

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 5 January 2016
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454512)

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

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

AGENDA

Item	Pages
1. APOLOGIES FOR ABSENCE	
2. DECLARATION OF INTERESTS	
Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
3. MINUTES	
To confirm and sign the minutes of the meeting held on 1 December 2015	3 - 12
4. PLANNING APPLICATIONS AND OTHER MATTERS	
Report of the Head of Planning and Regeneration.	13 – 102
5. TO CONSIDER CONFIRMING A TREE PRESERVATION ORDER AT 29 LONDON ROAD, KEGWORTH	
Report of the Planning and Development Team Manager	103 - 106



Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	15/00717/VCI: Variation of conditions 3, 6 and 11 of planning permission APP/G2435/A/11/2163658 to increase the number of caravans from three to eight, all of which can be static mobile homes, and to amend the site layout to site the eight caravans and provide a drive way and parking and turning area and an alternative landscaping scheme and retain the existing access Land Adjacent To 81 Shortheath Road Moira Swadlincote Derby DE12 6AP	PERMIT Subject to a Section 106 Agreement	17 - 38
A2	15/00992/OUT: Demolition of existing five no. poultry houses and associated feed silos and erection of three detached dwellings (outline - access, layout and scale included) Poultry Farm Normanton Road Packington Leicestershire	PERMIT Subject to a Section 106 Agreement	39 - 54
A3	15/00204/FUL: Construction of a detached two-storey dwelling involving the formation of a new vehicular access off Melbourne Lane 1 Hollow Road Breedon On The Hill Derby DE73 8AU	REFUSE	55 - 70
A4	15/00958/FUL: Erection of a detached dwelling with associated detached single garage Land At Bakewells Lane Coleorton Leicestershire	REFUSE	71 - 88
A5	15/00727/FUL: Erection of a detached two-storey dwelling with associated off-street parking Land Adjacent To 94 Moor Lane Coleorton Coalville Leicestershire LE67 8FQ	REFUSE	89 - 102

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 1 DECEMBER 2015

Present: Councillor D J Stevenson (Chairman)

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

In Attendance: Councillors J Clarke, F Fenning, S McKendrick and T J Pendleton

Officers: Mr C Elston, Mrs C Hammond, Mrs A Lowe, Mr J Mattley, Mr A Mellor, Mr J Newton and Ms S Worrall

75. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors G A Allman and J Bridges.

76. DECLARATION OF INTERESTS

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

Councillors J Cotterill, V Richichi and M Specht declared a non pecuniary interest in item A1, application number 15/00456/OUTM a political acquaintance of the applicants.

Councillors J G Coxon and J Hoult declared a non pecuniary interest in item A1, application number 15/00456/OUTM as Members of Ashby Town Council.

Councillors J Legrys and R Johnson declared a non pecuniary interest in item A3, application number 15/00780/FUL as members of the Co-operative Party. Councillor J Legrys expressed concerns that the report had not specified that the applicant was the Co-operative.

Councillor D J Stevenson declared a non pecuniary interest in items A4, application number 15/00701/VCIM and A5, application number 15/00698/VCIM as his son worked for the developer; therefore he would leave the meeting during the consideration and voting thereon.

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

Item A1, application number 15/00456/OUTM

Councillors R Canny, J G Coxon, D Harrison, J Hoult, J Legrys, R Johnson, G Jones and N Smith.

Item A3, application number 15/00780/FUL

Councillor V Richichi

Item A4, application number 15/00701/VCIM

Councillor V Richichi

Item A5, application number 15/00698/VCIM

Councillor V Richichi

77. MINUTES

Consideration was given to the minutes of the meeting held on 3 November 2015.

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

RESOLVED THAT:

The minutes of the meeting held on 3 November 2015 be approved and signed by the Chairman as a correct record.

78. 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.

79. A1

15/00456/OUTM: RESIDENTIAL CARE DEVELOPMENT INCLUDING APARTMENTS AND COTTAGES AND RESIDENTIAL CARE HOME WITH ASSOCIATED CAR PARKING AND LANDSCAPING (OUTLINE - DETAILS OF ACCESS, APPEARANCE, LANDSCAPING, LAYOUT AND SCALE RESERVED FOR SUBSEQUENT APPROVAL)

Willow Farm, Ashby Road, Moira, Swadlincote, Derby, DE12 6DP

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

The Principal Planning Officer presented the report to Members.

Councillor S McKendrick, Ward Member, addressed the Committee. She stated that the development was in the wrong location as it was outside the Limits to Development, it was on a road where a request for a reduction in the speed limit to 30mph had been turned down recently and the development would impact on the view of the countryside. She informed Members that there was only one small store and a hairdressers close by and all other facilities were located at the other end of the village, and that the proposed shuttle bus could not replace the bus service that had recently been lost. She expressed concerns that there would be 156 further residents that would require medical support, but there was no section 106 monies requested for health care. Councillor S McKendrick accepted that there was a need for more care homes in the area, but felt that there were more suitable locations such as the decommissioned sheltered housing scheme in the village.

Ms P Thomas, Town Councillor, addressed the Committee. She advised the Members that the Town Council had fully considered the application and felt that the site was inadequate highlighting the following points:-

- That there was inadequate infrastructure to support the development
- that the speed limit along the road needed to be reduced
- the site was outside the Limits to Development
- there was insufficient parking proposed on the site
- the access arrangements were unsuitable
- the site was unsustainable
- the proposals were at variance to the Ashby Woulds Regeneration Strategy
- there was no provision for health care for the additional residents.

Mr P McCaffrey, objector, addressed the Committee. He highlighted to Members that the when consulted on the application the highways authority required the speed limit to be reduced, however they had recently turned down a residents request to do so. He was concerned that approval of the scheme would set a precedent for infill development. He advised that the site was unsustainable as there was no provision for additional medical or dental services and some of the residents on site could have complex medical needs. He added that there had been no public consultation on the application and the urban

designer had objected. He urged the Committee to reject the application on the grounds that the application was unsustainable and outside the Limits to Development.

Mr P Devlin, Design Consultant, addressed the Committee. He informed Members that the development would be a modern care provision which would meet the 2015 Care Act. He stated that the development would provide sustainable independent living accommodation allowing those that wished to downsize. He urged the Committee to support the application.

Mr P Powell, Agent, addressed the Committee. He advised the Members that the development would address the needs of the ageing population, reassuring many that they could stay in the area in that they lived in. He highlighted that there would be many facilities on site that would be open for all residents of Moira and that the village would provide a number of ways to stay including respite, ownership and referred hospital care. He asked the Members to support the application as it was sustainable.

The officer's recommendation was moved by Councillor N Smith and seconded by Councillor G Jones.

Councillor N Smith felt that it was a ground breaking application, which would provide all the required facilities on site. He stated that through personal experiences he had been unable to find a complex like this in the area. He highlighted that only 30% of the site was outside the Limits to Development and that he understood the traffic speed would be reduced to 30mph, adding that there was no reason to object to the application, which would be a first for the country.

Councillor G Jones stated that he was happy to second and highlighted that the Labour website had stated that extra care homes were needed and the application would provide this.

Councillor J Legrys raised a point of order that a discussion around a political website was not appropriate for the Committee.

Councillor G Jones added that the application would provide transitional housing opportunities and should be supported.

Councillor J Legrys raised concerns over the objections from the Urban Design Officer, the lack of capacity available at the local water treatment works and that the site was outside the Limits to Development, He also sought reassurance that as it was only an outline application the full application would be brought back to Committee. Councillor J Legrys requested a recorded vote.

In response to Councillor J Legrys concerns the Head of Planning and Regeneration stated that yes the Urban Design Officer had concerns with the indicative drawings, but as it was an outline application the details of the design would be considered, and we can be confident that a satisfactory scheme can be achieved before detailed permission was granted, that it was accepted that the development was outside the Limits to Development, but the benefits to the area would outweigh the harm and that the final detailed design could be brought back to Committee.

The Planning and Development Team Manager added that should the application be permitted then Severn Trent Water would be duty bound to ensure that additional capacity was found at the water treatment works.

Councillor J Legrys felt that Severn Trent would need to know the timetable as it may take some time to find the capacity and was also unhappy that the proposed limits to development in the emerging Local Plan were ignored.

Councillor M Specht stated that staged care was a much needed provision to help to tackle bed blocking in hospitals, and there was nothing like the proposal within the District. He advised that he had seen firsthand how a complex similar to the application had provided care to a family member in Germany and supported the application.

Councillor V Richichi stated that he was in favour of the application, and said that recently when he needed care for a family member who had been discharged from hospital he had struggled to find a home in the area that would provide the care that was required, adding that the development would have been the perfect place. He highlighted that the medical needs of the residents would be met and that the speed limit would be reduced if permission granted.

Councillor D Harrison stated that he warmly welcomed the application and that it was a fantastic project and appeared very professional. He highlighted that it would provide a safe environment and would create much needed jobs for local people.

Councillor R Johnson stated that the development had lots of merits however being in the countryside and outside the Limits to Development it was in the wrong place.

Councillor R Adams stated that he was upset at the continual expectation to permit sites that were outside the Limits to Development and that he would not be supporting the application.

Councillor D J Stevenson advised that there would always be applications outside the limits and that he felt that many elderly and infirm who were born and lived in the countryside all their lives would like to remain in the peaceful surroundings.

A recorded vote having been requested, the voting was as follows:

For the motion:

Councillors R Ashman, R Boam, J Cotterill, J G Coxon, D Everitt, D Harrison, J Houtt, G Jones, V Richichi, N Smith, M Specht, D J Stevenson and M B Wyatt (13).

Against the motion:

Councillors R Adams, R Johnson and J Legrys (3).

Abstentions:

Councillor R Canny (1).

RESOLVED THAT:

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

80.

A2

15/00541/OUTM: DEVELOPMENT OF UP TO 150 DWELLINGS WITH OPEN SPACE, LANDSCAPING, ACCESS AND OTHER INFRASTRUCTURE WORK (OUTLINE - ALL MATTERS RESERVED APART FROM PART ACCESS)

Site adjacent Computer Centre and Jct 24, Packington Hill, Kegworth, Derby, DE74 2DF

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

The Principal Planning Officer presented the report to Members.

Mr S Harley, Agent, addressed the Committee. He advised Members that the proposal not only provided towards the need for new homes it also responded to the desire for more

sports pitches, as most of the local teams played their games outside the village. He highlighted that there were no fundamental barriers, one letter of support and no objections, adding that they were working very closely with the Highways Authority. He stated that the application met all the policies and the client was keen to bring the application forward.

The officer's recommendation was moved by Councillor D Harrison and seconded by Councillor J Cotterill.

Councillor D Harrison stated that it was a fabulous site especially with the leisure facilities.

Councillor J Legrys stated that he was excited about the application and was happy to support the facilities. He expressed concerns about the additional traffic that it would generate and sought confirmation as to whether the site was outside the Limits to Development adding that if it was he would lobby for it to be included within the limits and that it would add to the 5 year land supply.

In response to a query from Councillor G Jones, the Head of Planning and Regeneration stated that the request for developer contributions from the Police was capable in principle of compliance with all the required CIL tests.

Councillor M Specht stated that he was happy to support the application especially with the play areas and the 30% affordable housing. He requested a recorded vote.

Councillor R Canny stated that the development was on her backdoor and the open space was needed in the north area of the District. She expressed concerns that the site was outside the Limits to Development and expressed concern that the Committee has been asked on a number of occasions to consider schemes favourably "on balance" that were outside the limits to development. She also had concerns over the additional traffic.

The Head of Planning and Regeneration stated that even though the Authority had a five year land supply, it needed to be maintained, especially if it was a good site.

Councillor V Richichi expressed concerns that the developer was offering a carrot and that over time the application could be withdrawn or variations submitted that would be considered by officers. He sought assurances that should any material changes be submitted they would be brought back to Committee.

The Head of Planning and Regeneration advised that the application was a well advanced scheme and there was no reason why it should be withdrawn unless there was a significant change in the market, adding that if Members wished so, any material changes that may be submitted could be brought back to the Committee.

Councillor R Adams sought confirmation that the application was outside the Limits to Development and stated that he must be consistent and vote against applications that were outside the limits.

The Head of Planning and Regeneration confirmed that the application was outside the Limits to Development.

Councillor D J Stevenson stated that all applications could not be judged the same and that generally more and more developments were moving closer to motorways.

A recorded vote having been requested, the voting was as follows:

For the motion:

Councillors R Ashman, R Boam, R Canny, J Cotterill, J G Coxon, D Everitt, D Harrison, J Houl, R Johnson, G Jones, V Richichi, J Legrys, N Smith, M Specht, D J Stevenson and M B Wyatt (16).

Against the motion:
Councillors R Adams (1).

Abstentions:
None (0).

RESOLVED THAT:

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

Councillors N Smith and M B Wyatt left the meeting.

81.

A3

15/00780/FUL: DEMOLITION OF EXISTING DWELLING AND THE ERECTION OF A SINGLE STOREY BUILDING TO PROVIDE THREE UNITS FOR USE EITHER AS A1 (SHOPS) OR A5 (HOT FOOD TAKEAWAYS)

2 Ashby Road, Ibstock, Coalville, Leicestershire, LE67 6HA

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

The Senior Planning Officer presented the report to Members.

Mr D Pritchard, Agent, addressed the Committee. He highlighted to Members that the proposal was for three small scale units that would be located between the supermarket and the filing station, adding that the units would share the existing car park and service area. He advised that the current building was in a poor state of repair and that it would be more cost effective to build new than repair. He stated that there were no technical objections and the application met all the policies and would provide new jobs for the area. He urged Members to approve the application.

The officer's recommendation was moved by Councillor J G Coxon and seconded by Councillor D Harrison.

Councillor J Coxon stated that it was an enterprising application in a trading area, especially with the new housing estates in the village.

Councillor D Harrison advised that it was an ideal location between commercial buildings and the units would blend in well. He was happy to support the recommendation.

Councillor V Richichi stated that he had lived and worked in the area all his life and that he felt that there was no need for any further hot food takeaways or empty shops, he stated that he supported the removal of the decaying house, but could not support the takeaways.

Councillor J Legrys stated that he believed in individual choice that the application may bring and that the sequential test had been carried out, but the petrol station was 24/7 and owned by a competitor, and there were several hot food takeaways in the village, and he therefore could not support the application.

The Head of Planning and Regeneration advised Members that officers were satisfied that the sequential test had been applied correctly, and that when they went out to verify its findings there were no vacant units on the high street at that time. He confirmed that,

since the time of the sequential assessment, one unit had become vacant in the High Street, but that unit would not be suitable to accommodate this proposed development.

Councillor D Everitt stated that in reality there was parking provided and as with other supermarkets in the District it was a natural development to have other units on the site.

Following a question from Councillor R Johnson, the Head of Planning and Regeneration confirmed that the site was outside the defined centre boundary by 400m, but was within the Limits to Development.

Councillor M Specht stated that he was in support of the application, adding that due to the growing size of the village the additional commercial units would be of benefit. He clarified that the application did not specify a single end use.

Councillor D J Stevenson agreed with Councillor D Everitt, that the site was ideal as there were already retail units in the area and that there was parking at the Co-op, he questioned why it had come to Committee.

RESOLVED THAT:

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

Having declared a non-pecuniary interest in the items A4 and A5 Councillor D J Stevenson moved that Councillor D Harrison take the chair for the items. It was seconded by Councillor J Cotterill.

Councillor D J Stevenson left the chair and the meeting and took no part in the consideration or voting thereon.

Councillor D Harrison took the chair for the consideration of the item.

- 82. A4**
15/00701/VCIM: VARIATIONS OF CONDITIONS 3 AND 22 OF 15/00018/VCIM TO INTRODUCE ADDITIONAL BOUNDARY TREATMENTS TO PLOTS 185,186,187,188,189 AND 191 AS WELL AS LANDSCAPING REVISIONS
 Land to the rear of Parkdale, Ashby Road, Ibstock, Leicestershire

Officer's Recommendation: Permit

Councillor D Harrison advised Members that the two items would be presented together.

The Senior Planning Officer presented the report to Members.

Councillor J Clarke, Ward Member, addressed the Committee. He expressed concern that the issue was still going on. He advised Members that the developers had said that the line the boundary had been moved to was the original one and questioned why a variation application had been submitted if this was the case. He highlighted that the developer was deliberately making a mockery of the authority by constantly varying the original application and having moved the fence had made it difficult for it to be properly maintained, adding that the Council should insist that the fence was turned around so that the existing residents had the front of the panels. He added that the change of the homes from bungalows to two-storey houses had not been considered by the Committee.

Mr L Taylor-Haynes, Objector, addressed the Committee. He advised Members that his dwelling was the closest to the site and that the building had been damaged during the construction. He informed Members that at the site meeting the developer had no

intention to change the position of the fence and that they would be happy to sell the properties without the fence. He felt that the developer had total disregard for the neighbours and that the application should be refused due to the loss of amenity and to hide the eyesore would put him out of pocket. He referred to paragraph 66 of the NPPF, which says that applicants should work with those directly affected by proposals.

A motion to refuse the application, on the grounds that it would cause loss of residential amenity, was moved by Councillor V Richichi and seconded by Councillor J Legrys.

Councillor V Richichi stated that since the original application was permitted there had been significant variations to the development and even though residents had objected to the changes they were not aware as to how to get the applications to come back to Committee. He suggested that a footnote be added to the letters advising residents of the process to have applications called in.

Councillor D Harrison reminded Members that valid planning reasons were required to enable the Committee to refuse an application.

Following questions from Councillor R Adams and J Legrys, the Head of Planning and Regeneration and the Planning and Development Team Manager advised Members that once an application had been permitted any variations to it would require a new application to be submitted that both neighbours and Ward Members were notified of. Ward Members could then choose to call in the application if they felt that there were valid planning reasons to do so. They informed the Committee that this process had been followed on both occasions for both the change from bungalows to two storey dwellings, which the Ward Members at the time had decided not to call in, and for the variation to the boundaries, which had been called in.

Councillor D Harrison advised Members that the applications in front of them had been called in as the Ward Member had considerable concerns over the proposals.

Councillor J Legrys felt that the issue was significant and very complex, and it would affect the residents of the existing properties stating that there were issues with loss of amenity and light, and as heard from the objector impact on the residents' human rights as damage had been done to his property. He asserted that these were three valid reasons and he supported Councillor V Richichi.

Councillor D Harrison reminded Members that officers were advising that the reasons for refusal were weak; with the best being loss of amenity, and that they should think very carefully before voting.

In response to a question from Councillor R Adams, the Head of Planning and Regeneration advised the Members that the case appeared to be both a boundary dispute and a planning issue and confirmed that a boundary dispute was not within the scope of the Committee. He advised them that refusing the application on the grounds that it would cause loss of residential amenity would be a weak case. He explained that, due to the characteristics of the site, there was a risk that by refusing the current application and solving one amenity issue due to an overbearing fence, by requiring its removal the planning authority could create a different amenity problem by virtue of loss of privacy or overlooking from the new homes.

Councillor M Specht stated that he had requested the deferral and expressed his disappointment at the developer's treatment of the neighbours adding that if he was a resident of Parkdale he would be insisting on good fencing or taking their fencing down and extending the lawn. He advised that there was no case for overshadowing and that he supported the officer recommendation.

Councillor D Harrison stated that the Committee could not support trespassing.

RESOLVED THAT:

The application be refused on the grounds that it was contrary to Policy E3 of the Local Plan.

**83. A5
15/00698/VCIM: VARIATION OF CONDITIONS 3 AND 22 OF 15/00019/VCIM TO
INCLUDE ADDITIONAL BOUNDARY TREATMENTS TO PLOTS 176 AND 177 AS
WELL AS LANDSCAPING REVISIONS**

Land to the rear of Parkdale, Ashby Road, Ibstock, Leicestershire

Officer's Recommendation: Permit

A recommendation to refuse the application on the grounds that it would cause loss of residential amenity and would be overbearing was moved by Councillor R Adams and seconded by Councillor R Johnson.

RESOLVED THAT:

The application be refused on the grounds that was contrary to Policy E3 of the Local Plan.

Councillor D J Stevenson returned to the meeting and the chair.

Councillors N Smith and M B Wyatt left the meeting at 5.37pm.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 6.36 pm

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APPENDIX B

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

5 January 2016

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.

Variation of conditions 3, 6 and 11 of planning permission APP/G2435/A/11/2163658 to increase the number of caravans from three to eight, all of which can be static mobile homes, and to amend the site layout to site the eight caravans and provide a drive way and parking and turning area and an alternative landscaping scheme and retain the existing access

Report Item No
A1

Land Adjacent To 81 Shortheath Road Moira Swadlincote
Derby DE12 6AP

Application Reference
15/00717/VCI

Applicant:
Mr Morris Jones

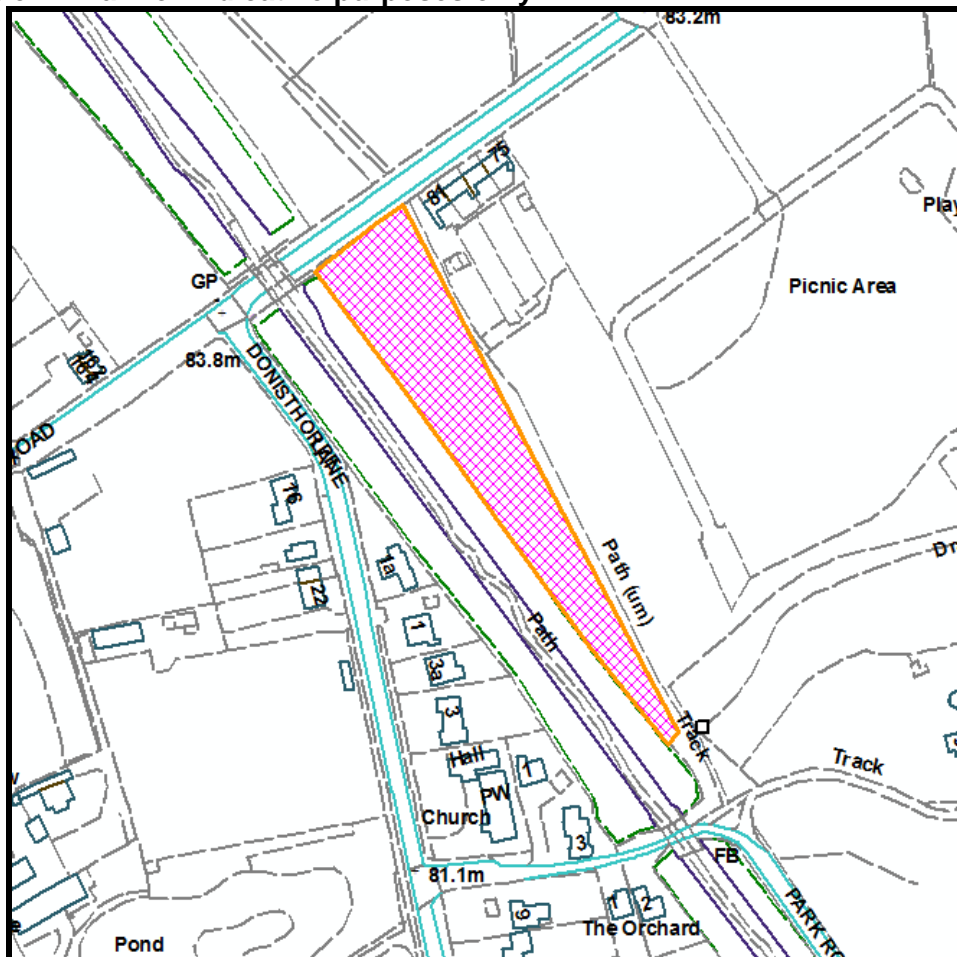
Date Registered
15 July 2015

Case Officer:
Jenny Davies

Target Decision Date
9 September 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

The application has been called to Planning Committee by Councillor Bridges on the grounds of public interest.

Proposal

The site benefits from planning permission for the siting of three caravans and an amenity block which was granted on appeal. This application seeks to vary conditions 3, 6 and 11 of the appeal decision to increase the number of caravans from three to eight, all of which can be static mobile homes, to amend the site layout to site the eight caravans and provide a drive way and parking and turning area and revised landscaping areas and the retention of the access drive.

Consultations

Members will see from the main report that 10 letters of objection have been received from members of the public. Ashby Woulds Town Council and Overseal Parish Council object to the application. No other objections have been received from statutory consultees.

