

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Wednesday, 6 April 2016
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454512)

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

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

AGENDA

Item	Pages
1. APOLOGIES FOR ABSENCE	
2. DECLARATION OF INTERESTS	
Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
3. MINUTES	
To confirm and sign the minutes of the meeting held on 1 March 2016	3 - 8
4. PLANNING APPLICATIONS AND OTHER MATTERS	
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5. PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT ACRESFORD ROAD, DONISTHORPE (APPLICATION NO. 14/00802/OUTM)	
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Item	Application Number and Details	Recommendation	Page
A1	16/00043/OUT: Erection of 9 dwellings (Outline application with access, scale and layout for approval) (Resubmission) Land At Main Street Osgathorpe Loughborough	Refuse	13 - 34
A2	16/00075/FUL: Proposed erection of detached dwelling with associated off-street parking and formation of new vehicular access onto Clements Gate 17 Clements Gate Diseworth Derby	Refuse	35 - 50

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 1 MARCH 2016

Present: Councillor D J Stevenson (Chairman)

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

In Attendance: Councillors T Gillard and T J Pendleton

Officers: Mr C Elston, Mrs C Hammond, Mr J Knightley, Mrs A Lowe, Mr J Mattley, Mr A Mellor and Mr J Newton

104. APOLOGIES FOR ABSENCE

Apologies were received from Councillors J G Coxon, R Johnson and N Smith.

105. DECLARATION OF INTERESTS

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

Councillor M B Wyatt declared a pecuniary interest in item A1, application number 14/00800/OUTM as he had openly campaigned against any development on the site and he would leave the meeting and take no part in the consideration and voting thereon.

Councillor R Adams sought clarification from the Legal Advisor on interests who had a previous meetings voted against developments on the wider site.

The Legal Advisor advised Members that if they had previously campaigned about development on the wider site but had come to the meeting with an open mind and would consider all of the information that was presented to them then there was no disclosable interest.

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

Item A1, application number 14/00800/OUTM

Councillors R Adams, R Boam J Bridges, J Cotterill, D Everitt, D Harrison, G Jones, J Legrys, M Specht and D J Stevenson

Item A2, application number 15/00128/FUL

Councillors R Ashman, R Canny, J Legrys, V Richichi, M Specht and D J Stevenson

Item A3, application number 15/00950/FULM

Councillors R Ashman, R Boam, R Canny, J Geary, J Legrys, M Specht and D J Stevenson

Item A4, application number 15/00948/FUL

Councillors R Ashman R Canny, J Geary, J Legrys, M Specht and D J Stevenson

Item A5, application number 15/00949/FUL

Councillors R Ashman, R Canny, J Geary, J Legrys, M Specht and D J Stevenson

106. MINUTES

Consideration was given to the minutes of the meeting held on 2 February 2016.

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

RESOLVED THAT:

The minutes of the meeting held on 2 February 2016 be approved and signed by the Chairman as a correct record.

107. 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.

Having declared a pecuniary interest in item A1 Councillor M B Wyatt left the meeting and took no part in the consideration or voting thereon.

**108. A1
14/00800/OUTM: RESIDENTIAL DEVELOPMENT AND ASSOCIATED
INFRASTRUCTURE (OUTLINE - ALL MATTERS OTHER THAN PART ACCESS
INCLUDED)**

Land Rear Of Hall Lane Whitwick

Officer's Recommendation: REFUSE

The Principal Planning Officer presented the report to Members.

Councillor T Gillard, adjacent Ward Member and Parish Councillor addressed the Committee. He thanked Councillor R Adams, Ward Member for the opportunity to speak. He highlighted to Members that since previous applications for the wider site had been refused nothing had changed and that none of the residents wanted the development. He urged the Committee to support the recommendations.

Ms S Colledge, on behalf of Whitwick Parish Council addressed the Committee. She advised the Members that both the Parish Council and the Whitwick Action Group had strongly objected to any application to build on the Green Wedge as they would be contrary to policy E20 of the Local Plan and the site had been identified as part of an Area of Separation under policy En5 of the draft Local Plan. She informed the Committee that the development would not be sustainable and that the additional traffic would have a severe impact on already congested roads and the air quality. Ms S Colledge drew Members attention to the report that stated that both the Secretary of State and the High Court had dismissed previous appeals on the site and that nothing had changed since these decisions.

County Councillor L Spence, objector, addressed the Committee. He stated that the Green Wedge was precious to the residents of Whitwick and that it was historically protected. He advised that the application before them was not the first and certainly would not be the last, but no one including residents, the Parish Council or the District Council wanted development on the site. He highlighted that the land was valuable agricultural land and an irreplaceable amenity adding that should the application be permitted a precedent would be set for many more applications. He urged Members to support the officer's recommendation to refuse the application.

Mr T Evans, agent, addressed the Committee. He advised Members that the authority was not able to demonstrate a five year housing land supply and as such all relevant policies were out of date. He advised Members that the development would have a modest impact on the area as there would still be a significant area of separation and that the proposed highway works would address the congestion and air quality impacts. He reminded the Committee that the NPPF compared the impacts against the benefits and in relation to this development the high quality designs, forest planting, economic and social benefits would outweigh the modest impact on the Green Wedge.

The officer's recommendation to refuse the application and that reason for refusal 3 be deleted as outlined within the update sheet was moved by Councillor R Adams and seconded by Councillor M Specht.

Councillor G Jones expressed concerns that the impact was not a modest one as described by the agent, but a significant one as it would be development on the Green Wedge.

Councillor M Specht stated that the proposed site was an area of separation in the emerging Local Plan, that this gave strength to its defence, and that the Council needed to stop the coalescence of the area. He added that he fully supported the officer's recommendation.

Councillor J Bridges stated that he had fundamental concerns as it was an area of separation and therefore this gave weight to the development not being sustainable and therefore he could not vote in favour of the application.

RESOLVED THAT:

The application be refused in accordance with the recommendation of the Head of Planning and Regeneration and reason for refusal 3 be deleted as outlined within the update sheet.

Councillor M B Wyatt returned to the meeting.

109. A2
15/00128/FUL: ERECTION OF SIX NO. HOUSES
 11 Main Street Ravenstone Coalville Leicestershire LE67 2AS

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

The Principal Planning Officer presented the report to Members.

The officer's recommendation was moved by Councillor M B Wyatt and seconded by Councillor G Jones.

In response to comments made by Members in relation to developer contributions the Principal Planning Officer stated that it was not proposed that a contribution be made towards affordable housing. A viability report was submitted in relation to this and assessed by the District Valuer to which no objections were raised.

Following concerns raised by Councillor D Everitt, the Head of Planning and Regeneration advised Members that the viability appraisal had been conducted on the basis of the application site and the neighbouring site as a single whole site, because as a rule of thumb the larger scale the development, the bigger the pot that would be available for Section 106 contributions.

Councillor J Legrys stated that there had been a lot of objection to the previous application and that he had read the District Valuer's report. He said that people in the village were expecting had crafted tiles and joinery He felt that he could not support the application as it was not clear as to what was proposed and that the NPPF was clear on the expectations as to what developers should contribute to and as such the authority should expect payments towards all civic services.

Councillor J Geary agreed that the existing development had greatly enhanced the village, that it was well laid out, a good design and in general there was no objection, however he could not support a development that could not contribute towards affordable housing.

Councillor D J Stevenson stated that when he had visited the site a resident had stated that there had been a lot of objection to the original application, but that, now it is under construction and people could see it, the feeling had changed to believe that it was a benefit to the village.

RESOLVED THAT:

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

110. A3
15/00950/FULM: PROPOSED ERECTION OF AGRICULTURAL BUILDINGS, FARM SHOP AND FARMHOUSE ALONG WITH THE FORMATION OF VEHICULAR ACCESS AND YARD

Land South Of The Green Diseworth Derby DE74 2QN

Officer's Recommendation: PERMIT

The Senior Planning Officer presented the report to Members

Before he spoke to the Committee, Mr A Allman sought clarification from the officer on the loophole referred to in the update sheet in relation to the structures having a height limit of 3.0 metres if they are in close proximity to the airfield.

The Senior Planning Officer advised that as the buildings exceeded 3.0 metres in height they were not permitted development and that reference to permitted development was simply to outline that built agricultural structures could be provided on the site. As the application was on sloping land a loophole in the permitted development regulations would allow buildings to be constructed which were higher than 3.0 metres provided that at their highest point they were no greater than 3.0 metres above the highest land level adjacent to the building where such a measurement would be taken.

Mr A Allman, objector, addressed the Committee. He advised Members that the site was outside the Limits to Development of the village and that should there be any issues with any of the three applications, the other two could remain unfinished. He expressed concerns that the size of the development was unsustainable and that the farm shop would not be financially viable. He was worried about how empty buildings on the might be used.

Ms C Chave, agent addressed the Committee. She advised Members that the family had farmed in the village for 100 years and were now preparing for the next 100 on land which they owned and would allow them to remain in the village. She highlighted that there was no village shop currently and that the farm shop would be accessible to all. Ms C Chave noted that the land was outside the Limits to Development, but drew Members' attention to the independent assessment that stated the application was justified and sustainable,

adding that a sound business case had been put forward. She added that the Council's independent expert had verified the farm's financial business case, stated that Mr Allman was not in a position to accurately comment on it, and urged Members to support the recommendation.

The officer's recommendation was moved by Councillor J Legrys and seconded by Councillor J Hoult.

Councillor J Legrys stated that he supported the application as it would assist in sustaining the village. He highlighted that the development would remove the movement of the heavy industrial vehicles from the village and that farming needed to grow. He added that the location of the farm shop on the main road was ideal and that the application should be commended.

Following a question from Councillor J Geary, the Planning and Development Team Manager advised that there were no limitations on the goods that could be sold in the farm shop and that there were no conditions restricting the shop.

Councillor J Geary felt that the shop would be an asset to the village.

Councillor D J Stevenson stated that the site was an ideal location for a farm as the heavy vehicles would not need to go through the village.

RESOLVED THAT:

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

111. A4
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

Village Farm 36 Hall Gate Diseworth Derby DE74 2QJ

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

The Senior Planning Officer presented the report to Members.

Ms C Chave, agent, addressed the Committee. She advised Members that there were flooding and traffic objections to the application, but stated that the development would reduce runoff to the brook by 30%, and improve the highway situation including the access and by reducing the movements of heavy machines. She stated that the new bespoke, architect designed contemporary buildings would work well with the attractive heritage farm buildings that were to be converted.

The officer's recommendation was moved by Councillor M Specht, seconded by Councillor R Ashman and

RESOLVED THAT:

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

**112. A5
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**

Hallfield Farm 1 Hall Gate Diseworth Derby DE74 2QJ

Officer's Recommendation: PERMIT

The Senior Planning Officer presented the report to Members.

Ms C Chave, agent, addressed the Committee. She advised Members that small amendments had been made to take into account the privacy and visual impact concerns that had been raised, and that the noisy grain drying machine would be removed, and the old stone walls would be retained. She urged the Committee to support the application.

