

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 7 July 2015
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454512)

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

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

AGENDA

Item		Pages
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 9 June 2015.	3 - 16
4	PLANNING APPLICATIONS AND OTHER MATTERS	
	Report of the Head of Planning and Regeneration.	17 - 20
5.	PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT FORMER FOREST WAY SCHOOL	
	Report of the Head of Planning and Regeneration	167 - 174



Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	<p>15/00196/FULM: Erection of 41 dwellings and associated infrastructure including the provision of play space and combined cycle and footpath (resubmitted 14/00520/FULM)</p> <p>Land At Wells Road And Willesley Road Ashby De La Zouch Leicestershire LE65 2QD</p>	PERMIT	21 - 46
A2	<p>15/00354/OUTM: Outline planning application for up to 70 dwellings together with public open space, National Forest planting, landscaping, drainage infrastructure and access off Woodcock Way</p> <p>Land Adjoining Woodcock Way Woodcock Way Ashby De La Zouch Leicestershire LE65 1AX</p>	PERMIT Subject to a Section 106 Agreement	47 - 80
A3	<p>14/00769/OUTM: Erection of up to 70 dwellings together with public open space, National Forest planting, landscaping, drainage infrastructure and access off Woodcock Way (outline - all matters other than part access reserved)</p> <p>Land Adjoining Woodcock Way Woodcock Way Ashby De La Zouch Leicestershire LE65 1AX</p>	PERMIT Subject to a Section 106 Agreement	81 - 114
A4	<p>15/00147/FUL: Erection of 1 no 500 KW wind turbine and associated infrastructure</p> <p>Land West Of Heather Lane Heather Lane Ravenstone Coalville Leicestershire LE67 2AH</p>	PERMIT	115 - 140
A5	<p>15/00364/FUL: Proposed Erection of 2 No. Detached Dwellings, Access & Parking</p> <p>33 Ashby Road Moira Swadlincote Derby DE12 6DJ</p>	PERMIT Subject to a Section 106 Agreement	141 - 152
A6	<p>15/00278/FULM: Construction of access road and associated services to serve existing vacant site and erection of four lighting columns</p> <p>Land At Smithy Road Ashby De La Zouch Leicestershire LE65 1JG</p>	PERMIT	153 - 166

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 9 JUNE 2015

Present: Councillor D J Stevenson (Chairman)

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

In Attendance: Councillors R D Bayliss, J Clarke, F Fenning and S McKendrick

Officers: Mr C Elston, Mr D Gill, Miss E Mattley, Mr J Mattley, Mr J Newton and Mrs R Wallace

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R Adams and V Richichi.

2. DECLARATION OF INTERESTS

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

Councillor J Bridges declared a non pecuniary interest in item A5, application number 15/00083/OUTM as an acquaintance of the applicant and during the meeting he declared a non pecuniary interest in item A6, application number 14/01140/OUT as he had an application himself within the district for a care facility.

Councillor J G Coxon declared a non pecuniary interest in item A4, application number 15/00196/FULM and item A5, application number 15/00083/OUTM as a member of Ashby Town Council. He also declared a further non pecuniary interest in item A5, application number 15/00083/OUTM as a previous customer of the applicant.

Councillor J Hoult declared a non pecuniary interest in item A4, application number 15/00196/FULM and item A5, application number 15/00083/OUTM as a member of Ashby Town Council.

Councillor G Jones declared a non pecuniary interest in item A5, application number 15/00083/OUTM as an associate of the applicant.

Councillor J Legrys declared a pecuniary interest in item A7, application number 15/00257/FUL as a volunteer at Hermitage FM. He left the meeting during consideration and voting on the application.

Councillor N Smith declared a non pecuniary interest in item A5, application number 15/00083/OUTM as a friend and business associate of the applicant. He left the meeting during consideration and voting on the application.

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

Item A1, application number 13/00959/OUTM

Councillors G A Allman, R Boam, R Canny, J Cotterill, J G Coxon, D Everitt, J Geary, D Harrison, J Hoult, R Johnson, G Jones, J Legrys, N Smith, M Specht, D J Stevenson and M B Wyatt.

Item A2, application number 13/01002/OUTM

Councillors G A Allman, R Boam, R Canny, J Cotterill, J G Coxon, D Everitt, J Geary, D

Harrison, J Hoult, R Johnson, G Jones, J Legrys, N Smith, M Specht, D J Stevenson and M B Wyatt.

Item A4, application number 15/00196/FULM

Councillors G A Allman, R Boam, R Canny, J Cotterill, J G Coxon, D Everitt, J Geary, D Harrison, J Hoult, R Johnson, G Jones, J Legrys, N Smith, M Specht, D J Stevenson and M B Wyatt.

Item A5, application number 15/00083/OUTM

Councillors G A Allman, R Boam, R Canny, J Cotterill, J G Coxon, D Everitt, J Hoult, R Johnson, G Jones, J Legrys, N Smith, M Specht and D J Stevenson.

Item A6, application number 14/01140/OUT

Councillors G A Allman, R Boam, R Canny, J Cotterill, J Hoult, J Legrys, M Specht, D J Stevenson and M B Wyatt.

Item A7, application number 15/00257/FUL

Councillor D J Stevenson.

3. MINUTES

Consideration was given to the minutes of the meeting held on 14 April 2015.

Councillor M Specht referred to a statement on page 5 and asked for the following factual amendments:

Reference to Bakewell Way be amended to Bakewell Lane and reference to the A42 be amended to A512.

By affirmation of the meeting it was

RESOLVED THAT:

Subject to the amendments, the minutes of the meeting held on 14 April 2015 be approved and signed by the Chairman as a correct record.

4. 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.

The Chairman informed the Committee that item A3, application number 14/01106/OUTM had been withdrawn from the agenda at the request of the applicant and therefore would not be considered at the meeting.

In relation to item A1, application number 13/00959/OUTM and item A2, application number 13/01002/OUTM, the Planning and Development Team Manager read out the following letter from Andrew Bridgen MP to the Chairman of the Planning Committee:

'I am writing with regards to the above applications which following a judicial review, are once again requesting planning permission in the village of Packington. I have received a number of objections to the various planning applications from residents of the village and I understand around 100 have been lodged with the Council. I have had the issues of principle and sustainability of the proposal and associated flood risks raised in correspondence to me and the application is outside the limits of development and

represents a significant increase in the size of the village.

I would ask that your committee consider all of these local objections to the application and whether this scale of house building is appropriate in the village.'

**5. A1
13/00959/OUTM: RESIDENTIAL DEVELOPMENT FOR UP TO 42 DWELLINGS
(OUTLINE - DETAILS OF ACCESS INCLUDED)**

Land At Spring Lane/Normanton Road Packington

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

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

Parish Councillor C Miles addressed the Committee. He believed that the application did not meet the National Policy Framework or the Local Plan and gave the following reasons to reject it; protection of the historical environment, the school was already at full capacity, it was not the preferred site, it was not sustainable and was contrary to the NPPF. He explained that there had already been approval for other developments in the area which meant that there would be enough new housing in line with all policies and plans. He referred to an email from the Minister for Housing and Planning, Brandon Lewis MP, which stated that he was ensuring countryside was being protected. He concluded by urging Members to refuse the application.

Ms A Walters, objector, addressed the Committee. She explained that she was a planning solicitor who had been appointed by the residents of Packington to represent them. She listed the following objections to the application:

- It was outside the limits of development and unsustainable
- It would have a harmful impact on Packington House
- The proposals would have a disproportionate impact on the size of the village and would be harmful to the character and appearance of the countryside contrary to Policy E4 and the NPPF.
- There had been no formal assessment of the cumulative impact of development of this site together with the Normanton Road site and as to whether the village could sustain such an increase in size.
- The District Council now had a five year housing land supply and therefore did not need the development.
- If the application was permitted, the judicial review that would be requested by residents would be very costly to the District Council.

Mr S Lewis-Roberts, agent, addressed the Committee. He explained that the site was sustainable with good access to local facilities and there had been no objections from the statutory consultees. He stated that the scale of the development was not disproportionate to the size of the village. He reported that after extensive discussions with the Urban Design Officer, the proposals were for a high quality development that would provide much needed affordable housing. The application submission made it clear that the proposals would have no impact on Packington House and the Conservation Officer was in agreement. He concluded that all necessary assessments had been undertaken and as it was a good site he urged Members to permit the application in accordance with the officer's recommendation.

Councillor N Smith moved that the application be refused on the grounds that it was outside the limits to development, there was already a seven year land supply and that the original planning permission had been quashed. It was seconded by Councillor J Legrys.

Councillor N Smith commented that Packington Parish Council and the local residents strongly objected to the application and it was important to listen to their views. He stated that there were other applications in the pipeline for the area which were more appropriate as they were within the limits to development. He strongly urged Members to protect the beautiful village and not to breach the natural boundaries as this would encourage more development. He urged Members to refuse the application.

Councillor J Legrys stated that only he and one other Member voted against the application when it was considered by Committee previously and he still believed it was wrong as it was outside the limits to development. He expressed the importance of listening to the people of Packington and urged the Parish Council to establish a neighbourhood plan. He also expressed concerns regarding the additional traffic the development would generate and Members needed to think carefully if they wanted a future for the village. He was happy to support refusal.

Councillor G Jones asked for clarification on the housing land supply figure. The Head of Planning and Regeneration explained that the District Council currently had 6.08 years of housing land supply.

Councillor G Jones expressed concerns that if the application was refused the village would miss out on the Section 106 money for the school and health centre. The Head of Planning and Regeneration explained that planning obligations are imposed to mitigate the development and not to make up for existing shortfalls in an area.

Councillor J G Coxon supported the views of the local people and the motion to refuse the application as put forward by Councillor N Smith.

The Head of Planning and Regeneration clarified the following points. The amount of housing land supply that the District Council had was not a reason to refuse permission. The application site was outside the limits to development but as it was adjoining an existing settlement its impact was acceptable. The scale of the proposal was sustainable. Traffic concerns were not supported by the Highway Authority as there were no technical objections. The Committee should consider the current application on its own merits.

The Planning and Development Team Leader referred to the grounds for refusal and offered his advice to Members. He explained that the site being outside the limits to development was a valid reason if Members felt the scheme would adversely impact on the countryside. The impact of the development on Packington House, a listed building would also be a valid reason for refusal, albeit not a view shared by the Council's Conservation Officer. However, reference to the previous permission being quashed was not a valid reason for refusal and therefore would be difficult to defend in the case of an appeal.

