMP-03) produced by Environgauge received by the Authority on 25 August 2015;
- Figure 2 (Landscape and Ecology Master Plan 03) received by the Authority on 25 August 2015.

*Reason - For the avoidance of doubt and in the interests of proper planning.*

- 3 The development shall be carried out in accordance with the landscaping and habitat management schemes set out on Drawing No. 241308/LA/PL001 Revision F (Landscape Strategy), the Landscape and Ecology Management Plan (August 2015) (Ref. EVG-15-002-LEMP-03) and Figure 2 (Landscape and Ecology Master Plan 03) produced by Environgauge within the first planting season following the first export from the site and shall thereafter be maintained in accordance with the Landscape and Ecology Management Plan and Master Plan. During this period any trees, shrubs, hedgerow or grass which die or are damaged, removed, or seriously diseased shall be replaced by trees, shrubs, hedgerow or grass of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

*Reason- In the interests of visual amenity and to ensure that the work is carried out within a reasonable period and thereafter maintained; In the interests of protected species and*

*enhancing biodiversity on the site.*

- 4 If any part of the hedgerow along the eastern side of the B4116 needs to be removed/reduced in height/trimmed back in order to provide the visibility splays required under condition 22 then such details and a timescale for its implementation (including replacement hedgerow planting if any part of the hedgerow needs to be removed) shall be submitted to and agreed in writing by the Local Planning Authority before first use of the B4116 access. The works to the hedgerow shall be carried out in accordance with the agreed scheme which shall thereafter be so retained and managed in accordance with the approved Landscape and Ecology Management Plan and Master Plan.

*Reason- in the interests of visual amenity.*

- 5 No development shall commence on site until such time as the root protection zones of the existing trees and hedgerows to be retained on the site have been securely fenced off with protective fencing in accordance with BS 5837:2012 (Trees in Relation to Design, Demolition and Construction). Within the protected areas there shall be no storage of materials, plant, skips, equipment and/or other items associated with the development hereby approved, mixing of materials, vehicular movements or fires or other ancillary works associated within the areas, no alterations to ground levels and no compaction of the soil and no service trenches shall be dug unless first agreed in writing by the Authority. The protective fencing shall remain in place until all the solar panels have been installed and all construction works on site have ceased, unless an alternative timescale is first submitted to and agreed in writing by the Local Planning Authority.

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

- 6 Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to September inclusive unless otherwise agreed in writing by the Local Planning Authority that breeding birds will not be adversely affected by any works.

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

- 7 The development shall be carried out in accordance with the mitigation and enhancement measures for protected species set out at Table 10.1 of Ecological Assessment (May 2015) produced by Environgauge and the measures set out on page 2 of Suzanne Bangert's letter of 5 August 2015.

*Reason: to prevent adverse impacts on badgers, breeding birds and reptiles, which are protected species.*

- 8 Within one month of the installation of the last solar panel/array (unless an alternative timescale is first agreed in writing with the Local Planning Authority) the surface water drainage scheme shall be provided in full in accordance with the details set out in the Flood Risk Assessment V5 (20 May 2015) undertaken by Clive Onions and shall thereafter be maintained in accordance with the Flood Risk Assessment for the duration of the development hereby permitted.

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

- 9 The front of the solar panels hereby approved shall not be sited higher than 800mm above ground level and the rear of the solar panels shall not be sited higher than 2.7 metres above ground level.

*Reason- For the avoidance of doubt and in the interests of visual amenity.*

- 10 Other than where cables are attached to the solar panel frames all cables within the development site shall be laid underground.

*Reason- In the interests of visual amenity.*

- 11 The substations, switchgear building and storage containers shall be finished in 'Moss Green' paint, the perimeter fencing shall be finished in accordance with the details shown on the photograph received by the Authority on 25 August 2015 and the solar panels shall have a dark blue finish with a non-reflective coating, which shall be thereafter retained as such for the life of the development.

*Reason- In the interests of visual and residential amenities.*

- 12 No external lighting shall be installed at the site during the operation of the development hereby approved.

*Reason: in the interests of visual and residential amenities.*

- 13 Any alarm system shall be silent at all times.

*Reason- In the interests of residential amenities.*

- 14 Written confirmation of the date of the first export of electricity to the national grid from the site shall be provided to the Local Planning Authority within one month of the date of this taking place.

*Reason- To ensure that a record can be kept of all operational PV panels.*

- 15 The planning permission hereby granted is for a maximum period of 25 years from the date of the first export of electricity to the national grid. After that time the use shall cease and the solar modules/arrays and all associated equipment and infrastructure shall be removed from the site in accordance with condition 16 (decommissioning).

*Reason- The planning application has only been made for a 'life span' of 25 operational years; in the interests of visual amenities; to ensure the highway, ecological, noise, and any other physical impacts can be properly assessed in the context of the area at the time of decommissioning.*

- 16 No later than one year before the expiration of the planning permission, or not more than six months from permanent cessation of the exporting of electricity to the national grid from any part of the site if earlier, a Decommissioning Method Statement shall be submitted for the written approval of the Local Planning Authority. This shall include details of:-

a) decommissioning and works for the removal of the PV panels;



- b) decommissioning and works for the removal of the fencing and all other ancillary equipment and structures;
- c) the depth below ground to which the PV panels, fencing and ancillary equipment would be dismantled and removed from site;
- d) method of removal;
- e) works for the restoration of the site;
- f) timetable of works.

The site shall be decommissioned and restored in accordance with the agreed Decommissioning Method Statement.

*Reason- The planning application has only been made for a 'life span' of 25 operational years; in the interests of visual amenities; to ensure the highway, ecological, noise, and any other physical impacts can be properly assessed in the context of the area at the time of decommissioning.*

- 17 In the event that any solar panel needs to be removed or replaced before the expiry of this planning permission, other than in accordance with condition 16 (decommissioning), the panel shall be replaced on a like for like basis in accordance with Drawing No. GM-841 (Framework Elevations - 5 Landscape Configuration).

*Reason- In the interests of visual amenity.*

- 18 During the period of construction of the development hereby approved, all construction traffic to and from the site shall only use the access identified on Drawing No. Figure 2.1 (Site Location and Construction Route Plan) at all times unless otherwise agreed in writing by the Local Planning Authority and the use of the access onto the B4116 in connection with the solar farm shall cease once all construction works on the site have ceased.

*Reason- In the interests of highway safety.*

- 19 The use of the site access onto Measham Road (C7113) shall only commence once construction works relating to the solar farm have ceased and shall only be used in connection with visits relating to the maintenance/monitoring of the solar farm.

*Reason- In the interests of highway safety.*

- 20 The temporary construction compound and temporary access road shall be constructed in accordance with the details shown on Drawing No. Figure 3.3 (Construction Compound Layout Plan) and Drawing No. GM-200 (Access Track Section Details) before the commencement of any other parts of the development hereby approved, unless alternative details are first submitted to and agreed in writing by the Local Planning Authority. The temporary construction compound and temporary access route shall be retained in accordance with these details until all construction works on the site have ceased and shall be removed in full and the land re-instated to its former condition as an arable field within one month of construction works ceasing on site.

*Reason- In the interests of visual amenity and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the area.*

- 21 No development shall commence on the site until such time as details of wheel cleansing facilities have been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be provided before the temporary construction access onto the B4116 is first brought into use and shall therefore be retained until all construction works on the site have ceased and shall then be removed from the site within one month.

*Reason: To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard to road users.*

- 22 No development shall commence on site until such time as visibility splays of 2.4 metres by 115 metres in both directions have been provided at the junction of the temporary construction access with the B4116 in accordance with the standards contained in the current County Council design guide, which shall thereafter be permanently so maintained whilst this access is in use for construction of the solar farm. 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.*

- 23 No development shall commence on site until such time as details of the access arrangements at the junction of the temporary construction access with the B4116 have been submitted to and agreed in writing by the Local Planning Authority. No development shall commence on site until the agreed scheme has been provided and surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 12 metres behind the highway boundary and shall thereafter be permanently so maintained until all construction works on the site have ceased.

*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.*

- 24 Before first use of the site access onto Measham Road (C7113) details of the access arrangements and visibility splays at the junction of this access with Measham Road (C7113) shall be submitted to and agreed in writing by the Local Planning Authority. Before first use of this access the agreed scheme shall be provided in accordance with the standards contained in the current County Council design guide and surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 12 metres behind the highway boundary and shall thereafter 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 the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety; 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.*

- 25 Before first use of either of the accesses, drainage shall be provided within the site such that surface water does not drain into the Public Highway, which 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.*

- 26 Before first use of either of the accesses, the existing gates to the relevant vehicular access shall be removed. Any new vehicular access gates, barriers, bollards, chains or other such obstructions erected shall be set back a minimum distance of 12 metres behind the highway boundary and shall be hung so as not to open outwards.

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

- 27 The gradient(s) of the access drive(s) shall not exceed 1:12 for the first 12 metres behind the highway boundary.

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

### Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant before submission of the application 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 2015.
- 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 If there are any works proposed as part of an application which are likely to affect flows in a watercourse or ditch, then the applicant may require consent under s.23 Land Drainage Act 1991. This legislation is separate from the planning process. Guidance on this process and a sample application form can be found via the following website: [www.leics.gov.uk/watercourse](http://www.leics.gov.uk/watercourse)
- 4 No development should take place within 5 metres of any watercourse or ditch without first contacting Leicestershire County Council for advice.
- 5 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 Infrastructure Planning team (for `major' accesses serving more than one dwelling) or the Highways Manager (for `minor' accesses serving one dwelling only). For further information, including contact details, you are advised to visit the County Council website as follows: -  
For `major' accesses - see Part 6 of the '6Cs Design Guide' at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg)  
For 'minor' accesses serving one dwelling contact the Customer Service Centre team  
Tel: 0116 305 0001.

6 The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.

7 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)

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The development of a new solar farm of approximately 1MW of generating capacity, comprising the installation of solar photovoltaic panels and associated infrastructure including electrical inverter and transformer cabins, switchgear and meter house, access tracks, fencing, CCTV, landscape planting and grid connection.

Report Item No  
A4

Land To The East Of B4116 Ashby De La Zouch And North Of Measham Road Packington Leicestershire

Application Reference  
15/00500/FULM

Applicant:  
Solstice Renewables Ltd

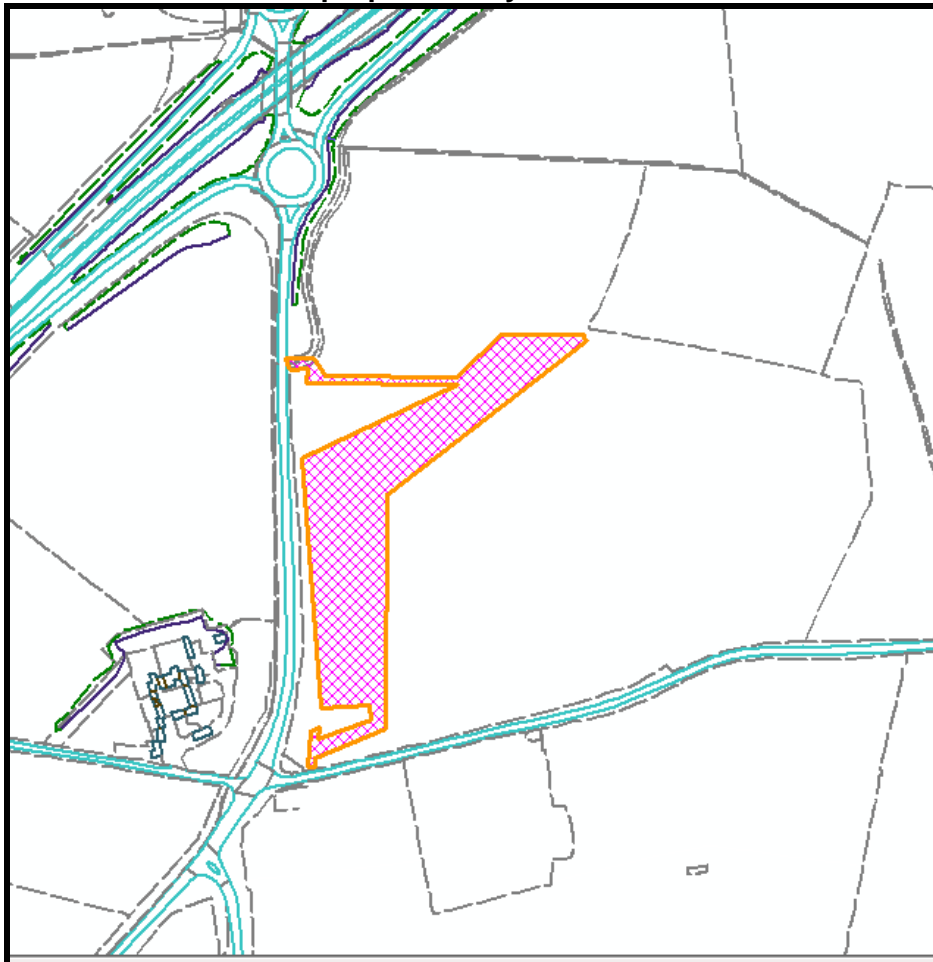
Date Registered  
26 May 2015

Case Officer:  
Jenny Davies

Target Decision Date  
25 August 2015

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

### Proposal

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

Planning permission is sought for the development of a new solar farm of up to 1MW generating capacity on land to the east of the B4116, Ashby de la Zouch and to the north of Measham Road, Packington. The site is 2.14 hectares in size and comprises the western part of one field which is currently used for arable farming. The proposal relates to a community-owned solar farm. An application has also been submitted concurrently for the development of a commercial solar farm of up to 5MW generating capacity (15/00499/FULM) on the eastern and central parts of the field. A separate Committee report has been prepared in respect of that application.

### Consultations

Members will see from the main report below that 23 letters of objection and 34 letters of support have been received. Packington Parish Council and the National Forest Company raise concerns in respect of the application. No other objections have been received from statutory consultees.

### Planning Policy

The proposed development would form a renewable energy development in the countryside, but would also represent farm diversification of an existing agricultural operation and would, therefore, be in accordance with the requirements of Countryside Policy S3 of the Adopted Local Plan. Technical reports to address agricultural land classification, heritage assets, landscape and visual impact, highway safety, flood risk and ecological matters have been submitted as part of the application and assessment of these in relation to national and development plan policies is set out in detail in the main report.

### Conclusion

There is specific planning policy support for renewable energy projects at both national and local level. In the circumstances that the proposal would accord with the aims of Policy S3 of the Local Plan and as the NPPF does not explicitly prevent renewable energy proposals from being located within the countryside, it is considered that the principle of the development would be acceptable. It is, however, considered that the positive benefits of renewable energy of the proposed development must be carefully balanced against the potential harmful impacts.

The proposal is not considered to give rise to any significant adverse impacts in respect of trees/hedgerows, residential amenities, archaeology, drainage and flood risk, protected species and ecological features and highway safety. On balance it is considered that a reason for refusal based on lack of assessment of alternative sites and the loss or impact on BMV agricultural land could not be justified in this case. It is also on balance considered that a reason for refusal relating to significant detrimental impact on the character of the area, its visual amenities and the overall experience of the immediate landscape, wider countryside and National Forest could not be justified in this case. The less than substantial harm to heritage assets has been balanced against public benefits of energy generation, farm diversification and provision of biodiversity enhancements. It can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely 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 proposed development would, overall, therefore be considered to constitute sustainable



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

**RECOMMENDATION:- PERMIT SUBJECT TO THE IMPOSITION OF CONDITIONS**

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

## MAIN REPORT

### 1. Proposals and Background

This is a full application for the development of a new solar farm of up to 1MW generating capacity, comprising the installation of solar photovoltaic panels and associated infrastructure including electrical inverter and transformer cabins, switchgear and meter house, access tracks, fencing, CCTV, landscape planting and grid connection on land to the east of the B4116, Ashby de la Zouch and to the north of Measham Road, Packington. The site is 2.14 hectares in size and comprises the western part of one field which is currently used land for arable farming. Permission is sought for a 25 year time period and the scheme would operate as a community-owned solar farm which would be facilitated by the applicant in conjunction with Green Fox Community Energy Cooperative, with Thringstone House Community Centre benefitting from some of the income.

An application has also been submitted concurrently for the development of a commercial solar farm of up to 5MW generating capacity (15/00499/FULM) on the eastern and central parts of the field. A separate Committee report has been prepared in respect of that application. The overall site area for both applications is approximately 13.2 hectares.

The scheme seeks consent for the erection of 3,432 solar panel modules. The associated infrastructure relates to one transformer sub-station, a Distribution Network (DNO) substation (shared with the 5MW scheme), a customer switchgear building, a storage container, a wind sensor pole and a satellite pole. Cables would either be attached to the rear of the panels or buried underground. The point of connection to the grid would be via existing overhead power lines which cross the site of the 5MW solar farm and which would be redirected. The scheme also proposes two metre high deer proof fencing around the perimeter of the site, and 14 CCTV cameras (five of which would be shared with the 5MW scheme) at approximately 2.5 metres high to be installed alongside the fencing. No external lighting is proposed during the operational phase of the development although some could be erected during construction under permitted development rights.

Access to the site for construction purposes would be via a temporary track leading from an existing access (which would be widened) off the B4116 into the north western corner of the site. This track would run through a temporary construction compound which would be sited on the north western part of the field, and both would be removed following construction of the solar farm. An access track with turning spaces, approximately 220 metres in length, would run from an existing access at the western end of Measham Road along the site's eastern boundary to the transformer substation, which would be for used for maintenance and monitoring visits only. Both accesses would also be used to serve the 5MW solar farm.

The development would consist of rows of solar panels which are aligned east to west so the panels would face south, with the panels being dark blue in colour and having a non-reflective coating. The front of each panel would be approximately 0.8 metres above ground level and the back of each array being a maximum of 2.7 metres above ground level, giving a tilt angle of 22 degrees. The panels would be mounted on metal supporting frames and pile driven into the ground. Land levels generally rise across the site from the south by 8-16 metres.

Existing hedgerows and trees would be retained save for the removal of approximately 10 metres of hedgerow at the north western boundary to widen the construction access. The landscaping scheme proposes new hedgerows and trees and an area of dense native shrub planting. The grassland under and around the panels would be grazed by sheep for some

months of the year and planted with species rich grassland, with rough grassland maintained around the edge of the site. A swale for surface water drainage is proposed close to the eastern boundary of the field.

The site is bounded by Measham Road to the south with open fields and woodland beyond, the proposed 5MW solar farm to the east with land associated with Severn Trent Water's Treatment Works beyond, the B4116 to the west with open fields and residential properties at Park Farm beyond and open fields to the north with the A42 beyond.

The site is located approximately 690 metres south east of Packington, 1.5km south of Ashby de la Zouch and 1.48km to the north east of Measham. The nearest listed buildings are located at Park Farmhouse on Willesley Wood Side to the west of the site on the opposite side of the B4116 which are Grade 2 listed. Other nearby Grade 2 listed buildings include Field Farmhouse on Ashby Road, Measham, the Church of St Thomas at Willesley and several buildings at Packington both within and outside the Conservation Area, including the Church of the Holy Rood which is Grade 2\* listed.

Public footpath O68 runs from Packington to junction 12 of the A42 and passes through the fields to the north of the site, and footpath O66 runs through fields and woodland to the south of the site. The site lies within the catchment area of the River Mease Special Area of Conservation.

The application submission was accompanied by the following supporting documents; Design and Access Statement, Flood Risk Assessment, Construction Traffic Management Plan, Tree Survey, Landscape and Visual Appraisal, Ecological Assessment, Heritage Assessment and Geophysical Survey, Agricultural Assessment, Landscape and Ecological Management Plan, Statement of Community Involvement and a Phase 1 Environmental and Mining Report.

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraph 3(a) of Schedule 2 to the Regulations it has been concluded that this proposal does not constitute EIA development under the 2011 Regulations as its impacts are considered to not be significant and can be considered as part of the planning application.

## **2. Publicity**

52 No neighbours have been notified. (Date of last notification 7 August 2015)

Site Notice displayed 10 July 2015

Press Notice published 17 June 2015

## **3. Consultations**

Ashby De La Zouch Town Council consulted

LCC ecology consulted 28 July 2015

Ashby de la Zouch Town Council consulted 18 June 2015

Measham Parish Council consulted 18 June 2015

Packington Parish Council Victoria Roe consulted 18 June 2015

County Highway Authority consulted 17 June 2015

Environment Agency consulted 17 June 2015

Severn Trent Water Limited consulted 17 June 2015

Head of Environmental Protection consulted 17 June 2015

Natural England consulted 17 June 2015

NWLDC Tree Officer consulted 17 June 2015  
County Archaeologist consulted 17 June 2015  
Airport Safeguarding consulted 17 June 2015  
NWLDC Conservation Officer consulted 17 June 2015  
National Forest Company consulted 17 June 2015  
English Heritage- major dev in CA consulted 17 June 2015  
County Planning Authority consulted 17 June 2015  
Development Plans consulted 17 June 2015  
LCC Flood Management consulted 17 June 2015  
Highways Agency- affecting trunk road consulted 17 June 2015  
Ramblers' Association consulted 17 June 2015

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

**Packington Parish Council** wish to make the following observations:

1. Councillors are of the opinion that the land is Grade 2 and is perfectly good agricultural land currently. Councillors are sure that there was a directive from Government which states that Solar Farms should be erected on land that is of a lesser grade and are surprised that this has not been picked up on.
2. Councillors are concerned about the visual impact of the Solar Farm when coming into Packington village. Also, during summer months the hedge alongside the field will provide some screening however in the winter, this will not be the case.
3. There is the potential for a cycle track around the edge of the field. Creating a cycle track would mean that cyclists could link up with the National Cycle Way. As a Parish Council we would like to see the village linked by a cycle track to the Hicks Lodge Centre near Willesley and hence to the other cycle tracks. At present this is possible by leaving Packington on the Measham Road up to the junction with the B 4116 (5 lane ends) and then straight across, over the A 42, past Willesley and on to Hicks Lodge. However, the Measham Road is busy, twists and turns and is potentially dangerous for cyclists. We have been considering the possibility of having a footpath/cycle track running alongside the Measham Road as far as Normandy Wood and with the proposed Solar Farm it was thought this could be extended on the other side of the road as far as the B 4116.
4. Another issue which was raised was the very tight turn into Measham Road for traffic coming from the direction of Ashby and going to Packington. After the A 42 was opened traffic from the South West/Birmingham direction for Packington comes in this way rather than travelling through Measham. There is a large tree on the corner but the question was asked as to whether a "slip road" could be built to the north of this tree making access much easier and safer.

