

Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	4.30 pm on Tuesday, 1 March 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
<b>1. APOLOGIES FOR ABSENCE</b>	
<b>2. DECLARATION OF INTERESTS</b>	
Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
<b>3. MINUTES</b>	
To confirm and sign the minutes of the meeting held on 2 February 2016.	<b>3 - 14</b>
<b>4. PLANNING APPLICATIONS AND OTHER MATTERS</b>	
Report of the Head of Planning and Regeneration.	<b>15 - 18</b>



## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
<b>A1</b>	<b>14/00800/OUTM: Residential Development and Associated Infrastructure (outline - all matters other than part access included)</b>  Land Rear Of Hall Lane Whitwick	<b>REFUSE</b>	<b>19 - 44</b>
<b>A2</b>	<b>15/00128/FUL: Erection of six no. houses</b>  11 Main Street Ravenstone Coalville Leicestershire LE67 2AS	<b>PERMIT subject to a Section 106 Agreement</b>	<b>45 - 64</b>
<b>A3</b>	<b>15/00950/FULM: Proposed erection of agricultural buildings, farm shop and farmhouse along with the formation of vehicular access and yard</b>  Land South Of The Green Diseworth Derby DE74 2QN	<b>PERMIT</b>	<b>65 - 90</b>
<b>A4</b>	<b>15/00948/FUL: Partial demolition of farm building, conversion and extension of remaining farm buildings to form two dwellings along with the erection of six additional dwellings and alterations to vehicular access</b>  Village Farm 36 Hall Gate Diseworth Derby DE74 2QJ	<b>PERMIT subject to a Section 106 Agreement</b>	<b>91 - 120</b>
<b>A5</b>	<b>15/00949/FUL: Partial demolition of farm buildings, conversion and extension of remaining farm building to form one dwelling along with the erection of three additional dwellings and alterations to access</b>  Hallfield Farm 1 Hall Gate Diseworth Derby DE74 2QJ	<b>PERMIT</b>	<b>121 - 146</b>

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 2 FEBRUARY 2016

Present: Councillor D J Stevenson (Chairman)

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

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

Officers: Mr C Elston, Mrs A Lowe, Miss E Mattley, Mr R McKillop, Mr A Mellor, Mr J Newton and Mrs R Wallace

### **93. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors G A Allman and R Boam.

### **94. DECLARATION OF INTERESTS**

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

Councillors J Cotterill and M Specht declared a non pecuniary interest in item A3, application number 15/01148/OUT as members of Coleorton Parish Council.

Councillors J G Coxon, J Hoult and G Jones declared a non pecuniary interest in item A1, application number 15/01078/OUTM as members of Ashby Town Council.

Councillor D Harrison declared a non pecuniary interest in item A2, application number 15/01097/FUL as an acquaintance of the applicant.

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

Item A1, application number 15/01078/OUTM  
Councillors R Adams and J Legrys.

Item A2, application number 15/01097/FUL  
Councillors R Adams, R Ashman, R Canny, J Cotterill, J G Coxon, D Everitt, J Hoult, R Johnson, G Jones, J Legrys, V Richichi, N Smith, M Specht and D J Stevenson.

Item A3, application number 15/01148/OUT  
Councillors M Specht and D J Stevenson.

Item A4, application number 15/01062/OUT  
Councillors R Adams, R Canny, D Harrison, R Johnson and J Legrys.

### **95. ADMISSION OF ADDITIONAL ITEM**

The Chairman advised Members that an additional item needed to be considered by the Committee before the next meeting and as the report was exempt it would be considered at the end of the meeting.

RESOLVED THAT:

By reason of special circumstance in that an additional item of business needed to be considered before the next meeting of the Planning Committee, the item entitled 'Receipt

of Advice in Respect of Application Number 15/00083/OUTM' should be considered at this meeting as a matter of urgency in accordance with Section 100B(4)(B) of the Local Government Act 1972.

## 96. MINUTES

Consideration was given to the minutes of the meeting held on 5 January 2016.

It was moved by Councillor J Legrys, seconded by Councillor N Smith and

RESOLVED THAT:

The minutes of the meeting held on 5 January 2016 be approved and signed by the Chairman as a correct record.

## 97. 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.

## 98. A1

### **15/01078/OUTM: RESIDENTIAL DEVELOPMENT (UP TO 91 DWELLINGS) AND ASSOCIATED INFRASTRUCTURE (OUTLINE - ACCESS ONLY) RE-SUBMISSION OF 15/00306/OUTM**

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

Officer's Recommendation: PERMIT Subject to a Section 106

The Planning Officer presented the report to Members.

The Chairman advised Members that he had received a letter from Andrew Bridgen MP stating that he maintained his objection to the application.

Councillor S McKendrick, Ward Member, addressed the Committee. She reminded Members of the high number of local objections to the application and highlighted how important it was to keep the area of separation between the villages and between Derbyshire and North West Leicestershire. She commented that it was a rural location with few facilities which would be put under increasing pressure; therefore she did not believe it was sustainable. The GP surgery and the school could not accommodate the proposed increase in demand and the occupiers of the development would use Woodville's services. She felt it was essential to maintain the relief road as the boundary of the settlement, as it added to the character of the village and development outside it would be insensible as well as an intrusion into the countryside. She urged Members to refuse the application.

Mr M Ball, Town Councillor, addressed the Committee. He commented that the village was close to the national forest and had its own identity and if the application was permitted, the physical separation between the villages would be removed. He stated that the site was outside the limits to development within the emerging local plan and was contrary to Policy S3. He added that there was no need for the development, as the Committee had already approved 11,400 houses and further approval following appeals was likely, which he believed meant that the housing requirement had already been met. The five year supply was correct in August and the Willesley Road Inspector agreed. He felt that the site was unsustainable as there were no retailers and the GP surgery and school was already full to capacity. He raised concerns that new residents would be reliant on motor vehicles and that the highways would struggle to cope with the increase

in traffic. He asked Members not to destroy Blackfordby to achieve housing supply figures that had already been met and urged for refusal.

Mr R Nettleton, objector, addressed the Committee. He reminded Members that permission had been refused before and urged for them to do the same again. He suggested that the Greenhill Road appeal decision was not so authoritative as was being stated and asked Members to consider the Willesley Road appeal decision. He raised the following concerns:

- The school and GP surgery were already overstretched and there was no post office.
- Blackfordby would be absorbed into Woodville and the unique identity lost.
- There would be more vehicles on the roads.
- The village was currently used as a rat run to avoid Woodville and would become worse.
- Speeding on Butt Lane had already been confirmed and there was a lack of footpaths.
- The flooding in the area and the impact on the River Mease had not been considered.

Mr A Ward, agent, addressed the Committee. He advised Members that their concerns from the previous refused application had been addressed and that the site was not protected against development. He assured Members that the site did not impact the countryside, there was a sustainable drainage system, the area of separation would still be 600 metres and there were no technical objections. He added that approval would contribute to the five year land supply and if Members were minded to permit then the current appeal on the refused application would be withdrawn.

For clarification, the Head of Planning and Regeneration explained that the Authority did have a five year land supply at the time of the Willesley Road appeal but as a result of the Greenhill Road appeal, the inspector determined that this was no longer the case and therefore, Members could not rely upon Policies S3/H1. Regarding the focus on facilities in the area, he explained that Section 106 contributions had been agreed to address the issues. He reminded Members that there had been no technical objections to the application from the Statutory Consultees.

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

Councillor M Specht commented that it was an excellent report and he could not see how Members could not support a development with 30 percent affordable homes. He stated that he was staggered at the amount of demand for new homes in the District and if Members continued to object then the Authority would not reach its targets. He felt that the houses proposed were needed to meet the five year land supply.

Councillor D Harrison acknowledged that it was a delicate application with lots of objection from local residents but overall he felt that it was a good proposal for a site that would eventually be developed. He supported the officer's recommendation.

Councillor J G Coxon stated that he could not support the officer's recommendation due to the loss of the area of separation and he did not believe that the application addressed the Town Council's concerns.

Councillor J Legrys shared Councillor J G Coxon's views and also raised concerns regarding the increase in traffic on the highways. He asked for assurances that as the proposal was for outline permission only, that if it was permitted, an application regarding the detail would be considered by the Committee. He reminded Members that areas of separation had been discussed before and defended at appeal and judicial review. He also raised concerns regarding the views of the urban designer and declared that he could not support the officer's recommendation.

Councillor G Jones felt that the only way to resolve the matter was to make sure that better houses were built that compliment the area.

The Chairman reminded Members that the application was seeking outline planning permission and if permitted could come back to Committee to consider the design.

The Head of Planning and Regeneration reminded Members that there was no formal designation for an area of separation between Blackfordby and Woodville in the current local plan. In response to a question from Councillor R Canny he explained that as a result of the Greenhill Road appeal, the inspector concluded that the Authority could not demonstrate that it had a five year land supply and as a result the relevant housing policies of the local plan could not be relied upon for determining planning applications.

Councillor R Canny commented that it was a difficult decision for Members to make. Her main concern was that even though the Head of Planning and Regeneration gave his assurances that the education authority had agreed to the Section 106 contributions and therefore in planning terms it was sustainable, there was still not enough spaces in the school to accommodate the increase.

Councillor J Cotterill asked whether the Judicial Review case that Councillor J Legrys referred to was concerning the Green Wedge or an area of separation. The Planning and Development Team Manager confirmed that the case referred to concerned the Green Wedge.

The officer's recommendation to permit the application was put to the vote.

A recorded vote having been requested by Councillor J Legrys, the voting was as follows:

For the motion:

Councillors R Ashman, J Bridges, J Cotterill, D Harrison, G Jones, M Specht and D J Stevenson (7)

Against the motion:

Councillors R Adams, R Canny, J G Coxon, D Everitt, J Hault, R Johnson, J Legrys, V Richichi and N Smith (9)

Abstentions:

None (0)

The motion to permit was LOST.

At this point Councillor J Legrys moved for an adjournment for Members to consider the most appropriate reasons for refusal which was seconded by Councillor R Adams. On the advice of the Legal Advisor, the Chairman asked for clarification on the reasons for an adjournment. Councillor J Legrys responded that in accordance with the Constitution he would like legal advice in formulating the reasons for refusal.

The meeting was adjourned at 5.20pm and reconvened at 5.32pm.

Councillor J Legrys moved that the application be refused on the grounds of the debatable school places available, that development of the site would not be sustainable and the loss of the area of separation between the villages. It was seconded by Councillor R Adams.

The Head of Planning and Regeneration advised that the first two grounds for refusal be combined as sustainability issues rather than individually as this would be easier to

defend in the case of an appeal. Councillor J Legrys re-affirmed the reasons for refusal as he had originally stated.

Councillor D Harrison felt that the reasons for refusal were not strong enough and if the Committee got the decision wrong the cost to the Authority could be enormous. The Committee had been advised against the proposed reasons for refusal and all residents of the whole District would be contributing to the bill. He stressed the importance of listening to the professional advice and on this occasion it would be difficult for the officers to defend the reasons for refusal that had been put forward.

Councillor D Everitt strongly voiced his views that the laws of national government stopped local councillors from doing what was right and supporting local people due to the focus on development.

The motion to refuse the application was put to the vote and the voting was as follows:

For the motion:

Councillors R Adams, R Canny, J G Coxon, J Houl, R Johnson, J Legrys and V Richichi (7)

Against the motion:

Councillors R Ashman, J Bridges, J Cotterill, D Everitt, D Harrison, G Jones, M Specht and D J Stevenson (8)

Abstentions:

Councillor N Smith (1)

The motion was LOST.

On the advice of the Legal Advisor, the Chairman put forward the officer's recommendation to permit to Members once again. It was seconded by Councillor J Bridges.

The voting was as follows:

For the motion:

Councillors R Ashman, J Bridges, J Cotterill, D Everitt, D Harrison, J Houl, G Jones, V Richichi, M Specht and D J Stevenson (10)

Against the motion:

Councillors R Adams, R Canny, J G Coxon, R Johnson and J Legrys (5)

Abstentions:

Councillor N Smith (1)

The motion was CARRIED.

RESOLVED THAT:

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

**99. A2**  
**15/01097/FUL: ERECTION OF ONE DETACHED DWELLING**  
 Land At Main Street Normanton Le Heath Coalville

Officer's Recommendation: Permit

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

Mr A Cooper, Parish Councillor, addressed the Committee. He explained that local people were not against development in the village and there had been no objections to the nearby wind farms, but they did however have many concerns regarding this proposal. He stated that the proposal was not in keeping with the area, the site was outside the limits to development, it was contrary to Policy E4, and it was unsustainable with no facilities in the village. He added that there was already traffic issues in the village and this proposal would exacerbate them. The sensitive area was adjacent to the site and the access road to the development. He believed the development would be harmful to the majority of residents. He concluded that applications to develop the site had been refused for the last 41 years and urged Members to do the same once again.

Mr M Roberts, Objector, addressed the Committee. He informed Members that his property was at the front of the site and he was assured that it was not suitable for development when he moved into the village. He explained that he had bought his property due to its position and this development would destroy that as the house would be up against his boundary and would overlook his property. He believed that moving the development 50 yards from where it was originally planned did not make a difference and felt that officers had relaxed policies to allow it to be permitted. He stated that the site was unsustainable as occupiers would be totally reliant on motor vehicles and the development would harm the whole village not only his home. He also stated that the development made an insignificant contribution to the five year housing land supply. He felt that no concern had been shown towards local people and urged Members to refuse the application.

Mr G Phillips, agent, addressed the Committee. He explained that the proposed development was very different to the previous application and all concerns from local residents and officers had been listened to. He stated that the development was now within the limits to development and outside the village's sensitive area, it did however extend three metres over the village envelope which officers advised would be acceptable. He concluded that there had been other developments in the village that had been permitted and that the proposed site had planning permission 40 years ago which people buying houses in the area would have been made aware of.

The officer's recommendation was moved by Councillor J Bridges and seconded by Councillor R Johnson.

Councillor N Smith stated that there were 65 houses in the village and 55 objections had been made. He explained that he had been told by local residents that the previous owner of the site approached the Council after being diagnosed with terminal cancer and enquired into building a bungalow to move to so he could end his days in the village as he had lived there his entire life. The planning department had advised him not to pursue it. This was approximately two years ago. The Chairman was informed by officers that no application such as that referred to by Councillor N Smith had been received. Councillor N Smith confirmed that it had been informal discussions with the officers only.

Councillor V Richichi raised concerns that the driveway was within the village's sensitive area and still outside the limits to development, the nearest bus stop was two kilometres away from the site, it was unsustainable and there were no other properties in the vicinity



that were the same height. He also commented that this proposal for one dwelling made a limited contribution to the five year land supply figure.

The Chairman clarified to Members that no applications had been submitted for this site historically.

Councillor J Legrys commented that the application was difficult to consider as it was clear from the report that there was significant opposition to it. However, he noted that the village was not a Cotswold stone village and there were many modern style buildings that would have been constructed during the 1970's and 1980's within the village, and as the application was for one dwelling he would be supporting the officer's recommendation to permit.

Councillor D Everitt felt it was important to keep the character of villages such as this but after visiting the site he did not think it would have an impact as it was tucked away down the lane. He believed that the site was appropriate for one dwelling.

Councillor R Canny commented that she had voted to refuse the previous application because of the impact on the view but was happier now that the footprint had been moved. Her only concern was the proposed height of the development.

In response to a question from Councillor R Canny, the Planning and Development Team Manager reported that the application was for the dwelling to have a render and brick finish but if approved, materials was something that could be conditioned.

Councillor R Johnson commented that after visiting the site he could see that the nearby development on Highfield Close were three storeys high and they were built in 2013, therefore he could not see any issues with this application. He also commented on the well written report.

Councillor M Specht commented that he was looking at the application on its merits and as it was in a barely visible location from the village, he did not believe it would have a significant impact. He felt that residents would be no more reliant on cars than any other house in the village. He also added that as the majority of the village was built in the last 30 years the proposed dwelling would not affect the character as it was 'not a chocolate box village with architectural merit.'

RESOLVED THAT:

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

**100. A3**

**15/01148/OUT: ERECTION OF FOUR DETACHED DWELLINGS WITH ASSOCIATED OFF STREET PARKING (OUTLINE - MATTERS OF ACCESS AND LAYOUT FOR APPROVAL)**

Land Off Lower Moor Road Coleorton Coalville Leicestershire

Officer's Recommendation: Permit

The Senior Planning Officer presented the report to Members.

The Planning and Development Team Manager read out the following letter from Councillor R Boam who had submitted his apologies for the meeting because he was unable to attend.

'I would like the committee to consider the following points before making their minds up whether to permit or refuse this application.

- This application is outside the limits to development in a very sensitive area.
- There are no local needs to support this application.
- There is strong opposition in the surrounding area.
- The support seems to be from outside of the area.
- The parish council also object to it.
- My concerns are the highway safety , I'm aware the highways have put conditions in place , but as someone who has lived in this area since a child, I believe I know this area better than a visiting highway officer. This would be a dangerous entrance in a dip on a corner.
- The site is also classed as a Greenfield site with no local need,
- There has been a previous application for this site which was refused and that was backed up by being refused at an appeal.

Thank you for reading my letter out, as ward member for the Valley Ward I hope you consider my points carefully.'

Mr S Haggart, objector, addressed the Committee. He explained that he had been nominated to represent over 50 residents of Coleorton village and asked Members to note that the vast majority of supporters of the application did not live within the village. He highlighted the following reasons why Members should refuse the application:

- It contravened Policy E1 which classed the site as a sensitive area and stated that no development would take place that affected it. It was an open meadow and therefore designated as a Greenfield site.
- It contravened Policy E18 as the site was within a historic area. The Council had determined that the site was of special interest due to its inclusion within the grounds of Coleorton Hall.
- Coleorton was no longer a sustainable village as it had only a very small post office, a very limited bus service and the doctor's surgery had recently closed. The officer's conceded that the school was outside the 1000 metre threshold but failed to mention that to reach it involved crossing the A512 which had seen the deaths of two villagers, including a child.
- It contravened Policy S3 as the site fell outside the village boundary and therefore outside the limits to development.
- It contravened Policy HS4 as the site was not identified within the proposals map as suitable for residential development. He felt that there were more suitable sites available to meet the housing stock requirements.
- It contravened Policy T3 as there were already issues with speeding vehicles and parking on the road which would be exacerbated by the development. He added that there had been traffic accidents in the area as recently as last month.

He concluded that the development would have a detrimental effect on the character of the village, destroy the open aspect of the neighbourhood, it would overlook the adjoining properties and affect the visual and rural amenity of neighbouring properties. He felt it would also set a precedent for other similar developments within unsustainable villages.

Mr P Hessian, supporter, addressed the Committee. He advised that he had lived in Coleorton since 1974 and regularly used the facilities within the village that could only be sustained by bringing more people to the area. The way to do this was by permitting

developments such as this. He also added that the village had an aging population and it was important to bring families into the area. He said that there was a need for new housing otherwise there would be nowhere for the next generation to live. He stated that he could see no negative impact from the development and the site appeared as scrub, adjacent to and opposite existing houses, and was currently overgrown. He concluded that the proposal included sufficient parking and that he he was pleased with the proposals to create a nature reserve. He urged Members to permit the application.

Mr A Large, the applicant, addressed the Committee. He noted that the proximity of the site to other houses made objections inevitable and advised that there was no site specific policy in the emerging local plan. He commented that it was good to see so many of letters of support and reminded Members that there were no technical objections to the proposals. He stated that the development would act as an 'end stop' to the village and that the landowners would be providing a nature reserve, so there was no potential for any further development on the site. He felt that the majority of objectors seemed to be concerned about the conservation of the historical site and informed the Committee that an independent conservation assessment had been undertaken which resulted in a positive outcome regarding development. He added that the site was currently scrubland that was undermanaged and urged Members to permit the application.

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

Councillor J G Coxon stated that the development was in keeping with the village, that it would not be harmful and that the nature reserve was an added asset for the village.

Councillor J Legrys believed that villages such as Coleorton needed small scale growth to enable shops and facilities to be sustained as these businesses were in decline. He fully supported the officer's recommendations.

Councillor M Specht advised that Coleorton Parish Council always made comment on proposals that are outside the limits to development but they did want some growth in the village and to continue to have facilities open. He noted that there were pubs and a post office nearby, and an hourly bus service. He believed the small scale development proposed would help to sustain the village.

Councillor R Canny commented that Members needed to bear in mind the sensitive area but she did feel that the development was important to the village.

The Chairman commented that it was important to help the younger generation stay in the villages that they grew up in as many currently cannot afford to do so.

RESOLVED THAT:

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

**101. A4  
15/01062/OUT: ERECTION OF ONE NEW DWELLING (OUTLINE - ACCESS, LAYOUT AND SCALE)**

Land Adjoining Mill Hill Farm Station Road Ibstock Coalville Leicestershire LE67 6JL

Officer's Recommendation: Permit

The Senior Planning Officer presented the report to Members.

Councillor J Clarke, Ward Member, addressed the Committee. He raised concerns that the proposal was outside the limits to development, both in the current local plan and the emerging local plan, and by granting permission it would set a precedent to developers across the District. He believed that the proposal had a very large footprint, even larger than the neighbouring three properties put together, it was much bigger than any other properties nearby. He expressed the importance of keeping the area of separation between villages and felt that this development could have an impact on this. He added that the applicant had previous history of operating a bed and breakfast business from their home and was concerned that this would be the case for the proposed property due to its size. He stated that the development would not be making a significant contribution to the supply of new homes.

Mrs J McMinn, applicant, addressed the Committee. She firstly clarified that although she had ran a bed and breakfast business in the past, the proposal before Members had been designed as a bungalow for herself and her husband to retire to in a property next to their son's home. She added that they had lived in the village all of their lives and the proposal would allow them to remain in the village once retired. She stated that there were other new developments nearby that were also built on agricultural land and officers were happy that the site would accommodate the size of the property. She stated that the proposal would not result in a significant reduction in the gap between the site and Heather, and that she believed that the Bellway Homes development in the village had a much bigger impact on the countryside and urged Members to permit the application.

The officer's recommendation was moved by Councillor M Specht and seconded by Councillor J Cotterill.

Councillor J Legrys commented that former Councillor De Lacy fought very hard against the Bellway Homes development because of his concerns regarding the decreasing area of separation between the villages and he too had deep concerns, especially as there were no defined lines in either the current or emerging local plan. He felt that the scale of the proposal was inappropriate and did not fit in with the properties on the opposite side of Station Road. He believed that the line of sight between the two churches within the two villages would be impacted by the development and felt it was important to keep the view uninterrupted. He also stated that the Committee needed to make it clear to officers that the line needed to be drawn regarding permitting developments outside the limits to development in the area.

The Chairman commented that regarding the area of separation, the properties on the opposite side of Station Road were actually closer to the neighbouring village than the proposed development and these properties were old houses which had been there for many years.

Councillor M Specht stated that the two churches referred to by Councillor J Legrys were not clearly visible from the application site so he felt that the development would not have an impact on the view. He added that the erection of one dwelling would not coalesce with the neighbouring village so did not raise his concerns. He was happy to support the officer's recommendation.

Councillor R Johnson felt that the application had merit and the area of separation between the villages has already been shifted by the Bellway Homes development. He also felt that it was important to keep local people in the area wherever possible.

RESOLVED THAT:

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

**102. EXCLUSION OF PRESS AND PUBLIC**

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

RESOLVED THAT:

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

**103. RECEIPT OF ADVICE IN RESPECT OF APPLICATION NO. 15/00083/OUTM**

The Head of Planning and Regeneration presented the report to Members.

RESOLVED THAT:

The recommendation as set out in the report be approved.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 7.20 pm

**This page is intentionally left blank**

**APPENDIX B**

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

**1 March 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.

Residential Development and Associated Infrastructure  
(outline - all matters other than part access included)

Report Item No  
A1

Land Rear Of Hall Lane Whitwick Leicestershire

Application Reference  
14/00800/OUTM

Applicant:  
Mr Terry McGreal

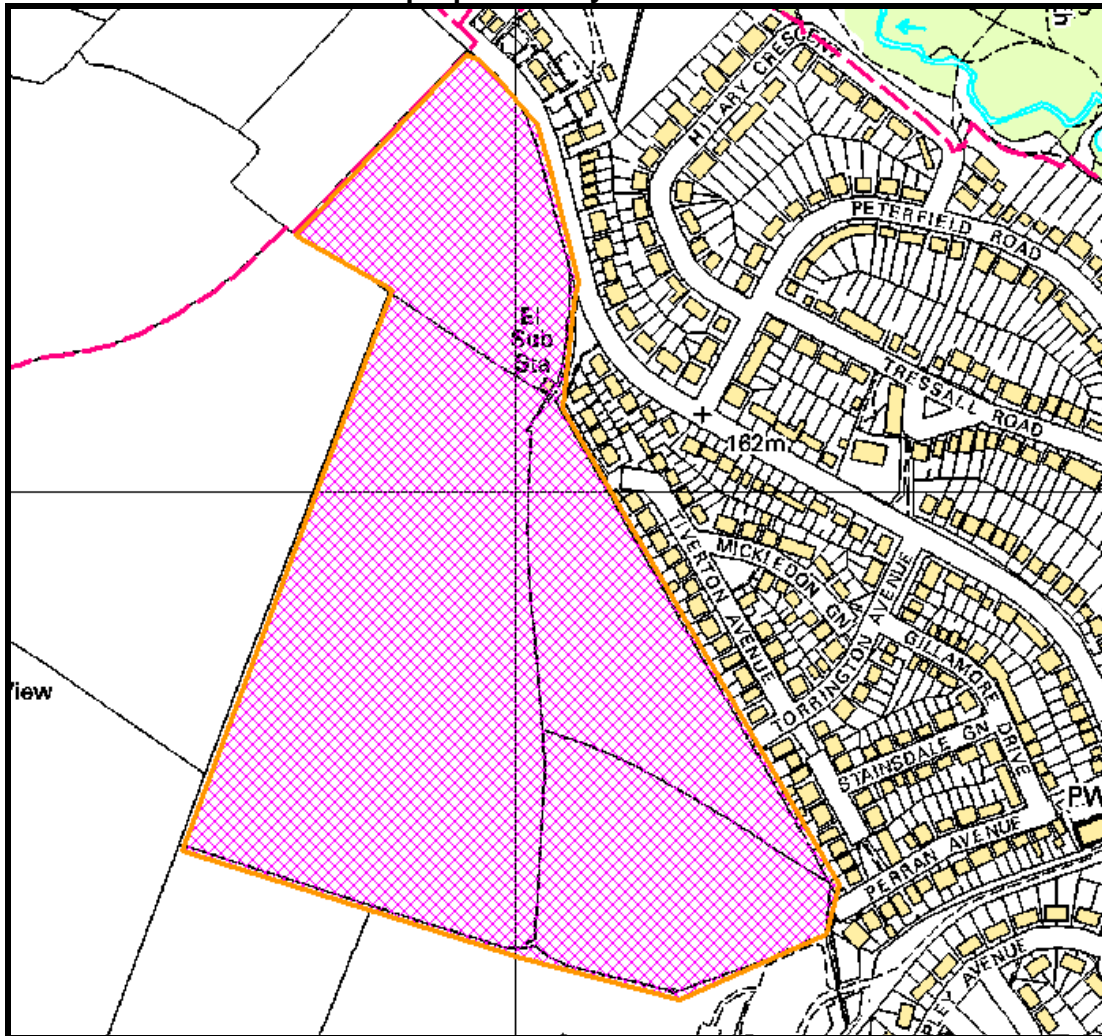
Date Registered  
29 September 2014

Case Officer:  
James Knightley

Target Decision Date  
29 December 2014

Recommendation:  
REFUSE

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office  
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329)

## **Executive Summary of Proposals and Recommendation**

### **Proposal**

This application seeks outline planning permission for residential development.

### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposals.

### **Planning Policy**

Whilst the application site lies within Limits to Development as defined in the adopted North West Leicestershire Local Plan it is also within a Green Wedge and, therefore, is subject to Policy E20 of the adopted North West Leicestershire Local Plan. Also material to the determination of the application, however, is the supply of housing in the context of the National Planning Policy Framework (NPPF).

### **Conclusion**

The report below indicates that, whilst the site has a reasonable degree of connectivity to local services, and whilst the District Council is currently unable to demonstrate a five year (plus buffer) housing land supply, the view is taken that release of the site would not in any event constitute sustainable development, particularly when having regard to its location within a Green Wedge (wherein Local Plan Policy E20 presumes against development which would adversely affect or diminish the present open and undeveloped character of such areas), and the resulting contribution towards the coalescence of Coalville and Whitwick. In addition, the application as submitted does not provide sufficient information to demonstrate the potential impacts on air quality within the Coalville Air Quality Management Area, nor does it provide for appropriate contributions to infrastructure required to support the proposed development.

### **RECOMMENDATION:-**

#### **REFUSE**

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

## MAIN REPORT

### 1. Proposals and Background

This is an outline planning application for residential development of a site of 16.6 hectares primarily comprising agricultural land on land to the south west of Hall Lane, Whitwick. The submitted illustrative material indicates that up to 216 dwellings would be provided (having been reduced from earlier proposals which showed up to 250 units).

All matters other than access (insofar as the points of vehicular access into the site are concerned) are reserved. Whilst all other matters are reserved for subsequent approval, illustrative plans have been submitted showing the areas of the site wherein proposed dwellings would be sited, together with areas of public open space / children's play, SUDS features and proposed tree planting / landscaping. The submitted access proposals show two points of vehicular access: firstly a new priority access from the northern section of the site onto Hall Lane (approximately opposite nos. 219 and 221 Hall Lane); and secondly, the extension south westwards of Torrington Avenue into the application site.

The site is adjacent to agricultural, recreational and residential land, and forms part of the wider Stephenson Green site the subject of application 10/01208/OUTM, a mixed use scheme proposing, amongst others, up to 1,420 new dwellings, a new primary school, a village centre and recreation facilities. An appeal against the non-determination of that application was considered at an inquiry in 2012 and dismissed by the Secretary of State. A subsequent High Court challenge against the Secretary of State's decision was dismissed in 2013.

### 2. Publicity

131 no neighbours have been notified (date of last notification 20 August 2015)

Press Notice published 29 October 2014

Site notice posted October 2014

### 3. Consultations

Clerk To Whitwick Parish Council consulted 23 October 2014

LCC ecology consulted 24 October 2014

County Highway Authority consulted 24 October 2014

Environment Agency consulted 24 October 2014

Severn Trent Water Limited consulted 24 October 2014

Head of Environmental Protection consulted 24 October 2014

NWLDC Tree Officer consulted 24 October 2014

County Archaeologist consulted 24 October 2014

Airport Safeguarding consulted 24 October 2014

NWLDC Urban Designer consulted 24 October 2014

National Forest Company consulted 24 October 2014

LCC Development Contributions consulted 24 October 2014

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 24 October 2014

Development Plans consulted 24 October 2014

Head Of Leisure And Culture consulted 24 October 2014

Manager Of Housing North West Leicestershire District Council consulted 24 October 2014

Police Architectural Liaison Officer consulted 24 October 2014

LCC/Footpaths consulted 24 October 2014

NWLDC Footpaths Officer consulted 24 October 2014

Highways Agency- Article 15 development consulted 24 October 2014

Head Of Street Management North West Leicestershire District consulted 24 October 2014

#### 4. Summary of Representations Received

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

**Highways Agency (now Highways England)** has no objections (although notes its expectation that an appropriate contribution will be sought towards transportation infrastructure so as to mitigate any unacceptable impacts at strategic highway network junctions).

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

**Leicestershire County Council Local Education Authority** requests a developer contribution of £17,867.17 in respect of additional provision in the high school sector

**Leicestershire County Council Library Services Development Manager** requests a developer contribution of £13,040 in respect of Coalville Library

**Leicestershire County Council Highway Transportation & Waste Management Authority** requests a developer contribution of £15,691 in order to mitigate the impact on civic amenity waste facilities in the local area.

**Leicestershire County Council Landscape Officer** has no developer contribution requirements

**Leicestershire County Council Highway Authority** has no objections subject to conditions and developer contributions

**Leicestershire Police** objects unless a developer contribution of £77,963 in respect of policing is provided

**National Forest Company** has no objections subject to conditions

**North West Leicestershire District Council Cultural Services Officer** has no objections

**North West Leicestershire District Council Environmental Health** objects in the absence of an air quality assessment

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

**Whitwick Parish Council** objects on the all of the previous grounds for refusal of development on the Green Wedge up to and including the Judicial Review which remain valid and with particular reference to inadequate access, drainage, local public service infrastructure and detriment to air quality. In the event that the District Council permits the application, the Parish Council requests the inclusion of Section 106 obligations with regard to traffic calming on Hall Lane and the transfer of green buffer zones into public ownership as a guarantee against further expansion

#### Third Party Representations

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

- Unsafe access

- Increased traffic / congestion
- Subsidence / geological fault
- Loss of Green Wedge
- Would lead to coalescence of Whitwick and Coalville
- Development of the site previously refused (and decision upheld by the Secretary of State and the High Court)
- Insufficient infrastructure (including schools, healthcare, water, sewerage, public transport and highway network capacity)
- Loss of privacy
- Loss of light
- Loss of views
- Brownfield sites should be developed rather than greenfield
- District Council has a five year supply of housing
- Adverse impact on air quality
- Increased flood risk
- Noise
- Loss of good quality agricultural land
- Impact on human and animal health
- Loss of biodiversity
- Loss of community cohesion
- Site outside Limits to Development
- Impact on wildlife
- Loss of property value

In addition, a petition including 111 signatures has been forwarded by Councillor Wyatt, calling upon officers to object to the application as the site is within the Green Wedge and should be protected by Policies S3 and E20.