Councillor N Smith confirmed that his grounds for refusal were that the site was outside the limits to development and would adversely impact on the countryside, there was more than a five year housing land supply and detrimental impact on the setting of Packington House.

Councillor J Legrys having requested a recorded vote, the vote was as follows:

For the motion:

Councillors G A Allman, R Boam, R Canny, J Cotterill, J G Coxon, D Everitt, J Geary, R Johnson, J Legrys, N Smith and M B Wyatt (11).

Against the motion:

Councillors J Bridges, D Harrison, G Jones, M Specht and D J Stevenson (5).

Abstentions:
Councillor J Houlton (1).

The motion was CARRIED.

RESOLVED THAT:

The application be refused on the grounds that it was outside the limits to development, there was more than a five year housing land supply and detrimental impact on the setting of Packington House.

**6. A2
13/01002/OUTM: ERECTION OF 30 DWELLINGS, INCLUDING 8 AFFORDABLE HOMES (OUTLINE - ACCESS INCLUDED)**

Land South Of Normanton Road Packington Ashby De La Zouch

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

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

Parish Councillor C Miles addressed the Committee and listed the following objections:

- The application was on a Greenfield site.
- It was outside the limits to Development.
- The proposal was not sustainable.
- There was already a healthy five year land supply.
- The development was not plan led.

He concluded that there was already enough development in the area and therefore urged Members to refuse the application.

Ms A Walters, objector, addressed the Committee. She explained that she was a planning solicitor who had been appointed by the residents of Packington to represent them. She listed the following objections to the application:

- The proposal was contrary to Policy S3.
- The development would be harmful to Packington House.
- There would be a loss of countryside and agricultural land.
- The application did not sit well with the NPPF.
- The scale of the development was too large.
- There had been an overwhelming objection from local residents.
- The Council would be at risk from judicial review.

Mr J Steedman, agent, addressed the Committee. He said that, the concern about the relative increase in the size of the settlement was no longer so great now that the first application had been refused. . With regards to the site being outside the limits to development, he commented that the policy was 13 years old and therefore was not relevant.

The Head of Planning and Regeneration explained that a large number of objectors was not a planning consideration and clarified once again that the District Council had 6.08 years housing land supply which included a buffer of 20 percent but there was still a need to maintain a five year housing land supply.

Councillor N Smith moved that the application be refused on the grounds that it was outside the limits to development. It was seconded by Councillor J Legrys.

Councillor N Smith commented that there had been many planning applications submitted on the site for many years and every one had been refused. He stated that the Parish

Council did support development in Packington but not this particular application. He could not find any reason to permit the application.

Councillor J Legrys agreed that that application was outside the limits of development and supported Councillor N Smith.

The Head of Planning and Regeneration advised Members, if minded to refuse the application, to consider whether to add that the development was harmful to the landscape and setting of Packington. This was agreed.

Councillor J Hoult expressed that he was concerned because he believed that if the application went to an appeal the Council would lose and it would cost a lot of money.

Councillor M Specht commented that he could remember when Packington was more of a hamlet than a village and developments had been built over the years to ensure that future generations could stay in the village, this application was no different. He was strongly against the refusal of the application.

Councillor D Everitt commented that he supported the application as it was a more acceptable site and all villages needed to take their share of new houses. He concurred with Councillor M Specht as there was a need for new homes in the area so people could stay in the village.

Councillor J Legrys having requested a recorded vote, the vote was as follows:

For the motion:

Councillors R Boam, R Canny, J Cotterill, J Coxon, J Legrys, N Smith and M B Wyatt (7).

Against the motion:

Councillors G A Allman, J Bridges, D Everitt, J Geary, D Harrison, J Hoult, R Johnson, G Jones, M Specht and D J Stevenson (10).

Abstentions:

(0).

The motion was LOST.

The Chairman then put the officer's recommendation to permit to the vote.

RESOLVED THAT:

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

7.

A4

15/00196/FULM: ERECTION OF 41 DWELLINGS AND ASSOCIATED INFRASTRUCTURE INCLUDING THE PROVISION OF PLAY SPACE AND COMBINED CYCLE AND FOOTPATH (RESUBMITTED 14/00520/FULM)

Land At Wells Road And Willesley Road Ashby De La Zouch Leicestershire

Officer's Recommendation: PERMIT subject to the signing of the Section 106 Agreement

The Planning Officer presented the report to Members.

Parish Councillor M Ball addressed the Committee. He commented that Ashby was a beautiful part of the district and because of that there had been an endless queue of

developers for many years. He believed that unfortunately, what made Ashby special would be lost if it continued to be developed. His main concerns were that the development was outside of the urban area of Ashby and would destroy the countryside; and the distance to nearby services was too far which would mean an increase of vehicle use in the area. He stated that other nearby brown field sites would be better for the development than the current site and as the council had more than six years of land supply, the development was not necessary in Ashby. He urged Members to refuse the application.

Mr F Bedford, objector, addressed the Committee. He stated that the same application was considered by the Committee in November 2014 which was refused and nothing had changed since then. He felt that the area was an important gateway to the town and the amount of objection from local residents and Ashby Town Council justified refusal of the application. He raised concerns that the development would significantly harm the look of the landscape and added that it was contrary to the NPPF as it refers to the protection of countryside locations. Also he believed that the distances to services as stated within the report were incorrect. He concluded that as the Council had given the site a high landscape value of '9' and there was already a five year land supply, he urged Members to refuse the application.

Ms H Guy, agent, addressed the Committee. She began by commending the officers for the report. She explained that she had worked closely with officers to achieve the sustainable, deliverable and appropriate scheme that Members had in front of them. She reported that it was the second time that the application had been presented to the Committee, and further evidence had been included to show that the previous reasons for refusal could not be upheld. She assured Members that the distances to services stated within the report were correct and reminded the Committee that there were no objections from the statutory consultees.

Councillor G Jones moved that the application be refused on the grounds that it was outside the limits to development. It was seconded by Councillor J G Coxon.

Councillor J G Coxon agreed that he felt the application was outside the limits of development but also that it was unsustainable. He stated that he voted for refusal previously and would do so again. He then requested a recorded vote.

Councillor J Bridges stated that if the application was to be refused he believed that the Council would lose if the decision went to an appeal. He understood the objections and concerns of the local residents but there were no strong planning grounds for refusal.

The Planning and Development Team Manager advised the Committee that the reason for refusal put forward would not be strong enough on its own and asked the mover and seconder of the motion if they wanted to include sustainability as another reason. Councillors G Jones and J G Coxon as mover and seconder of the motion agreed.

The motion to refuse the application was put to the vote.

As a recorded vote was requested, the voting was as follows:

For the motion:

Councillors R Canny, J G Coxon, J Houlton, G Jones, J Legrys, N Smith, D J Stevenson and M B Wyatt (8).

Against the motion:

Councillors G A Allman, J Bridges, R Boam, J Cotterill, D Everitt, J Geary, D Harrison, R Johnson and M Specht (9)

Therefore the motion to refuse was LOST.

The chairman then put the officer's recommendation to permit to the vote and the motion was LOST, the application was therefore undecided.

The officers' recommendation to permit was moved again by Councillor M Specht and seconded by Councillor J Bridges.

At this point the Legal Advisor requested that the meeting be adjourned so that he could seek further legal advice. The meeting was adjourned at 6:08 pm and re-convened at 6.25 pm.

On the advice of the Legal Advisor and under procedure rule 13.1.9 of the Council's Constitution, the Chairman moved that the Committee proceed to the next item of business. It was seconded by Councillor J Bridges.

RESOLVED THAT:

The Committee move to the next item of business.

**8. A5
15/00083/OUTM: RESIDENTIAL DEVELOPMENT (UP TO 81 DWELLINGS),
ASSOCIATED OPEN SPACE, COMMUNITY AND DRAINAGE INFRASTRUCTURE
(OUTLINE - ACCESS ONLY) RE-SUBMISSION OF 14/00460/OUTM
Land On The East Side Of Butt Lane Blackfordby**

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

Having declared an interest in the item, Councillor N Smith left the meeting during the consideration and voting thereon.

The Planning Officer presented the report to Members.

Councillor S McKendrick, Ward Member, presented the report to Members. She stated that the application was one step closer to destroying Blackfordby and that the development was not necessary. She expressed highway concerns as there were no pathways and longer vehicles would struggle on the narrow roads. Also, Blackfordby would be used as a cut through for traffic and the surrounding areas would also be affected by the increase in vehicles. She stated that local residents did not believe that assessments had been carried out and questioned the accuracy of the report. She believed that local knowledge should be taken into account when considering the application and urged Members to refuse.

Parish Councillor M Ball addressed the Committee. He stated that Blackfordby was a delightful village which residents were very proud of and the proposals would destroy this. He felt that the separation between the villages was important and there was no reason to go against Policy S3. He also expressed the following concerns and urged Members to refuse the application:

- The development would mean that the village would have over a 20 percent growth.
- The local school was already full to capacity.
- There were no services within the village.
- New residents of the development would be reliant on cars and the roads were not equipped to deal with this.
- The scale was not sustainable.
- Current flood issues would worsen.

Mr R Nettleton, objector, addressed the Committee. He stated that Members were considering the same application that was presented in December which had been refused, he emphasised that there were no changes. He commented that the site was unsustainable with no services at all in the village. He also felt that local knowledge was being ignored as there were flooding and sewerage problems in the area and former mining on the site which had been ignored and dismissed. He added that he believed the consultants flood model was flawed.

Mr C Lindley, agent, addressed the Committee. He began by endorsing the officer's recommendation. He explained that they had worked with officers on the proposals and thoroughly considered the sustainability. The development was appropriate to maintain the housing land supply and brought many benefits to the area. He concluded by reminding Members that there had been no objections from the statutory consultees and urged to permit in accordance with the officer's recommendation.

The Planning and Development Team Manager read out the following letter received from Andrew Bridgen MP to the Chairman of the Planning Committee:

'I am writing once again in opposition to the above planning application. As the Committee will note, 89 letters were received relating to the original plan raising a number of objections and the plan was voted down by the Committee.