The officer's recommendation was moved by Councillor J Legrys, seconded by Councillor G Jones and

RESOLVED THAT:

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

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 5.34 pm

APPENDIX B

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

6 April 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.

Erection of 9 dwellings (Outline application with access, scale and layout for approval) (Resubmission)

Report Item No
A1

Land At Main Street Osgathorpe Loughborough Leicestershire
LE12 9TA

Application Reference
16/00043/OUT

Applicant:
Mr I. J. Bourne

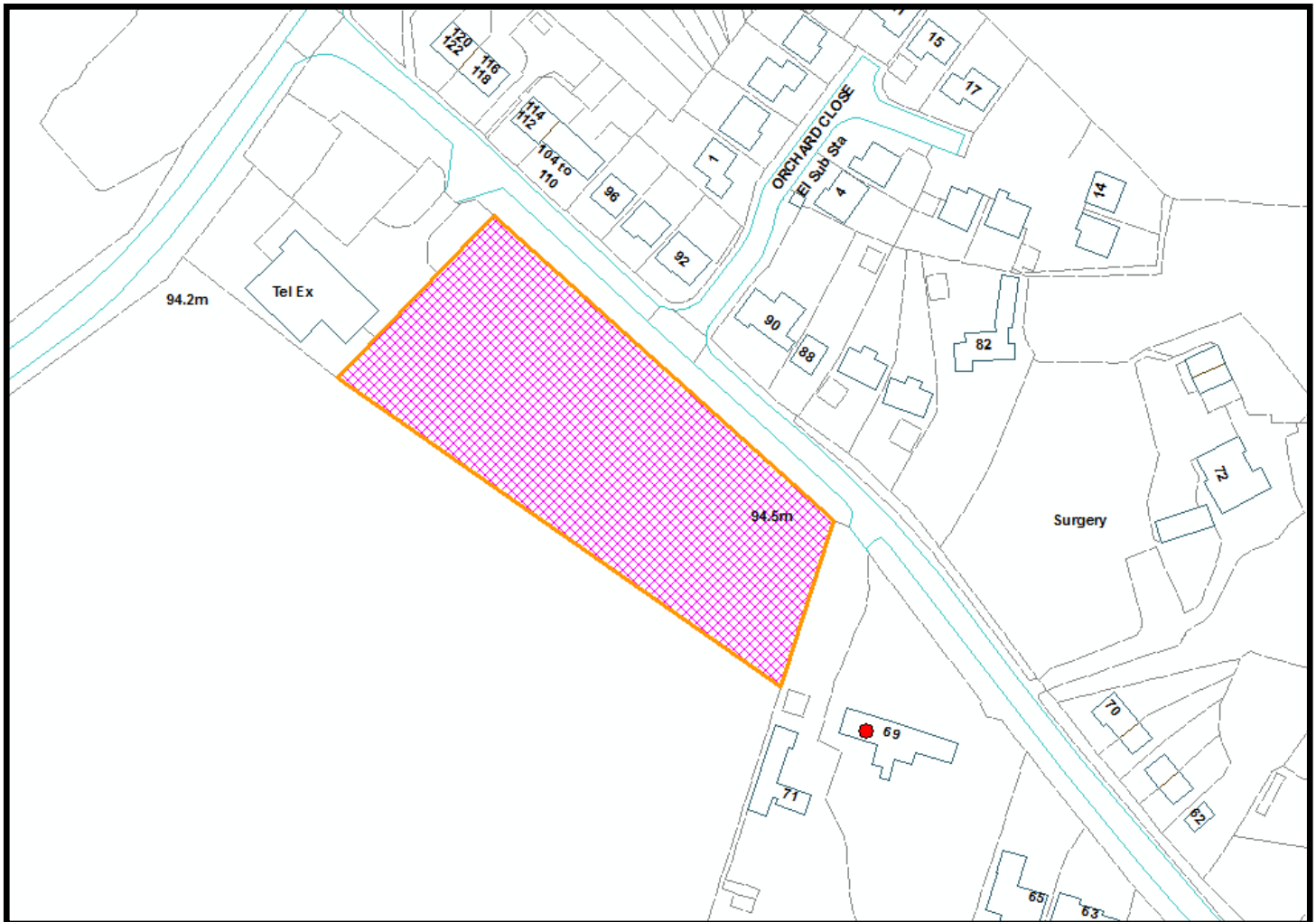
Date Registered
15 January 2016

Case Officer:
Adam Mellor

Target Decision Date
11 March 2016

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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Executive Summary Of Proposals and Recommendation

Call In

The application has been brought to the Planning Committee at the request of Councillor Boam in order for Members to assess the sustainability of the development proposals.

Proposal

Outline planning permission is sought for the erection of nine dwellings with access, scale and layout submitted for approval at this stage on land off Main Street, Osgathorpe. The 0.59 hectare site is located on the south-western side of Main Street and is outside the defined Limits to Development as well as being within an Area of Particularly Attractive Countryside.

Consultations

A total of 23 individual representations, as well as a signed petition with 55 signatories, have been received which object to the development. Osgathorpe Parish Council also objects to the application. The County Highways Authority have objected to the application on sustainability grounds but not on highway safety grounds with all other statutory consultees raising no objections subject to the imposition of conditions on any consent granted.

Planning Policy

It is considered that the development would conflict with the core principles of the social and environmental strands of sustainability enshrined within the National Planning Policy Framework (NPPF).

Conclusion

The report above indicates that the site is a greenfield site outside Limits to Development, is located within an Area of Particularly Attractive Countryside and that Osgathorpe is not a sustainable settlement.

Policies S3 and E22 of the adopted North West Leicestershire District Council Local Plan ("the Local Plan") cannot be relied upon to justify a refusal of the application, given that the Council cannot demonstrate a five year housing land supply. Whilst this is the case, the release of the land for residential development would not accord with the environmental sustainability strand of the NPPF as outlined at Paragraph 7, given that future occupants would be heavily reliant on the private car to access basic services, an unsustainable form of transport, and would therefore not support the approach to a low carbon economy. Given these circumstances the proposed development of the site is unacceptable in principle and would conflict with the environmental strand of sustainability.

In addition, Osgathorpe would not be considered a sustainable settlement given the lack of services within the area. As such the development of the site would not provide suitable access to an appropriate level of services which would contribute towards people's day to day needs. As a result of the development would also conflict with the social strand of sustainability enshrined within the NPPF again outlined at Paragraph 7.

Any limited contribution this development would make towards the Council's five year housing land supply, as well as the provision of three affordable housing units, are also not considered

sufficient grounds to outweigh such conflicts which exist in respect of the key principles of the NPPF as detailed above.

It is therefore recommended that the application be refused.

RECOMMENDATION:-

REFUSE

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

MAIN REPORT

1. Proposals and Background

Outline planning permission is sought for the erection of nine dwellings with access, scale and layout submitted for approval at this stage on land off Main Street, Osgathorpe. The 0.59 hectare site is located on the south-western side of Main Street and is outside the defined Limits to Development as well as being within an area of Particularly Attractive Countryside. The surrounding area consists of residential properties to the north-east and south-east, a telephone exchange to the north-west and open countryside to the south-west.

This application is a resubmission of application reference 15/00871/OUT which was withdrawn on the 30th October 2015. It is specified that the application has been resubmitted as the Council cannot demonstrate a five year supply of housing following the conclusion of a recent appeal decision at Greenhill Road (ref: APP/G2435/W/15/3005052).

The land in question is currently an arable field. It is identified on the submitted layout that five dwellings (Plots 5 - 9) would be positioned parallel to Main Street with distances of between 20.0 metres (Plot 5) and 17.0 metres (Plot 9) from this highway. Plots 1 - 4 would be perpendicular to Main Street with Plot 1 being set 11.8 metres from the highway and Plot 4 being set 45.5 metres away. It is identified in the supporting planning statement that Plots 1 - 4 would be two bedroom properties with floor areas of 60 square metres, Plots 5 - 6 would be three bedroom properties with floor areas of 102 square metres and Plots 7 - 9 would be four bedroom properties with floor areas of 162 square metres. The illustrative street scene drawings also show that Plots 1 - 6 would be single storey detached dwellings with overall heights of 5.9 metres with Plots 7 - 9 being two-storey (with habitable accommodation in the roof slope) detached dwellings with overall heights of 6.9 metres. Vehicular access into the site would be achieved from Main Street via a natural gap which exists within the hedgerow.

A Planning Statement, incorporating a Design and Access Statement, Extended Phase 1 Survey, Drainage Assessment Report and Highways Impact Statement have been submitted in support of the application.

No relevant planning history was found.

2. Publicity

38 Neighbours have been notified (Date of last notification 19 January 2016)

Site Notice displayed 22 January 2016

Press Notice published 27 January 2016

3. Consultations

Osgathorpe Parish Council consulted 19 January 2016

Leicestershire County Highways Authority consulted 19 January 2016

Severn Trent Water consulted 19 January 2016

NWLDC Head of Environmental Protection consulted 10 February 2016

Leicestershire County Archaeologist consulted 19 January 2016

Leicestershire County Ecologist consulted 19 January 2016

NWLDC Head of Housing consulted 19 January 2016

Leicestershire County Lead Flood Authority consulted 19 January 2016

4. Summary of Representations Received

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

Leicestershire County Council - Archaeology has no objections.

Leicestershire County Council - Ecology has no objections subject to ensuring that any vegetation to be removed is undertaken outside the bird nesting season and that the roadside hedge (with the exception of the gap proposed for access) be retained.

Leicestershire County Council - Highways Authority objects to the application on the basis of the sustainability of the settlement but raises no objections on highway safety grounds.

Leicestershire County Council - Lead Local Flood Authority advises that their standing advice should be considered and relevant notes to the applicant imposed on any consent granted.

NWLDC - Environmental Protection has no objections.

NWLDC - Environmental Protection (Contaminated Land) has no objections subject to the inclusion of contaminated land conditions on any consent granted due to the use of the neighbouring site as a telephone exchange and possible presence of made ground.

NWLDC - Affordable Housing Enabler has no objections and supports the identified Plots and form of the dwellings proposed for affordable purposes.

Osgathorpe Parish Council objects to the application on the following key grounds:-

- Lack of infrastructure;
- Main Street area is impacted by over land flows and proposal would increase surface water run-off thereby resulting in flooding implications;
- Soakaways would not be an effective means of addressing surface water run-off given that Osgathorpe is within the 'low permeability' category for surface water run-off;
- Osgathorpe does not require the provision of further affordable housing given the amount which is already available. The proposed dwellings should be 'local need dwellings';
- Development should contribute towards improving village amenities and facilities;
- There is no further need for development due to the Council having a five year supply of housing;
- Safety issues associated with the on-street parking of vehicles on Main Street;
- Adverse impact on residential amenities and loss of the view from properties on Main Street;
- If approval is given than the building materials and designs are conducive to their surroundings;

In addition to the above, the Parish Council have also asked the question of who would be responsible for the maintenance of hedgerows and ditches around the properties, and where would the oil tanks be situated to reduce visual impacts and ensure residential safety.

Severn Trent Water has no objection subject to the inclusion of conditions on any consent granted.