**Ashby de la Zouch Town Council** supports the application.

**Measham Parish Council** has no objections.

**Environment Agency** advises that the proposal is outside the scope of matters on which it is a statutory consultee.

**The Lead Local Flood Authority** has no concerns regarding surface water discharge.

**Severn Trent Water** has no objection.

**Natural England** has no objections.

**County Ecologist** has no objections subject to conditions.

**The Council's Environmental Protection team** has no environmental observations.

**National Forest Company** advises that the proposal has the potential to have a detrimental visual impact on the area, requests that biodiversity enhancements are secured by condition and seeks additional planting along the site's southern boundary.

**County Highway Authority** is of the view that the residual cumulative impacts of the development can be mitigated against and are not considered to be severe.

**Highways England** has no objection.

**The Ramblers Association** has no comments to make.

**Historic England** sets out the heritage and landscape issues that should be considered in respect of this type of application, advises that the Authority will need to consider whether the assessment provided is sufficiently far-reaching and thorough in its analysis of the impact on the setting of heritage assets and recommends the application is determined in line with national and local policy and with the benefit of the Authority's specialist conservation and archaeological advisors.

**The County Archaeologist** considers that the proposal does not present a significant archaeological impact to known or potential archaeological remains.

No comments have been received from East Midlands Airport and the County Planning Authority by the date of this report. Any comments subsequently received will be reported on the Update Sheet.

### **Third Party Representations:**

23 letters of objection have been received which raise the following concerns:

- not screened and would be readily visible from the adjacent dwellings, roads, from Packington, from Normandy Wood and from nearby public rights of way;
- site is in a very prominent position and land levels rise towards its centre;
- site is an integral part of the rural scene;
- visual amenities of the area would be spoiled;
- additional encroachment on the countryside;
- approach to Packington is already blighted by the treatment works and does not deserve to have a further blot on the landscape;
- impact on nearby Normandy Wood which has elevated views of the site;
- vegetation will not provide adequate screening during the winter months;
- lack of landscaping on the northern boundary;
- measures will need to be enforced rigorously to screen the solar farm;
- unwelcome view to the Ashby gateway to the National Forest;
- danger of blighting the National Forest which has made the area more popular for tourists;

- the area has changed and re-established itself with National Forest planting;
- will stand out more than the coal mines and clay pits which have recently been removed;
- solar farm at Shellbrook is regarded as diabolical by the public and impact from these proposals will be much worse with roads on three sides;
- cumulative visual impact from the number of solar farms in close proximity to one another;
- impact on nearby listed buildings at Park Farmhouse;
- possible impact on views of the Church of the Holy Rood in Packington and on the Conservation Area;
- noise and radiation from generators and other equipment;
- sensitivity to machinery that generates electromagnetic fields;
- impact on enjoyment of dwellings;
- lack of screening from nearby dwellings;
- detrimental impact on protected species and other animals including bats, buzzards, badgers and their setts;
- badgers use the site for foraging;
- other solar farms have a gap of around 45 cm underneath fencing to allow badgers access to the site;
- proximity of the Measham Road access to a dangerous road junction;
- the junction of Measham Road/B4116 has been under review due to the number of accidents and volume of traffic which will now be exacerbated;
- distraction to motorists;
- site access will be opposite existing access serving land used for storage of farm goods which will create an extra hazard at a very busy junction;
- substandard visibility at the Measham Road access;
- impact on surface water drainage outlet from Park Farm which runs into a ditch on the site;
- government guidelines are against using productive fields for solar farms and recommends they are sited on existing buildings, housing and industrial sites;
- site should be used for efficient production of crops rather than inefficient production of electricity;
- demand for crops will have to be met by importation which will incur carbon dioxide emissions;
- loss of good quality agricultural land;
- land has always been used for crop rotation or grazing horses and no business reason for the proposal;
- loss of farming jobs;
- proximity to the other solar farm in Packington;
- Packington has had its fair share of renewable energy schemes;
- enough solar farms have been provided within the District and the area is over-saturated;
- what is the Council's required uptake for solar farms?;
- government subsidies for solar farms over 5MW capacity have been stopped;
- the government has put a block on any further applications for schemes above 5MW as they are a blight on the countryside;
- two applications have been submitted to overcome the end of these subsidies which goes against the spirit of the regulations;
- it now seems that government subsidies and tariffs for solar farms below 5MW are being changed which will affect community owned projects the most;
- need for a viability study due to reduced tariffs and similar schemes elsewhere going into liquidation to avoid a redundant solar farm in the future;
- output figures produced by the applicant are grossly overstated;
- financial support to Thringstone Community Centre should not be allowed as it is not near the solar farm and is not of any benefit to residents close to the site;
- the solar farm should be sited at Thringstone if that village wishes to benefit;
- other cash benefits to school and parish beneficiaries should also not be taken into account;

- if contributions are to be made to local communities then these should be given to Packington Parish Council and Packington Primary School as it is the nearest settlement and would be the most affected;
- is the community-owned solar farm a requirement of the Council?;
- local electricity grid does not have any capacity;
- HS2 should be consulted on the application as the site lies within its buffer zone;
- route of HS2 has not yet been finalised and therefore a decision should not be made on the application until its route has been decided;
- impact on route and construction of HS2;
- HS2 causing blight to properties at Park Farm and additional blight will be caused by the proposal;
- some information within the application submission is inaccurate;
- poor public consultation process carried out by the applicant before submission of the application;
- insufficient number of site notices posted;
- impact on property prices.

34 letters of support including one from Leicestershire and Rutland Community Council (31 of which are identical letters) have been received which make the following comments:

- the application clearly adheres to government planning policy for solar farms;
- the proposals would be one of the first commercial/community 'split-ownership' renewable energy projects in the UK and are therefore also in accordance with other government strategies/frameworks;
- local people will have the opportunity to benefit directly from the solar farms by buying shares in the community solar farm and participate in educational activities offered by the applicant;
- substantial benefits will accrue to Thringstone House Community Centre;
- the proposal will make an important contribution to local and national renewable energy targets;
- land will stay in agricultural use with sheep grazing around the panels;
- additional extensive improvements to biodiversity and wildlife habitats are proposed;
- site will be well screened from the surrounding area due to existing hedgerows and will have minimal visual impact;
- land can be completely restored after the 25 temporary period;
- the community solar farm would be community owned which will directly benefit the Thringstone Trust with the creation of a community fund;
- the proposals would generate enough electricity to power the equivalent of 1,800 average homes;
- allowing the community to invest in the solar farm will provide economic, social and environmental benefits;

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

## **5. Relevant Planning Policy**

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

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

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

application:

Paragraph 14 (Presumption in favour of sustainable development)

Paragraph 17 (Core planning principles)

Paragraph 32 (Promoting sustainable transport)

Paragraphs 57 and 61 (Requiring good design)

Paragraphs 97, 98, 99 and 100 (Meeting the challenge of climate change, flooding and coastal change)

Paragraphs 112, 118, 119 and 123 (Conserving and enhancing the natural environment)

Paragraph 131, 132, 134, 135 and 139 (Conserving and enhancing the historic environment)

Paragraphs 188 and 189 (Pre-application engagement and front loading)

### **North West Leicestershire Local Plan:**

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

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

Policy S1 - Overall Strategy

Policy S3 - Countryside

Policy E2 - Landscaped Amenity Open Space

Policy E3 - Residential Amenities

Policy E4 - Design

Policy E6 - Comprehensive Development

Policy E7 - Landscaping

Policy F1 - National Forest - General Policy

Policy F2 - Tree Planting

Policy F3 - Landscaping & Planting

Policy T3 - Highway Standards

Policy T8 - Parking

### **Other Guidance**

National Planning Practice Guidance - March 2014

The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations')

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

River Mease Water Quality Management Plan - August 2011

6Cs Design Guide (Leicestershire County Council)

### **6. Assessment**

The main considerations in respect of this application are the principle of development and impact upon the environmental value of the land, the character and visual amenities of the landscape including cumulative impact, trees and landscaping, the historic environment, archaeology, residential amenities, drainage and flood risk, River Mease SAC/SSSI, protected species and highway safety.

### **Principle of Development**

The application site is located outside the limits to development where permission for new



development would not normally be granted unless it is for certain uses as set out under Policy S3 of the Local Plan. The proposal represents a diversification opportunity for an existing arable agricultural operation. As such, the proposal can be considered to be a farm diversification scheme and would fall within category (b) of Policy S3.

The overarching principle of the NPPF is to protect the countryside, but to allow sustainable development where appropriate. The NPPF states that there are three dimensions to sustainable development: - economic; social; and environmental. There is support and encouragement for sustainable development and the sensitive exploitation of renewable energy sources within the NPPF.

Paragraph 97 of the NPPF outlines that Local Planning Authorities should "recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources" in order to help increase the use and supply of renewable energy, and one of the core planning principles at Paragraph 17 of the NPPF is that decisions should "support the transition to a low carbon future and encourage the use of renewable resources (for example by the development of renewable energy)."

At Paragraph 98 it also states that applicants should not be required to demonstrate the overall need for renewable energy and that planning applications should be approved if their impacts are or can be made acceptable. Notwithstanding Paragraph 98, since the introduction of the Planning Practice Guidance, this now confirms that the Authority would need to consider the energy generating potential. The solar farm is estimated to generate 1 megawatt of renewable energy and in conjunction with the 5MW scheme, would power approximately 1,800 homes.

In the circumstances that the NPPF supports proposals which provide energy from renewable energy, as well as support from Policy S3 for renewable energy projects in the countryside, it is considered that the overall principle of the solar farm would be acceptable.

In summary, there is specific planning policy support for the development of renewable energy projects both at national and local level, and it is considered that the proposed installation of the solar farm would provide a valuable contribution to the overall output of renewable energy within the area and thus will be consistent with the intentions of national and local planning policy. Accordingly whilst there is no in-principle objection to the proposal, this must be carefully balanced against all other planning matters being adequately addressed.

### **Environmental Value of the Land**

The Planning Practice Guidance states that the Authority will need to consider encouraging the effective use of land by focusing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value, and where a proposal involves greenfield land, whether:

- i. the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and
- ii. the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

The Written Ministerial Statement made on 25 March 2015 (which is referenced in the Planning Practice Guidance) states '*...where a proposal involves agricultural land, being quite clear this is necessary and that poorer quality land is to be used in preference to land of a higher quality...we want it to be clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence...*'

In addition, paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poor quality land should be used in preference to that of a higher quality.

In a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25 April 2013, he said:- "Where solar farms are not on brownfield land, you must be looking at low grade agricultural land which works with farmers to allow grazing in parallel with generation".

The application has been accompanied by an Agricultural Assessment which has found that (across the whole of both application sites) 35% of the land is classified as Grade 2 and 65% is classified as Grade 3a, with none classified as Grade 1 or Grades 3b, 4 and 5. This shows that the whole of the site is agricultural land which is of the highest quality (i.e. Best and Most Versatile land (BMV)).

Letters from the agent state that the Government defines large scale solar farms as those being 5MW or more and as this proposal would generate no more than 5MW it can be considered to be small-scale. The reference in the Planning Practice Guidance is to *'the particular planning considerations that relate to large scale ground-mounted solar photovoltaic farms'* and this is also reflected within the Ministerial Statement which also refers to large scale solar farms. Therefore it appears that the issues set out for consideration in these two documents relate to solar farms over 5MW. Whilst with the 5MW scheme they would generate a total of 6MW, each scheme has its own separate equipment and substations, are separated from each other by fencing and the agent advises are in separate legal ownerships and could therefore operate separately from each other. Furthermore they were submitted as separate planning applications.

However the NPPF and the speech by Gregory Barker MP do not make explicit reference to large scale solar farms and so consideration of the impact on BMV is still required. The magnitude of change in the loss of BMV can also be considered. A large magnitude of change would result from schemes over 50ha on BMV agricultural land, a medium change for schemes between 20ha and 50ha, a small change for schemes less than 20ha and negligible change where a less than 1ha of agricultural land would be affected. The application site on its own is approximately 2.14 hectares and combined with the 5MW scheme is around 13.5 hectares, therefore meaning that the magnitude of change would be small. In addition Grade 3a ALC (which covers the majority of the site) can be considered to be of medium value (where Grade 1 is highest value and Grade 5 is the lowest). The application also indicates that the Grade 3a land is limited by seasonal waterlogging and as the Grade 2 land is surrounded by Grade 3a land, it cannot be used separately and is therefore not farmed to its fullest potential.

The land forms part of a farming business operated by the landowner which extends to approximately 850 hectares, with the majority in arable use and some sheep grazing. In this case, the fields are currently in arable use and are not used for grazing. However, the submitted details confirm that the solar farms will allow for continued agricultural use as it would be re-seeded with species rich grassland which will be available for periodic sheep grazing during the autumn and winter.

Guidance published in 2014 by the Building Research Establishment (BRE) notes that where panels are mounted above the ground using posts, over 95% of the land would still be accessible for plant growth and complementary agricultural activities.

There will be a loss of potential agricultural production across the site, i.e. during construction

and whilst the grassland establishes, and once operational the type of agricultural use would change, as it appears this land has consistently been in arable use rather than for grazing, and there is no guarantee that the land would be used for grazing. However the proposal is unlikely to lead to an irreversible long term loss of BMV, due to the means of fixing the panels to the ground, which would result in minimal soil disturbance and would mean that the arrays could be removed without permanent loss of agricultural land quality. Those parts of the proposal that could permanently affect BMV, e.g. the substations, would be limited to small areas. In any case these more permanent structures would be removed during decommissioning and land could then be returned to agricultural use. The proposal would be temporary for a maximum of 25 years so the agricultural land would not be permanently lost since the scheme would be reversible.

Furthermore the scheme encourages biodiversity improvements with species rich grassland being provided across the site with wider areas of rough grassland around the site's edges under a separate management scheme to encourage diversity. Additional hedgerow planting is proposed, along with the retention of existing trees, the filling of hedgerow gaps, provision of an area of dense scrub and native trees alongside the whole of the site's southern boundary, provision of bird boxes and a swale. The County Ecologist advises that the proposal would allow for the creation and management of species-rich grassland which will be of greater biodiversity value than the site's current arable use and this conforms to advice within the Planning Practice Guidance.

An assessment of potential alternative sites and use of poorer quality agricultural land and/or existing developments has not been submitted as the agent considers that such an assessment is not required in respect of small scale solar farms. Such assessments have accompanied other nearby solar farm applications in the District, including at Normanton le Heath, Shellbrook and Burton Road, Ashby de la Zouch, which would have similar search areas to the application sites, with the Burton Road scheme also being a small scale project. These assessments have all considered that the use of lower grade agricultural land, previously developed land and the roofs of existing buildings in the area would not be suitable or feasible alternatives for solar farms in this part of the District.

In conclusion, whether or not the grazing of sheep takes place in this case (as this cannot be guaranteed and no mechanism exists to ensure that it would), it is considered that, as the proposal would not result in a permanent loss of BMV agricultural land, that biodiversity enhancements would be provided and that other assessments have not found suitable or feasible alternative sites, a reason for refusal based on lack of assessment of alternative sites and the loss or impact on BMV agricultural land could not be justified in this case.

### **Impact upon the Visual Landscape**

As discussed earlier in this report the application site in policy terms lies outside the limits to development, and is therefore within an area designated as countryside.

Paragraph 17 of the NPPF states that planning should recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it, and paragraph 109 states that the planning system should protect and enhance valued landscapes. Paragraph 97 of the NPPF supports this, stating that cumulative landscape and visual impacts of renewable energy sources should be addressed. Paragraph 98 of the NPPF also states that when determining wind turbine planning applications, local planning authorities should "approve the application if its impacts are (or can be made) acceptable."

This section of the report considers the impact of the 1MW solar farm in its own right and

alongside the smaller 5MW scheme. For clarity, Landscape Impacts and Visual Impacts will be considered separately below.

*Landscape Impacts*

Landscape impacts are the effects of a proposed development on the fabric, character and quality of the landscape and are concerned with the degree to which a proposed renewable energy development will become a significant or defining characteristic of the landscape.

The site lies within Natural England's Landscape Character Area of the Leicestershire and South Derbyshire Coalfield (National Character Area (NCA) 71) and some of its key characteristics include mixed and arable pasture, gently undulating landform of shallow valleys and ridges and localised areas of small fields and dense hedgerows. NCA71 provides the overriding landscape features and characteristics of the site within a wider landscape context and a more localised assessment of character can be found within the County Landscape Character Assessment undertaken by Leicestershire County Council in 2001 and the National Forest Strategy 2004-2014.

The site would lie within 'The Coalfield' Character Area identified in the County Landscape Character Assessment. The Coalfield is distinguished by a denser settlement pattern than almost any other part of Leicestershire. Whilst it is recognised that there is a distinctive landscape character found to the very north east of 'The Coalfield' area towards Coleorton, most of the area is characterised by a gently undulating landform. The area is characterised as having relatively dense settlement patterns, mixed farmland with low woodland cover and effects of past and present coal and clay working.

The site itself is open, gently sloping in a partly elevated location and arable in nature and is bounded by largely strong hedgerow boundaries and sits in a gently undulating landscape. Some areas of woodland planting are located close to the site, at Park Farmhouse, Brickyard Plantation and Normandy Woodland. It is also considered that the lack of any statutory landscape designations on or around the site is significant in assessing the level of harm arising from the proposal. However it is noted that the site lies within the National Forest with public rights of way lying to the north and south of the site.

As such, although it is acknowledged that the land in question is currently undeveloped and there would be some major/moderate impacts on the landscape character of the site and its immediate environs, this is not considered to be significant or permanent and the landscape could accommodate the solar farm on its own and alongside the 5MW scheme without its overall character being significantly harmed.

*Visual Impacts*

Visual Impacts concern the degree to which the solar farm would become a feature in particular views and the impact this has upon the people experiencing those views. The application has been accompanied by a Landscape and Visual Appraisal including a visual envelope which illustrates the extent to which the site is potentially visible and a preliminary zone of visual influence (ZVI) which defines the area within which the proposal may have an influence or effect on visual amenity.

The visual envelope and ZVI identify that the site would be visible from the public rights of way to the north and south of the site, and from parts of the A42 and Normandy Woodland in the immediate vicinity of the site. They also identify that the site could be visible from areas beyond the immediate site area; predominantly from the east and south east in the area of countryside located to the south of Packington towards Normanton le Heath and also from areas to the north

east of Packington. It is also considered that longer views would be available from areas close to Swepestone. There are unlikely to be medium to longer views from the north, west and south due to topography and screening from vegetation and existing development. The National Forest and the Council's Tree Officer have concerns regarding the detrimental visual impact on the local area.

The site forms a small part of one open field. Although a new field pattern would be introduced due to the northern part of the field remaining in agricultural use and the eastern/central part forming the 5MW scheme, the resulting parcels of land would be similar in scale to other nearby fields. Existing boundary hedgerows and trees would remain, save for the removal of approximately 10 metres at the north western boundary. A new hedgerow is proposed along the north western boundary with another hedgerow, tree planting and dense shrub planting close to the southern boundary.

The development is considered to be low level in height, in comparison to some of the existing hedgerow boundaries and existing nearby established woodland areas. New planting would address gaps in existing hedgerows and where landscaping does not exist and would strengthen planting and provide additional screening to the southern part of the site and at its south western corner. It is also proposed that hedgerows would be managed to maintain a height of three metres. Overall it is considered that the topography of the land, combined with the existing and proposed planting, would provide some natural screening to large parts of the site.

The associated infrastructure would be small in scale and seen alongside the panels other than one substation located in the south western corner. Although fencing is proposed around the site perimeter its design would give it a lightweight appearance and the proposed colour of this equipment and the perimeter fencing (Moss Green) would be akin to the agricultural setting and assimilate into the countryside. The CCTV cameras would be half a metre taller than the fencing and in part would be shared between the two sites. The temporary construction compound and access route would in place for the duration of construction and would then be removed and the land reinstated. As such these ancillary elements of the proposal would not in themselves be harmful to the visual amenities of the locality.

The Landscape and Visual Appraisal uses seven viewpoints from the public right of way and road network to provide a representation of the landscape and visual impact. Taking into account the Appraisal and photomontages, viewpoints assessed during the site visits, the topography of the land and screening from vegetation, it is considered that the public footpath to the north of the site, Measham Road, the B4116 and their junction are the most sensitive visual receptors and the solar farm would have its greatest visual impact when viewed from these locations. It is considered that views from Park Farm would be limited due to the adjacent area of dense hedgerow and woodland which would provide a screen even during the winter months and that there would be no views from Gallows Lane or Ashby Road to the south due to topography and vegetation.

When viewed from these most sensitive visual receptors it is considered that the visual impact of the 1MW solar farm would be mitigated to a large extent by its small scale in the wider landscape, alongside views of the rear of the panels from the public footpath, the distance from the viewpoints in most cases being over 40 metres and existing and proposed landscaping. When considered from these receptors cumulatively with the 5MW scheme, existing and proposed landscaping would provide a screen, and although it is acknowledged that the site would become more visible in winter as a result of seasonal leaf loss, existing and additional planting would help to mitigate and filtered views would be available. The schemes would also

be seen in a wide panorama of the landscape from the public footpath, which includes the treatment works in the foreground and the A42 as the backdrop. From Measham Road the panels would be set back between 30-40 metres and existing and proposed planting would provide a screen and this road is predominantly used by vehicles rather than pedestrians due to the 60mph speed limit and lack of footways, who would be generally be positioned at a lower level than from which the photomontage was taken. It is acknowledged that views of both schemes from the junction of Measham Road/B4116 are elevated and site levels also rise up so the panels would be more visible, although they would be set back 50-90 metres from this junction.