My principal concerns then, and that of many residents is the coalescence between Blackfordby and Woodville and the fact that this development would virtually remove the separation between Woodville and Blackfordby. The development does not easily link in with the rest of the village and has no link to Main Street. There are also highway issues with the road layout for traffic approaching from Moira and flooding issues as demonstrated by the floods that have historically occurred on Strawberry Lane. I see no evidence that there is any change in these positions.

This application site lies outside limits to development as defined in the adopted North West Leicestershire Local Plan and the Council is able to demonstrate a five year land supply. Given the scale of this development and its impact on the character of the village, I urge Members to once again reject this planning application.'

Councillor J Bridges asked for clarification on the housing land supply figure and what the figure meant. The Head of Planning and Regeneration confirmed that there was currently 6.08 years of housing land supply, this meant 3079 houses, of which 2928 currently benefit from planning permission. This figure included the 20 percent buffer, without the buffer included it would be 7.29 years of housing land supply.

Councillor J Bridges commented that the village was an established and sustainable area, and he could not think of a legitimate planning reason to refuse the application. He added that he used to be the Ward Member for this area and therefore could understand the resident's objections but as the appeal process would cost a significant amount of money he asked the Committee to support him as he reluctantly moved the officer's recommendation. It was seconded by Councillor G A Allman.

Councillor J Legrys expressed concerns with flooding in the area and although he understood concerns regarding the separation of the villages, it was not a consideration for the Committee. He commented that the Committee had to consider the tax payers money with regards to the possible appeal if the application was refused but as an elected Member, he believed he had to support the local residents. He was also not convinced that the contaminated land had been mitigated within the report. Overall he felt that it was a bad application with little information regarding how it would benefit the residents of Woodville and Blackfordby.

Councillor G A Allman commented that he could not see a reason to justify refusal of the application.

Councillor M Specht referred to conflicting advice within the report as it referred to policies S3 and H4/1 being both relevant and out of date, he asked for clarification. The Head of Planning and Regeneration assured Members that the policies were saved and should be treated as being up to date. He explained that the original reports on the Packington applications from 2014 were appended to the current Packington reports on this agenda, and that when these applications were first considered in June 2014 the District Council did not have a five year land supply, therefore that advice was correct at that time.

Councillor J G Coxon felt that he would need to side with local residents and the Parish Council as he did not believe that the site was sustainable and it was outside the limits to development.

Regarding Councillor J Legrys' comment on the issue of contaminated land, the Head of Planning and Regeneration explained that conditions 11, 20, 21 and 26 were designed to manage the issue. Regarding flooding concerns, he reminded Members that there had been no objections from the Lead Local Flood Authority or Environment Agency and that conditions 24 and 27 were designed to address the issue.

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

Councillor J Legrys having requested a recorded vote, the vote was as follows:

For the motion:

Councillors G A Allman, J Bridges, R Boam, J Cotterill, D Harrison and J Hoult (6).

Against the motion:

Councillors R Canny, J G Coxon, D Everitt, J Geary, R Johnson, J Legrys, M Specht, D J Stevenson and M B Wyatt (9).

Abstentions:

Councillor G Jones (1).

The motion was LOST.

The Legal advisor asked Members to provide reasons for refusal.

Councillor J Legrys moved that the application be refused on the grounds that it was outside the limits to development and unsustainable. It was seconded by Councillor J G Coxon.

Councillor M Specht commented that after visiting the site he felt that the lane would be substandard on highway grounds and suggested that this be included in the grounds for refusal. Councillor J Legrys stated that he did not want this included as it was a weak ground for refusal.

The motion to refuse the application was put to the vote.

The Chairman having requested a recorded vote, the vote was as follows:

For the motion:

Councillors R Canny, J G Coxon, D Everitt, J Geary, R Johnson, J Legrys, M Specht, D J Stevenson and M B Wyatt (9).

Against the motion:

Councillors G A Allman, J Bridges, R Boam, J Cotterill, D Harrison and J Houlton (6).

Abstentions:

Councillor G Jones (1).

The motion was CARRIED.

RESOLVED THAT:

The application be refused on the grounds that it was outside the limits to development and unsustainable.

Councillor N Smith returned to the meeting.

9.

A6

14/01140/OUT: ERECTION OF RESIDENTIAL NURSING HOME (C2 USE) AND FORMATION OF ADDITIONAL PARKING (OUTLINE - ALL MATTERS RESERVED)

Ibstock House 132 High Street Ibstock

Officer's Recommendation: PERMIT

The Senior Planning Officer presented the report to Members.

Councillor J Clarke, Ward Member, addressed the Committee. He reported that earlier in the day plans had been submitted by the applicant for an extension to the property and if that was the case, the application should be deferred so that they could both be considered together. He explained that the current facilities were already stretched and the new developments in the area would only make matters worse. There was a need for a bigger surgery with access to more doctors, not a nursing home and he felt that the site was not large enough for both. He believed that the opinions of local people were being ignored along with many requests for information. He also raised concerns regarding highway safety and traffic. Councillor J Clarke urged the Committee to either defer the application so all aspects of development could be considered together or refuse the application.

Mr M Stack, applicant, had returned to the surgery and therefore was no longer at the meeting to address the Committee.

The Head of Planning and Regeneration explained that a drawing had been provided earlier that day, and shown to Members during the site visit. He confirmed that there was no planning application for an extension to the surgery, and that the drawing that had been provided had no formal status. He urged Members to determine the application in front of them on its own merits.

The Chairman commented that plans for a nursing home had been agreed on the site in the past and therefore moved the officer's recommendation. It was seconded by Councillor M Specht.

Councillor R Johnson commented that Ibstock was growing rapidly and he felt that if the application was for the surgery only he would have been happy with it. His opinion was that the application should be deferred so that the Committee could see what the plans were for the future. He stated that the area deserved better and as the application had no merits, moved that the application be deferred. It was seconded by Councillor J Legrys.

The motion to defer the application was put to the vote and was LOST.

Councillor J Bridges stated that he had mixed views on the application as a care facility such as the one proposed needed to be on a bigger site where it could provide gardens and open space which were essential. He added that he believed another facility would be needed in the area in the future as this had no room to develop further.

Councillor J Legrys concurred with the views of Councillor J Bridges as he also had mixed views. He reported that the late Dave De Lacy had spoken at length with the doctors of the surgery about the use of the Section 106 provision that was available to them and it was still uncertain as to why they were refusing to use it. He agreed that the site did need room to develop and he had sympathy with the officers for having to deal with recipients of Section 106 money that failed to spend it. He stated that if the application was approved, Members needed to put trust in the officers to put together a good scheme. Councillor J Legrys added that he felt it was bad practice to produce an additional plan at the site visit as it could cause an element of doubt for Members. He requested that if the outline permission was passed that the full detailed planning permission be brought to Committee for consideration.

Councillor N Smith raised his concerns as he felt that there was a need for care homes with room to expand and as there were no gardens or open spaces, he could not vote for the application to be permitted.

The Head of Planning and Regeneration reminded Members that the application before them was for outline permission only and therefore if permitted, the officers would work closely with the applicant to achieve the right development for the site.

Councillor J G Coxon stated that he was in favour of the application.

The officer's recommendation was put to the vote.

RESOLVED THAT:

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

10.

A7

15/00257/FUL: ERECTION OF A RADIO TRANSMISSION MAST

Summit Bardon Hill Copt Oak Road Markfield

Officer's Recommendation: PERMIT

Having declared an interest, Councillor J Legrys left the meeting during this item and took no part in the consideration or voting thereon.

The Senior Planning Officer presented the report to Members.

Mr J Sketchley, applicant, addressed the Committee. He explained that the transmission equipment was the first stage to upgrading from a FM format to a DAB format and would help to ensure the future of the radio station.

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

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Head of Planning and Regeneration, as amended by the Update Sheet.

Councillor J Legrys returned to the meeting

11.

A8

15/00212/FUL: ERECTION OF A GRAIN STORAGE BUILDING

Land At Scaffacre Farm From The Green To Unnamed Road At Top Merrill Grange
Diseworth

Officer's Recommendation: PERMIT

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

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

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 7.32 pm

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APPENDIX B

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

7 July 2015

PLANNING & DEVELOPMENT REPORT



PLANNING COMMITTEE FRONT SHEET

1. Background Papers

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

2. Late Information: Updates

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

3. Expiry of Representation Periods

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

4. Reasons for Grant

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

5. Granting permission contrary to Officer Recommendation

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

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

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

6 Refusal contrary to officer recommendation

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

7 Amendments to Motion

An amendment must be relevant to the motion and may:

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

as long as the effect is not to negate the motion

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

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

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

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

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

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

8 Delegation of wording of Conditions

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

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

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

Erection of 41 dwellings and associated infrastructure including the provision of play space and combined cycle and footpath (resubmitted 14/00520/FULM)