Third Party Representations

23 no. representations objecting to the application have been received with the comments raised summarised as follows: -

Infrastructure

- The village is unsustainable and does not have the economic or social infrastructure to sustain further development
- Development would progress additional development into the open fields which would be detrimental to the rural environment
- There is no investment in the village infrastructure or amenities the bus route is under threat and there is no play area
- The Dawsons Road development will provide the required level of new housing required for the settlement and therefore there is no benefit to this development
- There has been a 23% increase in dwellings since 2000 without the provision of any further infrastructure to support this development
- This is prime agricultural land and should not be built upon, allowing development encourages farmers to go for short term profits by building dwellings rather than farming

Residential Amenity

- The land is currently agricultural and to develop on it will result in a loss of privacy due to overlooking impacts on to my home and garden
- There would be an increase in both light and noise pollution from the proposal which would be detrimental to amenities
- Provision of dwellings will result in the loss of the view onto open fields
- The tranquillity of the neighbourhood would be affected
- Trees should not be proposed to the rear boundaries as it will decrease the amount of sunlight to the gardens and the properties themselves
- Development will conflict with Article 8 of the Human Rights Act 1998 which sets out that private and family life should not only encompass the home but also the surroundings

Demand for Housing

- Whilst the Council cannot demonstrate a five year housing land supply there is still sufficient brownfield land available to meet the demand without using greenfield sites;
- There are sufficient houses available of comparable size and stature for sale within the village to negate the need for further development
- The site is a greenfield site and as such should not be built upon with it being important to protect open areas within settlements which contribute positively to the character of the settlement concerned, its streetscene or its setting or approaches
- The site is outside the defined Limits to Development
- Further development on agricultural land will set a dangerous precedent and brownfield sites should be prioritised
- Development would not be affordable to low income families

Highway Safety

- There are issues with traffic and parking within the village in the late afternoon, evening and early morning which reduce the width of Main Street to a single carriageway
- The traffic survey was undertaken at the wrong time of the day to be accurate in respect of highway safety issues

- Insufficient off-street parking for the development will be made available
- Highway network is not adequate enough to cater for the additional movements of vehicles
- Parking on Main Street needs to be restricted

Design

- If the application is permitted careful consideration should be given to the appearance of the dwellings so that they enhance the character of the village so differing designs for each property should be considered, smaller windows and the materials of construction;
- Development is contrary to the Osgathorpe Village Design Statement
- Development would diminish the present open character of Main Street and would be detrimental to the area of particularly attractive countryside
- Proposal would not improve the character or quality of the area and the way it functions;
- Proposal would constitute inappropriate 'ribbon' development

Other Matters

- Development will impact on property values
- Properties in the area are subjected to flooding impacts with the use of the existing land drain for rain water disposal contributing to this issue
- There is a history of developers seeking outline planning approval for one form of development and subsequently changing it at a later date
- There does not appear to be adequate space for oil tanks for heating purposes to be installed

A signed collective objection with 55 signatories has also been submitted raising an objection to the application on the following grounds: *"that it will have an adverse effect on the character and infrastructure of the village, in what is already classed as an unsustainable location, and will add further traffic issues in what is already a hazardous and dangerous location."*

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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

- Paragraph 10 (Achieving sustainable development);
- Paragraph 14 (Presumption in favour of sustainable development);
- Paragraph 17 (Core planning principles);
- Paragraph 28 (Supporting a prosperous rural economy);
- Paragraph 32 (Promoting sustainable transport);

Paragraph 39 (Promoting sustainable transport);
Paragraph 49 (Delivering a wide choice of high quality homes);
Paragraph 53 (Delivering a wide choice of high quality homes);
Paragraph 55 (Delivering a wide choice of high quality homes);
Paragraph 57 (Requiring good design);
Paragraph 60 (Requiring good design);
Paragraph 61 (Requiring good design);
Paragraph 64 (Requiring good design);
Paragraph 75 (Promoting healthy communities);
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 121 (Conserving and enhancing the natural environment);
Paragraph 123 (Conserving and enhancing the natural 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 S3 - Countryside;
Policy E3 - Residential Amenities;
Policy E4 - Design;
Policy E7 - Landscaping;
Policy E22 - Areas of Particularly Attractive Countryside;
Policy E7 - Landscaping;
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;

Draft Consultation North West Leicestershire Local Plan

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

Policy S1 - Presumption in Favour of Sustainable Development;
Policy S2 - Future Housing and Economic Development Needs;
Policy S3 - Settlement Hierarchy;
Policy S4 - Countryside;
Policy S5 - Design of New Development;
Policy H4 - Affordable Housing;
Policy H6 - House Types and Mix;

Policy IF4 - Transport Infrastructure and New Development;
Policy IF7 - Parking Provision and New Development;
Policy En1 - Nature Conservation;
Policy En6 - Land and Air Quality;
Policy Cc2 - Sustainable Design and Construction;
Policy Cc3 - 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 NPPG does not change national policy but offers practical guidance as to how such policy is to be applied.

Affordable Housing Supplementary Planning Document

The Council adopted a revised Affordable Housing Supplementary Planning Document ("the SPD") on 18th January 2011 and this indicates that the amount of affordable housing sought on all sites of 5 or more dwellings in areas such as Osgathorpe will be 30%.

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 developments.

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. It advises that they should have regard to the Council Directive on the conservation of wild birds (79/409/EEC) and the Council Directive on the conservation of natural habitats and of wild fauna and flora (92/43/EEC) in the exercise of their planning functions in order to fulfil the requirements of the Directives in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

6. Assessment

Principle of the Development

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)).

With regards to the application site it is noted that it lies outside the defined Limits to Development with residential dwellings not being a form of development permitted by Policy S3 of the adopted Local Plan. The site is also within an Area of Particularly Attractive Countryside, as highlighted under Policy E22 of the adopted Local Plan, which is considered to represent the most significant and important rural landscape locally.

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 the weight afforded to them when determining planning applications should be reduced accordingly. 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 sustainable locations.

It is also important to bear in mind that the Limits to Development, as defined in the adopted Local Plan, were drawn having regard to housing requirements only up until the end of that Plan Period (i.e. to 2006). It is therefore considered inevitable that greenfield land will need to be released to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan. In this respect it is acknowledged that the site borders the Limits to Development on its north-eastern, north-western and south-eastern boundaries.

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

With regards to the sustainability credentials of the site, it is noted that in previous assessments of applications reference has been given to the Department of Transport (DoT) statistics which outlined that the average trip length undertaken by foot would be 1000.0 metres. However, in a recent appeal decision relating to a residential development on Willesley Road in Ashby De La Zouch (ref: APP/G2435/W/15/3027396) the Inspector concluded that such a statistic does not take into account those people who would walk but are put off by such distances and choose to travel by alternative means. In the aforementioned appeal, reference was made to the Institute of Highways and Transportation document '*Providing for Journeys on Foot*' and in respect of a rural environment the acceptable walking distance to services would be 800 metres and 1000 metres for a school. On the basis of these distances a public house (Storey Arms Public House) and bus stop (Main Street) would be within an acceptable walking distance with such walks being possible along maintained footpaths. Given that the services which are available would not provide the goods that people would rely on to meet their 'day to day' needs (i.e. school and a shop) the settlement of Osgathorpe would not be considered sustainable. In respect of the bus service which serves the village (Paul S Winson Coaches no. 129 - Ashby De La Zouch to Loughborough) the first bus arrives into the village at 07:47 with the last bus to Loughborough departing at 16:50 and the last bus returning to Ashby arriving at 18:05, this service runs Monday to Saturday with only five buses during the operational hours which means the service is less than hourly.

Socially the development would benefit from the provision of nine dwellings which would include three affordable properties with a mix of 2, 3 and 4 bedroom properties being supported and contributing to the housing needs of different groups in the community (albeit this provision is questioned by Osgathorpe Parish Council).

However, the social role, as defined in Paragraph 7 of the NPPF, requires the supply of housing to be linked to accessible local services which meet the needs of the community and support its health, social and cultural wellbeing. As identified above, Osgathorpe does not benefit from many services and as such residents would consequently be relatively isolated from shops, medical services and cultural or recreational facilities. Belton, around 1.8 miles from the site, would be the nearest settlement which would provide a shop and other services (including a doctor's surgery) with the nearest centre offering significant employment opportunities being

Coalville and Shepshed. The public transport provision, being on a two hourly basis and not extending into the evening hours, would also restrict opportunities to access services other than via the private car. As a consequence, in terms of the social role as defined by the NPPF, accessibility to a range of local services for residents of the proposed housing development would be severely limited.

Reference is made to application reference 14/00574/OUTM for a residential development of 16 dwellings at Dawsons Road, Osgathorpe where a contribution was secured towards the purchase and subsequent upkeep of the Storey Arms Public House, and its further expansion in order to provide additional services. This application was approved by the Planning Committee at its meeting on the 7th October 2014. Whilst a reserved matters application is currently being progressed (ref: 15/01214/REMM) in accordance with the terms of the outline permission, limited weight is attached to any social sustainability benefits that particular development would bring to the settlement of Osgathorpe. This position is taken as there are currently no guarantees that the actual contributions secured would result in a suitable level of service provision being available which would increase the social sustainability credentials of the settlement.

Overall, therefore, the lack of ability to access a basic level of services for future residents would weigh heavily against the development being socially sustainable.

From an environmental sustainability point of view it is noted that the site is located within an Area of Particularly Attractive Countryside (APAC) which the adopted Local Plan confirms is considered to represent the most significant and important rural landscape area locally. This designation is subject to saved Policy E22 which states the following:-

"Development will not be permitted which would adversely affect or diminish the present open character and attractive rural landscape and/or be detrimental to natural habitats and scientific interest of the following Areas of Particularly Countryside, identified on the Proposals Map:

- (a) *Land to the east of Greenhill, Thringstone, Whitwick and Worthington, including part of Charnwood Forest;*
- (b) *Land in the vicinity of Staunton Harold; and*
- (c) *Land at Gospall's Wharf, Snarestone.*

Built development will be permitted only where it is appropriate to the established character of the designated area in terms of scale, siting, detailed design and materials of construction.

In addition the District Council will seek to:

- (a) *Undertake or encourage measures to protect and enhance the landscape, wildlife, habitat, archaeological and scientific interest of the designated area, including planting, nature conservation measures and the provision of nature interpretation and appreciation facilities;*
- (b) *Secure the positive management of land within the designated areas to enhance and maintain its wildlife habitat and features of scientific and archaeological interest;*
- (c) *Protect and conserve particular features which contribute to the special character of the designated areas, such as dry stone walls in the Charnwood Forest."*

In many respects this policy would be supported by the principles of Paragraph 17 of the NPPF and the ministerial letter from Brandon Lewis of the 27th March 2015 urging Inspectors to protect the intrinsic beauty of the countryside.

The land slopes upwards from north-east to south-west as well as from north-west to south-east. It is therefore considered that the provision of nine dwellings, and their associated built infrastructure, within the APAC would diminish the present open character of the area and result in an urbanising impact, therefore conflicting with the intentions of Policy E22 of the adopted Local Plan. However, in the Greenhill Road decision the Inspector concluded that Policy E22 of the adopted Local Plan was out of date due to it not being consistent with Paragraphs 109 and 113 of the NPPF rather than the policy itself restricting the supply of housing. Whilst the Local Authority does not necessarily agree with that position a more recent Court of Appeal Judgement (*Richborough Estates v Cheshire East Borough Council & Secretary of State*) has concluded that those environmental policies which seek to resist the delivery of housing should not be considered up-to-date if the Council cannot demonstrate a five-year supply of housing sites (which on the basis of the Greenhill Road appeal decision the Council cannot at this present time) as they would be inconsistent with the aims of Paragraph 49 of the NPPF. On the basis of the Court of Appeal Judgement Policy E22 would be a policy which would restrict the supply of housing and the weight afforded to it should therefore be reduced accordingly.

Paragraph 17 of the NPPF highlights that planning decisions should seek to "*recognise the intrinsic character and beauty of the countryside.*" The environmental role should also contribute to protecting and enhancing our natural, built and historic environment; and, as part of this, help to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.

In terms of the built development being proposed the layout shows that the dwellings would be located in close proximity to Main Street and would extend across the entire gap which exists between the telephone exchange and No. 71 (The Old Surgery) Main Street with a hedgerow being retained to the site frontage, and significant tree landscaping being proposed to the south-western boundary. Whilst the development would result in a physical intrusion into the rural environment, and result in the loss of a natural break in the street frontage along the south-western side of Main Street, it is acknowledged that the site is bounded by built forms to the north-west, south-east and north-east and would have less of a projection into the rural environment than no. 71 Main Street. In this context the development would not have a significantly adverse impact on the 'openness' of the rural environment nor would the dwellings be 'isolated' due to their integration with existing built forms.

Whilst it would not be a sufficient reason to resist the proposed development on the basis that the dwellings would be built on a greenfield site, it is considered, taking into account the views of the Planning Inspectorate relating to an appeal decision at Tea Kettle Hall in Diseworth (APP/G2435/A/13/2208611), that due to the distance from shops, services and employment opportunities, as well as the severely limited bus service through the village, that the private car would be the most likely mode of transport for the majority of trips to and from the proposed dwellings. This would involve lengthy trips in an unsustainable mode of transport for shopping, work and leisure purposes which would conflict with the environmental aims of the NPPF which seek to use natural resources prudently and move towards a low carbon economy.