Objections have also been received from the **Whitwick Action Group** on the following grounds:

- Site is valuable agricultural land
- Site is part of the protected Green Wedge
- Character of the settlements is distinguished by this strategic gap between them and the urban form of the area shaped by the Green Wedge in its entirety
- Site is precious green infrastructure
- Site is an irreplaceable amenity
- Site has informal recreation value
- Insufficient transport infrastructure
- No longer any need for additional housing in the area
- No changes in circumstances since the previous proposals including in respect of the site's Green Wedge location, Local Plan Policy E20, the appeal report / decision and the High Court challenge
- Site identified as part of an Area of Separation under Policy En5 of the draft Local Plan

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

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

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

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

Paragraph 14 (Presumption in favour of sustainable development)  
Paragraph 17 (Core planning principles)  
Paragraph 32 (Promoting sustainable transport)  
Paragraph 34 (Promoting sustainable transport)  
Paragraph 47 (Delivering a wide choice of high quality homes)  
Paragraph 49 (Delivering a wide choice of high quality homes)  
Paragraph 56 (Requiring good design)  
Paragraph 57 (Requiring good design)  
Paragraph 59 (Requiring good design)  
Paragraph 61 (Requiring good design)  
Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 109 (Conserving and enhancing the natural environment)  
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 123 (Conserving and enhancing the natural environment)  
Paragraph 124 (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 Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

Policy S2 - Limits to Development  
Policy E2 - Landscaped Amenity Open Space  
Policy E3 - Residential Amenities  
Policy E4 - Design  
Policy E6 - Comprehensive Development  
Policy E7 - Landscaping  
Policy E8 - Crime Prevention  
Policy E20 - Green Wedge  
Policy F1 - National Forest General Policy  
Policy F2 - National Forest Tree Planting  
Policy F3 - National Forest Landscaping and Planting  
Policy T3 - Highway Standards  
Policy T8 - Parking  
Policy H4/1 - Housing Land Release  
Policy H6 - Housing Density  
Policy H7 - Housing Design  
Policy H8 - Affordable Housing  
Policy L21 - Children's Play Areas  
Policy L22 - Formal Recreation Provision



## Other Policies

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

Key Principle AH2 provides that affordable housing will be sought on all sites of 15 or more dwellings in the Greater Coalville Area (which, for the purposes of the SPD, includes the settlements of Coalville, Whitwick, Thringstone, Greenhill, Ellistown and Battleflat, Bardon and Hugglescote).

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

### **North West Leicestershire District Council Play Area Design Guidance SPG**

The District Council's Play Area Design Guidance SPG sets out the relevant requirements in respect of children's play provision required in association with residential development.

### **Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville**

On 11 June 2013, and following the completion of consultation on the draft policy, the District Council's Cabinet approved the revised policy document. The adopted policy states that "Where the Council is satisfied that a major residential development proposal in or around the Coalville area is proven to be unviable as a result of required developer financial contributions (e.g. off site highway works; education provision and affordable housing requirements), the Council will consider relaxing its normal affordable housing requirements proportionately so as to:

- (a) Give highway infrastructure investment the highest priority for funding
- (b) Ensure all other essential infrastructure is provided
- (c) Continue to contribute to affordable housing provision as far as possible whilst ensuring that the development scheme is viable.

For development proposals where the Council accepts no affordable housing or a lower proportion of affordable housing contribution (both on site provision and/or a financial contribution in lieu of provision) the Council will reduce the time period for any planning permission to be commenced to 2 years and shall include in the Section 106 agreement provision to enable the Council to periodically revisit the affordable housing contribution if the economic factors determining the level of affordable housing improves before the development is commenced".

In addition to agreeing the policy, Cabinet agreed that, for major developments in Coalville, the Planning Committee be asked to consider the policy through Section 106 agreements and recommended that Planning Committee, where appropriate, prioritises the requirement for highways infrastructure contributions in Coalville above affordable housing contributions where such contributions are necessary, in accordance with the policy.

### **Emerging 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.

The site lies within Limits to Development as defined within the draft Local Plan, but is also within an Area of Separation. The majority of the site also falls within the Charnwood Forest. Relevant draft policies include:

Policy S1 - Presumption in favour of sustainable development  
 Policy S5 - Design of new development  
 Policy H4 - Affordable housing  
 Policy H6 - House types and mix  
 Policy IF1 - Development and infrastructure  
 Policy IF3 - Open space, sport and recreation facilities  
 Policy IF4 - Transport infrastructure and new development  
 Policy IF7 - Parking provision and new development  
 Policy En1 - Nature conservation  
 Policy En3 - The National Forest  
 Policy En4 - Charnwood Forest Regional Park  
 Policy En5 - Areas of Separation  
 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 Cc3 - Flood risk  
 Policy Cc4 - Water: Sustainable drainage systems

## 6. Assessment

### Principle of Development

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

In terms of the adopted North West Local Plan, the site is within Limits to Development. Policy S2 provides that development will be permitted within Limits to Development where it complies with the policies of the Local Plan. Of particular relevance to the proposals' compliance with Policy S2 (and its requirement for proposals to comply with other policies within the Local Plan) is the site's location within a Green Wedge and, therefore, the need to comply with Local Plan Policy E20.

In detail, Policy E20 provides that:

*"Development will not be permitted which would adversely affect or diminish the present open and undeveloped character of the Coalville-Whitwick-Swannington Green Wedge, identified on the Proposals Map.*

*Appropriate uses in the Green Wedge are agriculture, forestry, minerals extraction and outdoor sport and recreation uses.*

*Any built development permitted within the Green Wedge will be limited to minor structures and facilities which are strictly ancillary to the use of the land for these purposes."*

The applicant considers that Policy E20 is out of date and, under the provisions of Paragraph 215 of the NPPF, cannot be given full weight. [Paragraph 215 allows decision makers to give due weight to policies in existing plans according to their degree of consistency with the NPPF (i.e. the closer the policies are to the NPPF policies, the more weight may be afforded to them).] However, when determining the previous appeal, the Secretary of State and his Inspector were of the view that the policy remained relevant and was not out of date, and when considering the subsequent High Court challenge, the Judge determined that they were entitled to make this

planning judgement.

Insofar as the proposals' compliance or otherwise with Policy E20 is concerned, it is considered that the proposals would clearly not meet the requirements of the policy. However, notwithstanding the Green Wedge location, and whilst the proposals would be contrary to the adopted Development Plan, in determining the application, regard must be had to other material considerations, including other policies, such as national policies and other Development Plan policies.

In addition, consideration needs to be given to the degree of harm that the development of the site would cause to the area, and the wider Green Wedge.

In dismissing the previous appeal, the Secretary of State determined that the appeal scheme would have had "a very profound impact on the purposes, identity and character of this part of the designated Green Wedge, and would undermine its purposes, almost nullify its identity, and completely change its character" and that the Green Wedge would, in large part, have been permanently lost. He also considered that the overall effect of the proposed development would, by eroding the Green Wedge to a large extent, have been tantamount to the undesirable coalescence of Coalville and Whitwick.

Clearly, the current proposals are of an entirely different scale to those the subject of the earlier appeal, with the application site comprising less than 25% of the original wider site area. As such, it is not considered that the current proposals would necessarily have as significant an impact on the function of the wider Green Wedge and its role in retaining the existing separation between Coalville and Whitwick than as identified by the Secretary of State in respect of the appeal proposals. However, notwithstanding this reduced degree of impact on the character and function of the Green Wedge, it nevertheless remains the case that the development of this site would, albeit to a lesser extent, serve to reduce the separation between the two settlements, and would contribute towards their coalescence.

The adopted Local Plan also makes reference to the recreational aspects of the Green Wedge; whilst much of the section of the Green Wedge the subject of the current application is visible from public viewpoints (and, therefore, there are, it is considered, some amenity benefits accruing from its current state), the site itself is not subject to extensive public access (via public rights of way etc) so, in this sense, the adverse impacts on the recreational benefits of its loss would not be significant (and, in fact, the proposed open space contributions would enable access to a proportion of the site not currently available). However, it would nevertheless remain the case that its loss (in part) to residential development would reduce its future recreational use potential. Notwithstanding the recreational aspects to the Green Wedge, however, the Inspector's Green Wedge-related concerns in respect of the previously refused scheme appeared to focus on the resulting loss of separation between settlements which the development would have led to. As set out above, whilst it is accepted that, in terms of scale, the extent of the loss of Green Wedge (and, accordingly, the increased convergence of the respective settlements) would not be directly comparable to that previously proposed. Nevertheless, the scheme would still, inevitably, result in a partial loss of the open / undeveloped character of the Green Wedge, and would still, to an extent, contribute to the adverse impacts identified by the Secretary of State.

It is noted that, in the draft Local Plan, the current Green Wedge designation is not currently proposed to be carried forward; in the case of those sections of the existing Green Wedge between Coalville and Whitwick, they are proposed to be identified as Areas of Separation. In terms of the rationale behind this proposed policy status of the areas affected, this was

considered at the Local Plan Advisory Committee in March 2015 where it was explained in the officer report that the reason for identifying them as Areas of Separation would make the purpose of such a designation clear (i.e. to ensure that Coalville and Whitwick retain their separate identities). At this time (and as set out under Relevant Planning Policy above), it is considered that only very limited weight may be attributed to the emerging Local Plan's policies, and greater weight should continue to be attached to the adopted Local Plan's policies (and including Policy E20). Nevertheless, it is clear at this time that the Local Planning Authority's intention is to seek to retain appropriate policies designed to prevent coalescence between the two settlements.

*Housing Land Supply and Limits to Development*

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Inspector's decision concerning the Greenhill Road appeal sets out that the Local Planning Authority is currently unable to demonstrate a five year supply of housing land. This means that "saved" Local Plan policies that are concerned with housing supply, such as S3 and H4/1, must be considered to be out of date, and accordingly 'weight' should not be afforded to them when determining planning applications. The NPPF includes a clear presumption in favour of sustainable development, which taken together with the current inability to demonstrate a five year supply, indicates that planning permission for new homes should normally be granted.

In addition, consideration must be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set out in more detail in this report.

*Site Accessibility and Policy H4/1*

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted. Whilst this policy is considered to be out of date (by reason of the inability to demonstrate a five year supply of housing, and because a sequential approach to residential development is outdated in the context of the NPPF), the sustainability credentials of the scheme (in terms of accessibility to services) would 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. Insofar as the site's location is concerned, and whilst it is currently agricultural land within the Green Wedge, it is adjacent to the existing built up area of the settlement. In terms of accessibility generally, the view is taken that, as a site within close proximity of the built up area of Coalville and Whitwick and the range of services available therein, it performs relatively well in this regard. The site entrance is approximately 850m from the Local Centre of Whitwick (being the closest point of the Local Centre as defined in the adopted Local Plan), albeit the proposed dwellings would be further from the Local Centre. There are also other facilities in closer proximity (including a general store, schools and the Coalville Community Hospital). The site is also within close proximity of a number of bus stops along Hall Lane; these stops are served by the Arriva No. 29A bus route connecting Leicester with Coalville via Whitwick on Mondays to Saturdays at approximately 30 minute intervals during the daytime, and hourly during the evenings and on Sundays.

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

maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan. It also accepted that, as already outlined, Policy H4/1 is not up-to-date in the context of the NPPF. Nevertheless, it is not considered that these factors would override the Green Wedge concerns identified above.

#### *Other Matters*

Having regard to the three dimensions of sustainable development, it is accepted that the development has the potential to make a positive contribution to the economic dimension by virtue of the growth associated with the proposed development and, subject to the inclusion of appropriate contributions to local services, the scheme has the *potential* to sit well in terms of both the economic and social dimensions (although attention is drawn to the issues in respect of policing contributions as discussed in more detail under Developer Contributions below). Insofar as the environmental role is concerned, however, and whilst the proposals would be relatively well located in terms of need to travel and the movement towards a low carbon economy, for the reasons set out above, the proposed development would result in the development of part of the Green Wedge with the resulting environmental dimension impacts of this. The resulting environmental harm from these impacts would, overall, it is considered, indicate that, even when taking into account any positive elements attributable to the economic and social dimensions, the proposals would not represent sustainable development. Similarly, the air quality issues as set out in more detail below could weigh against the proposals in this regard.

#### **Detailed Issues**

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

#### **Means of Access and Transportation**

As set out above, all matters are reserved for subsequent approval other than the points of vehicular access into the site (i.e. the new priority access from Hall Lane and the extension of Torrington Avenue). The illustrative material also shows pedestrian and cycle links into the site from the north western end of Tiverton Avenue and the south western end of Perran Avenue; these would be a matter for the reserved matters stage(s), however.

The application is accompanied by a Transport Assessment and a Framework Travel Plan. These documents indicate that, in the applicant's consultants' opinion, the development is in a location that is accessible by foot, cycle and bus to a range of local services. The submitted Travel Plan sets out a range of objectives, measures and targets which seek to encourage residents of the proposed development to minimise reliance on the private car for accessing services. As set out above, it is considered that, in terms of need to travel and access to public transport, the site is reasonably well located. No objections in respect of the accessibility credentials of the site are raised by the County Highway Authority, although it considers that, in order to ensure / encourage modal shift towards sustainable forms of travel to and from the site, travel packs, bus passes and improvements to the nearest bus stops should be secured.

#### *Proposed Site Accesses*

The proposed Hall Lane access is designed as a priority junction and would be the primary access into the development. The County Highway Authority notes that Hall Lane is, at this point, subject to a 30mph speed limit. Having regard to vehicle speed measurements on Hall Lane undertaken by the applicant's consultants, the County Council accepts that no measures are required along Hall Lane to reduce vehicle speeds. It also confirms that the submitted PICADY assessments show that the access junction will operate within capacity in the 2019 with development scenario. No concerns are raised in respect of the proposed secondary access to the site Torrington Avenue.

*Local Highway Network Impacts and Mitigation*

For the junctions listed below, the County Highway Authority advises that the submitted PICADY assessments show that the junctions will operate within capacity in the 2019 with development scenario.

- Hall Lane / George Street
- Meadow Lane / Hall Lane / Blackwood
- George Street / Green Lane
- Green Lane Silver Street / Green Lane / Hermitage Road
- Meadow Lane / Greenhill Road / Broom Leys Road (Eastern)

Insofar as the Meadow Lane / Greenhill Road / Broom Leys Road (Western) junction is concerned, the County Council notes that the PICADY assessments show that, in the morning peak, this junction will operate within capacity in the 2019 plus development scenario. In the evening peak, this junction operates at or just above capacity for the first 45 minutes. From 17.14 to 17.30 the junction is over capacity both in the existing and 2019 base plus development scenarios with the PICADY assessment indicating an increase of 6 queuing vehicles in the 2019 base plus development scenario. However, the County Council accepts that on site observations suggested that queuing did not exceed 10 vehicles and cleared quickly and, as such, advises that it would be difficult to demonstrate a severe impact at this junction.

For the A511 Stephenson Way / Hermitage Road / Whitwick Road junction, the Transport Assessment indicates that, in the AM peak, percentage impacts on 2014 existing traffic flows would be 12.13% on the Hermitage Road approach, 2.46% on the Whitwick Road approach and 0.49% on the Stephenson Way approach. In the PM peak they would be 8.27% on the Hermitage Road approach, 3.18% on the Whitwick Road approach and 1.11% on the Stephenson Way approach. In the light of existing capacity and the cumulative impact of developments at this junction, the County Council does not agree with the applicant's consultants' view that the increases on traffic flow are minimal and would have no significant impact on traffic conditions at this junction. Similarly, in terms of additional queuing, the County Council considers that increases in maximum queues (from 9 to 86 vehicles in the AM peak and from 4 to 62 vehicles in the PM peak in the 2019 base plus development scenario) are significant and material. It is the view of the County Highway Authority that this junction is over-capacity and the proposed development would (together with other proposed developments) exacerbate the problem.

For the A511 Stephenson Way / Broom Leys Road junction, the Transport Assessment indicates that, in the AM peak, percentage impacts on 2014 existing traffic flows would be 7.49% on the Broom Leys Road approach and 2.04% on the Stephenson Way approach. In the PM peak they would be 3.51% on the Broom Leys Road approach and 5.44% on the Stephenson Way approach. Again, the County Council does not agree with the applicant's consultants' view that the development would have no significant impact on traffic conditions at the junction and that the impact could not be considered "severe". The County Highway Authority considers that the proposed development will have an adverse impact on this junction taking into account the cumulative impact of this and other developments.

In the light of the concerns identified by the County Highway Authority in respect of the Stephenson Way junctions referred to above, improvements to these junctions are proposed.

For the A511 Stephenson Way / Hermitage Road / Whitwick Road junction, the applicant's potential improvement scheme includes widening of the Whitwick Road and both Stephenson Way approaches to the roundabout to increase the length of the two lane sections. Based on

Ordnance Survey mapping and two dimensional drawings, the applicant's technical note gives an estimated scheme cost of £35,000 but no specific contribution is offered in respect of this junction. For its part, the County Highway Authority considers that the improvement is required to mitigate the impact of this development and that the scheme suggested is deliverable. The area of widening is within the adopted highway and, in the County Council's view, would meet the CIL tests as it would be directly related, and be fairly and reasonably related in scale and kind, to the development. However (and given that the applicant does not offer a commuted sum for the improvements), the County Highway Authority recommends the imposition of a condition requiring the provision of the highway works identified (and which could be undertaken under a Section 278 agreement between the County Council and the developer).

Insofar as the A511 Stephenson Way / Broom Leys Road junction is concerned, the applicant's potential improvement scheme includes an extension to the two lane westbound approach on Broom Leys Road; the applicant's technical note gives an estimated scheme cost of £255,000 based on Ordnance Survey mapping and two dimensional drawings. The applicant therefore offers a contribution of £255,000 towards improvements at this junction.

Whilst such a contribution would appear to allow for a solution to be implemented at this junction in order to mitigate the identified harm (and whilst the County Council is content that the scheme is, from a technical point of view, feasible), it is not clear whether this particular scheme would also be sufficient to accommodate other developments in the Coalville area impacting upon this junction. As such, the applicant confirms that it would be content for the contribution to be pooled with contributions collected from other developments to mitigate wider traffic impacts on this particular junction; the County Council confirms that it would wish to use the contribution towards a larger scheme of improvements at this junction in the future, and is content with the mitigation proposal in this regard. On this basis, and on the basis of other conditions plus other developer contributions in respect of travel packs, bus passes and bus stop improvements (as referred to above) plus obligations in respect of Travel Plan monitoring and construction traffic routing, the County Highway Authority raises no objections to the application.

On 15 January 2013, the District Council's Cabinet considered a report relating to Delivering Growth and Prosperity in Coalville which set out proposals to prioritise highways infrastructure contributions in Coalville above affordable housing contributions given the need for significant transportation infrastructure to be provided so as to enable otherwise stalled development to be delivered. Cabinet resolved to (i) agree to the preparation and consultation of an interim Section 106 policy which establishes the approach towards prioritising highway infrastructure contributions in Coalville, which will be reported back to cabinet after the consultation exercise; (ii) agree that for major developments in Coalville, the Planning Committee be asked to consider the emerging policy through Section 106 agreements; and (iii) to recommend that Planning Committee, where appropriate, prioritise the requirement for highways infrastructure contributions in Coalville above affordable housing contributions where such contributions are necessary, in accordance with the emerging policy proposals. The District Council consulted on a draft policy between 22 February 2013 and 5 April 2013 and, following the conclusion of that consultation, reported back to Cabinet on 11 June 2013. At that meeting, Cabinet resolved to approve the policy.

The report to Cabinet of 15 January 2013 included an indicative list of potential transportation infrastructure measures to which the financial contributions made would be expected to contribute; based on the figures available at that time, the calculations provided to Cabinet suggested a potential contribution of between £4,419 and £4,884 per dwelling. If such a range of sums were used in this instance a scheme of, say, 216 dwellings, would equate to a contribution of between £954,504 and £1,054,944.

Whilst the report to Cabinet of 15 January 2013 set out a range of figures for potential contributions, there is no policy per se requiring payment of these sums (which would, in effect, be in the form of a "tariff"). Elsewhere in the wider Coalville area, contributions secured in association with developments have been negotiated on a site by site basis and have, for the most part, been accompanied by reduced contributions elsewhere (principally affordable housing) where viability is affected, and in accordance with the adopted *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy.

As noted, a contribution of £225,000 has been offered in this case and, it would appear, the applicant is only agreeable to it being spent on a specific junction (i.e. Broom Leys Crossroads). In this instance, no viability issues have been raised by the applicant and, as will be noted below, a full, policy compliant, affordable housing contribution of 20% is proposed.

As stated above, a "tariff" approach to contributions is not used, although it is accepted that, as a rough guide related to the scale of the development, the level of contribution proposed here would fall some way below that secured elsewhere. Whilst, in this case, the applicant has been able to demonstrate that a less than severe impact would result on other junctions within the area, the approach of only seeking to mitigate impacts at junctions directly affected by the development in isolation can present problems insofar as the County Council's ability to coordinate mitigation across the wider network in response to various developments and address cumulative effects from what may (individually) be relatively minor impacts is concerned. Also, by limiting the County Council's flexibility to be able to direct combined funds to the various affected junctions, this could slow the rate at which funds are collated so as to enable the County Council to be able to undertake a particular mitigation project. However, given that, in this instance, the County Council has confirmed that it is satisfied with the approach proposed, it is recommended that the applicant's proposed mitigation contribution be agreed. Whilst, as set out above, the sum is relatively small compared to those secured elsewhere, there is no set formula in this regard. Whereas other developments have provided greater transportation contributions, it is acknowledged that:

- (i) The larger contributions associated with other developments are often secured in the context of reduced affordable housing contributions;
- (ii) Improvements to the Stephenson Way / Hermitage Road / Whitwick Road junction (which would otherwise be expected to be a scheme contributed towards under the contributions strategy) are proposed to be secured outside of the contribution mechanism by way of a Grampian style condition; and
- (iii) There has, in this case, been no viability appraisal to demonstrate whether an increased contribution could be provided but this is not considered necessary as, on the face of it, a transportation contribution based on an objective calculation has been offered, as has a full affordable housing contribution.

Overall, therefore, it is accepted that a reasonable approach to addressing off-site highways impacts is proposed in this instance.

#### *Strategic Highway Network Impacts*

Insofar as the strategic highway network is concerned, the then Highways Agency (now Highways England) has raised no objections in terms of the impacts on A42 Junction 13 and M1 Junction 22, but indicates that it has an expectation that an appropriate contribution towards mitigating the impacts from this and other development in the area on the relevant strategic network junctions will be secured by way of the Local Planning Authority's and Local Highway Authority's contributions strategy (and as discussed in more detail above).



*Rights of Way*

In terms of rights of way, the County Council's Rights of Way Officer notes that footpath O19A (which connects Perran Avenue to Meadow Lane) abuts the south eastern corner of the application site and that the illustrative layout plan shows a pedestrian link between the proposed development and this path; no objections to the provision of the proposed pedestrian link are raised.

**Landscape and Visual Impact**

The application is accompanied by a Landscape and Visual Impact Assessment (LVIA), as well as an Arboricultural Assessment.

The LVIA considers the site's context in relation to surrounding development / landscape, and considers the impact upon a total of 12 viewpoints within the area, including viewpoints in the immediate vicinity of the application site, together with others from further afield (including from Stephenson Way, Spring Lane (adjacent to Stephenson College) and Bardon Hill. Save for the views from Spring Lane and Bardon Hill, these viewpoints reflect the Zone of Visual Influence as identified in the LVIA.

In terms of the visual effects upon these 12 viewpoints, these are predicted at three principal phases (namely during construction, following completion, and at 15 years following construction (i.e. once mitigation has taken effect)), and identify a range of effects, ranging between negligible and high, and as set out below. As can be seen, the LVIA suggests that the majority of the viewpoints would, in the longer term, experience negligible visual effects.

*Construction Phase:*

Negligible 3

Low 2

Medium / Low 2

Medium 2

High 3

*Year 0 (following completion):*

Negligible 4

Low 5

High 3

*Year 15:*

Negligible 8

Low 1

High 3

In terms of the mitigation assumed in undertaking the LVIA (and upon which the Year 15 residual impacts would be dependent), this includes respecting existing field boundaries and the provision new tree planting and SUDS areas. The viewpoints where a high magnitude visual effect would be anticipated are those at Hall Lane, Torrington Avenue and Perran Avenue.

Insofar as landscape effects are concerned, the LVIA suggests that the overall magnitude would be "medium" given the partial alteration to the openness of the agricultural land between Coalville and Whitwick.

In terms of the relationship between landscape impact and the Green Wedge issues discussed above, the LVIA only appears to refer to an identified Green Wedge-related impact in respect of

the view from the most distant viewpoint (Bardon Hill). Nevertheless, there is an acknowledgement of landscape impacts on the Green Wedge insofar as mitigation in respect of the Green Wedge is recommended. The LVIA states that the proposals have been designed to "...minimise the effects on coalescence between Whitwick and Coalville by only developing the fields in a confined cluster adjacent to existing development on the eastern edge of the green wedge reducing the effect on the separation of the towns and the openness of the green wedge..."

As set out above, it is accepted that the impact in terms of coalescence will (inevitably) be reduced vis-à-vis the previous wider Stephenson Green scheme insofar as the extent of currently open land within the Green Wedge "lost" to development would be less given the smaller scale of the scheme. Nevertheless, the concerns raised above regarding the impact on the Green Wedge and the associated partial diminution of the separation between Coalville and Whitwick are considered to remain.

In terms of retained and proposed planting, it is noted that the site lies within the National Forest. Insofar as the scheme's performance vis-à-vis the relevant National Forest standards is concerned, based on the National Forest Company's Planting Guidelines, 30% of the site area (i.e. 4.98ha) would be required to be provided as woodland planting and landscaping. The National Forest Company notes that the submitted documents set out that the development would meet the relevant requirements.

Insofar as existing trees are concerned, the application is supported by an Arboricultural Assessment assessing existing trees on the site, the majority of which are located on the site's periphery, and principally to the Hall Lane frontage. Whilst primarily a matter for the reserved matters stage(s), the Arboricultural Assessment suggests a small number of trees would be proposed to be removed; these include two Category U trees (i.e. those unsuitable for retention) which would, on the basis of the illustrative material, not be directly affected by the proposed built development. Some sections of hedgerow are also identified in the Arboricultural Assessment as to be removed, although the Assessment pre-dates the production of updated illustrative layout plans, and it may be the case that these would no longer necessarily be required to be removed (although, in any event, this would remain a matter for the reserved matters stage(s)). Insofar as trees required to be removed in order to implement the scheme as proposed in detailed form at the outline stage (i.e. those trees affected by the proposed accesses which are included for consideration at the outline stage) are concerned, on the basis of the submitted Arboricultural Assessment, three ashes (two of which are identified as being within Category B (moderate value)) would be felled to accommodate the proposed Hall Lane access. However, the Arboricultural Assessment appears to assume a slightly different point of access than as shown on the submitted access plans. On the basis of the proposed access plans, it seems that a Category C (low value) alder and a Category B wild cherry would be directly affected; it is not clear whether any additional trees would also be affected (e.g. by way of being sited within visibility splays etc). The Council's Tree Officer advises that, from an arboricultural point of view, the most appropriate location for the Hall Lane access would be approximately 50m south of the location as proposed. Clarification on these issues has been sought from the applicant's agent, and a response is awaited. However, as matters stand (and whilst the extent of potential additional tree loss either side of the access remains unclear), it is not considered that the effects of these issues are likely to be so harmful as to warrant a refusal of the application.

### **Loss of Agricultural Land**

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

Having regard to the need to ensure an ongoing five year supply of housing land, it would seem inevitable that land outside Limits to Development (much of which will be agricultural in terms of use) will need to be released, and the Local Planning Authority has, accordingly, been permitting development on a number of sites constituting agricultural land as it seeks to meet its housing land supply obligations. Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Best and Most Versatile (BMV) agricultural land is defined as that falling within Grades 1, 2 and 3a of the Agricultural Land Classification.

Based on the information submitted with the previous application's Environmental Statement relating to the wider Stephenson Green site, approximately 7.1 hectares of the site the subject of the current application is within Grade 3a, with the remaining land falling within Grade 3b.

On this basis, approximately 43% of the application site would be BMV and, therefore, contrary to the thrust of the NPPF in this regard. In dismissing the previous appeal, the Secretary of State considered that, whilst not warranting refusal of the scheme on its own, the loss of around 25 hectares of BMV land represented another negative factor in the overall planning balance.

In the case of the previous appeal, the extent of loss of BMV land was significantly greater than would result from the current proposals. Whilst the NPPF does not suggest that release of smaller BMV sites is acceptable, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process. Whilst, given the extent of the area falling within BMV grades, the magnitude of the harm caused to the supply of BMV land would not be very large, it is nevertheless considered that the loss of this higher quality agricultural land would still weigh against the proposals in assessing whether the scheme constitutes sustainable development, and in the overall planning balance. It is also noted that the illustrative material submitted with the current application indicates that the northern-most parcel of the application site would remain available as open space; if this were the case then this 2.7 hectare area of BMV would not necessarily be permanently lost to alternative use, further limiting the extent of the loss to approximately 4.4 hectares. The Inspector in respect of the previous appeal took a similar approach and had regard to the extent of the BMV which would actually be built upon and could, if necessary, be reverted to agricultural use. In view of the limited extent of the loss, therefore, and the potential for the reserved matters scheme to not result in its irreversible loss in its entirety, it is accepted that the impacts would not be unacceptable in this regard.

### **Flood Risk and Drainage**

A Flood Risk Assessment (FRA) has been submitted in support of the application. The Environment Agency flood zone maps indicate that the site lies within Flood Zone 1 (i.e. less than a 1 in 1,000 annual probability of river or tidal flooding in any one year) and, on this basis, the site is considered to pass the sequential test. The site is also considered to be at low risk of groundwater flooding, overland flows or surface water flooding (although it is noted that parts of the site are, on the basis of the Environment Agency's data, at risk of surface water flooding).

Insofar as the disposal of surface water is concerned, the FRA recommends the use of existing land drainage features on the site, and by providing storage facilities to accommodate the 1 in 100 year storm event (plus 30% for climate change); no objections are raised by the Environment Agency subject to conditions. In terms of foul drainage, the FRA notes that, whilst there is an existing sewerage network within close proximity of the development, Severn Trent Water advises that there may be insufficient capacity to accommodate flows from the development. It is noted that there may be scope for improvement works on the existing network, but a modelling assessment would need to be carried out to confirm this. The FRA also

notes that the existing topography of the site would allow for a gravity connection for some parts of the site to Hall Lane, but a pumping station for the lower areas would be required.

For its part, Severn Trent Water raises no objections subject to conditions and, whilst this matter is not fully resolved at this time, it would appear likely that a technical solution in respect of foul water disposal is possible in this case. As such, and in accordance with Paragraph ID 21a-009-20140306 of the DCLG's Planning Practice Guidance (and as suggested by the Environment Agency), it is considered that a Grampian-style (negatively worded) planning condition could be attached to deal with this issue.

### **Air Quality**

As noted under Means of Access and Transportation above, the proposal is expected to result in the increased use of the junction of the A511 Stephenson Way and Broom Leys Road (the Broom Leys Crossroads). This junction lies within the Coalville Air Quality Management Area (AQMA), designated as an AQMA having regard to exceedances of the annual mean Air Quality Objective for nitrogen dioxide (principally associated with queuing vehicular traffic at the junction). In dismissing the previous wider Stephenson Green appeal, the Secretary of State agreed with his Inspector's conclusions that the development of the site would probably increase the number of exceedances of the relevant standard with its potential associated harm to human health and, as such, this issue counted against the scheme in the overall planning balance.

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

In view of the predicted increased use of the junction identified in the Transport Assessment, it is considered that an associated increased concentration of nitrogen dioxide could result and, as such, the District Council's Environmental Protection team has requested the submission of an air quality assessment to identify the likely effects. Paragraph Ref ID 32-009--20140306 of the Planning Practice Guidance indicates that, where additional information on air quality is required, this needs to assess existing conditions and predict future air quality conditions both with and without the proposed development. If an unacceptable impact is identified (and cannot be mitigated), the Planning Practice Guidance advises that consideration should be given to refusing the application.

At the time of preparing this report, no assessment had been received and, as matters stand, therefore, insufficient information has been provided to enable the District Council's Environmental Protection team to come to a reasoned view on the likely air quality impacts of the proposed development. As such, the Local Planning Authority cannot be satisfied that approval of the proposals would not lead to an exacerbation of existing unsatisfactory conditions within the AQMA, and refusal on this issue is recommended. Should planning permission be refused and the matter progress to an appeal, however, it is recommended that, should appropriate supporting information be provided in the meantime, the associated reason for refusal not be pursued on this issue.

### **Design**

The application is supported by a Design and Access Statement (and including a Building for Life assessment) setting out the applicant's proposals, and explaining the approach taken in terms of design. Having reviewed the proposals and the Design and Access Statement, the

District Council's Urban Designer had raised concerns regarding the illustrative scheme, and extensive discussions between the applicants and the Authority have resulted in a number of further iterations of the illustrative layout. The applicant's intentions are, it is understood, to promote a landscape-led scheme and the concerns raised relate to, amongst others, the lack of landscaping (and, in particular, the integration of landscaping within the built development part of the scheme). Concerns are also raised in respect of indicative built form and density, and their implications on character.

On this basis, the District Council's Urban Designer expresses concern that the applicant has failed to demonstrate that an appropriate form of development would be provided which would meet the requirements of Building for Life 12 (and, accordingly, the NPPF and the DCLG's Planning Practice Guidance). However, in this instance (and, in particular, in view of the fact that the application does not actually seek to establish a specified minimum number of dwellings), it is accepted that, with further work on the issue, there is unlikely to be any overriding reason why an appropriate form of residential development could not be achieved at the reserved matters stage.

### **Residential Amenity**

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

In terms of future residents' amenities, the site is not located in an area where occupants would be expected to be subject to significant levels of noise emanating from other nearby land use, and the scheme is considered acceptable in this regard; no objections on noise grounds are raised by the District Council's Environmental Protection team.