Report Item No
A1

Land At Wells Road And Willesley Road Ashby De La Zouch Leicestershire LE65 2QD

Application Reference
15/00196/FULM

Applicant:
Mrs Hannah Guy

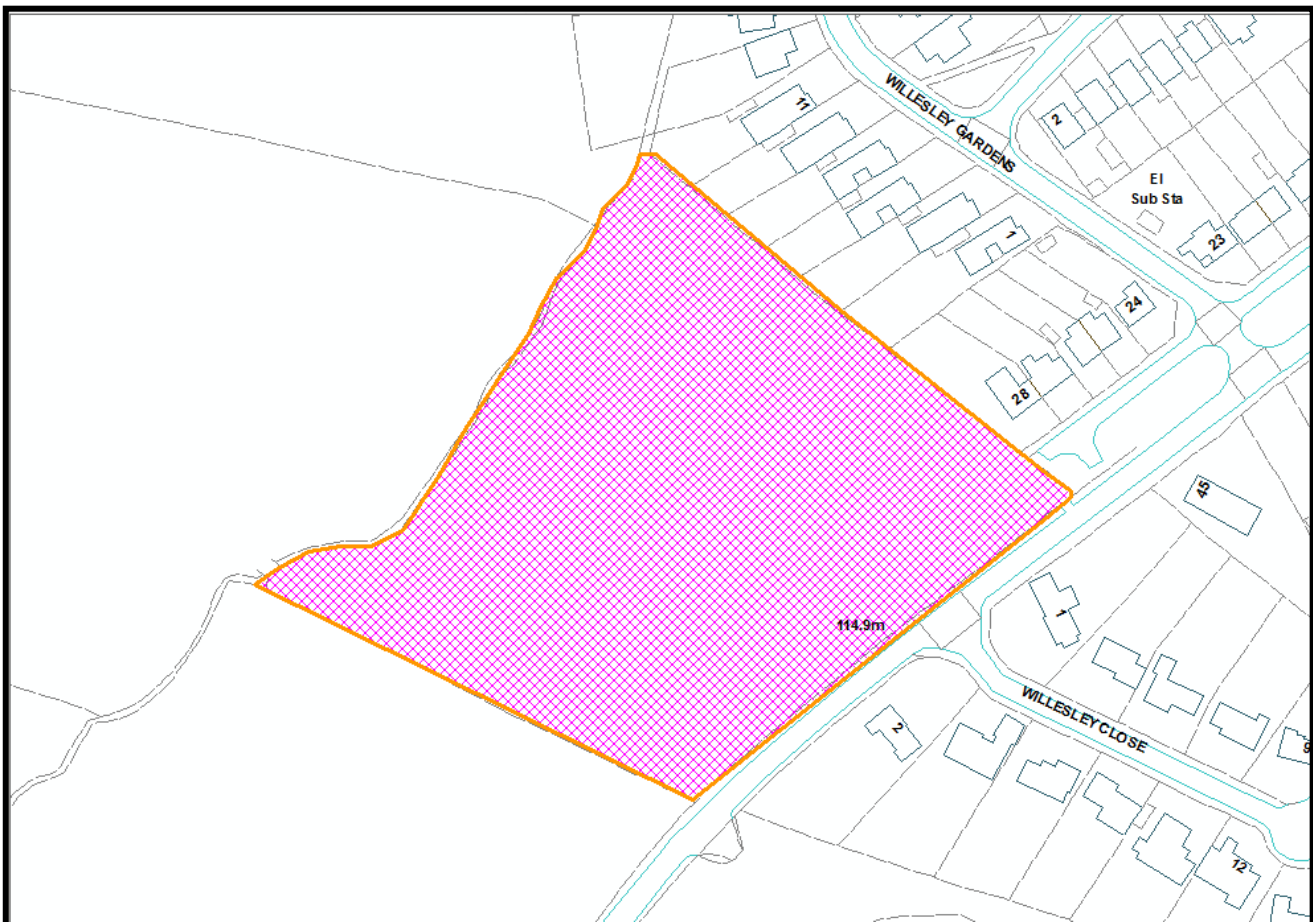
Date Registered
6 March 2015

Case Officer:
Ebony Mattley

Target Decision Date
5 June 2015

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Reason for Call In

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

Proposal

Members may recall that this application was reported to, and was undetermined at, the 9 June 2015 Planning Committee. The applicants have now formally requested the application be reported back to Planning Committee.

The application is identical in form to that presented at the previous Planning Committee and therefore remains with a recommendation to permit, subject to the signing of the S106 Agreement and planning conditions.

This application seeks full planning permission for forty-one dwellings, comprising twenty-nine open market dwellings and twelve affordable dwellings at land at Willesley Road, Ashby.

Access to the site would be from Willesley Road to the east of the site and a combined pedestrian/cycle route is proposed from the north east corner of the site with Willesley Gardens, to the northern boundary of the site.

Consultations

Members will see from the main report below that there are 97 objections to the scheme, and an objection from Ashby Town Council. There are no other objections raised from statutory consultees.

Planning Policy

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

Conclusion

Planning permission has previously been refused for an identical scheme, at this site at Planning Committee in November 2014. The applicant has submitted additional information to seek to overcome the previous reason for refusal.

Whilst the site is further from services, than the desired standards, it is considered that given the comparable distances with the site at South of Moira, Road and Ashby and at land Between Burton Road and Moira Road, Shellbrook, that a strong case has been made concerning the sustainability of the site.

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

The proposed development would be acceptable in terms of density, layout and scale, trees, residential amenities, highway safety, flood risk and drainage, archaeological, ecological impacts and impact on the River Mease SAC/SSSI and no other technical issues have arisen. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services. There are no other relevant material planning considerations that indicate planning permission should not be granted.

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

RECOMMENDATION: PERMIT, subject to the signing of the Section 106 Agreement and imposition of conditions.

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

MAIN REPORT

1. Proposals and Background

Members may recall that this application was reported to, and was undetermined at, the 9 June 2015 Planning Committee. The applicants have now formally requested the application be reported back to Planning Committee.

The application is identical in form to that presented at the previous Planning Committee and therefore remains with a recommendation to permit, subject to the signing of the S106 Agreement and planning conditions.

This application seeks full planning permission for forty-one dwellings, comprising twenty nine open market dwellings and twelve affordable dwellings at land at Willesley Road, Ashby.

Members are advised that this application was previously considered at the November 2014 Planning Committee, where the application was refused, based upon its un-sustainable location, remote from services and contrary to Saved Policy S3 of the Local Plan and the overarching intentions of the NPPF. Accordingly in seeking to overcome the previous reason for refusal, the applicant has submitted a sustainability statement and iso-distance plans to show services and approved development within Ashby, in support of their application.

For the avoidance of doubt the number of plots on site is 35, but the overall number of individual units is 41, resultant of the eight, 1 bedroomed affordable units.

The open market dwellings are made up of 2 x two beds, 16 x three beds, 11 x four beds, with the affordable comprising 8 x one beds, 2 x two beds and 2 x three beds.

The scheme proposes areas of play space and a balancing pond to the north-west border of the site. Access to the site would be from Willesley Road to the south east of the site and a combined pedestrian/cycle route is proposed from the south east corner of the site with Willesley Gardens, to the north-west boundary of the site. The combined pedestrian/cycle route is then proposed to be extended beyond the site to the Hicks Lodge Cycle Centre (which is to be secured through the Section 106 Agreement.) A separate agricultural access is also proposed from the site to the north- west boundary.

One ash and two lime trees are sited close to the access point with the two lime trees proposed to be removed to facilitate the access. An informal, un-designated footpath runs to the north east boundary of the site parallel to the rear gardens of Willesley Gardens. The site is in arable, agricultural use and is located outside Limits to Development, as identified in the North West Leicestershire Local Plan 2002.

The application is accompanied with an Arboricultural Assessment, Archaeological Desk Based Assessment and Field Walking Survey, Building for Life 12 Assessment, Draft Heads of Terms, Design and Access Statement, Ecological Appraisal, Flood Risk Assessment, Geophysical Survey Report, Landscape and Visual Appraisal, Planning Statement, Site Sustainability Appraisal, Transport Statement

Planning History:-

14/00520/FULM - Erection of 41 dwellings and associated infrastructure including the provision of play space and combined cycle and footpath - Refused - 07.11.2014.

72/4243/02 - Erection of dwellings and formation of access - Refused - 07.09.72.

2. Publicity

142 No neighbours have been notified. Last notified 09 March 2015

Press Notice published 18 March 2015

Site Notice posted 12 March 2015

3. Consultations

Ashby De La Zouch Town Council consulted 09 March 2015

LCC Ecology consulted 09 March 2015

County Highways Authority consulted 09 March 2015

NWLDC Urban Designer consulted 09 March 2015

NWLDC Tree Officer consulted 09 March 2015

LCC Footpaths consulted 09 March 2015

LCC Development Contributions consulted 09 March 2015

County Plannings Authority consulted 09 March 2015

Environmental Agency consulted 09 March 2015

County archaeologist consulted 09 March 2015

National Forest Company consulted 09 March 2015

NWLDC Manager of Housing consulted 09 March 2015

NHS Leicestershire & Rutland consulted 09 March 2015

Severn Trent Water consulted 09 March 2015

Natural England consulted 09 March 2015

Police Architectural Liason consulted 09 March 2015

Head of Environmental Protection consulted 09 March 2015

Head of Leisure consulted 09 March 2015

Development Plans consulted 09 March 2015

4. Summary of Representations Received

Statutory Consultees:

Ashby Town Council raise objection on the following grounds:-

- Not consistent with the character and appearance of the local landscape
- Outside of the established urban area of Ashby, open countryside and at the heart of the National Forest
- The location has been given the landscape quality of 9 which is the highest value of all the sites in Ashby
- Not in accordance with the NPPF in terms of achieving and delivering sustainable development and conserving and enhancing the natural and historic environment
- Concerns regarding the ingress and egress from Willesley Road and the County Council has installed speed bumps indicating that there are concerns with speeding
- Streetscenes are out of character with the surrounding area, poor and unsympathetic design

Natural England has confirmed that the proposal is not likely to have a significant effect on the River Mease Special Area of Conservation and therefore raises no objection, subject to condition. Natural England has also confirmed that the scheme will not impact upon the River

Mease Site of Special Scientific Interest (SSSI) and therefore raises no objection subject to the imposition of conditions.

Severn Trent Water raises no objection, subject to condition.

The Environment Agency raises no objection, subject to condition.

National Forest Company has confirmed that a surfaced footpath and cycleway through the site and the adjoining field to the cycle centre would be acceptable as a contribution towards the National Forest from this development.

The County Highway Authority raises no objection subject to the imposition of planning conditions.

The County Footpaths Officer is supportive of the route proposed for the cycleway within the site and beyond.

The County Archaeologist considers that the site has low archaeological potential and consequently no further archaeological requirements have been recommended.

The County Ecologist raises no objection subject to conditions.

NWLDC Affordable Housing Enabler is satisfied with the provision and tenure of the proposed affordable units on site.

NWLDC Environmental Protection has no environmental observations.

NWLDC Urban Design Officer has confirmed that subject to the imposition of conditions, the scheme would perform positively against Building for Life and would therefore be consistent with the Council's aspirations.

NWLDC Tree Officer raises comments in respect of the positioning of plots in relation to existing trees.

Third Party Representations

Accumulatively 188 letters of objection (from 100 different addresses) have been received raising the concerns around the following areas-

- a) Principle of development, contrary to policies and un-sustainable and preference for brownfield first
- b) Impact upon the character and landscape - given the high landscape quality of 9
- c) High density, intensive form of development
- d) The streetscenes are completely out of character with the surrounding area and adjacent properties
- e) Highway Safety
- f) Existing inadequate infrastructure/services/amenities to accommodate the development
- g) Drainage and Floodrisk
- h) Wildlife
- i) Assumptions and misleading information within the reports
- j) Modification order to register the existing footpath/cycletrack through the site is currently awaiting determination by the County Council.