Planning Policy

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

Conclusion

It is considered that the applicant and his family have not ceased their nomadic lifestyle and therefore fall within the revised definition of gypsies and travellers. A reason for refusal on the basis of the proposal being contrary to Policy S3 could not be justified. Whilst the proposal would conflict with Saved Policy E4 of the adopted Local Plan, for the reasons outlined below and given the material considerations in favour of the development outlined in the section of the report relating to principle of the development, it is considered that a reason for refusal against Policy E4 of the Local Plan could not be justified. The less than substantial harm to heritage assets is in this case considered on balance to be outweighed by the demonstrated need for gypsy/traveller pitches in the District, a substantial unmet need for permanent sites in the District and the Council not being in a position to provide such sites for some time. It is considered that the proposal would not significantly harm the setting of non-designated heritage assets and a reason for refusal on highway safety grounds could not be justified. The proposal would not adversely impact on the residential amenities of occupiers of nearby dwellings, protected species, species-rich grassland, the adjacent public footpath, archaeological remains or trees. It can be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. The proposed obligation would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION - PERMIT subject to the signing of a legal agreement and subject to conditions.

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

MAIN REPORT

1. Proposals and Background:

Planning permission was granted on appeal in July 2012 (11/00018/FUL) for the change of use to a residential caravan site for two traveller families on land adjacent to 81 Shortheath Road, Moira.

This application seeks to vary conditions 3, 6 and 11 on the appeal decision, which restrict the number of caravans that can be stationed on the site to three and relate to the approved site layout plan and landscaping scheme. The variation relates to an increase in the number of caravans from three to eight, all of which can be static mobile homes, to amend the site layout to site the eight caravans and provide a drive way and parking and turning area and revised landscaping areas, and the retention of the access drive.

The approved layout shows the three caravans located adjacent to the embankment on the south western side of the site, with the mobile home located towards the front and the single storey amenity block and two touring caravans behind.

The proposed layout shows eight caravan pitches on the site, with four located on the south western side and four on the north eastern side. As noted above, each pitch could accommodate a static mobile home. Two parking spaces are located within each pitch and a turning area is located towards the rear of the site, with the whole of the area around the caravans surfaced in gravel. The developed area would also extend 101.5 metres into the site, compared with 65.4 metres on the approved scheme. Some additional hardsurfacing of the site has already taken place which goes beyond the extent approved under the appeal decision and appears to reflect the amount proposed under this current application. At the time of the officer site visits three caravans were on the site, although were not positioned in accordance with the approved site layout. The size of the landscaped areas to the front of the site would change and the width of the access drive has increased from 5.2 metres to seven metres. A close boarded fence has also been erected on the front boundary on the south western side of the access drive, which is not part of the approved landscaping scheme.

It is understood that the eight caravans would be occupied by the applicant and his wife, their six children (five of whom are adult age) and the applicant's sister and applicant's uncle. Previously the three caravans were to be occupied by the applicant, his wife and their children.

Moira Furnace, a Grade 2 listed building and an Ancient Monument, is located over 300 metres to the east. Engine House Cottage, on Park Road, is also Grade 2 listed and is located over 90 metres from the south eastern boundary of the site.

An application to vary condition 6 on the appeal decision to allow an amendment to the site layout to erect four sheds for toilet facilities and storage (14/01054/VCI) is currently undetermined. An outline application for the erection of two dwellings on the front part of the site (90/0140) was refused in May 1990 on the grounds of visual impact, highway safety and setting a precedent and was dismissed on appeal in June 1991 on the grounds of visual impact. There are no other planning history records for the site.

2. Publicity

156 no neighbours have been notified. (Date last notified 04 December 2015)

Site Notice displayed 24 July 2015

Press Notice published 16 December 2015

3. Consultations

Ashby Woulds Town Council
County Highway Authority
Severn Trent Water Limited
Head of Environmental Protection
NWLDC Tree Officer
LCC ecology
NWLDC Conservation Officer
Development Plans
LCC/Footpaths
NWLDC Footpaths Officer
NWLDC Planning Enforcement
Derbyshire County Council - Highways
South Derbyshire District Council
Matt Bagley – Gypsy & Traveller Liaison
County Archaeologist
National Forest Company

4. Summary of Representations Received

Statutory Consultees

Ashby Woulds Town Council objects on the following grounds:

- highway grounds (increase of traffic, site very close to junction, comings and goings);
- applicant is in breach of existing planning permission as it is not being complied with;
- the Town Council has always understood this site to be a small personal family unit and it is increasingly progressing towards being a business.

Overseal Parish Council objects on the grounds that the expansion of this site was predicted when the original permission was granted for three caravans and it is disappointing that these concerns were not recognised. The increase would result in many more vehicles using the site and there are already sufficient approved travellers' sites in the area. The application should be refused.

South Derbyshire District Council advises that the development raises concerns regarding the impact on existing services within the village of Overseal such as the need of accessibility to doctors' surgeries and dentists or by the need for school places which will be generated by the presence of an additional five units. There appears to be no contribution to remedy this issue. Furthermore the site would appear to fall within the River Mease catchment area and it would appear that the intensified use of the site could result in an increase in drainage capacity which could impact on the River Mease SAC.

The County Highway Authority has no objections subject to conditions.

The Conservation Officer has no objections.

The County Archaeologist advises no archaeological action is required.

The County Ecologist has no objections.

The Council's Environmental Protection team advises that a caravan site licence would be required and recommends conditions.

Severn Trent Water has no objection subject to a condition.

The County Traveller Sites and Liaison Officer advises that the site would be occupied by the applicant, his wife and their six children, along with the applicant's uncle and background information to the application is provided. It is also advised that based on the Leicestershire, Leicester and Rutland Gypsy and Traveller Needs Assessment Refresh Report (May 2013) that a minimum of 27 additional pitches are required in the District from 2012-2017.

No comments have been received from the National Forest, the Council's Tree Officer, the County and District Footpaths Officers and Derbyshire County Council by the date of this report. Any comments received will be reported on the Update Sheet.

Third Party Representations

10 letters of representation have been received which object on the following grounds:

- significant increase in traffic generation using a small access road represents a significant hazard;
- entrance to the site is directly opposite the entrance to the Moira Miners Welfare site which is used by cars to enter the grounds for football matches, car boot sales and similar events;
- existing traffic, visibility and on-street parking problems in the area associated with car boot sales;
- site entrance close to a major road junction;
- visibility from site entrance restricted by railway bridge;
- previous application for one dwelling refused due to amount of traffic on Shortheath Road and proximity to junction with Donisthorpe Lane which was not taken into account as part of previous appeal;
- proposal is not in keeping with the Moira Furnace which is a scheduled monument and visitor attraction with a significant industrial heritage;
- adjacent to an entry path to the Furnace which is part of a local heritage trail;
- site is in the heart of the National Forest;
- strong emphasis on development of the National Forest to encourage wildlife and outdoor pursuits;
- inappropriate development in this location;
- detrimental economic and environmental impact on the area;
- drainage facilities may not be adequate for additional residents;
- risk of pollution of watercourses;
- no more travellers wanted in the area;
- safety concerns;
- issues with travellers in the local area which have involved the police;
- previous application was misleading;
- work already carried out at the site has been to supply eight separate pitches which was premeditated and shows that intention was always to create a larger site;
- static caravans already on the site and works have taken place which are contrary to the existing permission;
- the requirements of the original permission must be adhered to;
- impact on property prices;
- applicant only requires one caravan to live in and remainder of site must be being rented out without any commercial/business rates;
- no permissions in place to rent out site;
- increase in scrap metal/street collections associated with the site;
- existing caravans not always occupied;
- concerns regarding rights of tax payers to the management of the local area;
- it is known that travellers are residing on the site;

- were not aware that Moira and the National Forest are areas where travelling families would make a permanent place to reside;
- reduction of problem of travelling families using land illegally is not a realistic expectation as an illegal encampment has occurred elsewhere in the village;
- impact on reputation of the area;
- if the Council has to find land for travellers then surely land should be found where residents and development would not be negatively affected.

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 and 34 (Promoting sustainable transport)

Paragraphs 57, 60, 61 and 64 (Requiring good design)

Paragraphs 69 and 75 (Promoting healthy communities)

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

Paragraphs 109, 112, 118, 119, 120, 121 and 123 (Conserving and enhancing the natural environment)

Paragraphs 129, 131, 132, 134 and 135 (Conserving and enhancing the historic environment)

Paragraphs 203 and 204 (Planning conditions and obligations)

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.

Policy S1 - Overall Strategy

Policy S3 - Limits to Development

Policy E2 - Landscaped Amenity Open Space

Policy E3 - Residential Amenities

Policy E4 - Design

Policy E7 - Landscaping

Policy E8 - Crime

Policy E17 - Historic Byways

Policy F1 - National Forest - General Policy

Policy F2 - Tree Planting

Policy F3 - Landscaping & Planting

Policy T3 - Highway Standards

Policy T8 - Parking

Policy T15 - Moira-Measham Trail

Consultation Draft North West Leicestershire Local Plan

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, in view of the very early stage to which the draft Local Plan has progressed, only very limited weight can be attributed to its policies at this stage.

S1 - Presumption in Favour of Sustainable Development
 S3 - Settlement Hierarchy
 S4 - Countryside
 S5 - Design of New Development
 H7 - Provision for Gypsies and Travellers and Travelling Showpeople
 Ec15 - Tourism and Cultural Development
 IF1 - Development and Infrastructure
 IF4 - Transport Infrastructure and New Development
 IF7 - Parking Provision and New Development
 En1 - Nature Conservation
 En2 - River Mease Special Area of Conservation
 En3 - The National Forest
 En6 - Land and Air Quality
 He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment
 Cc2 - Sustainable Design and Construction
 Cc3 - Water - Flood Risk
 Cc4 - Water - Sustainable Drainage Systems

Other Guidance

National Planning Practice Guidance - March 2014
 Planning Policy for Traveller Sites - August 2015
 Leicestershire, Leicester & Rutland Gypsies' & Travellers' Accommodation Needs Assessment - 2006-2016 (2007) and Refresh Assessment - 2012-2031 (2013)
 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
 The River Mease Developer Contributions Scheme (DCS) - November 2012
 The Community Infrastructure Levy Regulations 2010
 Manual For Streets - 2007 and 2010
 6Cs Design Guide (Leicestershire County Council)
 Housing Act 2004
 European Convention of Human Rights/Human Rights Act 1998

6. Assessment

The main issues for consideration in the determination of this application relate to the principle and sustainability of the extension of the site and increase in number of caravans, design and visual impact and impact on the historic environment, highway safety, residential amenities, protected species, the ecological status of the site and the River Mease Special Area of Conservation.

Principle of Development

The site will be occupied by the applicant and his wife, their six children (five of whom are of adult age) and spouses if married, and the applicant's sister and uncle. The Planning Policy for Traveller Sites (PPTS) was updated in August 2015 and included a change in the definition of

gypsies and travellers so that only those who lead a nomadic lifestyle fall within this definition. The agent advises that the applicant and his family still travel for work and that this can be for differing periods of time, depending on where and how much work is available and therefore have not ceased their nomadic habit of life and intend to continue to travel. The applicant and his family are self-employed and largely fit windows and undertake gardening, which are forms of work that are not confined to the site or local area. Therefore on the basis of the information provided, it is considered that the applicant and his family still lead a nomadic lifestyle and therefore fall within the revised definition of gypsies and travellers.

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 adopted North West Leicestershire Local Plan. The proposal does not fall within one of the categories set out under Policy S3. The PPTS does not expressly exclude gypsy/traveller sites from being located in the countryside although it does state that *'...authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.'*

The previous application for three caravans was in part refused on the grounds that it did not fall within any of uses considered to be acceptable in locations outside limits to development as set out in Policy S3. However subsequently a report was taken to Planning Committee in December 2011 recommending that this reason for refusal be withdrawn and not defended at appeal, on the basis that such a reason for refusal was *'...unlikely to be considered favourably by a Planning Inspector, in particular due to the shortfall of gypsy and traveller pitches within the District and is likely to result in costs being awarded against the Authority if this reason for refusal is advanced at appeal.'* This recommendation was unanimously agreed by Planning Committee. The appeal decision notes that *'The appeal site is located outside the defined Limits to Development for Moira where Saved Policy S3 of the North West Leicestershire Local Plan permits development for a limited number of purposes, none of which relate to the current proposal. However the local planning authority acknowledges that such a 'blanket' restriction is inappropriate in the consideration of the appeal proposal.'* On this basis it is considered that limited weight should be given to the provisions of Policy S3 in this case and a reason for refusal on the basis of the proposal being contrary to Policy S3 could not be justified.

At the time of the previous application, the Regional Spatial Strategy (RSS) and the Gypsy and Traveller Accommodation Needs Assessment 2007 (GTAA) set out the requirements for pitch provision in the District. However the RSS has since been revoked, and as the PPTS requires the use of a robust evidence base to establish accommodation needs, an update of the GTAA (the GTAA Refresh) was published in 2013, which assessed the need for pitches up to 2031, taking into account any unmet need identified in the 2007 GTAA. Therefore the GTAA Refresh forms an appropriate document to base an assessment of gypsy/traveller needs within the District.

The GTAA Refresh identifies a need for 27 pitches plus 20 transit pitches in the period 2012-2017 and for 11 pitches from 2017- 2022, with a need for a further 30 pitches from 2022-2031. These requirements take into account all existing gypsy/traveller sites in the District apart from six pitches granted a temporary permission at Newton Road, Swepstone. An application to retain seven pitches on a site at Netherfield Lane, Hemington is also still under consideration.

Taking into account the six temporary pitches referred to above, there is still a requirement for 21 pitches in the District to 2017 and for a further 41 pitches to 2031. If these six are not included due to their temporary nature then currently the pitch requirement to 2017 remains at 27. This results in a substantial unmet need for permanent sites in the District. The Council is

also unable to demonstrate a five year supply of gypsy/traveller sites as set out in the PPTS.

There is one public site within the District at Hemington but this is currently not taking any new families due to contamination issues. The County Council's Gypsy Traveller and Liaison Officer advises that the other four public sites in the county (Meynells Gorse, Greengate Lane, Redhill and Aston Firs) are all full with waiting lists.

South Derbyshire District Council advises that its public site at Lullington Crossroads is full with a waiting list and its site at Foston (now leased) is also full. Furthermore SDDC has provided six of the 14 pitches they are required to provide under their GTAA by 2019.

Potential space on private sites within this District and elsewhere cannot be taken into account as they are outside local authority control and there may be a number of reasons as to why Mr & Mrs Smith and their family cannot reside on such sites.

There are no known alternative sites that the Council can identify at present. Policy H7 of the Consultation Draft Local Plan sets out the criteria for consideration of gypsy/traveller sites but does not allocate sites and in view of the very early stage to which the Consultation Draft Local Plan has progressed, only very limited weight can be attributed to its policies at this stage. It is also the Council's intention to allocate sites through the production of a Gypsy and Traveller Site Allocations Development Plan Document (DPD). Therefore it is reasonable to assume that if permitted the site could contribute to meeting the unmet need for sites within the District sooner than via the Local Plan process as it is likely to be some time before sites are identified by the Council.

The applicant's extended family currently move between different sites across England and Wales. Both the applicant's agent and the County Council's Travellers Sites & Liaison Officer state that providing a settled base would give stability that is required in order to access health and education provision and that the family are fully aware of the difficulties experienced from lack of education which results in poor literacy skills. The proposal would satisfy a personal need providing a settled base from which the applicant's younger children can access education services and the whole family can access healthcare, and this need cannot be met elsewhere within the District or adjacent part of Derbyshire.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The village of Moira has few public services and facilities, some of which are located within Moira itself and some within Norris Hill. Whilst some of these services/facilities are within 800-1km walking distance, the site is located where occupiers of the site are likely to have to travel by car for most services and therefore the proposal does not sit particularly well in respect of this aim of the NPPF. However given that the site benefits from permission for three caravans and permissions have been granted for new dwellings on sites in the locality, it is considered that the site is in a reasonably sustainable location for the provision for a further five caravans and a reason for refusal on the grounds of sustainability could not be justified.

It is acknowledged that the site is outside the limits to development and as such the proposal is contrary to Policy S3 of the adopted Local Plan. However, given the limited weight that can be attached to Policy S3, the clear need for additional gypsy pitches within the District, the lack of alternative sites, that the proposal would not be premature, the personal need and that the site is considered to be in a sustainable location for gypsy/traveller accommodation, there are material considerations which outweigh the objection under Policy S3. Therefore it is considered that the proposal is acceptable in principle.

Design and Visual Impact

The application for the three caravans was in part refused on the grounds of the introduction of built development, caravans and areas of hardstanding onto the site being visually prominent within the locality, resulting in significant detriment to the semi-rural character and visual amenities of the area and being contrary to Policy E4 of the adopted Local Plan. However the appeal Inspector felt that whilst there would be some conflict with Policy E4, as the caravans would be out of character with the immediate surroundings, the overall adverse impact on the streetscene would be limited and the proposal could be accommodated without significant damage to the visual qualities of the area.

An assessment of the impact on the character and visual amenities of this semi-rural area needs to take into account that the front 65 metres of the site already benefits from an extant permission including hardsurfacing and the positioning of three caravans and an amenity block, which also changes the contribution the site makes to the character of the area when compared to its previous form as a grassed field. The southern end of the site is outside the developed part of the site and hedgerows and trees are retained on its boundaries.

The scale and prominence of development across the site would increase due to the change in the position, size and number of caravans. Views into the site from Shortheath Road are largely screened by the front hedgerow, gates and fencing, although there are some views over the top of the front boundary fence. It is noted that the fencing does not form part of the approved landscaping and consideration would need to be given to its retention as part of a new landscaping scheme. The site is also well screened from the public footpath by a fence and mature hedgerow further to the south. The approved landscaping scheme shows this fence to be re-positioned 1.5 metres further into the site once a new hedgerow has matured so screening would remain along this route. It would therefore be possible to retain a significant measure of screening in the immediate vicinity (as noted by the Inspector in the appeal decision) which is already in place as outlined above. This screening, as the Inspector also noted, could be reinforced by additional planting within the site so as to add depth and density within a reasonable period of time, which could still be achieved through submission of a revised landscaping scheme. Due to this screening and the site being generally level, the extended site would not be particularly prominent in immediate views and although its prominence would increase during the winter months, completely open views would not be available. This is consistent with the advice in the PPTS which seeks to ensure that gypsy sites are not so enclosed by boundary treatments that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. There needs to be a balance between the occupiers being visually part of the community whilst the site is screened to reduce its impact to an acceptable level, bearing in mind that caravans are always likely to be visible to some extent. The extended site would also be seen alongside the approved boundary fence and hardstanding, existing adjacent dwellings and associated development, with the embankment and vegetation towards the southern end of the site providing a mature backdrop.

Additional hardstanding and caravans would be incongruous with some elements of the character of the area. However caravans now also form part of the character of the area and having regard to the screening in place and the limited prominence of the site, it is considered that the proposal would not significantly harm the character and visual amenities of the immediate area.

The site's contribution to the wider area is more limited as surrounding vegetation obscures longer views to and from the nearby open space, woodland, Moira Furnace and Park Road.

The 1991 appeal found that the site would be visually prominent in views from the Heritage Trail. Although there will be some views of the site from the Heritage Trail, as noted by the appeal Inspector, *...'significant parts are cloaked by tall trees and relatively dense screening extending up, and bordering, the embankment.'* It is recognised that the bridge provides an open aspect towards the front of the site but this area is covered by the extant permission, and views from the bridge of the remainder of the site are well screened by dense vegetation. As such it is considered that the proposal would not significantly harm the character and visual amenities of the Heritage Trail, or nearby woodland and open space.

The PPTS states that when assessing the suitability of sites in semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community. In this case given its small scale of eight caravans and the screening available, it is considered that the proposal would not dominate the village of Moira nor place undue pressure on the local infrastructure or services.

For the reasons outlined above and given the material considerations in favour of the development outlined in the section of the report relating to principle of the development, it is considered that a reason for refusal against Policy E4 of the Local Plan could not be justified.

Historic Environment

Section 66 of the (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, 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. 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.

Moira Furnace lies 330 metres to the east of the site and Engine House Cottage lies over 90 metres to the south east, and are designated heritage assets as defined in the NPPF as they are Grade 2 listed buildings, with the Furnace also being a scheduled monument. The Furnace was a coke-fuelled, steam-engine blown blast furnace for the smelting of iron from local iron ore, with an attached foundry for the manufacture of cast-iron goods and was constructed in 1804 by the Earl of Moira. It is considered to be an important industrial monument as it is well-preserved and dates from a formative period of the Industrial Revolution (Cranstone, D., ed. (1985) *The Moira Furnace: A Napoleonic Blast Furnace in Leicestershire*). The blast furnace, bridgehouse and loading ramp remain and the building is one of the few remaining blast furnaces from the early 19th century. Engine House Cottage was previously a post-medieval blowing engine house that was used in association with the Furnace as it originally housed the beam pumping engine for the local colliery. Some original features have been retained, including a spring beam and a bob wall. The building is unique in its design and has a historical association with an important local building and the industrial heritage of the area. Therefore both buildings form an important part of the history of this locality and are considered to be heritage assets of some significance which have value for this and future generations.

The site is not visible within the settings of both listed buildings due to distance and screening by vegetation. The site may form part of the historic/functional setting to the buildings due to its position within a landscape associated with their industrial heritage. However there is no evidence to suggest that the site had a direct connection with the listed buildings and its role within the industrial development of the area is not known, although maps dating back to the

late 19th century all appear to show the site as a field. Therefore it is considered that further development would not impact on the historic/functional setting of the buildings and would therefore not be harmful to the significance of the listed buildings.

Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal. The less than substantial harm to the heritage assets is in this case considered on balance to be outweighed by the demonstrated need for gypsy/traveller pitches in the District, a substantial unmet need for permanent sites in the District and the Council not being in a position to provide such sites for some time.

Nos. 75-81 Shortheath Road are not listed buildings but are considered to be non-designated heritage assets as defined in the NPPF by virtue of their visual importance and contribution to the streetscene and locality and their historical importance to Moira. The detailed reasoning for this is set out in the Committee Report for the 2011 application (11/00018/FUL). Whilst there may be views of the site from the upper windows of these properties, such views are likely to be oblique from a limited number of windows and distance and landscaping would also provide some mitigation. Having regard to caravans now forming part of the character of the area, the significant screening in place and the limited prominence of the site, it is considered that the proposal would not significantly harm the setting of these non-designated heritage assets.

Highway Safety

The application for the development of the front of the site was in part refused on highway safety grounds relating to the proposed access to the site being inadequate in terms of visibility and turning space onto Shortheath Road resulting in the use of a site with a substandard access and inadequate visibility and turning space onto Shortheath Road. Impact on highway safety was discussed extensively at the appeal hearing and considered in detail in the appeal decision, where the Inspector concluded that *'Overall, my conclusion on the first issue is that whilst the visibility from the proposed access, in a north-easterly direction, would be on the limits of acceptability, and that visibility could be further restricted from time to time by parked vehicles, the resultant implications for highway safety would not, on balance, provide a convincing basis to dismiss the appeal. As such, subject to conditions requiring the provision and retention of visibility splays, agreement on the design of the access and the provision of turning facilities, there would be no conflict with Saved Policy T3 of the North West Leicestershire Local Plan. In reaching this conclusion I have taken account of a previous appeal decision, in 1991, for the erection of two dwellings on part of the site. However, highways guidance has been updated since that date, and whilst traffic levels on Shortheath Road are likely to have increased, I am satisfied that an acceptable means of access can be provided to serve the development'*.

The access is in largely the same position as shown on the approved layout plan but has increased in width from 5.2 metres to seven metres, thereby improving the means of access to the site in particular given that vehicles towing caravans and/or transporting static mobile homes would need to access the site. Concerns have been raised by local residents in respect of highway safety matters, in particular proximity of the site access to the Moira Miners Welfare entrance used for events such as football matches and car boot sales and existing traffic, on-street parking and visibility problems associated with such events. The Highway Authority has been asked to comment further on this matter and this will be reported on the Update Sheet.

The Inspector found that visibility splays of 2.4 metres by 78 metres in a north-easterly direction and 2.4 metres by 57 metres in a south-westerly direction were acceptable in respect of the smaller scheme for the site. The County Highway Authority has not raised any objections or requested any improvements to the access or size of visibility splays and advises that in its view the residual cumulative impacts of the development can be mitigated and are not considered

severe in accordance with paragraph 32 of the NPPF, subject to conditions. On this basis it is considered that a reason for refusal on highway safety grounds could not be justified.