Although the development would be constructed on agricultural land this land is Grade 3 Agricultural Land and as such would not be considered the best and most versatile agricultural land (defined as Grades 1, 2 and 3a of the Agricultural Land Classification) in the context of Paragraph 112 of the NPPF.

In conclusion, any support warranted to the economic benefits of the development, which would be strictly limited to the construction of the dwellings and the social aspects of providing three

affordable housing units, would be heavily outweighed by the negative social and environmental impacts associated with future occupants being socially isolated from basic services, and their heavy reliance on the private car and thus, not supporting the move towards a low carbon economy. As a result of this, the development would be unacceptable in principle and would not represent sustainable development. The fact that the Council is unable to demonstrate a five year housing land supply is also not considered to be of relevance if the development itself is considered to conflict with the key principles of the NPPF as highlighted above.

Means of Access and Transportation

Access and layout are included for approval at this stage and the plans indicate that an existing gap within the hedgerow would be widened to allow an access road with a width of 5.0 metres to be created. Internally within the development an access road with relevant turning head would run parallel to Main Street in order to provide access to Plots 5 - 9 with another access road, with relevant turning head, running perpendicular to Main Street in order for access to be achieved to Plots 1 - 4. To the south-east of the access point a 2.0 metre wide footpath link would be created, with a dropped kerb, in order for pedestrians to cross the road safely onto the north-eastern side of Main Street.

In reviewing the submitted information it is noted that the County Highways Authority has raised an objection to the application on the basis of sustainability, which has been considered above, but has raised no objections to the application in respect of highway safety implications.

The vehicular access would have visibility splays of 2.4 metres by 43.0 metres and is located on the side of Main Street where no pedestrian movements would be undertaken, given that only a grass verge exists on this side of the highway. Taking into account the comments of the Highways Authority it is considered that the proposed vehicular access would be acceptable and would not cause significant highway safety implications by virtue of the level of visibility achieved in both directions being acceptable. Whilst concerns have been raised, by third parties and the Parish Council, in respect of the problems associated with on-street parking problems in the area and the inadequacy of the highway impact statement, the presence of vehicles in the highway and information contained within the highway impact statement have not been identified as particular concerns to the County Highways Authority. In any case, any vehicle exiting the development site would have a sufficient level of visibility in both directions to ensure that an adequate assessment of the movement of vehicles in the highway could be undertaken before exiting the site. It is also noted that there are no parking restrictions in the highway which would prevent the existing on-street parking, or any future on-street parking, which occurs and the presence of vehicles obstructing private drives or junctions would be a matter which would need to be addressed by the Police.

With regards to the adequacy of the highways network in and around Osgathorpe being able to 'cope' with a potential increase in vehicular movements it is noted that the County Highways Authority has raised no objections to the development on this basis, and the lack of control over the movement of vehicles throughout the village means that these roads could be subjected to an increase in vehicular movements with or without the development. Given that Paragraph 32 of the NPPF outlines, amongst other things, that "*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe,*" it is considered that the above conclusions outline that a residential development on the site would not have a severe impact on highway safety as to justify a refusal of the application. In these circumstances the development would also accord with Paragraph 32 of the NPPF and Policy T3 of the adopted Local Plan.

The provision of a pedestrian footway from the site entrance for a length of 36.0 metres, to connect the residents of the new development with the paved footway on the north-eastern side of Main Street, would also improve the highway safety merits of the scheme by ensuring future residents would be able to safely cross the road at a point other than the site entrance.

In respect of off-street parking requirements it is noted that two bedroom properties should have a minimum of one off-street parking space, three bedroom properties should have a minimum of two off-street parking spaces and four bedroom properties should have a minimum of three off-street parking spaces. The indicative elevations show that all properties would benefit from an integral or detached garage and it could be ensured, at the reserved matters stage, that the internal dimensions of the garages were the minimum required by the County Highways Authority (6.0 metres in length by 3.0 metres in width) in order to be considered sufficient as an internal parking space. Externally the layout shows that suitable dimensions of parking spaces, as well as a sufficient number of spaces, would be provided per dwelling to ensure compliance with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan.

Density

The application site area is 0.59 hectares and the provision of nine dwellings on the site would result in a density of 15.25 dwellings which would be significantly below the 30 dwellings per hectare advised by saved Policy H6 of the adopted Local Plan in other locations (other than the main settlements and those well served by public transport and accessibility to services and facilities).

Although 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. In the circumstances that the Local Authority values good design in its approach to residential development and there would be a need to retain and reinforce the landscaping of the site, it is considered that the density proposed would represent an efficient use of the land in this instance. In these circumstances the proposal would not substantially conflict with the principles of Policy H6 as to warrant a refusal of the planning permission.

Neighbours and Future Occupants' Amenities

It is noted that details of the layout and scale have been submitted for approval at this stage with the nearest residential properties being No. 71 Main Street, located to the south, and the properties on the north-eastern side of Main Street being Nos. 84 - 110 (even nos. inclusive).

In respect of the issues raised by residents in respect of overlooking implications it is noted that the position of windows, and what rooms they would serve, would not be known, until such time as the appearance was submitted under any subsequent reserved matters application. In any event the layout shows that the Plots 5 - 9 would be set a minimum of 22.0 metres from the edge of the highway on the north-eastern side of Main Street, thereby meaning the distances between elevations would be in excess of this distance, and as a result it would be very difficult to sustain that the development would result in adverse overlooking impacts given that such views onto the front amenity area and towards the front elevations of the properties is readily achieved from the public domain. The north-eastern (side) elevation of Plot 1 would be set 17.0 metres from the edge of the highway on the north-eastern side of Main Street and given that this property would be single storey, as well as the fact that a 1.6 metre high hedge would be retained to the roadside boundary, it is considered that no adverse overlooking impacts would arise. The amenities of No. 71 Main Street would also not be adversely impacted on by overlooking impacts given that over 22.0 metres would exist between Plot 9 and the north-

eastern corner of No. 71 Main Street.

Whilst the land levels on the south-western side of Main Street are higher than those on the north-eastern side the difference is not significant and given that the heights of the proposed dwellings would range between 5.9 metres and 6.9 metres it is considered that no adverse overbearing or overshadowing impacts would arise particularly as the finished ground levels and floor levels of the dwellings could be secured via the imposition of a planning condition.

Concerns have been expressed that the development will result in an increase in noise from a rise in vehicular movements and activity on the site. However it is considered that whilst the provision of a residential scheme along Main Street would increase the volume of traffic, this increase would not be significantly detrimental to amenities to justify a reason for the refusal of the application. This view is taken given that there are no controls in place to restrict the movement of vehicles along Main Street and the fact that the vehicular movements of the future occupants of the scheme would be similar to those of existing residents. The development relating to the provision of nine dwellings would also not be considered a noisy use, and as such it would be difficult to justify a refusal of the application on the basis that the tranquillity of the area would be adversely affected by the introduction of new residents. It is also noted that the Council's Environmental Protection team have raised no objections to the development on noise grounds.

In respect of lighting it is considered that a condition could be imposed on any consent granted for any external lighting for the development, alongside the access roads, to be agreed with the Local Planning Authority to ensure that it is subtle. No controls would be applicable to the lighting installed on the individual dwellings given that planning permission is not required to install external lighting which is also true for any street column lighting the County Highways Authority may wish to install in the public highway.

With regards to future amenities it is considered that the proposed layout identifies that, subject to the position of the windows being agreed, all properties would establish an acceptable level of amenity for future residents. The landscaping scheme for the development would also be agreed at a later date and at this time it could be ensured that such landscaping would be appropriate in maintaining an acceptable level of private amenity space.

The issues raised in respect of the loss of a view would not constitute a material planning consideration and as such does not warrant further deliberation in the assessment of the application.

Overall the proposed development would not conflict with the principles of Paragraph 123 of the NPPF or Policy E3 of the adopted Local Plan.

Impact on the Character and Appearance of the Landscape 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 decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."*

The application site slopes modestly upwards from north-east to south-east and from north-west to south-east with a 1.6 metre high hedge currently defining the north-eastern boundary of the

site with Main Street. Residential properties lie to the north-east and south-east (on Main Street) with two properties (Craig Y Don (no. 2), Ashby Road and no. 4 Ashby Road) being situated to the west. A telephone exchange is situated to the north-west with the land to the south-west being predominately open countryside. Properties within the surrounding area are a mix of two-storey detached and semi-detached types.

It is noted that appearance and landscaping are included as matters to be considered at a later stage although the scale and layout are for approval at this stage. Properties on the north-eastern side of Main Street are situated close to the highway and present their principal elevations to the highway whilst the south-eastern side is characterised by dwellings which vary in relation to their proximity to the highway but still present their principal elevations to the highway (the exception being No. 71 Main Street). The proposed layout shows that the dwellings would mainly face onto Main Street (Plots 5 - 9) which would be consistent with the character of the area. Whilst Plots 1 - 4 would be perpendicular to the highway this is not considered to be sufficiently detrimental to the character of the area as to warrant a refusal of the development given the presence of the telephone exchange, which is set back from Main Street, and the fact that Orchard Close provides residential development which would be perpendicular to the principal highway of Main Street.

Whilst dwellings in the immediate area are predominately two-storey the provision of dwellings which are single storey and two-storey (with habitable accommodation in the roof slope) would not be sufficiently detrimental to the character and appearance of the wider area. This is considered to be the case given that they would not be located within a streetscape whereby such an arrangement would appear 'out of place' due to the sites relationship with the telephone exchange, and the fact that the arrangement of the dwellings on the site (single storey dwellings leading up to the two-storey (with habitable accommodation in the roof slope) dwellings) would build upwards to the two-storey dwellings which currently exist on the south-western side of Main Street. It is also noted that it is important to plan for a mixture of different house types which will meet the needs of all of the community, which the development would achieve. It is also considered that the overall floor areas of the dwellings would be consistent with the character of the area and overall, therefore, the scale of the development would be appropriate.

Public footpath N6 lies to the south of the site and it is considered that the position of the dwellings would have no greater impact on views established from this footpath given that such views currently include the dwellings on the north-western side of Main Street as well as the telephone exchange.

The appearance of the dwellings would be agreed at the reserved matters stage and it is considered that at this point an appropriate design could be achieved which would accord with the Council's current design agenda by responding to the positive characteristics of dwellings within the area.

Overall, the development is considered to accord with Paragraphs 57, 60 and 61 of the NPPF and Policy E4 of the adopted Local Plan. The specific requirements of Policy H7 of the adopted Local Plan would be achieved through any reserved matters application submitted for the detailed appearance of the dwellings.

Viability of the Development

A request has been made for S106 contributions relating to the provision of affordable housing. This request has been assessed against the equivalent legislative tests contained within the Community Infrastructure Levy Regulations 2010 ("CIL") 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.

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

Affordable Housing

The Affordable Housing SPD indicates that on all development sites providing five or more properties a requirement of 30% affordable housing would be required with the Council's preferred position for this to be provided on site.

The Council's Strategic Housing Team have been consulted on the application and have advised that an affordable housing requirement for 30% affordable housing would be applicable, with it being noted that as a development of nine dwellings there would be a need for three affordable properties to be provided on the site in order to be policy compliant.

It is identified within the supporting information that Plots 1 - 3 would be provided as affordable housing which would be three single storey two bedroomed properties and this mix and location is considered satisfactory to the Affordable Housing Enabler subject to a tenure split of 70% rented and 30% intermediate home ownership being secured. The Affordable Housing Enabler would also be supportive to a village connection criteria being attached to the allocation of the affordable properties.