- k) Noise and discomfort to existing residents and disruption during construction
- l) A revised assessment of the water course should be undertaken
- m) De-valuation of property prices - what compensation will residents receive?
- n) It is irrational not to make the TPO as soon as possible
- o) The National Forest's minimum requirements of 20% of the site are not met
- p) A designated children's play area is included but no mention of an enforceable commitment for its maintenance which would evoke safety issues.
- q) In a dismissed appeal in Warwickshire - this did not have a formal landscape designation. The Inspector stated that overall the site has value in landscape terms and as a consequence of being valued locally
- r) In a dismissed appeal in Gloucestershire - The Inspector stated concluded that although the site was not covered by special landscape designation, its intrinsic attractiveness and easy access for the public gave it some value
- s) Packington Nook has many similarities and the appeal site was not in a sustainable location and no need for the development in that location to meet any specific economic needs. This site is even further away from the town centre facilities, key services and employment and is not required for economic need

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

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

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

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

- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 32 (Promoting sustainable transport)
- Paragraph 34 (Promoting sustainable transport)
- Paragraph 47 (Delivering a wide choice of high quality homes)
- Paragraph 49 (Delivering a wide choice of high quality homes)
- Paragraph 54 (Delivering a wide choice of high quality homes)
- Paragraph 57 (Requiring good design)
- Paragraph 59 (Requiring good design)
- Paragraph 61 (Requiring good design)
- Paragraph 64 (Requiring good design)
- Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 109 (Conserving and enhancing the natural environment)

Paragraph 112 (Conserving and enhancing the natural environment)
Paragraph 118 (Conserving and enhancing the natural environment)
Paragraph 119 (Conserving and enhancing the natural environment)
Paragraph 110 (Conserving and enhancing the natural environment)
Paragraph 123 (Conserving and enhancing the natural environment)
Paragraph 129 (Conserving and enhancing the natural environment)
Paragraph 203 (Planning conditions and obligations)
Paragraph 204 (Planning conditions and obligations)

North West Leicestershire Local Plan:

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

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

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

Other Guidance

National Planning Practice Guidance - March 2014.

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

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

River Mease Water Quality Management Plan - August 2011.

River Mease Development Contributions Scheme - November 2012.

North West Leicestershire District Council Affordable Housing SPD

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

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within Ashby de la Zouch.

North West Leicestershire District Council Play Area Design Guidance SPG

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

6Cs Design Guide (Leicestershire County Council)

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

6. Assessment

The main considerations with regards to this application are the principle of development and assessing the previous reason for refusal, density, layout and design, impact upon residential amenity, highway considerations, public footpaths and cycle routes, impact upon trees, protected species/ecology, archaeology, drainage and flood risk, the impact upon the River Mease Special Area of Conservation/SSSI, developer contributions and other matters.

Principle of development and assessing the previous reason for refusal

Members are advised that planning permission was refused at the November 2014 Planning Committee for the following reason:-

"Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in respect of protecting and enhancing our natural environment and using natural resources prudently. Policy S3 of the Adopted North West Leicestershire Local Plan sets out the circumstances in which development outside of Limits to Development would be acceptable. The introduction of residential development on this undeveloped site, outside Limits to Development, remote from services would constitute unsustainable development, contrary to the policies and intentions of the NPPF and Saved Policy S3 of the North West Leicestershire Local Plan."

Residential development on an "un-developed site, outside Limits to Development"

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

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

Saved Policy H4/1 is also of relevance and identifies the criteria for in releasing "appropriate" land for housing. The settlement boundary of Ashby runs along the rear gardens of Willesley Gardens incorporating Willesley Close and 'The Paddocks' to the south, accordingly the application site abuts the settlement boundary along its north east, east and south east boundaries. The site is therefore bordered by residential development to two boundaries - to the north east by Willesley Gardens and to the south east by Willesley Close and does not

extend or encroach any further to the south of the settlement of Ashby, than Willesley Close.

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

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

Sustainability credentials of the site

In seeking to overcome the previous reason for refusal, the applicant has provided a site sustainability appraisal and iso-distance plans to show services and approved development within Ashby, in support of their application.

The site sustainability appraisal is broken up into four main parts, social, economic, environmental and recent appeal decisions and states:-

- *The social role considers the transport connectivity, play facilities and education and retail services. The iso-distance locates the application site within the wider context and denotes recently approved application sites which share comparable distance from Ashby town centre.*
- *The economic role sets out the economic benefits arising from the application site, including direct and indirect employment and anticipation annual expenditure for retail (£436,102) and leisure (£285,397) and generation for council tax (£58,999) and the new homes bonus payment (£353,994).*
- *The environmental role discusses the site surveys on site and the proposed use of sustainable drainage solutions, tree planting and open space and concludes that there are no adverse impacts with regards to the environment that significantly and demonstrably outweigh the benefits of the scheme.*
- *In respect of the three listed appeal decisions, the applicant states that for many key services, this application site has less than half the travel distances associated with the Iveshead Road, Shepshed (APP/X2410/A/12/2177327) appeal site, and that the Inspector within that appeal indicated that it is not as simple as dismissing a site on its sustainability credentials, based solely on walking distances from 1 or more key services.*
- *Within the appeal example at West Haddon, Northamptonshire (APP/Y2810/A/14/2222311) the Inspector stated in making reference to methods for assessing distance from key services "Such, standards and the use of national survey, must be applied with some caution and viewed in the context of local circumstance."*
- *Within the final allowed appeal example - Land South of Moira Road, Ashby (APP/G2435/A/13/2192131) the applicant states that there are many similarities with the application site -with both lying approximately 1km for the town centre, a walk of 10-15*

minutes and most of the urban area of Ashby, including the secondary schools within 2km and employment and superstore falling with 3km of the site. The Department of Transport statistics show the average trip length regularly undertaken is on average 1km for walking, 4.5 km for cycling and 8km for buses and is therefore concluded that this site is within easy walking or cycling distance of all of the town's facilities.

In assessing the contents of the applicant's sustainability assessment outlined above, the following comments have been reached by Officers:

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

Below are the approximate distances from the site to local facilities and services via the existing footway network:-

- Bus Stop - 465 metres
- Western Park, via Packington Nook Lane - 675 metres
- Primary School - 790 metres
- Public House, Tamworth Road - 900 metres
- Play Space (to the west of Ridgeway Road) - 950 metres
- Town Centre boundary 1,050 metres
- Market Street - 1,480 metres

Whilst the bus stop, park and primary school are the only amenities within the maximum preferred walking distance, the bus stop is in close proximity to the site, 465 metres to the northern side of Tamworth Road and an hourly bus service runs along Tamworth Road which provides access to the facilities within the town centre. There is also an existing footpath along the southern side of Willesley Lane which runs the entire length to the junction with Tamworth Road and there are also footpaths on both the north and south side of Tamworth Road into the town centre. The scheme seeks to provide its own on-site play space, and there is an area of equipped play space and larger area of play at Western Park which is accessed via Willesley Road, straight on to Tamworth Road and then via Packington Nook Lane, being located approximately 675 metres away. Furthermore, the scheme itself also seeks to promote walking and cycling, by providing a combined footpath and cycle route within the site. This is proposed to continue beyond the site, to the Hicks Lodge Cycle Centre, with the applicant willing to enter into a Section 106 Agreement to provide and surface this route. This will provide both future occupiers and existing residents in Ashby access to the Hicks Lodge Cycle Centre.

The County Highway Authority (CHA) have also commented upon transport sustainability within this application, stating that the site is well served by an existing network of footways for pedestrians and is accessible for cyclists, the Primary School is at a walking distance of less than 800 metres and the nearest bus stops are at approximately 400 to 460 metres from the site.

In respect of the Lower Packington Road appeal decision, the Inspector concluded, that with the 1km distance from the town centre, with significant gradients and no dedicated cycle routes close to the appeal site, and with a limited and infrequent bus service running past the site, many people would rely heavily on their cars for trips even to buy one or two, small everyday items.

In comparison, whilst the distance to the town centre is similar, there are a range of services and amenities in closer proximity, along Tamworth Road to this site, with the nearest shop to purchase one or two, small everyday items being approximately a 11.5 - 12 minute walk, with the route into the town centre being predominantly flat (with the exception of a slight rise in gradients between Wells Road and the junction with Tamworth Road). There is also an hourly - Monday to Saturday bus service, with the bus stop approximately a 4.5 minute walk away.

Consideration should also be given to the appeal decision at land South of Moira Road, Ashby, where the Inspector stated that the site was about 1km to the town centre, a walk of 10-15 minutes, and most of the urban area of Ashby lay within 2km of the site, with employment areas and the superstore, being within about 3 km of the site. The Inspector concluded that, that site was within walking or cycling distance of all the town's facilities and the site was to be in a sustainable location. Furthermore at Planning Committee in December 2014, it was resolved to grant planning permission (subject to the S106 Agreement) at land between Burton Road And Moira Road, Shellbrook (ref: 14/00578/OUTM) which is between 1-1.4km distance from Ashby town centre, which is comparable with the distance from this site with the town centre.

The CHA has stated whilst the town centre of Ashby de la Zouch is at a distance of less than 1.5 Km from the site, this is a greater distance than would normally be considered to be acceptable, given 1 Km which has been considered to be an acceptable walking distance by previous Planning Inspectors' appeal decisions and, given that there is a much greater provision of employment, education and services in Ashby than in many towns and villages, it may be that some walking journeys would be made. In addition, the CHA has confirmed that there is a stronger argument to be had that the site is very attractively located for cycling trips and that this has to be given some weight.

In response to the applicant's other appeal decisions outside the District, it is not considered that they carry any significant weight in the determination of this application.

Ashby provides a good and wide range of day to day services and facilities which meet the day-to-day needs of Ashby as well as some of the surrounding villages, which has been supported in recent appeal decisions. These include primary schools, a secondary school, a good range of shops, leisure facilities and library, health centre as well as recreational facilities, public houses and employment opportunities.

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

- Economic - in this respect developments should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to support growth, and by coordinating development requirements, including the provision of infrastructure. It is considered that the development would benefit the local economy through both the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and maintenance of local infrastructure. Accordingly the site is considered to be consistent with the 'economic role'.
- Social - in this respect, developments should support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built environment. The

development would provide both open market and 12 affordable units, appealing to a wider spectrum within the local market, thus increasing local market choice and appealing to groups whom may have otherwise been excluded from the locality.