Residential Amenities

The Environmental Services Protection team has made no comments in respect of noise and disturbance. The adjacent embankment will provide a buffer between the site and properties on Donisthorpe Lane. Nos. 75-81 Shortheath Road are separated from the site by their drive and a public footpath.

There is nothing to suggest that movements between the caravans and outside space would be significantly greater than those associated with housing developments in particular as the amenity block is no longer shown on the site layout. It is not unusual to find buildings/structures providing residential accommodation close to each other. The large parking area has been removed from the scheme and turning space would be provided centrally within the site, similar to the layout of a housing development.

It is acknowledged that gypsies and travellers often run businesses from their place of residence. The application is solely for residential caravans and no evidence has been put forward that a business would be operated from the site. A condition could be imposed preventing commercial activities from taking place on the site as per the appeal decision. Similar conditions to those on the appeal decision could also be imposed relating to external lighting and generators. The Authority also has enforcement powers to deal with any unauthorised use of the site or planning breaches should they occur in the future. Given these circumstances and the small scale of the proposal, noise and disturbance from comings and goings to and from the site, in particular from vehicles, is unlikely to result in significant detriment to the amenities of occupiers of nearby dwellings.

The nearest caravans would be sited 14 metres from No. 81 and six metres from No. 81's rear garden. Given these distances, that caravans would be single storey and that No. 81's hedgerow screens its side windows and conservatory, it is considered that the proposal will not result in significant loss of privacy or loss of light to nor create an oppressive/overbearing environment to No. 81.

There is also considered to be sufficient space around the caravans and on the site to ensure a satisfactory level of amenity to occupiers.

Protected Species

The developed part of the site would be over 100 metres from the nearest pond, which is the distance set out in the Local Validation Criteria relating to potential impact from minor development on great crested newts. A ditch runs alongside the site's south western boundary, which flows into a stream at the site's south western end, some 110 metres from the part of the site that would be developed. The application does not propose the removal of any existing trees or hedgerows and the majority of grassland on the site has been removed. There are no buildings on the site at the present time. The trees/vegetation located on the adjacent embankment are outside the application site. The County Ecologist has no objection to the proposal and advised in respect of the last application that whilst bats will almost definitely forage around the site, in particular as there is a bat roost in nearby woodland, no trees or built structure will be impacted by this application. External lighting may impact on bat foraging and can be addressed by condition. On this basis it is considered that the proposal would not adversely affect any protected species.

Ecological Status of the Site

The previous application was in part refused on the grounds of impact on a species-rich grassland that meets the Local Wildlife Site (LWS) criteria and is a priority habitat for conservation within the local Biodiversity Action Plan and the UK Biodiversity Action Plan. However the appeal decision found that the site was not protected by Policy E26 of the adopted Local Plan and also that significant damage had already occurred to the site by removal of the grassland and therefore its ecological value would be lost legitimately. A larger area of the site has now been hardsurfaced (although this is unauthorised), limited areas of grassland have re-grown and the County Ecologist has no objections on the basis that the site's ecological value has been destroyed. As such species rich grassland would not be harmed by the proposal.

Impact on River Mease Special Area of Conservation (SAC)/SSSI

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

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

The application proposes that foul drainage would be dealt with via the mains sewer system. Natural England and the Environment Agency have both issued Standing Advice relating to the River Mease SAC under which they do not need to be consulted if the proposal connects to the mains sewer and the applicant is agreeable to payment of the DCS contribution. The applicant has been made aware of the need for a legal agreement and the Council's solicitors have been instructed in respect of this matter.

The flows from the additional caravans need to be taken into account against the existing headroom at Donisthorpe Treatment Works. At March 2015 capacity was available for 75 dwellings but this is reduced by the number of dwellings that already have consent or are under construction at March 2015 (57) plus any other schemes that have been approved or have a resolution to permit since March 2015 (25). Taking these into account there is currently no capacity available at the treatment works.

Severn Trent Water has previously advised that it will not object to proposals where there is no capacity available but that a phasing condition should be imposed. A condition can be imposed requiring surface water to discharge to soakaway or other suitable sustainable drainage system to reduce discharge into the mains sewer including details of means to prevent pollution of the adjacent ditch and nearby tributary.

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

Other Matters

No development is proposed to take place on public footpath P39 which runs alongside the site's north eastern boundary but does not cross the site itself. The County Planning Archaeologist advises that he has checked the site against the Leicestershire and Rutland Historic Environment Record (HER) and does not feel that any archaeological work is required as part of the scheme. No trees are shown to be removed nor are there any trees on the site that are worthy of protection by a Tree Preservation Order. An amended plan has been requested to reposition some of the caravans and parking spaces outside the three metre wide ditch that runs within the site alongside its south western boundary and if not submitted this can be dealt with condition.

There is concern from residents in relation to safety and policing in particular due to previous problems with travellers in the area. Concerns have also been raised in respect of the proposal having a negative impact on the regeneration of the Moira area and on the National Forest and area's economy.

These matters may be capable of being a material consideration. However in order for them to attract any significant weight, these concerns should be based on some form of evidence rather than conjecture or speculation. In particular, case law suggests that public fears/concerns may be taken into account if they relate to a matter which is in itself a material consideration (such as public safety), if they are objectively justified (e.g. *West Midlands Probation Committee v Secretary of State for the Environment*, concerning a proposed bail hostel), or if those fears (founded or otherwise) would have "knock-on" land use consequences (e.g. *R v Broadland District Council ex parte Dove*).

In this instance, many concerns appear to be based on conjecture or speculation, with some based on previous experiences with unauthorised encampments. However there does not appear to be any meaningful evidence that these fears are objectively justified in relation to the applicant's current use of the site or have material land use consequences. Furthermore the appeal decision states that *'Although it was suggested that an assessment should be made of the potential impacts of the project on tourism, there is nothing to show that a small gypsy site here would undermine the regeneration achievements of the area.* The proposal would still form a small site and as noted above would be largely well screened from view from the adjacent public footpath, heritage trail and road. As such, limited weight should be attached to these issues.

The Authority has investigated alleged planning breaches on the site and at the current time there are no ongoing investigations as the enforcement files advise that it would not be expedient to take enforcement action at the current time. The previous application for three caravans was considered at face value and there was no evidence at the time of the application or appeal that a larger development would subsequently be proposed. An investigation into the provision of additional water supply pipes found they did not constitute development and no action was taken.

Article 3 of the European Convention on Human Rights would not be engaged in this case as any suffering the applicant and his family would experience if they could not establish a permanent home on this site would not be degrading treatment directly attributable to the state, unlike torture. Article 8 has to be balanced with the needs of the wider community as well as the interests of gypsies and travellers. If the proposal is refused case law has established that it could be considered that the Authority had interfered with the rights of the applicant and his family under Article 8 but these actions were justified because of the planning reasons given to refuse the application.

In response to the concerns raised in the letters of objection that are not covered above, impact on property values, the payment of rates and frequency of scrap metal collections are not planning matters and cannot be taken into account in the determination of the application.

Conclusion

It is considered that the applicant and his family have not ceased their nomadic lifestyle and therefore fall within the revised definition of gypsies and travellers. A reason for refusal on the basis of the proposal being contrary to Policy S3 could not be justified. Whilst the proposal would conflict with Saved Policy E4 of the adopted Local Plan, for the reasons outlined above and given the material considerations in favour of the development outlined in the section of the report relating to principle of the development, it is considered that a reason for refusal against Policy E4 of the Local Plan could not be justified. The less than substantial harm to heritage assets is in this case considered on balance to be outweighed by the demonstrated need for gypsy/traveller pitches in the District, a substantial unmet need for permanent sites in the District and the Council not being in a position to provide such sites for some time. It is considered that the proposal would not significantly harm the setting of non-designated heritage assets and a reason for refusal on highway safety grounds could not be justified. The proposal would not adversely impact on the residential amenities of occupiers of nearby dwellings, protected species, species-rich grassland, the adjacent public footpath, archaeological remains or trees. It can be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. The proposed obligation would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION - PERMIT subject to the signing of a legal agreement and the following conditions:

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

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

- 2 The development shall be carried out strictly in accordance with the following schedule of plans unless otherwise required by a condition of this permission:
 - Location Plan (1:1250) received by the Local Planning Authority on 15 July 2015;
 - Site Layout Plan including key (1:500) received by the Local Planning Authority on 15 July 2015.

Reason- To determine the scope of this permission.

- 3 Notwithstanding the submitted layout plan, no further laying of hardsurfacing or stationing of caravans shall take place until an amended site layout plan has been submitted which shows amended positions for the location of the four caravans adjacent to the site's south western boundary and their respective parking spaces so that they are sited at least three metres from the site's south western boundary. The development

shall be carried out in accordance with the agreed plan and shall thereafter be so retained.

Reason: to ensure a satisfactory layout for the site so that the caravans and parking spaces do not encroach within the field ditch/drain to reduce flooding risk.

- 4 The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites.

Reason - the site is only considered appropriate for use by gypsies and travellers and other use may not be appropriate.

- 5 No more than eight caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which all eight caravans can be a static mobile home), shall be stationed on the site at any time and the caravans shall only be sited as shown on the plan approved under condition 3.

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

- 6 No commercial activities shall take place on the site, including the storage of materials.

Reason - for the avoidance of doubt, as the application is for residential accommodation only, and in the interests of visual amenity.

- 7 No vehicles over 3.5 tonnes shall be stationed, parked or stored on the site.

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

- 8 Notwithstanding the submitted plans, before first occupation of any of the caravans or pitches hereby approved 2 metre by 2 metre pedestrian visibility splays shall be provided at the highway boundary on both sides of the access drive, with nothing erected or allowed to grow within the splays exceeding 0.6 metres above the adjoining ground level, with the splays being thereafter so retained.

Reason: In the interests of pedestrian safety.

- 9 Before first occupation of any of the caravans or pitches hereby approved visibility splays at the junction of the access with Shortheath Road shall be provided in accordance the details shown on the Site Layout Plan, with nothing erected or allowed to grow within the splays exceeding 0.9 metres above the adjoining carriageway level, with the splays and the access drive shown on the Site Layout Plan being thereafter so retained.

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

- 10 Before first occupation of any of the caravans or pitches hereby approved, the parking spaces for that caravan/pitch and the turning space for the site shall be provided in accordance with the details shown on the Site Layout Plan, and the access drive shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 7 metres behind the Highway boundary, and shall thereafter be so retained.

Reason: To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users; to ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area; To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

- 11 No external lighting shall be installed on the site unless details of the position, height and type of lights and a lighting assessment including information in relation to light spill have been submitted to and agreed in writing by the Local Planning Authority. The external lighting shall be installed and operated in accordance with the approved scheme.

Reason - in the interests of visual and residential amenities and to prevent adverse impacts on habitats that have the potential to be used for foraging by bats.

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

Reason: in the interests of residential amenities.

- 13 No further laying of hardsurfacing or stationing of caravans shall take place until details of soft/hard landscaping (including all hard surfaces) and boundary treatments, including details of any existing trees, vegetation and boundary treatments to be retained, have been submitted to and approved in writing by the Local Planning Authority. The approved soft landscaping scheme shall be provided in the first planting and seeding season following the first occupation of any of the caravans hereby approved and the approved hard landscaping and boundary treatment schemes shall be provided prior to the first occupation of any of the caravans hereby approved and shall thereafter be so retained, unless alternative timescales are first agreed in writing by the Local Planning Authority.

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

- 14 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.

- 15 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the site other than in accordance with the scheme required by condition 13 above.

Reason: in the interests of visual amenities.

- 16 No further laying of hardsurfacing or stationing of caravans shall take place until a Risk Based Land Contamination Assessment has been submitted to and agreed 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); 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, no development shall commence on site until a Remedial Scheme and a Verification Plan have been 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; and
- o BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings

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.
- o BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings
- o CIRIA C735, "Good practice on the testing and verification of protection systems for buildings against hazardous ground gases" CIRIA, 2014

The development shall be carried out in accordance with the agreed Remedial Scheme and Verification Plan and retained as such in perpetuity.

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.

- 17 Prior to occupation of any of the caravans hereby approved a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:
- o Contain a full description of the works undertaken in accordance with the agreed Remedial Schemes and Verification Plan;
 - o Contain results of any additional monitoring or testing carried out between the

- submission of the Remedial Schemes 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 Schemes; and
 - o Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Schemes 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.

- 18 No further laying of hardsurfacing or stationing of caravans shall take place until such time as drainage plans for the disposal of foul drainage have first been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be provided before any of the caravans hereby approved are first occupied and shall thereafter be so retained.

Reason: To ensure that the development provides a satisfactory means of drainage to reduce the risk of creating, or exacerbating any existing, flooding problem and to minimise the risk of pollution.

- 19 No further laying of hardsurfacing or stationing of caravans shall take place until a scheme for the discharge of surface water from the caravans and site layout to a soakaway or another sustainable drainage system, including measures to prevent pollution of the field ditch/drain, has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be provided before the caravans are stationed on the site and shall thereafter be so 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.

- 20 No more than three of the caravans hereby approved shall be occupied until Severn Trent Water has stated in writing to the Local Planning Authority that there is sufficient headroom capacity available at Donisthorpe Waste Water Treatment Works to take the foul drainage discharge from the additional five caravans hereby approved.

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

- 21 No further laying of hardsurfacing or stationing of caravans shall take place until precise details of the existing and finished ground levels and the proposed floor levels of the caravans in relation to an existing datum point have been submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

Reason- to ensure the development takes the form envisaged by the Local Planning Authority.

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 This decision is subject to a Section 106 Agreement regarding a contribution under the River Mease DCS.
- 3 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at www.defra.gov.uk
- 4 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

Demolition of existing five no. poultry houses and associated feed silos and erection of three detached dwellings (outline - access, layout and scale included)

Report Item No
A2

Poultry Farm Normanton Road Packington Leicestershire

Application Reference
15/00992/OUT

Applicant:
Mr & Mrs Fleetham

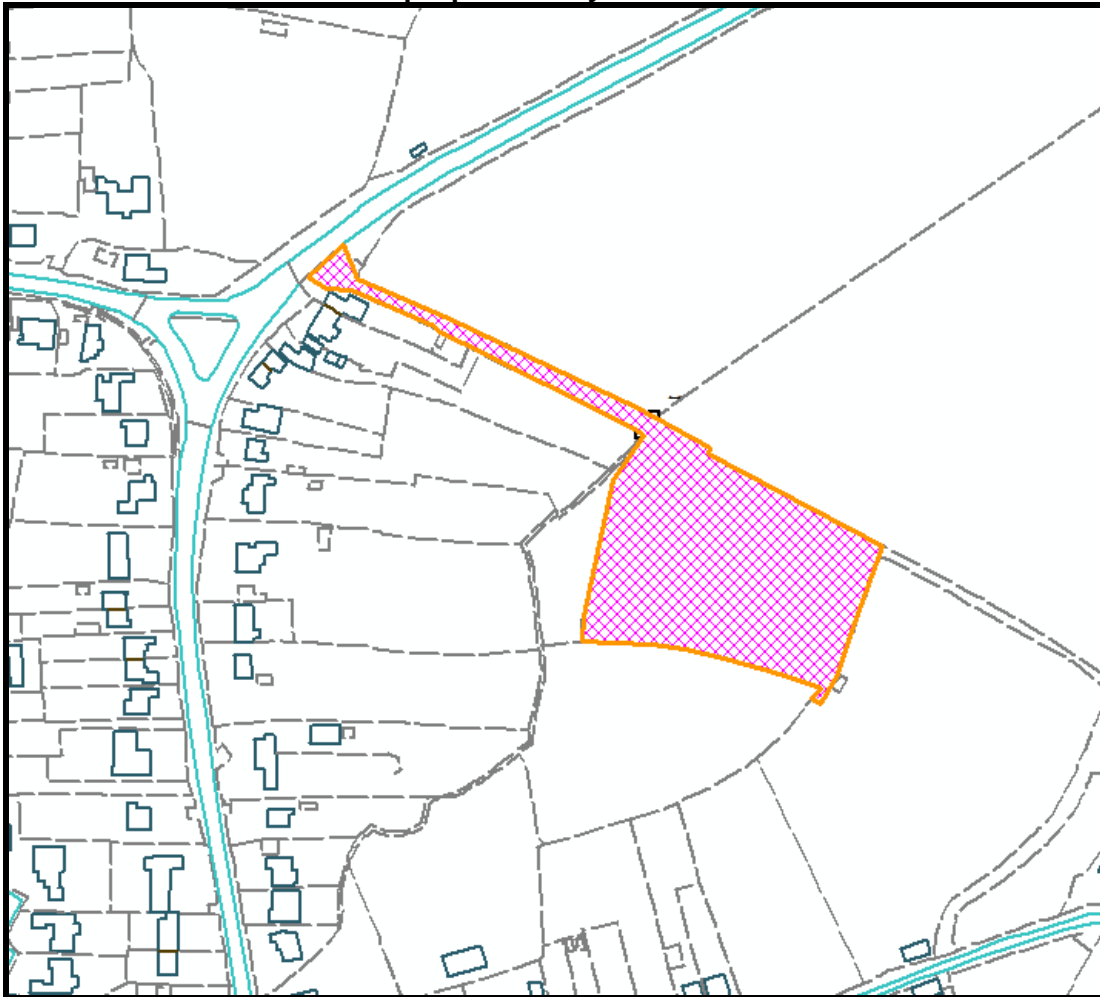
Date Registered
12 October 2015

Case Officer:
Jenny Davies

Target Decision Date
7 December 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

This application has been called to Planning Committee by Councillor Nigel Smith on the grounds that the site is outside the Limits to Development, the land is agricultural and for highway safety reasons.

Proposal

Outline planning permission is sought for the demolition of five no. poultry houses and associated feed silos and the erection of three detached dwellings, with access, layout and scale included for determination at the Poultry Farm, Normanton Road, Packington. Two detached dwellings would be located on the western part of the site and a larger detached dwelling on the central/eastern part of the site and detached triple garage/store located adjacent to the northern boundary. Access to the site would be via the existing drive that leads from Normanton Road.

Consultations

Two letters of objection have been received from members of the public and Packington Parish Council has raised objections. No other objections have been received from statutory consultees.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and is in the countryside which is protected by Policy S3.

Conclusion

It is considered that Packington is a sustainable location for the level of development proposed for this site, that the loss of agricultural land is not sufficient in this case to suggest that planning permission should be refused and the proposal is acceptable in principle. The proposal would not be significantly detrimental to the character and visual amenities of the locality. The site proposal would result in less than substantial harm to the designated heritage assets and this harm can be outweighed by public benefits. Reasons for refusal on the basis of the proposal resulting in a severe impact on highway safety and impacts on users of the public right of way could not be justified in this case. Protected species and residential amenities would not be adversely affected, conditions can be imposed relating to contaminated land and no trees/hedgerows are shown to be removed. 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. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION - PERMIT subject to the signing of a legal agreement and subject to conditions

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

MAIN REPORT

1. Proposals and Background

Outline planning permission is sought for the demolition of five no. poultry houses and associated feed silos and the erection of three detached dwellings, with access, layout and scale included for determination at the Poultry Farm, Normanton Road, Packington. Residential development adjoins the site to the west with fields on all other sides. The existing structures to be demolished were formerly used in association with a poultry farm but this use has now ceased.

Two detached dwellings would be located on the western part of the site with a shared double garage in-between. A larger detached dwelling would be located on the central/eastern part of the site, with a detached triple garage/store located adjacent to the northern boundary. The indicative details show the dwellings to all be two storey.

Access to the site would be via the existing drive that leads from Normanton Road into the site, with parking and turning available to all three dwellings. All existing trees and hedgerows are shown to be retained and areas of new tree planting are proposed.

The site lies within the catchment area of the River Mease Special Area of Conservation and a tributary of the river runs alongside the site's western boundary. Packington House on Spring Lane lies around 120 metres to the south east and No. 9-11 Normanton Road lies on the opposite side of the road from the site entrance, both of which are Grade 2 listed buildings. The Packington Conservation Area adjoins the southern boundary of the western end of the access drive. Public right of way O64 runs along the access drive and then alongside the northern boundary of the site. The most recent planning history relates to development associated with the poultry farm in 1995 (95/0993).

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

2. Publicity

23 no. neighbours have been notified (Date of last notification 15 October 2015)

Press Notice published 28 October 2015

Site notice posted 17 October 2015

3. Consultations

Packington Parish Council consulted 15 October 2015

County Highway Authority consulted 15 October 2015

Severn Trent Water Limited consulted 15 October 2015

Head of Environmental Protection consulted 15 October 2015

Natural England- Within 2k Of SSSI consulted 15 October 2015

NWLDC Tree Officer consulted 15 October 2015

County Archaeologist consulted 15 October 2015

LCC ecology consulted 15 October 2015

NWLDC Conservation Officer consulted 15 October 2015

LCC/Footpaths consulted 15 October 2015

NWLDC Footpaths Officer consulted 15 October 2015

4. Summary of Representations Received

Statutory Consultees

Packington Parish Council objects on the following grounds:

- the proposed development is outside the proposed limits to development currently being consulted upon by the District Council;
- Councillors are confused as to how this application can be considered based on the fact that it is outside the proposed limits to development and therefore outside the building line for Packington which consultation is being carried out at the moment.
- this land is agricultural and cannot therefore be built upon;
- access is extremely poor from Coleorton Lane and any further traffic movements would cause considerable safety issues on the highway.

The County Archaeologist has no objections.

The Conservation Officer has no objections.

The Council's Environmental Protection team has no environmental observations subject to conditions.

The County Ecologist has no objections.

Natural England has no objections subject to conditions.

The County Highway Authority has no objections subject to conditions.

The County Footpaths Officer has no objections.

No comments have been received from Severn Trent Water, the Council's Tree Officer and the Council's Footpath Officer by the date of this report. Any comments received will be reported on the Update Sheet.

Third Party Representations

Two letters of representation have been received which object on the following grounds:

- use of gated access from No. 23 Normanton Road onto access drive needs to be allowed to continue;
- visual barrier formed by trees needs to be retained;
- access drive is not adequate to accommodate estimated minimum 24 trips per day, due to its width;
- access drive is also a public footpath which is used daily and there is no space for pedestrian refuges along its whole length;
- parking associated with visitors to the National Forest planting at Sunnyside Wood takes place along the western end of the access drive;
- severe impact on these users of the public footpath and visitors to the woodland;
- entrance to the access drive is never free from parked cars;
- vehicles speed above the 30mph limit along Coleorton Lane/Normanton Road close to the site entrance;
- care has to be taken exiting from driveway to No. 19 Normanton Road due to speeding and site entrance has much less visibility.

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 and 34 (Promoting sustainable transport)

Paragraphs 57, 60, 61 and 64 (Requiring good design)

Paragraphs 69 and 75 (Promoting healthy communities)

Paragraphs 96, 99 and 100 (Meeting the challenge of climate change, flooding and coastal change)

Paragraphs 109, 112, 118, 119, 120, 121 and 123 (Conserving and enhancing the natural environment)

Paragraphs 129, 131, 132, 133, 134, 137 and 138 (Conserving and enhancing the historic environment)

Paragraphs 203 and 204 (Planning conditions and obligations)

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.

Policy S1 - Overall Strategy

Policy S3 - Countryside

Policy E2 - Landscaped Amenity Open Space

Policy E3 - Residential Amenities

Policy E4 - Design

Policy E7 - Landscaping

Policy E8 - Crime

Policy F1 - National Forest - General Policy

Policy F2 - Tree Planting

Policy F3 - Landscaping & Planting

Policy T3 - Highway Standards

Policy T8 - Parking

Policy H4/1 - Housing Land Release

Policy H6 - Housing Density

Policy H7 - Housing Design

Draft North West Leicestershire Local Plan

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are

considered relevant to this application. However, in view of the very early stage to which the draft Local Plan has progressed, only very limited weight can be attributed to its policies at this stage.