Insofar as the amenity impacts on neighbouring occupiers arising from the proposed development are concerned, whilst a number of illustrative masterplans have been submitted, all matters (other than the proposed Hall Lane and Torrington Avenue accesses) are reserved for subsequent approval. Whilst the illustrative material indicates that an acceptable relationship between existing and proposed dwellings would be achievable, any reserved matters scheme would need to be appropriately devised to the north eastern boundary of the site adjacent to other dwellings (i.e. adjacent to properties on Tiverton Avenue, Stainsdale Green and Perran Avenue) so as to ensure that occupiers of both existing and proposed dwellings were afforded an appropriate level of amenity. There is no reason to suggest that the eventual form of development proposed under the reserved matters would necessarily result in undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, acceptable in this regard. Whilst there could be some impacts on occupiers of dwellings in the vicinity of the proposed vehicular accesses (and including from vehicular movements and, potentially, vehicle headlights etc.), it is accepted that such impacts would not represent unacceptably adverse loss of amenity.

### **Ecology**

The application is supported by an Ecological Appraisal of the site. This provides that there are five Sites of Special Scientific Interest (SSSIs) within 2km of the application site (namely Coalville Meadows, Grace Dieu and High Sharpley, Charnwood Lodge, Holly Rock Field and Bardon Hill Quarry); Coalville Meadows is approximately 500m from the application site. Insofar as non-statutory designated sites are concerned, the closest Local Wildlife Site (Holly Hayes Wood) is located approximately 230m from the application site. In terms of the potential impacts on these designated sites, the Ecological Appraisal considers that direct impacts on these

features from the development would be unlikely.

Insofar as the site itself is concerned, the Ecological Appraisal notes the local nature conservation value of the existing trees and hedgerows on the site, and accepts that some of these would need to be lost to the development. However, the Appraisal suggests that the proposed scheme would provide for significant areas of green space within the development, offering an opportunity to create a substantial area of meadow (species-rich neutral grassland). This, it suggests, would greatly enhance the nature conservation value of the site, provide educational and amenity resources for the local community and contribute to local and county biodiversity targets.

In terms of the potential impacts on protected species, the Ecological Appraisal confirms that additional assessment work prior to any works to trees would be appropriate in respect of bats (given the trees' roosting potential), together with provision of provision of bat boxes, and that no impacts are anticipated in respect of badgers. Insofar as breeding birds are concerned, the Appraisal suggests that any impacts on loss of habitat would be off-set by the additional habitat provision proposed. No impact on great crested newts is anticipated, with none being identified within the vicinity of the site.

On the basis of the suggested habitat creation measures, the County Ecologist raises no objections to the development subject to conditions, and the development is considered acceptable in ecological impact terms.

### **Heritage Issues**

There are no listed buildings or Conservation Areas within the vicinity of the site.

Insofar as non-designated heritage assets are concerned, the application is supported by an Archaeological Desk Based Assessment. This notes that archaeological remains have been recorded within the site comprising a prehistoric flint scatter and a medieval pottery and slag scatter may suggest buried remains. To the west of the site is a cropmark of a rectangular enclosure which, the Assessment suggests, is likely to be of Iron Age or Roman origin. It also notes the identification of Mesolithic and Neolithic flint in the vicinity, as well as medieval and post-medieval material. The Assessment suggests that the area may have been agricultural land since at least the medieval period and, whilst there has been some modern plough damage since, the preservation of any underlying archaeological remains that may be present is considered to be likely to be moderate to good. It concludes that, given that archaeological remains are known from the assessment area, there is moderate potential for archaeological remains from the Neolithic-Bronze Age and medieval and post-medieval periods to be present within the site.

No comments have been received from the County Archaeologist in respect of the application. However, on the basis of the findings of the Archaeological Desk Based Assessment, it would appear that there would be no archaeological impediment to development, although securing mitigation in respect of accommodating the archaeological potential of the site would seem likely to be appropriate.

### **Other Matters**

#### **Developer Contributions**

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

- necessary to make the proposed development acceptable in planning terms;

- directly related to the proposed development; and
- fairly and reasonably related in scale and kind to the proposed development.

Equivalent legislative tests are contained within Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.

The relevant developer contributions (save for those already considered under Means of Access and Transportation) are listed below.

*Affordable Housing*

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

Insofar as unit size and tenure types are concerned, the District Council's Strategic Housing team notes that the Council's Affordable Housing SPD indicates that a tenure mix of 79% rented and 21% intermediate housing would be required. However, should it aid viability, the Strategic Housing team advises that it would be content with a tenure mix of 70% affordable rented and 30% intermediate / low cost home ownership. Such matters would, however, be able to be resolved via a Section 106 agreement were planning permission granted. As such, the proposals are considered acceptable in terms of the proposed affordable housing contributions. In terms of the proposed development's contribution towards sustainable development, therefore, the development would score well insofar as this aspect of the social dimension is concerned.

*Children's Play and Public Open Space*

The illustrative submissions show a significant proportion of the site given over to landscaping, retained and proposed tree / hedgerow planting and other open space, with the open space including an on-site equipped children's play area. In terms of the extent of the equipped parts of the play area, on the basis of the illustrative details, this is indicated on the illustrative masterplan as being approximately 300 square metres in area. Under the Local Planning Authority's Play Area Design Guidance SPG, children's play areas should be provided at a rate of 20 square metres per dwelling. Therefore, for a development of, say, 216 dwellings, an area for children's play of 4,320 square metres would normally be required. Whilst this would represent a significant shortfall in this regard, the extent of the "play area" in its general terms (which is the figure to which the SPG relates) is normally calculated in its wider sense and, when taking into account the other landscaped open space in the immediate vicinity of the equipped play area, the minimum requirements of the SPG would be comfortably met. Overall, the illustrative material indicates that approximately 45% of the site would be given over to public open space / landscaping / National Forest planting.

In terms of the range of equipment necessary, for developments of this number of dwellings, Local Plan Policy L21 and the District Council's SPG requires that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity, as well as a "kickabout" area. In addition, formal recreation open space (e.g. sports pitches) should also be provided for. The submitted illustrative layout indicates provision of a pitch of approximate length 50m within the open space adjacent to the Hall Lane access. It is currently unclear as to whether the pitch shown would constitute the "kickabout" area or is, in fact, the applicant's proposals in respect of the formal recreation open space required under Policy L22, and the applicant's confirmation on its open space proposals are awaited. Whilst Whitwick Parish Council objects to the development in principle, it is noted that no objection in terms of the proposed open space contribution is raised; the Parish Council confirms that it would wish to consider the adequacy of the open space contribution at the reserved matters stage. Whilst the

applicant's clarification is awaited, it is noted that there does not appear to be any evidence to indicate that the proposed development would result in an overall deficit in public open space, and particularly when having regard to the overall contribution to green infrastructure proposed. Should that indeed be the case, then the proposals would be considered to be acceptable in this regard.

*National Forest planting*

As set out under Landscape and Visual Impact above, the applicant's proposals include the provision of on-site planting to meet the relevant National Forest planting requirements, and the proposals are therefore considered appropriate in this regard.

*Education*

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

Primary School Requirements:

The site falls within the catchment area of Broom Leys School. The School has a net capacity of 595 and 591 pupils are projected on roll should this development proceed; a surplus of 4 places after taking into account the 58 pupils generated by this development. When taking into account other Section 106 agreements and capacity at the five other primary schools within a two mile walking distance of the site (New Swannington Primary School, Warren Hills Community Primary School, Whitwick St John The Baptist Church of England Primary School, Holy Cross Catholic Primary School and St Clare's Catholic Primary School), there is an overall surplus of 92 places. No education contribution is requested in respect of this sector, therefore.

High School Requirements:

The site falls within the catchment area of Castle Rock High School. The School has a net capacity of 600 and 557 pupils are projected on roll should this development proceed; a surplus of 25 places. There are currently no pupil places at this school being funded by Section 106 agreements from other developments in the area to be discounted. There is one other high school within a three mile walking distance of the development (Newbridge High School) which (after 6 Section 106 funded places are discounted) has a deficit of 26 pupil places, and an education contribution (£17,876.17) in respect of the additional high school place is therefore requested for this sector.

Upper School Requirements:

The site falls within the catchment area of King Edward VII Science and Sports College. The College has a net capacity of 1,193 and 1,095 pupils are projected on roll should this development proceed; a surplus of 98 places. There are currently no pupil places at this school currently being funded by Section 106 agreements from other developments in the area, and no education contribution is requested in respect of this sector, therefore.

At the time of preparing this report, the applicants had not confirmed whether they would be agreeable to making the education contributions sought. As matters stand, therefore, the scheme would not provide for appropriate education infrastructure to accommodate the proposed development.

*Civic Amenity*

A contribution of £15,691 is sought by Leicestershire County Council towards civic amenity facilities so as to accommodate the additional use of the Coalville Civic Amenity site; at the time of preparing this report, the applicant had not confirmed whether it would be agreeable to making the contribution sought. As matters stand, therefore, the scheme would not provide for



appropriate civic amenity infrastructure to accommodate the proposed development.

*Library Services*

Leicestershire County Council advises that an additional 346 plus users of Coalville Library are anticipated to be generated by the proposed development, requiring an additional 833 items of lending stock (plus reference, audio visual and homework support material), and a contribution of £13,040 is therefore sought by the County Council; at the time of preparing this report, the applicant had not confirmed whether it would be agreeable to making the contribution sought. As matters stand, therefore, the scheme would not provide for appropriate library facilities to accommodate the proposed development.

In terms of the non-provision of the contributions sought by Leicestershire County Council to ensure appropriate mitigation for the County Council services identified, it is noted that Paragraph 7 of the NPPF provides that the planning system needs to perform an economic role, including in respect of provision of infrastructure and a social role, including creating a high quality built environment with accessible local services reflecting the community's needs and supporting its health, social and cultural well-being. Failure to ensure that the proposed development would be supported by appropriate levels of services would, it is considered, count against the scheme in terms of these dimensions of sustainable development. Should the applicant subsequently confirm that the contributions required by Leicestershire County Council would be made, these concerns would be considered to be addressed.

*Contributions Sought by Leicestershire Police*

Leicestershire Police requests a developer contribution of £77,963 in respect of policing as set out in the consultation response above. The contribution sought comprises:

Start up equipment / training	£8,818
Vehicles	£5,491
Additional radio call capacity	£551
Police National Database	£281
Additional call handling	£503
ANPR	£2,713
Mobile CCTV	£500
Additional premises	£58,674
Hub equipment	£432

With regard to the acceptability of police contributions, the issue is not one of principle. Furthermore, officers and representatives of Leicestershire Police have, in recent months, engaged in dialogue with a view to addressing ongoing officer concerns regarding CIL compliance of the requests. This has resulted in provision of additional / updated evidencing of contribution requests which, when considered in the context of the views taken by the majority of (but not all) Inspectors in recent appeal decisions within Leicestershire, leads officers to conclude that, on balance, the above requests would meet the tests in CIL Regulation 122 and NPPF paragraph 204. When the previous appeal was determined on the wider Stephenson Green site, the Inspector and the Secretary of State were not persuaded that the policing contributions sought at that time were adequately justified. However, it is accepted that the additional evidencing provided by Leicestershire Police since that time would appear to have addressed those concerns.

The applicant has indicated that it would not be willing to make the contribution requested. As matters stand, therefore, approval of the scheme would not secure appropriate contributions towards mitigating the impacts of the development on policing services.

Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development and, as noted above, provides that the planning system needs to perform an economic role, including in respect of provision of infrastructure and a social role, including creating a high quality built environment with accessible local services reflecting the community's needs and supporting its health, social and cultural well-being. In addition, Paragraph 58 provides, amongst others, that planning decisions should aim to ensure that developments create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; similar principles are contained within Paragraph 69.

Whilst it is accepted that, at the reserved matters stage, there would appear to be no reason why the developer could not provide for an appropriate form of development incorporating appropriate measures in respect of (amongst others) Building for Life 12 criteria 1 (Connections) and 11 (Public and Private Spaces) (which have regard to the need for safe, well overlooked development), Leicestershire Police expresses concern that, in the absence of appropriate contributions, the force would have insufficient capacity to accommodate the additional policing requirements of the development. Furthermore, Leicestershire Police considers that, in the absence of such contributions, the development would not constitute sustainable development. It is accepted that, having regard to the findings of a number of Inspectors in respect of recent appeals within Leicestershire, the absence of suitable mitigation for policing would weigh against the proposals' sustainability credentials and, in particular, in respect of the economic and social roles of sustainable development. As such, and having regard to the adverse environmental impacts already identified, the proposals would not be considered to represent sustainable development in this regard.

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

### **Conclusions**

As set out in the main report above, whilst the site is located adjacent to the existing settlement, and whilst it would appear to have a reasonable level of accessibility to local services, it lies within a Green Wedge as defined in the adopted North West Leicestershire Local Plan. It is accepted that (as per the position at the time the previous (wider) Stephenson Green appeal was determined), the District Council is currently unable to demonstrate a five year plus buffer housing land supply. Whilst there is an ongoing need to demonstrate (and maintain) a five year housing land supply, and whilst, in the absence of a five year supply, policies for the supply of housing must be accepted as being out of date in the context of the NPPF, when taking into account the site's location within a Green Wedge (and the presumption contained within Local Plan Policy E20 against development which would adversely affect or diminish the present open and undeveloped character of this area), the view is taken that the proposed development would not, overall, constitute sustainable development. The scheme is also considered to be unacceptable in terms of the environmental dimension of sustainable development insofar as the potential impact on the Coalville AQMA is concerned in that appropriate technical information to demonstrate the air quality effects on the AQMA has not been provided. Furthermore, the application as submitted does not make appropriate contributions to infrastructure required to accommodate its additional impacts, further militating against it as a sustainable form of development and, in particular, in terms of the economic and social dimensions.

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

- 1 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in respect of protecting and enhancing our natural environment and using natural resources prudently. The site falls within a Green Wedge wherein Policy E20 of the adopted North West Leicestershire Local Plan presumes against development which would, amongst others, adversely affect or diminish its present open and undeveloped character. By virtue of the site's development for housing, the present open and undeveloped character of that part of the Green Wedge separating Coalville from Whitwick would inevitably be diminished, resulting in further coalescence between those settlements and not constituting sustainable development, contrary to the policies and intentions of the NPPF and Policy E20 of the adopted Local Plan.
  
- 2 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in respect of minimising pollution. On the basis of the submitted Transport Assessment, the development would result in the increased use of the Broom Leys Crossroads, located within the Coalville Air Quality Management Area (AQMA), an area designated on the basis of existing exceedances of the annual mean Air Quality Objective for nitrogen dioxide. The application is not supported by evidence to demonstrate the impacts of the proposals on air quality within the AQMA, in the absence of which the Local Planning Authority is unable to be satisfied that unacceptable adverse impacts on air quality within the AQMA would not result, potentially not constituting sustainable development, and contrary to the policies and intentions of the NPPF.
  
- 3 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its economic and social dimensions) and also provides that the planning system needs to perform an economic role, including in respect of provision of infrastructure and a social role, including creating a high quality built environment with accessible local services reflecting the community's needs and supporting its health, social and cultural well-being. The application does not include for appropriate contributions in respect of associated infrastructure (including mitigation for the impacts of the proposed development in terms of education, library facilities, civic amenity and policing), not constituting sustainable development, and contrary to the policies and intentions of the NPPF.

**Notes to applicant**

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Local Planning Authority acted pro-actively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Local Planning Authority has therefore acted pro-actively in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**This page is intentionally left blank**

---

Erection of six no. houses

Report Item No  
A2

11 Main Street Ravenstone Coalville Leicestershire LE67 2AS

Application Reference  
15/00128/FUL

Applicant:  
Cameron Homes Limited

Date Registered  
25 March 2015

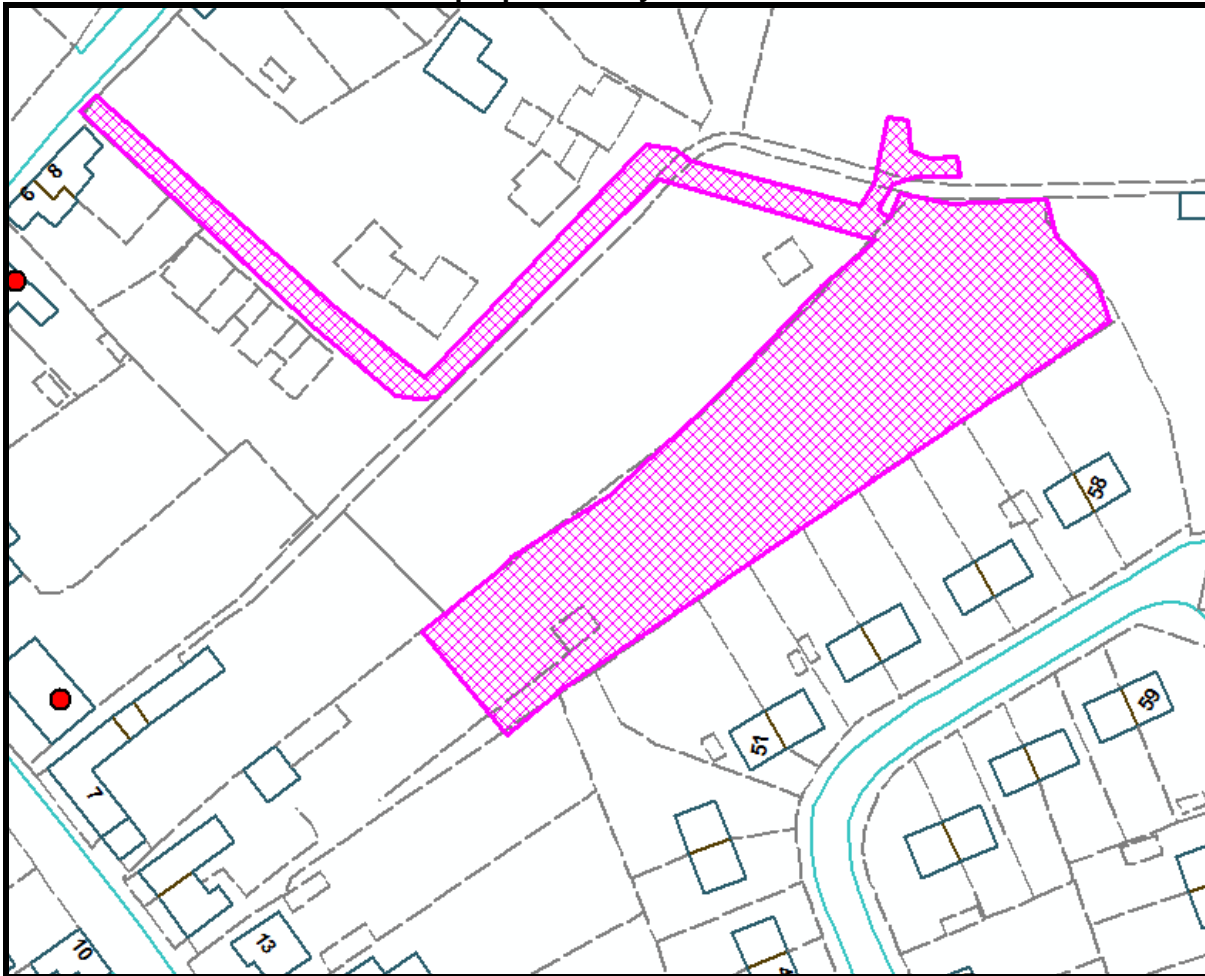
Case Officer:  
James Mattley

Target Decision Date  
20 May 2015

Recommendation:  
PERMIT subject to a Section 106 legal agreement;

---

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationary Office  
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329)

## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application has been called in by Councillor Legrys on the grounds of community concerns and to be transparent given that the previous application on the site was heard at the Planning Committee.

### Proposal

Planning permission is sought for the erection of six houses on land to the east of Church Lane and to the north of Ravenslea, Ravenstone. The application site would effectively form an extension to an existing residential scheme which is currently being built out by Cameron Homes. That scheme was for the erection of 27 dwellings and was granted planning permission under ref 14/00051/FULM. The application site which measures some 0.34 hectares is located within the Limits to Development and within the Ravenstone Conservation Area.

### Consultations

A total of ten individual representations have been received opposed to the development with two letters of support. Ravenstone Parish Council have also objected to the development. All other statutory consultees have raised no objections subject to the imposition of conditions on any consent granted.

### Planning Policy

It is considered that the development would be compliant with all relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant Policies of the current, and draft emerging, North West Leicestershire Local Plan and other guidance.

### Conclusion

The site lies within Limits to Development and is greenfield land. In terms of the suitability of the site's location for housing development, the proposed location would not conflict with the provisions of Local Plan Policy S2 and it is considered that this part of Ravenstone is a sustainable location for new dwellinghouses. Taking this into account it is considered that the principle of residential development on the site is acceptable.

The proposed development would be acceptable in terms of the residential amenities of existing and future occupiers, and would provide for an appropriate form of design that would be in keeping with the locality and would have an acceptable relationship with the Conservation Area. The proposal would be acceptable in relation to highway safety, subject to appropriate planning conditions. The scheme would not result in significant impacts upon protected species, trees and flood risk issues.

A viability appraisal has been submitted by the applicants to demonstrate that the scheme would not be viable with affordable housing requirements. The reasons for this are given in the viability appraisal and include Conservation Area design enhancements, additional foundation costs due to the presence of trees, landscaping, service diversions and sewer works. This has been independently assessed by the District Valuer and they confirm that a reduced level of developer contributions would be acceptable in this instance.

Overall, the scheme would have a good design and would use a good standard of materials given that the site is located within the Conservation Area and would also provide additional housing to address the Council's lack of a 5 year supply of housing. These issues count in favour of the scheme. However, the use of such materials has contributed to a viability issue on the site whereby the scheme is unable to make full developer contributions towards affordable housing. This issue counts against the scheme and raises issues as to whether the scheme can be considered to be sustainable development. However, on balance, it is considered that the positive benefits arising from the proposed development outweigh the negative issues and as such it is considered that the scheme would be acceptable.

It is therefore recommended that full planning permission be granted subject to conditions and relevant developer contributions.

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

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of six houses on land to the east of Church Lane and to the north of Ravenslea. The application site would effectively form an extension to an existing residential scheme which is currently being built out by Cameron Homes. That scheme was for the erection of 27 dwellings and was granted planning permission under ref 14/00051/FULM. The application site which measures some 0.34 hectares is located within the Limits to Development and within the Ravenstone Conservation Area. Residential properties along Church Street are located to the north-west of the application site, residential properties along Main Street are located to the south-west of the application site, residential properties along Ravenslea are located to the east and to the north-east are open fields.

Access to the site would be from Church Lane by utilising the access approved under planning permission ref 14/00051/FULM. The accommodation mix comprises 4 no. 4 bed dwellings and 2 no. 5 bed dwellings. The dwellings would be detached and would be provided over two and three storeys (the second floor accommodation (where included) provided within the roof space). An existing part single storey part two storey outbuilding would be demolished as part of the proposals.

The application is accompanied by a tree survey, ecological appraisal, transport statement and design and access statement.

The application has been called in by Councillor Legrys on the grounds of community concerns and to be transparent given that the previous application on the site was heard at the Planning Committee.

#### Relevant Planning History:

09/00101/CON - Partial demolition of former Primary School building (Conservation Area Consent) - withdrawn.

09/00104/FUL - Conversion and partial demolition of former Primary School to form 2 No. new dwellings and erection of 3 no. new dwellings - withdrawn.

09/00701/FUL - Conversion and partial demolition of former Primary School to form 2 No. new dwellings and erection of 3 no. new dwellings (Revised Scheme) - permitted.

13/00603/FULM - Residential development for 27 dwellings including demolition/conversion of former school - refused.

13/00602/FULM - Residential development for 27 dwellings including demolition/conversion of former school (Conservation Area Consent) - void.

14/00050/FULM - Residential development for 27 dwellings including demolition/conversion of former school - permitted.

### 2. Publicity

78 NO Neighbours have been notified (Date of last notification 27 March 2015)

Site Notice displayed 1 April 2015

Press Notice published 8 April 2015

### 3. Consultations

Parish Clerk - Ravenstone With Snibston Parish Council consulted 27 March 2015

County Highway Authority



Severn Trent Water Limited  
Head of Environmental Protection  
NWLDC Tree Officer  
County Archaeologist  
LCC ecology  
Airport Safeguarding  
NWLDC Conservation Officer  
NWLDC Urban Designer  
National Forest Company  
LCC Development Contributions  
NHS Leicester, Leicestershire And Rutland Facilities Management  
Manager Of Housing North West Leicestershire District Council  
LCC/Footpaths  
Head Of Street Management North West Leicestershire District Council  
County Highway Authority

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

**Ravenstone Parish Council** object to the application on the following grounds:

- density of housing is excessive;
- impact upon infrastructure;
- site is located in the Conservation Area;
- concerns regarding drainage.

**Airport Safeguarding** raises no objections.

**Leicestershire County Archaeologist** originally requested an Archaeological Impact Assessment. Following the submission of additional information the County Archaeologist raises no objections to the proposal.

**Leicestershire County Ecologist** has no objections in principle to the application but requested the submission of a further bat survey for the building on the site which would be demolished.

**Leicestershire County Footpath Officer** has no objection to the proposal but does provide some notes to the applicant.

**Leicestershire County Highway Authority** has no objection subject to the inclusion of relevant planning conditions and obligations.

**Leicestershire County Highway Transportation and Waste Management Authority** requests a developer contribution of £392 in order to mitigate the impact on civic amenity waste facilities in the local area.

**Leicestershire County Local Education Authority** requests a contribution of £28,435.67.

**National Forest Company** requests a financial contribution of £1360.

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

### Third Party Representations

A total of ten objections have been received raising the following issues:

- impact upon existing infrastructure;
- surrounding roads and junctions will be affected;
- access point onto Church Lane is inadequate;
- the village is growing out of proportion and is losing its identity;
- affordable housing should be provided;
- the application site is located in the Conservation Area and is historically significant;
- the level of traffic in the village is causing environmental concerns;
- smaller housing is required;
- submitted documentation indicates that a different number of dwellings are to be constructed;
- would not be in accordance with the development plan;
- dwellings are not in keeping with the area;
- impact upon residential amenities;
- unacceptable density;
- impacts upon ecology;
- concerns regarding drainage and flooding;
- should be treated as an extension to the existing site and not as a standalone application;
- trees and hedgerows would be lost.

Two letters of support has been received raising the following matters:

- suitable site given the need for additional housing;
- no other obvious use and will just become increasingly overgrown and derelict;
- in view of recent building in Ravenstone, the addition of six houses will make little difference.

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

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

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

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

- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 17 (Core planning principles)
- Paragraph 32 (Promoting sustainable transport)
- Paragraph 34 (Promoting sustainable transport)
- Paragraph 47 (Delivering a wide choice of high quality homes)
- Paragraph 49 (Delivering a wide choice of high quality homes)
- Paragraph 57 (Requiring good design)
- Paragraph 59 (Requiring good design)

Paragraph 60 (Requiring good design)  
Paragraph 61 (Requiring good design)  
Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 118 (Conserving and enhancing the natural environment)  
Paragraph 123 (Conserving and enhancing the natural environment)  
Paragraph 129 (Conserving and enhancing the natural environment)  
Paragraph 132 (Conserving and enhancing the natural environment)  
Paragraph 133 (Conserving and enhancing the natural environment)  
Paragraph 134 (Conserving and enhancing the natural environment)  
Paragraph 173 (Ensuring viability and delivery)  
Paragraph 203 (Planning conditions and obligations)  
Paragraph 204 (Planning conditions and obligations)

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

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

Policy S2 - Limits to Development  
Policy E2 - Landscaped Amenity Open Space  
Policy E3 - Residential Amenities  
Policy E4 - Design  
Policy E7 - Landscaping  
Policy E8 - Crime Prevention  
Policy F1 - National Forest General Policy  
Policy T3 - Highway Standards  
Policy T8 - Parking  
Policy H4/1 - Housing Land Release  
Policy H6 - Housing Density  
Policy H7 - Housing Design  
Policy H8 - Affordable Housing

### **Other Policies**

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

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

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

#### **North West Leicestershire District Council Play Area Design Guidance SPG**

The District Council's Play Area Design Guidance SPG sets out the relevant requirements in respect of children's play provision required in association with residential development.

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

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

#### **Emerging 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 policies listed below are considered relevant in the determination of 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
- S5 - Design of new development
- H6 - House types and mix
- IF7 - Parking provision and new development

### **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 and Sustainability**

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

In terms of the adopted North West Local Plan, the site is located within the limits to development where the principle of residential development is normally considered to be acceptable. The Inspector's decision concerning the recent Greenhill Road appeal sets out that the Authority is currently unable to demonstrate a five year supply of housing land. This means that "saved" adopted Local Plan policies that are concerned with housing supply, such as H4/1, must be considered to be out of date, and accordingly 'weight' should not be afforded to them when determining planning applications. The NPPF includes a clear presumption in favour of sustainable development, which taken together with the current inability to demonstrate a five year supply, indicate that planning permission for new homes should normally be granted.

The sustainability credentials of the scheme also need to be assessed against the NPPF. The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. Ravenstone provides a good range of day to day facilities including a primary school, general store, village/community hall, recreational facilities and public house. There is also a reasonable level of public transport; the Arriva 9A service provides an hourly service Monday to Friday from 0705 to 1830 and a Saturday service from 0720 to 1830 between Burton upon Trent and Coalville. Taking these matters into account, it is considered that the site would be located within a sustainable area.

The site has greenfield status and, in this regard, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to

meet this need. Given the need to provide additional areas of housing land within North West Leicestershire, it is considered inevitable that greenfield land will need to be released in order to provide and maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan.

Given that the proposal would relate to the erection of only six dwellings it is not considered that the proposal would be out of scale with the character of Ravenstone or result in unacceptable cumulative impacts with other development.

Having regard to all of the above it is considered overall that the proposed development of the site is acceptable in principle.

### **Means of Access and Traffic Issues**

Access to the site would be from Church Lane by utilising the access point which was approved as part of planning application 14/00051/FULM. Objections have been received from surrounding neighbours regarding the highway safety issues arising from the proposed development including at nearby junctions.

In relation to these concerns, the County Highway Authority has been consulted and has considered, amongst other things, issues such as visibility, width of existing and proposed access, parking, accident records in the surrounding area, traffic calming and the volume of traffic. Having considered all of the relevant issues the County Highway Authority raises no objection subject to the inclusion of relevant conditions. The proposed conditions include for car parking and turning to be provided and for a construction traffic/site traffic management plan.

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

In terms of car parking on the site, the scheme would provide two spaces per dwelling plus garage spaces. It is clear that the level of car parking is over and above the required level of 1.5 spaces per dwelling in the Local Plan. Whilst this level of car parking is over and above the level required by the Local Plan, it is noted the County Highway Authority raises no objections to the level of car parking and the Council's Urban Designer raises no objection to the design of the car parking spaces across the scheme. On this basis, the level of car parking is considered to be acceptable.

The concerns of neighbouring residents in relation to highway safety are recognised. However, the County Highway Authority has no objections to the proposed development subject to relevant highway conditions. Therefore, it is not considered that the proposal would conflict with highway safety policies T3 and T8 in the Local Plan or the advice in the NPPF.

### **Impact upon Trees**

The proposal would result in the loss of some trees on the site although none of these trees are subject to tree preservation orders. The application is accompanied by an arboricultural report and this includes individual assessments of nine separate trees/group of trees on the site. Of these, no retention category A trees would be lost although a group of category B trees would need to be felled to allow development to proceed on the site. The Council's Tree Officer has

considered the loss of these trees and the protection of the remaining trees which is detailed in the arboricultural report. The Council's Tree Officer comments that a suitable tree protection plan, removal plan, access facilitation pruning and no-dig-drive construction have been specified and raises no objection to the proposal subject to the works taking place in accordance with these details.

Taking all of these issues into account it is considered that the impact upon trees and hedgerows is acceptable and the scheme would be acceptable in relation to Policy E7 of the Local Plan.

### **Density**

Local Plan Policy H6 provides that, for sites of 0.3 hectares and above, residential development should meet a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services, and a minimum density of 30 dwellings per hectare elsewhere. The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances.

With a site area of 0.34 hectares, the proposal would have a density of 17 dwellings per hectare. Whilst the density is low in relation to Local Plan Policy H6, it is considered appropriate in this instance in view of the existing lower density that can be found in the surrounding Conservation Area and as the proposed scheme would have an acceptable layout. In coming to this conclusion it is noted that the Council's Urban Designer and Council's Conservation Officer has no objections to the proposed development. Therefore, the scheme is considered to be acceptable in relation to the advice contained in Policy H6 of the Local Plan and the advice in the NPPF.

### **Housing Mix**

In addition to affordable housing (defined as including social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market), the NPPF also provides in Paragraph 50 that Local Planning Authorities should "plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes)". The scheme proposes for solely 4 and 5 bed detached properties which, in itself, is not considered to be an ideal housing mix. However, the Local Planning Authority are considering this application as an extension to the existing residential scheme approved under 14/00051/FULM which provided for a wider housing mix on the site and included for 3, 4 and 5 bed detached, semi-detached and terraced dwellings. Therefore, taking this into account the overall housing mix on the site is deemed to be acceptable and the scheme is considered to comply with the advice contained in the NPPF.

### **Design and Impact on Heritage Assets**

The need for good design in new residential development is outlined not only in Local Plan Policy H7, but also paragraphs 57, 60 and 61 of the NPPF, with paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 requires new development to respect the character of its surroundings. 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 and Section 66 in relation to Listed Buildings requires special regard to the

desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The previous scheme on the site was subject to extensive discussions and negotiations with the District Council's Urban Designer and Conservation Officer both at the pre-application advice stage and during the course of the application. The discussions resulted in a scheme which included bespoke house types throughout, drawing upon the positive characteristics of built development in the surrounding Conservation Area. Appropriate materials such as bricks, timber windows, clay plain tiles and stone cills and heads were detailed. It was concluded that the previous scheme would have an acceptable impact on the Conservation Area and was deemed to be acceptable in relation to the advice contained in the NPPF with regard to design and impact upon heritage assets. The current proposal would form an extension to the existing site and would be developed with similar house types and materials that have previously deemed to be acceptable. The Council's Conservation Officer does not consider that the scheme would be unduly visible from outside the site itself and the impact upon the setting of the nearby Listed Building (No.7 Main Street) would be no greater than the previously approved scheme.