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

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

The applicant has submitted additional information to seek to overcome the previous reason for refusal, and whilst the site is further from services, than the desired standards, it is considered that given the comparable distances with the site at South of Moira, Road and Ashby and at land Between Burton Road and Moira Road, Shellbrook, that a strong case has been made concerning the sustainability of the site.

Loss of Agricultural Land

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

Whilst, the NPPF does not suggest that the release of smaller BMV site is acceptable, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost and therefore given the relatively limited extent of the potential loss of the site, at 1.54 hectares, it is considered that the potential agricultural land quality issue is not sufficient to sustain a reason for refusal in this case.

Density, Layout and Design

For the avoidance of doubt there is no change to the density, layout or design of the dwellings and therefore consideration of these matters remains as per the previous application ref: 14/00520/FULM. In this respect, the Committee did not include density, layout of design in the reason for refusal.

The Council's Urban Design Officer has confirmed that subject to the imposition of conditions, the scheme would perform positively against Building for Life and would therefore be consistent with the Council's aspirations.

It is considered that the range of terraced, semi-detached and detached properties of 2, 3 and 4 bedroom configuration and 2 and 2.5 storey proportions adds interest and provides strong

attractive street scenes, softened by the variation in architectural detailing, materials, surfacing, boundary treatments, trees and landscaping. As such the scheme is considered to be in accordance with Saved Policy E4 of the Local Plan and overarching intentions of the NPPF.

Impact upon Residential Amenity

There are no changes to the layout and therefore the consideration of positioning and distances to neighbouring residential properties remains as per the previous application ref: 14/00520/FULM. In this respect, the Committee did not include impact upon residential amenity in the reason for refusal.

It is considered that there are sufficient distances to ensure no significant adverse impacts, in terms of loss of privacy, light and overbearing impacts between proposed plots and existing neighbouring properties. For the avoidance of doubt windows serving bathrooms and en-suites are to be fitted with obscure glass, secured by the imposition of a planning condition.

In summary, the proposal is considered to have minimal impacts upon amenity of existing neighbouring or future neighbouring residents. As such the scheme is considered to be in accordance with Saved Policy E3 of the Local Plan.

Highway Considerations

There is no change to the vehicular access or pedestrians connections and therefore consideration of these matters remains as per the previous application ref: 14/00520/FULM. In this respect, the Committee did not include highway safety in the reason for refusal.

There is a mixture of frontage and side parking and single and double detached garages. All plots open market and affordable have at least two car parking spaces, with the exception of the one bed affordable units, which have one space each and two visitor spaces between them. For the avoidance of doubt all 2 bed properties (8 plots) have two parking spaces, with all other 3 and 4 bed properties having three parking spaces and all garages have sufficient internal dimensions.

The scheme has been considered by the County Highway Authority (CHA) who raises no objection, subject to conditions including off site works.

In summary, subject to the imposition of conditions it is considered that the scheme is acceptable in relation to Saved Policies T3 and T8 of the Local Plan.

Public Footpaths and Cycle Routes

There is no change to the proposed combined pedestrian and cycle route, nor has the Modification Order been passed and consideration of these matters therefore remains as per the previous application ref: 14/00520/FULM. In this respect, the Committee did not include the impact upon the existing footpath in the reason for refusal.

There are no formal, designated public footpaths running through the site, however a route has been used historically and informally to the north east periphery of the site, running parallel with the rear gardens of Willesley Gardens. An application, dated 15 April 2014 was submitted by local residents to Leicestershire County Council for a Modification Order (ref: P114) to seek a Public Right of Way consistent with the existing informal route, as described. The County Council are currently proceeding with the preparatory work associated with the making of the

Modification Order, prior to preliminary consultations being carried out with interested parties.

In respect of the impact of the scheme on the current route used by residents, given that the route is not a designated footpath, then no weight can be given to the impact of the development on this route.

The applicant proposes a combined pedestrian and cycle route within the scheme, with the route also extending to the field to the north of the site. The applicant has made a commitment that this route will be formally offered as a formal Public Right of Way and Cycle Route for access to Hicks Lodge and would be willing to enter into a Section 106 Agreement to secure the route, width and appropriate surfacing. The National Forest and Leicestershire County Council Footpath Officer have been consulted upon this and are fully supportive of the route proposed, providing the route links outside the development site to the Hicks Lodge cycle routes.

As such, whilst the route through the site, would not be exactly the same as the one currently informally used by local residents, through the Modification Order, the scheme does seek to provide a formally designated route through the site and beyond the site to the north, for access to the Hicks Lodge Cycle Centre.

Impact upon Trees

The impact upon the two lime trees has been rigorously considered by the previous application, including alternative vehicular access positions, in order to seek to secure their retention. However, the Committee did not include impact upon the trees in the reason for refusal.

As previously reported, overall it was considered that to insist upon the lime trees retention would be to the detriment of highway safety and accordingly on balance, the amenity value the lime trees added was not sufficient to outweigh the potential highway safety implications, in this case.

Accordingly this application proposes the same access point as that previously considered and the Tree Officer raises the same comments in respect of the positioning of plots in relation to existing trees and proposed trees.

It is considered that specific conditions in respect of proposed planting can be imposed and "no-dig" construction to ensure no significant adverse impacts upon the trees T4, T5 and T13.

Protected Species/Ecology

Consideration of these matters therefore remains as per the previous application ref: 14/00520/FULM. In this respect, the Committee did not include impact upon protected in the reason for refusal.

The application has been accompanied by an Ecological Appraisal, which has been considered by the County Ecologist. The County Ecologist has confirmed that they have the same comments, as those provided within the original application, which is no objection, subject to the imposition of planning conditions.

Archaeology

Consideration of these matters therefore remains as per the previous application ref: 14/00520/FULM. In this respect, the Committee did not include archaeology in the reason for

refusal.

The application has been accompanied by an Archaeological Desk Based Assessment and Field Walking Survey. The application has been considered by the County Archaeologist who is satisfied that development has low potential impact upon buried remains, and that there are no other recorded heritage assets likely to be detrimentally affected by the proposals, and therefore confirms that the application warrants no further archaeological involvement.

Drainage and Flood Risk

The Committee did not consider flooding to be an issue of concern and therefore was not included in the previous reason for refusal.

The site lies within Flood Zone 1 as defined by the Environment Agency as having a low probability of flooding (less than 1 in 1,000 annual probability in any year). An unnamed ditch forms the site's western boundary and a small drain flows along the site's northern boundary.

The scheme proposes an open attenuation pond, in addition to permeable paving within private parking areas.

The application has been accompanied by a Flood Risk Assessment (FRA), which has been considered by statutory consultees, all of which raise no objections, subject to the imposition of planning conditions.

The scheme has been considered by the Environment Agency who raises no objection subject to the imposition of the condition requiring the development to be undertaken in accordance with the details provided within the FRA, including the provision of sustainable drainage solutions.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required. The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS is considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

When having regard to the existing agricultural use of the site, the proposal for 41 dwellings would increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS.

The flows from the new dwellings will need to be taken into account against the existing headroom at Packington Treatment Works, which serves Ashby de la Zouch. At March 2015 capacity as available, taking into consideration dwellings that have consent and/or are under construction, which at the time of writing, totalled 2663 dwellings and therefore sufficient capacity exists for the 41 dwellings proposed.

Natural England has considered the scheme and raise no objections in relation to impact on the SAC/SSSI subject to conditions. Therefore based on the above it can be ascertained that the

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

Developer Contributions

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

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

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

Affordable Housing

Under the Council's Affordable Housing SPD, 30% affordable housing is required on sites of 15 dwellings or more, and this would equate to 12.3 dwellings for the current proposal. The scheme proposes 12 affordable units in total comprising 8 x 1 bedrooomed units, 2 x 2 bedrooomed dwellings and 2 x 3 bedrooomed dwellings and the Council's Strategic Housing Team is satisfied with the proposed affordable housing provision.

Play Space

The Council's Play Area Supplementary Planning Guidance (SPG) states that the Council will not seek any additional provision where existing play areas, within 400 metres walking distance, satisfy the needs of the area, including the proposed development. In this instance, whilst an existing play space would fall within 400 metres of the site, given the route that users (children) would need to take along existing footpaths, to access the play space, the site would be well in excess of 400 metres, and therefore on-site provision should be provided.

Under the Council's SPG, on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 41 dwellings are proposed, this would require a play area of not less than 820 square metres. The scheme provides in excess of the policy requirement.

A scheme for the play provision will be secured through the Section 106 Agreement. An obligation relating to management plans for any open space, landscaping and SUDS to ensure that the land is properly established, maintained and managed in the future would also be required.

River Mease DCS

A contribution under the River Mease DCS is required (as outlined earlier in the report) but an exact figure for the contribution cannot be determined at this stage, as the code levels (or equivalent) of the dwellings has not been finalised. A Section 106 agreement would be worded as such to allow flexibility based on the equivalent construction code levels.

Other Developer Contributions

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

requested:-

Leicestershire County Council (Libraries) request £1,240 towards additional resources at Ashby de-la Zouch Library.

Leicestershire County Council (Education) request a contribution of £119,054.26 for Ashby Willesley Primary School; a contribution of £73,292.30 for Ivanhoe College and a contribution of £75,256.16 for Ashby School.

Leicestershire County Council (Highways) request:-

- Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
- Six-month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car
- Improvements to the nearest bus stop (Tamworth Road outside Loudoun House), including raised and dropped kerbs to allow level access, to support modern bus fleets with low floor capabilities. At £3263.00 per stop.
- Information display case at a nearest bus stop; to inform new residents of the nearest bus services in the area. At £120.00 per display.

NWLDC Head of Leisure and Culture has requested a developer contribution of £39,335 for investment in a new wellbeing centre at Hood Park Leisure Centre.

The National Forest request a surfaced footpath and cycleway through the site and the adjoining field to the cycle centre as shown on the 'Indicative Cycle Plan Improvement Plan'.

NHS England (Leicestershire and Lincolnshire Area) request a contribution of £13,734.34 towards the costs of supporting a new surgery for the Ashby Health Centre practice.

No requests for contributions have been received from Leicestershire Police and the County Council has advised that a contribution towards civic amenity sites is not required.