S1 - Presumption in Favour of Sustainable Development
S2 - Future Housing and Economic Development Needs
S3 - Settlement Hierarchy
S4 - Countryside
S5 - Design of New Development
H6 - House Types and Mix
IF1 - Development and Infrastructure
IF4 - Transport Infrastructure and New Development
IF7 - Parking Provision and New Development
En1 - Nature Conservation
En2 - River Mease Special Area of Conservation
En3 - The National Forest
En6 - Land and Air Quality
He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment
Cc2 - Sustainable Design and Construction
Cc3 - Water - Flood Risk
Cc4 - Water - Sustainable Drainage Systems

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
The River Mease Developer Contributions Scheme (DCS) - November 2012
The Community Infrastructure Levy Regulations 2010
6Cs Design Guide (Leicestershire County Council)
Packington Conservation Area Study and Appraisal - 2001

6. Assessment

The main issues for consideration in the determination of this application relate to the principle and sustainability of the development, its design and visual impact and its impact on the historic environment, highway safety, a public footpath, protected species and on the River Mease Special Area of Conservation.

Principle and Sustainability

The site is located outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan; residential development does not fall within the types of development acceptable in the countryside under Policy S3 of the adopted Local Plan. It should however be borne in mind that the defined Limits to Development were drawn having regard to housing requirements only up until the end of that Plan Period (i.e. to 2006).

The NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development given the presumption in favour of such as set out in the NPPF.

As 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 and in date, in the

context of Paragraph 49 of the NPPF. Policy H4/1 identifies the criteria for releasing "appropriate" land for housing.

Whether or not this site would be considered "appropriate" for new housing development is a matter of judgement. The proposal would not fall within one of the specific local circumstances where new dwellings can be permitted in the countryside under Policies H11 or H12 of the adopted Local Plan. However the site is located close to existing and proposed built development, and therefore would not result in isolated development in the countryside. In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to maintain a five year housing land supply in the District. It is considered inevitable that some greenfield land will need to be released in order to maintain a five year supply of deliverable sites.

Whilst the sequential approach set out under Policy H4/1 is outdated in the context of the NPPF, the sustainability credentials of the scheme still need to be assessed. The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The previous agricultural use of the site would have generated some vehicle journeys. The application site is located at Packington which provides a range of day to day facilities, e.g. shop, primary school, church, village hall, a public house and play area/open space. There is also an hourly bus service in the day to and from Burton, Swadlincote, Ashby and Measham. The site is located within maximum walking distance (i.e. within 800m to 1km) of these services other than the play area and is well related to Ashby de la Zouch, and therefore occupiers of the dwellings would not necessarily be dependent on the private car. Taking all of these matters into account, it is considered that Packington is a sustainable location for the level of development proposed for this site.

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. However, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost. The site is approximately 0.8 hectares in size. It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process, which in this case would be relatively small in scale. Whilst there would be adverse impacts in this regard, it is considered that the loss of agricultural land is not sufficient in this case to suggest that planning permission should be refused.

It is therefore considered that the development of the site for three dwellings is acceptable in principle.

Design and Visual Impact

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

It is acknowledged that all three dwellings would be taller than the existing buildings and that Plot 3 would be of a significant scale. However the majority of the site is currently occupied by five buildings, each with large footprints, along with a number of silos, which are visible in views from the road and footpath. Plot 1 would be well screened from view from the road and although Plot 2 would be more visible due to a gap in this screening, one of the existing buildings and a silo can currently be seen in this view, with one of the dwellings on Spring Lane

forming the backdrop. Plot 3 and its garage block would in part be visible from the road but would have some screening and existing buildings can be seen in this view, with the garage being located on the site of an existing outbuilding. Whilst all three dwellings would be prominent in views from the public footpath, the site is already occupied by buildings/structures which are not of a high design quality and a lesser area of the site would be occupied by built development. Furthermore the site does not extend into the open countryside to the north of the public footpath and is well related to existing development. The scale of Plot 1 and 2 reflects that of the nearest dwellings on Normanton Road and although Plot 3 would be much larger, amendments have been secured to reduce the extent of its eastern wing. Based on the indicative plans it is considered that dwellings could be designed that reflect the positive characteristics of existing dwellings in the village. The site can accommodate all of the necessary requirements (private garden, parking/turning space) for all three dwellings and the site would not be cramped or overdeveloped. It is therefore considered that the development of the site for three dwellings would not be significantly detrimental to the character and visual amenities of the locality.

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, 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.

In terms of designated heritage assets, Packington House on Spring Lane lies around 120 metres to the south east of the site and No. 9-11 Normanton Road lies on the opposite side of the road from the site entrance, both of which are Grade 2 listed buildings. The Packington Conservation Area adjoins the southern boundary of the western end of the access drive and is approximately 30 metres to the north west of the developed part of the site. Therefore the impact of the development on the fabric and 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.

No. 9-11 is a good example of an 18th century cottage and is located within a part of the Conservation Area which forms the entrance to the core of the village. Packington House is a substantial three storey property that is still isolated from the village and largely retains its rural setting. Therefore the listed buildings and Conservation Area form an important part of the history of this locality and are considered to be heritage assets of significance which have value for this and future generations.

The developed part of the site is well separated from the Conservation Area by the gardens and mature trees to properties on Normanton Road and would not be highly visible within views of or from the Packington Conservation Area, although it is acknowledged that some glimpses of the site would be available towards the Conservation Area from Coleorton Lane and the public footpath. However when having regard to the distances involved and intervening mature gardens, along with development currently on the site, it is considered that the proposal would not adversely affect the character and appearance of the Packington Conservation Area. The developed part of the site is also not visible within the setting of No. 9-11 Normanton Road and

given the distance between the two sites and that there does not appear to be any direct functional/historic relationship between the two, the setting of this listed building would not be adversely affected.

The setting of Packington House is somewhat compromised to the immediate north by the presence of a modern two-storey dwelling but its rural setting survives predominantly to the south and south east, but also to some extent to the west and south west due to the buffer of fields between the listed building and existing development, including the site, on the edge of the village. However in a westerly direction the existing buildings/structures on the site form part of the foreground/backdrop to Packington House in particular when viewed from the public footpath, Spring Lane and from the listed building itself. There are also open views of Packington House from the eastern boundary of the site. This open view would not be compromised and the buffer between the listed building and development on the site would be increased with the removal of the existing buildings and the position of Plot 3. Furthermore the overall level of built development on the site would be reduced, along with the removal of buildings of poor design quality. Whilst the height and scale of the front elevation of Plot 3 would be greater than the poultry sheds, these buildings can currently be seen in the foreground of Packington House and Plot 3 would not block views of the listed building from the public footpath. Therefore it is considered that the site is capable of accommodating the development without an adverse impact on the setting of the listed buildings and Conservation Area and their significance would be retained, thereby resulting in less than substantial harm to the designated heritage assets.

Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal. The less than substantial harm to the heritage asset is in this case considered on balance to be outweighed by the public benefit of the re-use of a site currently occupied by buildings of poor design quality that do not make a positive contribution to the character and visual amenities of the area or to the setting of the Packington House.

Highway Safety

There is adequate space within the site for parking and turning provision for the three dwellings. However concerns have been raised by the Parish Council and a local resident regarding highway safety matters, in particular relating to poor access from the site onto Normanton Road/Coleorton Lane due to speeds of traffic and visibility. The County Highway Authority advises that as *'...there is not a farmhouse connected to the existing agricultural use, it is reasonable to suggest that the proposals could lead to an increase in traffic. However, there may be some reduction in the size of vehicles in connection with the use of the site.'* The Highway Authority also advises that because the design of the access from the carriageway of Normanton Road is broadly in compliance with the '6Cs Design Guide', it won't be recommending refusal of the proposal. As such the Highway Authority's advice is that, in its view, the residual cumulative impacts of development can be mitigated and are not considered severe in accordance with paragraph 32 of the NPPF, subject to conditions. On this basis it is considered that a reason for refusal on the basis of the proposal resulting in a severe impact on highway safety and not providing a safe and suitable access for all could not be justified in this case.

Public Footpath

Public footpath/bridleway O64 runs along the access drive and then alongside the northern boundary of the site. No part of the development would encroach upon its route, which is also not proposed to change. Concern has been raised by a local resident in respect of impact on users of this route from an increase in vehicles using the access drive. The County Footpaths

Officer advises that *'It is accepted that use of the driveway by vehicles, and subsequently the public footpath, will increase due to the proposed development of three properties. However due to the clear sight lines and the provision of a narrow verge and an existing gateway along the route it is considered that pedestrians and vehicles should be able to use the access road without conflict if due care and attention is taken by both parties.'* Furthermore as noted above, whilst there may be an increase in the number of vehicles using the access drive, there is likely to be reduction in the size of vehicles, with most trips likely to be by car rather than larger vehicles (e.g. lorries, farm vehicles) that were associated with the former poultry farm use. Furthermore if the site remained in an agricultural use then the Authority would have no control over the types of vehicles that could access the site. It is also considered that the likely increase in vehicle movements and development of the site would materially impact on the experience of users of the footpath, on the basis that the site is already developed and that the access drive has previously been in use. On this basis it is considered that a reason for refusal on the basis of significant impact on users of the public right of way and not providing a safe and suitable access for all could not be justified in this case.

Protected Species

Existing buildings/structures are proposed to be demolished, there are mature trees/hedgerows on and adjacent to the site, the site is adjoined by open fields and large gardens and a stream and ditch lie on the site boundaries. All of these are features that could be used by European Protected Species (EPS) or national protected species. As EPS 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 submitted survey found no evidence of badgers setts or activity on or adjacent to the site. The survey also found that the buildings could house breeding birds and therefore their demolition should take place outside the breeding bird season, which could be secured by condition. It was also concluded that the buildings were not suitable for bat roosting. No trees/hedgerows are shown to be removed and development would be over 10 metres from the ditch and stream. On this basis it is considered that protected species would not be adversely affected by the proposal

Impact on the River Mease Special Area of Conservation

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

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

The Environment Agency has issued Standing Advice relating to the River Mease SAC under which they do not need to be consulted if the proposal connects to the mains sewer and the applicant is agreeable to payment of the DCS contribution. Natural England has no objections subject to conditions. The applicants have indicated they are willing to pay the required DCS contribution and the Council's solicitors have been instructed in respect of this matter.

The flows from the additional three dwellings need to be taken into account against the existing

headroom at Packington Treatment Works, which serves this area. At March 2015 capacity was available for 3120 dwellings but this is reduced by the number of dwellings that already have consent or are under construction at March 2015 (619) and a further 665 which have subsequently been granted permission or have a resolution to permit in place, giving capacity for 1836 dwellings. As such it is considered that capacity is available at the relevant treatment works for the foul drainage from the site. There would not be an increase in hardstanding or roof areas at the site (there would in fact be a reduction) and so a condition relating to surface water discharge is not required.

New development would be over 10 metres from the stream and no works are proposed within or to the banks of the stream, although part of the westernmost existing building lies immediately adjacent to the stream. Therefore it is considered reasonable to impose conditions relating to a construction method statement and no works to take place within or to the banks to the stream.

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.

Other Matters

The Environmental Protection team has requested the imposition of conditions relating to contaminated land due to the agricultural use of the site. None of the existing trees and hedgerows on the site are shown to be removed.

The proposal is likely to result in an increase in traffic using the access drive which runs adjacent to No. 17 Normanton Road and rear gardens. However the situation would not be dissimilar to a development on a corner site with a side road running close to dwellings and their rear gardens, which was considered in an appeal decision to be a yardstick for an acceptable standard, and which already occurs in other parts of the village.

Plot 1 would be over 100 metres from the dwellings on Normanton Road and whilst it would be within 10 metres of the nearest rear garden, these gardens are all large in size with mature tree planting in-between. Plot 3 would be over 140 metres from the nearest dwellings on Spring Lane the three dwellings would be over 80 metres from the nearest garden areas. As such it is considered that the proposal would not adversely affect the amenities of occupiers of nearby dwellings from overlooking, loss of light or creation of an oppressive outlook.

In respect of matters raised in the letters of objection that have not been addressed above, no development is proposed to the existing access drive and rights of access are not a planning matter and cannot be taken into account in the determination of planning applications.

Conclusion

It is considered that Packington is a sustainable location for the level of development proposed for this site, that the loss of agricultural land is not sufficient in this case to suggest that planning permission should be refused and the proposal is acceptable in principle. The proposal would not be significantly detrimental to the character and visual amenities of the locality. The site proposal would result in less than substantial harm to the designated heritage assets and this harm can be outweighed by public benefits. Reasons for refusal on the basis of the proposal resulting in a severe impact on highway safety and impacts on users of the public right of way could not be justified in this case. Protected species and residential amenities would not be adversely affected, conditions can be imposed relating to contaminated land and no

trees/hedgerows are shown to be removed. 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. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION, PERMIT, subject to the signing of a Section 106 Agreement and the following condition(s):

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

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

- 2 Approval of the details of appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason- this permission is in outline only.

- 3 No development shall commence on site in relation to the construction of any part of the dwellings or garages hereby approved until the existing buildings and structures shown on Drawing Nos. 15.3142.02 and Drawing No. 15.3142.03 have been demolished in full, unless an alternative timescale for their demolition has first been submitted to and agreed in writing by the Local Planning Authority.

Reason - To avoid the possibility of the coexistence of two unrelated developments which would be visually unsatisfactory.

- 4 No development shall commence on site until such time as precise details of the finished ground levels on the site and the finished floor levels of the dwellings in relation to an existing datum point 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 takes the form envisaged by the Local Planning Authority.

- 5 Operations that involve the demolition of buildings on the site shall not be undertaken during the months of March to September inclusive unless otherwise submitted to and 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.

- 6 No development (including demolition) shall commence on site until details of bird mitigation measures have been submitted to and agreed in writing by the Local Planning Authority. The agreed measures shall be provided before first occupation of any of the dwellings hereby approved, unless an alternative implementation programme is first agreed in writing with the Local Planning Authority, and shall thereafter be so retained.

Reason: to provide enhanced biodiversity measures within the site and to mitigate against the potential loss of habitats for protected species.

- 7 No development (including demolition) shall commence on site until a detailed method statement for construction of the development and demolition of the existing buildings/structures has been submitted to and agreed in writing by the Local Planning Authority. The method statement should set out methodologies to remove any risk of fuel, soils, building materials and waste water entering the nearby River Mease during construction of the development, including how and where materials, fuel and plant will be stored and contained, containment of waste water on the construction site, use of site spill kits and briefing to construction staff, the location of oil traps and how the western most poultry shed would be demolished. Construction works relating to the development hereby approved shall be carried out in accordance with the agreed method statement.

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

- 8 Before first occupation of each dwelling hereby permitted the car parking and any turning space for that dwelling shall be provided in accordance with the details shown on Drawing No. 15.3142.04B and Drawing No. 15.3142.05A (Outline Planning Proposals - Sheet 1 and 2 of 2), surfaced and shall thereafter be so retained in perpetuity.

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 ensure vehicles leaving the existing property will be able to enter and leave in a forward direction; In the interests of pedestrian safety.

- 9 Before first occupation of any dwelling hereby approved, the existing access drive from Normanton Road shall be provided in accordance with the details shown on Drawing No. 15.3142.04B (Outline Planning Proposals - Sheet 1 of 2) and surfaced with tarmac, concrete or similar hard bound material (not loose aggregate) for a distance of at least five metres behind the highway boundary and shall thereafter be so retained in perpetuity.

Reason: in the interests of highway safety.

- 10 No development shall commence on site (other than demolition approved by this permission) 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 or should any need for remedial works be identified, a Remedial Scheme

and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority before development commences on site. 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 the NPPF.

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

- o Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;

- o Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;

- o Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;

- o Contain Test Certificates of imported material to show that it is suitable for its proposed use;

- o Demonstrate the effectiveness of the approved Remedial Scheme; and

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

Reason: To 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 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 and during the application 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 This permission is subject to a Section 106 Agreement relating to a contribution under the River Mease Developer Contributions Scheme.
- 3 The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.
- 4 A public right of way crosses the site and must not be re-routed, encroached upon or obstructed in any way without proper authorisation. To do so may constitute an offence under the Highways Act 1980.
- 5 Care should be taken to ensure that pedestrians are not exposed to any elements of danger associated with construction works, and wherever appropriate they should be safeguarded from the site by a secure fence. In view of the close proximity of the proposed development to the public right of way, particular attention should be given to ensuring that no materials are stored on the lines of the rights of way and that no contractors' vehicles are parked either along or across them ensuring that free access can be exercised safely at all times.
- 6 Any damage caused to the surface of a Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
- 7 No new gates, stiles, fences or other structures affecting the Right of Way, of either a temporary or permanent nature, or works to the surface of the Right of Way should be constructed without the written consent of the Highway Authority having been obtained. Unless a structure/works has been authorised, it constitutes an unlawful obstruction of a Right of Way and the County Council may be obliged to require its immediate removal.
- 8 If it is intended to change the boundary treatment currently separating the application site from the Public Right of Way, the Highway Authority's approval to the type of boundary treatment proposed should be obtained. Any new trees or shrubs which are proposed to be planted adjacent to a Public Right of Way should be set back by a minimum of 1 metre from the edge of the route and be species which do not spread. This will minimise the likelihood of the width of the Right of Way being encroached upon and reduced in width by overhanging vegetation in the future.
- 9 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
- 10 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

Construction of a detached two-storey dwelling involving the formation of a new vehicular access off Melbourne Lane

Report Item No
A3

1 Hollow Road Breedon On The Hill Derby DE73 8AU

Application Reference
15/00204/FUL

Applicant:
Mr James Burton

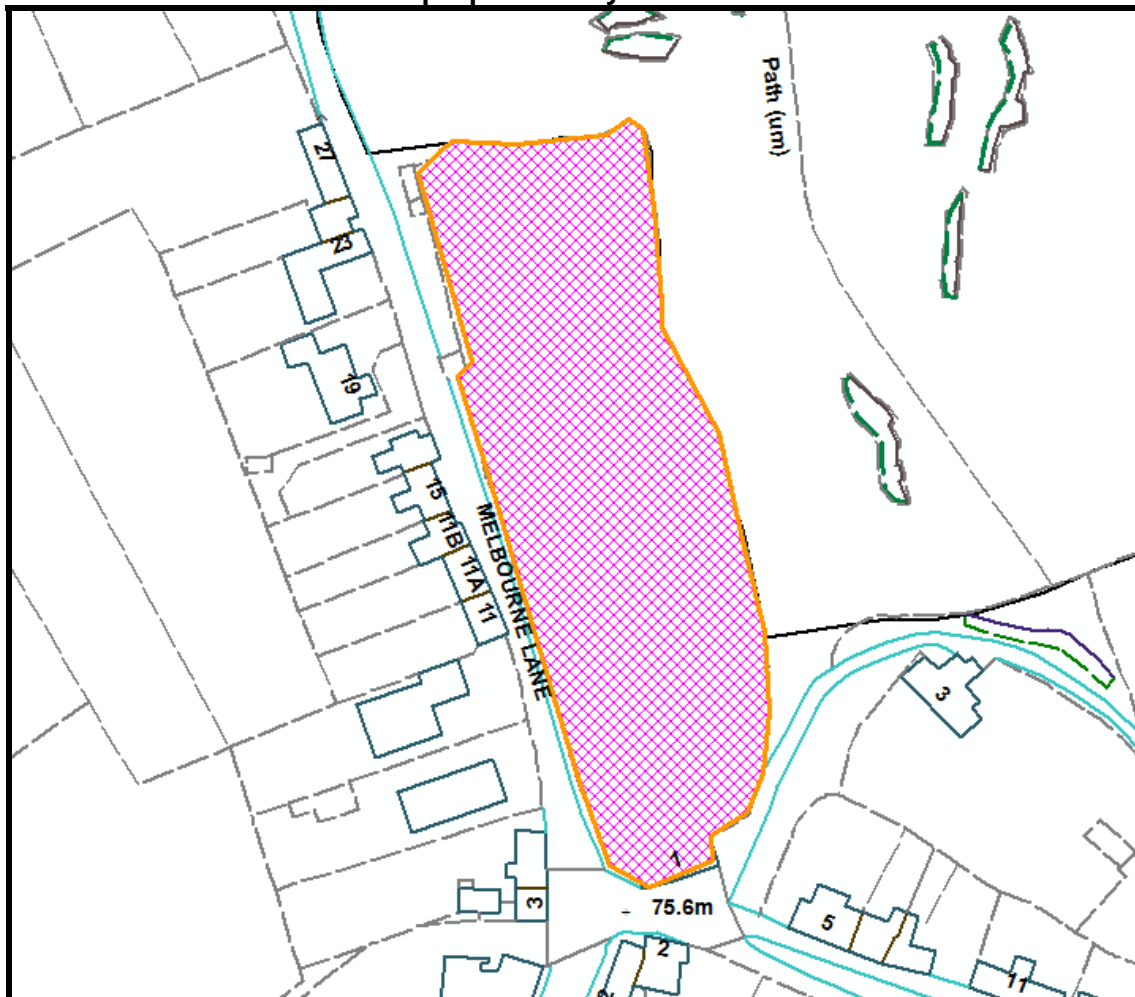
Date Registered
25 March 2015

Case Officer:
Adam Mellor

Target Decision Date
20 May 2015

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought to the Planning Committee at the request of Councillor Stevenson as a matter of public concern.

Proposal

Permission is sought for the construction of a detached two-storey dwelling involving the formation of a new vehicular access off Melbourne Lane at land to the north of No. 1 Hollow Road, Breedon on the Hill. It is noted that the site in question is situated outside the defined Limits to Development and is also within the Breedon on the Hill Conservation Area. Following the removal of an existing studio and storage building a dwelling within three distinct parts, and based on a modernistic agricultural approach, would be formed which would be two-storey in height, albeit the first floor accommodation would largely be contained within the roof space which keeps the ridge height lower than that of a traditional two-storey dwelling. The application was deferred at the Planning Committee meeting of the 23rd June 2015 following the objection received from Historic England.

Consultations

Eight no. representations objecting to the application have been received from third parties with Historic England, the County Council Archaeologist, District Council Conservation Officer and Breedon on the Hill Parish Council also objecting. All other statutory consultees have no objections subject to the inclusion of conditions on any consent granted.

Planning Policy

The proposed development is considered to be contrary to the core aims of the NPPF, particularly Paragraphs 53, 61, 131, 132, 134 and 137 as well as Policy E4 of the adopted North West Leicestershire Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Conclusion

The proposal dwelling would be on land described as residential garden to no. 1 Hollow Road.

Whilst it is considered that the design approach and materials of construction selected would be acceptable the provision of a dwelling on the site would represent the incursion of new development onto the surviving half of a hill which represents the sole approach to the church and monument and which is the direct historic landscape setting of the monument. Given the importance of the heritage assets great weight should be given to the preservation of this setting with it being considered that the harm caused would be less than substantial. Paragraph 134 of the NPPF outlines that any 'less than substantial' harm to the significance of heritage assets should be weighed against the public benefits of the proposal and in this particular case there would be no public benefits associated with the development given that it relates to the provision of a private residence. In this circumstance to permit the development would be contrary to the aims of the core Paragraphs of the NPPF and in particular Paragraphs 53, 61, 131, 132, 134 and 137 as well as Policy E4 of the adopted Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservations Areas) Act 1990.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE;

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

MAIN STREET**1. Proposals and Background**

Planning permission is sought for the construction of a detached two-storey dwelling involving the formation of a new vehicular access off Melbourne Lane at 1 Hollow Road, Breedon on the Hill. The application site in question is located to the north of No. 1 Hollow Road and to the east of properties on Melbourne Lane (mainly Nos. 9, 11 and 11A) and currently forms part of the residential garden to No. 1 as well as open paddock land. The site in question is situated outside the defined limits to development, as identified on the proposals map to the North West Leicestershire Local Plan, and is also within the Breedon on the Hill Conservation Area. The Breedon Hill Site of Special Scientific Interest (SSSI) is located along the eastern and northern boundaries of the site with the Grade I Listed Church of St Mary & St Hardulph also being located to the north east of the site.

In order to facilitate the development it would be necessary to remove an existing studio and storage building off the site with the dwelling then being constructed at a distance of 6.4 metres, at its closest point, and 7.0 metres, at its furthest point, from Melbourne Lane. The dwelling would be formed in three distinct parts all linked together by a flat roofed addition located centrally within the scheme and has been amended following concerns raised by the Local Authority. Due to the topography of the site the three parts would each have different ridge heights ranging from 8.6 metres to 6.05 metres with the connecting structure being 4.9 metres high. Internally the dwelling would provide a dining room, lounge, double garage, boot room, water closet, utility room, kitchen and day room at ground floor level and four bedrooms, study, three en-suites and a bathroom at first floor level for the occupants. First floor accommodation would be provided within the roofspace.