In terms of design and heritage issues, therefore, it is considered that the proposed dwellings, subject to suitable conditions, are appropriate in this area and would not detract from the character and appearance of the Conservation Area and would preserve the setting of the nearby Listed Building. The requirements of Local Plan Policies E4, H7, the advice contained in the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are considered to be met by the scheme.

### **Residential Amenity**

Consideration has been given to the impact of the development on surrounding residential properties. The most immediately affected dwellings would be along Church Lane and Ravenslea.

Plots 4 and 5 would be positioned to the rear of 9 and 11 Main Street. These dwellings along Main Street would still benefit from rear gardens measuring at least 30 metres and, on this basis, it is not considered that the proposal would result in any significant overlooking, overbearing or overshadowing impacts.

The rear gardens of semi-detached properties located off Ravenslea are located to the southern boundary of the application site. Plots 5 and 6 would be two storeys in height and would be located in close proximity to the southern boundary of the site. The side elevations of these proposed dwellings, which do not contain any habitable windows, would be located at least 18 metres away from the rear elevations of properties along Ravenslea. This distance is considered to represent an acceptable relationship in terms of the impact upon the existing dwellinghouses. There would be some overbearing impacts upon the rear section of these gardens given that the proposed properties are two storeys in height and are located in close proximity to the boundary. However, the impacts are not considered significant when having regard to the orientation and the overall length of the rear gardens belonging to properties off Ravenslea (which are typically 15-21 metres in length).

Acceptable relationships would exist between the properties proposed as part of this application and the 27 properties previously approved under 14/00051/FULM.

It is considered that construction noise is an inevitable temporary, manifestation of any development project, which is not the concern of the planning system unless there would be

exceptional amenity harm. When this is the case, a planning condition restricting hours is often applied but in this instance as the Environmental Services Manager raises no issues to the development in this regard, it is not considered necessary.

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

### **Ecology**

The County Ecologist has no objections in principle to this application and considers that the ecology survey is satisfactory. The submitted layout is deemed to be acceptable as it retains the main feature of ecological interest which is the group of mature trees at the north east end of the site.

The ecological report submitted investigated the buildings on the site for the suitability of bats and no evidence was found. However, the County Ecologist has requested that a further bat survey be undertaken in respect of the barn/stable building which would be demolished on the site. As planning permission would not be required in itself for the demolition of this building, this request is not considered to be reasonable. However, informatives can be attached to make the applicant aware of the legal requirements relating to protected species.

### **Developer Contributions**

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

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

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

A scheme for six dwellings would not normally require developer contributions to be submitted. However, the Local Planning Authority is not dealing with this development as a stand-alone application and are treating it as an extension to the existing site. Therefore, additional contributions have been requested and these are listed below.

#### *Affordable Housing*

The Council's Affordable Housing Officer comments that the scheme should provide for 30% affordable housing within the site (which would equate to 2 dwellings). The Council's preferred approach is for this agreed provision to be made on site. Where a developer considers that there are exceptional circumstances why on site provision is not appropriate then an off site commuted sum can be paid in lieu of on site provision. Should an off-site commuted sum be paid on this site then it should be in the region of £80,000.

#### *Transportation Contributions*

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

- Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).



- 6 month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £325.00 per pass - NOTE it is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate).
- Improvements to 2 nearest bus stops (including raised and dropped kerbs to allow level access); to support modern bus fleets with low floor capabilities. At £3263.00 per stop.
- Information display cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display.
- Contribution towards equipping the nearest suitable bus route with Real Time Information (RTI) system; to assist in improving the nearest bus service with this facility, in order to provide a high quality and attractive public transport choice to encourage modal shift. At a total of £2920.00.

#### *Education*

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

#### Primary School Requirements:

The site falls within the catchment area of Woodstone Community Primary School. The School has a number on roll of 210 and 257 pupils are projected on the roll should this development proceed; a deficit of 47 places.

There are two other primary schools within a two mile walking distance of the development:

Hugglescote Community Primary School Deficit 49

All Saints Church of England Primary School Coalville Deficit 89

The overall deficit including all schools within a two mile walking distance of the development is 157 places. The 2 deficit places created by this development can therefore not be accommodated at nearby schools and a claim for an education contribution of 2 pupil places in the primary sector is justified.

In order to provide the additional primary school places anticipated by the proposed development the County Council would request a contribution for the Primary School sector of £17,422.57 which would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Woodstone Community Primary School.

#### High School Requirements:

The site falls within the catchment area of Ibstock Community College. The College has a net capacity of 705 and 875 pupils are projected on roll should this development proceed; a deficit of 170 pupil places. A total of 202 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have to be discounted. This reduced the total deficit for this school and creates a surplus of 32 pupil places.

There is one other high school within a three mile walking distance of this development (newbridge High School). However, this school has a total deficit of 32 places and, therefore,

the school is unable to accommodate any pupils from this development.

On this basis, the County Council is not requesting a contribution in respect of the High School sector.

**Upper School Requirements:**

This site falls within the catchment area of Ashby School. The School has a net capacity of 1841 and 2065 pupils are projected on roll should this development proceed; a deficit of 224 pupil places. A total of 120 pupil places are being funded at this school from S106 agreements for other developments in this area which need to be discounted and reduces the total deficit for this school to 104 pupil places (of which 103 are existing and 1 is created by this development). There are no other upper schools within a three mile walking distance of the site.

In order to provide the additional upper school places anticipated by the proposed development the County Council would request a contribution for the upper school sector of £11,013.10 which would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Ashby School.

*Civic Amenity*

A contribution of £392 is proposed to be made by the developer for Civic Amenity facilities in accordance with the requirements of Leicestershire County Council.

*National Forest Planting*

The National Forest Company request a financial contribution of £1360 given that no woodland planting or landscaping is proposed on site.

**Conclusions in respect of Developer Contributions**

The following requests have been made:

National Forest Company	£1360
Education	£28,435
Civic Amenity	£392
County Highway Authority	£13,897
Affordable Housing	£80,000
<b>Total</b>	<b>£124,084</b>

The total figure requested by the County Highway Authority is not considered to meet the tests for obligations as it includes contributions towards bus stop improvements which have already been secured by planning permission 14/00051/FULM. However, contributions in relation to travel placks and bus passes for the additional dwellings are considered to be necessary and these contributions would total £4517.

The application is accompanied by a viability assessment. This viability report indicates that the scheme would not be viable with the inclusion of affordable housing (either on-site or off-site) and that it would only be able to provide a sum of £34,704 towards developer contributions. The submitted viability report indicates that the viability issues on the site arise from Conservation Area design enhancements, additional foundation costs due to the presence of trees, tree surgery and site clearance works. The DV is satisfied that the scheme is not viable with the full range of developer contributions proposed and that the offer put forward by the developer is reasonable in viability terms.

However, it is still considered necessary to consider whether a scheme without affordable housing would represent sustainable development. Paragraph 7 of the NPPF provides support for the social role of planning. It states the following: "a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being".

It is clear that this development would not be able to provide for the amount of relevant social infrastructure that would be required for a development of this size. Letters of objection have been received from surrounding neighbours and Ravenstone Parish Council regarding this matter and it is, therefore, considered to be of some importance in the locality. Therefore, in terms of the social strands of sustainable development the scheme is considered to score poorly and this would weigh against the scheme. However, this would need to be considered in the balance alongside the positive aspects of the development (see conclusion below).

Clearly the absence of an affordable housing contribution would fail to comply with the provisions of the District Council's Affordable Housing SPD which seeks to secure a minimum 30% contribution from new housing development in the Ravenstone area. In terms of the impacts of the non-provision of affordable housing, this was assessed in more detail when the Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville policy was introduced. A significant housing need already exists within the District. A lack of affordable housing in the District would be likely to impact upon some of the most vulnerable people within the District and has the potential to increase the number of homelessness cases. However, this needs to be balanced against the Government's support for Local Planning Authorities taking a proportionate approach to developer contributions and viability (and as indicated in Paragraph 173 of the NPPF) so as to enable development to come forward to meet market (if not affordable) housing needs, and the need to consider the potentially harmful impact on other service areas were the shortfall in viability to be addressed by way of reductions in contributions to other areas of infrastructure.

As set out above, the NPPF contains a presumption in favour of sustainable development, the dimensions of which include a social dimension, with the planning system's role being to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations. It is considered that, in this sense, the scheme would not perform well. On balance, however, given that the applicants have been able to demonstrate to the District Valuer's satisfaction that no affordable housing contribution could be provided from a viability point of view, and that contributions are being made to all other service areas, it is considered that the omission of affordable housing would not be unacceptable in this case, and when balanced against all other viability considerations and other aspects of sustainable development.

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

#### **Other**

In terms of neighbour objections which have not already been addressed, some of the submitted reports refer to a different number of dwellings to that which has been applied for. However, it is clear from the application that six dwellings are proposed and no statutory

consultees have indicated that revised reports are required.

**Conclusion**

The site lies within Limits to Development and is greenfield land. In terms of the suitability of the site's location for housing development, the proposed location would not conflict with the provisions of Local Plan Policy S2 and it is considered that this part of Ravenstone is a sustainable location for new dwellinghouses. Taking this into account it is considered that the principle of residential development on the site is acceptable.

The proposed development would be acceptable in terms of the residential amenities of existing and future occupiers, and would provide for an appropriate form of design that would be in keeping with the locality and would have an acceptable relationship with the Conservation Area. The proposal would be acceptable in relation to highway safety, subject to appropriate planning conditions. The scheme would not result in significant impacts upon protected species, trees and flood risk issues.

A viability appraisal has been submitted by the applicants to demonstrate that the scheme would not be viable with affordable housing requirements. The reasons for this are given in the viability appraisal and include Conservation Area design enhancements, additional foundation costs due to the presence of trees, tree surgery and site clearance works. This has been independently assessed by the District Valuer and they confirm that a reduced level of developer contributions would be acceptable in this instance.

Overall, the scheme would have a good design and would use a good standard of materials given that the site is located within the Conservation Area and would also provide much needed housing to address the Council's lack of a 5 year supply of housing. These issues count in favour of the scheme. However, the use of such materials has contributed to a viability issue on the site whereby the scheme is unable to make full developer contributions towards affordable housing. This issue counts against the scheme and raises issues as to whether the scheme can be considered to be sustainable development. However, on balance, it is considered that the positive benefits arising from the proposed development outweigh the negative issues and as such it is considered that the scheme would be acceptable.

It is therefore recommended that full planning permission be granted subject to conditions and relevant developer contributions.

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

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

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

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

Drawing No. MA1/002B deposited with the Local Planning Authority on 9 October 2015;  
 Drawing No. MA1/001 deposited with the Local Planning Authority on 25 March 2015;  
 Drawing No. MA1/003/1 deposited with the Local Planning Authority on 25 March 2015;  
 Drawing No. MA1/003 deposited with the Local Planning Authority on 25 March 2015;

Drawing No. MA1/003/2 deposited with the Local Planning Authority on 25 March 2015;  
Drawing No. MA1/004 deposited with the Local Planning Authority on 25 March 2015;  
Drawing No. MA1/004/1 deposited with the Local Planning Authority on 25 March 2015;  
Drawing No. MA1/004/2 deposited with the Local Planning Authority on 25 March 2015;  
Drawing No. MA1/005 deposited with the Local Planning Authority on 25 March 2015;  
Drawing No. MA1/006 deposited with the Local Planning Authority on 25 March 2015;  
Drawing No. MA1/007/1 deposited with the Local Planning Authority on 25 March 2015;  
Drawing No. MA1/007 deposited with the Local Planning Authority on 25 March 2015;  
Drawing No. MA1/007/2 deposited with the Local Planning Authority on 25 March 2015;  
Drawing No. MA1/008 deposited with the Local Planning Authority on 25 March 2015;  
Drawing No. MA1/009 deposited with the Local Planning Authority on 25 March 2015;  
Drawing No. MA1/010 deposited with the Local Planning Authority on 25 March 2015;  
Drawing No. 12-489-1C deposited with the Local Planning Authority on 25 March 2015.

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

- 3 No development shall commence on site until provision has been made for the satisfactory disposal of foul and surface water from the site in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

- 4 Notwithstanding the submitted plans, nor Condition 2 above, no dwelling shall be erected above damp proof course until details/samples (as appropriate) of the:-
- i. sample panel of the bricks, brick bond, and mortar
  - ii. stone and render
  - iii. roofing materials
  - iv. rain water goods
  - v. windows and doors (including heads and cills)
  - vi. porches and door surrounds
  - vii. chimneys
  - viii. eaves and verges

have been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the works shall be executed in accordance with that agreement.

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

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

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

- 6 No dwelling shall be erected above damp proof course until such time as a landscaping scheme has been submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be implemented in the first planting and seeding season following either the first occupation or the bringing into use of the development hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. The scheme shall have particular regard to the treatment of the site boundaries.

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

- 7 Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

*Reason - To provide a reasonable period for the replacement of any trees.*

- 8 The tree removal, access facilitation pruning and no-dig drive construction scheme shall be carried out in accordance with the details contained within the submitted Tree Survey and Arboricultural Impact Report (dated 7 October 2015 - Version 2), unless otherwise agreed in writing with the Local Planning Authority.

*Reason - To determine the scope of this permission and to ensure that the works have an acceptable impact upon existing trees on the site.*

- 9 No work shall commence on site until such time as the tree protection measures detailed in the submitted Tree Survey and Arboricultural Impact Report (dated 7 October 2015 - Version 2) have been provided in full, unless otherwise agreed in writing with the Local Planning Authority.

*Reason - To determine the scope of this permission and to ensure that the works have an acceptable impact upon existing trees on the site.*

- 10 The development hereby permitted shall be carried out in accordance with the levels shown on drawing nos. MAI/002B (Site Layout Plan) (when read in conjunction with the existing levels shown on drawing no's. 12-489-1C).

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

- 11 Notwithstanding the provisions of Part 1 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), none of the dwellings hereby approved shall be enlarged, improved or altered, nor shall any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouses be provided unless planning permission has first been granted by the Local Planning Authority.

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

- 12 The window units serving the following:

- (a) first floor side elevations of Plot 1 and 5 (en-suite);
- (b) first floor side elevation of Plot 4 (landing);
- (c) first floor side elevation of Plot 3 and 6 (both en-suites).

shall be glazed with obscure glass to Pilkington Standard 3 (or equivalent) which shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority.

*Reason - To avoid the possibility of overlooking of the adjacent development.*

- 13 No development shall take place at any time other than in accordance with the agreed Written Scheme of Investigation (Ref: 1588). None of the dwellings shall be occupied until such time as the site investigation and post investigation assessment has been completed in accordance with the programme set out in the agreed Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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

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

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

- 15 The car parking and turning facilities shown on drawing No. MA1/002 shall be provided before any dwelling is occupied and shall thereafter permanently remain available for car parking and turning.

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

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

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

### **Notes to applicant**

- 1 Your attention is drawn to the comments of the County Footpath Officer dated 01 April 2015 08:29.

- 2 Bats are a rare and declining group of species. Hence, all British species of bat and bat roosts are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats &c.) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection or disturb bat roosts. If bats or bat roosts are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0845 601 4523) should be notified and further advice sought. Failure to comply with this advice may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000 or to imprisonment for a term not exceeding six months, or both.
- 3 Your attention is drawn to the comments of the Council's Recycling Officer dated 17 July 2015 11:11.
- 4 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority on 01530 454666 for further details.
- 5 A Section 106 agreement would be required in order to make the development acceptable and would need to include the following:
- National Forest Company £1360
  - Education £28,435
  - Civic Amenity £392
  - County Highway Authority - travel packs (£52.85 per pack) and Bus Passes (£325 per pass) for 6 properties.
  - Review of the viability of the scheme within a certain period
- 6 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.



Proposed erection of agricultural buildings, farm shop and farmhouse along with the formation of vehicular access and yard

Report Item No  
A3

Land South Of The Green Diseworth Derby DE74 2QN

Application Reference  
15/00950/FULM

Applicant:  
Mr & Mrs Dakin

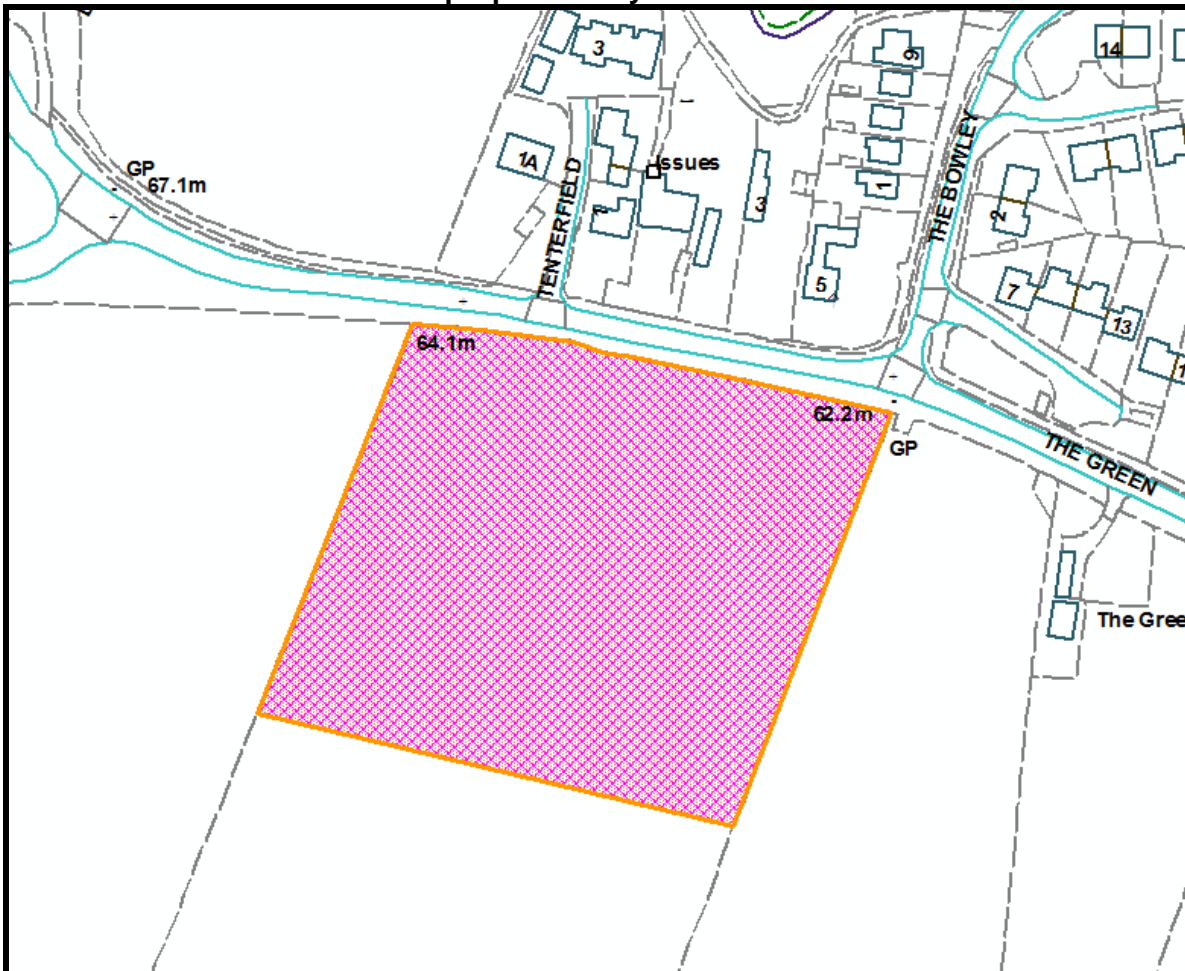
Date Registered  
12 October 2015

Case Officer:  
Adam Mellor

Target Decision Date  
11 January 2016

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office  
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329

## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application has been brought to the Planning Committee as one of three linked applications associated with residential development on two existing farm sites in Diseworth connected with Village Farm on Hall Gate and the relocation of the farmstead. The linked applications are considered under references 15/00948/FUL and 15/00949/FUL.

### Proposal

Planning permission is sought for the erection of agricultural buildings, farm shop and farmhouse along with the formation of vehicular access and yard at land south of The Green, Diseworth. The 1.38 hectare site is situated to the south of the junction of Tenterfield with The Green as well as to the south-west of the junction of The Bowley with The Green. It is currently utilised in connection with agriculture and is located outside the Limits to Development.

### Consultations

A total of ten no. individual representations have been received with seven of those representations opposed to the development, two in support and one simply commenting on the application. Long Whatton and Diseworth Parish Council have no objections. All other statutory consultees have raised no objections subject to the imposition of conditions on any consent granted.

### Planning Policy

It is considered that the development would remain compliant with all relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant Policies of the current, and draft emerging, North West Leicestershire Local Plan and other guidance.

### Conclusion

The site lies outside the defined Limits to Development where the principle of agricultural development and provision of an agricultural worker's dwelling are acceptable if they are essential. As part of the application an Independent Agricultural Planning Advisor has assessed the supplied information and considers that the relocation of the farmstead and provision of an agricultural worker's dwelling is justified and sustainable. In these circumstances the principle of the development is supported by Paragraphs 28 and 55 of the NPPF as well as Policies S3 and H10 of the adopted Local Plan.

It is considered that the proposed position and proximity of the agricultural buildings to existing residential properties on the northern side of The Green, as well as on Tenterfield, would ensure that the proposed development would not impact severely on the occupants' amenities. It is also noted that agricultural structures could be constructed on the site as a form of permitted development without planning permission which could generate a similar level of noise, smell and dust impacts. As such the development would be considered compliant with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

Whilst the proposed buildings would impact visually on the rural environment the association of the built forms with the Limits to Development and the localised circumstances of the visual impact, due to the topography of the land to the south, would ensure that they would not have a

significantly adverse impact on the visual amenity or openness of the rural environment particularly as there is justification for the development. Although the farm dwelling would be of a contemporary design this is considered to be acceptable due to its association with the proposed farmstead. There would also be no impact on the significance of heritage assets as a result of the development. In these circumstances the proposed development would be considered compliant with Paragraphs 57, 59, 60, 61, 131 and 132 of the NPPF, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policies E4 and H7 of the adopted Local Plan.

The proposed access and off-street manoeuvring and parking facilities have been assessed by the County Highways Authority to be acceptable and in these circumstances it is considered that the proposed development would not impact severely on pedestrian and highway safety and would therefore be compliant with Paragraphs 32 and 39 of the NPPF and Policies T3 and T8 of the adopted Local Plan.

Protected species would not act as a constraint on development, due to the limited extent of hedgerow which would be required to be removed to facilitate the access, with the agreement of a landscaping scheme securing suitable planting to mitigate against that lost. In these circumstances the development would be compliant with Paragraph 118 of the NPPF, Circular 06/05 and Policies E2 and E7 of the adopted Local Plan.

A condition would also be imposed to secure flood risk mitigation measures with surface water drainage also being appropriately controlled via a planning condition and on this basis the development accords with Paragraph 103 of the NPPF.

The imposition of conditions will address any land contamination concerns associated with the development to ensure compliance with Paragraphs 120 and 121 of the NPPF.

It is therefore recommended that the application be permitted.

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

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and 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 agricultural buildings, farm shop and farmhouse along with the formation of vehicular access and yard at land south of The Green, Diseworth. The 1.38 hectare site is situated to the south of the junction of Tenterfield with The Green as well as to the south-west of the junction of The Bowley with The Green. It is currently utilised in connection with agriculture and is located outside the Limits to Development. The southern side of The Green is largely undeveloped with residential properties being situated on the northern side of the highway.

The applicants existing farming business is run from two sites within the Limits to Development for Diseworth, at Village Farm on Hall Lane and land adjacent to Hallfield Farm on The Bowley, which are not in a position to be expanded further due to the presence of residential properties and other constraints. In order to expand the business, therefore, a decision has been made to relocate the farm to the application site with consideration being given to residential development on the existing sites which are being assessed under application references 15/00948/FUL (Village Farm) and 15/00949/FUL (land adjacent to Hallfield Farm), reported on this Planning Committee agenda.

In connection with the development four agricultural buildings would be constructed which would have the following footprints: -

- Cattle Shed - 1113.25 square metres with ridge height of 7.5 metres (at its highest point);
- Straw Store - 165.62 square metres with ridge height of 6.3 metres (at its highest point);
- Grain Store/Lean to Store - 800.80 square metres with ridge height of 9.2 metres (at its highest point);
- Farm Shop/Workshop/Potato Store/Machine Store - 607.88 square metres with ridge height of 7.5 metres (at its highest point);

The land on which the buildings are proposed to be sited rises from north to south and it is proposed that the buildings be 'cut into' the land in order to reduce their overall height with landscaping also being proposed to the roadside boundary.

A new two-storey four bed farm dwelling would also be created which would have a footprint of 107.21 square metres and use of a pitched gable ended roof with a ridge height of 8.4 metres. A detached car port with curved 'Dutch barn' style roof would also be associated with the farm dwelling which would have a footprint of 39.56 square metres and overall height of 4.8 metres.

In addition to the above works a new vehicular access into the site from The Green would be formed as well as areas of hardstanding associated with the farmyard, car parking and dwelling and a surface water attenuation pond.

In support of the application a design and access statement, supporting planning statement, farm business appraisal, ecology report, flood risk assessment, highways report, archaeological desk based assessment, archaeological evaluation and phase 1 site appraisal (desk study) have been submitted in support of the application.

No previous planning history was found.

## 2. Publicity

10 no neighbours have been notified (date of last notification 19 January 2016)

Press Notice published 21 October 2015

Site notice posted 21 October 2015

## 3. Consultations

Clerk To Long Whatton & Diseworth consulted 14 October 2015

Head of Environmental Protection

County Highway Authority

Severn Trent Water Limited

Head of Environmental Protection

Natural England

County Archaeologist

LCC ecology

NWLDC Conservation Officer

LCC Flood Management

## 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.

**Agricultural Advisor (Sanham Agricultural Planning Limited)** considers that there is agricultural support for the relocation of the farmstead should the applications for residential development be permitted and that the Local Authority accept that the proceeds of sale for the residential development will fund the cost of the relocation.

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

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

**Leicestershire County Council - Footpaths** no representation received.

**Leicestershire County Council - Highways** has no objections subject to the imposition of conditions on any consent granted.

**Leicestershire County Council - Lead Local Flood Authority** has no objections subject to the inclusion of a drainage condition on any consent granted.

**Long Whatton and Diseworth Parish Council** has no objections.

**Natural England** has no objections subject to their standing advice being considered.

**NWLDC - Conservation Officer** has no objections.

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

**NWLDC - Environmental Protection (Contaminated Land)** has no objections subject to the imposition of conditions on any consent granted due to the findings of the submitted Phase 1 Site Appraisal (Desk Study).

**Severn Trent Water** no representation received.

### Third Party Representations

Seven no. individual representations objecting to the application have been received from the occupants of nos. 1, 2 and 3 Tenterfield as well as 3 and 5 The Green. The objections received are summarised as follows: -

- Pesticides storage is dangerous with high concentrations impacting on the health and safety of neighbouring residents;
- The speed of traffic on the highway is in excess of that which was used to inform the visibility splays for the site and as such there are highway safety issues;
- Movement of vehicles will impact on the safe usage of the pavement which is narrow in this area and the carriageway is unlit;
- The housing of animals on the site and noise and dust associated with the grain storage and machinery will impact on amenities;
- The development will result in a loss of a view;
- Proposed development will exacerbate flooding impacts;
- Proposed development will impact on the appearance of the streetscape and rural landscape given that the southern side of The Green is undeveloped;
- No financial justification for the proposed farm shop which at present does not sell a substantial amount of produce;
- Proposal will allow further development along The Green which will impact adversely on the landscape;
- Proposed development will devalue properties;
- Height and proximity of development will impact adversely on residential amenities;
- The development is not sustainable;
- There is no requirement for a dwelling to be provided on the site;

An independent technical highways review, received on the 15th December 2015, as well as an assessment of the submitted farm business appraisal, received on the 31st December 2015, have also been submitted by the objectors which have been directed to the County Highways Authority and Independent Agricultural Advisor, respectively, for comment.

One representation has been received from the occupant of 1A The Green who is not opposed to the development but wishes to see the following matters be considered should planning permission be granted: -

- The hedge alongside the roadside boundary should be kept at a minimum height of 3.0 metres to screen the development;
- The current access into the field be closed up and a hedge reinstated to match the existing hedge which is kept to a minimum height of 3.0 metres;
- The garage associated with the dwelling should be of a more traditional design rather than the 'Dutch barn' design currently proposed;

Two representations from the occupants of 49 The Woodcroft and 15 The Green have been received which support the application and whose comments are summarised as follows: -

- Proposal would reduce the flow of large farm vehicles through the centre of the village;
- Would enhance the look of the village and makes sense to use the land in this area for farming purposes;
- Proposal will be of benefit to the village.

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

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

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

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

Paragraph 14 (Presumption in favour of sustainable development);  
 Paragraph 17 (Core planning principles);  
 Paragraphs 18-20 (Building a strong, competitive economy);  
 Paragraph 32 (Promoting sustainable transport);  
 Paragraph 39 (Promoting sustainable transport);  
 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 63 (Requiring good design);  
 Paragraph 64 (Requiring good design);  
 Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 109 (Conserving and enhancing the natural environment);  
 Paragraph 112 (Conserving and enhancing the natural environment);  
 Paragraph 118 (Conserving and enhancing the natural environment);  
 Paragraph 121 (Conserving and enhancing the natural environment);  
 Paragraph 123 (Conserving and enhancing the natural environment);  
 Paragraph 131 (Conserving and enhancing the historic environment);  
 Paragraph 132 (Conserving and enhancing the historic environment);  
 Paragraph 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);  
 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 S1 sets out 13 criteria which form the strategy for the adopted Local Plan;  
 Policy S3 - Countryside;  
 Policy E2 - Landscaped Amenity Open Space;  
 Policy E3 - Residential Amenities;

Policy E4 - Design;  
 Policy E7 - Landscaping;  
 Policy E8 - Crime Prevention;  
 Policy T3 - Highway Standards;  
 Policy T8 - Parking;  
 Policy H7 - Housing Design;  
 Policy H10 - Agricultural and Forestry Workers' Accommodation;

**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 S5 - Design of New Development;  
 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 Cc3 - Water - Flood Risk;  
 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;

**Diseworth Village Design Statement**

This supplementary planning document addresses the positive and negative features raised by residents of Diseworth from a planning perspective.

**Diseworth Conservation Area Character Appraisal and Management Plan - April 2001.**

This document outlines that the special character of Diseworth is derived from the informal groupings of farmhouses, outbuildings and the former tied cottages along the curvatures of the principal streets. Although modern infill housing development has been undertaken, the overall pattern of the pre-enclosure settlement remains largely evident.

**Planning (Listed Buildings and Conservation Areas) Act 1990**

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.

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

Circular 06/2005 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

## **6. Assessment**

### **Principle and Sustainability**

Policy S3 of the adopted Local Plan outlines that development is permitted if it can be demonstrated that such development is essential for the efficient long term operation of agriculture with Paragraph 28 of the NPPF emphasising that planning policies should support economic growth in rural areas which includes, amongst other things, promoting *"the development and diversification of agricultural and other land-based rural businesses."* Paragraph 55 of the NPPF indicates that Local Authorities should avoid new isolated dwellings in the countryside unless there are special circumstances such as *"the essential need for a rural worker to live permanently at or near their place of work in the countryside."* Policy H10 of the adopted Local Plan concludes that applications for on-site dwellings will be determined in accordance with the provisions of Annex A of Planning Policy Statement 7 (Sustainable Development in Rural Areas) (PPS 7).

The agent for the application has submitted a planning statement and farm business appraisal in support of the application which highlights that the following: -

*"The business has grown to a 280 acre holding that is mainly arable cropping with some extensively fattened beef cattle that are sold on the Waitrose scheme to Dovecote Park. The farm also retails eggs and potatoes with some other produce from the farm yard in the village centre. Currently this is the only retail outlet in the village."*

*"For the future the business will need to expand so as to maintain its profitability and to enable a full time staff member to be employed as Ian and Sheila Dakin gradually retire from the physical work. Expansion is a major issue as the current buildings are too small and pose a welfare and environmental risk to the village, hence the need to consider relocating the farm yards onto another part of the land holding."*

*"The business has always had a track record of making profits. In the recent past the farm has expanded slightly. The future plans will enable a staff member to be employed while increasing the livestock aspects of the business and enabling a better retail farm shop to be created. The hen units will be enlarged slightly will become a free range unit with the eggs sold from the farm shop along with potatoes and other vegetables etc...Expansion on the current site is not feasible and poses too many problems in the village environment. By doing all of this, the current business remains viable and will be able to provide reasonable livings for the family while meeting all commitments and taxation. Details are shown in the section headed "Business viability check..." and in the appendix that shows the cash budget."*

In the circumstances that the existing farming operations are compromised and restricted from expanding by the development which has occurred around the Village Farm and the site

adjacent to Hallfield Farm a business decision has been made to relocate the existing farmstead to the application site in order that it can continue to operate and expand to maintain the viability of the business.