Assessment of Financial Requests

A contribution of £39,335 is requested for investment in a new wellbeing centre at Hood Park Leisure Centre. The project estimate of £750,000 would be for a wellbeing facility but there is no breakdown of specific costs which would be relevant to this specific development proposal. Furthermore, no evidence base has been submitted with the request to set out how the proposed development would generate the need for the wellbeing facility i.e. how it is specifically relevant to the proposed development.

As a new medical centre has already been approved (ref: 14/00080/FULM) at Burton Road, Ashby and the funding secured it is not considered that NHS England have demonstrated that this is required to make the development acceptable and is not therefore considered to meet the tests, as set out in Paragraph 204 of the NPPF.

Leicestershire County Council have provided additional evidence to demonstrate that their Libraries and Education (Primary, High and Upper School Sectors) requests, in combination with previous obligations, do not exceed five obligations and therefore can be secured through the planning process, by way of legal agreement. The other contributions are separate projects.

On consideration of the other requests received in respect of this application, it is considered that the following meet the tests, and the applicant has confirmed that they would be willing to enter into an agreement to secure the following contributions:-

- Affordable Housing (12 units)
- Play and Open Space (on-site)
- Education (£267,602.72)
- Libraries (£1,240)
- River Mease
- Transport (Travel Packs, Bus Passes, Bus Stop Improvements, Information Display
- Cases)
- National Forest (Footpath and Cycleway)

Other Matters

Letters of Representation

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

A right to a view and de-valuation of property prices are not material planning considerations.

In respect of the concerns raised regarding the similarities with the Packington Nook development, and comments raised in respect of 'valued landscapes' in the Warwickshire appeal site and Gloucestershire appeal site, each case is considered on its own merits.

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy. Accordingly no weight can be attributed to the policies contained with the Core Strategy for the purposes of determining applications.

An application was refused in 1972 (ref: 72/4243/02) for residential development. The approved Ashby de-la Zouch Town Map and the approved County Development Plan have subsequently been replaced since 1972 and as such carry no weight in the determination of this application. Furthermore, the County Highway Authority have considered this scheme and do not consider that there is any reason to sustain a highway objection.

Conclusions

In conclusion, as set out in the main report above, the applicant has submitted additional information to seek to overcome the previous reason for refusal, and whilst the site is further from services, than the desired standards, it is considered that given the comparable distances with the site at South of Moira, Road and Ashby and at land Between Burton Road and Moira Road, Shellbrook, that a strong case has been made concerning the sustainability of the site.

The proposed development would be acceptable in terms of density, layout and design, impact on trees, residential amenities, transportation and highway safety issues, flood risk and drainage, archaeology, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services. It is therefore recommended that planning permission be granted, subject to conditions and the signing of the

S106 Agreement.

RECOMMENDATION, PERMIT, subject to the signing of the Section 106 Agreement and the following conditions:-

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

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

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

Planning Layout, Drawing No. SL/01 (Scale 1:500); Alnwick + (Semi) Drawing No. BC/ALNWICK/ASHBY; Alnwick/Hanbury (Terrace) Drawing Nos. BC/ALNWICKT/ASHBY; Hanbury Plus House Type (Semi) Drawing No. BC/HAN/ASHBY; Knightsbridge House Type Drawing No. BC/KNIG/ASHBY; Leicester House Type Drawing No. BC/LEIC/ASHBY; 1160 House Type Drawing No. BC/1160/ASHBY; Marlborough House Type Drawing No. BC/MARB/ASHBY; Mayfair House Type Drawing No. BC/MAY/ASHBY; Whitehall House Type Drawing No. BC/TWHIT/ASHBY; Whitehall + House Type Drawing No. BC/TWHIT/ASHBY; 1 Bed Flat Drawings No. BC/FLAT/ASHBY; 1160 House Type Drawing No. BC/1160/ASHBY; 1010 House Type Drawing No. BC/1010/ASHBY; Single garage Drawing No. BC/SGARAGE/ASHBY and Double garage Drawing No. BC/DGARAGE/ASHBY received by the Local Planning Authority on 6 March 2015.

Reason: To determine the scope of this permission.

- 3 Notwithstanding the submitted plans, nor Condition 2 above, no building shall be erected on site above damp proof course level until details/samples (as appropriate) of the:-
 - a) bricks, roofing materials and render
 - b) doors and windows including porches and door surrounds, as well as doors to proposed garages)
 - c) eaves and verges
 - d) rain water goods
 - e) windows and doors (including heads and cills)
 - f) chimneys
 - g) colour finish of utility boxes

have been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the works shall be implemented in accordance with the approved details.

Reason - To ensure that the works are executed in an appropriate manner given the prominence of the site.

- 4 Notwithstanding the submitted plans, prior to first occupation of any dwelling, a lighting scheme for all communal open space and parking areas are submitted and agreed to in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details, prior to the first occupation of any dwelling.

Reason: To ensure that the development provides for a satisfactory form of design, in the interests of safeguarding against actual and fear of crime and anti-social behaviour.

- 5 Notwithstanding the submitted plans, nor Condition 2 above, no building shall be erected on site above damp proof course level until a detailed scheme for the boundary treatment of the site including the precise details of the treatment of the demarcation of all public realm facing boundaries that will be a minimum of 1.2m high comprising of either railings with hedging, dwarf walls with railings, or dwarf walls have been submitted to and agreed in writing by the LPA. The development shall be carried out in accordance with the agreed details. The development hereby permitted shall not be occupied until such time as the approved scheme has been implemented in full (unless an alternative timescale is first agreed in writing by the Local Planning Authority). Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no gates, fences, walls or other means of enclosure (other than any approved pursuant to this condition) shall be erected, unless planning permission has first been granted by the Local Planning Authority.

Reason: To preserve the amenities of the locality, in the interests of highway safety, to ensure that there is a clear and robust demarcation between public and private spaces and to ensure an appropriate form of design.

- 6 No building shall be erected on site above damp proof course level until a detailed landscaping scheme, including the retention of existing trees and hedgerows and mitigation planting for the loss of trees, has been submitted to and approved in writing by the Local Planning Authority. The eight proposed trees along Street 1 shall be semi-mature trees of a minimum height of 5.5m and girth of 25-30cms, with focal trees adjacent plots 1, 25 and 26 and lime tree mitigation planting to the frontage shall be super semi-mature trees of a minimum height of 7.0 and girth of 40-45cms. The approved scheme shall be implemented in the first planting and seeding season following the first occupation of the first dwelling hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

Reason: To ensure satisfactory landscaping is provided within a reasonable period and a reasonable period for the replacement of any trees and shrubs.

- 7 Notwithstanding the submitted plans, nor Condition 2 above, no building shall be erected on site above damp proof course level until such time as a detailed scheme for all surfacing of the access, driveways, parking areas and footpaths has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be undertaken in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To preserve the amenities of the locality.

- 8 Notwithstanding the submitted plans, nor Condition 2 above, prior to the first occupation

of the 10th dwelling details of the proposed bridge/structures to connect the site with the adjacent field to the north west of the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the 10th dwelling.

Reason: To enable the Local Planning Authority to retain control over the external appearance, in the interests of the amenities of the area.

- 9 No building shall be erected on site above damp proof course level until a scheme that makes provision for waste and recycling storage across the site shall first be submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities for residents/collection crews, and adequate collection point space at the adopted highway boundary. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure that the development provides for a satisfactory form of design, in the interests of amenity.

- 10 No development shall commence until precise details of the finished ground levels on the site and the finished floor levels of the buildings in relation to an existing datum point have been submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

Reason: To ensure the development takes the form envisaged by the Local Planning Authority.

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

Reason: To ensure that the development is provided with a satisfactory means of foul water drainage.

- 12 Notwithstanding condition 19 no development shall commence until drainage plans and surface water drainage management and monitoring plan have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of surface water drainage management and monitoring as to reduce the risk of creating or exacerbating a flooding problem; to prevent an adverse impact on the River Mease Special Area of Conservation.

- 13 No development shall commence until details for off-site highway work being a junction table at the Willesley Close/Willesley Road junction have been submitted to and approved in writing by the Local Planning Authority and no dwelling shall be occupied until the scheme has been constructed in accordance with the approved details.

Reason: To reduce vehicle speeds on the approach to the site access.

- 14 No development shall commence until details for off-site highway works being provision of a footway from the southern side of Wells Road to a suitable crossing point with drop

kerbs and tactile paving on Willesley Road, have been approved in writing by the Local Planning Authority, and no dwelling shall be occupied until the scheme has been constructed in accordance with the approved details.

Reason: To ensure a safe pedestrian route to the footway on the southern side of Willesley Road.

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

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

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

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

- 17 Before first occupation of any dwelling hereby permitted, the respective car parking provision and any turning space shall be made within the curtilage, in accordance with the approved plans. The parking spaces and turning space so provided shall not be obstructed and shall thereafter permanently remain available for car parking and turning.

Reason: To ensure adequate off street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area.

- 18 Before first occupation of any dwelling hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users.

- 19 The development hereby permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) revision 3, dated May 2014 Ref. R/C1409.001.03, under by Hydrock, including the mitigation measures detailed within it. The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or with any other period that may be subsequently agreed in writing by the Local Planning Authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to assist in the achievement of good water quality status for the River Mease, to reduce the risk of flooding from blockages and to ensure maintenance access.

- 20 Should development not commence for two years since the last survey (April 2014) an updated badger survey will be required to be submitted to and approved by the Local Planning Authority.

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

- 21 The windows serving bathrooms, en-suites and WCs shall be glazed with obscure glass to Pilkington Standard 3 (or equivalent) and shall be non or top opening only and thereafter be retained unless planning permission has first been granted by the Local Planning Authority.

Reason: To ensure that the development is not detrimental to the privacy and amenities of the existing and future occupiers.

- 22 No development shall commence until a scheme providing a tree protecting plan for all retained trees, identified within the submitted Arboricultural Assessment (May 2014) and a method statement of "no dig" design is first submitted to and approved in writing by the Local Planning Authority in respect of conditions T4, T5 and T13. All works shall be carried out in accordance with the approved details and timetable.

Reason: To ensure that existing trees are adequately protected during construction in the interests of the visual amenities and character of the area.

Notes to applicant

- 1 In respect of Condition 3, the applicant is advised that render will be traditionally applied rough cast render. Monocouche and/or the use of plastic beading will not be permitted. The applicant is advised that porches and door surrounds must be constructed of timber that is either painted or stained. Full or partial UPVC porch structures and/or door surrounds will not be acceptable. UPVC windows and doors shall be of a cream or olive green finish.
- 2 In respect of Condition 5, the Local Planning Authority will be likely to require the submitted details to provide for, amongst the others, the following: a plan indicating the type of boundary treatment to be employed and where landscaping is proposed to demarcate public and private space, a photographic illustration of the proposed species.
- 3 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001).