In the circumstances that the approach taken by the developer in respect of affordable housing is considered acceptable to the Affordable Housing Enabler, the proposed development would accord with Policy H8 of the adopted Local Plan along with a relevant Section 106 Agreement securing the affordable housing contribution. The imposition of a 'village connection criteria' into the Section 106 Agreement would also ensure that the development could be offered to existing residents of Osgathorpe to assist in meeting their housing needs.

Other Contributions

The Parish Council have requested that the development should contribute towards village amenities and village facilities, however, no justification has been provided as to why the proposed development would severely impact on such facilities. In the absence of such justification it cannot be concluded that such a request would be CIL compliant or that the development would be directly related to the perceived impacts on village amenities and village facilities. On this basis such a request would fail the terms set out in Paragraphs 203 and 204 of the NPPF.

Ecology

The County Council Ecologist has assessed the submitted ecology report and has raised no objections given that there was no evidence of protected species on the site, and that the arable land would be unlikely to support such species. It was noted by the County Council Ecologist that the roadside hedge would be of local value and conditions should be imposed to ensure that roadside hedge is retained and that any other vegetation to be removed is undertaken outside the bird nesting season (March - July inc).

Subject to the imposition of such conditions it is considered that protected species would not be

a constraint on the development and as such it would be compliant with Paragraph 118 of the NPPF and Circular 06/2005 - Biodiversity and Geological Conservation.

Landscaping

As the application site is situated within the National Forest a strong landscaping scheme would be a necessity for the development with Policy E7 of the adopted Local Plan seeking to ensure that existing vegetation is retained and enhanced. The only vegetation related to the site is a 1.6 metre high hedgerow which lies along the north-eastern (front) boundary, although mature trees do exist within the telephone exchange site in close proximity to the north-western (side) boundary of the application site. The submitted layout shows that the dwellings, and internal access roads, have been positioned so as to not impact on the root protection areas of the vegetation (trees and hedges) and this would ensure that their longevity would not be compromised particular given that the roadside boundary hedge has local ecological value.

The plans also show that substantial tree planting would be undertaken on the site although it is questioned whether the density of planting suggested would integrate well into the development proposed, or ultimately survive given the close knit planting suggested. Given that planting is a reserved matter is considered that a suitable landscaping scheme could be secured at a later date which would be appropriate for the context of the site, as well as the development proposed.

In the circumstances that existing vegetation would not be compromised by the layout proposed, and a suitable landscaping scheme could be secured at the reserved matters stage, it is considered that the development would accord with the aims of Policies E7 of the adopted Local Plan.

Flood Risk and Drainage

The site lies within Flood Zone 1 as defined by the Environment Agency as having a low probability of flooding. As the site does not exceed 1 hectare in size, there is no formal requirement to provide a Flood Risk Assessment (FRA) or formally consult the Environment Agency.

Severn Trent Water has been consulted on the application and they have identified that they have no objections to the development in respect of the drainage solutions proposed. The Lead Local Flood Authority have also provided guidance on their standing advice protocol and how their consent would be required for any works which would affect flows into a ditch.

A drainage assessment report has been submitted in support of the application and this indicates that in respect of surface water drainage an existing drainage ditch at the site frontage would be utilised with a minimum peak flow of five litres per second (to match greenfield run off rates) with this being controlled by a flow control chamber. Attenuation to the flows would be provided in the form of a geocellular storage tank and semi-permeable block paving to all car parking spaces. The capacity of the storage tank would also include for excess volumes generated by the 100 year storm event, plus a 30% allowance for climate change. It would be necessary for the Lead Local Flood Authority (Leicestershire County Council) to grant consent for discharge of surface water run-off to the ditch (via ordinary watercourse consent) which would be a separate legislative process to that of planning.

Surface water treatment is to be provided in the form of catchpit manholes, trapped gullies and semi-permeable paving with 210 litre water butts being fitted within each property to encourage

rainwater recycling. It is proposed that a private management company would be responsible for the management of the surface water drainage system, collectively with any residents of the properties. All finished floor levels of the dwellings would be 150mm above existing ground levels to ensure that they are not affected by pluvial (rainfall) sources of flooding with overland flow paths diverting rainwater away from buildings and principal points of access/egress.

In the context that consent would be required from the Lead Local Flood Authority for the discharge of surface water run-off to the ditch within Main Street, it could be ensured that the scheme approved would not further exacerbate any localised flooding impact with the ditch being within the ownership of Leicestershire County Council given that it is within the highway (as such they would be responsible for its ongoing maintenance). Building regulations would also be responsible for agreeing the surface water drainage solutions for each individual property which would be separate to that of the planning process and they would ensure that flooding implications are not further exacerbated.

In respect of foul water discharge, this would be directed to the existing foul water sewer located within Orchard Close subject to the approval of Severn Trent Water which again would be carried out under a separate legislative process to that of planning.

Overall, therefore, the development would not conflict significantly with the intentions of Paragraph 103 of the NPPF.

Archaeology

The County Council Archaeologist has raised no objections and does not consider that any archaeological conditions would need to be imposed on any consent granted. In the circumstances that archaeology would not act as a constraint on the development it is considered that it would accord with Paragraph 141 of the NPPF.

Other Matters

The Council's Contaminated Land Officer has assessed the application and has raised no objections to the proposal, subject to the imposition of a condition on any consent granted relating to the submission of contaminated land reports due to the proximity of the site to the telephone exchange and potential presence of made land. It is considered that such a condition is reasonable and its imposition will ensure that the development accords with Paragraphs 120 and 121 of the NPPF.

Whilst representations have been received identifying that the development would be contrary to the Osgathorpe Village Design Statement, it is noted that this document has not been formally adopted by the Council as a supplementary planning document, and as such, no weight can be given to the aspirations of this document in the determination of the application.

Although a representation has been received outlining that the proposal would conflict with Article 8 (Right to respect for private and family life) of the Human Rights Act 1998, which on the basis of the decision in *Britton v SOS* outlined that Article 8 would not only encompass the home but also the surroundings, no substantive evidence has been provided to demonstrate how the development would result in such an impact.

The Sweet and Maxwell Encyclopaedia of Planning Law and Practice summarised the position of Article 8 in planning decisions in September 2002 by stating: -

"The courts have proved distinctly unhappy about being invited to uphold Article 8 claims on a prospective basis on behalf of objectors to the grant of planning permission."

In the case of *Hatton v UK* heard by the Grand Chamber of the European Court of Human Rights (2003), it was held that Article 8 grounds did not amount to sufficient justification to refuse an application.

In concluding this matter it was highlighted that the *"Courts seem to feel that the whole process of planning decisions should not be overturned just because of the effects of particular decisions on householders who already have rights to make representations to a democratic body within the planning system."*

On the basis, it is considered that in absence of substantive evidence to demonstrate the degree of harm which would occur as a result of the development proposals it is considered that the proposal would not result in a conflict with the Human Rights Act 1998.

Conclusion

The report above indicates that the site is a greenfield site outside Limits to Development, is located within an Area of Particularly Attractive Countryside and that Osgathorpe is not a sustainable settlement.

Policies S3 and E22 of the adopted North West Leicestershire District Council Local Plan ("the Local Plan") cannot be relied upon to justify a refusal of the application, given that the Council cannot demonstrate a five year housing land supply. Whilst this is the case, the release of the land for residential development would not accord with the environmental sustainability strand of the NPPF as outlined at Paragraph 7, given that future occupants would be heavily reliant on the private car to access basic services, an unsustainable form of transport, and would therefore not support the approach to a low carbon economy. Given these circumstances the proposed development of the site is unacceptable in principle and would conflict with the environmental strand of sustainability.

In addition, Osgathorpe would not be considered a sustainable settlement given the lack of services within the area. As such the development of the site would not provide suitable access to an appropriate level of services which would contribute towards people's day to day needs. As a result of the development would also conflict with the social strand of sustainability enshrined within the NPPF again outlined at Paragraph 7.

Any limited contribution this development would make towards the Council's five year housing land supply, as well as the provision of three affordable housing units, are also not considered sufficient grounds to outweigh such conflicts which exist in respect of the key principles of the NPPF as detailed above.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reason;

- 1 Osgathorpe is a settlement which benefits from few services or an appropriate level of public transport provision, and as such would not be considered a sustainable settlement for the scale of the development proposed. The application site is on unallocated greenfield land located outside the Limits to Development of Osgathorpe, as defined on

the Proposals Map to the North West Leicestershire Local Plan, and is also within an Area of Particularly Attractive Countryside. The National Planning Policy Framework (NPPF) outlines that, socially, development should provide the supply of housing required to meet the needs of present and future generations with accessible local services and the support of their health, social and cultural wellbeing. Environmentally development should contribute to protecting and enhancing our natural, built and historic environment; and, as part of this, help to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy. Whilst a justification to refuse the development could not be substantiated against Policies S3 and E22 of the adopted North West Leicestershire Local Plan (Local Plan), it is considered that the development would conflict with the environmental strand of sustainability given that future occupants would be heavily reliant on the private car to access basic services, an unsustainable form of transport, and therefore would not support the approach to a low carbon economy. Insufficient local services to serve the basic needs of future residents would also lead to such residents being socially isolated. An approval, therefore, would be contrary to the environmental and social strands of sustainability enshrined within the NPPF.

Notes to applicant

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

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Proposed erection of detached dwelling with associated off-street parking and formation of new vehicular access onto Clements Gate

Report Item No
A2

17 Clements Gate Diseworth Derby DE74 2QE

Application Reference
16/00075/FUL

Applicant:
Mr P Hughes

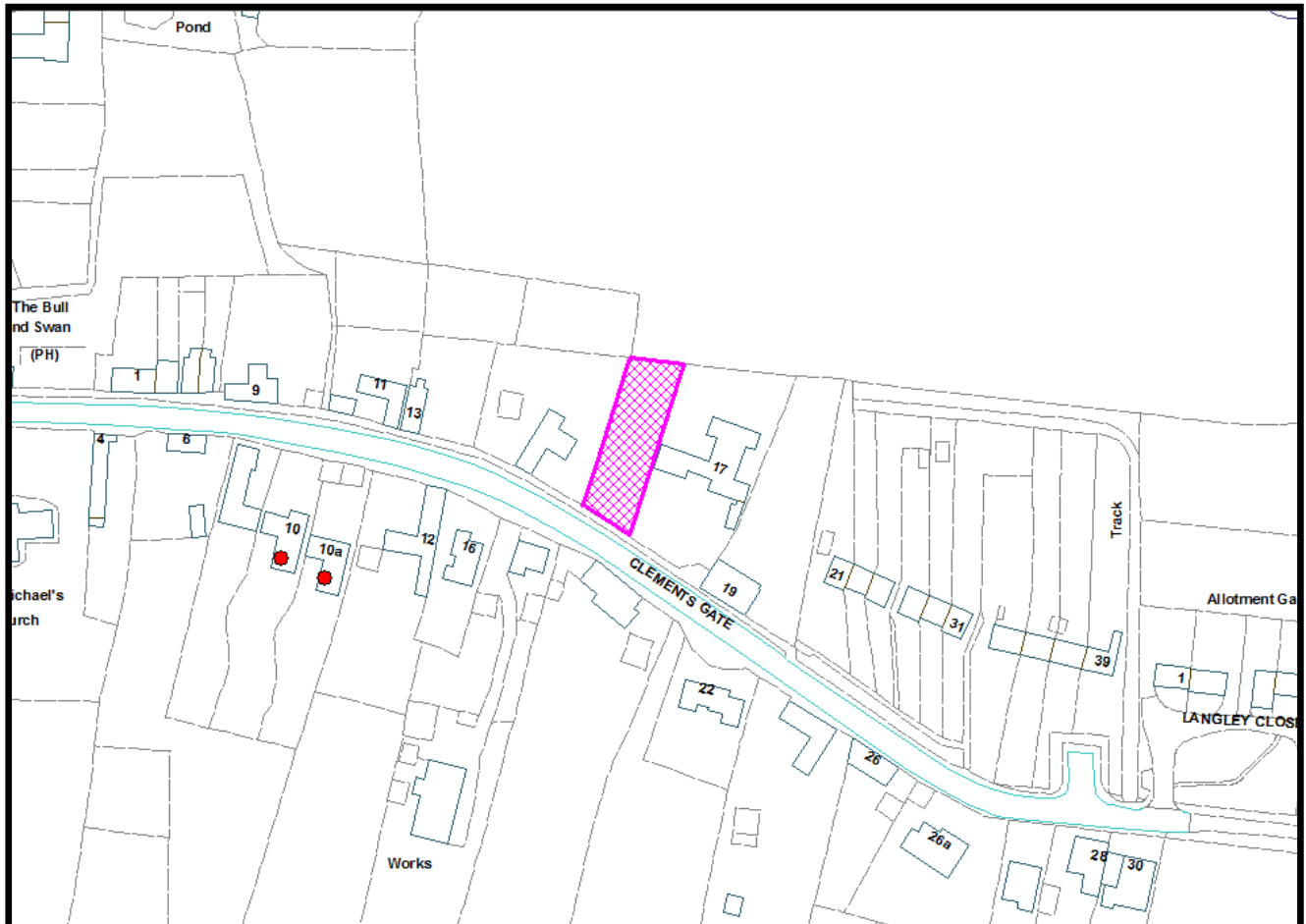
Date Registered
19 January 2016

Case Officer:
Adam Mellor

Target Decision Date
15 March 2016

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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Executive Summary Of Proposals

Call In

The application has been brought to the Planning Committee at the request of Councillor Rushton who considers that the design of the dwelling is acceptable and that there would not be a detrimental impact on heritage assets.