In addition to the above works it is also proposed that a new vehicular access would be formed onto Melbourne Lane which would have a relative width of 11.2 metres.

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

Following receipt of the objection from Historic England the agent commissioned an Archaeological Desk-Based Assessment to be carried out which was received on the 5th November 2015. Historic England, Leicestershire County Council Archaeology, Breedon on the Hill Parish Council and neighbours have been reconsulted on the revised information.

The planning history of the site is as follows: -

- 84/0609/P - Extension to dwelling - Approved 15th August 1984;
- 84/0923/P - Erection of garage and siting of L.P.G. tank - Approved 7th November 1984;
- 89/1523/P - Erection of one dwelling - Refused 4th April 1990;
- 90/0817/P - Erection of one dwelling and car port (resubmission) - Approved 29th August 1990.

2. Publicity

17 no. neighbours have been notified (Date of last notification 10 November 2015)

Site Notice displayed 1 April 2015

Press Notice published 8 April 2015

3. Consultations

Breedon On The Hill PC consulted
 County Highway Authority consulted 1 April 2015
 Severn Trent Water Limited consulted 1 April 2015
 Head of Environmental Protection consulted 1 April 2015
 Natural England consulted 1 April 2015
 NWLDC Tree Officer consulted 1 April 2015
 County Archaeologist consulted 1 April 2015
 LCC ecology consulted 1 April 2015
 Airport Safeguarding consulted 1 April 2015
 NWLDC Conservation Officer consulted 1 April 2015
 LCC ecology consulted 1 April 2015
 Historic England-consulted 10 November 2015

4. Summary of Representations Received

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

Breedon on the Hill Parish Council initially had no objections, however, after receiving reconsultation on the amended plans the Parish Council objected on the following grounds:

"A new property in this location within the village conservation area would materially affect the setting of the grade 1 listed church and grade 2 listed public house and would neither preserve nor enhance the conservation area contrary to paragraphs 132 and 133 of the NPPF;"

"The scale and massing of the proposed development would result in significant loss of amenity for nearby residents, passing visitors, and present an overbearing appearance in comparison with the existing street scene;"

"There would be a significant loss of mature hedgerow which would be further compounded by the significant level change between the existing highway surfaces and proposed garden areas."

East Midlands Airport Safeguarding has no objections.

Historic England raised an objection to the application due to the proposal impacting on the setting of the St Mary & St Hardulph Church which is a Grade I Listed Building. Following receipt of the revised information Historic England have reiterated their objection to the proposals.

Leicestershire County Council - Archaeology object to the application due to the setting of the Grade I Listed Church of St Mary & St Hardulph being adversely affected by virtue of the visual dominance of the Church in its isolated position being adversely impacted on.

Leicestershire County Council - Ecology following receipt of the ecological survey no objections are raised subject to an appropriate buffer zone/fencing being provided to a badger sett on the site as well as the retention of an Ash tree which has bat potential. Following discussions with the applicants ecologists it has been determined that a buffer zone of 20 metres would be adequate.

Leicestershire County Council - Highways has no objections subject to their standing advice being considered.

Natural England has no objections subject to a condition being imposed on any consent granted for a suitable boundary treatment to be secured between the site and the Breedon Hill SSSI with no direct access from the site into the SSSI along the eastern boundary.

NWLDC - Conservation Officer initially had no objections to the principle of the development but raised concerns in respect of the prominence of the garage element (Second Structure) and the large façade due to the garage doors being off-set. Following subsequent revisions the Council's Conservation Officer had no objections to the design approach for the dwelling but considered that the comments of Historic England needed to be addressed. On the basis of the comments received from Historic England and the County Council Archaeologist the Council's Conservation Officer concurs with the advice.

NWLDC - Environmental Protection no representation received.

Severn Trent Water has no objections.

Third Party Representations

Eight no. individual representations have been received (from the occupants of Nos. 9, 11 (x4) and 11B Melbourne Lane and two unknown addresses) along with a signed petition with 10 signatures which object to the application and whose objections are summarised below: -

- *Melbourne Lane narrows outside No. 11 Melbourne Road with it not being possible for two cars to pass each other due to the width. The access is within 5 metres of this point;*
- *Whilst Melbourne Lane is restricted to 30mph vehicles regularly exceed this limitation despite the width of the highway;*
- *Development would detract and not enhance the Conservation Area as well as impacting on the setting of listed buildings;*
- *Development of the site would set a precedent for the development of the remainder of the site which would be detrimental to the character of the area and integrity of the Conservation Area;*
- *Siting of property and differences in land levels (site is 1.8 metres higher than Melbourne Lane) would result in detriment to the amenities of properties on Melbourne Lane as it is not only No. 9 Melbourne Lane which would be affected;*
- *Insufficient detail has been supplied to demonstrate the ridge height of the new dwelling in comparison to existing properties on Melbourne Lane;*
- *There is adequate land provision within the SHLAA for housing development and as such there is no need for this site to be developed;*
- *The removal of ancillary domestic outbuildings from the site does not justify the provision of a new dwelling;*
- *The design of the proposal would dominate the street scene and change its overall character;*
- *The overall width of the driveway to the property (including splays), make a material difference to the character of the lane;*
- *The ridge height of the proposed new building is significantly higher than the heritage cottages opposite, the proposal will therefore be dominating and overpowering to the character of both the setting of the lane and cottages;*
- *Design of the dwelling is totally out of character due to the materials of construction not being traditional nor typical of the existing street scene;*
- *Development would mask the line between the War Memorial on the Green and the Church. This is a key feature which is acknowledged by the opening built into the church facing wall of the memorial;*
- *The elevated and rising land of the ground at this point will also mean the proposed new*

dwelling along with its access will dominate the street scene whilst the ridge height along with the mass of the new dwelling will create an overbearing effect on the historic cottages opposite and the view of the SSSI site of the limestone grassland;

A query was received from the occupant of No. 25 Melbourne Lane in respect of the red line of the application site including land within the ownership of the occupant. A revised site location plan has been received and the occupant has confirmed that this is now accurate.

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 118 (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 outside 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 T20 - Airport Safeguarding;
 Policy H4/1 - Housing Land Release;
 Policy H7 - Housing Design;

Draft Consultation North West Leicestershire Local Plan

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, in view of the very early stage to which the draft Local Plan has progressed, only very limited weight can be attributed to its policies at this stage.

Policy S1 - Presumption in Favour of Sustainable Development;
 Policy S2 - Future Housing and Economic Development Needs;
 Policy S3 - Settlement Hierarchy;
 Policy S4 - Countryside;
 Policy S5 - Design of New Development;
 Policy H6 - House Types and Mix;
 Policy IF4 - Transport Infrastructure and New Development;
 Policy IF7 - Parking Provision and New Development;
 Policy En1 - Nature Conservation;
 Policy En6 - Land and Air Quality;
 Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;
 Policy Cc2 - Sustainable Design and Construction;
 Policy Cc4 - Water - Sustainable Drainage Systems;

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

Principle of the Development

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

The draft Local Plan identifies that an increased housing land requirement beyond that underpinning the District's existing housing needs may be required. This could, as the weight to be attached to the Local Plan increases as it progresses to adoption, place the District in a position whereby it would no longer be able to demonstrate a five year (plus buffer) supply. However, having regard to the very limited weight that can reasonably be attributed to the emerging Local Plan at this early stage, officers remain of the view that a five year (including 20% buffer) can be demonstrated at this stage.

As the Council is able to demonstrate a five year supply of housing land Policies S3 and H4/1 of the Local Plan are not to be considered 'out of date' in the context of Paragraph 49 of the NPPF.

In terms of Policy S3 the site is outside the limits to development with residential dwellings not being a form of development permitted by Policy S3. A scheme relating to the provision of one dwelling would also not make a significant contribution to the Council's five year housing land supply.

Despite this fact consideration should also be given to other Development Plan Policies and National policies including Policy H4/1 which identifies that in releasing appropriate land for housing consideration should be given to various factors. Whether or not a site is "appropriate" is a matter of judgement having regard to its location outside the limits to development.

It is also accepted that the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development given the presumption in favour of such as set out in the NPPF.

Whilst being located on a greenfield site residential dwellings exist to the south and west of the site, along Melbourne Lane and The Hollow, with a substantial tree screening existing to the north and eastern boundaries which are shared with the Breedon Hill SSSI. In the context of the site's location it is considered that it would not be significantly detached from the existing limits to development and as such the dwelling would not impact adversely on the 'openness' of the rural environment. The proposal would also not result in the provision of an 'isolated' dwelling in the countryside given the relationship with built forms and the substantial screening afforded to the site from the vegetation to the northern and eastern boundaries with any views established

from the public domain viewing the site in the context of its relation with neighbouring buildings.

The settlement of Breedon on the Hill also benefits from a range of local services including a bus service, running between Coalville and East Midlands Airport, a primary school, community centre, post office and shop, two public houses and butchers. Given this level of service it is considered that a scheme for one dwelling would score well against the social sustainability advice contained within the NPPF, with the provision of one dwelling also helping to sustain these services in the future which is a key intention of Paragraphs 28 and 55 of the NPPF.

Overall the development would be acceptable in principle and would be considered socially sustainable.

Paragraph 53 of the NPPF outlines that inappropriate development of residential gardens should be resisted where there is potential that development would cause harm to the local area. At this present time the Council does not have a policy that prevents development on gardens but in assessing the implications of the development to the character and appearance of the streetscape and surrounding area (as discussed in more detail below) it is considered that a development of this nature would result in harm to the significance of the heritage environment in which the dwelling would be set and therefore the development conflicts with the intentions of Paragraph 53.

In respect of the representations made outlining that the development would set a precedent for further development of the paddock land to the north of the proposed dwelling it is a fundamental tenant of the planning system that each application should be assessed on its own merits. In any case the assessments undertaken outline that significant constraints exist on the remainder of the site, including ecological and topographical issues, which would likely prevent further successful development of the remainder of the application site and as such it would not result in a precedent being set. In respect of the allocation of sites within the SHLAA it is noted that that the SHLAA does not allocate land it only identifies land that may be potentially suitable.

Residential Amenity

It is considered that the properties most immediately affected by the proposed works would be Nos. 9, 11, 11A and 11B Melbourne Lane which lie to the east of the site. No. 9 is a detached one and a half storey property with Nos. 11, 11A and 11B being two-storey terraced properties.

No. 9 is set back from Melbourne Lane and as a result would be situated 21.5 metres from the first structure and 24.5 metres from the second structure. Although the finished floor levels of the proposed dwelling would be higher than those of No. 9 it is considered that the distance and orientation would ensure that there would not be a sufficiently detrimental overbearing, overshadowing or overlooking impact.

In respect of Nos. 11, 11A and 11B it is noted that these properties abut Melbourne Lane and it is proposed that the first structure would be set 11.2 metres from Nos. 11 and 11A and 13.6 metres from 11B. The finished floor level of the first structure is also proposed to be 80.5 metres which would be 2.26 metres higher than the land level at the boundary situated 8.6 metres from the western (front) elevation of the first structure. A site section drawing has been supplied to show the relationship with properties on Melbourne Lane and this shows that the ridge height would be 1.2 metres higher than No. 11. Although located on higher ground the separation distance between the proposal and properties on Melbourne Lane, as well as the ridge height of the proposal, would ensure that the property would not be physically dominant particularly as the eaves height would match the dwellings opposite with the roof sloping away, as such it

would not be sufficiently detrimental to neighbouring amenities as to justify a refusal of the application. In terms of overlooking implications it is considered that the distance between the elevations would ensure that there would be no prominent views established from a ground floor dining room window or roof light serving a bedroom at first floor level.

A distance of 24.2 metres would exist between the second structure and the north-western (rear) elevation of No. 1 Hollow Road which would ensure that there would be no adverse overbearing or overshadowing impacts given that the second structure is the part of the dwelling with the lowest ridge height. There would also be no adverse overlooking impacts given that the second structure contains no windows in its side elevation and the third structure is set 12.0 metres from the shared boundary.

In terms of future amenities it is considered that sufficient amenity space would be provided for the new property with the relationship with existing dwellings also being acceptable given the separation distances and overall scale of neighbouring built forms.

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

Impact on the Historic Environment and Streetscape

The need for good design in new residential development is outlined not only in Local Plan Policies E4 and H7 but also Paragraphs 57, 60 and 61 of the NPPF with Paragraph 61 outlining that *although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Due regard should also be given to Sections 66 and 72 of the Listed Buildings and Conservation Areas Act 1990 given the setting of the dwelling.*

The land on which the dwelling would be situated is around 1.02 metres higher (at the western boundary) than that of Melbourne Lane with the land increasing by 4.26 metres from west to east and by 1.50 metres south to north (it would rise by 8.14 metres to the northern extent of the application site within the adjoining paddock land).

In respect of the implications to the streetscape it is considered that whilst the dwelling would not be 'isolated' from existing built forms, given its relationship with No. 1 Hollow Road and the position of No. 3 Hollow Road, it would be viewed as an 'individual' property and would likely become a defining feature of the streetscape when travelling northwards along Melbourne Lane given the natural framing of the site by the positions of No. 1 Hollow Road and Nos. 3 and 5 Melbourne Lane. When travelling southwards the property would not be as readily visible due to the level of the highway in comparison to the site and the substantial retention of the boundary hedge which has a height of around 2.2 metres.

Historically the land in question has been used in connection with agriculture and as such an approach has been taken to designing a dwelling which is influenced by 'agriculture' with three separate 'barn' units being proposed all connected by a simplistic link element. This approach would allow the development to respond better to the topography of the site given that variations can be provided in the ridge heights without compromising the finished floor levels and would be more appropriate than a design reflecting a 'standard' detached dwelling like those constructed recently to the north-west of the site. Although there would be a more 'modern element' to the design than that generally associated with an 'agricultural barn,' i.e. the inclusion of chimneys and dormer windows, this is considered to be acceptable in a new build particularly when

assessed in the context of Paragraph 60 of the NPPF which indicates that *"decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles."*

It has been stipulated that the dwelling would be constructed from bricks, stone, timber panelling and plain clay roof tiles. These materials are considered to reflect those which have been utilised on agricultural forms of development within the settlement and would therefore be appropriate for the design approach adopted whilst not detracting from the materials of construction utilised on buildings within the immediate vicinity. A condition could be imposed on any consent granted to ensure that precise details of materials are agreed.

Whilst it is considered that the design approach and materials of construction would be acceptable it is noted that Historic England have objected to the application and have stated the following: -

"The scheduled monastic site, Iron Age hill fort and Grade I listed church of St Mary and St Hardulph comprises a complex of nationally important designated heritage assets. The dominant and isolated landscape position of the church reflects the previous monastic and hill fort character of its site. The Early Medieval monastery of Breedon is amongst the most significance early medieval sites in Mercia and as such even amongst nationally important scheduled monuments in it, the Iron Age ramparts in which it is set and the Augustinian house which succeeded it, deserve particularly close attention in regard to the site's surviving landscape setting.

The proposed development would (despite existing vegetation) represent the inclusion of new development onto the surviving half of the hill and the sole approach to the monument and church, and hence the remaining direct historic landscape setting of the monument. We note the analysis in the submitted ULAS report, however in line with Good Practice Advice Note 3 'Setting of Heritage Assets' we consider that there is more to an understanding of setting impact than simple intervisibility. In this case the approach and the sense of isolation which this affords to the hilltop site is of key importance to the designated assets' significance. As such we hold to our view that there is harm to the significance and that as such in line with NPPF paras 132 and 134 your authority should seek both justification and balancing public benefits if it is minded to grant consent in this case."

The County Council Archaeologist has also agreed with this view by stating: *"the removal of hedgerow and development of the site will diminish the visual dominance of the church within its isolated position, which is likely to have an adverse impact upon the special character of the Scheduled Monument, within the boundaries of the Conservation Area"*, with the Council's Conservation Officer also agreeing with these assessments.

In the circumstances that reference has been made to Paragraph 134 of the NPPF in the comments raised it is determined that the 'harm' caused to the setting is less than substantial with this particular Paragraph outlining the following: *"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 re-use."*

Given the particular requirements of this Paragraph of the NPPF, as well as those of Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that as there are no public benefits associated with the provision of a private

residence which would outweigh the harm caused to the significance of the setting of heritage assets it is considered that to permit the development would be contrary to the core aims of the NPPF and in particular Paragraphs 61, 131, 132 and 134 as well as Policy E4 of the adopted Local Plan and Section 66 of the 1990 Act.

In respect of the Conservation Area, which includes an area identified as open space in the Breedon on the Hill Conservation Area Appraisal, it is considered that the proposal would not 'better reveal' the significance of this heritage asset and would not preserve the setting of the heritage assets within the immediate vicinity of the site which contribute positively to the significance of the Conservation Area. In this circumstance to permit the development would also conflict with Paragraph 137 of the NPPF as well as Section 72 of the 1990 Act.

Although it would be necessary to remove a large section of hedgerow (27.2 metres) to provide the vehicular access the impact of this loss has been mitigated by the redirection of the hedgerow to the back of the visibility splays, so that the physical gap would only be 11.2 metres, and the provision of soft landscaping within the visibility splays itself. This approach would ensure that the access would not be over engineered and given the length of hedgerow retained (in excess of 55.0 metres) it is considered that there would be no significant detriment to the character of the streetscape.

Highway Safety

The County Highways Authority has been consulted on the application and have raised no objections subject to their standing advice being considered in respect of visibility splays, access surfacing, car parking and the gradient of the access. Although objections have been received on the basis of vehicles travelling in excess of the speed limit (30mph) this would be a matter which would need to be addressed by the Police and would not be material in the consideration of the application particularly as there have been no reported accidents.

A highways report has been submitted in support of the application which outlines that an access junction with visibility splays of 2.4 metres x 43.0 metres to the north and south could be achieved, albeit this would result in the loss of a 27.2 metre section of the existing boundary hedgerow (the loss of which is assessed in other sections of this report). The provision of a vehicular access with this level of visibility would ensure that vehicles exiting the site could do so in a safe and controlled manner with the site frontage having adequate manoeuvring facilities to ensure that vehicles would likely exit the site in a forward direction. Given that Paragraph 32 of the NPPF outlines that "*development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe,*" it is considered that the highway network of Melbourne Lane would be able to accommodate the additional vehicular movements associated with one dwelling and as such the implications to highway safety would not be severely detrimental. The proposal would therefore accord with the aims of Paragraph 32 of the NPPF and Policy T3 of the Local Plan.

The property would provide four bedrooms and as such a minimum of three off-street parking spaces should be provided. A double garage, with adequate internal dimensions, would accommodate two vehicles with there being sufficient room to the site frontage to ensure that an additional vehicle could park clear of the highway. Subject to the parking provision being conditioned as part of any consent granted it is considered that the proposal would accord with Paragraph 39 of the NPPF and Policy T8 of the Local Plan.

Ecology

The County Council Ecologist and Natural England have raised no objections to the application subject to the imposition of relevant conditions to ensure that adequate protection is afforded to a badger sett situated around 22.0 metres from the north-eastern corner of the dwelling, an Ash tree in close proximity to the northern boundary being retained due to it providing a foraging habitat for bats and a suitable boundary treatment being provided to the eastern boundary of the residential garden to prevent direct access from the site into the Breedon Hill Site of Special Scientific Interest (SSSI). It is considered reasonable for these conditions to be imposed on any consent granted to ensure that protected species are adequately protected and as a result the development would not conflict with the SSSI or the principles of Paragraph 118 of the NPPF and Circular 06/05.

Landscaping

It is proposed that four trees (2 x Cherry and 2 x Apple) trees would be removed from the site in order to facilitate the development and these trees are predominately young or early mature trees which show signs of decay. A section of the hedgerow (27.2 metres) would also be removed to facilitate the access and visibility splays.

It is considered that the trees to be removed do not contribute significantly to the visual amenity of the area, given the height and stature of the trees which border to SSSI, and subject to appropriate replacement planting being conditioned as part of any consent it is considered that this impact could be mitigated. The re-establishment of the hedgerow behind the visibility splays, so that the physical gap created would be 11.5 metres, would also be considered acceptable and would be conditioned accordingly on any consent granted. Overall the development would not conflict with the principles of Policy E7 of the Local Plan.

Other Matters

East Midlands Airport has confirmed that there are no safeguarding issues associated with the development and as such it would accord with Policy T20 of the Local Plan.

Summary Reasons for Granting Planning Permission

The proposal dwelling would be on land described as residential garden to no. 1 Hollow Road.

Whilst it is considered that the design approach and materials of construction selected would be acceptable the provision of a dwelling on the site would represent the incursion of new development onto the surviving half of a hill which represents the sole approach to the church and monument and which is the direct historic landscape setting of the monument. Given the importance of the heritage assets great weight should be given to the preservation of this setting with it being considered that the harm caused would be less than substantial. Paragraph 134 of the NPPF outlines that any 'less than substantial' harm to the significance of heritage assets should be weighed against the public benefits of the proposal and in this particular case there would be no public benefits associated with the development given that it relates to the provision of a private residence. In this circumstance to permit the development would be contrary to the aims of the core Paragraphs of the NPPF and in particular Paragraphs 53, 61, 131, 132, 134 and 137 as well as Policy E4 of the adopted Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservations Areas) Act 1990.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reason;

- 1 Paragraph 7 of the National Planning Policy Framework (NPPF) defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in contributing to protecting and enhancing our built environment. Paragraph 53 of the NPPF highlights that inappropriate development on residential gardens should be resisted where harm would be caused to the appearance of the environment. Paragraph 61 of the NPPF outlines that planning decisions should address the connections between people and places and the integration of new development into the historic environment. Paragraphs 131, 132, 134 and 137 of the NPPF all indicate that in making planning decisions consideration should be given to the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation and that where less than substantial harm is caused this harm should be weighed against the public benefits of the development. Policy E4 of the adopted North West Leicestershire Local Plan (Local Plan) indicates that in the determination of planning applications regard will be had to the wider setting of new buildings and that new development should respect the character of its surroundings. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The 1990 Act) also indicates that special regard will be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses when making planning decisions. Section 72 of The 1990 Act also outlines that special regard shall be had to the desirability of preserving and enhancing the character or appearance of a Conservation Area. The scheduled monastic site, Iron Age hill fort and Grade I listed church of St Mary and St Hardulph comprise a complex of nationally important designated heritage assets with the dominant and isolated landscape position of the church reflecting the previous monastic and hill fort character of its site. It is considered that the proposed development would represent the incursion of new development onto the surviving half of the hill and the sole approach to the monument and church which is the direct historic landscape setting of the monument. Such encroachment of new development would therefore impact adversely on the significance of the setting of designated heritage assets via the erosion of their spatial isolation from the settlement on lower ground. Given that the development relates to the provision of a private residence there are no public benefits associated with the proposal, which has less than substantial harm on the significance of the setting of heritage assets, and therefore to permit the development would be contrary to the aims of Paragraphs 53, 61, 131, 132, 134 and 137 of the NPPF as well as the aims of Policy E4 of the adopted Local Plan and Sections 66 and 72 of the The 1990 Act.