As part of the consideration of the application an Independent Agricultural Planning Advisor has reviewed the submitted information, as well as that supplied by the objectors, and has made an assessment based on guidance contained within Annex A of PPS 7 which whilst superseded by the guidance contained within the NPPF still acts as a relevant and useful guide in assessing the need for an agricultural development including an agricultural workers dwelling (assessed in Paragraph 3 of the above annex). The report prepared by the Independent Agricultural Planning Advisor has concluded the following: -

*"Paragraph 3 (i) states "There is clearly established existing functional need" - I consider that if the farmstead is relocated to the proposed site there would be an existing functional need, and therefore this criteria would be satisfied together with the essential need criteria set out within the Framework);"*

*"Paragraph 3 (ii) states "The need relates to a full-time worker, or one who is primarily employed in agriculture, and does not relate to part-time requirement." - I consider the holding is and will remain a full-time, therefore this criteria would be satisfied."*

*"Paragraph 3 (iii) states "the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so" - I have had sight of three years accounts for the business and I consider the holding is currently financially viable, and has been profitable in all three of the last three years. However, I calculate that the enterprise would be unable to sustain the cost of the proposed relocation, unless the proceeds from the sale of the proposed development land are taken into account. I therefore consider the holding is capable of satisfying the criteria in paragraph 33 and the sustainability element of the Framework if the sale proceeds are taken into account, which I am unable to do."*

*"Paragraph 3 (iv) states "The functional need could not be fulfilled by another existing dwelling on the unit, or any other accommodation in the area which is suitable and available for occupation by the workers concerned;" - as the holding is capable of passing the essential/functional needs tests in the Framework and Annex A to PPS 7, I consider if the relocation is acceptable in planning terms, then the application would satisfy this criteria."*

*"Paragraph 3 (v) states "Other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied." - I consider this is a planning criteria, and should be assessed by the Case Officer for the application as it will not affect the agricultural needs of the enterprise."*

In conclusion the Independent Agricultural Planning Advisor has outlined that should residential development be granted on the existing farming sites there would be justification for the relocation of the proposed farmstead which would be sustainable if the Local Authority are prepared to accept that the proceeds of the sale for the residential development are utilised to fund the cost of the relocation. In respect of this point it is considered that the provision of the new farmstead, and the associated farm dwelling, are unlikely to occur should planning permission not be granted for residential development on the existing sites particularly as the relevant funds would not be available and there would be no functional need to relocate the existing farmstead. In these circumstances the funds raised by the sale of the existing sites can be factored into the assessment.

On this basis, as well as the information supplied in support of the application, it is clear that the proposed agricultural buildings and farm dwelling would be required for the efficient long-term operation of agriculture from the application site, given the loss of the farming enterprise at Village Farm and the site adjacent to Hallfield Farm, and would be compliant with the three strands of sustainability enshrined within the NPPF. In this context the principle of the development would be considered compliant with Policies S3 and H10 of the adopted Local Plan as well as Paragraphs 28 and 55 of the NPPF (in respect of the essential need for an agricultural worker to reside at the site).

The development would also be considered in accordance with the aims of Paragraph 10 of the DEFRA Rural Statement which highlights that: -

*"no Government Rural Statement can ignore the crucial role of farming and food production in rural life. Farming and the wider food production sector make an important contribution to the rural economy, and farmers and land managers are responsible for managing over 70% of the countryside."*

As well as Paragraph 11 which highlights that: -

*"The Government is committed to support and develop British farming and our aim is to encourage sustainable production of the high quality produce and food that Britain is known for. Food and farming benefit directly from a number of actions announced in the Rural Economy Growth Review, as well as from additional funding that farmers and land managers can access through environmental stewardship. We want to ensure the next round of the Common Agricultural Policy supports the development of a competitive industry with improved environmental performance."*

The provision of the farm shop would also improve the social sustainability credentials of the settlement of Diseworth by providing an alternative means of providing goods which would meet the 'day to day' needs of residents without necessarily having to travel to the nearest retail service at the airport.

To prevent the 'premature' construction of the agricultural workers dwelling a condition could also be imposed on any consent granted for a particular percentage of the floorspace of the agricultural buildings to be provided before such time as development commenced on this element of the scheme.

### **Residential Amenity**

It is considered that the properties most immediately affected by the proposed works would be those located on the northern side of The Green as well as on Tenterfield.

In respect of the physical impact of the development it is considered that whilst the land levels rise to the south, as well as from east to west, the proposed building containing the farm shop/workshop/machine store would be located 52.9 metres from no. 1 Tenterfield with the grain store being situated 41.55 metres from no. 5 The Green (being the nearest residential receptor). Directly opposite the site access is no. 1 The Green which is utilised as a vehicle repair garage. On the basis of the submitted site section it is proposed that the buildings would be 'cut into' the landscape and as a consequence the buildings would have the following finished floor levels, eaves and ridge heights at their highest points above the level of The Green highlighted on the plan (63.19): -

- Farm shop/workshop/machine store - Finished floor level = 1.31 metres; Eaves height = 5.81 metres; Ridge height = 8.21 metres;
- Grain store - Finished floor level = 1.21 metres; Eaves height = 8.01 metres; Ridge height = 10.41 metres;
- Cattle shed (located over 75.0 metres from northern side of The Green) - Finished floor level = 2.81 metres; Eaves height = 7.31 metres; Ridge height = 10.36 metres;
- Straw store (located over 75.0 metres from northern side of The Green) - Finished floor level = 2.81 metres; Eaves height = 8.31 metres; Ridge height = 9.26 metres;
- Proposed dwelling (located 25.2 metres from the northern side of The Green) - Finished floor level = 1.81 metres; Eaves height = 7.01 metres; Ridge height = 10.21 metres;

As a point of reference the topographical survey submitted in support of the application demonstrates that the existing land level down the centre of the site at a point beyond the cattle shed is 4.62 metres higher than that of The Green with the furthest point down the centre of the site from The Green being 12.01 metres higher.

Taking into account the distances involved and the overall heights of the structures it is considered that there would be no adverse impacts on the amenities of neighbouring residential properties, in respect of overbearing, overshadowing or overlooking impacts. In terms of the objections raised in respect of the loss of a view and the impact of development on a property's value it is noted that these would not constitute material planning considerations which could be taken into account in an assessment of the application.

Concerns have also been raised in respect of noise, smell and dust impacts associated with a working agricultural farm. The land is currently farmed and as such a level of noise would be associated with operations undertaken albeit these would be largely based around harvesting and planting of crops. It is noted that the amount of land owned and farmed by the applicants would be in excess of five hectares and therefore permitted development rights, under Class A of Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015, would exist for the establishment of agricultural buildings on the site under a simplified prior notification procedure. The only matters for consideration under such applications would relate to siting and design. In this context storage buildings for grain and pesticides could be created on the site which would have similar levels of noise, smell and dust associated with them but which would not be subject to any strict assessment in respect of their relationship with residential dwellings. Planning permission would also not be required for animals to graze on the land. Given these facts it is considered that the only buildings which could not be established without formal planning consent would be the farm dwelling and the farm shop which would not generate substantial amounts of noise when in operation in comparison to that of a working farm.

The Council's Environmental Protection team have been consulted and have raised no objections in respect of noise, smell or dust impacts. Given that the existing sites where farming practices are carried out, in the residential core of the settlement, have been able to operate without detriment to neighbouring amenities it is considered that the proposed location of the development would be acceptable and would not have a significantly adverse impact on neighbouring amenities. In addition the design and access statement highlights that silage storage would be undertaken inside the cattle shed, so as to limit odour, and that dust extractors and a grain dryer would be provided internally within the grain store so as to reduce dust and noise emissions. The provision of these measures, in accordance with the submitted information, could be secured as a planning condition on any consent granted.

In respect of the objection advising that the timing of deliveries to the proposed farm shop and

its hours of operation should be limited it is considered that a condition securing such restrictions would be unreasonable given that the farm holding will be operational on a 24 hour basis and as such the level of vehicular movements in connection with the shop element of the development would be insignificant in comparison to those of the operational farm holding.

Overall, therefore, the development is considered compliant with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

### **Impact on the Character and Appearance of the Wider Area, Streetscape and Historic Environment**

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."*

At present the site is an agricultural field located on the southern side of The Green which is predominately undeveloped, a stable building being the only built form in close proximity to the site. The northern side of The Green is defined by residential properties which act as the boundary of the Limits to Development and from a topographical point of view the application site slopes upwards from north to south by around 4.62 metres and from east to west by around 1.57 metres. It is defined by hedging to a height of 2.2 metres.

Ultimately the development will result in visual implications to the rural environment given the amount of built infrastructure which would be created. However, whether such development would 'adversely' impact on the character of the rural environment needs to be assessed in the context of the fact that agricultural buildings could be erected on the site as a form of 'permitted development' subject to compliance with certain criteria (such criteria would limit a building on this site to a height of 3.0 metres due to its proximity to an aerodrome).

Annex E (Permitted Development for Agriculture and Forestry), taken from the now defunct Planning Policy Statement 7 (Sustainable Development in Rural Areas), outlines how the siting and design of agricultural buildings should be assessed and this states, amongst other things, the following: -

*"New buildings should normally form part of a group rather than stand in isolation...To reduce their visual impact buildings should be blended into the landscape or, on sloping sites, set into the slope if that can be achieved without disproportionate cost;"*

*"Judicious tree planting and external works may enhance new buildings. The aim should not be to hide a building from site, but rather to soften a hard outline, break up a prominent silhouette, and help 'anchor' a new building to the surrounding landscape."*

*"The colours chosen should be compatible with the rural setting, not to camouflage the building, but to allow it to relate to existing buildings. Careful choice of colour reduces the apparent scale of a large agricultural building (e.g. if the roof of a building is coloured darker than the walls, it's visual impacts on the surroundings is reduced)."*

The proposed buildings have been arranged to be as close to each other as is practical and to ensure that the efficiency of the agricultural operation is not compromised with it being outlined

that the buildings would be 'dug into' the land in order for them to be situated on a level base and that additional landscaping would be provided to the roadside boundary in order to enhance the natural screening which exists. It is considered that the most prominent views of the development would be established from the east and west when travelling along The Green, however, given that the spread of development would be contained to that which would be necessary, the overall implications to the visual amenities of the rural environment, its openness and the streetscape, would not be significantly detrimental as to warrant a refusal of the development. This is particularly true in the context that agricultural buildings are not uncommon in a rural environment, there is agricultural justification for the structures, the site is well related to the built environment of Diseworth and the containment of built forms on this particular site would limit the need for further development on open fields associated with the holding which would likely have more substantial visual implications. The particular site is also considered to be the most suitable for such a development, of those parcels of land in the ownership of the applicants, due to its proximity to the built environment.

The areas of hardcore associated with the buildings has also been limited to what is necessary and these would not have a particularly adverse impact on the rural environment given that their inclusion with the development is justified. The particular material to be utilised for the surfacing would be subject to a condition on any consent granted.

Whilst the proposed farm dwelling would be of a contemporary design it is noted that Paragraph 60 of the NPPF 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."* In the context that the dwelling would be associated with a newly created farmstead it is considered that the design approach adopted would be acceptable and would allow the dwelling to have a distinctive character whilst maintaining a degree of consistency with the standard of the agricultural buildings which would be constructed as part of the farmstead. The proposed design of the residential garage is also considered to be acceptable in providing a distinctive building which would be consistent with agriculture and which would not impact adversely on the character and appearance of the landscape or streetscape.

In respect of materials it is proposed that the agricultural buildings are constructed from timber cladding and light grey profiled metal sheeting which would be consistent with agricultural buildings of modern construction and therefore not detrimental to the visual amenities of the streetscape or wider area. The proposed dwelling is proposed to be constructed from brick and timber cladding with plain clay roof tiles which is considered acceptable in combining the prevalent use of bricks on dwellings in the vicinity of the site with timber cladding which would be consistent with the agricultural buildings. A condition could be imposed on any consent granted for the precise materials to be agreed.

With regards to the historic environment the Council's Conservation Officer has concluded that the proposed development would result in no harm to the setting of heritage assets the principle one being the Diseworth Conservation Area.

Overall the proposed development is considered compliant with Paragraphs 57, 60, 61, 131 and 132 of the NPPF, Section 72 of the 1990 Act and Policies E4 and H7 of the adopted Local Plan.

### **Highway Safety**

As part of the application a highways report has been provided which indicates that a new vehicular access with appropriate levels of visibility, in order to accord with the County Council's

6Cs Design Guide, would be provided onto The Green. Existing vehicular movements associated with Village Farm and Hall Field Farm would be redirected to the application site although it is anticipated that there would be an overall reduction in vehicular movements due to all facilities being based on one site, rather than spread across two sites as is presently the case. A relocation of the existing agricultural enterprise from within the centre of the settlement will also ultimately reduce, or remove completely, agricultural traffic from that area which would be considered a highway gain. Suitable manoeuvring facilities, to allow vehicles to exit the site in a forward direction, along with off-street parking would also be accommodated within the site.

Objections have been received that vehicles travel in excess of the 40 mph speed limit which is in place and that the presence of debris in the highway from farming traffic compromises the safe movement of vehicles (particularly motorbikes). An independent review of the highways report by a highways consultant, on behalf of the objectors, has also been received which indicates that there is a lack of appropriate pedestrian facilities to access the site, inadequate visibility splays are provided, insufficient vehicle manoeuvring facilities are provided, that there is a lack of off-street car parking and no study of personal injury accidents in the area has been undertaken.

The County Highways Authority have reviewed the highways report, as well as the independent review, and have raised no objections subject to the imposition of conditions on any consent granted which include the provision of suitable visibility splays, surfacing of the access drive and off-street parking provision. In terms of the objections received relating to vehicle speeds it is considered that this is a matter for the police to address if vehicles exceed an enforced speed limit. There are also no restrictions in place which prevent the movement of farming vehicles along The Green and therefore debris could easily be deposited by any agricultural vehicle, which may not necessarily be connected with the site, in the highway. Should there be particular issues associated with debris on the carriageway then this would be a matter for the County Highways Authority to enforce against. The County Highways Authority also maintain a database of reported accidents in the area and as such it is not entirely necessary for the highways report to highlight such circumstances.

Paragraph 32 of the NPPF identifies that applications should only be refused on highway grounds where the cumulative impacts of the development are severe and as no objections are raised by the County Highways Authority, subject to conditions, it is considered the development is compliant with the aims of this Paragraph as well as Policy T3 of the adopted Local Plan.

In the view of the County Highways Authority a sufficient level of off-street parking would be provided in connection with the development, with the garage associated with the dwelling having sufficient internal dimensions so as to be utilised for parking, and subject to this being appropriately conditioned it is considered that the development accords with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan.

## **Ecology**

Natural England has no objections subject to their standing advice being considered and the County Council Ecologist also has no objections given that the application site is an arable field of low biodiversity value and that all hedgerows are proposed to be retained and have adequate buffer zones to the development. The provision of the new vehicular access will have a minor impact on the integrity of the hedgerow given the overall width of the gap created (17.0 metres). In the circumstances that no ecological concerns are raised it is considered that the development would accord with Paragraph 118 of the NPPF and Circular 06/05.

## Landscaping

The application site is landscaped with hedgerows to its boundaries which also contain trees. Part of the hedgerow along the northern (roadside) boundary would be removed to facilitate the provision of the vehicular access but this would not impact significantly on the overall integrity of the hedgerow given the length which would be retained. Additional landscaping, in the form of trees, is proposed to assist in screening the farming buildings and an appropriate landscaping condition could be imposed on any consent granted for the precise details to be agreed to ensure a suitable type and species is provided. Such a condition could also secure a suitable hedgerow species to be planted where the existing vehicular access would be closed.

Whilst it is suggested that the hedgerows on the site should be grown to a height of 3.0 metres, and that they be retained at such height in perpetuity, it is considered that such a condition(s) would be unnecessary and unreasonable given that they are not required to visually mitigate the development.

Overall the proposal accords with Policies E2 and E7 of the adopted Local Plan.

## Archaeology

The County Council Archaeologist has confirmed that the negative results of the trial trenching undertaken on the site will ensure that no further archaeological work will be required as part of the development of the site and therefore the proposals comply with Paragraph 141 of the NPPF.

## Development and Flood Risk

Objections have been received in respect of the proposed development exacerbating an existing localised flooding impact on The Green due to the increased provision of impermeable surfacing on the site. The submitted design and access statement acknowledges that the geology and topography of the site leads to surface water discharging into the highway as it cannot be naturally 'absorbed' into the ground. Therefore it is proposed that the development of the site will lead to a drainage solution being provided which would control surface water discharge, which is currently uncontrolled, with the use of an above ground attenuation pond acting as a sustainable urban drainage (SuDs) scheme.

The submitted Flood Risk Assessment (FRA) has been assessed by the Lead Local Flood Authority (LLFA) who have raised no objections subject to the imposition of a drainage condition on any consent granted. This condition proposes that the filter/land drain to be provided along the southern and eastern boundaries should be diverted directly into the watercourse to the northern boundary rather than the attenuation pond which is designed to only address surface water run-off from the developed area. Subject to the imposition of this condition it is considered that the proposed development would not further exacerbate any localised flooding impact and in many ways would control the run-off which would be of benefit to the area. As outlined in previous sections agricultural buildings could also be provided on the site, along with associated areas of hardstanding, as a form of permitted development under a prior notification procedure which would result in similar drainage impacts and which would not be subject to any controls via planning conditions given that only siting and design are considered.

In conclusion, therefore, the proposal accords with Paragraph 103 of the NPPF.

Insofar as foul drainage is concerned it is indicated on the application form that this would be



discharged to the mains sewer with such discharge being agreed with Severn Trent Water under separate legislation. In the circumstances that no representation has been received from Severn Trent Water objecting to this approach it is considered that any additional demands for foul drainage discharge could be met by the existing sewerage system in place. Overall, therefore, the development would accord with Paragraph 120 of the NPPF.

### **Other Matters**

The Council's Land Contamination Officer has reviewed the submitted land contamination report and has no objections subject to the imposition of conditions on any consent granted for a further risk based land contamination assessment to be undertaken due to the findings of the report. It is considered that such a condition is reasonable, given that this is a recommendation of the submitted land contamination report, and its imposition will ensure that the development accords with Paragraphs 120 and 121 of the NPPF.

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

The site lies outside the defined Limits to Development where the principle of agricultural development and provision of an agricultural worker's dwelling are acceptable if they are essential. As part of the application an Independent Agricultural Planning Advisor has assessed the supplied information and considers that the relocation of the farmstead and provision of an agricultural worker's dwelling is justified and sustainable. In these circumstances the principle of the development is supported by Paragraphs 28 and 55 of the NPPF as well as Policies S3 and H10 of the adopted Local Plan.

It is considered that the proposed position and proximity of the agricultural buildings to existing residential properties on the northern side of The Green, as well as on Tenterfield, would ensure that the proposed development would not impact severely on the occupants' amenities. It is also noted that agricultural structures could be constructed on the site as a form of permitted development without planning permission which could generate a similar level of noise, smell and dust impacts. As such the development would be considered compliant with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

Whilst the proposed buildings would impact visually on the rural environment the association of the built forms with the Limits to Development and the localised circumstances of the visual impact, due to the topography of the land to the south, would ensure that they would not have a significantly adverse impact on the visual amenity or openness of the rural environment particularly as there is justification for the development. Although the farm dwelling would be of a contemporary design this is considered to be acceptable due to its association with the proposed farmstead. There would also be no impact on the significance of heritage assets as a result of the development. In these circumstances the proposed development would be considered compliant with Paragraphs 57, 59, 60, 61, 131 and 132 of the NPPF, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policies E4 and H7 of the adopted Local Plan.

The proposed access and off-street manoeuvring and parking facilities have been assessed by the County Highways Authority to be acceptable and in these circumstances it is considered that the proposed development would not impact severely on pedestrian and highway safety and would therefore be compliant with Paragraphs 32 and 39 of the NPPF and Policies T3 and T8 of the adopted Local Plan.

Protected species would not act as a constraint on development, due to the limited extent of

hedgerow which would be required to be removed to facilitate the access, with the agreement of a landscaping scheme securing suitable planting to mitigate against that lost. In these circumstances the development would be compliant with Paragraph 118 of the NPPF, Circular 06/05 and Policies E2 and E7 of the adopted Local Plan.

A condition would also be imposed to secure flood risk mitigation measures with surface water drainage also being appropriately controlled via a planning condition and on this basis the development accords with Paragraph 103 of the NPPF.

The imposition of conditions will address any land contamination concerns associated with the development to ensure compliance with Paragraphs 120 and 121 of the NPPF.

It is therefore recommended that the application be permitted.

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

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

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

- 2 The proposed development shall be carried out strictly in accordance with the following drawing numbers: -

- 150 (02) 006 (Site Location Plan), received by the Local Authority on the 12th October 2015;
- 150 (02) 003 (Existing Site Plan), received by the Local Authority on the 12th October 2015;
- 150 (08) 003 Revision E (Proposed Site Layout), received by the Local Authority on the 12th January 2016;
- 150 (08) 019 Revision A (Farmhouse Plans and Elevations), received by the Local Authority on the 12th October 2015;
- 150 (08) 020 Revision (08) (Cattle Shed Plan & Elevations), received by the Local Authority on the 12th October 2015;
- 150 (08) 021 Revision A (Grain Store Plan & Elevations), received by the Local Authority on the 12th October 2015;
- 150 (08) 022 Revision A (General Shed Plan & Elevations), received by the Local Authority on the 12th October 2015;
- 150 (08) 023 (General Shed Plan & Elevations), received by the Local Authority on the 12th October 2015;
- 150 (08) 025 Revision B (Site Section), received by the Local Authority on the 12th January 2016;

unless otherwise required by another condition of this permission.

*Reason - to determine the scope of the permission.*

- 3 The occupation of the dwelling, hereby permitted, shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or forestry, or a widow or widower of such a person, and to any residential dependents.

*Reason - the erection of dwellings in the countryside is contrary to the Local Planning Authority's policies for the area and were it not for the special agricultural justification the development would not be permitted.*

- 4 Notwithstanding the details shown on the approved plans, nor Condition 2 above, no building shall be built above damp proof course level until the following have been submitted to and agreed in writing by the Local Planning Authority: -
- Precise details of the external materials to be used in the development (including bricks, roof tiles, stone and timber cladding);
  - Precise details, including manufacturers details, of the paint/colour finish to the timber cladding, all other external joinery and PVC coated box profile galvanised steel sheeting;
  - Details of the brick bond to be used on the farm dwelling;
  - Position of the meter boxes on the farm dwelling and their external finish;
  - Details of the rainwater goods;
  - Details of the verges and eaves to the farm dwelling;

The development shall then be carried out in accordance with the approved details which shall thereafter be so retained.

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

- 5 Notwithstanding the provision of Part 1 (Classes A - E) of Schedule 2, Article 3 of the Town and County Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) the dwelling, hereby permitted, shall not be enlarged, improved or altered unless planning permission has first been granted by the Local Planning Authority.

*Reason - to enable the Local Planning Authority to retain control over future development in view of maintaining the overall appearance of the scheme and as the dwelling is provided in connection with an agricultural need.*

- 6 Notwithstanding the details shown on the approved plans before first occupation/use of the site, hereby permitted, a scheme of soft and hard landscaping (which shall provide for the provision of mature trees and a strong landscaping presence to the northern boundary of the site) shall be submitted to and agreed in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the first occupation/use of the site with the hard landscaping scheme being provided in full prior to the first occupation/use of the site unless an alternative implementation programmes are first agreed in writing with the Local Planning Authority.

*Reason - to ensure a satisfactory landscaping scheme is provided within a reasonable period and in the interests of visual amenity given the site's relationship with the rural environment.*

- 7 Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

*Reason - to provide a reasonable period for the replacement of any trees.*

- 8 No development shall commence until all the existing trees to be retained have been securely fenced off by the erection, to coincide with the canopy of the tree where possible, of a 1.4 metre high protective barrier in accordance with BS 5837:2012. In addition all hedgerows that are to be retained shall be protected by a 1.2 metre high protective barrier which shall be erected at least 1.0 metre from the hedgerow. Within the fenced off areas there shall be no alteration to the ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand.

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

- 9 Notwithstanding the details shown on the approved plans before occupation/use of the site, hereby permitted, a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railing, other means of enclosure) and the relevant elevation details (should brick walls be proposed than the brick bond shall also be specified) shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be provided in full prior to the first occupation/use of any dwelling hereby approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.

*Reason - to preserve the visual amenities of the locality and in the interests of highway safety.*

- 10 Before first occupation/use of the site, hereby permitted, the following shall be provided:-
- The access in accordance with the details shown on drawing number ADC1225/003 Rev B, received by the Local Authority on the 12th October 2015 as shown in the Highways Report by ADC Infrastructure Limited;
  - The external car parking and turning facilities (to ensure vehicles exit the site in a forward direction) shown on drawing number 150 (08) 003 Revision E, received by the Local Authority on the 12th January 2016, and the internal car parking shown on drawing number 150 (08) 019 Revision A, received by the Local Authority on the 12th January 2015; 150(08)011 Revision D (Plot 1),
  - Drainage shall be provided within the site such that surface water does not drain into the public highway, including private drives;
  - The access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate), in accordance with the scheme agreed under Condition 6 of this permission, for a distance of at least 15.0 metres behind the highway boundary;

Once provided the above shall thereafter be so permanently maintained (including internal car parking spaces within garages) with any relevant turning area also not being obstructed.

*Reasons - to enable vehicles to enter and leave the highway in a slow and controlled manner in the interests of general highway safety, to ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway; to ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the*

*area and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users; to reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users; to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.).*

- 11 The gradients of the access drives shall not exceed 1:12 for the first 5.0 metres behind the highway boundary.

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

- 12 If any vehicular access gates, barriers, bollards, chains or other such obstruction are to be erected they shall be set back a minimum distance of 15.0 metres behind the highway boundary and shall be hung so as not to open outwards.

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

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

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

- 14 Prior to the first occupation/use of the site, hereby permitted, existing surface water discharge from the southern areas of the site shall be directed into the filter/land drain running along the southern and eastern boundaries which will be diverted directly into the watercourse on the northern boundary. Proposed surface water discharge from the developed site shall be directed into the SuDS feature as shown on drawing number 150 (08) 003 Revision E, received by the Local Authority on the 12th January 2016. Once provided the surface water drainage scheme shall thereafter be so retained unless an alternative surface water drainage strategy is first submitted to and agreed in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority.

*Reason - to ensure suitable design of the SuDS feature and to reduce the risk of flooding from surface water.*

- 15 No development (except any demolition permitted by this permission) shall commence on site until a Further Risk Based Land Contamination Assessment, as recommended by GRM report Diseworth, Leicestershire Phase I Site Appraisal (Desk Study) for F J Dakin & Son Ltd Project Ref: P6659/DS.1 Date: July 2014 Prepared for: F J Dakin & Son Ltd Village Farm 36 Hall Gate Diseworth Derby DE74 2QJ, received by the Local Authority on the 12th October 2015, has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

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

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, no development shall commence on site until a Remedial Scheme and Verification Plan have been prepared and submitted to, and approved in writing, by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004; and
- 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:

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

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

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

16 Prior to occupation of any part of the completed development, or part thereof, either:

If no remediation was required by Condition 15 a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of the development, or part thereof, is received and approved in writing by the Planning Authority, or

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 the whole development, or part thereof, shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

- Contain a full description of the works undertaken in accordance with the agreed

- Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
  - Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
  - Contain Test Certificates of imported material to show that it is suitable for its proposed use;
  - Demonstrate the effectiveness of the approved Remedial Scheme; and
  - Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

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

- 17 Operations that involve the destruction/removal/management of vegetation, or the conversion of the dairy parlour and threshing barn, shall not be undertaken during the months of March to August inclusive unless otherwise agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist.

*Reason - to ensure that nesting birds (a protected species) are adequately protected and their habitat enhanced.*

- 18 The residential curtilage for the farm dwelling shall be restricted to the area outlined in red on the attached plan number LPA/15/00950/FULM.

*Reason - to enable the Local Planning Authority to retain control over future development in view of the form of development proposed and its location as well as to protect the amenity of trees and maintain wildlife habitat.*

- 19 Notwithstanding the details shown on drawing number 150 (08) 025 Revision B, nor the requirements of Condition 2 above, no development shall commence on site until the finished floor levels of the all the agricultural buildings and the farm dwelling, including a scale section drawing running from north to south and east to west, and proposed finished site levels which shall be related to a fixed datum point off the site, have first been submitted to and agreed in writing by the Local Planning Authority. Once agreed the development shall be carried out in accordance with the approved details and shall thereafter be so retained.

*Reason - to determine the scope of the permission given that no precise details have been submitted and in the interests of residential and visual amenity.*

- 20 Until such time as 60% of the total proposed agricultural buildings floorspace (which shall exclude that of the farm shop), or any alternative percentage which has been submitted to and agreed in writing by the Local Planning Authority, as shown on drawing number 150 (08) 003 Revision E received by the Local Authority on the 12th January 2016, has been provided no development shall commence on the construction of the agricultural worker's dwelling.

*Reason - in the interests of the visual amenity of the environment and to ensure that the agricultural need for the dwelling has been established on the site.*

- 21 The proposed silage store and grain dryer (Master Farm Super 120 Type R/S), which

shall include a dust extraction unit, shall be provided on site in strict accordance with that specified within Paragraphs 2 and 3 on Page 15 (The proposed development should not be significantly detrimental to the amenities of the occupiers of nearby dwellings through its oppressiveness, proximity, noise, vibration, smells, fumes, smoke, soot, ash, dust, grit or excessive traffic generation) of the Design and Access Statement by Chave Planning, received by the Local Authority on the 12th October 2015, before first use of the relevant agricultural buildings hereby permitted and shall thereafter be so retained. The above applies unless an alternative silage store and position of grain dryer is first submitted to and agreed in writing by the Local Planning Authority.

*Reason - in the interests of limiting odours and to protect wider residential amenities.*

- 22 The existing vehicular access that becomes redundant as a result of the proposal shall be closed permanently and the existing vehicular crossings reinstated in accordance with a scheme that shall first have been submitted to and approved in the Local Planning Authority in consultation with the Highway Authority within 30 days of the new access being brought into use. The approved scheme shall then be implemented within 30 days of the date of approval.

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

### Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.
- 4 This planning permission does NOT allow you to carry out access alterations in the highway. Before such works can begin, separate permits or agreements will be required under the Highways Act 1980 from the Infrastructure Planning team. For further information, including contact details, you are advised to visit the County Council website: - see Part 6 of the '6Cs Design Guide' at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg).
- 5 The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in prosecution any anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both, as it is an offence to disturb nesting/breeding birds.
- 6 If there are works proposed as part of an application which are likely to affect flows in a watercourse or ditch, then the applicant may require consent under s.23 Land Drainage Act 1991. This legislation is separate from the planning process. Guidance on this



process and a sample application form can be found via the following website: [www.leics.gov.uk/watercourse](http://www.leics.gov.uk/watercourse). No development should take place within 5 metres of any watercourse or ditch without first contacting the County Council for advice.

- 7 Following the DEFRA/DCLG consultation and subsequent legislation change surrounding the future adoption and maintenance of SuDS brought into power on April 15th 2015, Leicestershire County Council are no longer the SuDS Approval Body (SAB) and are now a statutory consultee in the planning process. For all enquiries regarding the application and future adoption and maintenance of SuDS features, please direct these to the District Council.

**This page is intentionally left blank**

Partial demolition of farm building, conversion and extension of remaining farm buildings to form two dwellings along with the erection of six additional dwellings and alterations to vehicular access

Report Item No  
A4

Village Farm 36 Hall Gate Diseworth Derby DE74 2QJ

Application Reference  
15/00948/FUL

Applicant:  
Mr & Mrs Dakin

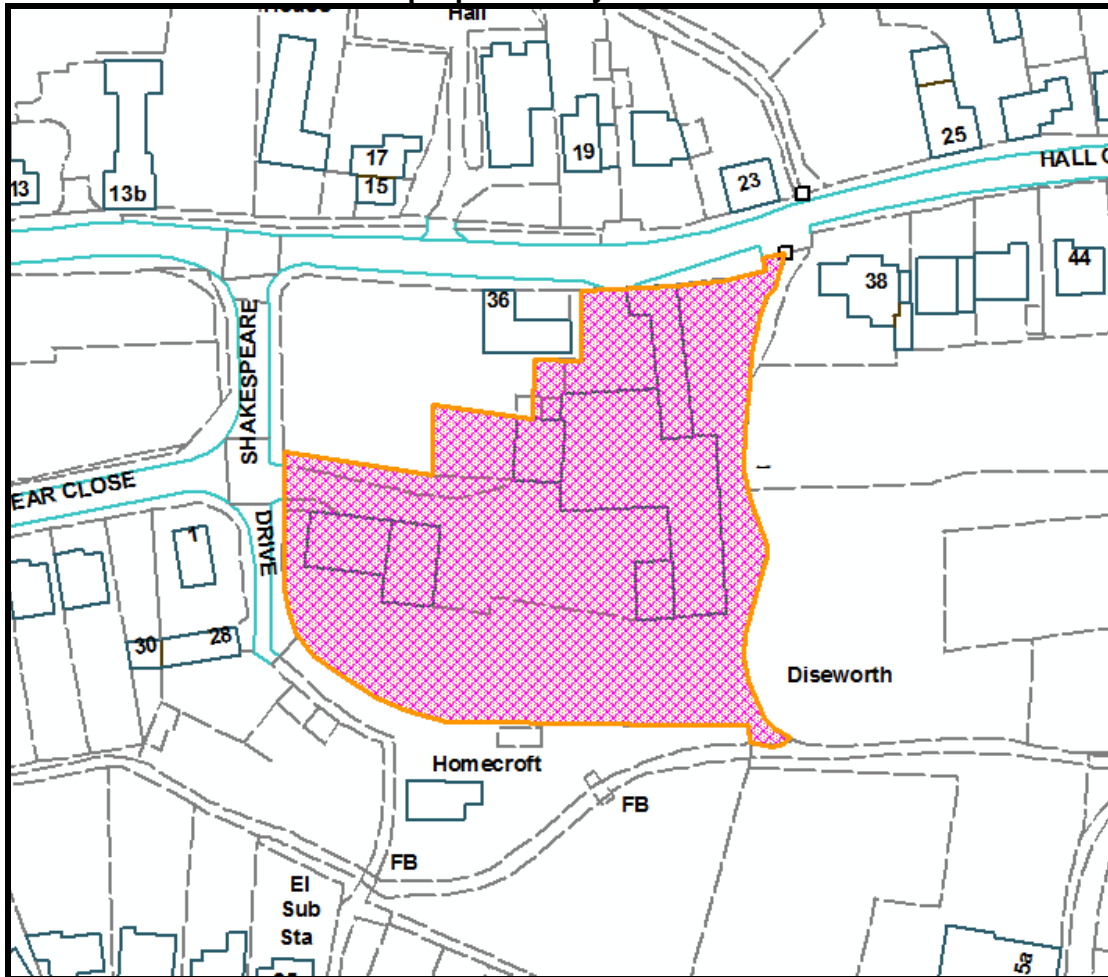
Date Registered  
12 October 2015

Case Officer:  
Adam Mellor

Target Decision Date  
7 December 2015

Recommendation:  
PERMIT subject to a Section 106 Agreement;

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office  
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329

## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application has been brought to the Planning Committee as one of three linked applications associated with residential development on two existing farm sites in Diseworth connected with Village Farm on Hall Gate and the relocation of the farmstead. The linked applications are considered under references 15/00949/FUL and 15/00950/FULM.