Again given the small scale of the proposal and existing and proposed landscaping and topography impacts on views from the A42 and other receptors to the east/south east the visual impacts are likely to be limited. Cumulatively with the 5MW scheme there would be some views from public footpath O66 to south/south east and also from the permissive paths within Normandy Wood but these would be more distant views and glimpses due to screening from vegetation. From the A42 limited screening would be available in places but these views would be limited glimpses due to the speed of traffic.

Longer views would be available from the east and south east. The view of the site from public footpath O62 which runs through Plummer's Wood on Redburrow Lane and which forms a short section of the National Forest Way would be in a panorama of the wider landscape and views would be of the side profile of panels. The proposal may be visible in views from further to the south east, towards Normanton le Heath and Swepstone, in particular from public footpaths, from Tempe Farm and surrounding woodland and from Swepstone Church but these would be distant views, with glimpses of the site due to screening by topography, other development and vegetation.

Concerns have been raised by some local residents about the impact on the National Forest. It is acknowledged that the localised adverse impacts set out above could have some impact upon the enjoyment and recreational value for users of the local public right of way network and nearby woodland/permissive paths. However, it is also acknowledged that nearby routes are local routes and do not form part of a wider strategic network, and that these routes benefit from good interconnectivity, both with other public routes as well as permissive paths and woodland providing a choice of routes within the area where views would be less affected or unaffected by the development. Views from the stretch of the National Forest Way would be more distant and a 300 metre section of a 75 mile route would be affected. The impact would also be short term as users of the rights of way, permissive paths and woodlands pass through the area with glimpses or longer views of the site.

It would be difficult to quantify that the solar farm on its own or cumulatively with the 5MW scheme would result in people not visiting the National Forest or nearby rights of way, paths and woodland as this is very much down to people's preference and it is not clear how it would be demonstrated that the proposal would reduce visitors to the area. Furthermore there does not appear to be any evidence that the proposal would undermine the regeneration achievements of the area. As such a reason for refusal on the basis of the proposal resulting in a reduction in visitors to the area and an impact the National Forest could not be justified.

Given the topography of the site and its surroundings, along with existing and proposed screening and the direction the panels would face, it is considered that the proposal would not result in glint and glare that would be significantly detrimental to visual amenities.

Overall it is therefore concluded that there would be an impact on visual amenities in some parts

of the immediate locality of the site although given the small scale of the proposal and mitigation from existing and proposed landscaping on its own the proposal would not be significantly harmful to visual amenities. When considered cumulatively with the 5MW scheme it is considered that the landscape has the capacity to accommodate the scale of the proposals with localised landscape and visual effects and that the development would not have unacceptable adverse impacts upon the use and enjoyment of the public rights of way network and the National Forest. Therefore on balance a reason for refusal relating to significant detrimental impact on the character of the area, its visual amenities and the overall experience of the immediate landscape, wider countryside and National Forest could not be justified in this case.

### **Cumulative Landscape and Visual Impacts**

The Planning Practice Guidance states that the approach to assessing cumulative landscape and visual impact of large scale solar farms should be the same as assessing the impact of wind turbines. Cumulative visual impacts may arise where two or more of the same type of renewable energy development will be visible from the same point, or will be visible shortly after each other along the same journey. Simultaneous effects include viewing a number of schemes from a single fixed viewpoint without an observer turning their head, and repetitive effects where the observer is able to see two or more schemes, but only if they turn around. Sequential effects on visibility occur when an observer moves through a landscape and sees two or more schemes.

The cumulative impact of the proposal alongside the adjacent 1MW proposal has been considered in the previous section. Applications for solar farms have recently been approved and constructed at Prestop Park Farm, Ashby de la Zouch (14/00635/FULM), Walnut Yard, Diseworth (14/00408/FULM) and Babelake Street, Packington (14/00535/FUL). Permission has been granted for solar farms close to Normanton le Heath (14/00786/FULM) and at Nottingham Road, Ashby de la Zouch (14/00862/FULM) which have not been implemented. An application has also been received for a solar farm at Burton Road, Ashby de la Zouch (15/00714/FULM) which has not yet been determined.

The solar farms may be visible simultaneously alongside the Babelake Street scheme in long range views from the south east, including from public footpaths at and close to Swepstone and Normanton le Heath. However the proposals would be at a greater distance from these viewpoints than the Babelake Street scheme, with screening from intervening topography and vegetation. Furthermore it may be possible to have simultaneous, repetitive and sequential views of both the Babelake Street scheme and the proposals from Normandy Wood and some public footpaths to the south although these views would be distant or glimpses. The solar farms would not be seen in simultaneous and repetitive views alongside any of the other aforementioned proposals. The proposals could be seen sequentially with the Babelake Street and Normanton le Heath schemes but given their locations this is only likely to be via the use of public rights of way and so some time would pass between viewing each scheme. A view of the proposals and the Prestop Park Farm scheme could occur in the same journey but this would usually involve travelling through Ashby de la Zouch so they would not be seen in the same rural landscape. The proposals and the schemes at Nottingham Road and Walnut Yard may also be seen in the same journey but this is likely to be from the A42 where vehicle speeds are high and glimpses of the schemes would be seen.

Given the above circumstances it is considered that the proposals would not contribute to an overall impression of a landscape with solar farms. Therefore, the overall impact in terms of sequential cumulative effects would not be significantly harmful.

### **Landscaping and Impact upon Trees/Hedgerows**

The scheme proposes the retention of all existing trees and hedgerows save for approximately 10 metres to be removed at the north western boundary to provide the construction access.

The proposed landscaping scheme has been considered by the Council's Tree Officer, the National Forest and the County Ecologist. The Tree Officer has requested that a shelterbelt of planting would be required close to its northern boundary to screen the site from the A42. However given that only glimpses would be available from this road, it is considered that the proposed hedgerow along the north western boundary would be satisfactory alongside existing planting adjacent to the A42. Both the Tree Officer and the National Forest requested additional tree and shrub planting adjacent to the site's southern boundary to link into the existing Brickfield Plantation located opposite the site on the southern side of Measham Road and amended plans have been received which show the extension of the dense shrub planting alongside the whole of the southern boundary.

### **Impact upon the Historic Environment**

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects a listed building or its setting or a Conservation Area, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess and to the desirability of preserving or enhancing the character or appearance of that Area. Paragraph 131 of the NPPF requires, amongst other things, new development to make a positive contribution to local character and distinctiveness. Paragraph 132 of the Framework 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.

The nearest scheduled monument is Ashby Castle (approximately 2.6km to the north east) and Coleorton Hall Registered Park and Garden lies approximately 5km to the north east. The nearest listed buildings are located at Park Farmhouse on Willesley Wood Side to the west of the site on the opposite side of the B4116 which are Grade 2 listed. Other nearby Grade 2 listed buildings include Field Farmhouse on Ashby Road, Measham, the Church of St Thomas at Willesley and several buildings at Packington both within and outside its Conservation Area, including the Church of the Holy Rood which is Grade 2\* listed. Therefore the impact of the development on the setting of the listed buildings and the character and appearance of the Conservation Area should be given special regard as required by the 1990 Act.

Park Farmhouse is the closest listed building and comprises an early 19th century farmhouse with attached outbuildings forming a courtyard arrangement. The listed building is well screened from view from nearby roads and the site itself by mature hedgerows and woodland although there is a glimpse of the buildings through the access from Willesley Wood Side, with the existing trees forming the backdrop. Park Farmhouse has been historically separated from the application site with the presence of the B4116 and a tree belt running along its western side, which is shown on historic maps dating back to the late 19th century, and also has a secluded character due to the existing tree planting around the site. Therefore the listed building would not be seen in any views alongside the proposal. Any views of the solar farm would also be limited due to this existing planting. Therefore based on the above circumstances, it is considered that the site does not make a significant contribution to the setting and significance of this listed building and the proposal would result in less than substantial harm to the setting of the listed building.

The proposal would not be seen in the backdrop to Field Farmhouse on Ashby Road, Measham



due to topography. The proposal would also not be seen in the wider setting of the Church of St Thomas at Willesley due to the distance from the site and intervening woodland screening. Whilst there may be a historic relationship between the site and the Church of St Thomas due to the former presence of a tree-lined avenue linking the site with Willesley Hall and its environs (which included the church) this avenue was removed in the mid-20th century and this link is now no longer in evidence. As such it is considered that the proposal would not impact on the setting of the Church of St Thomas.

The site may also be visible in the setting of other listed buildings that are located over 1km from the site, in particular those buildings are located at a higher land level than the site, e.g. Tempe Farm and the Church of St Peter at Swepstone. The solar farm would not be seen in views of the church but can be seen from a small part of the churchyard, and in this view the solar farm may form part of the backdrop to Tempe Farm but it would form part of the distant backdrop to both listed buildings and would either in whole or in part be screened from view by topography and existing vegetation. As such the proposal would not form a prominent part of the setting of these buildings.

The Church of the Holy Rood in Packington is located in the western part of the Conservation Area and forms a landmark within this part of the village. It is considered that the matters that make the greatest significance to the setting of the church relate to its physical fabric, its value within and to the community and its immediate setting and location within the historic core of the village. The wider landscape can be of historic value and significance to the church and Conservation Area as it forms part of its historic economic development and changes to the historic and aesthetic appreciation and experience of the landscape could harm significance, in particular when viewed from nearby roads and public footpaths.

The church and Conservation Area are either not visible or barely perceptible in views from the site and nearby roads and public footpaths close to the site due to its distance, intervening topography, backdrop and vegetation, so neither forms a dominant landmark in these longer views. There are no views of the site from the churchyard and any views of the solar farm from the church tower or listed buildings and Conservation Area would be limited and seen in a landscape that has already been altered by the treatment works and the A42. Overall it is considered that the proposal would not form a key part of the foreground to the church and Conservation Area.

Given the distance from the church and Conservation Area, that farmland in their immediate vicinity would not be affected and that the development would not be permanent, the appreciation of the village's historic relationship with the surrounding countryside would not be significantly affected or eroded.

The Conservation Officer has no objections to the proposal. By virtue of the distances between the heritage assets and the proposed development, the limited height of the solar panels and the screening effects of the intervening topography and vegetation it is considered that the development would not adversely impact on the setting of the listed buildings nor harm the character and appearance of the Conservation Areas.

The proposed solar farm is not considered to result in substantial harm to the significance of the identified heritage assets and as such is considered to be determined in accordance with the aims of paragraph 134 of the NPPF which concludes that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal." The less than substantial harm to the heritage assets is in this case considered on balance to be outweighed by the public

benefits of energy generation from a renewable source equivalent to that required to provide 1,800 homes per year with electricity (in conjunction with the 5MW scheme) and assist the wider public interest of tackling climate change by reducing carbon emissions. Furthermore, the proposal would represent farm diversification and would provide biodiversity enhancements by improving the biodiversity value of the site. Overall, taking all the above matters into account, it is considered that the proposal would not conflict with the principles of paragraphs 131, 132 and 134 of the NPPF.

### **Archaeology**

The Heritage Assessment concludes that there is low potential for prehistoric remains and from the medieval period onwards the site was located within the agricultural landscape. The presence of remains from the Romano-British period cannot be excluded due to the site's location along the potential lines of two Roman roads. Consideration is also given to the former presence of a tree avenue linked to the landscaped park around Willesley Hall, for which good map and cropmark evidence survives. However the County Archaeologist advises that given the bisecting of the landscape as a result of the construction of the A42 and the complete removal of the avenue to the south-east of the motorway the significance of any buried remains is deemed negligible. The Geophysical Survey also did not identify any archaeological interest and concluded that the site has low archaeological potential. Therefore the County Archaeologist does not consider that the scheme would present a significant archaeological impact to either known (Willessley Park Avenue) or potential archaeological remains.

### **Impact upon Residential Amenities**

The nearest residential properties are at Park Farmhouse on the western side of the B4116 approximately 50 metres from the site. Sweethill Cottage on Willessley Wood Side lies approximately 315 metres to the west of the site and Meadow Cottage on Measham Road lies a similar distance to the east with other isolated dwellings beyond.

The dwellings at Park Farmhouse are separated from the site by the B4116 and an area of woodland, with dwellings to the east separated by an area of grassland/scrubland, the treatment works and associated land and some vegetation. Given these circumstances it is considered that these nearest dwellings are located at sufficient distance away from the site in order to prevent any significant impacts arising from the development in terms of overshadowing or an oppressive environment.

In terms of glint and glare the application advises that the panels would be dark blue in colour with a non-reflective coating and are designed to absorb light and to reduce the amount of reflected light, thereby minimising the potential for glint and glare. The panels would face southwards and so from Park Farmhouse those on the southern part of the site would be seen in profile. Whilst the land levels on the site rise to the north, the panels on the central and northern parts of the site would not face directly towards Park Farmhouse. Furthermore the panels would be sited approximately 100 metres from the dwellings at Park Farmhouse with woodland planting and the hedgerow along the western boundary of the wider field in-between providing screening. The panels would also predominantly be in profile in any views from the dwellings to the east and would be over 600 metres away. It is therefore considered that glint and glare would not be significantly detrimental to occupiers of these dwellings.

In respect of noise, the substation and switchgear would generate some additional noise but they have been sited well within the site, being around 72 metres and 180 metres away respectively from the nearest dwellings. Furthermore, any alarm system for security purposes could be silent, and it is recommended that a condition to this affect be imposed. The Council's Environmental Protection team has not raised any concerns in respect of these matters. No

external lighting is proposed during the operational phase of the development although some could be erected during construction under permitted development rights.

The construction phase is estimated to last approximately 8 weeks and the construction compound and access would only be in use for this period. A limited number of vehicular movements would take place during the operational phase (approximately one per month) which is unlikely to result in significant adverse impacts.

As such, it is not considered that there would be any significant adverse impact on neighbouring residential amenities and the proposal would comply with Policy E3 of the adopted Local Plan.

### **Drainage and Flood Risk**

The site itself is located within Flood Zone 1, which is in an area recognised as being at low risk of flooding. Ditches are located along the site's southern and north eastern boundaries which the submitted Flood Risk Assessment (FRA) indicates flow past the nearby treatment works to the Gilwiskaw Brook. The Lead Local Flood Authority (Leicestershire County Council) advises that it has no concerns in respect of the surface water proposals, as there is almost no change to the permeable area given the nature of the proposal and the site would be predominantly permeable following development. The Lead Local Flood Authority advises that the submitted surface water drainage strategy should mitigate any impact on surface water drainage from the site. The access roads would be constructed from a permeable material and a reduction in surface water runoff may also occur due to reduced soil compaction. In summary, subject to the imposition of a planning condition to secure the submitted surface water drainage scheme, it is considered that the proposed works would be in accordance with the overarching intentions of the NPPF.

Concerns have been raised regarding impact from works associated with the Measham Road access on a surface water drainage outlet from the Park Farmhouse site which runs into a ditch close to the southern boundary. The submitted plans appear to show that this ditch would run underneath the access road and the agent has advised that the width of this access would not change and so this ditch would not be affected.

### **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). As noted above the FRA indicates that ditches at the boundaries to the site eventually flow into the Gilwiskaw Brook some 850 metres to the east of the site. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required.

Natural England has no objections and the Environment Agency has not made any comments in respect of impact on the SAC/SSSI. The majority of surface water runoff would either infiltrate the soil or enter the proposed swale and any such runoff that enters the ditch would not be significantly greater than from the existing field, as the site would remain predominantly permeable. A reduction in surface water runoff may also occur due to reduced soil compaction. Silt runoff and the use of fertilisers/pesticides would also be reduced. Therefore whilst some surface water runoff may enter River Mease via these ditches it is unlikely to be of a greater amount or rate compared with the existing situation.

Therefore it can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest

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

### **Protected Species and Ecology**

The site is an arable field with some rough grassland, ditches, hedgerows and trees forming boundaries. These features are also located close to the site, along with areas of woodland and a pond. Some of these are features that could be used by European Protected Species (EPS) and as such species may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions. The habitats could also be used by nationally protected species.

The application has been accompanied by an Ecology Survey which has been considered by the County Ecologist who is satisfied with the submitted survey and has no objections to the scheme. Natural England makes no comments in relation to protected species other than to refer to its Standing Advice but it does suggest that biodiversity enhancements should be sought. The County Ecologist advises that the proposed development is likely to increase the biodiversity value of the site.

The site and adjacent land is unlikely to be suitable for breeding birds as it is intensively managed, although the boundary vegetation offers potential nesting sites. The majority of trees and hedgerows would be retained, with additional planting and grassland provided and whilst some of this habitat may be inaccessible for birds during the construction period and birds are unlikely to nest in-between the panels, there are plenty of other areas of suitable habitat in close proximity to the site. Conditions could be imposed to secure bird boxes and works to take place outside the bird breeding season.

The site offers roosting and foraging opportunities for bats although no evidence of bats was found. The removal of approximately 10 metres of hedgerow is unlikely to significantly impact on bats. The 10 metre buffer distance between badgers setts and the fencing which is required by the County Ecologist can be achieved and as such no adverse impact on badgers is likely to occur during construction as the setts are unlikely to extend any further into the site due to its intensive arable use and frequent disturbance from farming activities. The County Ecologist considers that a 15cm gap below the fencing is acceptable to allow continued access to the site for badgers to forage. Badger mitigation measures during construction of the fencing and swale can also be secured via condition. Water voles and otters are unlikely to be adversely affected as the ditches are located outside the developed area of the site. The nearest pond is located on the opposite side of Measham Road within the Brickfield Plantation and is around 80 metres from the developed area of the site, with a well used road in-between. The intensive arable use of the site is also a barrier to great crested newt movement across the site. As such it is considered unlikely that the construction works associated with the proposal would adversely impact on great crested newts. The site habitats are considered to be of low potential for reptiles and it is unlikely to support such species. The provision of grassland across the site once the panels have been installed, along with additional vegetation close to the site's southern boundary, will introduce habitats for great crested newts and reptiles.

Overall, it is considered that the proposal would accord with the aims of paragraphs 118 and 119 of the NPPF, the Habitats Regulations and Circular 06/05 and would not result in adverse impacts on protected species and ecological features.

### **Highway Safety**

The application is accompanied by a Construction Traffic Management Plan which advises that

construction vehicles would be required to avoid arriving or departing from the site between peak hours. A maximum of 50 construction workers are anticipated to be on site during peak times during the construction period, and a temporary construction compound would be provided to provide on-site parking for smaller vehicles and unloading/turnings areas for HGVs.

Abnormal load vehicles would not be required and it is anticipated that an average of three HGV movements per day (Monday to Saturday) would be undertaken during the construction period of approximately 8 weeks. In addition to the HGV movements, there would be a number of smaller vehicles visiting the site each day predominantly for the transporting of construction personnel.

Construction traffic would use an existing access onto the B4116 at the site's north western boundary and then travel north on the B4116 to join the A42. A condition could be imposed requiring construction traffic to use the B4116 access as use of the Measham Road access would not be appropriate given its proximity to the nearby junction. The Highway Authority notes that a stretch of hedgerow would need to be removed to provide the visibility splays at the B4116 access but information has been provided to demonstrate that this may not be the case. After the construction period and during the site's operational phase, typically one visit to the site per month would be required for equipment maintenance and monitoring, which would be made using the access onto Measham Road.

The County Highway Authority has suggested the imposition of conditions including relating to access arrangements and visibility splays at both accesses. Highways England has raised no objections to the proposal and the County Highway Authority has not made any comments in respect of distraction to drivers.

It is therefore considered that the proposal would not result in severe impacts on highway safety and would comply with the provisions of Policies T3 and T8 of the Local Plan and the NPPF.

#### **Other Matters**

The Planning Practice Guidance states that authorities need to consider the proposal's visual impact of glint and glare in respect of aircraft safety. Any comments from East Midlands Airport will be reported on the Update Sheet.

There does not appear to be any evidence that solar farms have impacts on health or from radiation and the Council's Environmental Protection team has not raised any concerns in respect of this matter.

The Planning Practice Guidance advises that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use.

A de-commissioning condition could be attached which would secure the full details of the method undertaken to remove the development at the end of its 25 year life span (or sooner if the site is no longer used to generate electricity)

The supporting documentation advises that a community benefit fund would be established, paying £1000 per MW installed capacity per year for 25 years, which is likely to amount to £6,000 across both sites. It is stated that the applicant would work with Ashby de la Zouch Town Council and Packington Parish Council to determine how this would be used. It is also indicated that a further £2,000 per year would be allocated to each local school to be used for educational purposes linked to the solar farm. Furthermore it is advised that local residents

would be able to buy shares in the 1MW community-owned scheme and that some of the income from 1MW proposal would be provided to Thringstone House Community Centre. Following comments from Packington Parish Council space has also been provided for provision of a cycle track to link Packington with Willesley Wood Side.

For the reasons set out in the assessment above, the proposed development is considered acceptable and therefore, it is considered that these contributions are not necessary to make the development acceptable. Furthermore, the purpose for which these contributions would be used would not be directly related to the proposed development. Overall, it is considered that the proposed contributions would not comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and therefore do not form a material consideration and should not be taken into account in the determination of the application.

Concerns have been raised regarding the over-proliferation of solar farms within the District and that the Council's quota for solar farms must have been met. However there is no quota for the number of solar farms or for the provision of energy via solar farms in the District.