Notes to applicant

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. It is considered that the application is not acceptable in principle and fundamental objections cannot be overcome via any dialogue between the Local Authority and agent/applicant. The Local Planning Authority has therefore complied with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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Erection of a detached dwelling with associated detached single garage

Report Item No
A4

Land At Bakewells Lane Coleorton Leicestershire

Application Reference
15/00958/FUL

Applicant:
Mr J Heathcote

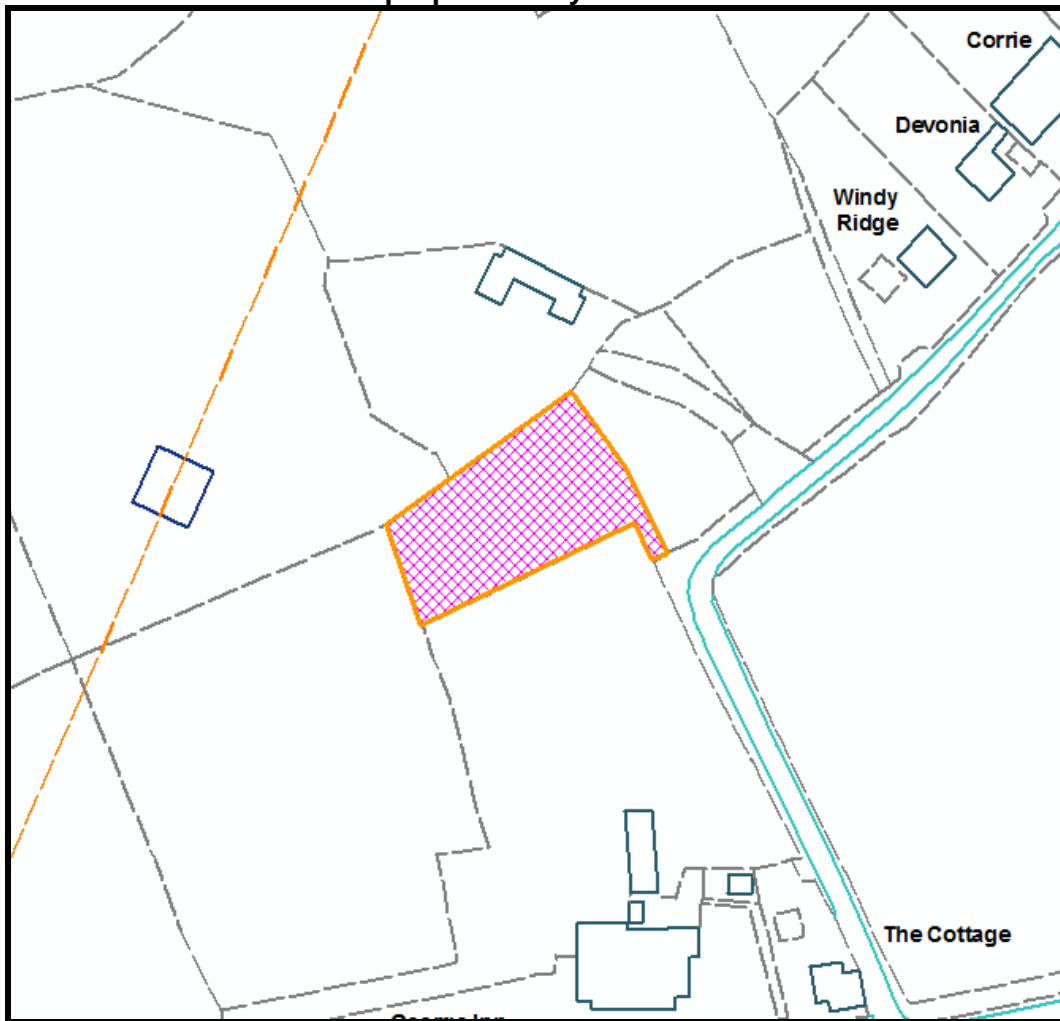
Date Registered
7 October 2015

Case Officer:
Adam Mellor

Target Decision Date
2 December 2015

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought to the Planning Committee at the request of Councillor Boam to allow the Planning Committee to assess the local need for the dwelling as well as the sustainability of the site location.

Proposal

The application relates to the provision of a two-storey detached dwelling with associated detached garage at land off Bakewells Lane, Coleorton. It is noted that the application site is outside the defined Limits to Development; it is proposed by the applicant that the dwelling would meet a 'local need.'

Consultations

Sixteen no. representations in support of the application have been received although Coleorton Parish Council and the County Highways Authority object to the application. All other statutory consultees have no objections subject to the imposition of conditions, or notes to the applicant, should permission be granted.

Planning Policy

It is considered that the development would result in conflict with the social and environmental strands of sustainability and Paragraphs 17, 32, 55, 57, 61 and 64 of the National Planning Policy Framework as well as Policies S3, E4, T3, H4/1 and H7 of the adopted North West Leicestershire Local Plan.

Conclusion

The report above indicates that this is a Greenfield site outside the Limits to Development of the nearest settlement being Coleorton.

A heavy reliance on the private car, an unsustainable mode of transport, for any future occupants to undertake their daily duties would not support the move towards a low carbon economy or seek to use natural resources prudently. In these circumstances, the proposed development of the site is unacceptable in principle and would conflict with the environmental strand of sustainability enshrined within the NPPF as well as Policies S3 and H4/1 of the adopted Local Plan.

In addition, the site would not be situated within an acceptable walking distance of local services which would meet the day to day needs of the occupants and therefore the development of the site would not provide accessibility to an appropriate level of services. Consequently the development would also conflict with the social strand of sustainability enshrined within the NPPF.

It is also considered that the development of the site for residential purposes would result in a form of development which would be prominent and isolated from other substantial forms, and therefore would be detrimental to the visual and rural amenity of the surrounding area through the urbanisation of the land. As such to permit the development would be contrary to the

intentions of Paragraphs 57, 61 and 64 of the National Planning Policy Framework (NPPF) and Policies E4 and H7 of the adopted North West Leicestershire Local Plan.

The introduction of the dwelling on Bakewells Lane has been assessed by the County Highways Authority who have concluded that it would result in a significant increase in the amount of vehicular movements, when taken cumulatively with existing movements, onto and off the A512 (Loughborough Road) at a junction which is substandard in its width and as such the turning manoeuvres would be an additional source of danger to road users. Bakewells Lane itself is also unsuitable in its width and design to cater for an increase in vehicular movements with the introduction of vehicular, pedestrian and cycle movements on a lane which lacks both footways and street lighting resulting in dangers to both pedestrians and vehicles. In these circumstances to permit the development would be contrary to the aims of Paragraph 32 of the NPPF and Policy T3 of the Local Plan and would be detrimental to highway safety.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE;

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

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the erection of a detached dwelling at land off Bakewells Lane, Coleorton. The 0.09 hectare site is located 60.0 metres to the north of the George Inn and 13.0 metres to the south-west of existing stables. The site is situated outside the defined Limits to Development, as identified in the North West Leicestershire Local Plan, and the surrounding area is predominately open countryside with a group of three detached dwellings being situated to the north-east of the site on Bakewells Lane.

An outline application for the erection of a detached dwelling was refused at the Planning Committee meeting of the 10th March 2015 under application reference 15/00072/OUT on four grounds relating to the social and environmental sustainability of the site location, the isolated position of the dwelling and highway safety grounds.

The proposed four bedroom two-storey dwelling would be situated 32.0 metres from Bakewells Lane and would have a ground area of 83.2 square metres and use of a pitched gable ended roof with an overall height of 9.3 metres. Vehicular access into the site would be achieved via an existing access located on a bend in Bakewells Lane at a distance of 87.0 metres from the junction of Bakewells Lane with Loughborough Road (A512).

Appropriate off-street parking, one space of which would be within a detached single garage with a floor area of 23.8 square metres and ridge height of 4.4 metres, as well as turning facilities, would be provided within the curtilage.

A Phase 1 Protected Species Survey, Tree Report and Coal Mining Risk Assessment have been submitted in support of the application.

It is proposed that the dwelling would meet a local need with the design and access statement stating the following in respect of the applicants:-

"They have three dependent children; ages 14 years, 11 years and 7 years. The oldest pair attended Griffydham School and the youngest still does. The family dates back many generations to this area; maternal Grandparents having been born in The Woolrooms, Coleorton. Concentrating on Bethan. She moved in to live with me and her mother when aged 7 years back in 1977. At that time we, as a family lived at 60 Loughborough Road, Coleorton. We then moved, as a family to our present address - 'Renira' Aqueduct Road Coleorton in 1984. Upon marriage Bethan and Jason purchased 'The Cottage' Loughborough Road Coleorton in circa 2000. That house came with the plot now in issue. They sold that house in 2008 and then moved to 'Amber Cottage' Lower Moor Road Coleorton; next to the Post Office. Unfortunately their financial circumstances dictated that they sold that house in 2011. They then moved into rented accommodation at 'Lavender Walk' in the grounds of Coleorton Hall staying there until 2013 before moving into another rented house in Marlborough Way in Ashby.

Her husband is a builder and the intention is (should permission be granted) that he construct the property.

They have access to funds via Bethan's natural father of the order of £150K and it is that sum they will use to do the build."

Following the receipt of the comments of the County Highways Authority additional information has been supplied by the agent to try and address the concerns raised and the County

Highways Authority have been reconsulted accordingly.

Other planning history relevant to the site includes an outline application for the erection of a bungalow which was refused on the 10th February 1988.

2. Publicity

5 no neighbours have been notified. (Date of notification 08 October 2015)

Site Notice displayed 14 October 2015

Press Notice published 14 October 2015

3. Consultations

Coleorton Parish Council consulted 8 October 2015

County Highway Authority

County Highway Authority

Severn Trent Water Limited

Head of Environmental Protection

NWLDC Tree Officer

LCC ecology

LCC/Footpaths

NWLDC Footpaths Officer

Coal Authority

4. Summary of Representations Received

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

Coal Authority has no objections subject to the imposition of relevant conditions.

Coleorton Parish Council objects to the application on the basis that it is outside the limits to development in the current adopted local plan and those proposed in the draft local plan, which, could lead to unacceptable infill development in an area of open landscape and that problems could arise around the access to the A512 for vehicles and pedestrians.

Leicestershire County Council - Archaeology no representation received.

Leicestershire County Council - Ecology has no objections subject to the imposition of conditions in respect of the retention of hedgerows and the timings of any site clearance.

Leicestershire County Council - Footpaths Officer no representation received but they previously advised on application reference 15/00072/OUT that they had no objections subject to the proposal not affecting the public's use and enjoyment of footpath M82.

Leicestershire County Council - Highways Authority initially objected to the application on the basis that the proposal would lead to significant increases in vehicular traffic using a junction off the A512 which is unsuitable to accommodate additional movements with Bakewells Lane itself being inadequate in its width and design, as well as lacking pedestrian footways and street lighting, to accommodate additional movements. Following the receipt of revised information the County Highways Authority have verbally reiterated that in their view the application should be refused on highway safety grounds.

NWLDC - Environmental Protection has no objections.

NWLDC - Footpaths Officer has no objections but advises that if public footpath M82 needs to be diverted then an application would need to be submitted for approval.

NWLDC - Tree Officer initially advised that information needed to be provided in respect of the impact of the driveway on retained vegetation due to the proximity to the root protection areas. Following receipt of revised information no objections are raised subject to the imposition of conditions on any consent granted.

Severn Trent Water no representation received.

Third Party Representations

16 no. of representations have been received from the occupants of Tall Timbers, Aqueduct Road; Honeysuckle Cottage, Lower Moor Road; White House, Gelsmoor Road; Circle Garage, Redhall Garage (No. 68) and 126 Loughborough Road; The Gelsmoor, Rempstone Road (x2); 2 Main Street, Swannington; Highbank Cottage, Farm Town Lane, Farm Town; 25 Elder Lane, Griffydam; Lountwood Farm, Nottingham Road, Lount; 10 Francis Road, Newton Burgoland and nos. 3, 14 and 16 Lavender Walk who support the development and whose comments are summarised as follows: -

- I have known the applicant for six years and understand that for unforeseen circumstances they were forced to move around and relocate and wish to return to the village;
- I understand the new build property would be of 'Local Needs' as the family have been priced out of any opportunity to buy in the immediate area;
- I would fully support the provision of this low cost housing as Coleorton is a thriving working community and needs new housing to maintain this;
- The location is well placed to access bus routes, public footpaths and other local amenities;
- The development proposed would have no detrimental impact to the surrounding area;
- The proposed development would be of great benefit to the family who have lived most of their lives in the village of Coleorton;
- I understand that the new build would be of a high quality design and of modest size; built to high specification - Code 5, thus offsetting any sustainable concerns;
- The village of Coleorton is characterised by sporadic development, nonetheless it is still a vibrant working community and requires some new housing to maintain this;
- It will have no adverse impact on the surrounding area as it will be screened by foliage and there are other properties on Bakewells Lane;
- The average price of a four bedroom house in Coleorton is circa £300,000 - £700,000 therefore they have been priced out of today's market in their home town;
- Accidents have occurred on Loughborough Road but not at the junction with Bakewells Lane.

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 (Core planning principles);
Paragraph 28 (Supporting a prosperous rural economy);
Paragraph 32 (Promoting sustainable transport);
Paragraph 49 (Delivering a wide choice of high quality homes);
Paragraph 53 (Delivering a wide choice of high quality homes);
Paragraph 55 (Delivering a wide choice of high quality homes);
Paragraph 57 (Requiring good design);
Paragraph 60 (Requiring good design);
Paragraph 61 (Requiring good design);
Paragraph 75 (Promoting healthy communities);
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);
Paragraph 118 (Conserving and enhancing the natural environment);
Paragraph 120 (Conserving and enhancing the natural environment);
Paragraph 121 (Conserving and enhancing the natural environment);
Paragraph 203 (Planning conditions and obligations);
Paragraph 204 (Planning conditions and obligations);

Adopted North West Leicestershire Local Plan (2002)

The application site is outside 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 F1 - General Policy;
Policy F2 - Tree Planting;
Policy F3 - Landscaping and Planting;
Policy T3 - Highway Standards;
Policy T8 - Parking;
Policy H4/1 - Housing Land Release;
Policy H6 - Housing Density;
Policy H7 - Housing Design;

Draft Consultation North West Leicestershire Local Plan

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, in view of the very early stage to which the draft Local Plan has progressed, only very limited weight can be attributed to its policies at this stage.

Policy S1 - Presumption in Favour of Sustainable Development;
Policy S2 - Future Housing and Economic Development Needs;
Policy S3 - Settlement Hierarchy;

Policy S4 - Countryside;
 Policy S5 - Design of New Development;
 Policy H6 - House Types and Mix;
 Policy IF4 - Transport Infrastructure and New Development;
 Policy IF7 - Parking Provision and New Development;
 Policy En1 - Nature Conservation;
 Policy En3 - National Forest;
 Policy En6 - Land and Air Quality;
 Policy Cc2 - Sustainable Design and Construction;
 Policy Cc4 - Water - Sustainable Drainage Systems;

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.

6. Assessment

Principle of the Development

In respect of this particular application it is noted that the dwelling is proposed to be provided to meet a 'local need' with the need in this circumstance being outlined in the Proposals and Background section of this report. The supporting information also specifies that the 'need' for a dwelling of a similar scale cannot be met from the existing housing stock and in this regard it is stated by the agent that *"a search of local housing stock reveals 6 houses currently advertised for sale, 5 properties being applicable. The lowest asking price is £315,500 being a 4 bed detached house on Loughborough Road, Coleorton marketed by "Your Move" (source: Right Move Internet search engine accessed on 15th September 2015)."* An internet search on Right Move on the 5th November 2015 reveals that there are three 4 bed detached dwellings within one mile of the post code of the application site which range in price from £650,000 (Lower Moor Road, Coleorton) to £300,000 (Loughborough Road, Coleorton). The same properties are also applicable if the search area is reduced to 0.5 miles.

Using build cost figures of 2015 (www.homebuilding.co.uk) the District Council finds that build costs for a two-storey detached dwelling, with detached single garage, in the area using the most expensive build route (Main Contractor) and building to an Excellent specification, which would take into account better materials an improved building regulations standard (as well as VAT), would amount to £208,834. Using subcontractors would reduce the price to £199,212. Given these figures it would appear that the costs associated with building a new dwelling would be substantially less than any of the properties within the immediate area which would meet the

'needs' of the applicants.

Whilst a dwelling to suit the 'needs' of the applicant may not be available from the existing housing stock in the area this is not a justification to simply allow dwellings of this nature to be erected anywhere particularly when the adopted local plan, the emerging local plan and the Paragraphs of the NPPF contain no policies relating to the provision of dwellings to meet a 'local need'. Although this is the case, the agent for the application specifies that consideration should be given to the guidance on Starter Homes which is now incorporated into the National Planning Practice Guidance (NPPG).

The Starter Homes Exception Site Policy is aimed at young first time buyers, criteria which would not be met by the applicants, with such sites allocated for these purposes being proposed on *"under used or unviable industrial and commercial land that has not been currently identified for housing."* It is noted that the application site is a Greenfield site and as such would not be accepted for development under the terms of this policy. In these circumstances no weight is attached to this particular argument.

Reference is also made, by the agent, to Paragraph 001, associated with Rural Housing, within the Planning Practice Guidance which identifies the following:-

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

In a dismissed appeal decision relating to land adjacent to no. 1 Zion Hill (ref: APP/G2435/A/14/2221844), which also related to the provision of a detached dwelling on a site outside the defined limits to development within the immediate area, the above Paragraph was considered, the Planning Inspector stated that: *"Like the Framework, LP Policies S3 and H4/1 do not prohibit development within countryside areas but rather set out the circumstances in which such proposals would be permitted. These policies do, however, differ to national guidance in that the Framework seeks to ensure that new housing is located where it will enhance or maintain the vitality of rural communities. Residential development in a rural area could contribute in this way and not necessarily fall into the categories of development deemed acceptable under LP Policies S3 and H4/1. As such, there is a tension between these LP Policies and the Framework in this regard. However, the board thrust of LP Policies S3 and H4/1 is broadly consistent with national guidance and I attach significant weight to them."*

Whilst acknowledging the sentiments of the Rural Housing guidance it is considered that although the future occupants of the dwelling could support some local businesses, services and facilities, as well as public transport, the likely contribution of the development to the vitality of the local community as a whole would be fairly limited given the modest scale of the development proposed.

In any event it is considered that the above Rural Housing NPPG paragraphs do not set a principle that development in all rural areas should simply be accepted. Given the above conclusions of the Planning Inspector in the decision associated with land adjacent to no. 1 Zion Hill due regard still needs to be given to Policies S3 and H4/1 of the Local Plan as well as the overall sustainability credentials of the proposed site (be it for a market housing or a dwelling

stated to meet a 'local need') considering the presumption in favour of sustainable development contained in the NPPF.

In terms of the sustainability credentials of the site, it is located the following distances away from a range of services:

- Griffydham County Primary School (Top Street, Griffydham) - 1,873.58 metres;
- Viscount Beaumont Church of England School (Ashby Road, Coleorton) - 1,317.18 metres;
- Recreation Ground (Zion Hill, Peggs Green) - 970.87 metres;
- Bus Stop on Loughborough Road, Coleorton (for Arriva Service 9 1 hourly between Burton on Trent and Loughborough via Ashby De La Zouch Monday - Sunday (limited service on a Sunday)) - 125.42 metres;
- Bus Stop on The Moor, Coleorton (for Robert Coaches Air Link Service 155 1 hourly between Coalville and East Midlands Airport Monday to Saturday) - 642.25 metres;
- Public House (The George Inn, Loughborough Road, Coleorton) - 168.40 metres;
- Shop/Post Office (Lower Moor Road, Coleorton) - 937.42 metres;
- Church (St Georges Church, Church Hill, Swannington) - 916.06 metres;
- Social Centre (Beaumont Social Centre, Nottingham Road, Peggs Green) - 1,169.36 metres;

In a recent appeal decision relating to a residential development on Willesley Road in Ashby De La Zouch (ref: APP/G2435/W/15/3027396), which was dismissed, reference was made to the Institute of Highways and Transportation document '*Providing for Journeys on Foot*' which outlines that the preferred maximum walking distance to local services would be 800 metres. Previous assessments have been based around the Department of Transport (DoT) statistics which show that the average trip length undertaken by foot would be 1km, however the Inspector in the above appeal outlined that such a statistic does not take into account those people who would walk but are put off by such distances and choose to travel by alternative means. The '*Providing for Journeys on Foot*' document indicates that only the bus stops and public house would be within the preferred maximum walking distance and therefore most services which the applicant would rely on to meet their 'day to day' needs (i.e. school and shop) would not be within a reasonable walking distance. The walk to such services would also involve walking along rural roads, often with no surfaced footpath provision. If this were to be after dark or during inclement weather this would not be an attractive proposition for any future resident, even if the dwelling were meeting a local need criterion. Public footpaths within the area which might provide a more convenient access to local services would also be difficult to use by those with mobility difficulties or using pushchairs given that they are not hard surfaced. It is therefore considered that the occupants of the dwelling are likely to use their personal vehicles for most journeys that they will undertake.

It is considered that this planning judgement is a reasonable one particularly in light of the decision of the Planning Inspector in respect of the appeal decision at land adjacent to no. 1 Zion Hill (ref: APP/G2435/A/14/2221844), which is not too dissimilar to the context of this application site, where it was stated that: *"it cannot be reasonably assumed that future occupiers would regularly walk or cycle the considerable distance to any of these destinations, especially along unlit rural roads after dark or during inclement weather. For these reasons, the site is in an unsustainable location because future occupiers would be heavily reliant on the private car for most journeys to shops, schools, places of employment, health and other services."*

In respect of social sustainability the benefit of the scheme is that it would provide a dwelling

stated to meet a 'local need'. Relevant supporting information has been supplied to justify the connections of the applicants with the settlement, which would be more affordable to local residents and the completion of a Section 106 Agreement would secure such a dwelling being permanently made available for such purposes (i.e. meeting a local need criteria - (a) a person or persons and their dependents residing permanently in the parish or adjoining parish, for at least 5 years or more in the previous 20 years; or (b) a person or persons required to live close to another person who satisfies Criterion (a) and is essential need of frequent attention and/or care due to age, ill health, disability and/or infirmity).

However the social role, as defined in Paragraph 7 of the NPPF, requires the supply of housing to be linked to accessible local services which meet the needs of the community and support its health, social and cultural well being. As concluded above, although the site is located within walking distance of a few services those which would meet the 'day to day needs' of the occupant would not all be within a reasonable walking distance with the walk to some services being along predominately unlit rural roads which would not be an attractive proposition for any future occupant. On this basis any future occupants would be heavily reliant on the private car for most journeys to services that meet their 'day to day' needs and as such the development would conflict with the social strand of sustainability.

From an environmental sustainability point of view the land is identified as paddock land and the development would result in the loss of greenfield land. Such land is identified in the adopted Local Plan as being countryside and therefore the development would fail to protect or enhance the natural environment, contrary to the intentions of Paragraph 17 of the NPPF, Policy S3 and the ministerial letter from Brandon Lewis of the 27th March 2015 urging Inspectors to protect the intrinsic beauty of the countryside. The proposed development of the site would also result in the provision of an isolated dwelling in the countryside, due to its detachment from built forms and the Limits to Development of Coleorton, for which no special circumstances exist for the allowance of the scheme, as such the development would also conflict with the intentions of Paragraph 55 of the NPPF.

It is also considered, taking into account the views of the Planning Inspectorate relating to an appeal decision at Tea Kettle Hall in Diseworth (APP/G2435/A/13/2208611), that due to the distance from shops, services and employment opportunities, as well as the limited bus service available to the site, that the private car would be the most likely mode of transport for the majority of trips to and from the proposed dwellings. This would involve lengthy trips in an unsustainable mode of transport for shopping, work and leisure purposes which again would conflict with the environmental aims of the NPPF which seek to use natural resources prudently and move towards a low carbon economy.

It should be noted that whilst the agent has specified that the dwelling could be built to Code for Sustainable Homes Level 5, the Code for Sustainable Homes has been abolished and replaced with core standards which would be applicable to building regulations. However, it is considered that any environmental benefits associated with a dwelling built to a more sustainable standard would not outweigh the environmental harm caused by the provision of an isolated dwelling in a rural environment; particularly as the Local Planning Authority has no control over the standard of dwelling which would be constructed (in respect of the internal environmental benefits which may be provided).

In conclusion, whilst sympathetic to the personal needs of the applicants such circumstances do not outweigh planning policy considerations. Therefore whilst there may be some benefit to the social strand of sustainability by the provision of an affordable local need dwelling, this need would be heavily outweighed by the overall negative social and environmental impacts of the

development. Therefore the proposal is unacceptable in principle and would not represent sustainable development.

Density

Policy H6 of the adopted 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 adopted Local Plan also requires a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services; there is a minimum density of 30 dwellings per hectare elsewhere.

With a site area of 0.09 hectares, the proposed development would have a density of 11.1 dwellings per hectare which would fall significantly below that advised in Policy H6. Whilst the density is significantly below that advised in Policy H6, it is considered important to factor into any assessment the principles of good design; as well as green space and landscaping requirements. In the circumstances that the Local Authority would wish for the development to incorporate a strong landscaping scheme, given the site's location, and the provision of additional dwellings would have a more substantial impact on the rural environment, it is considered that the density proposed is considered to represent an efficient use of the land in this instance. This takes into account the need for good design and the potential size of the amenity area to the dwelling. In these circumstances the proposal would not substantially conflict with the principles of Policy H6 so as to warrant a refusal of the planning permission.

Residential Amenity

Three detached residential properties lie to the north-east of the site with the George Inn Public House and The Cottage (both on Loughborough Road) lying to the south-east of the site.