Proposal

Planning permission is sought for the proposed erection of a five bed three storey detached dwelling (habitable accommodation in the roof slope) which would be situated on the north-eastern side of Clements Gate to the immediate north-west of no. 17. The application site is within the Limits to Development and is also within the Diseworth Conservation Area with the Grade II Listed no. 20 Clements Gate being located to the south-west. A new vehicular access into the site would be formed from Clements Gate.

Consultations

A total of three no. individual representations have been received in support of the application with Long Whatton and Diseworth Parish Council raising no objections. All statutory consultees, with the exception of the Council's Conservation Officer, have raised no objections subject to the imposition of conditions on any consent granted. The Council's Conservation Officer objects to the proposal.

Planning Policy

The proposed development is considered contrary to Paragraphs 61, 64, 131, 132, 134 and 137 of the National Planning Policy Framework (NPPF), Policies E4, H6 and H7 of the adopted North West Leicestershire Local Plan and Sections 66 and 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

Conclusion

The proposed dwelling would be on land described as residential garden to no. 17 Clements Gate and there are no objections in principle to a dwelling on the site given it is in a socially sustainable settlement.

The Diseworth Conservation Area Appraisal highlights that the *"remaining open paddocks and garden areas contribute to the character of the conservation area"* with the eastern part of Clements Gate being more sparse with those properties set back from the carriageway not reflecting the character of traditional properties on Clements Gate. It is considered that new development should reflect those elements of the conservation area that contribute positively to its character and maintain the spaciousness afforded to dwellings. The proposal by virtue of its layout, size of plot and landscape, being set behind a substantial area of hard landscape, would not respond to local character and would therefore lead to harm to the significance of the heritage asset. Such harm is considered to be less than substantial but as there are no public benefits associated with the development which would outweigh the harm caused it is considered that to permit the development would be contrary to the aims of the core Paragraphs of the NPPF and in particular Paragraphs 61, 131, 132, 134 and 137 as well as Policies E4 and H7 of the adopted Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and

Conservation Areas) Act 1990.

It is also considered that the provision of an additional residential dwelling on the site, particularly given the site area of the application site, would result in a density and form of development which would appear cramped and constrained and would therefore not respond positively to the character and appearance of the northern side of Clements Gate which is characterised by dwellings within spacious plots. The overall size of the dwelling within the plot also compounds this negative impact by reducing its spaciousness. The design of the dwelling, with the presentation of an elevation with a significant width and massing to the street and provision of an integral double width garage, would also not respond positively to the appearance of the streetscape or accord with its established character. On this basis to permit the development would conflict with the environmental strand of sustainability as well as Paragraphs 61 and 64 of the NPPF and Policies E4, H6 and H7 of the adopted Local Plan.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE;

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

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the proposed erection of a detached dwelling with associated off-street parking and formation of new vehicular access onto Clements Gate at 17 Clements Gate, Diseworth. No. 17 is a single storey detached dwelling situated on the north-eastern side of Clements Gate at an elevated position to that of the highway and is within the defined Limits to Development. The property is also situated within the Diseworth Conservation Area with the Grade II Listed no. 20 Clements Gate being located to the south-west of the site. With regards to the wider area this is characterised by dwellings which vary in their type and size with open countryside being situated to the north of the site.

The proposed five bed three-storey detached dwelling (habitable accommodation in the roof slope) would be situated on the north-eastern side of Clements Gate, to the immediate north-west of no. 17, at a distance of 10.82 metres from the back-edge of the carriageway. It is proposed that the dwelling would cover a ground area of 148.0 square metres and would be 'dug into' the land due to variance in the land levels. As a result of this its eaves and ridge height on the south-western elevation, presented to Clements Gate, would be 5.93 metres and 8.81 metres, respectively, which would be higher than those of the south-eastern elevation which are an eaves height of 2.8 metres and ridge height of 6.3 metres.

Vehicular access into the site would be gained via a newly created access off Clements Gate with off-street parking and integral garaging being supplied.

The most recent planning history of the site is as follows: -

- 91/0061/P - Erection of a part two-storey extension - Refused 29th May 1991;
- 91/0685/P - Erection of a part two-storey front extension - Approved 2nd October 1991.

2. Publicity

7 Neighbours have been notified (Date of last notification 21 January 2016)

Site Notice displayed 26 January 2016

Press Notice published 27 January 2016

3. Consultations

Clerk To Long Whatton & Diseworth consulted 21 January 2016

Leicestershire County Highways Authority consulted 21 January 2016

Severn Trent Water consulted 21 January 2016

NWLDC Head of Environmental Protection consulted 21 January 2016

Leicestershire County Council Archaeologist consulted 21 January 2016

Leicestershire County Council Ecology consulted 21 January 2016

NWLDC Conservation Officer consulted 21 January 2016

4. Summary of Representations Received

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

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

Leicestershire County Council - Ecology has no objections.

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

Long Whatton and Diseworth Parish Council has no objections.

NWLDC - Conservation Officer advises that alterations to the boundary wall offer limited harm to the overall significance and may be outweighed by the provision of a new dwelling. At present, however, the layout and landscaping does not respond to local character and as such an objection is raised. Following receipt of additional information the Conservation Officer has advised that development should reflect those elements that contribute positively to the character of the area and not those elements that contribute negatively.

NWLDC - Environmental Protection has no objections.

Severn Trent Water no representation received.

Third Party Representations

Three no. representations have been received from the occupants of nos. 15, 19 and 20 Clements Gate who support the development and whose representations are summarised as follows: -

- Development has no impacts on ecological species as trees will not be removed;
- Design of property is aesthetically pleasing with stone entrance retaining walls;
- Access will allow safe entry and exit and will avoid street congestion;
- Scheme will allow for the restoration of a traditional stone wall;
- Diseworth would benefit from additional growth with occupants' supporting the local amenities;
- Development will not compromise the integrity of the historic environment.

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 53 (Delivering a wide choice of high quality homes);
Paragraph 55 (Delivering a wide choice of high quality homes);
Paragraph 57 (Requiring good design);
Paragraph 59 (Requiring good design);
Paragraph 60 (Requiring good design);
Paragraph 61 (Requiring good design);
Paragraph 63 (Requiring good design);
Paragraph 64 (Requiring good design);
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);
Paragraph 118 (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 E3 - Residential Amenities;
Policy E4 - Design;
Policy E7 - Landscaping;
Policy T3 - Highway Standards;
Policy T8 - Parking;
Policy H4/1 - Housing Land Release;
Policy H6 - Housing Density;
Policy H7 - Housing Design;

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;

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 of Development

The site would appear to be currently used as garden land, which is excluded from the definition of previously developed land set out in the NPPF, and therefore effectively constitutes a greenfield site. The NPPF states that decisions should encourage the effective use of land by re-using land that has been previously developed and that Local Planning Authorities should consider the use of policies to resist inappropriate development of residential gardens. The background to this issue is that in January 2010 the Government's Chief Planner (dated 19 January 2010) wrote to Local Planning Authorities to advise that garden land would no longer be considered previously developed land. This included an Annex which stated, amongst other things that, *"where the clear strategy to deliver housing on preferred sites is demonstrably working, then authorities may consider a policy to prevent development on gardens. Alternatively authorities could consider a policy which would set out clearly the circumstances in which garden development will be acceptable"*. The Council at the present time cannot demonstrate a 5 year supply of deliverable housing land and does not have a specific policy that prevents development on gardens. As such a reason for refusal on the basis of the loss of part of the residential garden could not be justified in this instance.

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 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. It is acknowledged that Policy H4/1 is out of date in the context of the fact the District Council cannot demonstrate a five year housing land supply.

It is considered that 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.

Given this level of service it is considered that a scheme for one dwelling 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. The provision of a dwelling would also make a small contribution towards the Council's housing land supply position.

Overall the principle of development would be considered sustainable in accordance with the core principles of the NPPF.

Residential Amenity

It is considered that the properties most immediately affected by the proposed works would be nos. 15 and 17 Clements Gate. No objections have been received from the occupant of no. 15 in relation to these proposals with no. 17 being within the ownership of the applicant.

In respect of the impacts on no. 15 it is noted that an existing 4.0 metre high conifer hedge along part of the shared boundary would be removed with the new dwelling being set 1.0 metre from this boundary and 7.2 metres (at its closest point) from the south-eastern (side) elevation of this dwelling. The supporting information indicates that the ridge height of the new dwelling would be 0.54 metres higher than that of no. 15 with the land levels between the two sites being generally consistent. When viewed from the south-west, within the garden of no. 15, a gable end and a sloping roof on a rear projection with heights of 6.4 metres would be presented but given the orientation of the new dwelling to no. 15, the amount of private amenity space available to no. 15, the length of the boundary covered by the new dwelling and that the ridge position of the rear projection would be 5.6 metres from the shared boundary it is considered that the proposal would not have a sufficiently detrimental overbearing or overshadowing impact on the occupants' amenities as to warrant a refusal of the application.

No. 17 is within the ownership of the applicant and it is proposed that the new dwelling would be positioned 2.4 metres from the boundary which would divide the sites. In respect of the ridge height of the new dwelling it is outlined that this would be 0.58 to 0.84 metres lower than that of no. 17 and whilst it would be situated to the north-west it has been positioned in a manner which would limit its implications to the amenities of no. 17 in respect of overbearing or overshadowing impacts. This is due to the position of habitable room windows on no. 17 and the amount of private amenity space available to this dwelling.