In respect of other objections received which have not already been addressed within the report above, impact on property values, the use of subsidies, the splitting of the site to form two separate solar farms, the viability of the solar farm and the possibility that the output figures from solar farms (including from the Babelake Street scheme) has been over-estimated are not material planning considerations and cannot be taken into account in the determination of the application.

Both the 1MW and 5MW schemes would adjoin the proposed route of HS2. HS2 has been consulted on the applications and have advised that it would not at this stage wish to make any specific comments, although it advises that it has made a note of the applications to inform ongoing work in this phase of the HS2 project as the sites may in the future be required by HS2 Ltd to construct and/or operate the railway. The Government is currently consulting on the proposed Phase 2 (i.e. West Midlands to Manchester and Leeds) connections, and the route is not fixed at this time. Phase 2 is not currently subject to the safeguarding mechanism which applies to the Phase 1 (London to West Midlands) section under which HS2 should be notified of any planning applications on or close to the route. On this basis it is considered that only limited weight can be attributed to HS2 as a material planning consideration at this stage in HS2's development.

Concerns have been raised in relation to the suitability of the public consultation undertaken by the applicants before submission of the application. However although the Localism Act 2011 is now in force, its provisions to require pre-application consultation on certain types of planning applications will not apply until secondary legislation is enacted.

Site notices were initially placed at four locations; at the eastern and western ends of the public footpath located to the north of the site, at Normandy Wood and at the junction of Willesley Wood Side and the B4116. Additional site notices were subsequently placed at these locations along with two further sets of site notices adjacent to the footway that runs alongside the B4116 (close to the A42 roundabout and opposite the junction with Gallows Lane.) Therefore adequate publicity of the application has been undertaken by the Authority.

Concerns have also been raised in respect of the accuracy of some of the submitted information. The application submission, together with information gathered during the site visit and consideration of the application allow for the application to be fully and adequately assessed.

## Conclusion

There is specific planning policy support for renewable energy projects at both national and local level. In the circumstances that the proposal would accord with the aims of Policy S3 of the Local Plan and as the NPPF does not explicitly prevent renewable energy proposals from being located within the countryside, it is considered that the principle of the development would be acceptable. It is, however, considered that the positive benefits of renewable energy of the proposed development must be carefully balanced against the potential harmful impacts.

The proposal is not considered to give rise to any significant adverse impacts in respect of trees/hedgerows, residential amenities, archaeology, drainage and flood risk, protected species and ecological features and highway safety. On balance it is considered that a reason for refusal based on lack of assessment of alternative sites and the loss or impact on BMV agricultural land could not be justified in this case. It is also on balance considered that a reason for refusal relating to significant detrimental impact on the character of the area, its visual amenities and the overall experience of the immediate landscape, wider countryside and National Forest could not be justified in this case. The less than substantial harm to heritage assets has been balanced against public benefits of energy generation, farm diversification and provision of biodiversity enhancements. It can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely 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 proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

## **RECOMMENDATION:- PERMIT, subject to the 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 and documents, unless otherwise required by a condition of this permission:
  - Drawing No. 241308 Community P001 Revision A (Site Location Plan) received by the Authority on 6 August 2015;
  - Site Location Plan - 1:2000 received by the Authority on 6 August 2015;
  - Drawing No. PRIMR-ASHBY-001-101 (PV, Road and Fence Layout) received by the Authority on 26 May 2015;
  - Drawing No. PRIMR-ASHBY-001-105 (PV, Road and Fence Layout - Community Solar Scheme) received by the Authority on 6 August 2015;
  - Drawing No. 241308/LA/PL001 Revision F (Landscape Strategy) received by the Authority on 12 August 2015;
  - Drawing No. GM-200 (Access Track Section Details) received by the Authority on 26

May 2015;

- Drawing No. GM-280 (Wind Sensor Pole) received by the Authority on 26 May 2015;
- Drawing No. GM-808 (11kV DNO Building - Elevation and Plan Views) received by the Authority on 26 May 2015;
- Drawing No. GM-813 (Customer Switchgear - Elevations and Plan) received by the Authority on 26 May 2015;
- Drawing No. GM-814 (Site Storage Container - Elevations and Plan) received by the Authority on 26 May 2015;
- Drawing No. GM-828 (SMA MV Power Station 1250-1800SC - Elevation and Plan Views) received by the Authority on 26 May 2015;
- Drawing No. GM-841 (Framework Elevations - 5 Landscape Configuration) received by the Authority on 26 May 2015;
- Drawing No. GM-850 (Satellite Pole) received by the Authority on 26 May 2015;
- Drawing No. G06 (Fencing) received by the Authority on 9 July 2015;
- photograph of deer fencing received by the Authority on 25 August 2015;
- Drawing No. Figure 2.1 (Site Location and Construction Route Plan) received by the Authority on 26 May 2015;
- Drawing No. Figure 3.1 (Swept Path Analysis and Visibility at Temporary Construction Access) received by the Authority on 6 August 2015;
- Drawing No. Figure 3.2 (Proposed Temporary Access Arrangement at Measham Road) received by the Authority on 6 August 2015;
- Drawing No. Figure 3.3 (Construction Compound Layout Plan) received by the Authority on 26 May 2015;
- Drawing No. SK01 (Extent of Survey and Photographic Record) received by the Authority on 26 May 2015;
- Drawing No. Figure SK02 (Operational Access Arrangement, Visibility Splays and Swept Path Analysis) received by the Authority on 6 August 2015;
- Drawing No. 1502-1.0-AFP-TCP-NC (Tree Constraints Plan) received by the Authority on 26 May 2015;
- Flood Risk Assessment V5 (20 May 2015) produced by Clive Onions and received by the Authority on 26 May 2015;
- Ecological Assessment (May 2015) produced by Environgauge and received by the Authority on 26 May 2015;
- Landscape and Ecology Management Plan (August 2015) (Ref. EVG-15-002-LEMP-03) produced by Environgauge received by the Authority on 25 August 2015;
- Figure 2 (Landscape and Ecology Master Plan 03) received by the Authority on 25 August 2015.

*Reason - For the avoidance of doubt and in the interests of proper planning.*

- 3 The development shall be carried out in accordance with the landscaping and habitat management schemes set out on Drawing No. 241308/LA/PL001 Revision F (Landscape Strategy), the Landscape and Ecology Management Plan (August 2015) (Ref. EVG-15-002-LEMP-03) and Figure 2 (Landscape and Ecology Master Plan 03) produced by Environgauge within the first planting season following the first export from the site and shall thereafter be maintained in accordance with the Landscape and Ecology Management Plan and Master Plan. During this period any trees, shrubs, hedgerow or grass which die or are damaged, removed, or seriously diseased shall be replaced by trees, shrubs, hedgerow or grass of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.



*Reason- In the interests of visual amenity and to ensure that the work is carried out within a reasonable period and thereafter maintained; In the interests of protected species and enhancing biodiversity on the site.*

- 4 If any part of the hedgerow along the eastern side of the B4116 needs to be removed/reduced in height/trimmed back in order to provide the visibility splays required under condition 22 then such details and a timescale for its implementation (including replacement hedgerow planting if any part of the hedgerow needs to be removed) shall be submitted to and agreed in writing by the Local Planning Authority before first use of the B4116 access. The works to the hedgerow shall be carried out in accordance with the agreed scheme which shall thereafter be so retained and managed in accordance with the approved Landscape and Ecology Management Plan and Master Plan.

*Reason- in the interests of visual amenity.*

- 5 No development shall commence on site until such time as the root protection zones of the existing trees and hedgerows to be retained on the site have been securely fenced off with protective fencing in accordance with BS 5837:2012 (Trees in Relation to Design, Demolition and Construction). Within the protected areas there shall be no storage of materials, plant, skips, equipment and/or other items associated with the development hereby approved, mixing of materials, vehicular movements or fires or other ancillary works associated within the areas, no alterations to ground levels and no compaction of the soil and no service trenches shall be dug unless first agreed in writing by the Authority. The protective fencing shall remain in place until all the solar panels have been installed and all construction works on site have ceased, unless an alternative timescale is first submitted to and agreed in writing by the Local Planning Authority.

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

- 6 Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to September inclusive unless otherwise agreed in writing by the Local Planning Authority that breeding birds will not be adversely affected by any works.

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

- 7 The development shall be carried out in accordance with the mitigation and enhancement measures for protected species set out at Table 10.1 of Ecological Assessment (May 2015) produced by Environguage and the measures set out on page 2 of Suzanne Bangert's letter of 5 August 2015.

*Reason: to prevent adverse impacts on badgers, breeding birds and reptiles, which are protected species.*

- 8 Within one month of the installation of the last solar panel/array (unless an alternative timescale is first agreed in writing with the Local Planning Authority) the surface water drainage scheme shall be provided in full in accordance with the details set out in the Flood Risk Assessment V5 (20 May 2015) undertaken by Clive Onions and shall thereafter be maintained in accordance with the Flood Risk Assessment for the duration of the development hereby permitted.

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

- 9 The front of the solar panels hereby approved shall not be sited higher than 800mm above ground level and the rear of the solar panels shall not be sited higher than 2.7 metres above ground level.

*Reason- For the avoidance of doubt and in the interests of visual amenity.*

- 10 Other than where cables are attached to the solar panel frames all cables within the development site shall be laid underground.

*Reason- In the interests of visual amenity.*

- 11 The substations, switchgear building and storage containers shall be finished in 'Moss Green' paint, the perimeter fencing shall be finished in accordance with the details shown on the photograph received by the Authority on 25 August 2015 and the solar panels shall have a dark blue finish with a non-reflective coating, which shall be thereafter retained as such for the life of the development.

*Reason- In the interests of visual and residential amenities.*

- 12 No external lighting shall be installed at the site during the operation of the development hereby approved.

*Reason: in the interests of visual and residential amenities.*

- 13 Any alarm system shall be silent at all times.

*Reason- In the interests of residential amenities.*

- 14 Written confirmation of the date of the first export of electricity to the national grid from the site shall be provided to the Local Planning Authority within one month of the date of this taking place.

*Reason- To ensure that a record can be kept of all operational PV panels.*

- 15 The planning permission hereby granted is for a maximum period of 25 years from the date of the first export of electricity to the national grid. After that time the use shall cease and the solar modules/arrays and all associated equipment and infrastructure shall be removed from the site in accordance with condition 16 (decommissioning).

*Reason- The planning application has only been made for a 'life span' of 25 operational years; in the interests of visual amenities; to ensure the highway, ecological, noise, and any other physical impacts can be properly assessed in the context of the area at the time of decommissioning.*

- 16 No later than one year before the expiration of the planning permission, or not more than six months from permanent cessation of the exporting of electricity to the national grid from any part of the site if earlier, a Decommissioning Method Statement shall be submitted for the written approval of the Local Planning Authority. This shall include details of:-

- a) decommissioning and works for the removal of the PV panels;
- b) decommissioning and works for the removal of the fencing and all other ancillary equipment and structures;
- c) the depth below ground to which the PV panels, fencing and ancillary equipment would be dismantled and removed from site;
- d) method of removal;
- e) works for the restoration of the site;
- f) timetable of works.

The site shall be decommissioned and restored in accordance with the agreed Decommissioning Method Statement.

*Reason- The planning application has only been made for a 'life span' of 25 operational years; in the interests of visual amenities; to ensure the highway, ecological, noise, and any other physical impacts can be properly assessed in the context of the area at the time of decommissioning.*

- 17 In the event that any solar panel needs to be removed or replaced before the expiry of this planning permission, other than in accordance with condition 16 (decommissioning), the panel shall be replaced on a like for like basis in accordance with Drawing No. GM-841 (Framework Elevations - 5 Landscape Configuration).

*Reason- In the interests of visual amenity.*

- 18 During the period of construction of the development hereby approved, all construction traffic to and from the site shall only use the access identified on Drawing No. Figure 2.1 (Site Location and Construction Route Plan) at all times unless otherwise agreed in writing by the Local Planning Authority and the use of the access onto the B4116 in connection with the solar farm shall cease once all construction works on the site have ceased.

*Reason- In the interests of highway safety.*

- 19 The use of the site access onto Measham Road (C7113) shall only commence once construction works relating to the solar farm have ceased and shall only be used in connection with visits relating to the maintenance/monitoring of the solar farm.

*Reason- In the interests of highway safety.*

- 20 The temporary construction compound and temporary access road shall be constructed in accordance with the details shown on Drawing No. Figure 3.3 (Construction Compound Layout Plan) and Drawing No. GM-200 (Access Track Section Details) before the commencement of any other parts of the development hereby approved, unless alternative details are first submitted to and agreed in writing by the Local Planning Authority. The temporary construction compound and temporary access route shall be retained in accordance with these details until all construction works on the site have ceased and shall be removed in full and the land re-instated to its former condition as an arable field within one month of construction works ceasing on site.

*Reason- In the interests of visual amenity and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the*

area.

- 21 No development shall commence on the site until such time as details of wheel cleansing facilities have been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be provided before the temporary construction access onto the B4116 is first brought into use and shall therefore be retained until all construction works on the site have ceased and shall then be removed from the site within one month.

*Reason: To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard to road users.*

- 22 No development shall commence on site until such time as visibility splays of 2.4 metres by 115 metres in both directions have been provided at the junction of the temporary construction access with the B4116 in accordance with the standards contained in the current County Council design guide, which shall thereafter be permanently so maintained whilst this access is in use for construction of the solar farm. 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.*

- 23 No development shall commence on site until such time as details of the access arrangements at the junction of the temporary construction access with the B4116 have been submitted to and agreed in writing by the Local Planning Authority. No development shall commence on site until the agreed scheme has been provided and surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 12 metres behind the highway boundary and shall thereafter be permanently so maintained until all construction works on the site have ceased.

*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.*

- 24 Before first use of the site access onto Measham Road (C7113) details of the access arrangements and visibility splays at the junction of this access with Measham Road (C7113) shall be submitted to and agreed in writing by the Local Planning Authority. Before first use of this access the agreed scheme shall be provided in accordance with the standards contained in the current County Council design guide and surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 12 metres behind the highway boundary and shall thereafter 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 the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety; 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.*

- 25 Before first use of either of the accesses, drainage shall be provided within the site such that surface water does not drain into the Public Highway, which 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.*

- 26 Before first use of either of the accesses, the existing gates to the relevant vehicular access shall be removed. Any new vehicular access gates, barriers, bollards, chains or other such obstructions erected shall be set back a minimum distance of 12 metres behind the highway boundary and shall be hung so as not to open outwards.

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

- 27 The gradient(s) of the access drive(s) shall not exceed 1:12 for the first 12 metres behind the highway boundary.

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

### Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant before submission of the application 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 2015.
- 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 If there are any works proposed as part of an application which are likely to affect flows in a watercourse or ditch, then the applicant may require consent under s.23 Land Drainage Act 1991. This legislation is separate from the planning process. Guidance on this process and a sample application form can be found via the following website: [www.leics.gov.uk/watercourse](http://www.leics.gov.uk/watercourse).
- 4 No development should take place within 5 metres of any watercourse or ditch without first contacting Leicestershire County Council for advice.
- 5 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 Infrastructure Planning team (for 'major' accesses serving more than one dwelling) or the Highways Manager (for 'minor' accesses serving one dwelling only). For further information, including contact details, you are advised to visit the County Council website as follows: -  
For 'major' accesses - see Part 6 of the '6Cs Design Guide' at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg)

For 'minor' accesses serving one dwelling contact the Customer Service Centre team  
Tel: 0116 3050001.

6 The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.

7 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)

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Removal of the existing 10KW wind turbine and installation of a 75KW wind turbine and associated infrastructure

Report Item No  
A5

Forest Way Area Special School Warren Hills Road Coalville  
Leicestershire LE67 4UU

Application Reference  
15/00510/FUL

Applicant:  
Miss Helen Butcher

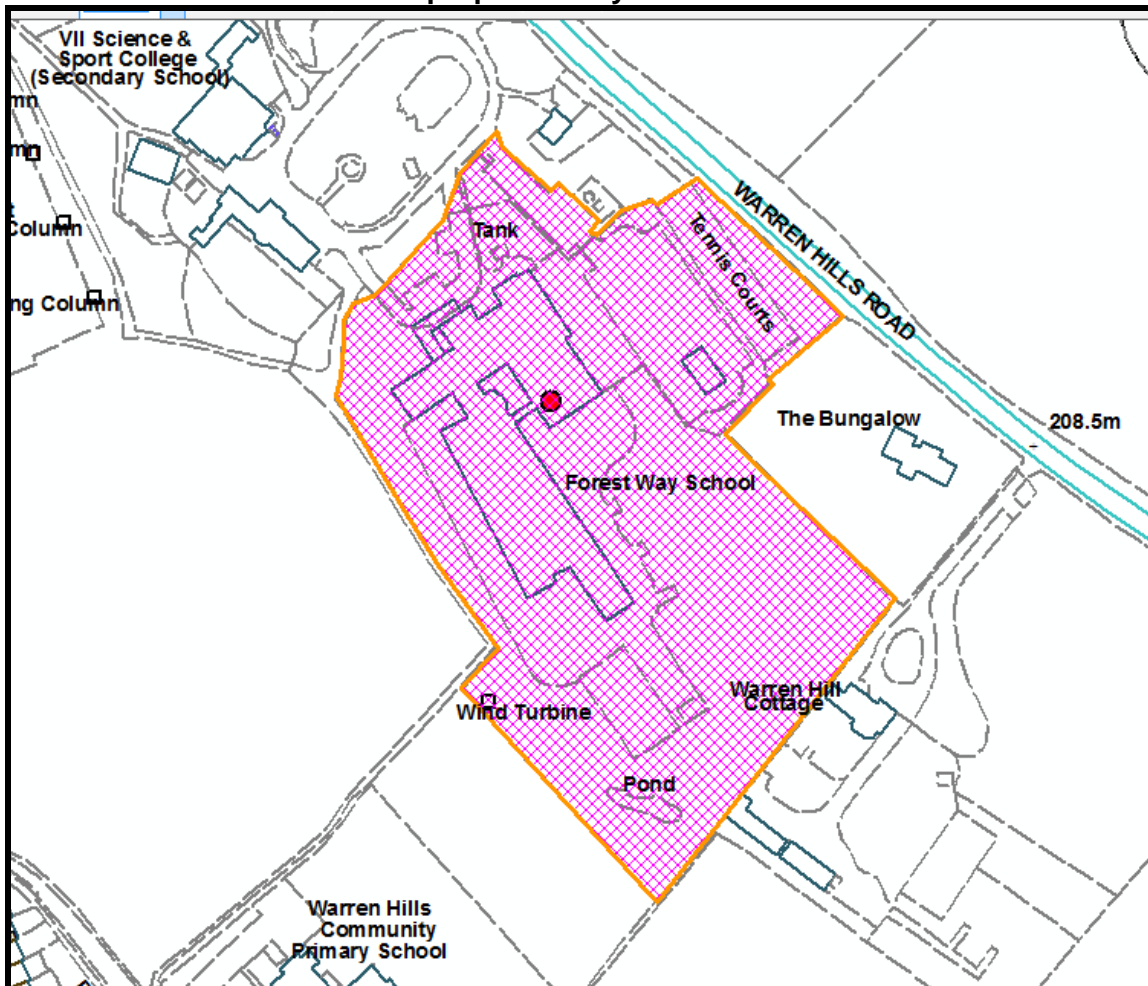
Date Registered  
27 May 2015

Case Officer:  
Robert McKillop

Target Decision Date  
22 July 2015

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## **Executive Summary of Proposals and Recommendation**

### **Call In**

The application has been called in at the request of Cllr Wyatt on the grounds that the application is a matter of public concern.

### **Proposal**

Full planning permission is sought for the removal of the existing 10KW wind turbine and installation of a 75KW wind turbine and associated infrastructure Forest Way Area Special School, Warren Hills Road, Coalville. The replacement 75 KW wind turbine would be installed with a hub height of 18.04m and tip height of 28.5 metres.

### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposal with 2 objection letters being received from members of the public.

### **Planning Policy**

The application site is outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan. One of the core planning principles of the National Planning Policy Framework (NPPF) as set out in Paragraph 17 is to support the transition to a low carbon future in a changing climate by encouraging the use of renewable resources and the development of renewable energy. This is set out further in Paragraph 93 of the NPPF which states that planning has a key role in supporting the delivery of renewable and low carbon energy and associated infrastructure which is central to the economic, social and environmental dimensions of sustainable development. A recent written Ministerial Statement 'Local Planning' was published on 18 June 2015 which states that local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing. In accordance with the Statement, amendments to the relevant sections within the National Planning Practice Guidance (NPPG) have also been undertaken to reflect these changes.

### **Conclusion**

There is specific planning policy support for the development of renewable energy projects at a national level and it is considered that the proposed erection of a 75 kW wind turbine would contribute to the overall outputs of renewable energy. It is however considered that these positive benefits of renewable energy of the proposed development must be carefully balanced against the harmful impacts and perceived impacts. The scheme has been assessed from its landscape and visual impacts, impacts upon the historical environment, impact upon residential amenity in relation to safety, noise and shadow flicker, ecology and other associated impacts including highway considerations, aviation and electromagnetic interference.

The scheme is considered not to cause any significant impacts in respect of these considerations and there are no other material impacts identified, that would indicate that the proposal is not in compliance with local development plan policies and overarching government guidance. Accordingly the application is recommended for approval, subject to the imposition of planning conditions.

**RECOMMENDATION:- PERMIT SUBJECT TO THE IMPOSITION OF CONDITIONS**

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the removal of the existing 10KW wind turbine and installation of a 75KW wind turbine and associated infrastructure Forest Way Area Special School, Warren Hills Road, Coalville.

The application information indicates that the existing 10KW wind turbine which has a hub height of 15m and tip height of 17.15m would be removed and a replacement 75 KW wind turbine would be installed with a hub height of 18.04m and tip height of 28.5 metres.

Associated infrastructure is proposed in the form of a concrete foundation base measuring 7 metres by 7 metres, plus cable to be routed to a connection point. Access to the wind turbine would be gained via the existing concrete hardstanding running adjacent to the school building and playground.