### Proposal

This application relates to the retention of two traditional agricultural buildings on the site which would be converted to residential dwellings along with the provision of six new two-storey dwellings following the removal of the modern agricultural buildings at Village Farm, 36 Hall Gate, Diseworth. It is proposed that the new dwellings would be of a contemporary design and that the dwellings would be served by two existing vehicular access points which would be upgraded. The application site is within the defined Limits to Development.

### Consultations

A total of three no. individual representations have been received with two of those representations opposed to the development and one in support of the development. Long Whatton and Diseworth Parish Council have no objections. All other statutory consultees have raised no objections subject to the imposition of conditions on any consent granted.

### Planning Policy

It is considered that the development would remain compliant with all relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant Policies of the current, and draft emerging, North West Leicestershire Local Plan and other guidance.

### Conclusion

The site is situated within the defined limits to development where there would be a presumption in favour of development with Diseworth also being considered a sustainable settlement for new development given the level of service provision. On this basis the proposal would accord with Paragraphs 14, 28, 49 and 55 of the NPPF and Policy S2 of the adopted Local Plan. It is considered that the density of the scheme and the mix of housing on the site would also be acceptable and would accord with Paragraph 50 of the NPPF and Policy H6 of the adopted Local Plan.

It is proposed that an off-site affordable housing contribution would be provided on the basis that this has been demonstrated to be viable by the District Valuer and as such the scheme would accord with Paragraphs 173, 203 and 204 of the NPPF as well as Policy H8 of the adopted Local Plan.

On the basis of the proposed layout, scale and position of the dwellings it is considered that the amenities of both existing and future occupants would be adequately protected and as a consequence there would be no adverse overbearing, overshadowing or overlooking impacts.

General noise and smells associated with the site would also be improved due to the removal of the farming operations. As such the development accords with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

It is considered that the site is of a sufficient size to accommodate eight dwellings and will allow the restoration and enhancement of buildings recognised as non-designated heritage assets. Overall the less than substantial harm caused to the significance of the heritage assets would be outweighed by the public benefits associated with the proposal. The modern approach to the design of the dwellings is welcomed with the layout of the development also respecting the characteristics of the environment in which it would be situated. Overall the proposal is considered compliant with Paragraphs 57, 59, 60, 61, 131, 132, 134 and 137 of the NPPF, Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policies E4 and H7 of the adopted Local Plan.

The removal of the farming operations from the site would lead to an overall reduction in the amount of vehicular movements associated with the two access points, in particular the access of Shakespeare Drive, and as part of the works improvements would be made to the widths and visibility splays associated with the access points. Sufficient levels of off-street parking are also proposed for each of the dwellings. Given that the County Highways Authority has raised no objections it is considered that the development would accord with Paragraphs 32 and 39 of the NPPF and Policies T3 and T8 of the adopted Local Plan. An existing public footpath (L42) would also not be impacted on by the development which would ensure compliance with Paragraph 75 of the NPPF.

Subject to appropriate conditions to mitigate against any impacts on protected species it is considered that the development would not conflict with Paragraph 118 of the NPPF or Circular 06/05. An agreement of a landscaping scheme would also ensure appropriate planting would be provided in order to comply with Policies E2 and E7 of the adopted Local Plan.

The imposition of conditions will address any land contamination concerns associated with the development to ensure compliance with Paragraphs 120 and 121 of the NPPF. Archaeological constraints would also be addressed by the imposition of conditions on any consent granted in order to comply with Paragraph 141 of the NPPF.

A condition would also be imposed to secure flood risk mitigation measures with surface water drainage also being appropriately controlled via a planning condition and on this basis the development accords with Paragraph 103 of the NPPF and Policy E30 of the adopted Local Plan.

It is therefore recommended that the application be permitted subject to the completion of a Section 106 Agreement to secure an off-site affordable housing contribution.

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

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the partial demolition of farm building, conversion and extension of remaining farm buildings to form two dwellings along with the erection of six additional dwellings and alterations to vehicular access at Village Farm, 36 Hall Gate, Diseworth. Village Farm (no. 36) is situated on the southern side of Hall Gate where it in part abuts this highway. Agricultural buildings of traditional and modern construction are located to the east and south of the farmhouse with vehicular accesses into the site being in place off Hall Gate as well as Shakespeare Drive. The site is situated within the defined Limits to Development with the surrounding area being residential in character and consisting of properties which vary in their type and design. It is also noted that the site is within the Diseworth Conservation Area with the Grade II Listed no. 25 Hall Gate being located to the north-east.

This application is linked with an additional residential development at land adjacent to Hallfield Farm (15/00949/FUL) and the relocation of the farmstead to land south of The Green (15/00950/FULM). These are considered and assessed in separate reports and are also reported on this Planning Committee agenda.

The scheme proposes the retention of two 18th/19th century agricultural buildings on the site (a dairy parlour and threshing barn) with all 20th century buildings being demolished. The dairy parlour and threshing barn would be extended and altered to form two dwellings with six new dwellings being constructed on land formerly occupied by the 20th century farm buildings, a total of eight dwellings would therefore be provided. The proposed new dwellings would be two-storey in nature and have been designed to reflect the agricultural heritage of the site in a contemporary way and in total five x three bed houses and three x four bed houses would be provided.

As part of the works the existing vehicular access into the site off Hall Gate and Shakespeare Drive would be altered to provide appropriate levels of visibility and allow vehicles to pull clear of the highway whilst another vehicle exits. It is proposed that the converted dairy parlour (plot 1) and the retained farmhouse (to be occupied by the applicant) would be served by the access off Hall Gate with plots 2 - 8 being served from the access off Shakespeare Drive. The layout shows that seven dwellings, including the converted threshing barn (plot 2) would be situated to the south of the farmhouse with the converted dairy parlour (plot 1) being located to the east; all properties would face onto the newly created access road.

A design and access statement, supporting planning statement, ecology report, highways report, phase 1 site appraisal (desk study), structural appraisal, flood risk assessment, archaeological standing building survey, archaeological desk based assessment and an archaeological evaluation have been submitted in support of the application.

No previous planning history was found.

### 2. Publicity

29 NO. Neighbours have been notified (Date of last notification 16 December 2015)

Site Notice displayed 13 October 2015

Press Notice published 21 October 2015

### 3. Consultations

Clerk To Long Whatton & Diseworth consulted 13 October 2015  
LCC Flood Management  
County Highway Authority  
Environment Agency  
Severn Trent Water Limited  
Head of Environmental Protection  
Natural England-  
NWLDC Tree Officer  
County Archaeologist  
LCC ecology  
NWLDC Conservation Officer  
Manager Of Housing North West Leicestershire District Council  
LCC/Footpaths  
NWLDC Footpaths Officer  
Building Control - NWLDC

### 4. Summary of Representations Received

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

**Environment Agency** has no objections subject to the imposition of a condition on any consent granted.

**Leicestershire County Council - Archaeology** has no objections subject to the imposition of conditions on any consent granted in respect of further archaeological investigations.

**Leicestershire County Council - Ecology** has no objections subject to the recommendations of the ecology report being made into planning conditions.

**Leicestershire County Council - Footpaths** no representation received.

**Leicestershire County Council - Highways** has no objections subject to the imposition of conditions on any consent granted.

**Leicestershire County Council - Lead Local Flood Authority** initially objected to the application as no assessment of the greenfield run-off rate has been supplied and the existing discharge rate is too high for a development site of this size.

**Long Whatton and Diseworth Parish Council** has no objections.

**Natural England** has no objections subject to their standing advice being considered.

**NWLDC - Conservation Officer** initially raised concerns in respect of some of the proposed alterations to the milking parlour and threshing barn as well as the proposed facing materials for the new dwellings and lack of variety on roofing materials. Following reconsultation the Conservation Officer considers that the works to the milking parlour and threshing barn would be acceptable although clarification is still required on the variety of roofing materials to be used on the new dwellings.

**NWLDC - Environmental Protection** no representation received.

**NWLDC - Environmental Protection (Contaminated Land)** has no objections subject to the imposition of conditions on any consent granted due to the agricultural use of the site and findings of the submitted Phase 1 Site Appraisal (Desk Study).

**NWLDC - Footpaths** no representation received.

**NWLDC - Housing Manager** provided advice outlining that an off-site contribution, in lieu of an on-site contribution of 2 x 2 bed houses, would be requested and if there were viability issues then a viability appraisal would be required.

**NWLDC - Tree Officer** has no objections.

**Severn Trent Water** no representation received.

### **Third Party Representations**

Two representations have been received from the occupants of nos. 28 Hall Gate and 2 The Gables who object to the application and whose comments are summarised as follows: -

- Proposed development will exacerbate a localised flooding impact associated with Diseworth Brook due to lack of controls over water discharge into this brook;
- Traffic generated by the development will have adverse impacts on the safe usage of the public highway and road users along Shakespeare Drive;
- In order to protect amenities the vegetation to the southern boundary should be retained in order to camouflage the development and reduce the glare from any lighting installed on the dwellings.

One representation from the occupant of 49 The Woodcroft has been received who supports the application and whose comments are summarised as follows: -

- Proposal would reduce the flow of large farm vehicles through the centre of the village;
- The plan is well designed and is a must for the village.

## **5. Relevant Planning Policy**

### **National Policies**

#### *National Planning Policy Framework*

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

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

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

- Paragraph 14 (Presumption in favour of sustainable development);
- Paragraph 17 (Core planning principles);
- Paragraphs 18-20 (Building a strong, competitive economy);
- Paragraph 32 (Promoting sustainable transport);



Paragraph 39 (Promoting sustainable transport);  
Paragraph 47 (Delivering a wide choice of high quality homes);  
Paragraph 49 (Delivering a wide choice of high quality homes);  
Paragraph 50 (Delivering a wide choice of high quality homes);  
Paragraph 54 (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 63 (Requiring good design);  
Paragraph 64 (Requiring good design);  
Paragraph 75 (Promoting healthy communities);  
Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change);  
Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change);  
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);  
Paragraph 109 (Conserving and enhancing the natural environment);  
Paragraph 112 (Conserving and enhancing the natural environment);  
Paragraph 118 (Conserving and enhancing the natural environment);  
Paragraph 121 (Conserving and enhancing the natural environment);  
Paragraph 123 (Conserving and enhancing the natural environment);  
Paragraph 131 (Conserving and enhancing the historic environment);  
Paragraph 132 (Conserving and enhancing the historic environment);  
Paragraph 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);  
Paragraph 206 (Planning conditions and obligations);

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

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

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan;  
Policy S2 - Limits to Development;  
Policy E2 - Landscaped Amenity Open Space;  
Policy E3 - Residential Amenities;  
Policy E4 - Design;  
Policy E7 - Landscaping;  
Policy E8 - Crime Prevention;  
Policy E30 - Floodplains;  
Policy T3 - Highway Standards;  
Policy T8 - Parking;  
Policy H6 - Housing Density;  
Policy H7 - Housing Design;  
Policy H8 - Affordable Housing;

### **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 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 Cc3 - Water - Flood Risk;  
 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.

#### **Diseworth Conservation Area Character Appraisal and Management Plan - April 2001.**

This document outlines that the special character of Diseworth is derived from the informal groupings of farmhouses, outbuildings and the former tied cottages along the curvatures of the principal streets. Although modern infill housing development has been undertaken, the overall pattern of the pre-enclosure settlement remains largely evident.

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

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

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

#### **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;

#### **Diseworth Village Design Statement**

This supplementary planning document addresses the positive and negative features raised by residents of Diseworth from a planning perspective.

#### **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 and Sustainability**

The site is located within the limits to development where the principle of residential development is considered acceptable subject to compliance with the relevant policies of the adopted North West Leicestershire Local Plan and other material considerations. Within the NPPF there is a presumption in favour of sustainable development and that proposals which accord with the development plan should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

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

The settlement of Diseworth benefits from a range of local services including a bus service (which connects Nottingham and Derby to East Midlands Airport, a school (Diseworth Church of England Primary School, Grimes Gate), community centre (Hall Gate), church (St Michaels & All Angels, Clements Gate) and public house (The Plough, Hall Gate). Convenience facilities and employment opportunities would also be available at the airport, which is easily accessible via public transport or cycling, with consideration also being given to the provision of a farm shop for the new farmstead proposed under application reference (15/00950/FULM) which may provide further convenience facilities.

Given this level of service it is considered that a scheme for eight dwellings would score well against the sustainability advice contained within the NPPF, with any future occupants of the development 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 considered sustainable in accordance with the core principles of the NPPF.

It is also concluded that the redevelopment of the site would fund the relocation of the farmstead to a new site at The Green with the resulting benefits of this being the removal of agricultural traffic from the centre of the settlement and the fact that the long-term viability of the farming enterprise would not be compromised by the lack of agricultural development opportunities at the existing sites.

## Density and Housing Mix

With a site area of 0.51 hectares the proposed development would have a density of 15.69 dwellings per hectare which would be significantly below the 40 dwellings per hectare advised by Policy H6 of the adopted Local Plan in locations well served by public transport and accessibility to services.

Whilst this density would fall below that advised in Policy H6 this policy also identifies that it is important to factor into any assessment the principles of good design as well as green space and landscaping requirements. It is noted that the site is situated within a conservation area, with parts of the site also being within flood zone 3, and as such a greater density of development is unlikely to be supported given the adverse impacts it would have on the setting of heritage assets as well as the potential flooding implications. A large area of the site would also be retained for the existing farmhouse, and its associated residential garden, with existing buildings also being converted in specific areas thereby only leaving the southern areas of the site 'open' to new development. In the circumstances that the existing farmhouse, and its traditional outbuildings, are considered to contribute positively to the streetscape their retention is essential and the setting of these buildings should also be duly protected. Overall, therefore, the proposals would not substantially conflict with the principles of Policy H6 as to warrant a refusal of the planning permission.

It is proposed that a mix of 3 and 4 bed dwellings would be provided with them mainly being two-storey in nature, the converted dairy parlour being the only single storey property, and this is considered to represent an appropriate housing mix on the site. As such the proposals would accord with Paragraph 50 of the NPPF.

## Viability of the Development

Given the proposed number of dwellings to be provided the only developer contribution which would be applicable to the scheme would be that associated with affordable housing. This contribution has been assessed against the equivalent legislative tests contained within the Community Infrastructure Levy (CIL) Regulations 2010 as well as Paragraphs 203 and 204 of the NPPF which outline that planning obligations should be:

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

### *Affordable Housing*

The Council's Affordable Housing Supplementary Planning Document (SPD) states that in Diseworth schemes for 5 or more dwellings should provide 30% of the proposed units as affordable housing (i.e. two units) with the Council's preferred position for this to be provided on site. The Council's Affordable Housing Enabler has advised that an off-site contribution, in lieu of onsite provision of 2 x 2 bed 4 person houses, calculated in line with the SPD be provided. An off-site contribution has been requested in this instance due to the reversal of the legislative requirement for affordable housing in the National Planning Practice Guidance (NPPG) at a late stage in the design and layout for the scheme. On this basis the application would currently be assessed in accordance with the Council's Affordable Housing SPD as more than 5 dwellings are proposed.

It has been identified by the planning agent that there are viability constraints associated with the development due to there being significant financial cost involved in the conversion of the

historic farmbuildings as well as removing the dilapidated farm buildings; as a result of this the development would not provide a competitive return to any landowner or developer. If viability is to be a constraint on the development then the Council's Affordable Housing Enabler has advised that a viability assessment would need to be supplied which should be independently assessed.

Paragraph 173 of the NPPF outlines that careful attention to viability and costs in plan-making and decision-taking should be undertaken with it being necessary for plans to be deliverable. As a result of this the NPPF outlines that development *"should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened,"* and that to ensure viability contributions should take account of normal costs for development and *"provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."*

A viability assessment submitted in support of the application has been independently assessed by the District Valuer (DV) which has concluded that the scheme could be policy compliant. This would be based on an all private housing scheme with an off-site commuted sum for affordable housing of £193,814.00 (which is based on the equivalent subsidy to 30% affordable housing) and such a scheme would be policy compliant with a profit level of 17.5% and shows a land value of £263,691.00 which is comparable with the benchmark outlined in the applicant's viability appraisal of £260,000.00.

The agent for the applicant is reviewing the findings of the DV's report and any further information received will be directed to Members via the Committee Update Sheet but for the avoidance of doubt, at this stage, the applicant is willing to enter into a Section 106 Agreement to provide the off-site affordable housing contribution. It has also been requested by the agent that consideration be given by Members to any future decisions in respect of the affordable housing contribution being delegated to the Planning Officer and Affordable Housing Enabler in light of the fact that on the 15th and 16th March 2016 the Court of Appeal is to consider the appeal relating to the 10 unit thresholds associated with when affordable housing contributions become applicable. Should such guidelines be reintroduced the proposed scheme would not be required to provide an off-site contribution.

As it stands the development would be considered compliant with Paragraph 173 as well as Policy H8 of the adopted Local Plan.

### **Residential Amenity**

It is considered that the properties most immediately affected by the proposed development would be the farmhouse (no. 36 Hall Gate) as well as nos. 28 and 38 Hall Gate, 1 Shakespear Close and Homecroft, Shakespeare Drive.

Overall the removal of agricultural operations from the site, which does involve the keeping of livestock, would result in betterment for the immediate neighbours with regards to smell and noise impacts.

No. 1 Shakspear Close and 28 Hall Gate lie to the west of the site and a distance of 19.0 metres would exist between the western (side) elevation of plot 8, a two-storey detached dwelling, and the eastern (front) elevation of no. 1 Shakespear Close with 16.0 metres being provided between the south-western corner of plot 8 and the eastern (side) elevation of no. 28 Hall Gate. No. 1 Shakespear Close and no. 28 Hall Gate are situated at a higher land level than those associated with the application site and given the distances proposed it is considered that there

would be no adverse overbearing or overshadowing impacts on the occupants amenities. In respect of overlooking implications a first floor landing and bathroom window are proposed in the western (side) elevation of plot 8 and as such there would be no direct overlooking impacts given that these rooms are not habitable rooms.

Homecroft on Shakespeare Drive is located to the south of the site and a 4.0 metre high conifer screen exists along the shared boundary with the site. Relevant distances of over 27.0 metres would be provided between the southern (rear) elevations of plots 6 and 7 and the northern (front) elevation of Homecroft and on this basis there would be no adverse overbearing, overshadowing or overlooking implications.

The converted dairy parlour (plot 1) would be a single storey dwelling and would lie 23.0 metres from the western (side) elevation of no. 38 Hall Gate with mature vegetation, as well as Diseworth Brook, existing between the elevations. In the context that the converted dairy parlour would be a single storey dwelling there would be no adverse overbearing, overshadowing or overlooking impacts on the amenities of no. 38.

In respect of the farmhouse (no. 36 Hall Gate) it is considered that the development has been arranged so that the new dwellings would not result in any adverse overbearing or overshadowing impacts on the farmhouse, the nearest new dwelling being plot 3 at a distance of 28.6 metres away. The converted agricultural buildings would also not impact adversely on the occupant's amenities, in respect of overbearing and overshadowing impacts, given that these buildings already exist. With regards to overlooking impacts it is noted that the farmhouse would retain a substantial sized amenity space with the part closest to the dwelling being considered its 'private' amenity space. Whilst plots 7 and 8 are only set 11.0 metres, at the closest point, from the 'defined' boundary with the farmhouse they would be around 32.0 metres from the elevation (where the 'private' amenity space is located) and as such this distance would ensure there would not be any adverse overlooking impacts. It is also considered that this relationship is no different to that which is established between the farmhouse and properties on the northern side of Hall Gate which are closer to the boundary. The converted threshing barn (plot 2) would provide a first floor bedroom window in the southern (side) elevation of this property but this would not lead to any direct overlooking impacts due to the orientation of the elevation leading to any view being at an oblique angle.

The relationship of the site with properties on the northern side of Hall Gate would be considered acceptable given the distance between the new dwellings and the existing properties.

With regards to future amenities it is considered that in the whole an acceptable relationship would exist between the proposed properties and the majority of the existing development around the site. Views may be established from no. 28 Hall Gate towards the rear amenity area of plot 8 but such views would be obscured by the presence of vegetation to the boundary with Shakespeare Drive and no views would be established into the dwelling itself. Views from the farmhouse (no. 36 Hall Gate) may also be established onto the private amenity space associated with the converted threshing barn (plot 2). Whilst such views may be established they are not considered to be of sufficient detriment to the future amenities of any occupants' as to warrant a refusal of the application given that any potential buyer would be aware of this relationship prior to their purchase. It is proposed that plots 6 and 7 would have first floor balconies projecting from their southern (rear) elevations and it considered reasonable to impose a condition on any consent granted for a screen to be provided to the eastern and western boundaries of these balconies in order to prevent a direct overlooking impact from occurring. This would also assist in protecting future amenities.

Overall it is considered that the development would accord with Paragraph 123 of the NPPF and Policy E3 of the adopted 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 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 site lies within the Diseworth Conservation Area with the Diseworth Conservation Area Character Appraisal and Management Plan of April 2001 indicating that no. 36 Hall Gate (Village Farm) and its traditional outbuildings are 'unlisted buildings of merit'. It is proposed that all modern agricultural structures would be removed from the site with the two traditional buildings being retained and adapted to become dwellings. Six new dwellings would be created on the land vacated by the modern agricultural structures which would be two-storey in height and which would take a more contemporary approach to their design concept by incorporating stone plinths with brick work, timber cladding and composite aluminium/timber windows.

In commenting on the application as originally submitted the Council's Conservation Officer highlighted concerns associated with the following:-

- Roadside extension to converted dairy parlour involves partial demolition of a characteristic stone boundary wall and that the junction with the gable would be awkward;
- Inclusion of a garage within the converted dairy parlour resulting in the loss of historic fabric;
- Introduction of too many roof lights into the converted dairy parlour;
- Omission of new openings in the eastern elevation of the converted dairy parlour;
- Retention of timber frame in the threshing barn;
- Diversity in the roofing materials utilised on the dwellings given that this is a characteristic of the surrounding area;

Through discussions with the agent these concerns have been addressed and as such it is considered that subject to the imposition of conditions the proposed development, overall, will result in less than substantial harm to the significance of heritage assets including the setting of no. 25 Hall Gate (Grade II Listed). Such harm would be outweighed by the public benefits of the development associated with the removal of the modern agricultural structures, the retention and enhancement of two traditional agricultural buildings recognised as unlisted buildings of merit and the provision of additional housing stock of mixed accommodation levels for the settlement within the defined Limits to Development.

In respect of the layout of the development this is largely influenced by where built forms are currently located with plots 1 and 2 being the converted buildings and the remaining dwellings being situated on land vacated by the modern agricultural structures. Such a layout is considered appropriate in the context of the characteristics of the surrounding area particularly as Shakespear Close, adjacent to the site, exists as a linear modern residential curl-de-sac located behind existing built forms on Hall Gate. The orientation of the principal elevation to plot 2 (converted threshing barn) also allows for a 'courtyard' aspect to be created which would

respect the historic significance of agricultural operations conducted from the site.

Although the proposed new dwellings would be of a modern design it is noted that Paragraph 60 of the NPPF 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."* In the circumstances that the Council's Conservation Officer has raised no objections it is considered that the contemporary design approach would be welcomed in providing dwellings which would have distinctive character, whilst still maintaining some significance to agriculture, and which would separate themselves from the neighbouring built forms.

It is identified on the drawings that the dwellings would be constructed utilising stone, brick and timber cladding with a variety of roofing materials being utilised (clay plain and clay pantile tiles as well as slate) and it is considered that the use of such materials would be appropriate in this environment which historically was agricultural. A condition would be imposed to agree the specific materials utilised along with conditions associated with eaves and verge detailing, precise details of joinery to the converted dairy parlour and a specific restoration plan for the timber frame and brick infill to the threshing barn.

Such a design approach is also considered to be consistent with the *"Buildings and spaces within the village"* recommendations of the Diseworth Village Design Statement by providing a development which is *"appropriate in scale," "constructed from materials which harmonise with traditional materials"* and by providing *"variety in both the size and style of houses within the group."*

Overall the development is considered compliant with Paragraphs 57, 59, 60, 61, 131, 132, 134 and 137 of the NPPF, Sections 66 and 72 of the 1990 Act and Policies E4 and H7 of the adopted Local Plan.

### **Highway Safety**

The County Highways Authority has commented on the application and have raised no objections subject to the imposition of conditions on any consent granted as well as relevant notes to the applicant.

At present the site is connected with the movement of agricultural traffic at both the access points. Within the submitted highways report it is indicated that 32 two-way movements are associated at the entrance off Hall Gate (by cars and light vans) with 100 two-way movements (peak-season) and 40 two-way movements (low season) being associated with the entrance off Shakespeare Drive (by large vehicles (e.g. tractors with trailers, articulated lorries etc)). The loss of the farming practice at the site will ultimately remove these vehicle movements from the accesses with it being anticipated that the equivalent two-way domestic vehicle movements associated with the access off Hall Gate would total 10 (one dwelling) with 70 two-way movements being associated with the access off Shakespeare Drive (seven dwellings). It is also noted that at present such movements at the Shakespeare Drive access are undertaken via an access which lacks the relative width to allow a vehicle to pull clear of the highway whilst another vehicle exits.

The proposed development of the site will ensure that the relative vehicular accesses off Hall Gate and Shakespeare Drive are upgraded to meet the requirements of the 6Cs Design Guide, in terms of access width and visibility achieved at the accesses, with the loss of agricultural traffic from the site representing a highway gain. Space also exists within the confines of the site



to ensure that vehicles can manoeuvre and exit the site in a forward direction. In conclusion the development would not have a detrimental impact on pedestrian or highway safety and therefore the development accords with Paragraph 32 of the NPPF and Policy T3 of the adopted Local Plan.

As part of the consideration of the application it has also been ensured that internal and external parking spaces have the relevant dimensions to accord with guidance contained within the 6Cs design guide with the only exception being the garage associated with the converted dairy parlour (plot 1) which has an increased width but not the required length. Whilst this integral garage space could not be classed as a parking space sufficient parking would be made available within the internal courtyard to ensure that the development would not lead to any on-street parking problems. As a result of this the development would accord with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan.

Public footpath L42 lies to the south of the access off Shakespeare Close but this would not be directly affected by the vehicle movements associated with the site given the point at which it commences, therefore the safety of users of this footpath would not be compromised. The development therefore accords with the principles of Paragraph 75 of the NPPF.

### **Ecology**

Natural England has no objections, subject to their standing advice being considered, and the County Council Ecologist also has no objections subject to the imposition of conditions on any consent granted. These conditions would largely relate to the provision of bat boxes to the older farm buildings, the provision of swallow nest-boxes, careful consideration being given to the lighting on the site to avoid impacts on Diseworth Brook, for a buffer zone of vegetation to be retained within 3 metres of the brook, for any site clearance to take place outside the bird nesting season and should the development not commence within three years of the September 2015 ecology surveys then an updated bat survey will be required prior to the development commencing. Subject to the imposition of such conditions on any consent granted for these matters to be addressed it is considered that protected species would not act as a constraint on the development and as such the proposal would accord with Paragraph 118 of the NPPF and Circular 06/05.

### **Landscaping**

The submitted drawings show that seven trees are present on the site and it would be necessary to remove a dead tree, a small multi-stemmed tree and holly which is growing up the former dairy parlour. It is considered that the vegetation to be removed makes no contribution towards the visual amenities of the wider area and therefore its loss would be accepted. In respect of the vegetation to be retained this is largely confined to the boundaries and as such would not be a constraint on the development due to the new dwellings largely being sited where agricultural buildings currently stand.

It is intended that landscaping would be provided as part of the development proposals, along with the retention of existing vegetation. At this stage the precise planting to be provided has not been specified and as such it is considered reasonable for a condition to be imposed on any consent granted for a soft landscaping scheme to be submitted to the Local Planning Authority for approval to ensure that the species of trees, and any potential hedgerows, are appropriate and will integrate well into the development. Subject to the imposition of such a condition it is considered that the development would accord with Policies E2 and E7 of the adopted Local Plan.

## Archaeology

The County Council Archaeologist has indicated that an appraisal of the Leicestershire and Rutland Historic Environment Record (HER) notes that the site is within the medieval and post-medieval historic settlement core of Diseworth with the proposals including the redevelopment of Village Farm which incorporates a number of historic buildings. These buildings have been subjected to a preliminary phase of building assessment with limited trial trenching also being undertaken on the site.

It has been ascertained, from the limited trial trenching undertaken, that the development area has not been subject to significant disturbance and there remains good potential for the presence of below ground archaeological deposits relating to the medieval and post-medieval occupation of Diseworth.

Given the opportunities which exist for archaeological remains to be present on the site the County Council Archaeologist considers it necessary for conditions to be imposed on any consent for a written scheme of investigation and programme of archaeological mitigation to be provided, in advance of the development commencing, in order to record and advance the understanding of the significance of any heritage assets. Such conditions are considered reasonable given the possibility of archaeological remains being present on the site and their inclusion therefore ensures the development complies with Paragraph 141 of the NPPF.

## Development and Flood Risk

Following a review of the submitted Flood Risk Assessment (FRA) the Environment Agency (EA) has raised no objections subject to the imposition of a condition on any consent granted for the mitigation measures detailed within the FRA to be provided.

The original objection of the Lead Local Flood Authority (LLFA) has also been addressed by the submission of further information which demonstrates that surface water run-off from the site could be appropriately managed within a sustainable urban drainage scheme (SuDS) which would result in betterment and reduce flows to Diseworth Brook. In the circumstances that a condition is imposed on any consent granted to secure such a scheme the proposal would be considered compliant with Paragraph 103 of the NPPF and Policy E30 of the adopted Local Plan.

Insofar as foul drainage is concerned it is indicated on the application forms that this would be discharged to the mains sewer with such discharge being agreed with Severn Trent Water under separate legislation. In the circumstances that no representation has been received from Severn Trent Water advising that such an approach would not be appropriate it is considered that any additional demands for foul drainage discharge could be met by the existing sewerage system in place. Overall, therefore, the development would accord with Paragraph 120 of the NPPF.

## Other Matters

The Council's Land Contamination Officer has reviewed the submitted land contamination report and has no objections subject to the imposition of conditions on any consent granted for a further risk based land contamination assessment to be undertaken due to the agricultural use of the site. It is considered that such a condition is reasonable, given that this is a recommendation of the submitted land contamination report, and its imposition will ensure that the development accords with Paragraphs 120 and 121 of the NPPF.

## Summary Reasons for Granting Planning Permission

The site is situated within the defined limits to development where there would be a presumption in favour of development with Diseworth also being considered a sustainable settlement for new development given the level of service provision. On this basis the proposal would accord with Paragraphs 14, 28, 49 and 55 of the NPPF and Policy S2 of the adopted Local Plan. It is considered that the density of the scheme and the mix of housing on the site would also be acceptable and would accord with Paragraph 50 of the NPPF and Policy H6 of the adopted Local Plan.

It is proposed that an off-site affordable housing contribution would be provided on the basis that this has been demonstrated to be viable by the District Valuer and as such the scheme would accord with Paragraphs 173, 203 and 204 of the NPPF as well as Policy H8 of the adopted Local Plan.

On the basis of the proposed layout, scale and position of the dwellings it is considered that the amenities of both existing and future occupants would be adequately protected and as a consequence there would be no adverse overbearing, overshadowing or overlooking impacts. General noise and smells associated with the site would also be improved due to the removal of the farming operations. As such the development accords with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

It is considered that the site is of a sufficient size to accommodate eight dwellings and will allow the restoration and enhancement of buildings recognised as non-designated heritage assets. Overall the less than substantial harm caused to the significance of the heritage assets would be outweighed by the public benefits associated with the proposal. The modern approach to the design of the dwellings is welcomed with the layout of the development also respecting the characteristics of the environment in which it would be situated. Overall the proposal is considered compliant with Paragraphs 57, 59, 60, 61, 131, 132, 134 and 137 of the NPPF, Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policies E4 and H7 of the adopted Local Plan.

The removal of the farming operations from the site would lead to an overall reduction in the amount of vehicular movements associated with the two access points, in particular the access of Shakespeare Drive, and as part of the works improvements would be made to the widths and visibility splays associated with the access points. Sufficient levels of off-street parking are also proposed for each of the dwellings. Given that the County Highways Authority has raised no objections it is considered that the development would accord with Paragraphs 32 and 39 of the NPPF and Policies T3 and T8 of the adopted Local Plan. An existing public footpath (L42) would also not be impacted on by the development which would ensure compliance with Paragraph 75 of the NPPF.

Subject to appropriate conditions to mitigate against any impacts on protected species it is considered that the development would not conflict with Paragraph 118 of the NPPF or Circular 06/05. An agreement of a landscaping scheme would also ensure appropriate planting would be provided in order to comply with Policies E2 and E7 of the adopted Local Plan.

The imposition of conditions will address any land contamination concerns associated with the development to ensure compliance with Paragraphs 120 and 121 of the NPPF. Archaeological constraints would also be addressed by the imposition of conditions on any consent granted in order to comply with Paragraph 141 of the NPPF.

A condition would also be imposed to secure flood risk mitigation measures with surface water drainage also being appropriately controlled via a planning condition and on this basis the development accords with Paragraph 103 of the NPPF and Policy E30 of the adopted Local Plan.