With regards to overlooking impacts to nos. 15 and 17 it is noted that two windows, serving an en-suite and bedroom, and three roof lights, serving a family bathroom (x2) and en-suite, would be installed in the south-western (side) elevation of the new dwelling. Five windows (serving a kitchen/dining area, stairwell, lounge (x2) and bedroom) and three roof lights (serving the entrance hall and stairwell) would be installed in the north-eastern (side) elevation. In respect of the windows it is considered that the placement of a suitable boundary treatment (to a minimum height of 2.0 metres) would prevent any adverse overlooking impacts and this could be conditioned on any consent granted. The bedroom and kitchen/dining area windows in the north-eastern (side) elevation would only provide views onto the front amenity area of no. 17 which would not be considered detrimental. In respect of the roof lights those in the north-eastern (side) elevation would be at a height of 3.6 metres above the internal floor level, which would not result in any adverse overlooking impacts. At present the roof lights shown in the south-western (side) elevation are only 1.45 metres above the internal floor level and as such views could be established towards no. 15. Although it is noted that these roof lights would only serve a family bathroom and en-suite it is considered reasonable to impose a condition on any consent granted for these roof lights to be 1.7 metres above the internal floor level of these rooms in order to avoid an overlooking impact. Views from the windows in the north-eastern (rear) elevation would be at oblique angles towards the rear amenity areas of nos. 15 and 17 and in order to prevent adverse overlooking implications from the proposed balcony a condition would be imposed on any permission granted for an obscure screen to be provided to both side boundaries.

In respect of future amenities it is considered that the proposed dwelling would have an acceptable relationship with nos. 15 and 17 and would not be subjected to any adverse overlooking impacts particularly as the view from a first floor bedroom window in no.15 would be

towards the front parking area for the new dwelling and that the windows in no. 17 which would result in a direct overlooking impact are to be removed. Any future occupant would also be aware of the relationship prior to their purchase.

Overall the proposed development is considered compliant with 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 and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."*

At present the application site is around 1.5 metres higher than the pavement and the Clements Gate carriageway with land levels on the site rising from south to north. Most properties in the area are two-storey or one and a half storey detached types with the traditional dwellings laid out to the back of the pavement, some properties on the northern side are raised on plinths or half basements due to the slope of the land. The majority of dwellings are aligned with their eaves addressing the street but some do present gable ends such as no. 15 Clements Gate. Although the western end of Clements Gate is defined by development which is dense with limited spaces between dwellings and limited opportunities for soft landscaping the eastern end, where the application site is set, is more sparse with several *"boundary treatments of merit (local sandstone rubble being a characteristic feature)"* as outlined in the Diseworth Conservation Area Appraisal. Nos. 17 and 22 Clements Gate are modern dwellings set back from the highway and their character does not reflect that of the traditional properties on Clements Gate.

In assessing the application the Council's Conservation Officer highlights that the Diseworth Conservation Area Appraisal specifies that the *"remaining open paddocks and garden areas contribute to the character of the conservation area"* and also warns against the *"pressure for infill development."* With regards to the proposal it is highlighted that *"the proposed alteration to the boundary wall would offer limited harm to the overall significance of the conservation area; this degree of harm may be outweighed by the provision of a new dwelling that responds to local character and reflects the importance that the government attaches to good design,"* it is then concluded that the proposal *"would not respond to local character in terms of its layout and landscape. It would be set back from the street behind a substantial area of hard landscape. For these reasons I would not support the proposed dwelling."*

The agent for the application supplied further information to identify the areas of hardstanding which exist to properties on the eastern part of Clements Gate and that, in their view, *"Clements Gate is characterised by a mix of traditional properties, which are predominately laid out to the back of the pavement, and more modern properties which are predominately set back from the street behind an area of hard landscape. The character of Clements Gate cannot be defined by one small group of dwellings (nos. 11 to 15). It is considered that the character of Clements Gate is a mix of both traditional and modern properties."*

With regard to these points raised the Council's Conservation Officer has identified that it would be expected that *"development should reflect those elements that contribute positively to the character of the conservation area, i.e. the layout and landscape of nos. 11 to 15 Clements"*

Gate, and not those elements that contribute negatively, i.e. the layout and landscape of nos. 17 and 22 Clements Gate." It is also noted that a hard landscaping analysis was supplied whereas the previous comments specified that the open paddocks and gardens contribute to the character of the conservation area, the development itself being on garden land.

It is considered that the degree of 'harm' caused to the significance of the heritage asset, as described by the Council's Conservation Officer above, is less than substantial and as such Paragraph 134 of the NPPF would be of relevance. This particular Paragraph highlights that *"where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable re-use."*

Given the particular requirements of this Paragraph, as well as those of Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that as there are no public benefits associated with the development which would outweigh the harm caused it is considered that to permit the development would be contrary to the core aims of the NPPF and in particular Paragraphs 61, 131, 132, 133, 134 and 137 as well as Policies E4 and H7 of the adopted Local Plan and Section 72 of the 1990 Act. In the circumstances that the development would adversely impact on the significance of the conservation area the removal of the *"boundary treatment of merit"* would not be justified.

In respect of the setting of the Grade II Listed no. 20 Clements Gate it is considered that the development would neither sustain nor enhance the significance of the setting of this heritage asset and as a consequence the development would also be contrary to Section 66 of the 1990 Act as well as the above Paragraphs of the NPPF.

The plot of land on which the property would be developed has an area of 0.053 hectares which results in a density of development of 18.86 dwellings per hectare. In respect of the neighbouring properties no. 15 has a density of development of 10.0 dwellings per hectare whereas no. 19 has a density of 8.3 dwellings per hectare (in respect of the land remaining for no. 17 the density of development on this site would be 7.14 dwellings per hectare). Given the relationship of the site with nos. 15, 17 and 19 it is considered that the proposed development would appear cramped and constrained in the context of the spaciousness afforded to properties on this side of Clements Gate particularly given the density of development on these plots. Whilst nos. 11 and 13 Clements Gate, to the west of the site, have a similar density of development to the proposed site the size of dwelling constructed on those sites does not dominate the plot of land and therefore the spaciousness around these dwellings is maintained. In these circumstances it is considered that the development would be detrimental to the character and appearance of the streetscape and surrounding area contrary to the environmental strand of the NPPF as well as Paragraphs 59, 61 and 64 of the NPPF and Policies E4, H6 and H7 of the adopted Local Plan.

Paragraph 53 of the NPPF highlights that Local Authorities should consider the case for setting out policies to resist inappropriate development of residential gardens with the example cited being where development would cause harm to the local area. As highlighted earlier in this report, it is considered that the development would constitute development of a residential garden but, given the absence of a five year housing land supply, a reason for refusal on the basis of the proposal being contrary to Paragraph 53 of the NPPF alone could not be substantiated given that neither the adopted nor draft consultation Local Plan contain policies resisting such development. However, this does not detract from the fact that it is considered that the development would result in harm to the character and appearance of the area.

In respect of the design of the dwelling it is considered that whilst this would have characteristics commensurate with those on the traditional properties within this part of Clements Gate (i.e. rubble stone plinth, dormer windows, plain clay roof tiles and Yorkshire sliding sash windows) the significant width and massing of elevation presented to the street, as well as its provision of an integral double width garage, would not respond positively to the appearance of the streetscape or accord with its established character. This would result in further conflict with Paragraphs 59, 61 and 64 of the NPPF as well as Policies E4 and H7 of the adopted Local Plan.

Highway Safety

The County Highways Authority has raised no objections subject to their standing advice in respect of vehicular visibility, pedestrian visibility, car parking, access surfacing, access gradient and access drainage being taken into account.

A highway report submitted in support of the application outlines that a new dropped kerb crossing of 9.2 metres width would be provided onto Clements Gate with the private driveway to the new dwelling being 6.3 metres in width, this would require the removal of part of the stone boundary wall. The width of the private drive would ensure that pedestrian visibility splays of 2.0 metres by 2.0 metres at both corners of the drive along with visibility splays of 2.4 x 43.0 metres in both directions could be provided. In respect of the gradient of the drive it is noted that this would be relatively level with the carriageway of Clements Gate, given the excavation works which would be undertaken, and the depth of the drive allows turning manoeuvres to be carried out clear of the highway so vehicles exit in a forward direction. Subject to conditions being imposed on any consent granted for these details to be provided, along with conditions relating to access surfacing and drainage, it is considered that the development would not impact adversely on pedestrian or highway safety and as such it would comply with Paragraph 32 of the NPPF and Policy T3 of the Local Plan.

In respect of off-street parking provision whilst it is noted that the internal length of the integral garage would not meet the guidance contained within the 6Cs Design Guide it is considered that at least one vehicle could park within the structure due to its width. Further off-street parking to serve the dwelling would then be provided to the site frontage and on this basis it is considered that the proposed development would not lead to on-street parking problems on Clements Gate. On this basis the development would be compliant with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan.

Ecology

The County Council Ecologist has been consulted and has identified that there is no requirement for ecological surveys to be carried out given that the development site is within an existing garden. In the circumstances that no objection has been raised it is considered that protected species would not act as a constraint on the development and as such it would accord with Paragraph 118 of the NPPF and Circular 06/05.

Landscaping

It is proposed that a 4.0 metre high conifer hedge along the boundary of the site with no. 15 Clements Gate would be removed along with individual conifers within the current side garden of no. 17 Clements Gate (which would become the rear garden to the new dwelling). More mature trees in close proximity to the north-eastern (rear) boundary would be retained along with vegetation within the garden to no. 17. It is considered that neither the conifer boundary

hedge, or individual conifers, contribute significantly to the visual amenity of the public domain and as such they would not act as a constraint on development particularly when the trees of higher amenity values would be retained. A condition to secure a landscaping scheme would be imposed on any consent granted in order to ensure that future planting undertaken provides suitable native species and this would ensure the development would be compliant 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 on the site frontage with the first edition Ordnance Survey map of 1890 suggesting there has been little disturbance on this site. Consequently, there is a likelihood that buried archaeological remains will be affected by the development.

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 programme of archaeological work (including strip and record excavation), 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

It is noted that the application site and the properties within the vicinity of the site do not fall within Flood Zones 2 and 3. Details of drainage would be dealt with under separate legislation (Building Regulations and Severn Trent Water), with it being noted that no representation from Severn Trent Water has been received, and as such any issues relating to how surface water run-off would be managed would be addressed at that time although the application submission indicates that surface water run-off would be directed to a sustainable urban drainage scheme (SuDs). In the circumstances that the site is not within Flood Zones 2 and 3 it is anticipated that any surface water run-off solution would not further exacerbate any localised flooding issue. As such the development would not conflict with Paragraph 103 of the NPPF.

Conclusion

The proposed dwelling would be on land described as residential garden to no. 17 Clements Gate and there are no objections in principle to a dwelling on the site given it is in a socially sustainable settlement.