The turbine and associated infrastructure will be situated within an overall site of approximately 0.1 hectares.

During the course of the application, following concerns in relation to the proximity of the turbine to protected species habitats, the applicant has provided plans showing the wind turbine located 6 metres north east of its original proposed location.

The application site is located within the grounds of the existing school site to the south of the existing buildings. The site is located outside Limits to Development, as defined by the North West Leicestershire Local Plan Proposals Map 2002 and falls within an Area of Particularly Attractive Countryside and also within an area designated as Recreational Open Space.

The application is accompanied by:-

- Heritage Impact Assessment
- Shadow Flicker Assessment
- Design and Access Statement
- Flood Risk Assessment
- Ecological Assessment
- Acoustic Assessment
- Viewpoint Location Map

#### Relevant Planning History

10/00378/COM - Erection of 6 structures (timber play house, shelter, huts, bird hide, timber rope nest and geodesic dome greenhouse) within the school ground (Leicestershire County Council Regulations 3 Application 2010/L247/07). No objection.

08/00241/COM - Proposed erection of 10kw Wind Turbine generator. No objection.

07/00793/COM - New school for pupils with special educational needs, including associated play areas, sports facilities, access road and parking, including replacement parking for King Edward VII (County Matter). No objections to the proposals in general, subject to the provision of a scheme of national forest planting in the vicinity of the application site in lieu of that previously proposed on the application site in association with the erection of the new Castle Rock School.

## 2. Publicity

117 Neighbours have been notified (Date of last notification 16 June 2015)

Site Notice displayed 16 June 2015

Press Notice published 24 June 2015

## 3. Consultations

County Highway Authority  
Head of Environmental Protection  
Natural England- Within 2k Of SSSI  
LCC ecology  
Airport Safeguarding  
NWLDC Conservation Officer  
National Forest Company  
English Heritage- Grade I/II\* LB Setting  
Development Plans  
LCC/Footpaths  
Highways Agency  
National Air Traffic Services  
Ramblers' Association  
Leicester & Rutland Wildlife Trust  
MOD Safeguarding

## 4. Summary of Representations Received

The following summary of representations is provided.

**Civil Aviation Authority** provides advice to the applicant.

**Highways England** raises no objection.

**Historic England** advises that the application should be determined in accordance with national and local policy guidance and on the basis of the Authority's specialist conservation advice.

**Joint Radio Company** raises no objection.

**Leicestershire County Council - Highways** raises no objection, subject to the imposition of planning conditions.

**Leicestershire County Council - Ecology** raises no objection, subject to the imposition of a planning condition.

**Leicestershire County Council - Archaeology** has not responded to consultation.

**Leicestershire County Council - Footpaths** has not responded to consultation.

**Natural England** raises no objection but advises consideration of local sites, landscape character and local or national biodiversity priority habitats and species.

**NERL Safeguarding** raises no objection.

**NWLDC Environmental Protection** has no environmental observations in relation to this application.

**NWLDC Conservation Officer** raises no objection.

**The Ramblers' Association (Leicestershire & Rutland)** raises no objection.

**Airport Safeguarding (East Midlands)** has not responded to consultation. Any response will be reported to members on the update sheet.

**Environment Agency** has not responded to consultation.

**Leicestershire & Rutland Wildlife Trust** has not responded to consultation.

**Ministry of Defence** has not responded to consultation.

**The National Forest Company** has not responded to consultation.

**Severn Trent Water** has not responded to consultation.

**Third Party Representations:**

2 letters of objection have been received raising the following concerns:-

- The height and span of the turbine would be unsuitable for the area;
- The turbine could have a detrimental impact on public health by way of noise and constant movement of blades;
- There is a public safety issue given the possibility of the blades coming off in proximity to the school;
- Other less invasive options should be considered;
- The proposed turbine would be almost 100% bigger and emit 100% more noise than the existing turbine which is a concern;
- The surrounding area is natural open space used for leisure and walking and views should be protected;
- The turbine would have a noise impact at weekends when the school (applicant) is closed and unaffected.

**5. Relevant Planning Policy**

**National Policies**

*National Planning Policy Framework*

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

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

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

Paragraph 14 (Presumption in favour of sustainable development)  
Paragraph 17 (Presumption in favour of sustainable development)  
Paragraph 93 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 97 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 98 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 109 (Conserving and enhancing the natural environment)  
Paragraph 118 (Conserving and enhancing the natural environment)  
Paragraph 119 (Conserving and enhancing the natural environment)  
Paragraph 123 (Conserving and enhancing the natural environment)  
Paragraph 131 (Conserving and enhancing the historic environment)  
Paragraph 132 (Conserving and enhancing the historic environment)

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

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

Policy S3 - Countryside  
Policy E3 - Residential Amenities  
Policy E4 - Design  
Policy E7 - Landscaping  
Policy E22 - Particularly Attractive Countryside  
Policy F1 - National Forest General Policy  
Policy T3 - Highway Standards  
Policy T8 - Parking

### **Other Guidance**

**The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations')**

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

**The Assessment and Rating of Noise from Wind Farms (ETSU-R-1997)**

**Written Ministerial Statement: Local Planning (18 June 2015)**

**National Planning Practice Guidance - March 2014 - including updates to renewable energy (18 June 2015)**

## **6. Assessment**

The main issues for consideration in the determination of this application relate to the principle of development, landscape and visual impacts, cumulative landscape and visual impacts, impact upon heritage assets, ecology, impact upon residential amenity, highway considerations, impact upon aviation, electromagnetic interference and other matters.

### **Principle of Development**

At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF states that there are three dimensions to sustainable development:- economic; social; and environmental. There is also support and encouragement for sustainable development and the sensitive exploitation of renewable energy sources within the NPPF. The accompanying Design

and Access Statement estimates that the proposed 75kW turbine is expected to generate 290,000 kWh per year, equivalent to providing electricity to approximately 87 homes per year and would save approximately 158 tonnes of carbon dioxide per annum.

Paragraph 97 of the NPPF outlines that Local Planning Authorities should "recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources" in order to help increase the use and supply of renewable energy, and one of the core planning principles at Paragraph 17 of the NPPF is that decisions should "support the transition to a low carbon future and encourage the use of renewable resources (for example by the development of renewable energy)." Paragraph 98 also states that "applicants should not be required to demonstrate the overall need for renewable energy and that planning applications should be approved if their impacts are or can be made acceptable."

The application site is located outside the limits to development where permission for new development would not normally be granted unless it is for certain uses as set out under Policy S3 of the Local Plan. It is considered that the proposal would fall within criteria (c) (is a public service or utility which cannot, for operational reasons, be accommodated within the defined Limits) of Policy S3 and as such would constitute an acceptable form of development in this location. In the circumstances that the NPPF supports proposals which provide renewable energy, and given the existing wind turbine has been present at the site in a similar location for several years, it is deemed that this form of development is established at the site and a replacement wind turbine, albeit it of a larger scale, would be acceptable in principle.

**Landscape and Visual Impact:**

It is identified, in Paragraph 17 of the NPPF, that planning should "recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it," and Paragraph 109 states that the planning system should protect and enhance valued landscapes. Paragraph 98 of the NPPF also states that when determining wind turbine planning applications, local planning authorities should "approve the application if its impacts are (or can be made) acceptable."

The site does not fall within any national or local protected landscape designations, such as Areas of Outstanding Natural Beauty. Notwithstanding the lack of formal landscape designation or recognition, the character of the area is valued locally by its residents. The NPPF also recognises that the "intrinsic character and beauty of the countryside" is a material planning consideration. Two objections have been received on the grounds of the turbine would be significantly larger than the existing turbine and that the views enjoyed within the surrounding area, which is natural open space used for leisure and walking, should be protected.

The site is within an Area of Particularly Attractive Countryside as defined on the Proposals Map to the Local Plan. In terms of the character of the surrounding area, the area to the south of the site consists largely of relatively densely populated residential areas. There is a mixture of agricultural fields, open countryside and intermittent woodland cover to the north, east and west of the site. Castle Rock School is located to the west of the site and Warren Hills County Primary School is located to the south of the site, with some sporadic built development located along Warren Hills Road to the north and east of the site. The wind turbine would be located within the grounds of Forest Way Area Special School and would be positioned to the south of the main school building and playground, replacing the existing wind turbine in this location.

A Landscape and Visual Impact Assessment (LVIA) has been provided within the submitted Design and Access Statement which evaluates the effect of the proposed turbine on landscape character and visual amenity. The effect of the development depends on its scale, as well as



the sensitivity of its surroundings and the capacity of those surroundings to absorb the impact of the turbine by way of physical characteristics, topography, consistency and content of the landscape, and the cumulative effects of other development.

Photomontages from eleven viewpoints have been provided within the LVIA which range from 201m to 834m from the site of the proposed replacement turbine. Although these viewpoints were not agreed with the Local Authority, they fall within a Zone of Theoretical Visibility (ZTV). The ZTV shows that the turbine could be theoretically visible from a large area to the south and west of the site, plus from a smaller area to the north and east. The submitted ZTV does not take into account any screening from vegetation or buildings or the topography of the surrounding area.

Of the viewpoints measured within the LVIA, the impacts are generally recorded as moderate, minor or no impact, and of the viewpoints that record a moderate impact, it is also noted that the replacement wind turbine would be set against the backdrop of the existing Forest Way School building which is of a relatively large scale and would help to assimilate the proposed turbine into the landscape. As such, the proposed turbine would be viewed in context of this relatively modern building and although it would be visible within the surrounding area, it would have a reduced visual impact by way of its association with the existing built development surrounding the site. It is considered that the viewpoints selected offer a useful range of study, which illustrates the typical extent of view experienced by the viewer, at close to middle distances. The level of study is considered to be proportionate to this scale of scheme and there are no local, national or international landscape designations affected.

In respect of topography, the application site slopes gradually upwards towards the northern part of the site and the land beyond continues to slope upwards on the northern side of Warren Hills Road. The turbine would be positioned to the north of the playing field, which has a gentle slope up from the southern side of the playing field adjacent to the rear of properties along Castle Rock Drive. There is a public footpath, palisade fencing and shrubs and trees along the southern boundary of the site which provide significant screening from views to the south. The existing built development and pockets of vegetation surrounding the site would significantly restrict the potential visibility of the turbine within this area. As such, whilst the turbine would be visible from some positions within the surrounding area, the existing buildings would ensure that the turbine would not become an unduly prominent feature and would not appear significantly out of character with its surroundings. On this basis the turbine is not deemed to adversely affect or diminish the open character and attractive rural landscape in accordance with the teams of Policy E22 of the Local Plan.

In summary, whilst there will some impact on the landscape, given the above circumstances it is considered that the landscape can accommodate the proposed turbine without its overall character being significantly harmed. The proposed turbine would not significantly undermine the character of the National Forest and therefore on balance the impact is not so significantly detrimental to the landscape and visual amenity of the area to justify a reason for refusal in this case.

### **Cumulative Landscape and Visual Impacts**

Cumulative visual impacts may arise where two or more of the same type of renewable energy development will be visible from the same point, or will be visible shortly after each other along the same journey. Simultaneous effects include viewing a number of schemes from a single fixed viewpoint without an observer turning their head, and repetitive effects where the observer is able to see two or more schemes, but only if they turn around. Sequential effects on visibility occur when an observer moves through a landscape and sees two or more schemes. With

regard to the cumulative impacts of wind turbines, consideration has been given to advice contained within the NPPG.

In terms of other wind turbines located within the surrounding area, two 15 kW wind turbines are located within the grounds of Mount St Bernard Abbey, Oaks Road, Whitwick approximately 1.35 km to the north of the subject site. These turbines measure approximately 21 metres in overall height to the tip. Furthermore, one 10KW wind turbine has been approved within the grounds of Warren Hills Cottage, Warren Hills Road, Coalville which would be approximately 0.19 km to the east of the subject site. This turbine, although not yet constructed would also measure approximately 21 metres in overall height to the tip.

As the land to the north of the site rises steeply towards Abbey Road, this would prevent the proposed wind turbine from featuring in the same view as the existing turbines at Mount St Bernard Abbey. Furthermore, the topography and mature vegetation would largely screen the proposed wind turbine and existing wind turbines from a vantage point where these wind turbines could potentially be viewed concurrently. The turbine at Warren Hills Cottage to the east of the site and would be smaller than the turbine proposed under this application. The turbines would be approximately 180 metres apart with mature trees positioned in the intervening area. Although there is some likelihood that these turbines would feature simultaneously in some views from the south, east and west of the site, depending on the orientation, the majority of the turbine furthest from the viewer would be obscured by the existing screening, with only the blade tips likely to be visible. It is also noted that these turbines would be set against the backdrop of further vegetation and existing buildings, reducing the prominence in views from within the surrounding area.

Overall it is concluded that the proposed turbine can be accommodated without un-acceptable landscape and visual effects and that any significant effects are contained with relatively close proximity of the turbine and will affect a limited number of receptors, as topography and natural screening features combine to filter the effects to the wider area.

### **Design and Impact on Heritage Assets**

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. Section 66(1) states that when considering whether to grant planning permission for development which affects a listed building or its setting, the authority shall have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. Paragraph 131 requires amongst other things new development to make a positive contribution to local character and distinctiveness. Paragraph 132 of the Framework 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. Paragraph 134 requires harm to be weighed against the public benefits of the proposal. Policy E4 of the Local Plan requires new development to respect the character of its surrounding.

The Planning Practice Guidance also states that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting.

The Castle Rock Sixth Form Centre is located approximately 165 metres to the north west of the application site and is a Grade II Listed Building. It is accepted that the erection of the turbine would cause some harm to the setting of the heritage asset however this has to be considered in respect of the significance of the heritage asset and whether the harm would constitute

substantial harm.

The scheme has been considered by English Heritage who state that the application should be determined in accordance with national and local policy guidance, and on the basis of specialist conservation advice.

The Council's Conservation Officer confirms that:-

"I have assessed the proposal and visited the site to view from a number of vantage points. My only concern was with the relationship with the listed school building where a visual appears to show the replacement turbine as prominently sited. However, I consider this visual to be somewhat misleading especially following the re-siting which reduces the inter-relationship between turbine and listed building.

Given this and the distances involved, together with the mast being a replacement (albeit larger) I do not consider an objection could be sustained on heritage grounds."

On this basis it is considered that the proposal would cause some harm on the appearance and setting of the listed building but the distance separation between the heritage asset and the turbine and the difference in levels between the site would ensure that the harm would not be substantial. The advice in the NPPF is 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. The public benefits of the proposal have been referred to in the "principle" section above.

Taking these matters into account; it is considered that the proposal would have limited impact on the character and setting of the Grade II Listed Building on the site and would not cause substantial harm in respect of the heritage asset. Accordingly, the proposed development would comply with Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraphs 131, 132 and 134 of the NPPF and Policy E4 of the Local Plan.

Although no response has been provided by the County Archaeologist in relation to the works, given the application site is not in a site with any known archaeological records and the wind turbine would be sited in a similar location to the existing turbine, the application is considered unlikely to lead to any detrimental impact on archaeological features.

### **Ecology**

Paragraph 109 of the NPPF recognises the wider benefits of ecosystems and that the planning system should minimise impacts on biodiversity. The NPPG states that wind turbines can have ecological impacts such as a risk of collision between moving turbine blades, birds and bats. Other risks include disturbance and displacement of bird and bat habitats. Due to the drop in air pressure close to the blades there is a risk of barotrauma (lung expansion) in bats which can be fatal. These risks are generally low, however in some situations, such as in close proximity to important habitats used by birds or bats the risk can be greater.

The site does not fall within any national or local designations. The Ecological Assessment submitted with the application has been considered by the County Ecologist and although there was initially some concern in relation to proximity to potential protected species habitats, amended plans have been received during the course of the application showing the turbine to be sited 6 metres to the north east of the original position. Following further consideration, the County Ecologist has confirmed that there would be no objection to the revised location although suggested a condition is attached to any permission granted to ensure the proposal is

sited in accordance with Natural England's guidance. As the County Archaeologist has raised no objection, it is recommended that a suitable note to applicant be added in relation to Natural England's guidance.

In summary, given the turbine would be sited a sufficient distance from an ecological feature that could be used by bats for foraging, it is concluded that the turbine would not have any adverse impacts upon any sites of ecological important or protected species. Accordingly the scheme is considered to be in accordance with the overarching intentions of the NPPF and guidance contained within the NPPG.

### **Impact upon Residential Amenity**

#### *Proximity to Neighbouring Residents Proximity to Neighbouring Residents and Public Safety*

The nearest residential property is Warren Hills Cottage which is approximately 105 metres to the east of the site of the proposed turbine. In terms of proximity to other residential properties, the proposed turbine would be approximately 150 metres away from The Croft, located to the north east of the site and would be approximately 190 metres away from the row of residential properties along Stamford Drive, Castle Rock Drive and Lancaster Close to the south of the site.

Although The Wind Turbines (Minimum Distance from Residential Premises) Bill 2012-13 was at the first stage of reading in the House of Lords 14 May 2012, no date for a second reading has been confirmed since that time, and this therefore does not carry any weight. There are also a number of guidance documents and reports referred in the letters of representation, however, these are not development plan documents or emerging ones and as such carry no weight in the determination of this application.

The NPPG states that risks can often be mitigated through appropriate siting and consultation with affected bodies. In relation to fall-over distance from the turbine to adjacent residential properties, this is calculated as the height of the turbine to the tip of the blade plus 10% which is seen as a minimum safe separation distance. In this instance as the height of the turbine to the blade tip is 28.5 metres, with an additional 10% equates to 31.35 metres. The nearest residential properties are located well in excess of this distance. Although the turbine would be approximately 10 metres away from the edge of the playground associated with Forest Way School, the nearest school buildings would be 30 metres away from the base of the proposed turbine, although there is a greenhouse closer within the playground area. It is deemed that the scale and nature of the proposed replacement turbine is not likely to lead to any issues in terms of public safety despite proximity to the school. It is noted that the existing turbine occupies a position adjacent to the school playing field and the relationship with the playing field and playground would be similar despite the increased height and amended position of the proposed turbine.

Although one neighbour objection states that other "less invasive" energy options should be considered, the Local Planning Authority are duty bound to assess the application on its merits and would not assess any other options as part of this application.

#### *Shadow Flicker and Noise*

The guidance contained at a national level does not indicate that there are any significant safety or health risks as a result of wind turbines and on this basis it is considered that there would be minimal risks to the health and safety of neighbouring residents and properties. The NPPF also states that Local Planning Authorities should approve the application if its impacts are (or can

be made) acceptable and for the reasons stated above it is considered that there are no significant impacts in respect of a noise or shadow flicker.

The NPPG states that under certain combinations of geographical position and time of day, the sun may pass behind the rotors of a wind turbine and cast a shadow over neighbouring properties. When the blades rotate, the shadow flicks on and off; the impact is known as 'shadow flicker'. Only properties within 130 degrees either side of north, relative to the turbines can be affected at these latitudes in the UK - turbines do not cast long shadows on their southern side.

It is generally accepted that the potential for shadow flicker to occur is seriously diminished at a distance of ten times the rotor diameter of the turbine in question. The turbine would have a blade diameter of 20.6 metres and therefore the potential shadow flicker effect could be felt up to 206 metres, 130 degrees either side of north from the turbine.

Although No.41, No.43 and No.45 on the northern side of Stamford Drive would fall within this area, they would be on the very outer limits of the area potentially affected by shadow flicker. The two properties to the north east of the site, Warren Hills Cottage and The Croft are set on a slightly higher land level than the proposed turbine and any shadow flicker effect would be reduced, plus the proposed turbine would still be a significant distance away from these dwellings, namely 105 metres and 150 metres respectively.

In relation to noise output, the existing turbine has a noise output range between 45-65 A-weighted decibels (dBA) and the proposed turbine would measure between 90-100 A-weighted decibels (dBA). One neighbour objection was received stating that the proposed turbine would have a noise level double that of the existing turbine. The NPPG states that the 'Assessment and Rating of Noise from Wind Farms (ETSU-R-1997)' should be used by local planning authorities when assessing and rating noise from wind energy developments. Whilst the replacement turbine would equate an approximate increase of double the existing noise output level, on the basis that the supporting Noise Impact Assessment has been considered by the Council's Environmental Health Team who raise no objections to the proposal, it is deemed that the noise levels would remain acceptable and would not have a significant impact on the amenity of surrounding neighbours.

The guidance contained at a national level does not indicate that there are any significant safety or health risks as a result of wind turbines and on this basis it is considered that there would be minimal risks to the health and safety of neighbouring residents and properties. The NPPF also states that Local Planning Authorities should approve the application if its impacts are (or can be made) acceptable and for the reasons stated above it is considered that there are no significant impacts in respect of a noise or shadow flicker.

A recent written Ministerial Statement 'Local Planning' was published on 18 June 2015 which states:-

*"I am today setting out new considerations to be applied to proposed wind energy development so that local people have the final say on wind farm applications, fulfilling the commitment made in the Conservative election manifesto. Subject to the transitional provision set out below, these considerations will take effect from 18 June and should be taken into account in planning decisions. I am also making a limited number of consequential changes to planning guidance.*

*When determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if:-*

- the development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and
- following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing.

Where a valid planning application for a wind energy development has already been submitted, the local planning authority and the development plan does not identify suitable sites, the following transitional provision applies. In such instances, local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing."

In accordance with the statement, amendments to the relevant sections within NPPG has also been undertaken to reflect these changes.

On the basis of these aforementioned considerations, it is deemed that the proposed replacement wind turbine would not lead to any significant detrimental impacts in terms of noise or shadow flicker and the Local Planning Authority is satisfied through the consultation process that the planning related issues identified by neighbouring properties have been considered and addressed as part of the application process. Accordingly, while officers recommend that the proposed wind turbine would comply with guidance contained within the NPPF and Policy E3 of the Adopted Local Plan, ultimately it is for Members to decide, as decision makers, whether they are also satisfied that all issues had been addressed. .