It is therefore recommended that the application be permitted subject to the completion of a Section 106 Agreement to secure an off-site affordable housing contribution.

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

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

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

- 2 The proposed development shall be carried out strictly in accordance with the following drawing numbers: -

- 20625\_01\_P Revision A (Site B - Existing Floor Plans), received by the Local Authority on the 12th October 2015;
- 20625\_02\_P Revision A (Site B - Existing Elevation Layout Plan), received by the Local Authority on the 12th October 2015;
- 20625\_03\_E Revision A (Site A - Existing Elevations), received by the Local Authority on the 8th December 2015;
- 20625\_04\_E Revision 0 (Site B - Existing Elevations), received by the Local Authority on the 12th October 2015;
- 150 (08) 005 (Site Location Plan), received by the Local Authority on the 12th October 2015;
- 150 (02) 002 (Existing Site Plan), received by the Local Authority on the 12th October 2015;
- 150 (08) 002 Revision G (Proposed Site Layout), received by the Local Authority on the 25th November 2015;
- 150 (08) 011 Revision E (Plot 1 - Proposed Plans and Elevations), received by the Local Authority on the 8th December 2015;
- 150 (08) 012 Revision D (Plot 2 - Proposed Plans and Elevations), received by the Local Authority on the 25th November 2015;
- 150 (08) 013 Revision B (Plot 3 - Proposed Plans and Elevations), received by the Local Authority on the 8th December 2015;
- 150 (08) 014 Revision B (Plot 4 - Proposed Plans and Elevations), received by the Local Authority on the 8th December 2015;
- 150 (08) 015 Revision D (Plot 5 - Proposed Plans and Elevations), received by the Local Authority on the 25th November 2015;
- 150 (08) 016 Revision B (Plot 6 - Proposed Plans and Elevations), received by the Local Authority on the 8th December 2015;
- 150 (08) Revision B (Plot 7 - Proposed Plans and Elevations), received by the Local Authority on the 8th December 2015;
- 150 (08) 018 Revision D (Plot 8 - Proposed Plans and Elevations), received by the Local Authority on the 25th November 2015;

unless otherwise required by another condition of this permission.

*Reason - to determine the scope of the permission.*

3 Notwithstanding the details shown on the approved plans, nor Condition 2 above, no dwelling shall be built above damp proof course level nor shall conversion works commence on Plots 1 and 2 until the following have been submitted to and agreed in writing by the Local Planning Authority: -

- Precise details of the external materials to be used in the development (including bricks, roof tiles, stone and timber cladding);
- Precise details, including manufacturers details, of the paint finish to the timber cladding and all other external joinery;
- Precise details, including sections, of the hopper window and roof lights to be installed in plot 1;
- Details of the brick bond;
- Position of the meter boxes and their external finish;
- Details of the rainwater goods;
- Details of the verges and eaves;

The development shall then be carried out in accordance with the approved details which shall thereafter be so retained.

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

4 Notwithstanding the provision of Part 1 (Classes A - E) of Schedule 2, Article 3 of the Town and County Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) the dwellings, hereby permitted, shall not be enlarged, improved or altered unless planning permission has first been granted by the Local Planning Authority.

*Reason - to enable the Local Planning Authority to retain control over future development in view of maintaining the overall appearance of the scheme, given its setting with heritage assets, and in the interests of preserving the amenities of neighbours.*

5 No development shall commence on plot 2 until a schedule of works associated with the repairs to the timber frame and details of any brick infilling have first been submitted to and agreed in writing by the Local Planning Authority. Once agreed the works indicated within the schedule shall be carried out in full prior to the first occupation of plot 2 and shall thereafter be so retained.

*Reason - in the interests of the preservation of non-designated heritage assets and the significance of the heritage asset.*

6 Notwithstanding the details shown on the approved plans, nor Condition 2 above, plots 6 and 7 shall not be built above damp proof course level until details of a screen to prevent overlooking to the east and west to a height of 1.8 metres for the projecting rear balconies on these plots has first been submitted to and agreed in writing by the Local Planning Authority. Once approved the screening shall be provided before first occupation of the relevant plots and shall thereafter be so retained.

*Reason - in the interests of preserving the amenities of future occupants.*

- 7 The windows serving the bathroom at first floor level in the northern elevation of plot 4 and en-suite and dressing room in the northern elevation of plot 2 shall be glazed with obscure glass, to Pilkington Standard 3 (or its equivalent) and non-opening, unless the opening part is more than 1.7 metres above the internal floor level of the room in which the window is installed, which once provided shall thereafter be so retained.

*Reason - in the interests of preserving the amenities of existing and future occupants.*

- 8 Notwithstanding the details shown on the approved plans before first occupation/use of the dwellings, hereby permitted, a scheme of soft and hard landscaping (with the soft landscaping scheme retaining and promoting natural vegetation within a 3 metre buffer zone with the banks of Diseworth Brook) shall be submitted to and agreed in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the first occupation/use of the dwelling(s) with the hard landscaping scheme being provided in full prior to the first occupation/use of any dwelling unless an alternative implementation programmes are first agreed in writing with the Local Planning Authority.

*Reason - to ensure a satisfactory landscaping scheme is provided within a reasonable period, in the interests of visual amenity given the site's relationship with heritage assets and to protect the amenity of trees and maintain wildlife habitat.*

- 9 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.*

- 10 No development shall commence until all the existing trees to be retained have been securely fenced off by the erection, to coincide with the canopy of the tree where possible, of a 1.4 metre high protective barrier in accordance with BS 5837:2012. In addition all hedgerows that are to be retained shall be protected by a 1.2 metre high protective barrier which shall be erected at least 1.0 metre from the hedgerow. Within the fenced off areas there shall be no alteration to the ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand.

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

- 11 No development shall commence on site until a method statement detailing how a no-dig drive design (which will include an indication of existing and finished ground levels) will avoid soil compaction and root damage to the Black Maple and Hawthorn tree adjacent to plot 8, as shown on drawing number 150 (08) 002 Revision G received by the Local Authority on the 25th November 2015, has been submitted to and agreed in writing by the Local Planning Authority. Once approved the development shall be carried out in accordance with the approved scheme.

*Reason - to ensure that the integrity of existing trees are protected in the interests of the visual*

*amenities of the area.*

- 12 Notwithstanding the details shown on the approved plans before occupation/use of the dwellings, hereby permitted, a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railing, other means of enclosure) and the relevant elevation details (should brick walls be proposed than the brick bond shall also be specified) shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be provided in full prior to the first occupation/use of any dwelling hereby approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.

Notwithstanding the provisions of Class A, of Part 2, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gate, wall or fence shall be erected on land forward of any wall of the dwelling(s) which front onto a highway (which shall include any private highway) other than any that are agreed under this Condition or other then in accordance with a comprehensive and unified scheme of enclosure which has first been submitted to and agreed in writing by the Local Planning Authority.

*Reason - to preserve the amenities of the locality and residents, in the interests of highway safety and in the interests of the significance of heritage assets.*

- 13 Before first occupation/use of the dwellings, hereby permitted, the following shall be provided:-

- Visibility splays in accordance with the details shown on drawing no. ADC1225/002 Rev D, received by the Local Authority on the 12th October 2015 as shown in the Highways Report by ADC Infrastructure Limited, shall be provided at the junction of the accesses with Hall Gate and Shakespeare Drive. These shall be in accordance with the standards contained in the current County Council design guide and shall be so maintained in perpetuity. Nothing shall be allowed to grow above a height of 0.6 metres, or overhang lower than 2.0 metres, within the visibility splays;
- Any shared private drives serving no more than a total of 5 dwellings shall be a minimum of 4.25 metres wide for at least the first 5 metres behind the highway boundary and have a drop crossing of a minimum size as shown in Figure DG20 of the 6Cs Design Guide at its junction with the adopted road carriageway.  
NOTE: If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it so bounded on both sides, additional 0.5 metre strips will be required on both sides;
- Any shared private drive serving more than 5 but no more than 25 dwellings shall be a minimum of 4.8 metres wide for at least the first 5 metres behind the highway boundary and have a drop crossing of a minimum size as shown in Figure DG20 of the 6Cs Design Guide at its junction with the adopted road carriageway. The access drive shall be provided before any dwelling hereby permitted is first occupied and shall thereafter be permanently so maintained.  
NOTE: If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides;
- The external car parking and turning facilities (to ensure vehicles exit the site in a forward direction) shown on drawing number 150 (08) 002 Revision G, received by the Local Authority on the 25th November 2015, and the internal car parking shown on drawing numbers 150 (08) 012 Revision D (Plot 2), 150 (08) 015 Revision D (Plot 5) and

150 (08) 018 Revision D (Plot 8), received by the Local Authority on the 25th November 2015, and drawing numbers 150 (08) 011 Revision D (Plot 1), 150 (08) 013 Revision B (Plot 3), 150 (08) 014 Revision B (Plot 4), 150 (08) 016 Revision B (Plot 6) and 150 (08) Revision B (Plot 7), received by the Local Authority on the 8th December 2015;

- Drainage shall be provided within the site such that surface water does not drain into the public highway;
- The access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate), in accordance with the scheme agreed under Condition 8 of this permission, for a distance of at least 5.0 metres behind the highway boundary;

Once provided the above shall thereafter be so permanently maintained (including internal car parking spaces within garages) with any relevant turning area also not being obstructed.

*Reasons - to afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety; to ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway; to enable vehicles to enter and leave the highway in a slow and controlled manner in the interests of general highway safety; to ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users; to reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users; to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.).*

- 14 The gradients of the access drives shall not exceed 1:12 for the first 5.0 metres behind the highway boundary.

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

- 15 No development shall commence until a programme of historic building survey and archaeological investigation defined within a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority in consultation with the County Council Archaeologist. The scheme shall include an assessment of significance and research questions; and

- The programme and methodology of historic building survey and recording;
- The programme for post investigation assessment and analysis;
- Provision to be made for publication and dissemination of the analysis and records of the investigation;
- Provision to be made for archive deposition of the analysis and records of the site investigation;
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation;

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



*Reason - to ensure a satisfactory historic building survey and archaeological investigation to record and advance understanding of the significance of the affected resource prior to its loss.*

16 No development shall take place until a programme of archaeological mitigation, informed by an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation, submitted to and approved in writing by the Local Planning Authority in consultation with the County Council Archaeologist. The scheme shall include an assessment of significance and research questions; and

- The programme and methodology of site investigation and recording (informed by consideration of the results of the exploratory trenching);
- The programme for post-investigation assessment;
- Provision to be made for analysis of the site investigation and recording;
- Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- Provision to be made for archive deposition of the analysis and records of the site investigation;
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation;

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

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

17 The development shall not be occupied until the site investigation and post-investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 16 (above) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

*Reason - to ensure satisfactory completion of the archaeological investigation and recording, including submission of reports and deposition of the project archive.*

18 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) September 2015/14342/FRA/BSP Consulting and the following mitigation measures detailed within the FRA:

1. No development or land raising within Flood Zone 2 and 3;
2. Areas within the flood plain such as gardens will remain at the same level to enable flood water to flow;
3. Any decking within the Flood Zones should be made floodable to ensure there is no increase in flood risk elsewhere;
4. Identification and provision of safe route(s) into and out of the site to an appropriate safe haven as outlined in section 3.6.4 of the FRA;
5. Run-off from the site will be 30% better than the current to ensure no increase in river flows.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the

scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the Environment Agency.

*Reason - to reduce the risk of flooding to the proposed development and future occupants; to ensure safe access and egress from and to the site.*

- 19 No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority (LLFA).

The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of suitable treatment trains to help improve water quality; the limitation of surface water run-off to appropriate rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing and phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing by the Local Planning Authority in consultation with the LLFA.

Full details for the drainage proposal should be supplied, including but not limited to features such as, long sections and full modal scenario's for the 1 in 1, 1 in 30 and 1 in 100 year + climate change. Where discharging to a sewer, this should be modelled as surcharged for all events above the 1 in 30 year, to account for design standards of the public sewers.

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

- 20 The discharge rate for the proposed site shall be designed in accordance with the information submitted by email to the Lead Local Flood Authority (LLFA) by BSP Consulting dated 9th December 2015 detailing a discharge rate of 15.4 l/s. This provides increased betterment over the existing site discharge rate and that originally proposed for the development site.

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

- 21 No development (except any demolition permitted by this permission) shall commence on site until a Further Risk Based Land Contamination Assessment, as recommended by GRM report Diseworth, Leicestershire Phase I Site Appraisal (Desk Study) for F J Dakin & Son Ltd Project Ref: P6659/DS.1 Date: July 2014 Prepared for: F J Dakin & Son Ltd Village Farm 36 Hall Gate Diseworth Derby DE74 2QJ, received by the Local Authority on the 12th October 2015, has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

- BS10175:2011+A1:2013 Investigation of Potentially Contaminated Sites Code of Practice;

- BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);
- BS 8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, no development shall commence on site until a Remedial Scheme and Verification Plan have been prepared and submitted to, and approved in writing, by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004; and
- 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:

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

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

22 Prior to occupation of any part of the completed development, or part thereof, either:

If no remediation was required by Condition 21 a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of the development, or part thereof, is received and approved in writing by the Planning Authority, or

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 the whole development, or part thereof, shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

- Contain a full description of the works undertaken in accordance with the agreed

- Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
- Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- Demonstrate the effectiveness of the approved Remedial Scheme; and
- Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

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

23 No new dwelling shall be built above damp proof course level until the following have been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist: -

- The proposed position and design of bat boxes to be installed in the dwellings;
- The proposed position and design of bird boxes for swallows to be installed in the dwellings;
- The proposed position and design of external lighting to the properties which should be directed away from retained boundary features and Diseworth Brook, where this is not possible the lighting shall be of a down-lighting or cut-off beam type in order to reduce the overall amount of light spill;

Once agreed the development shall thereafter be carried out in accordance with the approved details which shall thereafter be retained unless alternative details are first submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist.

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

24 No development shall commence on site until a method statement for the construction of the development has been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist. The method statement shall have particular regard to the pollution control measures which will reduce the risk of pollution events within Diseworth Brook, i.e. increased sediment load in surface water run-off. Once agreed the development shall thereafter be carried out in strict accordance with the method statement.

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

25 Operations that involve the destruction/removal/management of vegetation, or the conversion of the dairy parlour and threshing barn, shall not be undertaken during the months of March to August inclusive unless otherwise agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist.

*Reason - to ensure that nesting birds (a protected species) are adequately protected and their habitat enhanced.*

26 Prior to the occupation of any dwelling a landscape/ecological management plan,

including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas and areas of retained habitat (which shall include any planting within a 3 metre buffer zone of the banks of Diseworth Brook but exclude all other planting within the privately owned domestic gardens), together with a timetable for implementation, shall first be submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist. Thereafter, the management plan shall be implemented in accordance with the approved details and timetable, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority.

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

- 27 If no development has commenced on site, with regards to the partial demolition of farm building, conversion and extension of remaining farm buildings to form two dwellings along with the erection of six additional dwellings and alterations to vehicular access prior to September 2018 then no development shall commence until an updated bat survey (which shall include any mitigation measures and licenses which would be obtained) has been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist. Once agreed the development shall thereafter be carried out in accordance with the recommendations of the bat survey and any mitigation measures once provided shall thereafter be so retained.

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

- 28 No development shall commence on site until the finished floor levels of the proposed dwellings, which shall be related to a fixed datum point off the site, have first been submitted to and agreed in writing by the Local Planning Authority. Once agreed the development shall be carried out in accordance with the approved details and shall thereafter be so retained.

*Reason - to determine the scope of the permission given that no precise details have been supplied and in the interests of residential and visual amenity.*

- 29 Notwithstanding the requirements of Condition 2 above, nor the information shown on drawing number 150 (08) 002 Revision G, received by the Local Authority on the 25th November 2015, no dwelling shall be built above damp proof course level until details of an enclosed bin collection area/point have been submitted to and agreed in writing by the Local Planning Authority. Once agreed the bin collection area shall be provided prior to the first occupation/use of any of the dwellings and shall thereafter be so retained.

*Reason - to ensure that the development takes the form envisaged by the Local Planning Authority and in the interests of residential and visual amenity.*

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 This decision is subject to a Section 106 Obligation regarding the following matters: -
- Contribution towards off-site affordable housing;
- 4 The proposed road(s) do not conform to an acceptable standard for adoption and therefore they will NOT be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all plots served by the private roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg) or email [road.adoptions@leics.gov.uk](mailto:road.adoptions@leics.gov.uk). Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it. Details of the future maintenance of the private road should be submitted for the approval of the Local Planning Authority before any dwelling is occupied.
- 5 Drawing no. 150(08)002 Revision G (Proposed Site Layout), received by the Local Authority on the 25th November 2015, provides details of physical kerbs (solid lines on both sides, demarcating the accesses) at the junctions of the accesses with Hall Gate and Shakespeare Drive. However, in accordance with the above conditions, the accesses shall be provided in a dropped crossing arrangement.
- 6 The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.
- 7 This planning permission does NOT allow you to carry out access alterations in the highway. Before such works can begin, separate permits or agreements will be required under the Highways Act 1980 from the Infrastructure Planning team. For further information, including contact details, you are advised to visit the County Council website: - see Part 6 of the '6Cs Design Guide' at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg).
- 8 Any street furniture or lining that requires relocation or alteration shall be carried out entirely at the expense of the applicant, who shall first obtain the separate consent of the Highway Authority.
- 9 During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage)(England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.
- 10 It is recommended that the installation of fittings that will minimise water usage such as low, or dual, flush WC's, spray taps and economical shower-heads in the bathroom are installed. Power showers are not recommended as they can consume more water than an average bath. Water efficient versions of appliances such as washing machine and dishwashers are also recommended. For outdoors consider installing a water butt, or even a rainwater harvesting system, to provide a natural supply of water for gardens. Simple treatment systems exist that allow rainwater to be used to supply WC's within the home. Following the above recommendations will significantly reduce water consumption and associated costs when compared to traditional installations. Rainwater harvesting utilises a free supply of fresh water and reduces the cost to the environment and the householder.

- 11 In respect of Condition 29 of the consent given the site's setting within a Conservation Area the bin collection area will need to be an enclosed structure constructed from the approved materials for the residential scheme;
- 12 Bats are a rare and declining group of species. Hence, all British species of bat and bat roosts are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection or disturb bat roosts. If bat or bat roosts are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0115 929 1191) should be notified and further advice sought. Failure to comply with this advice may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both.
- 13 The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in prosecution any anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both, as it is an offence to disturb nesting/breeding birds.
- 14 If there are works proposed as part of an application which are likely to affect flows in a watercourse or ditch, then the applicant may require consent under s.23 Land Drainage Act 1991. This legislation is separate from the planning process. Guidance on this process and a sample application form can be found via the following website: [www.leics.gov.uk/watercourse](http://www.leics.gov.uk/watercourse). No development should take place within 5 metres of any watercourse or ditch without first contacting the County Council for advice.
- 15 Following the DEFRA/DCLG consultation and subsequent legislation change surrounding the future adoption and maintenance of SuDS brought into power on April 15th 2015, Leicestershire County Council are no longer the SuDS Approval Body (SAB) and are now a statutory consultee in the planning process. For all enquiries regarding the application and future adoption and maintenance of SuDS features, please direct these to the District Council.
- 16 Please note, it is the responsibility of the Local Planning Authority under the DEFRA/DCLG legislation (April 2015) that the adoption and future maintenance of the SuDS features should be discussed with the developer and a suitable maintenance schedule agreed before commencement of the works.
- 17 The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor. The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

**This page is intentionally left blank**



Partial demolition of farm buildings, conversion and extension of remaining farm building to form one dwelling along with the erection of three additional dwellings and alterations to access.

Report Item No  
A5

Hallfield Farm 1 Hall Gate Diseworth Derby DE74 2QJ

Application Reference  
15/00949/FUL

Applicant:  
Mr & Mrs Dakin

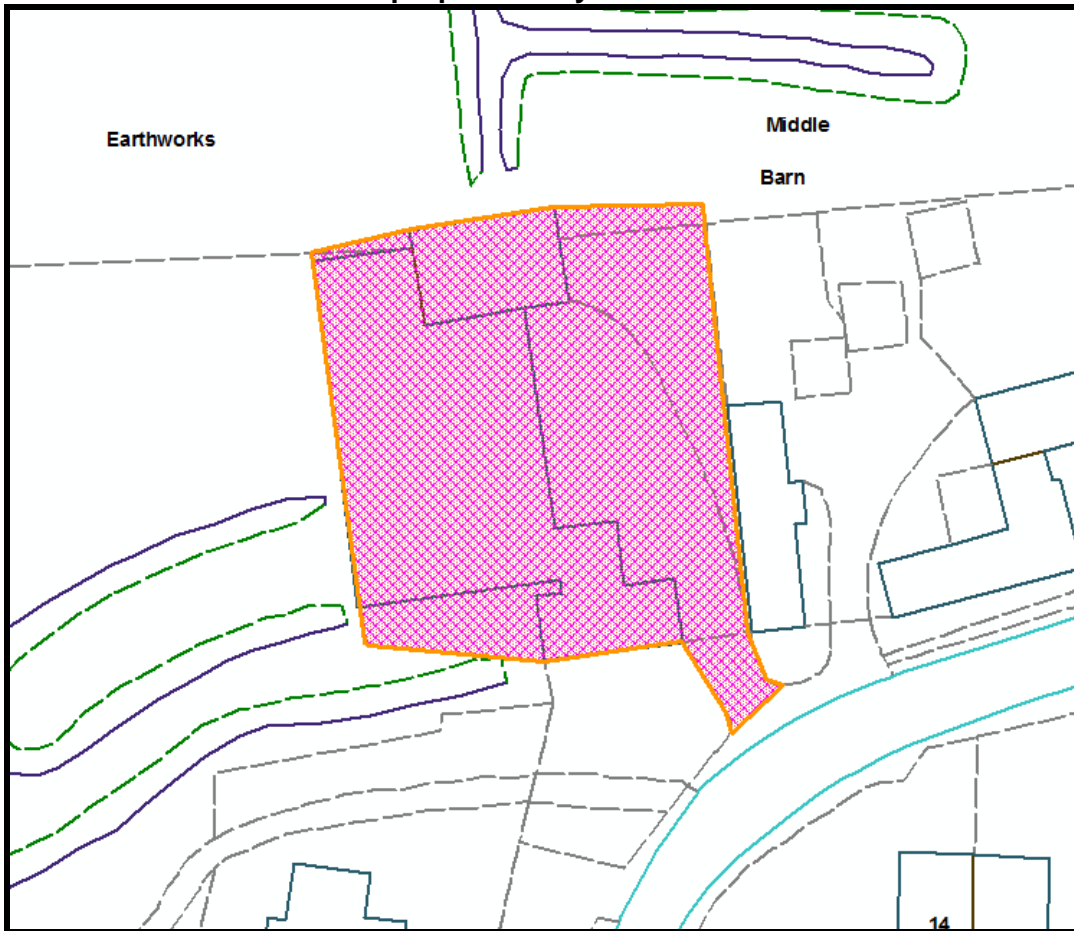
Date Registered  
12 October 2015

Case Officer:  
Adam Mellor

Target Decision Date  
7 December 2015

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office ©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329

## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application has been brought to the Planning Committee as one of three linked applications associated with residential development on two existing farm sites in Diseworth connected with Village Farm on Hall Gate and the relocation of the farmstead. The linked applications are considered under references 15/00948/FUL and 15/00950/FULM.

### Proposal

This application relates to the partial conversion of one agricultural building which would be converted to a residential dwelling and the provision of three new two-storey dwellings following the removal of modern agricultural structures at land adjacent to Hallfield Farm, 1 Hall Gate, Diseworth. It is proposed that the new dwellings would be of a contemporary design and that the dwellings would be served by an existing vehicular access point which would be upgraded. The application site is within the defined Limits to Development.

### Consultations

A total of three no. individual representations have been received with two of those representations opposed to the development and one in support of the development. Long Whatton and Diseworth Parish Council have also objected to the application. All other statutory consultees have raised no objections subject to the imposition of conditions on any consent granted.

### Planning Policy

It is considered that the development would remain compliant with all relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant Policies of the current, and draft emerging, North West Leicestershire Local Plan and other guidance.

### Conclusion

The site is situated within the defined limits to development where there would be a presumption in favour of development with Diseworth also being considered a sustainable settlement for new development given the level of service provision. On this basis the proposal would accord with Paragraphs 14, 28, 49 and 55 of the NPPF and Policy S2 of the adopted Local Plan. It is considered that the density of the scheme and the mix of housing on the site would also be acceptable and would accord with Paragraph 50 of the NPPF and Policy H6 of the adopted Local Plan.

On the basis of the proposed layout, scale and position of the dwellings it is considered that the amenities of both existing and future occupants would be adequately protected, particularly given the presence and scale of existing buildings on the site and the orientation of development to the site, and as a result there would be no adverse overbearing, overshadowing or overlooking impacts. General noise and smells associated with the site would also be improved due to the removal of the farming operations. In these circumstances the development accords with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

It is considered that the site is of a sufficient size to accommodate four dwellings and will retain

stone walling which is an important habitat for bats. Overall the less than substantial harm caused to the significance of the heritage assets would be outweighed by the public benefits associated with the proposal. Whilst of a contemporary design this is considered to be acceptable and will enhance the character of the area with the layout also being reflective of former agricultural sites which have been redeveloped for housing. Overall the proposed development is considered compliant with Paragraphs 57, 59, 60, 61, 131, 132, 134 and 137 of the NPPF, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policies E4 and H7 of the adopted Local Plan.

Whilst the loss of farming operations would not physically alter the overall amount of vehicular movements associated with the access, with there actually being an overall increase, the type of vehicles associated with the site would change and as part of the application the access would be upgraded to ensure that it conforms with the 6Cs Design Guide in relation to the provision of visibility splays and an appropriate width. Sufficient off-street parking and manoeuvring facilities would also be accommodated within the site. Given that no objections have been raised by the County Highways Authority it is considered that that the development would accord with Paragraphs 32 and 39 of the NPPF and Policies T3 and T8 of the adopted Local Plan.

Subject to appropriate conditions being imposed to mitigate against any impacts on protected species it is considered that the development would not conflict with Paragraph 118 of the NPPF or Circular 06/05. An agreement of a landscaping scheme would also ensure appropriate planting would be provided in order to comply with Policies E2 and E7 of the adopted Local Plan.

The imposition of conditions will address any land contamination concerns associated with the development to ensure compliance with Paragraphs 120 and 121 of the NPPF. Archaeological constraints would also be addressed by the imposition of conditions on any consent granted in order to comply with Paragraph 141 of the NPPF.

A condition would also be imposed to secure flood risk mitigation measures with surface water and foul drainage also being appropriately controlled via a planning condition and on this basis the development accords with Paragraphs 103 and 120 of the NPPF as well as Policy E30 of the adopted Local Plan.

It is therefore recommended that the application be permitted.

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

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and 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 partial demolition of farm buildings, conversion and extension of remaining farm building to form one dwelling along with the erection of three additional dwellings and alterations to access at land adjacent to Hallfield Farm, 1 Hall Gate, Diseworth. The application site is located to the west of Hallfield Farm and a range of agricultural buildings, of both modern and traditional construction, are presently on the site which are used in connection with the farming operations undertaken at Village Farm (no. 36 Hall Gate). Vehicular access into the site is achieved from The Bowley which is adjacent to Middle Barn. The site is situated within the Limits to Development with the surrounding area being residential in character and consisting of properties which vary in their type and design. It is also noted that the site is within the Diseworth Conservation Area with the Grade II Listed no. 16 Hall Gate being located to the east of the site.

This application is linked with an additional residential development at Village Farm (no. 36 Hall Gate) (15/00948/FUL) and the relocation of the farmstead to land south of The Green (15/00950/FULM). These are considered and assessed in separate reports and are also reported on this Planning Committee agenda.

The scheme proposes the retention of a 19th century cart shed with all 20th century buildings being demolished. It is proposed that the cart shed would be extended and altered to form one dwelling with three additional properties being constructed on the land formerly occupied by the 20th century farm buildings, a total of four dwellings would therefore be provided. The proposed dwellings would be two-storey in nature and have been designed to reflect the agricultural heritage of the site in a contemporary way and in total two x three bed houses, one x four bed house and one x five bed house would be provided.

As part of the works the vehicular access into the site off The Bowley would be provided with appropriate levels of visibility and will allow vehicles to pull clear of the highway whilst another vehicle exits. The layout shows that the converted cart shed would be located to the southern boundary with plots 2 and 3 being in close proximity to the western boundary and plot 4 being towards the northern boundary.

A design and access statement, supporting planning statement, ecology report, highways report, phase 1 site appraisal (desk study), structural appraisal, flood risk assessment, archaeological standing building survey, archaeological desk based assessment and an archaeological evaluation have been submitted in support of the application.

No previous planning history was found.

### 2. Publicity

6 No neighbours have been notified (date of last notification 14 October 2015)

Site Notice displayed 14 October 2015

Press Notice published 21 October 2015

### 3. Consultations

Clerk To Long Whatton & Diseworth consulted 14 October 2015  
Head of Environmental Protection

NWLDC Conservation Officer  
 County Highway Authority  
 Environment Agency  
 Severn Trent Water Limited  
 Natural England- Within 2k Of SSSI  
 NWLDC Tree Officer  
 County Archaeologist  
 LCC ecology  
 LCC Flood Management  
 Building Control - NWLDC  
 NWLDC Conservation Officer

#### 4. Summary of Representations Received

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

**Environment Agency** has no comment to make on the proposals.

**Leicestershire County Council - Archaeology** has no objections subject to the imposition of conditions on any consent granted in respect of further archaeological investigations.

**Leicestershire County Council - Ecology** has no objections subject to the recommendations of the ecology report being made into planning conditions.

**Leicestershire County Council - Highways** has no objections subject to the imposition of conditions on any consent granted.

**Leicestershire County Council - Lead Local Flood Authority** has no objections subject to the imposition of a condition on any consent granted for the surface management principles outlined in the application being provided.

**Long Whatton and Diseworth Parish Council** object to the application on the following grounds:-

- The scale of the properties is overbearing and could create privacy issues to neighbouring properties.
- The size, scale and construction materials used in this proposed development do not comply with the Diseworth Village Design Statement;
- There is a lack of off-street parking for the dwellings with on-street parking being an issue given that the access is located on a bend of a narrow road (The Bowley);
- Consideration should be given to reducing the amount of housing in this location;

**Natural England** has no objections subject to their standing advice being considered.

**NWLDC - Conservation Officer** initially objected to the application given that the retention of the more 'traditional' shed would act as a constraint on the development due to the lack of an active street frontage and degree of natural surveillance. If the traditional shed was to be retained then it should be in its entirety (i.e. retention of brick gables and pitched roof). Concerns were also expressed in respect of a lack of variety in roofing materials and the proposed facing materials. Following reconsultation objections in respect of facing materials and roofing materials are removed but concerns still exist with the retention of part of the shed compromising the design of the scheme although the overall impacts to the significance of

heritage assets are less than substantial.

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

**NWLDC - Environmental Protection (Contaminated Land)** has no objections subject to the imposition of conditions on any consent granted due to the agricultural use of the site and findings of the submitted Phase 1 Site Appraisal (Desk Study).

**NWLDC - Tree Officer** has no objections.

**Severn Trent Water** no representation received.

### **Third Party Representations**

Two representations to the application, from the occupants of Middle Barn, The Bowley and no. 9 The Bowley have been received objecting to the application and whose objections are summarised as follows: -

- The plans do not preserve the character and appearance of the conservation area;
- The buildings have been raised due to the potential for flooding;
- The barn is in the conservation area and although it is without listing it is a hugely important building of historical interest adjacent to the old village sheep dip;
- The alterations to the barn show disregard for the integrity and character of this barn;
- The privacy of neighbours would be compromised by the size, height and scale of the development;
- Insufficient off-street parking is provided;
- I will lose a view of the rural countryside;
- Provision of dense landscaping to boundary will result in adverse impacts on amenities;
- Orientation of dwellings to Middle Barn will result in adverse overlooking impacts onto private rear amenity space and glazed living room;
- Oriel windows in Plot 2 must be conditioned accordingly if permission is granted;
- Increase in vehicular movements will result in detriment to residential amenities;
- Land levels and position of dwellings will lead to adverse overbearing and overshadowing impacts;
- The waste storage area should be carefully considered;
- Layout of development does not preserve or enhance the character and appearance of the conservation area with the position of Plot 4 disconnecting the former manorial site from the village due to the loss of a view;
- Alterations to Plot 1 also disrupt the scale and balance of the existing group of buildings within the streetscape which would conflict with Policy E4 of the Local Plan;

One representation from the occupant of 49 The Woodcroft has been received who supports the application and whose comments are summarised as follows: -

- Proposal would reduce the flow of large farm vehicles through the centre of the village;
- The plan is well designed and is a must for the village.

## **5. Relevant Planning Policy**

### **National Policies**

#### *National Planning Policy Framework*

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

Framework, the greater weight they may be given.