The Diseworth Conservation Area Appraisal highlights that the *"remaining open paddocks and garden areas contribute to the character of the conservation area"* with the eastern part of Clements Gate being more sparse with those properties set back from the carriageway not reflecting the character of traditional properties on Clements Gate. It is considered that new development should reflect those elements of the conservation area that contribute positively to its character and maintain the spaciousness afforded to dwellings. The proposal by virtue of its layout, size of plot and landscape, being set behind a substantial area of hard landscape, would not respond to local character and would therefore lead to harm to the significance of the heritage asset. Such harm is considered to be less than substantial but as there are no public

benefits associated with the development which would outweigh the harm caused it is considered that to permit the development would be contrary to the aims of the core Paragraphs of the NPPF and in particular Paragraphs 61, 131, 132, 134 and 137 as well as Policies E4 and H7 of the adopted Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

It is also considered that the provision of an additional residential dwelling on the site, particularly given the site area of the application site, would result in a density and form of development which would appear cramped and constrained and would therefore not respond positively to the character and appearance of the northern side of Clements Gate which is characterised by dwellings within spacious plots. The overall size of the dwelling within the plot also compounds this negative impact by reducing its spaciousness. The design of the dwelling, with the presentation of an elevation with a significant width and massing to the street and provision of an integral double width garage, would also not respond positively to the appearance of the streetscape or accord with its established character. On this basis to permit the development would conflict with the environmental strand of sustainability as well as Paragraphs 61 and 64 of the NPPF and Policies E4 and H7 of the adopted Local Plan.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reasons;

- 1 Paragraph 7 of the National Planning Policy Framework (NPPF) defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including contributing to protecting and enhancing our built environment. Paragraph 61 of the NPPF outlines that planning decisions should address the connections between people and places and the integration of new development into the historic environment. Paragraphs 131, 132, 134 and 137 of the NPPF all indicate that in making planning decisions consideration should be given to the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation and that where less than substantial harm is caused this harm should be weighed against the public benefits of the development. Policy E4 of the adopted North West Leicestershire Local Plan (Local Plan) requires new development to respect the character of its surroundings with Policy H7 of the Local Plan seeking good design in all new housing developments. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The 1990 Act) also indicates that special regard will be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses when making planning decisions. Section 72 of The 1990 Act also outlines that special regard shall be had to the desirability of preserving and enhancing the character or appearance of a Conservation Area. New development within the Diseworth Conservation Area should seek to reflect those elements of the conservation area that contribute positively to its character, such as dwellings fronting onto the carriageway and soft landscaping, and maintain the spaciousness afforded to dwellings. The proposal by virtue of its layout, size of plot and landscape would not respond to local character and would therefore lead to harm to the significance of the heritage asset. Such harm is considered to be less than substantial but as there are no public benefits associated with the development which would outweigh the harm caused to the significance of the heritage asset it is considered that to permit the development would be contrary to the aims of the core Paragraphs of the NPPF and in particular Paragraphs 61, 131, 132, 134 and 137 as well as Policies E4 and H7 of the adopted Local Plan and

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2 Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including contributing to protecting and enhancing our built environment. Paragraph 53 of the NPPF highlights that inappropriate development on residential gardens should be resisted where harm would be caused to the appearance of the environment. Paragraph 61 of the NPPF outlines that planning decisions should address the connections between people and places and the integration of new development into the historic environment. Paragraph 64 specifies that development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions should be refused. Policy E4 of the adopted North West Leicestershire Local Plan (Local Plan) requires new development to respect the character of its surroundings with Policy H6 of the adopted Local Plan indicating that when assessing density it is important to factor into the assessment, amongst other things, the good principles of design and layout which make the most economical use of land and respect the local context. Policy H7 of the adopted Local Plan seeks good design in all new housing developments. Given the size of the application site it is considered that the density and form of development would appear cramped and constrained and would therefore not respond positively to the character and appearance of the northern side of Clements Gate which is characterised by dwellings within spacious plots. The overall scale of the dwelling within the plot also compounds this negative impact by reducing its spaciousness. The design of the dwelling, with the presentation of an elevation with a significant width and massing to the street and provision of an integral double width garage, would also not respond positively to the appearance of the streetscape or accord with its established character. The development would also be on residential garden land and would result in harm to the local area. On this basis to permit the development would conflict with the environmental strand of sustainability as well as Paragraphs 61 and 64 of the NPPF and Policies E4, H6 and H7 of the adopted Local Plan.

Notes to applicant

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

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – 6 APRIL 2016

Title of report	PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT ACRESFORD ROAD, DONISTHORPE (APPLICATION NO. 14/00802/OUTM)
Contacts	<p>Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Head of Planning and Regeneration 01530 454782 jim.newton@nwleicestershire.gov.uk</p> <p>Principal Planning Officer 01530 454673 james.mattley@nwleicestershire.gov.uk</p>
Purpose of report	To consider a request from the applicants of the above site to amend the Section 106 obligations to reduce the amount of affordable housing required in respect of a proposed housing development
Council Priorities	Homes and Communities
Implications:	
Financial/Staff	As set out in the report below
Link to relevant CAT	Affordable Housing Working Group
Risk Management	Not applicable
Equalities Impact Screening	Undertaken and no impacts identified
Human Rights	Not applicable
Transformational Government	Not applicable
Comments of Deputy Chief Executive	Report is satisfactory
Comments of Deputy Section 151 Officer	Report is satisfactory

Comments of Deputy Monitoring Officer	Report is satisfactory
Consultees	Councillor R Ashman (ward member) North West Leicestershire District Council Strategic Housing Team Oakthorpe and Donisthorpe Parish Council
Background papers	Application documents in respect of planning application ref. 14/00802/OUTM and viability information (confidential)
Recommendations	TO AGREE TO THE SUBSTITUTION OF THE EXISTING AFFORDABLE HOUSING OBLIGATIONS BY THE PAYMENT OF AN OFF-SITE COMMUTED SUM IN THE SUM OF £122,372 AND FOR A DEED OF VARIATION TO BE SECURED TO THE ORIGINAL SECTION 106 AGREEMENT

1.0 INTRODUCTION AND BACKGROUND

- 1.1 In February 2015, the District Council's Planning Committee resolved to grant outline planning permission for residential development of 36 dwellings on a site at Acresford Road, Donisthorpe (ref. 14/00802/OUTM). The applicant was Mr Philip Chatfield.
- 1.2 The Section 106 agreement was completed in July 2015, and the planning permission was subsequently issued.
- 1.3 The Section 106 agreement includes obligations in respect of, amongst others, the following:
- Provision of on-site affordable housing (30%)
 - National Forest Planting on site
 - Financial contribution in respect of healthcare (£16,237.38)
 - Financial contribution in respect of education (£222,869.22)
 - Financial contribution in respect of libraries (£2,170)
 - Provision / maintenance of a children's play area
 - Construction traffic routeing
 - Provision of travel packs to first occupiers of the new dwellings
 - Provision of bus passes to first occupiers of the new dwellings
 - Improvements to the two nearest bus stops (including raised and dropped kerbs (£3,263 per stop)
 - Information display cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display
 - Section 106 monitoring
- 1.4 Section 106BA of the Town and Country Planning Act 1990 (as amended) allows an application to be made to the Local Planning Authority for a revised affordable housing obligation. The guidance indicates any application submitted under Section 106BA should

be supported by a relevant viability assessment. This procedure only allows for changes for affordable housing obligations and not in relation to other contributions.

2.0 PROPOSED AMENDED OBLIGATIONS

- 2.1 The applicants contend that, despite continued efforts to dispose of the site to a developer, there has been limited interest due to the requirement to provide for 30% affordable housing. A viability review has been carried out by a Chartered Surveyor instructed by the applicants and they advise there is a significant gap between what a developer is willing to pay and a fair return to the landowner. The viability report submitted originally indicated that the scheme could no longer provide any affordable housing on the site and that the S106 contributions of £459,760 should be reduced to £145,450.
- 2.2 The Local Planning Authority has commissioned the District Valuer to assess the developers' calculations on its behalf. In response, the District Valuer advises that, having undertaken an assessment, it is of the view that the scheme is in fact able to contribute towards all of the previously agreed contributions and provide an off-site affordable housing commuted sum of £122,372. This figure amounts to a payment of £11,124.73 per property. The applicants have considered the District Valuer's findings in this regard, and are willing to accept this position.

3.0 CONSULTATION RESPONSES

- 3.1 The list of consultations undertaken are as set out in the table above.
- 3.2 The District Council's Strategic Housing Team has no objection to the proposal given that the applicants have demonstrated to the District Valuer that the agreed scheme is unviable. The Strategic Housing Team have however expressed concerns that the Affordable Housing element on development sites always attracts the largest reduction of all contributions and would point out that this procedure reduces the opportunities for and the likelihood of developing like for like replacements elsewhere in the district.
- 3.3 At the time of preparing this report, no other comments had been received from consultees. Any received subsequently will be reported on the Update Sheet.

4.0 RELEVANT PLANNING POLICY

4.1 National Policies

National Planning Policy Framework (NPPF)

The following sections of the NPPF are considered relevant:

Paragraph 14 (Presumption in favour of sustainable development)

Paragraph 173 (Ensuring viability and delivery)

Paragraph 203 (Planning conditions and obligations)

Paragraph 204 (Planning conditions and obligations)

4.2 Adopted North West Leicestershire Local Plan (2002)

The following policies of the adopted Local Plan are considered relevant:

Policy H8 – Affordable Housing

4.3 **Other Local Policies**

North West Leicestershire District Council Affordable Housing Supplementary Planning Document – January 2011

5.0 **ASSESSMENT**

5.1 Having regard to the requirements of the NPPF and the Community Infrastructure Levy Regulations 2010, the view is taken that the current obligations are appropriate, and meet the legislative and policy tests. However, in view of the request to amend the terms of the existing Section 106 obligations, it is considered appropriate to assess:

- (i) Whether the current affordable housing requirements are unduly onerous when having regard to the viability / deliverability of the scheme;
- (ii) If so, whether the alternative affordable housing obligations proposed by the developers are appropriate to the level of development viability (i.e. are the maximum achievable whilst ensuring the development remains viable); and
- (iii) Whether the alternative proposals under (ii) above are appropriate in terms of helping to meet the affordable housing needs of the area.

5.2 Further to the Section 106 obligations set out under 1.3 above, the District Council's Strategic Housing Team had originally negotiated the on-site delivery of 11 affordable units with the developers, of which 8 would have been affordable rented, and 3 intermediate/low cost home ownership in terms of tenure. It is necessary to consider the developers' alternative proposals in this case.

5.3 The viability report submitted originally indicated that the scheme could no longer provide any affordable housing on the site and that the S106 contributions of £459,760 ought to be reduced to £145,450.

5.4 The District Valuer has been requested to assess the applicants' viability appraisals on the District Council's behalf. Having undertaken an assessment based on a scheme comprising private housing units, based on a developer's profit of 17.5% and what it considers to be a reasonable benchmark land value, together with the other Section 106 contributions associated with the development (which would be unchanged), the District Valuer calculates that the scheme would be able to contribute an off-site Affordable Housing commuted sum of £122,372. In response to this finding, the applicants have increased their commuted sum offer to this figure.

5.5 Whilst the District Council's preferred approach (as set out in its Affordable Housing SPD) is for the agreed affordable provision to be made on site, the SPD does, in exceptional circumstances, allow for off site provision. Given the likely lack of demand from a significant number of Registered Providers associated with a reduced affordable housing contribution, the District Council's Strategic Housing Team is satisfied that the applicants have demonstrated that delivery on this site is not possible in this instance, and that the provision of a commuted sum offered in lieu of on-site provision is an acceptable option in this instance.

5.6 The District Council's Strategic Housing Team advises that, in keeping with previously received off site commuted sum payments, the commuted sum would be used to support the delivery of affordable housing within the District (and anywhere in the District where a housing need has been identified). On this basis, the Strategic Housing Team requests that any commuted sums received in lieu of on site provision are made available to support the delivery of new affordable housing anywhere in the District where a need has been identified, so as to ensure that homes are built where they are needed and where there are opportunities to develop. Notwithstanding this preference for the District Council to retain flexibility on how to apply any commuted sums, the Strategic Housing Team also draws attention to the fact that affordable housing contributions requested from all developments are based on housing needs identified from the local area and the wider Council Housing Register (and are not, therefore, based on a need directly identified for an individual Parish).

6.0 CONCLUSIONS

6.1 Having regard to the advice of the District Valuer and the District Council's Strategic Housing Team, it is accepted that the payment of an off-site commuted sum in lieu of the on-site provision would be appropriate. In accordance with the findings of the District Valuer in respect of the amount of commuted sum achievable whilst ensuring the development remains viable, it is concluded that a commuted sum of £122,372 towards affordable housing would be the maximum achievable whilst ensuring the provision of a reasonable profit to any developers and the applicants.

6.2 It is therefore recommended that the proposed amended affordable housing obligations be accepted and that, in order to enable the District Council to support affordable schemes anywhere in the District where a need has been identified, the amended obligations entered into should not be framed so as to limit the contributions being spent only in Donisthorpe. In accordance with the advice within the DCLG document "Section 106 affordable housing requirements – Review and appeal", it is also recommended that, given the potential for economic circumstances to improve during the build period, the amended obligations should apply for a limited period of three years only, beyond which the original obligations should once again apply, unless the development has been completed, or updated evidence of a continuing need to make a reduced contribution has been provided and assessed.

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