### **Highway Considerations**

The scheme has been considered by the County Highway Authority (CHA) and no objection has been raised, subject to a construction site management plan being agreed prior to the commencement of development. Therefore, subject to conditions, the application is deemed to have an acceptable impact on highway safety.

### **Aviation**

The NPPG states that wind turbines may have an adverse impact upon air traffic movement and safety either through the risk of collision with low flying aircraft or through interference with the operation of radar. No objections have been received to the proposal by NATS and advice has been provided by the Civil Aviation Authority. The proposal is therefore considered not to impact upon aviation safeguarding requirements.

### **Electromagnetic Interference**

It is recognised within the NPPG that wind turbines can potentially affect electromagnetic transmissions and that specialist organisations responsible for the operation of electromagnetic links typically require 100 metre clearance either side of a line of sight link from the swept area of turbine blades. The proposal has been considered by the Joint Radio Company who has raised no objection to the proposal based on known interference scenarios to radio systems operated by utility companies in support of their regulatory operational requirements. It is therefore not considered that the proposal would cause any electromagnetic interference.

### **Conclusion**

The NPPF states that there is a presumption in favour of sustainable development and that for decision-making this means approving development proposals that accord with the Development Plan, without delay.

There is specific planning policy support for the development of renewable energy projects at a

national level and it is considered that the proposed erection of a 75 kW wind turbine would contribute to the overall outputs of renewable energy. It is however considered that these positive benefits of renewable energy of the proposed development must be carefully balanced against the harmful impacts and perceived impacts.

The scheme has been assessed from its landscape and visual impacts, impacts upon the heritage assets, impact upon residential amenity in relation to safety, noise and shadow flicker, ecology and other associated impacts including highway considerations, aviation and electromagnetic interference. The scheme is considered not to cause any significant impacts in respect of these considerations and there are no other material impacts identified that would indicate that the proposal is not in compliance with local development plan policies and overarching government guidance.

The NPPF supports the transition to a low carbon future in a changing climate by encouraging the use of renewable resources and the development of renewable energy and that local planning authorities should approve the application if its impacts are (or can be made) acceptable.

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

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

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

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

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

- Location Plan Drawing No.PS-01, received by the local planning authority on 7th August 2015;
- Site Plan Drawing No.PS-02, received by the local planning authority on 7th August 2015;
- Turbine Elevations and Diameter Drawing at Scale 1:100, received by the local planning authority on 27th May 2015.

*Reason- to ensure complete and proper development of the site.*

- 3 The overall height of the turbine shall not exceed 28.5 metres to the tip of the blades or 18.04 metres to the hub height, when the turbine is in the vertical position, as measured from natural ground level immediately adjacent to the turbine base. The diameter of the blades of the turbine shall not exceed 20.63 metres and there shall be no more than 3 blades.

*Reason- To define the scale parameters of the development, and to ensure that the ecological, noise and visual impacts of the turbine do not vary during its lifetime.*

- 4 All cabling on the site between the turbine and the connection point shall be installed

underground.

*Reason- In the interests of visual amenity.*

- 5 The permission hereby granted shall endure for a maximum period of 20 years from the date when electricity is first exported from the wind turbine to the electricity grid network (the 'First Export Date'). After such time the use shall cease and the turbine and associated equipment shall be removed from site in accordance with Condition 7.

*Reason - To ensure development appropriate for the area and to prevent unnecessary clutter within the landscape.*

- 6 Written confirmation of the First Export Date of electricity to the National Grid from the wind turbine hereby approved shall be provided to the Local Planning Authority within one month of the date of this taking place.

*Reason - To enable proper record to be kept of operational wind turbines to aid aviation safeguarding.*

- 7 Not less than one year prior to the expiry of this permission a Decommissioning Method Statement shall be submitted to and in agreed in writing by the Local Planning Authority. This shall include details of the works for the removal of the turbine, ancillary equipment and structures, foundations, works for the restoration of the site and the proposed timetable for the works to be carried out. The decommissioning works shall then be carried out in accordance with the agreed Decommissioning Method Statement.

*Reason - To ensure development appropriate for the area and to prevent unnecessary clutter within the landscape.*

- 8 Should the wind turbine hereby approved no longer be required for the purposes of electricity generation or cease to operate for a continuous period of 6 months then a Decommissioning Method Statement as per the requirements of Condition 8 shall be submitted to and agreed in writing by the Local Planning Authority within 3 months of the end of the 6 months cessation period. The decommissioning works shall then be carried out in accordance with the agreed Decommissioning Method Statement.

*Reason - To ensure development appropriate for the area and to prevent unnecessary clutter within the landscape.*

- 9 All cables shall be set underground.

*Reason - In the interests of visual amenity.*

- 10 The noise levels should not exceed those as specified within the submitted Acoustic Assessment, received 27th May 2015, unless an updated or amended Acoustic Assessment is first submitted to and approved in writing by the Local Planning Authority.

*Reason - The information provided is for a candidate turbine and in the interests of residential amenity.*

- 11 No development shall commence on the site until such time as a construction traffic/site management plan, including wheel cleansing facilities and vehicle parking facilities, and



a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

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

**Notes to applicant**

- 1 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 2015.
- 2 The turbine should be sited in accordance with the *"Bats and onshore wind turbines Interim guidance: Natural England Technical Information Note TIN051, Third edition 11 March 2014"* to ensure that the wind turbine would not have any detrimental impact on protected species.

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Prior approval notification for change of use from agricultural building to a residential dwelling

Report Item No  
A6

Lowlands Farm Measham Road Oakthorpe Swadlincote  
Leicestershire DE12 7RF

Application Reference  
15/00749/PDNATR

Applicant:  
Redfern Bros

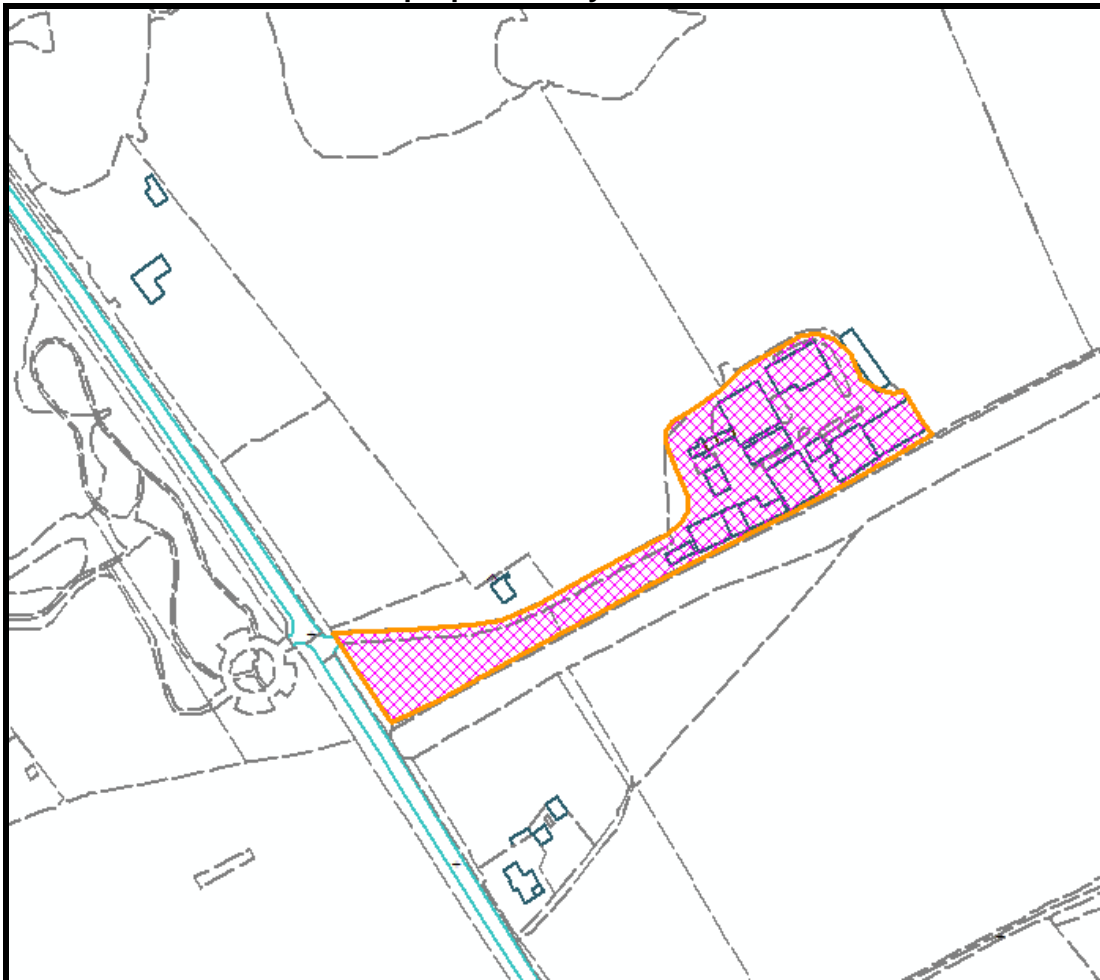
Date Registered  
27 July 2015

Case Officer:  
Sarah Booth

Target Decision Date  
7 September 2015

Recommendation:  
**NO OBJECTIONS**

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



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## **Executive Summary of Proposals and Recommendation**

### **Call In**

The application falls to be determined by the Planning Committee as the agent is related to Cllr Richard Blunt.

### **Proposal**

This is an application for prior notification under Part 3 Class Q of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use of an existing agricultural building to create a new dwelling. The barn is a former mill that is currently used for a combination of agricultural storage, a workshop and kennels for working dogs. The building is attached to the original farm house and is located within the main farming unit at Lowlands Farm.

The General Permitted Development (England) Order 2015 grants permitted development rights to allow for certain types of development without the need for planning permission. However, in cases such as this, it is necessary to seek prior approval from the Local Planning Authority as to whether specified elements of the development are acceptable before work can proceed. The assessment criteria for prior notification applications are strictly limited to those defined in the General Permitted Development Order 2015; the specifics of which have been identified in the detailed report. The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. If a decision does not reach the applicant within the 8 week expiry date then the development would be permitted by default.

### **Consultations**

No letters of representation to the application have been received from third parties, to date, and no adverse comments have been received from statutory consultees. Any relevant comments received following the publication of the Planning Committee Agenda will be reported to members on the Committee Update Sheet.

### **Planning Policy**

It is considered that the development would accord with Town and Country Planning (General Permitted Development) (England) Order 2015, all relevant policies of the North West Leicestershire Local Plan and the general principles of the National Planning Policy Framework (NPPF).

### **Conclusion**

The scheme does not give rise to any significant material impacts upon the design of the building or the appearance of the site. The proposal would be acceptable with regard to highway safety, noise implications, contamination risks on the site (subject to conditions) and flooding risks on the site. Furthermore the Location is considered to be appropriate given that there are existing residential properties on site including the existing attached farmhouse. The development would accord with the criteria set out in the General Permitted Development Order 2015, advice within the NPPF and Policies E3, E4, T3 and T8 of the Local Plan. It is therefore recommended that this prior notification application be allowed.

### **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 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 prior notification application seeks permission for the conversion of an existing barn to a residential dwelling. The existing building is a former mill that is currently used for a combination of agricultural storage, a workshop and kennels for working dogs. The barn in question adjoins the north eastern wall of the existing farmhouse and is situated at least 200 metres from the nearest highway. The next neighbouring dwellinghouse is located some 115 metres to the south west of the development.

The site lies outside limits to development as defined in the North West Leicestershire Local Plan however the principal of the development is only subject to assessment criteria identified in the General Permitted Development Order 2015. Therefore the principle of and the need for the proposed dwelling (Policy S3 of the Local Plan) cannot be considered as part of this prior notification application.

The General Permitted Development Order 2015 makes it clear that, where a development falls under Part 3 Class Q of Schedule 2 of the Order, the local planning authority can only determine whether prior approval will be required in relation to 6 specific matters. Those matters that fall for consideration are:-

- Transport and highways impacts of the development
- Noise impacts of the development
- Contamination risks on the site
- Flooding risks on the site
- Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to use as a dwelling house
- The design or external appearance of the building

The LPA may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The Order also imposes some standard conditions on any development that is classified as general permitted development under Part 3, Class Q of Schedule 2.

This report therefore refers only to those 6 matters identified above.

### Relevant Planning History:-

No relevant planning history.

### 2. Publicity

2 Neighbours have been notified

Site Notice displayed 4 August 2015

### 3. Consultations

Oakthorpe & Donisthorpe Parish Council consulted  
 County Highway Authority  
 Environment Agency  
 Severn Trent Water Limited  
 Head of Environmental Protection  
 Natural England-

#### 4. Summary of Representations Received

The following summary of representations is provided.

##### Statutory Consultees

**Oakthorpe & Donisthorpe Parish Council** - No response received at the time of writing this report but should any comments be received they will be reported to Members via the Update Sheet.

**Leicestershire County Council Highways** - On the basis of the Highway Authority's site visit, conducted on the 18th August 2015, the Highway Authority find that it is reasonable to suggest that this proposal will not cause a severe impact on the highway network, has acceptable visibility splays and existing access. Therefore the Highway Authority has no further comment to make.

##### Advisory Note to Applicant

The proposal is situated in excess of 45 metres from the highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.

**Environment Agency** - Have reviewed the application and have no comments to make.

**Severn Trent Water Ltd** - No objection to the proposal.

**NWLDC Environmental Protection** have recommended a land contamination condition due to the history of the site.

**Natural England** - have raised no objection to the proposal but have recommended conditions to be attached if permission is granted relating to the River Mease Special Area of Conservation (SAC).

No third party letters of representation have been received at the time of writing this report.

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

#### 5. Relevant Planning Policy

##### National Policies

*Town and Country Planning (General Permitted Development) (England) Order 2015 Part 4, Class Q of Schedule 2.*

##### *National Planning Policy Framework*

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

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

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

Paragraph 14 (Presumption in favour of sustainable development)  
Paragraph 17 (Core planning principles)  
Paragraph 57 (Requiring good design)  
Paragraph 59 (Requiring good design)  
Paragraph 60 (Requiring good design)  
Paragraph 61 (Requiring good design)  
Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 173 (Ensuring viability and delivery)  
Paragraph 203 (Planning conditions and obligations)  
Paragraph 204 (Planning conditions and obligations)

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

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

Policy E3 - Residential Amenity  
Policy E4 - Design  
Policy T3 - Highway Standards  
Policy T8 - Parking

#### **Other Policies**

#### **6Cs Design Guide (Leicestershire County Council)**

#### **Submission Core Strategy**

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

### **6. Assessment**

#### **Highways**

The site is accessed off Measham Road in Oakthorpe from a 160 metre long track road. It is considered that the proposed new dwelling will only give rise to minimal increase in traffic movements. The development will have acceptable visibility splays from the existing access and the County Highway Authority has determined that it is reasonable to suggest that this proposal will not cause a severe impact on the highway network. Therefore, it is not considered that the proposal would conflict with highway safety policies T3 and T8 in the Local Plan or the advice in the NPPF.

The County Highways have suggested an advisory note to applicant regarding adequate access for emergency vehicles. It is recommended to include this advice should the application be approved.



**Noise impacts**

The Council's Environmental Protection Officer has no objection to the proposal and has not raised any concerns regarding noise implications. Therefore it can be concluded that the proposed dwelling will have an acceptable level of residential impact in accordance with Policy E3 of the Local Plan.

**Contamination risks on the site**

The Council's Environmental Protection Officer has advised that it is necessary to attach a condition regarding decontamination of the land should permission be granted.

**Flooding risks on the site**

The site is not within a flood zone and no objections have been raised by the Environment Agency.

**Location**

The location of the proposal must be considered to ensure it would not be impractical or undesirable for the building to change from an agricultural building to a dwelling. Immediately adjoining the subject property is Lowlands Farmhouse which is occupied as a dwelling. The proposal also lies in close proximity to a cluster of other agricultural buildings including an agricultural corn storage building to the north east. It is intended that the barn conversion would be occupied by a farm worker therefore it is not considered that the close proximity of agricultural buildings would be a concern.

The site is located approximately 170 metres from the main highway and is not visible from a public vantage point. The area immediately beyond the farming unit consists mostly of open countryside but also includes a residential bungalow part way along the access track to the farm, which is some 120 metres away from the proposal. Given that there are other residential properties on site, including the attached farm house, it is considered that the location of the building is acceptable in this regard.

**Design**

This proposal consists of the conversion of an existing red brick agricultural building which would not significantly alter externally other than some minor fenestration alterations. The submitted plans show that the proposal will be sympathetically converted and that this will have a positive visual impact on the surrounding area with the barn being properly maintained. The proposal is therefore considered to respect the character of its surroundings in terms of scale, design, density, height, massing and materials of construction and as such would be compliant with Policy E4 of the Local Plan and section 7 of the NPPF.

**River Mease**

The site lies within the catchment area for the River Mease Special Area of Conservation. Whilst the impact of the building on the SAC cannot be taken into account when determining this submission, the applicant is required to obtain prior approval before undertaking something that is permitted development that might have a likely significant effect on the SAC. Natural England can be requested to provide an opinion as to the likelihood of a development having a likely significant effect. A note to applicant should therefore be imposed advising the applicant of this matter.

It is noted that Natural England have recommended conditions should the application be allowed. However, as this type of prior notification cannot consider the SAC it would not be possible to attach conditions relating to the River Mease in this instance.

**Other**

The proposed development lies within an area which could be subject to risks or hazards resulting from past coal mining. Whilst this is not a material consideration for this notification application it is recommended that an informative note to applicant is included if permission is granted.

**Conclusion**

There have been no objections to the proposed development. The submission has been assessed against the criteria set out under Part 3 Class Q of the General Permitted Development (England) Order 2015 and has been found to comply with all of them. The size of the building would not increase and would be of a similar character and appearance to the existing structure on the site. It is therefore considered that the proposal would not have any significant detrimental impact on the character and appearance of the building or the site as a whole. As such the proposal would accord with Section 7 of the NPPF and Policy E4 of the Local Plan. The proposal would not have detrimental impacts on noise in accordance with Policy E3 of the Local Plan. Land contamination issues are considered to be acceptable subject to conditions and no concerns have been raised in relation to flooding. The County Highway Authority has raised no objections to the development and the proposal will not be detrimental to highway safety. This would therefore comply with policies T3 and T8 in the Local Plan and the advice in the NPPF.

There are no other relevant material planning considerations that indicate the application should not be granted prior approval. The proposed development accords with the planning policies stated above and it is therefore recommended that prior approval be granted.

**RECOMMENDATION - NO OBJECTIONS, subject to 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 amended plans, unless otherwise required by a condition of this permission:

Proposed Plans drawing number Low.PRE.002 received by the Local Planning Authority on 27 July 2015

Proposed Elevations drawing number Low.PRE.004 received by the Local Planning Authority on 27 July 2015

Site Location Plan received by the Local Planning Authority on 27 July 2015

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

- 3 All external materials used in the development hereby permitted shall be of the same type, texture and colour as those used in the existing building, unless otherwise agreed in writing by the Local Planning Authority.

*Reason- to ensure a satisfactory standard of external appearance.*

- 4 No development shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
- o BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
  - o BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)
  - o BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
  - o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

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

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

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

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

The development shall be carried out in accordance with the agreed Remedial Scheme and Verification Plan.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

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

- 5 Prior to occupation of the building hereby approved, a Verification Investigation shall be undertaken in line with the agreed Verification Plans for any works outlined in the Remedial Schemes and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:
- o Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;

- o Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- o Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
- o Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- o Demonstrate the effectiveness of the approved Remedial Scheme; and
- o Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

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

### Notes to applicant

- 1 The site lies within the catchment area for the River Mease Special Area of Conservation (SAC)/SSSI. I would suggest that you contact Natural England (0300 060 3900) for an opinion as to whether the proposed building is likely to have a significant effect on the special features of the SAC/SSSI. If this is considered to be the case then written prior approval from the Local Planning Authority will be required before the development can be carried out. If you do not consult Natural England first regarding this matter, you will need to make an application direct to the Local Planning Authority for written prior approval of the development.
- 2 The proposal is situated in excess of 45 metres from the highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
- 3 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)

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Erection of two storey and single storey side and rear extensions

Report Item No  
A7

10 Churchill Close Ashby De La Zouch Leicestershire LE65  
2LR

Application Reference  
15/00710/FUL

Applicant:  
Mr Matthew Hines

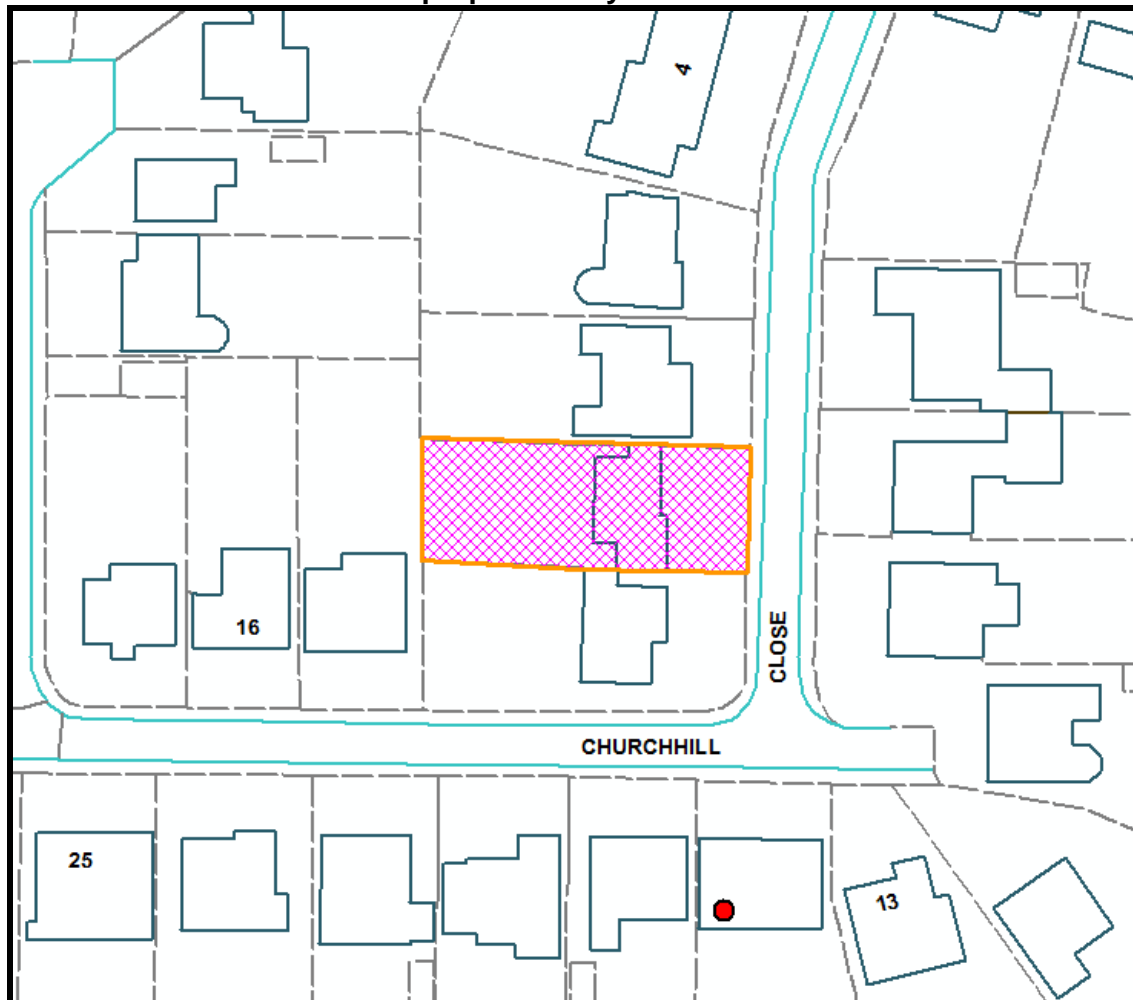
Date Registered  
9 July 2015

Case Officer:  
Sarah Booth

Target Decision Date  
3 September 2015

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

### Call In

The application is reported to the Planning Committee at the request of Councillor Jim Hoult as a matter of local concern in respect of impact on residential amenity.