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

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

Paragraph 14 (Presumption in favour of sustainable development);  
 Paragraph 17 (Core planning principles);  
 Paragraphs 18-20 (Building a strong, competitive economy);  
 Paragraph 32 (Promoting sustainable transport);  
 Paragraph 39 (Promoting sustainable transport);  
 Paragraph 47 (Delivering a wide choice of high quality homes);  
 Paragraph 49 (Delivering a wide choice of high quality homes);  
 Paragraph 50 (Delivering a wide choice of high quality homes);  
 Paragraph 54 (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 63 (Requiring good design);  
 Paragraph 64 (Requiring good design);  
 Paragraph 75 (Promoting healthy communities);  
 Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 109 (Conserving and enhancing the natural environment);  
 Paragraph 112 (Conserving and enhancing the natural environment);  
 Paragraph 118 (Conserving and enhancing the natural environment);  
 Paragraph 121 (Conserving and enhancing the natural environment);  
 Paragraph 123 (Conserving and enhancing the natural environment);  
 Paragraph 131 (Conserving and enhancing the historic environment);  
 Paragraph 132 (Conserving and enhancing the historic environment);  
 Paragraph 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);  
 Paragraph 206 (Planning conditions and obligations);

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

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

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan;  
 Policy S2 - Limits to Development;  
 Policy E2 - Landscaped Amenity Open Space;  
 Policy E3 - Residential Amenities;  
 Policy E4 - Design;

Policy E7 - Landscaping;  
 Policy E8 - Crime Prevention;  
 Policy E30 - Floodplains;  
 Policy T3 - Highway Standards;  
 Policy T8 - Parking;  
 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 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 Cc3 - Water - Flood Risk;  
 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;

**Diseworth Conservation Area Character Appraisal and Management Plan - April 2001.**

This document outlines that the special character of Diseworth is derived from the informal groupings of farmhouses, outbuildings and the former tied cottages along the curvatures of the principal streets. Although modern infill housing development has been undertaken, the overall pattern of the pre-enclosure settlement remains largely evident.

**Diseworth Village Design Statement**

This supplementary planning document addresses the positive and negative features raised by residents of Diseworth from a planning perspective.

**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 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 and Sustainability**

The site is located within the limits to development where the principle of residential development is considered acceptable subject to compliance with the relevant policies of the adopted North West Leicestershire Local Plan and other material considerations. Within the NPPF there is a presumption in favour of sustainable development and that proposals which accord with the development plan should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

The settlement of Diseworth benefits from a range of local services including a bus service (which connects Nottingham and Derby to East Midlands Airport, a school (Diseworth Church of England Primary School, Grimes Gate), community centre (Hall Gate), church (St Michaels & All Angels, Clements Gate) and public house (The Plough, Hall Gate). Convenience facilities and employment opportunities would also be available at the airport, which is easily accessible via public transport or cycling, with consideration also being given to the provision of a farm shop for the new farmstead proposed under application reference (15/00950/FULM) which may provide further convenience facilities.

Given this level of service it is considered that a scheme for four dwellings would score well against the sustainability advice contained within the NPPF, with any future occupants of the development 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 considered sustainable in accordance with the core principles of the NPPF.

It is also concluded that the redevelopment of the site would fund the relocation of the farmstead to a new site at The Green with the resulting benefits of this being the removal of agricultural traffic from the centre of the settlement and the fact that the long-term viability of the farming enterprise would not be compromised by the lack of agricultural development opportunities at the existing sites.

### **Density and Housing Mix**

With a site area of 0.14 hectares the proposed development would have a density of 28.57 dwellings per hectare which would be below the 40 dwellings per hectare advised by Policy H6 of the adopted Local Plan in locations well served by public transport and accessibility to

services.

Whilst this density would fall below that advised in Policy H6 this policy also identifies that it is important to factor into any assessment the principles of good design as well as green space and landscaping requirements. It is noted that the site is situated within a conservation area, with the development also being constrained by the extent of land which falls within the Limits to Development as well as its proximity to flood zone 3, and as such, a greater density of development would not be appropriate. Given these constraints and the requirement to provide a suitable design approach, given the conservation area location, it is considered that the density proposed would represent an efficient use of the land in this instance and would not substantially conflict with the intentions of Policy H6 as to warrant a refusal of the application. Given that the density of the scheme would be below the recommended thresholds it is also difficult to support the Parish Council's view that the amount of dwellings is too many for the site.

It is proposed that a mix of 3, 4 and 5 bed two-storey dwellings would and this is considered to represent an appropriate housing mix on the site. As such the proposals would accord with Paragraph 50 of the NPPF.

### **Residential Amenity**

It is considered that the properties most immediately affected by the proposed development would be Middle Barn and no. 9 The Bowley.

Overall the removal of agricultural operations from the site would result in betterment for the immediate neighbours with regards to noise and smell impacts associated with the movements of agricultural vehicles and machinery as well as the storage of fertiliser.

Middle Barn on The Bowley lies along the eastern boundary of the site and is a single storey detached former agricultural building which has been converted to a residential dwelling. The western (side) elevation of Middle Barn contains no habitable room windows although an addition to its northern (rear) elevation does have a glazed roof. plots 2 and 3 would be set 15.0 metres from the shared boundary with an integral garage to plot 4 being within 1.2 metres of the boundary and the two-storey elements of plot 4 being 11.8 metres away. The land levels rise by around 3.07 metres from south to north and by 0.72 metres east to west and as part of the application submission a section drawing, from north to south, has been supplied to show this topography and the heights of the new dwellings in comparison to the existing agricultural buildings on the site. This shows that the overall height of plot 2 would be 2.0 metres higher than the existing building with plot 3 being 0.65 metres lower and plot 4 matching the height of the tallest agricultural building and being situated on the highest part of the site. As plot 2 would not be substantially higher, with plot 3 being lower, than the current agricultural structures it is considered that they would not result in any adverse overbearing or overshadowing impacts on the amenities of Middle Barn due to their distance to the shared boundary. Whilst plot 4 would be located on the highest part of the site it is located to the north-west of the rear elevation of Middle Barn with the two-storey element of plot 4 being off-set from the boundary. In this circumstance it is considered that it would not impact adversely on the occupant's amenities in respect of overbearing or overshadowing impacts particularly as it would be peripheral in any direct view established from the northern rear elevation. The proposed garaging for plot 4 would be in closer proximity to the shared boundary with Middle Barn but this structure would utilise a flat roof with an overall height of 2.8 metres and as a consequence it is considered that its mass and scale would not lead to the creation of an oppressive environment for the occupants of Middle Barn.

In terms of overlooking impacts on Middle Barn it is considered that both plots 2 and 3 would be situated a sufficient distance from the shared boundary so as to avoid adverse overlooking impacts with it being noted that first floor windows on plot 2 would be of an oriel design which would direct views away from the shared boundary; the approved plans condition would ensure these windows were built in accordance with the approved plans. The first floor window in the eastern elevation of plot 4 would serve a bathroom and as such this could be conditioned accordingly to be obscure glazed and non-opening in order to avoid a direct overlooking impact.

No. 9 The Bowley lies to the south-west of the site with plot 1 being set 4.8 metres from the shared boundary and 26.0 metres from the elevation. Given the distance to the elevation, as well as the orientation of no. 9 to plot 1, it is considered that no adverse overbearing or overshadowing impacts would arise which would result in sufficient detriment to the occupant's amenities. In respect of overlooking impacts two roof lights (serving bedrooms) and a ground floor living room window would be provided in the southern elevation of plot 1 but given the distances involved it is considered that no adverse overlooking impacts would arise. Windows in the western elevation of plot 1 serving habitable rooms would be orientated away from no. 9 so as to avoid any overlooking implications.

Objections have been raised in respect of vehicular movements associated with the dwellings causing adverse noise impacts but on the basis of the information contained within the highways report there would be an overall reduction in the equivalent passenger car unit movements should the agricultural operations be removed. Given that the existing movements would be undertaken by larger agricultural vehicles, with operations on the site not being limited to specific hours, it is considered that the proposed development would result in an overall reduction in noise levels associated with vehicular movements and therefore betterment to existing residential amenities. It is also noted that the Council's Environmental Protection Team have raised no objection to the application on noise grounds.

With regards to future amenities it is considered that in the whole an acceptable relationship would exist between the proposed properties and the majority of the existing development around the site particularly as Middle Barn is a single storey building and no. 9 The Bowley is set away from the boundary. It is proposed that plot 2 would have a first floor balcony projecting from its western (rear) elevation and whilst this would not project any further than the rear elevations of plots 1 and 3 it is considered reasonable to impose a condition on any consent granted for a screen to be supplied to the northern and southern boundaries of this balcony in order to prevent a direct overlooking impact occurring. This is considered reasonable given that the view established from a balcony is more substantial than that gained from a window where such a view is at an oblique angle. It is also accepted that any future occupants of plots 1 and 3 would be aware of such a relationship prior to their purchase.

Overall it is considered that the development would accord with Paragraph 123 of the NPPF and Policy E3 of the adopted 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 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 site lies within the Diseworth Conservation Area although none of the buildings on the site are recognised as being 'unlisted buildings of merit.' As part of the development proposals it is proposed that all modern agricultural structures would be removed from the site with stonework incorporated into one of the barns, which is presented to Hall Gate/The Bowley, being retained as a 'skin' to plot 1. Three new dwellings would be created on the land vacated by the modern agricultural structures which would be two-storey in height and which would take a more contemporary approach to their design concept by incorporating stone plinths with brick work, timber cladding and composite aluminium/timber windows.

In commenting on the application the Council's Conservation Officer raised concerns that the partial retention of the stone barn neither retained the character of the barn nor did it offer a high quality design for plot 1 due to the lack of an active frontage or natural surveillance. As part of the revisions to the scheme a ground floor window into the living room of plot 1 has been inserted, as well as roof lights, to provide an active frontage and encourage natural surveillance although it is noted that plot 1 is off-set from the main public highway. It is also noted that the crevices within the stone walls are utilised by bats and whilst this protected species would have to be excluded from the wall whilst plot 1 was constructed it is good practice to seek to retain existing features which can be utilised in the future and this has been confirmed by the County Council Ecologist.

Whilst the concerns of the Council's Conservation Officer have not been fully addressed he has concluded that the scheme as proposed would result in less than substantial harm to the significance of heritage assets. It is considered that such harm would be outweighed with the public benefits of the development associated with the removal of modern agricultural structures, the safeguarding of habitats for a protected species and the provision of additional housing stock of mixed accommodation levels for the settlement within the defined Limits to Development. Although an objection has been raised in respect of the loss of a view of the former manorial site from the village this has not been identified as a point of concern by the Council's Conservation Officer.

With regards to the layout of the development this is largely influenced by where built forms are currently located with plot 1 being within the grounds of the stone barn and the remaining dwellings being on land vacated by the modern agricultural structures. Such a layout is considered appropriate in the context of the characteristics of the surrounding area particularly as the redevelopment of the adjacent Hallfield Farm site follows a similar pattern as does the site containing 11 Hall Gate/Orchard Cottage/Horseshoe Cottage which is located to the east. The layout also reflects the historic significance of agricultural operations conducted from the site.

Although the proposed dwellings would be of a modern design it is noted that Paragraph 60 of the NPPF 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."* In the circumstances that the Council's Conservation Officer has raised no objections to the particular design approach it is considered that the scheme would provide dwellings which have a distinctive character, whilst still maintaining some significance to agriculture, and which would distinguish themselves from neighbouring built forms which comprise modern dwellings and traditional barn conversions. Whilst the Parish Council has objected to the design approach utilised on this scheme it is noted that it is no different to that proposed at Village Farm (no. 36 Hall Gate) (15/00948/FUL) where no objections were raised.

In respect of the materials of construction it is proposed that stone, brick and timber cladding

would be utilised along with variety in the roofing materials, as requested by the Council's Conservation Officer. Whilst timber cladding is not utilised elsewhere on dwellings in the settlement it is considered that its use, in this instance, would not be inappropriate given the contemporary design approach and it being reflective of a construction material widely utilised in modern agricultural developments which the site has a connection with. A condition would be imposed to agree the specific materials along with conditions associated with eaves and verge detailing and a specific schedule of works associated with the retention of the stone wall.

Such a design approach is also considered to be consistent with the *"Buildings and spaces within the village"* recommendations of the Diseworth Village Design Statement by providing a development which is *"appropriate in scale," "constructed from materials which harmonise with traditional materials"* and by providing *"variety in both the size and style of houses within the group."*

Overall the development is considered compliant with Paragraphs 57, 59, 60, 61, 131, 132, 134 and 137 of the NPPF, Section 72 of the 1990 Act and Policies E4 and H7 of the adopted Local Plan.

### Highway Safety

The County Highways Authority (CHA) has commented on the application and have raised no objections subject to the imposition of conditions on any consent granted as well as relevant notes to the applicant.

At present the site is connected with the movement of agricultural traffic with the submitted highways report indicating that 30 two-way movements (peak-season) and 20 two-way movements (low-season) per day would occur which involves movements by tractors, articulated lorries and agricultural machinery. The loss of the farming practice from the site will ultimately remove these vehicle movements from the access with it being anticipated that the equivalent two-way domestic vehicle movements associated with the site would total 40 two-way movements (four dwellings). Whilst such totals would suggest there would be 10 more two-way movements associated with a residential development then the existing farming practice in peak-season (20 more in low-season) it is important to factor into account the impact of different vehicles by converting them to Passenger Car Units (PCUs) where a car is equivalent to 1.0 PCU and a tractor and trailer or HGV is 2.3 PCUs. On the basis of such a calculation the existing site generates 46 two-way PCU movements whilst a residential scheme would generate 40 two-way PCUs. It is also noted that at present movements are undertaken via a site access which lacks the relative width to allow a vehicle to pull clear of the highway whilst another vehicle exits.

The proposed development will ensure that the vehicular access off The Bowley is upgraded to meet the requirements of the 6Cs Design Guide, in terms of access width and visibility achieved, with the overall loss of agricultural traffic representing a highway gain. Sufficient space would also be accommodated in the site to allow vehicles to manoeuvre and exit in a forward direction. In conclusion the development would not have a detrimental impact on pedestrian or highway safety and therefore the development accords with Paragraph 32 of the NPPF and Policy T3 of the adopted Local Plan.

As part of the consideration of the application it has also been ensured that internal and external parking spaces have the relevant dimensions to accord with the guidance contained within the 6Cs Design Guide and therefore each plot has sufficient off-street parking provision. Whilst concerns have been expressed in respect of the lack of visitor parking it is noted that the CHA

have raised no objections on this basis and the layout plan submitted does allow visitor parking to be accommodated within individual plots where required. In conclusion, therefore, the development would accord with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan.

### **Ecology**

Natural England has no objections, subject to their standing advice being considered, and the County Council Ecologist also has no objections subject to the imposition of conditions on any consent granted. It is noted that a small number of pipistrelle bats were observed roosting in crevices of the stone wall which is proposed to be retained and incorporated into plot 1 but in the circumstances that this roost is not a maternity roost it would be acceptable to exclude bats from the wall whilst plot 1 was constructed and they could then be reintroduced at a later stage given that the wall is proposed to be retained. The exclusion of bats from the wall whilst plot 1 was constructed would require a European Protected Species (EPS) License from Natural England.

In addition to this it will also be a requirement that swallow nest boxes are provided and that consideration is given to any lighting installed on the site to avoid impacts on Diseworth Brook. Any site clearance should also occur outside the bird nesting season and should the development not commence within three years of the September 2015 ecology surveys then updated bat surveys will be required prior to the development commencing. Subject to the imposition of such conditions on any consent granted for these matters to be addressed it is considered that protected species would not act as a constraint on the development and as such the proposal would accord with Paragraph 118 of the NPPF and Circular 06/05.

### **Landscaping**

Given that the agricultural buildings, and their associated hard surfacing, cover the majority of the site no substantial landscaping is in existence. As the buildings would be cleared it presents an opportunity for landscaping to be provided in the form of hedgerows, to potentially define the boundaries, and locally-occurring native trees. Such landscaping would assist in softening the 'edges' of the development.

At this stage the precise planting to be provided has not been specified and as such it is considered reasonable for a condition to be imposed on any consent granted for a soft landscaping scheme to be submitted to the Local Planning Authority for approval to ensure that the species of trees, and any potential hedgerows, are appropriate and will integrate well into the development. Subject to the imposition of such a condition it is considered that the development would accord with Policy E7 of the adopted Local Plan.

### **Archaeology**

The County Council Archaeologist has indicated that an appraisal of the Leicestershire and Rutland Historic Environment Record (HER) notes that the site is within the medieval and post-medieval historic settlement core of Diseworth with the proposals including the redevelopment of Village Farm which incorporates a number of historic buildings. These buildings have been subjected to a preliminary phase of building assessment with limited trial trenching also being undertaken on the site.

It has been ascertained, from the limited trial trenching undertaken, that the development area has not been subject to significant disturbance and there remains good potential for the

presence of below ground archaeological deposits relating to the medieval and post-medieval occupation of Diseworth.

Given the opportunities which exist for archaeological remains to be present on the site the County Council Archaeologist considers it necessary for conditions to be imposed on any consent for a written scheme of investigation and programme of archaeological mitigation to be provided, in advance of the development commencing, in order to record and advance the understanding of the significance of any heritage assets. Such conditions are considered reasonable given the possibility of archaeological remains being present on the site and their inclusion therefore ensures the development complies with Paragraph 141 of the NPPF.

### **Development and Flood Risk**

Following a review of the submitted Flood Risk Assessment (FRA) the Environment Agency (EA) has raised no objections subject to the imposition of a condition on any consent granted for the mitigation measures detailed within the FRA to be provided.

The Lead Local Flood Authority (LLFA) has also assessed the submitted FRA and has determined that the surface water management principles contained within the application will be acceptable and that a condition should be imposed on any consent granted for these principles to be followed. In the circumstances that the surface water drainage scheme for the development would not increase the probability of flooding occurring in the site, or within the designated flood zones, it is considered that the development would accord with the principles of Paragraph 103 of the NPPF and Policy E30 of the adopted Local Plan.

Insofar as foul drainage is concerned it is indicated on the application forms that this would be discharged to the mains sewer with such discharge being agreed with Severn Trent Water under separate legislation. In the circumstances that Severn Trent Water has raised no representation in respect of this approach it is considered that any additional demands for foul drainage discharge could be met by the existing sewerage system in place. Overall, therefore, the development would accord with Paragraph 120 of the NPPF.

### **Other Matters**

The Council's Land Contamination Officer has reviewed the submitted land contamination report and has no objections subject to the imposition of conditions on any consent granted for a further risk based land contamination assessment to be undertaken due to the agricultural use of the site. It is considered that such a condition is reasonable, given that this is a recommendation of the submitted land contamination report, and its imposition will ensure that the development accords with Paragraphs 120 and 121 of the NPPF.

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

The site is situated within the defined limits to development where there would be a presumption in favour of development with Diseworth also being considered a sustainable settlement for new development given the level of service provision. On this basis the proposal would accord with Paragraphs 14, 28, 49 and 55 of the NPPF and Policy S2 of the adopted Local Plan. It is considered that the density of the scheme and the mix of housing on the site would also be acceptable and would accord with Paragraph 50 of the NPPF and Policy H6 of the adopted Local Plan.

On the basis of the proposed layout, scale and position of the dwellings it is considered that the

amenities of both existing and future occupants would be adequately protected, particularly given the presence and scale of existing buildings on the site and the orientation of development to the site, and as a result there would be no adverse overbearing, overshadowing or overlooking impacts. General noise and smells associated with the site would also be improved due to the removal of the farming operations. In these circumstances the development accords with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

It is considered that the site is of a sufficient size to accommodate four dwellings and will retain stone walling which is an important habitat for bats. Overall the less than substantial harm caused to the significance of the heritage assets would be outweighed by the public benefits associated with the proposal. Whilst of a contemporary design this is considered to be acceptable and will enhance the character of the area with the layout also being reflective of former agricultural sites which have been redeveloped for housing. Overall the proposed development is considered compliant with Paragraphs 57, 59, 60, 61, 131, 132, 134 and 137 of the NPPF, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policies E4 and H7 of the adopted Local Plan.

Whilst the loss of farming operations would not physically alter the overall amount of vehicular movements associated with the access, with there actually being an overall increase, the type of vehicles associated with the site would change and as part of the application the access would be upgraded to ensure that it conforms with the 6Cs Design Guide in relation to the provision of visibility splays and an appropriate width. Sufficient off-street parking and manoeuvring facilities would also be accommodated within the site. Given that no objections have been raised by the County Highways Authority it is considered that that the development would accord with Paragraphs 32 and 39 of the NPPF and Policies T3 and T8 of the adopted Local Plan.

Subject to appropriate conditions being imposed to mitigate against any impacts on protected species it is considered that the development would not conflict with Paragraph 118 of the NPPF or Circular 06/05. An agreement of a landscaping scheme would also ensure appropriate planting would be provided in order to comply with Policies E2 and E7 of the adopted Local Plan.

The imposition of conditions will address any land contamination concerns associated with the development to ensure compliance with Paragraphs 120 and 121 of the NPPF. Archaeological constraints would also be addressed by the imposition of conditions on any consent granted in order to comply with Paragraph 141 of the NPPF.

A condition would also be imposed to secure flood risk mitigation measures with surface water and foul drainage also being appropriately controlled via a planning condition and on this basis the development accords with Paragraphs 103 and 120 of the NPPF as well as Policy E30 of the adopted Local Plan.

It is therefore recommended that the application be permitted.

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

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

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



- 2 The proposed development shall be carried out strictly in accordance with the following drawing numbers: -
- 20625\_05\_P (Existing Floor Plans), received by the Local Authority on the 12th October 2015;
  - 20625\_06\_P (Existing Elevation Layout Plan), received by the Local Authority on the 12th October 2015;
  - 20625\_07\_E (Existing Elevations), received by the Local Authority on the 12th October 2015;
  - 20625\_08\_E (Existing Elevations), received by the Local Authority on the 12th October 2015;
  - 150 (02) 001 (Existing Site Layout), received by the Local Authority on the 12th October 2015;
  - 150 (02) 004 (Site Location Plan), received by the Local Authority on the 12th October 2015;
  - 150 (08) 001 Revision D (Proposed Site Layout), received by the Local Authority on the 12th October 2015;
  - 150 (08) 004 Revision E (Plot 1 - Proposed Plans and Elevations), received by the Local Authority on the 21st December 2015;
  - 150 (08) 005 Revision B (Plot 2 - Proposed Plans and Elevations), received by the Local Authority on the 21st December 2015;
  - 150 (08) 006 Revision B (Plot 3 - Proposed Plans and Elevations), received by the Local Authority on the 21st December 2015;
  - 150 (08) 007 Revision A (Plot 4 - Proposed Plans and Elevations), received by the Local Authority on the 12th October 2015;
  - 150 (08) 008 (Courtyard Street Scene Elevation), received by the Local Authority on the 12th October 2015;
  - 150 (08) 009 (Hall Gate Street Scene), received by the Local Authority on the 12th October 2015;

unless otherwise required by another condition of this permission.

*Reason - to determine the scope of the permission.*

- 3 Notwithstanding the details shown on the approved plans, nor Condition 2 above, no dwelling shall be built above damp proof course level until the following have been submitted to and agreed in writing by the Local Planning Authority: -
- Precise details of the external materials to be used in the development (including bricks, roof tiles, stone and timber cladding);
  - Precise details, including manufacturers details, of the paint finish to the timber cladding and all other external joinery;
  - Precise details, including sections, of the roof lights to be installed in plot 1;
  - Details of the brick bond;
  - Position of the meter boxes and their external finish;
  - Details of the rainwater goods;
  - Details of the verges and eaves;

The development shall then be carried out in accordance with the approved details which shall thereafter be so retained.

*Reason - to enable the Local Planning Authority to retain control over the external appearance*

*in the interests of the amenities of the area.*

- 4 Notwithstanding the provision of Part 1 (Classes A - E) of Schedule 2, Article 3 of the Town and County Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) the dwellings, hereby permitted, shall not be enlarged, improved or altered unless planning permission has first been granted by the Local Planning Authority.

*Reason - to enable the Local Planning Authority to retain control over future development in view of maintaining the overall appearance of the scheme, given its setting with heritage assets, and in the interests of preserving the amenities of neighbours.*

- 5 No development shall commence on plot 1 until a schedule of works associated with the retention of the stone walls and how they would be incorporated into the property has been submitted to and agreed in writing by the Local Planning Authority. Once agreed the works indicated within the schedule shall be carried out in full prior to the first occupation of this plot and shall thereafter be so retained.

*Reason - in the interests of the preservation of historic fabric.*

- 6 Notwithstanding the details shown on the approved plans, nor Condition 2 above, plot 2 shall not be built above damp proof course level until details of a screen to prevent overlooking to the north and south to a height of 1.8 metres for the projecting rear balcony on this plot has first been submitted to and agreed in writing by the Local Planning Authority. Once approved the screening shall be provided before first occupation of the relevant plot and shall thereafter be so retained.

*Reason - in the interests of preserving the amenities of future occupants.*

- 7 The window serving the bathroom at first floor level in the eastern elevation of plot 4 shall be glazed with obscure glass, to Pilkington Standard 3 (or its equivalent), and non-opening, unless the opening part is more than 1.7 metres above the internal floor level of the room in which the window is installed, which once provided shall thereafter be so retained.

*Reason - in the interests of preserving the amenities of existing and future occupants.*

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

*Reason - to ensure a satisfactory landscaping scheme is provided within a reasonable period and in the interests of visual amenity given the site's relationship with heritage assets.*

- 9 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.*

- 10 Notwithstanding the details shown on the approved plans before occupation/use of the dwellings, hereby permitted, a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railing, other means of enclosure) and the relevant elevation details (should brick walls be proposed than the brick bond shall also be specified) shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be provided in full prior to the first occupation/use of any dwelling hereby approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.

Notwithstanding the provisions of Class A, of Part 2, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gate, wall or fence shall be erected on land forward of any wall of the dwelling(s) which front onto a highway (which shall include any private highway) other than any that are agreed under this Condition or other then in accordance with a comprehensive and unified scheme of enclosure which has first been submitted to and agreed in writing by the Local Planning Authority.

*Reason - to preserve the amenities of the locality and residents, in the interests of highway safety and in the interests of the significance of heritage assets.*

- 11 Before first occupation/use of the dwellings, hereby permitted, the following shall be provided:-
- Any shared private drives serving no more than a total of 5 dwellings shall be a minimum of 4.25 metres wide for at least the first 5 metres behind the highway boundary and have a drop crossing of a minimum size as shown in Figure DG20 of the 6Cs Design Guide at its junction with the adopted road carriageway.  
NOTE: If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it so bounded on both sides, additional 0.5 metre strips will be required on both sides;
  - The external car parking and turning facilities (to ensure vehicles exit the site in a forward direction) shown on drawing number 150 (08) 001 Revision D, received by the Local Authority on the 12th October 2015, and the internal car parking shown on drawing numbers 150 (08) 007 Revision A (Plot 4), received by the Local Authority on the 12th October 2015, and 150 (08) 004 Revision E (Plot 1), 150 (08) 005 Revision B (Plot 2) and 150 (08) 006 Revision B (Plot 3), received by the Local Authority on the 21st December 2015;
  - Drainage shall be provided within the site such that surface water does not drain into the public highway;
  - The access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate), in accordance with the scheme agreed under Condition 8 of this permission, for a distance of at least 5.0 metres behind the highway boundary;

Once provided the above shall thereafter be so permanently maintained (including internal car parking spaces within garages) with any relevant turning area also not being obstructed.

*Reasons - to afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety; to ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway; to enable vehicles to enter and leave the highway in a slow and controlled manner in the interests of general highway safety; to ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users; to reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users; to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.).*

- 12 The gradients of the access drives shall not exceed 1:12 for the first 5.0 metres behind the highway boundary.

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

- 13 No development shall commence until a programme of historic building survey and archaeological investigation defined within a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority in consultation with the County Council Archaeologist. The scheme shall include an assessment of significance and research questions; and

- The programme and methodology of historic building survey and recording;
- The programme for post investigation assessment and analysis;
- Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- Provision to be made for archive deposition of the analysis and records of the site investigation;
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation;

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

*Reason - to ensure a satisfactory historic building survey and archaeological investigation to record and advance understanding of the significance of the affected resource prior to its loss.*

- 14 No development shall take place until a programme of archaeological mitigation, informed by an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation, submitted to and approved in writing by the Local Planning Authority in consultation with the County Council Archaeologist. The scheme shall include an assessment of significance and research questions; and

- The programme and methodology of site investigation and recording (informed by consideration of the results of the exploratory trenching);
- The programme for post-investigation assessment;
- Provision to be made for analysis of the site investigation and recording;
- Provision to be made for publication and dissemination of the analysis and records of the

- site investigation;
- Provision to be made for archive deposition of the analysis and records of the site investigation;
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation;

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

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

- 15 The development shall not be occupied until the site investigation and post-investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 14 (above) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

*Reason - to ensure satisfactory completion of the archaeological investigation and recording, including submission of reports and deposition of the project archive.*

- 16 The proposed surface water drainage scheme for the development shall be provided in strict accordance with that specified within Sections 3.6.5 (Sustainable Site Drainage Systems), 3.7 (Off Site Impacts) and 4.0 (Recommendations) of the Flood Risk Assessment by BSP Consulting (Ref: 14342/FRA/Rev B) dated September 2015, received by the Local Authority on the 12th October 2015, before first occupation/use of the dwellings hereby approved. Once provided the surface water drainage scheme shall thereafter be retained unless an alternative surface water drainage scheme is first submitted to and agreed in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority.

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

- 17 No development (except any demolition permitted by this permission) shall commence on site until a Further Risk Based Land Contamination Assessment, as recommended by GRM report Diseworth, Leicestershire Phase I Site Appraisal (Desk Study) for F J Dakin & Son Ltd Project Ref: P6659/DS.1 Date: July 2014 Prepared for: F J Dakin & Son Ltd Village Farm 36 Hall Gate Diseworth Derby DE74 2QJ, received by the Local Authority on the 12th October 2015, has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

- BS10175:2011+A1:2013 Investigation of Potentially Contaminated Sites Code of Practice;
- BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);
- BS 8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, no development shall commence on site until a Remedial Scheme and Verification Plan have been prepared and submitted to, and approved in writing, by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004; and
- 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:

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

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

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

18 Prior to occupation of any part of the completed development, or part thereof, either:

If no remediation was required by Condition 17 a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of the development, or part thereof, is received and approved in writing by the Planning Authority, or

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 the whole development, or part thereof, shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

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

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

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

19 No dwelling shall be built above damp proof course level until the following have been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist: -

- The proposed position and design of features within the dwellings to encourage roosting bats;
- The proposed position and design of bird boxes for swallows to be installed in the dwellings;
- The proposed position and design of external lighting to the properties which should be directed away from Diseworth Brook, where this is not possible the lighting shall be of a down-lighting or cut-off beam type in order to reduce the overall amount of light spill;

Once agreed the development shall thereafter be carried out in accordance with the approved details which shall thereafter be retained unless alternative details are first submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist.

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

20 Operations that involve the destruction/removal/management of vegetation, or the development of plot 1, shall not be undertaken during the months of March to October inclusive unless otherwise agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist.

*Reason - to ensure that nesting birds (a protected species) are adequately protected and their habitat enhanced.*

21 If no development has commenced on site, with regards to the partial demolition of farm building, conversion and extension of remaining farm building to form one dwelling along with the erection of three additional dwellings and alterations to access, prior to September 2018 then no development shall commence until an updated bat survey (which shall include any mitigation measures and licenses which would be obtained) has been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist. Once agreed the development shall thereafter be carried out in accordance with the recommendations of the bat survey and any mitigation measures once provided shall thereafter be so retained.

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

22 No development shall commence on site until the finished floor levels of the proposed dwellings, which shall be related to a fixed datum point off the site, have first been submitted to and agreed in writing by the Local Planning Authority. Once agreed the development shall be carried out in accordance with the approved details and shall thereafter be so retained.

*Reason - to determine the scope of the permission given that no precise details have been supplied and in the interests of residential and visual amenity.*

- 23 Notwithstanding the requirements of Condition 2 above, nor the information shown on drawing number 150 (08) 001 Revision D, received by the Local Authority on the 12th October 2015, no dwelling shall be built above damp proof course level until details of an enclosed bin collection area/point have been submitted to and agreed in writing by the Local Planning Authority. Once agreed the bin collection area shall be provided prior to the first occupation/use of any of the dwellings and shall thereafter be so retained.

*Reason - to ensure that the development takes the form envisaged by the Local Planning Authority and in the interests of residential and visual amenity.*

- 24 The residential curtilage's for the properties shall be restricted to the area hatched in red on the attached plan number LPA/15/00949/FUL.

*Reason - to enable the Local Planning Authority to retain control over future development in view of the form of development proposed and its location as well as to protect the setting of archaeological remains.*

#### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 Drawing no. 150 (08) 001 Revision D (Proposed Site Layout), received by the Local Authority on the 12th October 2015, provides details of physical kerbs (solid lines on both sides, demarcating the access at its junction with Hall Gate/The Bowley). However, in accordance with the above condition, the access should be provided in a dropped crossing arrangement.
- 4 The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.
- 5 This planning permission does NOT allow you to carry out access alterations in the highway. Before such works can begin, separate permits or agreements will be required under the Highways Act 1980 from the Infrastructure Planning team. For further information, including contact details, you are advised to visit the County Council website: - see Part 6 of the '6Cs Design Guide' at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg).
- 6 In respect of Condition 23 of the consent given the site's setting within a Conservation Area the bin collection area will need to be an enclosed structure constructed from the approved materials for the residential scheme.
- 7 Bats are a rare and declining group of species. Hence, all British species of bat and bat roosts are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection or disturb bat roosts. If bat or bat roosts are discovered during work on the development,



- the relevant work should be halted immediately and Natural England (Tel. 0115 929 1191) should be notified and further advice sought. Failure to comply with this advice may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both.
- 8 The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in prosecution any anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both, as it is an offence to disturb nesting/breeding birds.
- 9 If there are works proposed as part of an application which are likely to affect flows in a watercourse or ditch, then the applicant may require consent under s.23 Land Drainage Act 1991. This legislation is separate from the planning process. Guidance on this process and a sample application form can be found via the following website: [www.leics.gov.uk/watercourse](http://www.leics.gov.uk/watercourse). No development should take place within 5 metres of any watercourse or ditch without first contacting the County Council for advice.
- 10 Following the DEFRA/DCLG consultation and subsequent legislation change surrounding the future adoption and maintenance of SuDS brought into power on April 15th 2015, Leicestershire County Council are no longer the SuDS Approval Body (SAB) and are now a statutory consultee in the planning process. For all enquiries regarding the application and future adoption and maintenance of SuDS features, please direct these to the District Council.
- 11 The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor. The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

**This page is intentionally left blank**