The plot of land itself lies adjacent to the residential/pub garden of the George Inn as well as some stables with public footpath M82 running in close proximity to the north-eastern boundary. The closest residential elements to the site are those associated with the George Inn at a distance of 44.0 metres from the south-eastern boundary which is defined by mature vegetation in the form of trees and hedgerows. It is proposed that the side elevation of the dwelling would face towards the shared boundary and given the distances involved there would be no adverse overbearing or overshadowing impacts.

No windows would be proposed in the elevation facing towards the George Inn and as such there would be no adverse overlooking impacts or loss of privacy from the use of the residential/pub garden of the George Inn.

With regards to the amenities of any future occupants of the proposed dwelling it is considered that the relationship with surrounding built forms would ensure that there would be no adverse overbearing or overshadowing impacts or any loss of privacy from the use of the residential/pub garden of the George Inn if mitigated by the provision of relevant boundary treatments and retention of the vegetation. In respect of noise generated by the use of the public house, it is noted that the Council's Environmental Protection team have raised no objections, however given that the public house is an existing building, any future occupant would be aware of this relationship prior to their purchase.

It is noted that trees of a mature stature exist to the north-eastern boundary of the site, which are proposed to be retained as part of the development. Whilst it is inevitable that some overshadowing would occur this would be limited to the morning hours and would be onto the front driveway of the dwelling; thereby meaning the private rear amenity area would not be

adversely affected. It is therefore considered that the extent of shadowing would not be of sufficient detriment to the occupants' amenities as to warrant a refusal of the application.

Overall the development is considered to accord with the principles of Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

Impact on the Character and Appearance of the Area and Streetscape

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

Existing properties on Bakewells Lane, as well as on Loughborough Road, are largely set in close proximity to the highway and have their principal elevations fronting onto the road. The proposed dwelling would be substantially detached from other substantial built forms, 40.0 metres from the George Inn and over 50.0 metres from Windy Ridge, and as such would be viewed as an isolated and disconnected form of development which would be detrimental to the visual and rural amenity of the area. It is also considered that the orientation and position of the dwelling would not respect the characteristics of residential properties on Bakewells Lane given its detachment from the highway.

Public footpath M82 runs to the north-east and north-west of the site and at present built development forms would be peripheral in views established from the footpath. The provision of a dwelling on the application site would be viewed directly from footpath M82, by virtue of gaps in the vegetation, and as such this would further compound the isolated nature of the development. Whilst the isolation of the dwelling would be emphasised on views established from the public footpath, the development itself would not impact sufficiently on the enjoyment of the public right of way.

In respect of the design of the property itself it is considered that it would accord with the design aspirations of the Local Authority by the inclusion of eaves and verge detailing, mid-course detail, timber framed canopy and chimneys the specific details of which could be secured using appropriately worded conditions on any consent granted.

Overall, a residential development on this site would result in a form of development which would be prominent and isolated from other substantial built forms and as such would be contrary to the environmental strand of sustainability as well as the particular aims of Paragraphs 57, 61 and 64 of the NPPF and Policies E4 and H7 of the adopted Local Plan.

Highway Safety

In initially commenting on the application, the County Highways Authority outlined that there is an existing accident record at the junction of Bakewells Lane with the restricted (50 mph) Class I (A512) Loughborough Road. As such the introduction of a dwelling on Bakewells Lane would result in a significant increase in turning traffic utilising this junction, when taken cumulatively with existing users of the highway, which is substandard in width. It would not be possible to increase the width of the access at the junction due to its relationship with private boundaries. Therefore the increase in turning manoeuvres onto and off Loughborough Road at its junction with Bakewells Lane would be severely detrimental to the free and safe movement of vehicles on Loughborough Road, as well as causing additional dangers to road users. Such a situation would not be in the best interests of highway safety and would conflict with Paragraph 32 of the

NPPF and Policy T3 of the adopted Local Plan.

The County Highways Authority are also of the view that the introduction of a dwelling on Bakewells Lane would result in additional vehicular, pedestrian and cycling movements on a highway which is unsuitable in its width and design to cater for this increase. It is also identified that Bakewells Lane lacks a pedestrian footway and street lighting. Such an increase in movements would result in additional dangers to pedestrians, as well as vehicles, which would conflict with the intentions of Policy T3 of the adopted Local Plan.

Following the receipt of these comments the agent for the application has submitted additional information to address these concerns which outlines the following: -

"1. I accept there would be an increase in vehicular movements onto Loughborough Road, however, the extent of which would be shared with the junction with Gelsmoor Road to the east which would be a natural route when driving to destinations in this direction, and to the north, and notably Ashby as this route would avoid the A42 (M) junction 13 roundabout;

2. Reference is made to an existing accident record. It would be helpful if comments are given to the response received from Leicestershire County Council Accident and Prevention Team whom stated no injury accidents have been reported at the junction since September 2009;

3. Within the substantive response number 2 it is stated that no highways improvement have been offered. In this regard the applicant would be willing to put in place, at no expense to LCC, a passing place along Bakewells Lane within the extent of highway maintainable at the public expense, through widening of the highway to allow for two passing vehicles."

The County Highways Authority were reconsulted on the basis of these matters but have reiterated that their comments above would still apply and as such the development would be considered contrary to the aims of Paragraph 32 of the NPPF and Policy T3 of the Local Plan and detrimental to highway safety.

It is considered that the plans show a sufficient level of off-street parking could be provided within the site boundaries, one space of which would be within a detached single garage. This would ensure that the proposal would not create any on-street parking problems on Bakewells Lane. On this basis there would be no conflict with Paragraph 39 of the NPPF or Policy T8 of the adopted Local Plan.

Public footpath M82 lies around 2.0 metres from the north-eastern boundary of the site and would not be affected, or be required to be diverted, as part of any development. The County Footpaths Officer and District Council Footpaths Officer have no objections subject to the inclusion of relevant notes to the applicant being imposed on any consent granted to make them aware of the proximity of the public footpath. There would therefore be no conflict with the intentions of Paragraph 75 of the NPPF.

Ecology

The County Council Ecologist has concluded that although the habitat survey was undertaken at the wrong time of the year (January 2015), the habitats on site are such that an adequate assessment of their value could be done at that time of the year. The County Council Ecologist therefore has no objections subject to the imposition of relevant conditions on any consent granted to ensure that existing hedgerows are retained and managed, or suitable replacement hedgerows provided, and that site clearance is done outside of the bird nesting season. Should site clearance not be carried out within a year of the date of the 2015 survey than a revised

badger survey would also be required. Subject to the imposition of these conditions on any consent granted it is considered that the development would not conflict with the principles of Paragraph 118 of the NPPF and Circular 06/05.

Landscaping

A tree survey has been submitted in support of the application which identifies that there are ten individual trees, two of which are identified as dead and one of which is outlined as poor, as well as an unmanaged hedgerow. Vegetation exists to all boundaries, with dense vegetation established around the vehicular access of the site, and ranges in height from 8 - 17 metres.

The proposed layout shows that three trees (two Elms and one Cherry Laurel) would be removed to facilitate the development and these are the trees recognised as being dead or in poor condition. It is noted that the dwelling and detached garage have been positioned outside the root protection areas of the trees and hedges to ensure that their integrity would not be impacted on and as part of the proposal, management of the hedgerows would be undertaken. Further information has been supplied to show that a 'no dig drive' would be utilised to provide an access route and driveway into the site due to this passing over the root protection areas of the trees and hedges; this could be conditioned accordingly on any consent granted.

A group of four trees situated to the north-eastern boundary are substantial in size, however, their orientation would result in any overshadowing impacts being limited to the morning hours with it being noted that BS5837 (2012) outlines that *"NOTE The presence of large species trees is increasingly being seen as advantageous, since it contributes to climate change resilience, amongst other benefits;"* and *"NOTE 1 Shading can be desirable to reduce glare or excessive solar heating, or to provide for comfort during hot weather. The combination of shading, wind speed/turbulence reduction and evapo-transpiration effects of trees can be utilised in conjunction with the design of buildings and spaces to provide local microclimate benefits."* Any overshadowing impacts would be limited, with the dwelling being positioned around 9.2 metres from the extent of the canopy spread, and so it is considered that such a shading impact would not be significantly detrimental and as such the trees would not be under any undue pressure to be removed.

An appropriate condition could be imposed on any consent granted for a landscaping scheme and proposed schedule of works to the vegetation to be approved by the Local Authority; on this basis the proposal would accord with the intentions of Policies E7, F1, F2 and F3 of the adopted Local Plan.

Other Matters

The Coal Authority has concluded that the recommendations of the Coal Mining Risk Assessment are satisfactory subject to the imposition of a condition on any consent granted for intrusive site investigations to be carried out to establish the presence of a recorded mine shaft prior to any works commencing. Pre-commencement conditions would also be necessary for borehole investigations to be carried out and remedial works undertaken should there be a need to treat unrecorded shallow mine workings or the recorded mine entry. The Coal Authority has no objections, subject to the imposition of relevant conditions and therefore it is considered that the scheme would accord with the principles of Paragraphs 120 and 121 of the NPPF.

Conclusion

The report above indicates that this is a Greenfield site outside the Limits to Development of the nearest settlement being Coleorton.

A heavy reliance on the private car, an unsustainable mode of transport, for any future

occupants to undertake their daily duties would not support the move towards a low carbon economy or seek to use natural resources prudently. In these circumstances, the proposed development of the site is unacceptable in principle and would conflict with the environmental strand of sustainability enshrined within the NPPF as well as Policies S3 and H4/1 of the adopted Local Plan.

In addition, the site would not be situated within an acceptable walking distance of local services which would meet the day to day needs of the occupants and therefore the development of the site would not provide accessibility to an appropriate level of services. Consequently the development would also conflict with the social strand of sustainability enshrined within the NPPF.

It is also considered that the development of the site for residential purposes would result in a form of development which would be prominent and isolated from other substantial forms, and therefore would be detrimental to the visual and rural amenity of the surrounding area through the urbanisation of the land. As such to permit the development would be contrary to the intentions of Paragraphs 57, 61 and 64 of the National Planning Policy Framework (NPPF) and Policies E4 and H7 of the adopted North West Leicestershire Local Plan.

The introduction of the dwelling on Bakewells Lane has been assessed by the County Highways Authority who have concluded that it would result in a significant increase in the amount of vehicular movements, when taken cumulatively with existing movements, onto and off the A512 (Loughborough Road) at a junction which is substandard in its width and as such the turning manoeuvres would be an additional source of danger to road users. Bakewells Lane itself is also unsuitable in its width and design to cater for an increase in vehicular movements with the introduction of vehicular, pedestrian and cycle movements on a lane which lacks both footways and street lighting resulting in dangers to both pedestrians and vehicles. In these circumstances to permit the development would be contrary to the aims of Paragraph 32 of the NPPF and Policy T3 of the Local Plan and detrimental to highway safety.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reasons;

- 1 The proposed dwelling would be situated in an area of Coleorton where access to appropriate services would be fairly limited and as a result the dwelling would not be situated within a sustainable settlement. The application site is also on unallocated greenfield land located outside the Limits to Development of Coleorton, as defined on the Proposals Map to the North West Leicestershire Local Plan (Local Plan). Policy S3 of the Local Plan provides a presumption against non-essential residential development in the countryside. Policy H4/1 sets out a sequential approach to the release of land for residential development and seeks to direct housing towards previously developed land in accessible locations, well served by, amongst other things, public transport and services. Paragraph 17 of the National Planning Policy Framework (NPPF) indicates that planning should recognise the intrinsic character and beauty of the countryside and Paragraph 55 outlines that socially, development should provide the supply of housing required to meet the needs of present and future generations with accessible local services and the support of their health, social and cultural well-being; as well as the avoidance of isolated dwellings in the rural environment. Although the scheme would be considered acceptable in terms of the economic strand of sustainable development it would fail the environmental and social strands as it would physically intrude into the rural environment, by virtue of its isolation from other substantial built forms of

- development, whilst also creating a development whereby future occupants would be heavily reliant on the private car to access the most basic of services. This would lead to greater vehicular emissions and would not support the NPPF approach to a low carbon economy. Insufficient local services to serve the basic 'day to day' needs of future residents would also lead to such residents being socially isolated. An approval, therefore, would be contrary to the environmental and social strands of sustainability enshrined within the NPPF, as well as Paragraphs 17 and 55 of the NPPF and Policies S3 and H4/1 of the adopted Local Plan.
- 2 Paragraph 61 of the National Planning Policy Framework (NPPF) outlines that although the visual appearance and architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic consideration. Therefore decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policies E4 and H7 of the adopted Local Plan seek good quality design in all new housing development that respects the character of its surroundings. It is considered that the development of the site for residential purposes would result in a form of development which would be prominent and isolated from other substantial forms of development, given its distance from neighbouring built forms and relationship with a public right of way. As such it would be detrimental to the visual and rural amenity of the surrounding area by virtue of the urbanisation of the land. Therefore, to permit the development would be contrary to the intentions of Paragraphs 57, 61 and 64 of the NPPF and Policies E4 and H7 of the adopted Local Plan.
 - 3 Paragraph 32 of the National Planning Policy Framework (NPPF) outlines, amongst other things, that development should only be prevented or refused on transport grounds where the residual cumulative impact of development are severe. Policy T3 of the North West Leicestershire Local Plan (Local Plan) identifies that development will be permitted only where its highway design and layout make adequate provision for vehicular access and circulation, and servicing arrangements. It is concluded that the proposal would lead to a significant increase, when viewed cumulatively with existing movements, in turning traffic using a junction onto a restricted (50mph) Class I (A512) road where there is an existing accident record and where the turning manoeuvres would be an additional source of danger to road users which would not be in the interests of highway safety. There would also be a material increase in vehicular traffic at the junction of Bakewells Lane and the Class I Loughborough Road (A512), where the proximity of adjacent private boundaries are such that Bakewells Lane is substandard in its width and the turning manoeuvres would be an additional source of danger to road users which would not be in the interests of highway safety. In these circumstances the development would be contrary to the aims of Paragraph 32 of the NPPF and Policy T3 of the Local Plan.
 - 4 The proposal, if permitted, would also lead to additional traffic using Bakewells Lane, which is unsuitable in its width and design to cater for this increase which would not be in the best interests of highway safety. Bakewells Lane also lacks both footways and street lighting in the vicinity of the site and as such the development will introduce additional vehicular, pedestrian and possibly cycle movements via Bakewells Lane, including in the winter months in the hours of darkness, which would introduce additional dangers to road users. In these circumstances the development would be contrary to the aims of Policy T3 of the Local Plan.

Notes to applicant

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. It is considered that the application is not acceptable in principle and as such the Local Authority has not entered into dialogue to seek any amendments. The Local Planning Authority has therefore complied with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Erection of a detached two-storey dwelling with associated off-street parking

Report Item No
A5

Land Adjacent To 94 Moor Lane Coleorton Coalville
Leicestershire LE67 8FQ

Application Reference
15/00727/FUL

Applicant:
Mr N Redburn

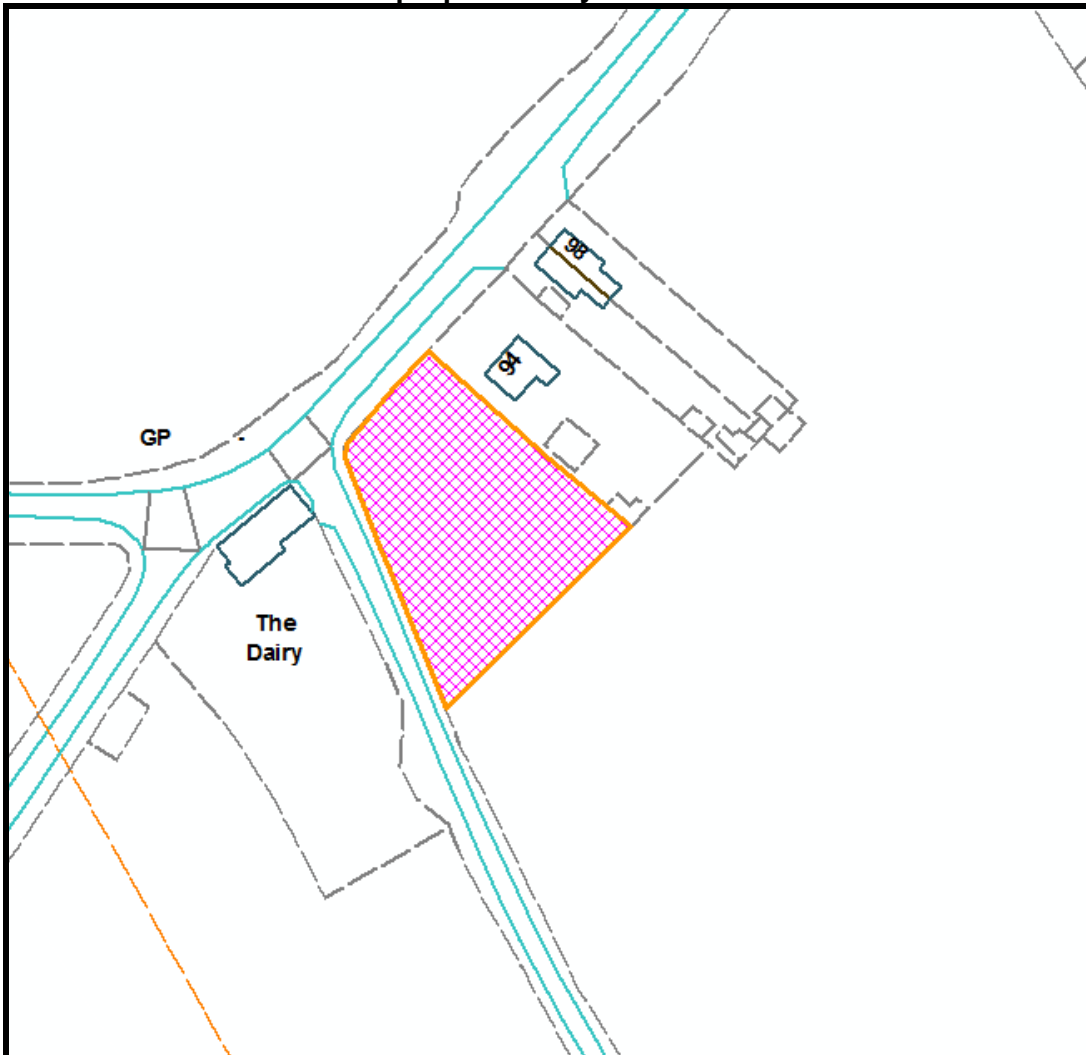
Date Registered
8 September 2015

Case Officer:
Adam Mellor

Target Decision Date
3 November 2015

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought to the Planning Committee to allow them to assess the 'local need' for the dwelling given that consideration will be given to a similar development at land off Bakewells Lane, Coleorton under application reference 15/00958/FUL which is within the vicinity of the site, and also reported to this Planning Committee agenda.

Proposal

The application relates to the provision of a two-storey detached dwelling with associated detached garage at land adjacent to 94 Moor Lane, Coleorton. It is noted that the application site is outside the defined Limits to Development; it is proposed by the applicant that the dwelling would meet a 'local need'.

Consultations

No representations from third parties have been received with all statutory consultees raising no objections subject to the inclusion of conditions on any consent granted.

Planning Policy

It is considered that the development would result in conflict with the social and environmental strands of sustainability and Paragraphs 17 and 55 of the National Planning Policy Framework as well as Policies S3 and H4/1 of the adopted North West Leicestershire Local Plan.

Conclusion

The report above indicates that this is a Greenfield site outside the Limits to Development of the nearest settlement being Coleorton.

A heavy reliance on the private car, an unsustainable mode of transport, for any future occupants to undertake their daily duties would not support the move towards a low carbon economy or seek to use natural resources prudently. In these circumstances, the proposed development of the site is unacceptable in principle and would conflict with the environmental strand of sustainability enshrined within the NPPF as well as Policies S3 and H4/1 of the adopted Local Plan.

In addition, the site would not be situated within an acceptable walking distance of local services which would meet the day to day needs of the occupants and therefore the development of the site would not provide accessibility to an appropriate level of services. Consequently the development would also conflict with the social strand of sustainability enshrined within the NPPF.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE;

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

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the erection of a detached two-storey dwelling with associated off-street parking at land adjacent to 94 Moor Lane, Coleorton. The land in question is agricultural pasture and is situated on the south-eastern side of Moor Lane at the junction with Limby Hall Lane and would be to the south-west of No. 94 Moor Lane. It is identified, on the Proposals Map to the North West Leicestershire Local Plan, that the site is outside the defined Limits to Development with the surrounding area consisting predominately of open countryside with residential dwellings sporadically located along Moor Lane generally in close proximity to the highway.

Following amendments to the plans the proposed four bedroomed dwelling would be situated 13.0 metres from Moor Lane and would have a floor area of 167.22 square metres and use of a pitched gable ended roof with an overall height of 8.5 metres. A detached double garage would also be formed which would cover a ground area of 54.74 square metres and would utilise a pitched gable ended roof with a ridge height of 6.2 metres. It is proposed that a new vehicular access off Limby Hall Lane would be formed to serve the dwelling, with an existing access located in the north-western corner at the junction of Moor Lane with Limby Hall Lane being closed. Manoeuvring facilities would be provided within the curtilage with off-street parking being accommodated within the detached double garage.

It is proposed that the dwelling would meet a 'local need' with the supporting information identifying the following: -

- *"The applicant's parents live in a small bungalow on Limby Hall Lane approximately 350m to the south of the application site. They have lived at the bungalow for approximately 20 years and before that lived at the Mill House on Moor Lane for about 10 years. Before they lived at Beaumont Farm on Lower Moor Road which is where the applicant was born and raised until he was 20 years old;*
- *The applicant moved to Coalville in circa 1989 and later Whitwick in 1999 because he could not afford to buy a house within the Parish. The applicant's mother and father are 86 years and 76 years old respectively and his father suffered a heart attack early this year and now needs frequent attention and attendance by the applicant due to his age and ill-health;*
- *So far as the choice of location is concerned, affordability and proximity to the applicant's parents house are important considerations as well as ensuring that the development does not have a harmful impact on the character of the countryside. Whilst not located within Limits to Development, nonetheless, the site is more closely related to the existing group of adjoining houses than other sites in the area and it is also within a short walk of the applicant's parents house so he does not have to use his car for daily visits and is on-hand at short notice;*
- *Any land/sites within the identified Limits to Development with development potential will fetch a premium (assuming they were for sale) and therefore, would render the proposal unaffordable. Seen in this light, the availability of land within Limits to Development (or on the edge) with development potential is irrelevant because if it were available, it would make the project unaffordable;*
- *The information attached, illustrates that the nearest groups of houses with Limits to Development drawn around them. It will be noted from this that there are no sites within Limits to Development that are closer to the applicant's parents house than the application site and to our knowledge, there are no sites with planning permission*

- available for sale within or on the edges of these Limits to Development;*
- *The applicant would not be able to afford to live within the Parish if it were not for this opportunity to "self build" a house for himself and his family. The applicant is not relying on the argument that he seeks permission here because he does not own land elsewhere - this is the most realistically "available" plot of land to accommodate the proposals in a way that satisfies his requirements but at the same time having as little impact on the countryside as possible by being closely related to existing buildings. The fact that there are no reasonably available alternative is borne out in the Best Price Guide. There are no other available sites and the submitted estate agent Best Price Guide proves that the cost of housing in the area is unaffordable."*

A planning statement, incorporating a design and access statement, coal mining risk assessment and best practice house price guide have been submitted in support of the application.

No previous planning history was found.

2. Publicity

8 no. neighbours have been notified (Date of last notification 9 September 2015)

Site Notice displayed 16 September 2015

Press Notice published 16 September 2015

3. Consultations

Swannington Parish Council consulted 9 September 2015

County Highway Authority

Severn Trent Water Limited

Head of Environmental Protection

Coal Authority

4. Summary of Representations Received

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

Coal Authority has no objections subject to the imposition of a condition on any consent granted.

Leicestershire County Council - Highways initially advised that they had no objections subject to the standing advice being considered. Following the proposed changes to the access position the County Highways Authority has no objections subject to conditions.

NWLDC - Environmental Protection has no objections.

Severn Trent Water no representation received.

Swannington Parish Council has no objections.

Third Party Representations

No third party representations have been received.