### Proposal

Planning permission is sought for the erection of two storey and single storey side and rear extensions to the existing dwelling at 10 Churchill Close. The subject property is a two storey detached dwelling situated on the west side of the street and is located within Limits to Development.

### Consultations

Members will see from the report below that one objection has been received from the neighbouring dwelling but no objections have been raised from any statutory consultees.

### Planning Policy

The development is considered to comply with the relevant policies of the North West Leicestershire Local Plan as well as guidance contained within the National Planning Policy Framework.

### Conclusion

The site is situated within the defined limits to development where the principle of this form of development would be acceptable. Given the relationship with neighbouring properties and the overall scale and design of the extensions it is considered that they would not impact significantly on the amenities of neighbours, in terms of overbearing, overshadowing or overlooking impacts, and as such the development would accord with Policy E3 of the Local Plan. It is considered that the proposed extensions would be subservient to the host property and would not have a significantly detrimental impact on the character of the property or the street scene. The surrounding area would also not be adversely affected by the proposals given the scale and position of the extensions. On this basis the development would accord with Policy E4 of the Local Plan. Sufficient off-street parking would be retained for the dwelling as such the development would accord with Policies T3 and T8 of the Local Plan. The proposal would not be likely to have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. The development therefore accords with the planning policies stated above.

### **RECOMMENDATION - PERMIT, subject to the conditions.**

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



## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of two storey and single storey side and rear extensions to the dwelling at No. 10 Churchill Close. The subject property is a detached two storey dwelling, situated within the cul-de-sac of 10 Churchill Close. The site is located in a predominantly residential area with dwellings surrounding the site. The subject property is located within Limits to Development.

The following works are proposed:

- A single storey rear extension to the main dwellinghouse to provide an extension to the lounge and dining area. This would measure 3.8 metres in depth from the original rear of the dwelling, 8.1 metres in width and would have a flat roof measuring 2.8 metres in height to the eaves and 3.4 metres in height to the top of the glazed roof lantern.
- A two storey side extension to the south of the site. This would measure 8.5 metres in length, 2.45 metres in width and would have a pitched roof with dormer windows. The proposed two storey side extension would have a lower eaves level at the rear than at the front with the rear eaves level measuring 3.55 metres in height and the front eaves level being 4.15 metres high. The maximum ridge height of the extension would be 6.9 metres in height which is 300mm lower than the existing maximum ridge height.
- A single storey side extension to the north of the site. This would measure 7.9 metres in length, 1.75 metres in width and would have a part pitched roof with a side gable and a part flat roof measuring 2.8 metres maximum in height to the eaves and 4.25 metres in height to the ridge.

### Relevant Planning History:

None

### 2. Publicity

6 neighbours have been notified (Date of last notification 21 July 2015)

### 3. Consultations

Ashby De La Zouch Town Council consulted 21 July 2015  
LCC Ecology

### 4. Summary of Representations Received

**Ashby Town Council** - No comments have been received at the time of writing this report but should any comments be received they will be reported to Members via the Update Sheet.

**Leicestershire County Council Ecologist** - has no objection to the proposal.

### Third Party Representations

One letter of representation has been received from members of the public objecting to the application on the following grounds:

- o Over development of the site.
- o Overbearing and dominant appearance.

- o The development being too close to the boundary.
- o Creation of a terracing effect.
- o Overshadowing and reduction to light.
- o Impacts to the outlook from neighbour's existing side facing windows.
- o Loss of privacy due to new first floor dormer windows.
- o The proposal would prevent maintenance and repairs of the gable ends.
- o Drainage related concerns.
- o Boundary fencing and party wall issues.
- o Concerns regarding foundations.

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

## **5. Relevant Planning Policy**

### **National Policies**

#### *National Planning Policy Framework*

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

Save where stated otherwise, the policies of the North West Leicestershire Local Plan as listed in the 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.

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

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

- Policy S2 - Limits to development
- Policy E3 - Residential Amenities
- Policy E4 - Design
- Policy T3 - Highway Standards
- Policy T8 - Parking

### **Other Policies**

6Cs Design Guide (Leicestershire County Council)

The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations');

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

River Mease Water Quality Management Plan - August 2011.

### **Submission Core Strategy**

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

## 6. Assessment

### Principle

The site is located within the Limits to Development as set out on the Proposals Map to the Local Plan where the principle of extensions to existing dwellings and outbuildings are considered acceptable subject to impacts upon design, amenity, highway safety and any other material considerations.

### Residential Amenity

With regards to the proposed extensions it is considered that the properties most immediately affected by the proposed works would be the adjacent neighbours on Churchill Close which are No. 8 to the north and No. 12 to the south of the application site. Both neighbouring properties are two-storey, detached dwellings. Whilst there is a neighbour to the rear of the site (No.14 Churchill Close) and several neighbours opposite these are not considered to be significantly affected by the proposed extensions as they are at least 15 metres away from the development.

At present a 1.8 metre high fence defines the boundary between the properties which stagger down the garden as the land levels decrease towards the rear of the site by up to 600mm. The proposed two storey part of the development to the south of the site, adjacent to No.12 Churchill Close, will extend 1.6 metres beyond the existing rear elevation.

The neighbour has raised concerns regarding the overdevelopment of the site and an overbearing impact, particularly of the two storey side extension. The side extension would only project 1.6 metres beyond the existing rear elevation and the neighbouring property at No.12 is positioned slightly further back than the application site. Whilst the development is in close proximity to the boundary it is not considered to be overbearing due to its limited projection. Furthermore the height of the extension is lower than the original property which helps to reduce the overall impact. It was also noted that the neighbour's nearest windows to the development serve a utility room which is not a habitable room.

The single storey rear extension will extend another 2.2 metres beyond the side extension, but will be set in approximately 2.5 metres from No.12 Churchill Close and 1.8 metres from No.8 Churchill Close. The proposal includes ground floor side facing windows on each side of the single storey rear extension. It is considered that the existing boundary treatment, as well as mature vegetation, would be sufficient in ensuring the windows would not overlook either neighbour. It was noted that both neighbouring properties have existing single storey rear extensions with side facing windows towards the site, these are both largely screened by the existing boundary treatment.

A concern has been raised regarding the potential for the first floor dormer window to overlook the neighbour's private amenity space. Whilst the dormer would be closer to the boundary than the existing first floor windows, its relationship to the neighbour is not considered to be significantly different from that of windows on a typical semi-detached property. As such it is not considered a refusal could be sustained on the grounds of overlooking.

Whilst the proposal will be sited in close proximity to the neighbouring dwellings the footprint has been set in marginally from the boundary line to allow for an eaves overhang. The proposal has been found to be compliant with the 45 degree code of practice and on balance it is considered that the development would not have a sufficiently detrimental overbearing or overshadowing impact for the reasons stated above.

On balance it is not considered that the proposed extensions would result in any significant

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

### **Design**

Consideration has also been given to the design of the extensions and whether they have an acceptable impact upon the character and appearance of the dwelling itself, and the street scene.

The proposed extension and alterations to the property would be subservient features which would not impact significantly on the character and appearance of the property given that they have been designed in a manner which would respect the characteristics of the property. The lower roof height of the two storey element is considered to be subordinate to the existing property and is sufficient in overcoming a terracing effect in the street scene.

Whilst the flat roof parts of the single storey development are not ideal in relation to the design of the original property, these cannot be seen from the street scene and would not be detrimental to the appearance of the existing or neighbouring properties. As such the extensions would also not have an adverse impact on the appearance of the streetscape and surrounding area.

The proposed developments would be constructed using brick and render, concrete roofing tiles and UPVC windows and doors. These materials would match those used on the existing dwelling and ensure that the extension appears well related to the main dwellinghouse and the surrounding area. Therefore, and in view of the above, the design, appearance and scale would be acceptable and would accord with Policy E4 of the Local Plan.

Overall, the design, appearance and scale of this proposal is acceptable and would not look out of keeping with the character and appearance of the surrounding area or the existing dwelling and is considered to be compliant with Policy E4 of the Local Plan and the advice in the NPPF.

### **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 paragraph 118 of the National Planning Policy Framework. 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 development would not lead to the overall occupancy levels of the dwelling significantly increasing and the provision of more modern water-efficient facilities in the kitchen and bathrooms would lead to an overall decrease in foul drainage discharge from the site. Surface water run-off would be directed to a soak-away which would not connect into the mains drainage and as such the integrity of the River Mease SAC would be preserved.

Therefore, it can be ascertained that the proposal on the site will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important features of the River Mease SAC, or any of the features of special scientific interest of the River

Mease SSSI.

### Highways

The County Councils 6C's Design Guidance states that two parking spaces should be provided for three bedroom dwellings in suburban or rural areas or other locations where car ownership is likely to be higher than locations that are better served by public transport. The site is capable of providing at least 2 off street spaces and as such it is deemed that an acceptable level of parking would remain and the application would not have any detrimental impact on highway safety. No objections have been raised by the Highway Authority and the application would therefore accord with the 6C's Design Guidance and Policies T3 (Highways) and T8 (Parking) of the Local Plan.

### Letter of Representation

Issues have been raised by the neighbouring property relating to the location of boundary fencing being on the neighbour's land and requesting it should be moved to the applicant's side. The neighbour also objects to the laying of foundations on their property. Concerns have also been raised regarding the party wall act and the future maintenance to each property. These issues are not material planning considerations and therefore cannot be considered in the determination of the application.

### Other

The County Ecology officer advises that as this is an urban area with small gardens and little bat foraging habitats nearby no surveys or action is required.

### Conclusion

The objections raised by the neighbour have been taken into consideration, however on balance it is considered that the proposal is not considered to detrimentally affect residential amenity or have any significant design implications which would warrant refusal of this application. The site is situated within the defined limits to development where the principle of this form of development would be acceptable. It is considered that the positioning of the extension, its design and the orientation of the properties would ensure that there would not be a detrimental impact on the amenities of neighbours and as such the development would accord with Policy E3 of the Local Plan. In terms of the design it is considered that the aesthetics of the property would be acceptable and would not be out of keeping with the character of the street scene and will therefore accord with Policy E4 of the Local Plan. Sufficient off-street parking would be maintained for the dwelling and as such the development would accord with Policies T3 and T8 of the Local Plan. The proposal would not be likely to have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. It is therefore recommended that the application be permitted.

There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the Local Plan, in this case S2, E3 and E4 and the advice in the NPPF. It is therefore recommended that the application be permitted.

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

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

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

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

Site Location Plan received by the Local Planning Authority on 09 July 2015  
Proposed Side Elevation received by the Local Planning Authority on 03 July 2015  
Proposed Ground Floor Plan received by the Local Planning Authority on 09 July 2015  
Proposed First Floor Plan received by the Local Planning Authority on 09 July 2015  
Proposed Front Elevation received by the Local Planning Authority on 09 July 2015  
Proposed Rear Elevation received by the Local Planning Authority on 09 July 2015  
Proposed Side Elevation received by the Local Planning Authority on 09 July 2015

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

- 3 All external materials used in the development hereby permitted shall be of the same type, texture and colour as those used in the existing building, unless otherwise agreed in writing by the Local Planning Authority.

*Reason- to ensure a satisfactory standard of external appearance.*

- 4 Before the external materials to the roof are installed to the proposed extension the means of drainage for surface water run-off from the extension to soakaway or another alternative sustainable drainage system so that the surface water does not enter the mains sewer system, (unless otherwise agreed in writing by the Local Planning Authority) shall be provided in full on the site, and shall thereafter be retained in perpetuity.

*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.*

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.



## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application is brought to the Planning Committee as the applicant is related to a serving Councillor (Richard Blunt).

### Proposal

Permission is sought for the variation of Conditions 2 and 6 associated with planning permission references 12/01006/FUL and 13/00695/NMA to incorporate "as built" changes on a development relating to the conversion of a curtilage listed stable block into three dwellings at Breedon Hall, Main Street, Breedon on the Hill.

### Consultations

In the circumstances that the proposed access off The Delph is omitted from the application it is considered that there are no objections from statutory consultees or third parties to the "as built" changes.

### Planning Policy

It is considered that the development would comply with all relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant Policies of the North West Leicestershire Local Plan, Circular 06/05 and Sections 66 and 72 of the Planning (Listed Buildings and Conservation) Act 1990.

### Conclusion

The 'as built' changes are relatively minor, in the context of the development as a whole, and also propose the omission of features that are no longer required. In the circumstances that the Council's Conservation Officer has raised no objections it is considered that the significance of the heritage assets would be preserved which would accord with Paragraphs 131, 132 and 134 of the NPPF, Policy E4 of the Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Sufficient off-street parking would also be provided for the dwellings in accordance with Paragraph 39 of the NPPF and Policy T8 of the Local Plan.

No protected species would be impacted on which ensures compliance with Paragraph 118 of the NPPF and Circular 06/05.

It is therefore recommended that the application be permitted.

### **RECOMMENDATION - APPROVE, subject to conditions;**

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



## MAIN REPORT

### 1. Proposals and Background

This is an application under Section 73 of the Town and Country Planning Act 1990 to "vary" conditions 2 and 6 of planning permission 12/01006/FUL (subsequently varied by planning permission reference 13/00695/NMA) for the 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 (the non material amendment application (NMA) related to the removal of a non-original chimney and formation of three roof lights on the north-east roof plane) at Breedon Hall, Main Street, Breedon on the Hill, which was approved on the 13th February 2012 (NMA Approved on the 14th November 2013). Section 73 relates to development of land without complying with conditions subject to which a previous planning permission was granted. The Council, in considering this application, is only entitled to consider the question of the conditions subject to which planning permission should be granted. Conditions 2 and 6 attached to 12/01006FUL which the applicant wishes to vary are listed below:

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 22 November 2012;*

*Drawing Number 2070 - 02 A received by the Local Planning Authority on 22 November 2012;*

*Drawing Number 2070 - 03 received by the Local Planning Authority on 22 November 2012;*

*Drawing Number 2070 - 04 received by the Local Planning Authority on 22 November 2012.*

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

6. *The car parking spaces shown on drawing number 2070 - 02 A shall be provided prior to first occupation of any of the residential units and shall thereafter be available for the parking of vehicles at all times.*

*Reason - to ensure that an adequate level of off-site car parking is required and to avoid against off-street car parking associated with the development.*

Various changes have been made which conflict with the approved plans and as such an application has been submitted to rectify this issue following an enforcement investigation 15/00049/LB, with the changes being as follows: -

1. The roof light positions have changed although the total number would remain the same;
2. The omission of one new window on the rear elevation of Unit 1;
3. The installation of polycarbonate sheeting over the original coal drop to Unit 1 to provide additional day light to the stair in this dwelling;
4. The provision of a window in the area of the building previously designated to be the bin store, although this would now become a communal laundry room serving Units 1, 2 and 3;
5. The omission of the previously designated new plant room at the northern end of the building;

The above changes are 'as built' changes and whilst the application originally sought permission for the provision of a vehicular access to and from The Delph, this element of the proposal has now been removed from this particular application following the concerns raised by the Council's Conservation Officer.

An application for listed building consent to regularise the works, referenced 15/00637/LBC, is also under consideration with the Local Planning Authority and forms the basis of a separate report.

A design and access statement and heritage statement have been submitted in support of the application.

The planning history of the site is as follows: -

- 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 (listed building consent) - Approved 13th February 2013;
- 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 roof-lights on north east roof plane) - Approved 14th November 2013.

## 2. Publicity

5 Neighbours have been notified (Date of last notification 16 July 2015)

Site Notice displayed 17 July 2015

Press Notice published 29 July 2015

## 3. Consultations

Breedon On The Hill PC consulted 16 July 2015

Christine James/ Matt Savage consulted 16 July 2015

Severn Trent Water Limited consulted 16 July 2015

English Heritage- Grade I/II\* LB Works consulted 16 July 2015

County Highway Authority consulted 16 July 2015

County Archaeologist consulted 16 July 2015

LCC ecology consulted 16 July 2015

NWLDC Conservation Officer consulted 16 July 2015

## 4. Summary of Representations Received

The following summary of representations is provided.

**Breedon on the Hill Parish Council** objects to the application on the following grounds:-

- *"We believe that the desirability of preserving the building which is Grade II Listed would be overridden by the loss of the existing exterior wall fronting The Delph;"*
- *"Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 makes it clear that in considering whether to grant planning permission which affect a listed building or its setting the decision maker shall have special regard to the desirability of preserving the building or its setting."*

**Historic England** advise that the application should be determined in accordance with national and local policy guidance, and on the basis of the Local Authority's specialist conservation advice.

**Leicestershire County Council - Archaeology** no representation received.

**Leicestershire County Council - Ecology** has no comments to make on the variations given that the works have been carried out.

**Leicestershire County Council - Highways** has no objections subject to the imposition of conditions on any consent granted.

**NWLDC - Conservation Officer** has no objections to the 'as built' changes to the building but does object to the formation of a new vehicular access off The Delph as it would weaken the strong boundary treatment of the listed building and curtilage listed building and would not preserve the character and appearance of the conservation area.

### Third Party Representations

Two no. representations have been received from the occupants of the Old Vicarage and No. 52 Main Street who object to the application and whose comments are summarised as follows: -

- It is stated that the new vehicular access is required for the convenience of residents, however, it would surely not be too inconvenient to expect residents to use the existing driveway which is only a few metres away;
- It cannot be acceptable to shoehorn a pair of modern timber gates into such an historic structure as this wall;
- The proposal would be incongruous with it not being relevant that, as the wall was 'non-original', it is less important as this is irrelevant when considering the wall as a complete entity: an historic boundary wall that surrounds the grounds of the house;
- It is perfectly possible to rebuild the section of wall that has been demolished as a similar section was successfully rebuilt along The Delph just a few years ago;
- The heritage statement at Paragraphs 1.12, 1.13, 11.1 and 11.3 contradict the statement within Paragraph 15.3 of the Heritage Appraisal with the proposed access being visually detrimental and resulting in impacts on highway safety.

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

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

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

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

Paragraph 10 (Achieving sustainable development);

Paragraph 14 (Presumption in favour of sustainable development);  
 Paragraph 17 (Achieving sustainable development);  
 Paragraph 28 (Supporting a prosperous rural economy);  
 Paragraph 32 (Promoting sustainable transport);  
 Paragraph 39 (Promoting sustainable transport);  
 Paragraph 49 (Delivering a wide choice of high quality homes);  
 Paragraph 53 (Delivering a wide choice of high quality homes);  
 Paragraph 55 (Delivering a wide choice of high quality homes);  
 Paragraph 57 (Requiring good design);  
 Paragraph 60 (Requiring good design);  
 Paragraph 61 (Requiring good design);  
 Paragraph 111 (Conserving and enhancing the natural environment);  
 Paragraph 118 (Conserving and enhancing the natural environment);  
 Paragraph 123 (Conserving and enhancing the natural environment);  
 Paragraph 128 (Conserving and enhancing the historic environment);  
 Paragraph 129 (Conserving and enhancing the historic environment);  
 Paragraph 131 (Conserving and enhancing the historic environment);  
 Paragraph 132 (Conserving and enhancing the historic environment);  
 Paragraph 134 (Conserving and enhancing the historic environment);  
 Paragraph 137 (Conserving and enhancing the historic environment);  
 Paragraph 141 (Conserving and enhancing the historic environment);  
 Paragraph 203 (Planning conditions and obligations);  
 Paragraph 204 (Planning conditions and obligations);

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

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

Policy S3 - Countryside;  
 Policy E3 - Residential Amenities;  
 Policy E4 - Design;  
 Policy E7 - Landscaping;  
 Policy T3 - Highway Standards;  
 Policy T8 - Parking;  
 Policy H4/1 - Housing Land Release;  
 Policy H6 - Housing Density;  
 Policy H7 - Housing Design;

**Other Policies**

National Planning Practice Guidance

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

**6Cs Design Guide (Leicestershire County Council)**

The 6Cs Design Guide sets out the County Highway Authority's requirements in respect of the design and layout of new development;

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

Circular 06/2005 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should

have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites;

### **Planning (Listed Buildings and Conservation Areas) Act 1990**

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 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.

### **6. Assessment**

The principle of the works associated with the conversion of the building into residential units has been established as being acceptable by virtue of the approval of application references 12/01007/FUL and 13/00695/NMA. In these circumstances the only matters for consideration relate to whether the 'as built' changes would impact on the historic integrity of the heritage assets.

### **Impact on the Historic Environment and Streetscape**

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 schemes (12/01006/FUL and 13/00695/NMA) 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.

In respect of the 'as built' changes which have occurred to the converted dwellings, the Council's Conservation Officer has commented that *"I consider the alterations to generally be acceptable and have a minimal impact on the historic fabric, character and appearance of the outbuildings. The majority of the changes relate to fenestration and I consider these to be sufficiently sympathetic and of acceptable materials and suitability to have no undue impact on the heritage asset."* This aspect of the development is therefore considered to be appropriate and would preserve the significance of the heritage assets.

The initial concerns of the Council's Conservation Officer and residents have been addressed by deleting the proposed access to the site from The Delph.

On this basis the proposed development would accord with Paragraphs 131, 132 and 134 of the NPPF, Policy E4 of the Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Highway Safety**

The County Highways Authority have raised no objections to the proposed works although it is noted that the vehicular access proposed off The Delph is no longer being progressed as part of this particular application.

Comments from the County Highways Authority have indicated that the parking space dimensions would not accord with the guidelines contained in the 6C's Design Guide however

this is only relative to their length which is 0.5 metres short. It is considered that sufficient space exists to increase this length and still allow vehicles to manoeuvre and as such Condition 6 would be reworded accordingly to ensure that sufficient off-street parking is provided. Overall the development would remain compliant with Paragraph 39 of the NPPF and Policy T8 of the Local Plan.

### **Ecology**

The proposal seeks amendments and omissions to the development and as such would not result in any greater impacts on protected species than the scheme originally approved which ensures the development complies with Paragraph 118 of the NPPF and Circular 06/05.

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

The 'as built' changes are relatively minor, in the context of the development as a whole, and also propose the omission of features that are no longer required. In the circumstances that the Council's Conservation Officer has raised no objections it is considered that the significance of the heritage assets would be preserved which would accord with Paragraphs 131, 132 and 134 of the NPPF, Policy E4 of the Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Sufficient off-street parking would also be provided for the dwellings in accordance with Paragraph 39 of the NPPF and Policy T8 of the Local Plan.

No protected species would be impacted on which ensures compliance with Paragraph 118 of the NPPF and Circular 06/05.

It is therefore recommended that the application be permitted.

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

- 1 The development shall be carried out in strict accordance with drawing number 2070 - 03 (Site Location Plan), received by the Local Authority on the 9th September 2013, as agreed under application reference 13/00695/NMA, and the following drawing numbers, with the exception of the proposed vehicular access off The Delph which is not approved: -
  - Drawing Number 2070 - 01 A (Survey as Existing);
  - Drawing Number 2070 - 02 E (Proposed Plans & Elevations);
  - Drawing Number 2070 - 04 A (Block Plan);
 received by the Local Authority on the 14th July 2015, unless otherwise required by another condition.

*Reason - to determine the scope of the permission.*

- 2 Notwithstanding the details shown on Drawing No. 2070-04A, this planning permission does not authorise the provision of a vehicular access off The Delph as confirmed by the agents e-mail dated 12th August 2015.

*Reason - for the avoidance of doubt.*

- 3 The development shall be constructed in accordance with the following materials: -
  - Bricks - Salvaged bricks;
  - Lintels - As shown on drawing numbers 2070 - 05 (Proposed Joinery Details for Doors)

and 2070 - 06 (Proposed Joinery Details for Windows), received by the Local Authority on the 5th September 2013;

- Roofing Materials - To match existing roof tiles if any are necessary;
  - Rain Water Goods - Black Powder Coated Aluminium Rainwater Goods and Proposed Outlet Pipes and Mechanical Extraction Systems as specified in the letter from David Richards of Montague Architects to James Mattley of the 4th September 2013 (Ref: DRR MAJ 2070), received by the Local Authority on the 5th September 2013, in the positions shown on drawing number 2070 - 02 C (Proposed Plans & Elevations), received by the Local Authority on the 5th September 2013;
  - Windows and Doors - As shown on drawing numbers 2070 - 05 (Proposed Joinery Details for Doors) and 2070 - 06 (Proposed Joinery Details for Windows) with the materials as specified on drawing number 2070 - 02 C (Proposed Plans & Elevations), received by the Local Authority on the 5th September 2013;
  - Rooflights - in accordance with the details supplied by the Rooflight Company on the drawing referenced CR\_WRCS\_LS\_B, received by the Local Authority on the 5th September 2013;
- As discharged in the correspondence from James Mattley to Andrew Shannon of Montague Architects of the 3rd October 2013 under application reference 12/01007/LBC.

*Reason - to ensure that the works are executed in an appropriate manner given the sites location in within the curtilage of a Listed Building.*

- 4 The development shall be carried out in accordance with the recommendations of the bat survey report prepared by Peter Harris of Train4ecology of September 2013 attached to an email from Andrew Shannon of Montague Architects to James Mattley of the 27th September 2013, received by the Local Authority on the 27th September 2013, and as discharged in the correspondence from James Mattley to Andrew Shannon of Montague Architects of the 3rd October 2013 under application reference 12/01006/FUL.

*Reason - to ensure that bats are not inhabiting the roofspace at the time that the development commences.*

- 5 No external lighting or floodlighting shall be installed unless precise details have first been submitted to and agreed in writing with the Local Planning Authority.

*Reason - in the interests of the visual amenities of the locality, the heritage assets and to avoid against impacts upon protected species.*

- 6 The car parking spaces shown on drawing number 2070 - 02 E (Proposed Plans & Elevations) and 2070 - 04 A (Block Plan), received by the Local Authority on the 14th July 2015, shall be provided with dimensions of 5.5 metres in length by 2.4 metres in width, with an additional 0.5 metres being added to the width of the car parking space abutting the communal laundry room, within one month of the date of the approval date of this application and shall thereafter be available for the parking of vehicles at all times.

*Reason - to ensure that an adequate level of off-site car parking is required and to avoid against off-street car parking associated with the development.*

- 7 The development shall be carried out in strict accordance with the Historic Buildings Survey of Former Stable Building at Breedon Hall, Breedon on the Hill, Leicestershire by

Pre-Construct Architecture (Ref No. 11491), attached to an email from David Richards of Montague Architects to James Mattley of the 13th September 2013, received by the Local Authority on the 13th September 2013, and as discharged in the correspondence from James Mattley to Andrew Shannon of Montague Architects of the 3rd October 2013 under application reference 12/01006/FUL.

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

- 8 The foul and surface water drainage for the development shall be provided in strict accordance with that shown on drawing numbers 2070 - 01 B (Survey as Existing) and 2070 - 02 C (Proposed Plans & Elevations), received by the Local Authority on the 5th September 2013, and as discharged in the correspondence from James Mattley to Andrew Shannon on Montague Architects of the 3rd October 2013 under application reference 12/01006/FUL.

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

#### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through early engagement with the applicant at the pre-application stage which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 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 You are reminded to comply with the conditions attached to 15/00637/LBC.
- 4 Severn Trent Water advise that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.



Retrospective application for conversion of unlisted former stable block within curtilage of listed building into 3 residential units including external works and off-street parking

Report Item No  
A9

Breedon Hall Main Street Breedon On The Hill Derby DE73 8AN

Application Reference  
15/00637/LBC

Applicant:  
Mr And Mrs Charles Meynell

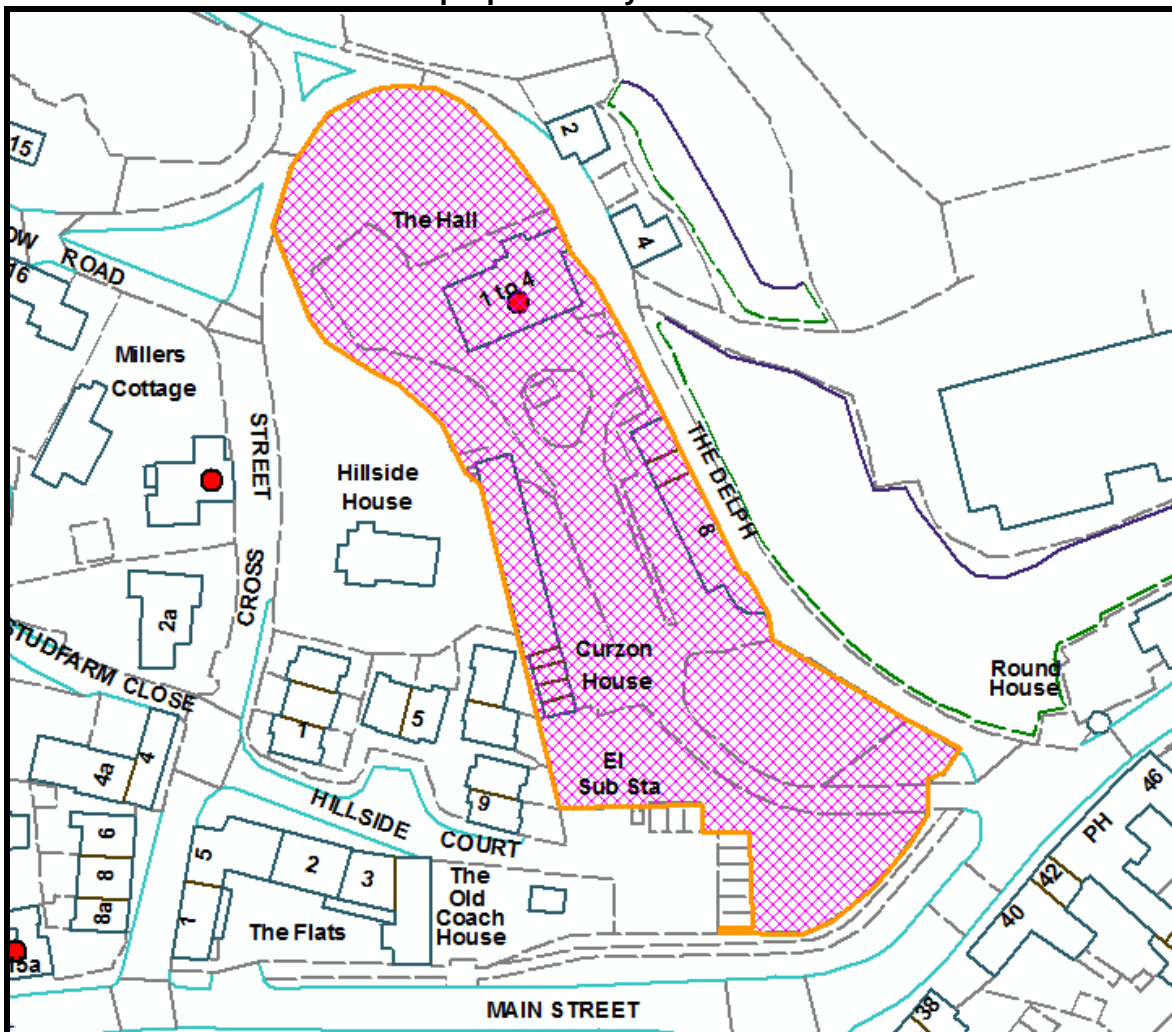
Date Registered  
30 June 2015

Case Officer:  
Adam Mellor

Target Decision Date  
25 August 2015

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application is brought to the Planning Committee as the applicant is related to a serving councillor (Richard Blunt).

### Proposal

Retrospective listed building consent is sought for "as built" changes associated with the conversion of a curtilage listed stable building into three residential units within the grounds of Breedon Hall.

### Consultations

In the circumstances that the proposed access off The Delph is omitted from the application it is considered that there are no objections from statutory consultees or third parties to the "as built" changes.

### Planning Policy

It is considered that the development would comply with all relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant Policies of the North West Leicestershire Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservation) Act 1990.

### Conclusion

The principle of the works associated with the conversion of the building into residential units has been established as being acceptable by virtue of the approval of listed building consent application references 12/01007/LBC and 13/00677/LBC. In these circumstances the only matters for consideration relate to whether the 'as built' changes would impact on the historic integrity of the heritage assets.

It is considered that the changes undertaken are either relatively minor or have resulted in the omission of features. The Council's Conservation Officer has assessed the amendments undertaken and has raised no objections. Given that the works undertaken have been designed to be sympathetic to the host building it is considered that the significance of the heritage assets would, at the very least, be preserved.

On this basis the proposed development would accord with Paragraphs 131, 132 and 134 of the NPPF, Policy E4 of the Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1992.

It is therefore recommended that listed building consent be granted.

### **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 recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

Listed building consent is sought, retrospectively, for the conversion of unlisted former stable block within curtilage of listed building into 3 residential units including external works and off-street parking at Breedon Hall, Main Street, Breedon on the Hill. 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 east of the approach to Breedon Hall is the subject of this application which is a former stable block.

Listed building consent was granted under application reference 12/01007/LBC, approved on the 13th February 2012, for a 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 and this permission has been implemented. This consent, however, was varied by permission granted under application reference 13/00677/LBC, approved on the 14th November 2013, for a 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)

Various changes have been made which conflict with the approved plans and as such an application has been submitted to rectify this issue, following an enforcement investigation 15/00049/LB, with the changes being as follows: -

1. The roof light positions have changed although the total number would remain the same;
2. The omission of one new window on the rear elevation of Unit 1;
3. The installation of polycarbonate sheeting over the original coal drop to Unit 1 to provide additional day light to the stair in this dwelling;
4. The provision of a window in the area of the building previously designated to be the bin store, although this would now become a communal laundry room serving Units 1, 2 and 3;
5. The omission of the previously designated new plant room at the northern end of the building;

The above changes are 'as built' changes and whilst consent was originally sought for the provision of a vehicular access to and from The Delph this element of the proposal has now been removed from this particular application following the concerns raised by the Council's Conservation Officer.

An application for the variation of conditions 2 and 6 attached to planning permission reference 12/01006/FUL, as well as 13/00695/NMA, is also under consideration with the Local Planning Authority and forms the basis of a separate report.

A design and access statement and heritage statement have been submitted in support of the application.

The planning history of the site is as follows: -

- 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 - Approved 13th February 2013;

- 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 - Approved 13th February 2013;
- 13/00695/NMA - 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 - Approved 14th November 2013.

## 2. Publicity

13 Neighbours have been notified (Date of last notification 3 July 2015)

Site Notice displayed 17 July 2015

Press Notice published 15 July 2015

## 3. Consultations

Breedon On The Hill PC consulted 3 July 2015

County Archaeologist

NWLDC Conservation Officer

Christine James NWLDC Enforcement

## 4. Summary of Representations Received

The following summary of representations is provided.

**Breedon on the Hill Parish Council** objects to the application on the following grounds:-

- *"We believe that the desirability of preserving the building which is Grade II Listed would be overridden by the loss of the existing exterior wall fronting The Delph;"*
- *"Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 makes it clear that in considering whether to grant planning permission which affect a listed building or its setting the decision maker shall have special regard to the desirability of preserving the building or its setting."*

**Leicestershire County Council - Archaeology** no representation received.

**NWLDC - Conservation Officer** has no objections to the 'as built' changes to the building but does object to the formation of a new vehicular access off The Delph as it would weaken the strong boundary treatment of the listed building and curtilage listed building and would not preserve the character and appearance of the conservation area.

## Third Party Representations

Two no. representations have been received from the occupants of the Old Vicarage and No. 52 Main Street who object to the application and whose comments are summarised as follows: -

- It is stated that the new vehicular access is required for the convenience of residents, however, it would surely not be too inconvenient to expect residents to use the existing driveway which is only a few metres away;
- It cannot be acceptable to shoehorn a pair of modern timber gates into such an historic structure as this wall;
- The proposal would be incongruous with it not being relevant that as the wall was 'non-original' it is less important as this is irrelevant when considering the wall as a complete entity: an historic boundary wall that surrounds the grounds of the house;
- It is perfectly possible to rebuild the section of wall that has been demolished as a similar

- section was successfully rebuilt along The Delph just a few years ago;
- The heritage statement at Paragraphs 1.12, 1.13, 11.1 and 11.3 contradict the statement within Paragraph 15.3 of the Heritage Appraisal with the proposed access being visually detrimental and resulting in impacts on highway safety.

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

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

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

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

- Paragraph 17 (Achieving sustainable development);
- Paragraph 131 (Conserving and enhancing the historic environment);
- Paragraph 132 (Conserving and enhancing the historic environment);
- Paragraph 134 (Conserving and enhancing the historic environment);
- Paragraph 203 (Planning conditions and obligations);
- Paragraph 204 (Planning conditions and obligations);

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

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

Policy E4 - Design;

### Other Policies

#### National Planning Practice Guidance

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

### Planning (Listed Buildings and Conservation Areas) Act 1990

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 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.

## 6. Assessment

The principle of the works associated with the conversion of the building into residential units has been established as being acceptable by virtue of the approval of listed building consent application references 12/01007/LBC and 13/00677/LBC. In these circumstances the only matters for consideration relate to whether the 'as built' changes would impact on the historic integrity of the heritage assets.

In respect of the 'as built' changes which have occurred to the dwellings the Council's Conservation Officer has commented that *"I consider the alterations to generally be acceptable and have a minimal impact on the historic fabric, character and appearance of the outbuildings. The majority of the changes relate to fenestration and I consider these to be sufficiently sympathetic and of acceptable materials and suitability to have no undue impact on the heritage asset."* This aspect of the development is therefore considered to be appropriate and would preserve the significance of the heritage assets.

The initial concerns of the Council's Conservation Officer and residents have been addressed by deleting the proposed access to the site from The Delph.

On this basis the proposed development would accord with Paragraphs 131, 132 and 134 of the NPPF, Policy E4 of the Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1992.

It is therefore recommended that listed building consent be granted.

### Summary Reasons for Granting Listed Building Consent

The 'as built' changes are relatively minor, in the context of the development as a whole, and also propose the omission of features that are no longer required. In the circumstances that the Council's Conservation Officer has raised no objections it is considered that the significance of the heritage assets would be preserved which would accord with Paragraphs 131, 132 and 134 of the NPPF, Policy E4 of the Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

- 1 The proposed development, with the exception of the proposed access drive off The Delph which is not approved, shall be carried out strictly in accordance with the following drawing numbers: -
  - Drawing Number 2070 - 01 A (Survey as Existing) received by the Local Authority on the 30th June 2015;
  - Drawing Number 2070 - 02 E (Proposed Plans & Elevations) received by the Local Planning Authority on the 30th June 2015;
  - Drawing Number 2070 - 04 A (Block Plan) received by the Local Planning Authority on the 30th June 2015;
 Unless otherwise required by another condition.

*Reason - to determine the scope of the permission.*

- 2 Notwithstanding the details shown on Drawing No. 2070-04A, this planning permission does not authorise the provision of a vehicular access off The Delph as confirmed by the agents e-mail dated 12th August 2015.

*Reason - for the avoidance of doubt.*

- 3 The development shall be constructed in accordance with the following materials: -
- Bricks - Salvaged bricks;
  - Lintels - As shown on drawing numbers 2070 - 05 (Proposed Joinery Details for Doors) and 2070 - 06 (Proposed Joinery Details for Windows), received by the Local Authority on the 5th September 2013;
  - Roofing Materials - To match existing roof tiles if any are necessary;
  - Rain Water Goods - Black Powder Coated Aluminium Rainwater Goods and Proposed Outlet Pipes and Mechanical Extraction Systems as specified in the letter from David Richards of Montague Architects to James Mattley of the 4th September 2013 (Ref: DRR MAJ 2070), received by the Local Authority on the 5th September 2013, in the positions shown on drawing number 2070 - 02 C (Proposed Plans & Elevations), received by the Local Authority on the 5th September 2013;
  - Windows and Doors - As shown on drawing numbers 2070 - 05 (Proposed Joinery Details for Doors) and 2070 - 06 (Proposed Joinery Details for Windows) with the materials as specified on drawing number 2070 - 02 C (Proposed Plans & Elevations), received by the Local Authority on the 5th September 2013;
  - Rooflights - in accordance with the details supplied by the Rooflight Company on the drawing referenced CR\_WRCS\_LS\_B, received by the Local Authority on the 5th September 2013;
- As discharged in the correspondence from James Mattley to Andrew Shannon of Montague Architects of the 3rd October 2013 under application reference 12/01007/LBC.

*Reason - to ensure that the works are executed in an appropriate manner given the sites location in within the curtilage of a Listed Building.*

- 4 The 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 The development shall be carried out in strict accordance with the Historic Buildings Survey of Former Stable Building at Breedon Hall, Breedon on the Hill, Leicestershire by Pre-Construct Architecture (Ref No. 11491), attached to an email from David Richards of Montague Architects to James Mattley of the 13th September 2013, received by the Local Authority on the 13th September 2013, and as discharged in the correspondence from James Mattley to Andrew Shannon of Montague Architects of the 3rd October 2013 under application reference 12/01007/LBC.

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

### **Notes to applicant**

- 1 Listed building consent has been granted for this proposal. The Local Planning Authority acted pro-actively through early engagement with the applicant at the pre-application stage which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and

in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

2 You are reminded to comply with conditions attached to 15/00648/VCI.