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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

Paragraph 10 (Achieving sustainable development);
 Paragraph 14 (Presumption in favour of sustainable development);
 Paragraph 17 (Core planning principles);
 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 75 (Promoting healthy communities);
 Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);
 Paragraph 112 (Conserving and enhancing the natural environment);
 Paragraph 118 (Conserving and enhancing the natural environment);
 Paragraph 120 (Conserving and enhancing the natural environment);
 Paragraph 121 (Conserving and enhancing the natural environment);
 Paragraph 203 (Planning conditions and obligations);
 Paragraph 206 (Planning conditions and obligations);

Adopted North West Leicestershire Local Plan (2002)

The application site is outside 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 F1 - General Policy;
 Policy F2 - Tree Planting;
 Policy F3 - Landscaping and Planting;
 Policy T3 - Highway Standards;
 Policy T8 - Parking;
 Policy H4/1 - Housing Land Release;

Policy H6 - Housing Density;
 Policy H7 - Housing Design;

Draft Consultation North West Leicestershire Local Plan

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, in view of the very early stage to which the draft Local Plan has progressed, only very limited weight can be attributed to its policies at this stage.

Policy S1 - Presumption in Favour of Sustainable Development;
 Policy S2 - Future Housing and Economic Development Needs;
 Policy S3 - Settlement Hierarchy;
 Policy S4 - Countryside;
 Policy S5 - Design of New Development;
 Policy H6 - House Types and Mix;
 Policy IF4 - Transport Infrastructure and New Development;
 Policy IF7 - Parking Provision and New Development;
 Policy En1 - Nature Conservation;
 Policy En6 - Land and Air Quality;
 Policy Cc2 - Sustainable Design and Construction;
 Policy Cc4 - Water - Sustainable Drainage Systems;

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.

6. Assessment

Principle of the Development

In respect of this particular application it is noted that the dwelling is proposed to be provided to meet a 'local need' with the need in this circumstance being outlined in the Proposals and Background section of this report. The supporting information also specifies that the 'need' for a dwelling of a similar scale cannot be met from existing housing stock and in this regard The Best Price Guide by Andrew Johnson and Company (Ashby De La Zouch) identifies the prices of available four bedroom detached properties within a 0.5 mile radius of Coleorton postcode

LE67 8FQ between the 28th August 2014 to the 29th August 2015. This document indicates that there are ten 4 bedroom properties within the immediate area which are for sale at prices ranging from £325,000 (Loughborough Road, Coleorton) to £515,000.00 (The Old Joiners Workshop, Prestons Lane).

An Internet search on Right Move on the 27th November 2015 reveals that there are eight 4 bed detached dwellings within one mile of the post code of the application site which range in price from £700,000 (Outwoods Lane, Coleorton) to £290,000 (Main Street, Swannington). If the search area is reduced to 0.5 miles then the only property available costs £300,000 and is located on Loughborough Road, Coleorton.

Using build cost figures of 2015 (www.homebuilding.co.uk) the District Council finds that to build a two-storey detached dwelling, with detached double garage, in the area using the most expensive build route (Main Contractor) and building to an Excellent specification, which would take into account better materials and improved building regulations standard (as well as VAT), would amount to £240,583. Using subcontractors would reduce the price to £208,834. Given these figures it would appear that the costs associated with building a new dwelling would be substantially less than any of the properties within the immediate area which would meet the 'needs' of the applicant.

Whilst a dwelling to suit the 'needs' of the applicant may not be available from the existing housing stock in the area this is not a justification to simply allow dwellings of this nature to be erected anywhere particularly when the adopted local plan, the emerging local plan and the Paragraphs of the NPPF contain no policies relating to the provision of dwellings to meet a 'local need'.

Within Paragraph 001, associated with Rural Housing, within the Planning Practice Guidance it states the following: -

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

In a dismissed appeal decision relating to land adjacent to no. 1 Zion Hill (ref: APP/G2435/A/14/2221844), which also related to the provision of a detached dwelling on a site outside the defined limits to development within the immediate area, the above Paragraph was considered, the Planning Inspector stated that: *"Like the Framework, LP Policies S3 and H4/1 do not prohibit development within countryside areas but rather set out the circumstances in which such proposals would be permitted. These policies do, however, differ to national guidance in that the Framework seeks to ensure that new housing is located where it will enhance or maintain the vitality of rural communities. Residential development in a rural area could contribute in this way and not necessarily fall into the categories of development deemed acceptable under LP Policies S3 and H4/1. As such, there is a tension between these LP Policies and the Framework in this regard. However, the board thrust of LP Policies S3 and H4/1 is broadly consistent with national guidance and I attach significant weight to them."*

Whilst acknowledging the sentiments of the Rural Housing guidance it is considered that although the future occupants of the dwelling could support some local businesses, services

and facilities, as well as public transport, the likely contribution of the development to the vitality of the local community as a whole would be fairly limited given the modest scale of the development proposed.

In any event it is considered that the above Rural Housing NPPG paragraphs do not set a principle that development in all rural areas should simply be accepted. Given the above conclusions of the Planning Inspector in the decision associated with land adjacent to no. 1 Zion Hill due regard still needs to be given to Policies S3 and H4/1 of the Local Plan as well as the overall sustainability credentials of the proposed site (be it for a market housing or a dwelling stated to meet a 'local need') considering the presumption in favour of sustainable development contained in the NPPF.

In terms of the sustainability credentials of the site, it is located the following distances away from a range of services:

- Viscount Beaumont Church of England School (Ashby Road, Coleorton) - 1212.50 metres;
- Recreation Ground (Zion Hill, Peggs Green) - 1170.64 metres;
- Bus Stop on Loughborough Road, Coleorton (for Arriva Service 9 1 hourly between Burton on Trent and Loughborough via Ashby De La Zouch Monday - Sunday (limited service on a Sunday)) - 738.19 metres;
- Bus Stop on The Moor, Coleorton (for Robert Coaches Air Link Service 155 1 hourly between Coalville and East Midlands Airport Monday to Saturday) - 639.36 metres;
- Public House (Angel Inn, 85 The Moor, Coleorton) - 708.90 metres;
- Shop/Post Office (Lower Moor Road, Coleorton) - 1098.76 metres;
- Church (St Johns Chapel, Ashby Road, Coleorton) - 1117.60 metres;
- Social Centre (Beaumont Social Centre, Nottingham Road, Peggs Green) - 1378.51 metres;

In a recent appeal decision relating to a residential development on Willesley Road in Ashby De La Zouch (ref: APP/G2435/W/15/3027396), which was dismissed, reference was made to the Institute of Highways and Transportation document 'Providing for Journeys on Foot' which outlines that the preferred maximum walking distance to local services would be 800 metres. Previous assessments have been based around the Department of Transport (DoT) statistics which show that the average trip length undertaken by foot would be 1km, however the Inspector in the above appeal outlined that such a statistic does not take into account those people who would walk but are put off by such distances and choose to travel by alternative means. The 'Providing for Journeys on Foot' document indicates that only the bus stops and public house would be within the preferred maximum walking distance and therefore most services which the applicant would rely on to meet their 'day to day' needs (i.e. school and shop) would not be within a reasonable walking distance. The walk to such services would also involve walking along rural roads, often with no surfaced footpath provision. If this were to be after dark or during inclement weather this would not be an attractive proposition for any future resident, even if the dwelling were meeting a local need criterion. Public footpaths within the area which might provide a more convenient access to local services would also be difficult to use by those with mobility difficulties or using pushchairs given that they are not hard surfaced. It is therefore considered that the occupants of the dwelling are likely to use their personal vehicles for most journeys that they will undertake.

It is considered that this planning judgement is a reasonable one particularly in light of the decision of the Planning Inspector in respect of the appeal decision at land adjacent to no. 1 Zion Hill (ref: APP/G2435/A/14/2221844), which is not too dissimilar to the context of this

application site, where it was stated that: *"it cannot be reasonably assumed that future occupiers would regularly walk or cycle the considerable distance to any of these destinations, especially along unlit rural roads after dark or during inclement weather. For these reasons, the site is in an unsustainable location because future occupiers would be heavily reliant on the private car for most journeys to shops, schools, places of employment, health and other services."*

In respect of social sustainability the benefit of the scheme is that it would provide a dwelling stated to meet a 'local need' which would be more affordable to local residents. Relevant supporting information has been supplied to justify the connections of the applicants with the settlement, and the completion of a Section 106 Agreement would secure such a dwelling being permanently made available for such purposes (i.e. meeting a local need criteria - (a) a person or persons and their dependents residing permanently in the parish or adjoining parish, for at least 5 years or more in the previous 20 years; or (b) a person or persons required to live close to another person who satisfies Criterion (a) and is essential need of frequent attention and/or care due to age, ill health, disability and/or infirmity).

However the social role, as defined in Paragraph 7 of the NPPF, requires the supply of housing to be linked to accessible local services which meet the needs of the community and support its health, social and cultural well being. As concluded above, although the site is located within walking distance of a few services those which would meet the 'day to day needs' of the occupant would not all be within a reasonable walking distance with the walk to such services being along predominately unlit rural roads which would not be an attractive proposition for any future occupant. On this basis any future occupants would be heavily reliant on the private car for most journeys to services that meet their 'day to day' needs and as such the development would conflict with the social strand of sustainability.

From an environmental sustainability point of view the land is identified as agricultural pasture land and would be situated at a distance of 390.0 metres from the Limits to Development of the southern part of Coleorton (The Moor), 450.0 metres from the Limits to Development of the northern part of Coleorton (Lower Moor Road), 680.0 metres from the Limits to Development of Swannington (St Georges Hill) and 850.0 metres from the Limits to Development of Peggs Green (Nottingham Road) which would be the nearest settlements. Whilst the dwelling would be associated with existing dwellings, and therefore it would be difficult to conclude that the dwelling was 'isolated' in the context of Paragraph 55 of the NPPF, it would result in the loss of greenfield land. Given the detachment of the dwelling from the Limits to Development of neighbouring settlements it is considered that it would impact negatively on the openness of the rural environment; therefore the development would fail to protect or enhance the natural environment, contrary to the intentions of Paragraph 17 of the NPPF, Policy S3 and the ministerial letter from Brandon Lewis of the 27th March 2015 urging Inspectors to protect the intrinsic beauty of the countryside.

It is also considered, taking into account the views of the Planning Inspectorate relating to an appeal decision at Tea Kettle Hall in Diseworth (APP/G2435/A/13/2208611), that due to the distance from shops, services and employment opportunities the private car would be the most likely mode of transport for the majority of trips to and from the proposed dwelling. This would involve lengthy trips in an unsustainable mode of transport for shopping, work and leisure purposes which again would conflict with the environmental aims of the NPPF which seek to use natural resources prudently and move towards a low carbon economy.

Although the development would be constructed on agricultural land this land is Grade 3/4 Agricultural Land and as such would not be considered the best and most versatile agricultural

land (defined as Grades 1, 2 and 3a of the Agricultural Land Classification) in the context of Paragraph 112 of the NPPF.

In conclusion, whilst sympathetic to the personal needs of the applicants such circumstances do not outweigh planning policy considerations. Therefore whilst there may be some benefit to the social strand of sustainability by the provision of an affordable local need dwelling, this need would be heavily outweighed by the overall negative social and environmental impacts of the development. Therefore the proposal is unacceptable in principle and would not represent sustainable development.

Residential Amenity

The properties most immediately affected by the proposed development would be no. 94 Moor Lane, a two-storey detached dwelling, situated to the north-east and The Dairy (84 Moor Lane), a two-storey detached dwelling, situated to the south-west.

One ground floor window exists in the south-western (side) elevation of no. 94 Moor Lane with two ground floor and one first floor window being situated in the north-eastern (side) elevation of The Dairy. Given the size of these windows it is considered that they would likely be secondary windows to the principal windows located in the front and rear elevations of the properties.

The proposed dwelling would be set 2.2 metres from the shared boundary with no. 94 Moor Lane and 5.2 metres from its south-western (side) elevation. In the circumstances that the ground floor window at no. 94 would be a secondary window, and that the length of the proposed dwelling would not project beyond the front of rear elevations of no. 94, it is considered that the position of the dwelling would not have a significantly detrimental overbearing or overshadowing impact on the occupants' amenities. No windows would be proposed in the north-eastern (side) elevation of the dwelling and as such there would be no direct overlooking implications with views from the first floor windows in the south-eastern (rear) elevation being at an oblique angle. A 'Juliette' balcony would be installed at first floor level on the south-eastern (rear) elevation but this would have a minimal projection from the elevation and as such would not result in any direct overlooking implications.

In respect of The Dairy, which is separated from the application site by Limby Hall Lane, it is noted that the proposed dwelling would be set 17.6 metres from the north-eastern (side) elevation which would be sufficient in ensuring that no adverse overbearing or overshadowing impacts would occur. This distance would also ensure that there would be no adverse overlooking implications particularly given that no windows are proposed in the south-western (side) elevation of the dwelling.

It is also considered that the position and scale of the detached garage would not result in any adverse implications to the amenities of neighbours.

With regards to the amenities of any future occupants it is considered that the distance of the dwelling from neighbouring properties would be sufficient with there being no adverse overlooking implications given that any views established from first floor windows in the south-eastern (rear) elevations of no. 94 Moor Lane and The Dairy would be at an oblique angle towards the rear amenity area of the new dwelling. This general relationship would also be no different to that which currently exists between nos. 94 and 96 Moor Lane.

On this basis the proposed development is considered to accord with Policy E3 of the Local Plan.

Impact on the Character and Appearance of the Area and Streetscape

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

The land on which the dwelling would be situated is relatively flat and is bordered by a mature hedgerow ranging from 1.5 to 1.8 metres in height. Existing properties on this part of Moor Lane are predominately two-storey in height and are set in close proximity to the highway with their principal elevations fronting onto the road. As part of the revision to the originally submitted plans the proposed dwelling has now been situated so that it would be flush with the front elevation of No. 94 Moor Lane and would have its principal elevation fronting onto Moor Lane. These amendments have ensured that the position and height of the dwelling would not detract from the character and appearance of the wider area or streetscape and it would therefore be considered to be 'in keeping' with the environment in which it would be set.

In terms of the design of the dwelling itself it is considered that it would be acceptable and would include design features which the Local Authority deems desirable (i.e. chimneys, stone cills and brick headers, brick plinth and timber supported canopy) with these features also being consistent and in keeping with the design of properties within the village which are considered to make a positive contribution to the area such as Beaumont Villa (116 Moor Lane) and The Dairy (84 Moor Lane). Whilst 'gablets' are not a consistent feature of properties on Moor Lane they are widely used on properties located on Prestons Lane, to the immediate north of the site, and as such this feature would not be considered to be out of keeping with the general design characteristics of dwellings within the area. The overall footprint of the dwelling would also be consistent with dwellings in the vicinity.

With regards to the detached garage it is considered that this would be subservient in relation to the main dwelling and would follow a design approach consistent with that of the proposed dwelling which would ensure it would be acceptable in preserving the character and appearance of the streetscape and wider area. The works required to form the new access would also not have significant implications to the visual amenity of the streetscape given that the existing vehicular access would be closed and reinforced with new hedging which would mitigate that lost to form the new access.

It is proposed that the dwelling would be constructed from bricks with the use of clay tiles and timber windows and doors. The surrounding area is characterised by a mixture of materials, with render also being widely used, and as such the use of such materials would be acceptable in principle and would preserve the character and appearance of the surrounding area and streetscape. As no precise details have been supplied it is considered reasonable to impose a condition on any permission granted for the materials to be agreed.

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

Highway Safety

Following consultation with the County Highways Authority it was determined that the proposed vehicular access to serve the dwelling be relocated due to the existing access being situated on the junction of Limby Hall Lane with Moor Lane and thereby lacking adequate visibility.

The plans have been subsequently amended so that the access would now be situated 9.8 metres from the junction of Limby Hall Lane and Moor Lane and as such adequate visibility can be provided in both directions to ensure vehicles entering and exiting the site can do so in a safe manner. As part of the reconsultation process the County Highways Authority have raised no objections, subject to the imposition of conditions, and as such it is considered that the development would not be severely detrimental to highway safety and would therefore accord with Paragraph 32 of the NPPF and Policy T3 of the Local Plan.

The proposed double garage would have sufficient internal dimensions (6.0 metres by 6.0 metres) in order for it to accommodate two vehicles and ample room would also be available within the curtilage so as to ensure that a further two off-street parking spaces could be provided. On this basis the proposed development would accord with Paragraph 39 of the NPPF and Policy T8 of the Local Plan.

Ecology

There are no ecological constraints on or in close proximity to the site boundaries which would be compromised as a result of the development although it would be necessary to impose a condition on any consent granted to ensure that any works to the hedgerows are undertaken outside the bird nesting season. Subject to the imposition of such a condition it is considered that the proposal would accord with Paragraph 118 of the NPPF and Circular 06/05.

Landscaping

The dwelling is sited so as to ensure it would not compromise the integrity of the boundary hedges and whilst part of the hedge would need to be removed to provide the new vehicular access this would be compensated for by the provision of a hedgerow to close off the existing access. In the circumstances that a condition is imposed on any consent granted for a landscaping scheme to be submitted for approval, which shall include work to existing vegetation as well as the provision of new landscaping, it is considered that the development would accord with the principles of Policies E7, F1, F2 or F3 of the Local Plan.

Other Matters

The Coal Authority has confirmed that they have no objections to the development subject to the imposition of a condition on any consent granted to address land stability issues. In these circumstances it is considered that the proposal would not lead to land instability issues to neighbouring properties which would ensure compliance with Paragraphs 120 and 121 of the NPPF.

Conclusion

The report above indicates that this is a Greenfield site outside the Limits to Development of the nearest settlement being Coleorton.

A heavy reliance on the private car, an unsustainable mode of transport, for any future

occupants to undertake their daily duties would not support the move towards a low carbon economy or seek to use natural resources prudently. In these circumstances, the proposed development of the site is unacceptable in principle and would conflict with the environmental strand of sustainability enshrined within the NPPF as well as Policies S3 and H4/1 of the adopted Local Plan.

In addition, the site would not be situated within an acceptable walking distance of local services which would meet the day to day needs of the occupants and therefore the development of the site would not provide accessibility to an appropriate level of services. Consequently the development would also conflict with the social strand of sustainability enshrined within the NPPF.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reason;

- 1 The proposed dwelling would be situated in an area of Coleorton where access to appropriate services would be fairly limited and as a result the dwelling would not be situated within a sustainable settlement. The application site is also on unallocated greenfield land located outside the Limits to Development of Coleorton, as defined on the Proposals Map to the North West Leicestershire Local Plan (Local Plan). Policy S3 of the Local Plan provides a presumption against non-essential residential development in the countryside. Policy H4/1 sets out a sequential approach to the release of land for residential development and seeks to direct housing towards previously developed land in accessible locations, well served by, amongst other things, public transport and services. Paragraph 17 of the National Planning Policy Framework (NPPF) indicates that planning should recognise the intrinsic character and beauty of the countryside and Paragraph 55 outlines that socially, development should provide the supply of housing required to meet the needs of present and future generations with accessible local services and the support of their health, social and cultural well-being. Although the scheme may be of limited benefit to the economic strand of sustainability it would fail the environmental and social strands as it would physically intrude into the rural environment and would represent unwarranted development, by virtue of its detachment from the settlement boundaries of Coleorton, Swannington and Peggs Green, whilst also creating a development whereby future occupants would be heavily reliant on the private car to access the most basic of services. This would lead to greater vehicular emissions and would not support the NPPF approach to a low carbon economy. Insufficient local services to serve the basic 'day to day' needs of future residents would also lead to such residents being socially isolated. An approval, therefore, would be contrary to the environmental and social strands of sustainability enshrined within the NPPF, as well as Paragraphs 17 and 55 of the NPPF and Policies S3 and H4/1 of the adopted Local Plan.

Notes to applicant

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. It is considered that the application is not acceptable in principle and as such the Local Authority has not entered into dialogue to seek any amendments. The Local Planning Authority has therefore complied with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE - 5 JANUARY 2016

Title of report	TO CONSIDER CONFIRMING A TREE PRESERVATION ORDER AT 29 LONDON ROAD KEGWORTH
Contacts	<p>Cllr Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Planning and Development Team Manager 01530 454668 chris.elston@nwleicestershire.gov.uk</p> <p>Tree Officer 01530 454683 julian.simpson@nwleicestershire.gov.uk</p>
Purpose of report	To consider the objections lodged by Mr. S Bradwell and Mr. D. F. Ledsam in respect of the provisional Tree Preservation Order made on 16 July 2015.
Reason for decision	The TPO needs to be confirmed within six months. Trees will lose their protection if not confirmed within six months.
Council Priorities	Homes and Communities
Implications	None
Financial/Staff	None
Link to relevant CAT	None
Risk management	None
Equalities Impact Screening	Equality Impact Screening already undertaken, issues identified actioned.
Human Rights	Under the Human Rights Act, Article 8, there is a right to respect for private and family life, the home and correspondence. The making of a Tree Preservation Order potentially impacts on that right. However, in this case it is considered that the making of the Order is justified in the public interest.

Transformational Government	None
Comments of Head of Paid Service	Report is satisfactory
Comments of Section 151 Officer	Report is satisfactory
Comments of Deputy Monitoring Officer	Report is satisfactory
Consultees	People with a legal interest in the land affected by the Order have been consulted and members of the public were consulted by the placing of site notices.
Background papers	On file
Recommendations	THAT THE TPO BE CONFIRMED

1.0 INTRODUCTION AND BACKGROUND

A tree survey and arboricultural implications assessment has been submitted to support planning application 15/00365/OUT - Residential development of three dwellings (Outline- all matters other than part access reserved) within the residential garden area of 29 London Road Kegworth, registered on 23 April 2015.

The tree survey identified 40no. individual trees and two tree groups on the site. The proposed site plan showed 15no. trees remaining, some of which would be compromised by proposed construction.

A revised site plan was submitted in November 2015 for two dwellings showing four of the protected trees removed and others compromised but with 23no. unprotected trees retained.

The commissioned tree survey from Canopy Tree Services concluded that “most of the trees on site have been classified as low value trees” although they could have a “positive impact on development” but “they should not be a constraint to development”.

The tree survey is considered to have under-rated the quality and condition of trees on the site which contains some fine specimens and mature specimens such as Beech, Weeping beech, Tree of heaven, Ginkgo, Pine, Cypress, Sycamore and Holm oak in addition to smaller varieties such as Apple, Cherry and pollarded Lime.

A TEMPO (Tree evaluation method for preservation orders) assessment has been carried out and it is considered that 12no. trees meet the criteria to merit protection by Tree Preservation Order.

TEMPO assessments are carried out to show a consistency of approach by the Local Planning Authority. All 12no. trees scored sufficiently in terms of condition, life expectancy, visibility, impact, rarity, form, age, historic importance, cohesion and expediency.

A provisional TPO was made on 16 July 2015.

To provide continued protection the TPO needs to be confirmed before 16 January 2016.

The TPO does not prevent development but can be used to guide design and avoid loss of the most important trees.

2.0 OBJECTIONS AND OFFICER COMMENTS

2.1 Summary of Representations Received

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

Two letters of objection have been received from the applicant and agent. Objections relate to a lack of public view from the highway, that the TPO would have a detrimental effect on the existing garden, that the trees are unsafe and that the TPO effectively imposes a change of use over a large part of the garden.

In respect of specific trees the owner objects to the TPO because it would restrict management of the garden as it is now but not in terms of the proposed development. He believes that some species are invasive, obstruct light, are too old, common, unsafe, poor specimens, poisonous or allergenic.

The agent considers that a TPO is not expedient or in the interests of amenity, that tree removal would not have a negative impact on the local environment and that The Council has not made an assessment of the trees' public visibility.

2.2 Officer Observations

The TEMPO appraisal carried out is consistent with the method used for all other TPO requests and the TPO was made in accordance with planning requirements.

The TEMPO assessment takes into account public visibility, individual impact and wider impact, both now and in the context of potential development.

The applicant's submitted tree survey only suggests that three trees are unsuitable for retention due to poor condition and those three have been excluded from the Tree Preservation Order.

Whether or not a tree species is common, it can still have high amenity value. All parts of Yew except for the fleshy parts of the berry can be poisonous if digested but with sensible precautions, risk is limited. Ginkgo has mild allergenic properties when large quantities of pollen are produced but it is frequently planted in public and urban areas. Such characteristics do not restrict or detract from amenity value sufficiently to warrant felling.

Given the proposed development the TPO is more pressing than it would otherwise have been. It will enable the planning authority to secure a design in which the most suitable trees can co-exist with any new dwellings.