You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.

If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of

the Highways Act 1980 for the adoption of the roads.

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Outline planning application for up to 70 dwellings together with public open space, National Forest planting, landscaping, drainage infrastructure and access off Woodcock Way.

Report Item No
A2

Land Adjoining Woodcock Way Woodcock Way Ashby De La Zouch Leicestershire (LE65 1AX)

Application Reference
15/00354/OUTM

Applicant:
Miller Homes

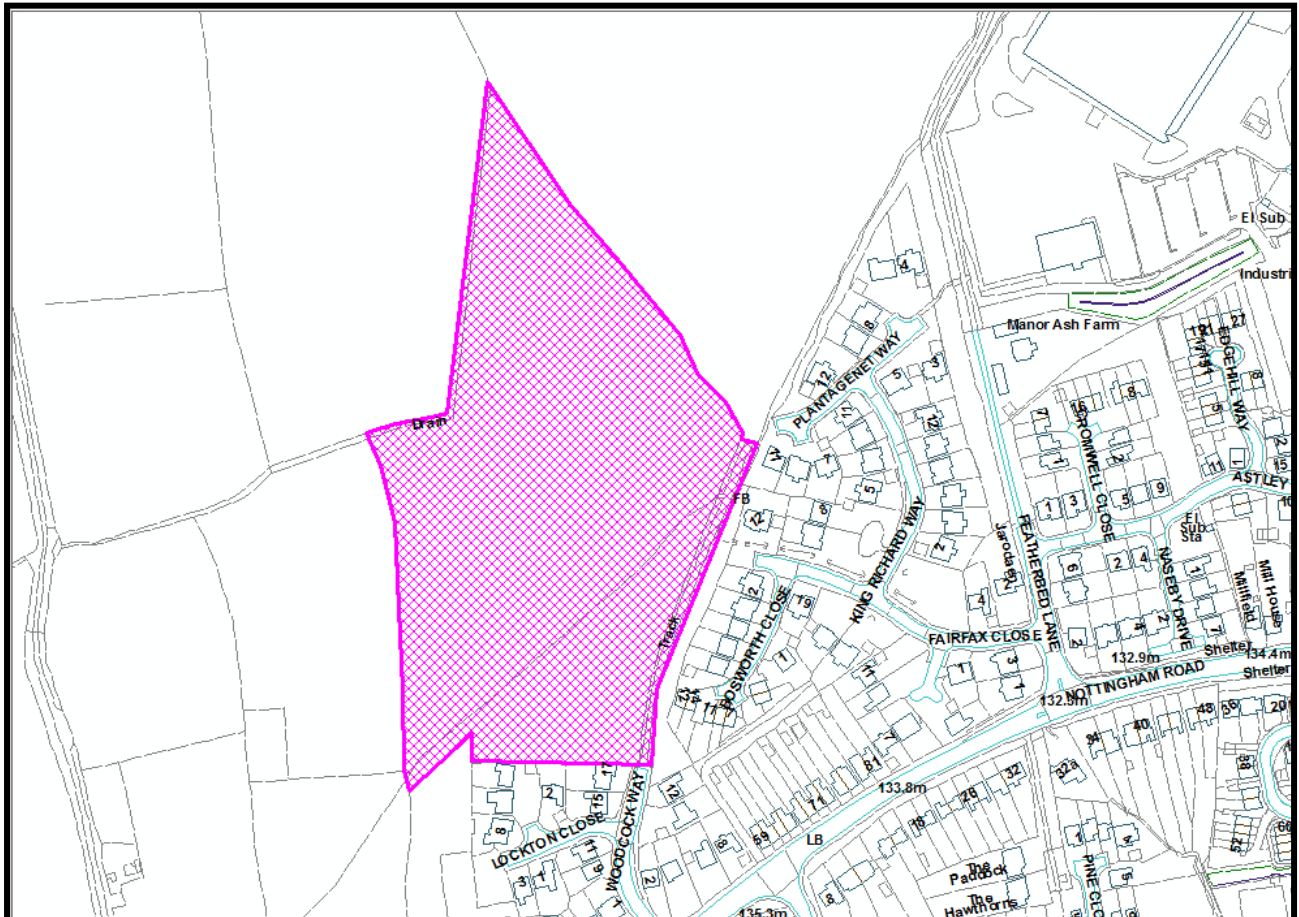
Date Registered
23 April 2015

Case Officer:
James Knightley

Target Decision Date
23 July 2015

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Proposal

This application seeks outline planning permission for residential development of up to 70 dwellings and associated works. The application is, in effect, a duplicate application to that submitted under application ref. 14/00769/OUTM which was previously deferred by the Planning Committee; an appeal against the non-determination of that application has now been lodged.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals (including from Ashby de la Zouch Town Council); no other objections are raised by statutory consultees.

Planning Policy

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

Conclusion

The report below indicates that, whilst the site is a greenfield site outside Limits to Development, having regard to the site's general suitability for housing (including its proximity to the built up area of Ashby de la Zouch) and the need to demonstrate and maintain a five year supply of housing land within the District, the proposals would be considered to constitute sustainable development, and release of the site for residential development would be appropriate in principle. The proposed development would, it is considered, be able to be undertaken in a manner acceptable in terms of access issues; there are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities.

RECOMMENDATION:-

PERMIT, SUBJECT TO SECTION 106 OBLIGATIONS, AND SUBJECT TO THE IMPOSITION OF CONDITIONS

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

MAIN REPORT

1. Proposals and Background

This is an outline planning application for residential development of a site of 3.85 hectares (currently unused grassland) for up to 70 dwellings on land to the north of Woodcock Way, Ashby de la Zouch.

All matters other than access (insofar as the principal vehicular access into the site is concerned) are reserved. Whilst all other matters are reserved for subsequent approval, a concept plan has been submitted showing the areas of the site wherein proposed dwellings would be sited, together with areas of public open space / children's play, and proposed and retained tree planting / landscaping.

The site is adjacent to other agricultural land (to the north and west) and to existing residential development (to the south and east); the site is crossed by an existing public right of way (Footpath O89).

Vehicular access is proposed to be provided by way of an extension to Woodcock Way, an existing cul-de-sac served from Nottingham Road. Alterations to the existing priority junction of Woodcock Way with Nottingham Road are also proposed, including provision of a new right turn lane and alterations to refuges. In terms of other matters of access (and including non-vehicular routes into the site, and vehicular, cycle and pedestrian routes through the site), these are reserved for consideration at the reserved matters stage(s), although the concept plan indicates retention of connections to the adjacent rights of way network.

The site is part of a wider area subject to planning application 13/00335/OUTM, an outline application for the erection of 605 dwellings (including a 60 unit extra care centre), a primary school, a health centre, a nursery, a community hall, retail use and public open space with vehicular access taken from both the A511 (Ashby Bypass) and from Woodcock Way. That application was refused at the Planning Committee of 6 May 2014 on the basis of the site's poor connectivity for pedestrians to the town centre, the lack of suitability of Woodcock Way as a means of providing vehicular access, the potential impacts on the operation of Junction 13 of the A42 and the under-provision of affordable housing having regard to the lack of evidence necessary to demonstrate that a policy-compliant contribution would be unviable. That application is now the subject of an appeal, although the District Council has resolved to pursue only the final reason for refusal (i.e. the under-provision of affordable housing) at the forthcoming inquiry (due to open in September 2015). A revised application has also now been submitted in respect of the wider Money Hill site (ref. 15/00512/OUTM), but excludes the section of the wider site the subject of this application.

The current application is similar to one previously submitted on the site (ref. 14/00769/OUTM); that application was reported to the Planning Committee on 3 February 2015 where it was resolved to be deferred to allow further information on access and sustainability to be provided, and pending the outcome of the wider Money Hill site appeal.

Whilst one of the reasons the Woodcock Way application was deferred was to allow the outcome of the wider Money Hill appeal to be known, that application is also now the subject of an appeal (on the basis of the application's non-determination), again requested by the developer to be considered by way of an inquiry. The applicants advise, however, that, in the event that the Planning Committee resolves to permit this application, the appeal against the non-determination of application 14/00769/OUTM would be withdrawn.

2. Publicity

124 No Neighbours have been notified (Date of last notification 8 May 2015)

Site Notice printed 11 June 2015

Press Notice published 20 May 2015

3. Consultations

Ashby De La Zouch Town Council consulted 8 May 2015

Head of Environmental Protection consulted 8 May 2015

Ashby de la Zouch Town Council consulted 14 May 2015

County Highway Authority consulted 14 May 2015

Environment Agency consulted 14 May 2015

Severn Trent Water Limited consulted 14 May 2015

Natural England- Within 2k Of SSSI consulted 14 May 2015

NWLDC Tree Officer consulted 14 May 2015

County Archaeologist consulted 14 May 2015

LCC ecology consulted 14 May 2015

NWLDC Urban Designer consulted 14 May 2015

National Forest Company consulted 14 May 2015

LCC Development Contributions consulted 14 May 2015

NHS Leicester, Leicestershire And Rutland Facilities Management consulted 14 May 2015

Development Plans consulted 14 May 2015

Head Of Leisure And Culture consulted 14 May 2015

Manager Of Housing North West Leicestershire District Council consulted 14 May 2015

Police Architectural Liaison Officer consulted 14 May 2015

LCC/Footpaths consulted 14 May 2015

NWLDC Footpaths Officer consulted 14 May 2015

LCC Flood Management consulted 14 May 2015

Highways Agency- Article 15 development consulted 14 May 2015

Head of Environmental Protection consulted 14 May 2015

LCC Development Contributions consulted 28 May 2015

4. Summary of Representations Received

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

- Access through Woodcock Way is unsuitable and will have significant traffic implications for Nottingham Road which is already congested with 15,000 cars a day passing along the road;
- Town Council had concerns about the traffic implications of the previous application when 30 dwellings were using Woodcock Way and this development is for 70 dwellings;
- In the light of large scale planning applications already approved for Ashby, the sustainability of the location and the ability of the town's infrastructure (e.g. roads and schools) to cope with the development is questionable
- The District already has a five year supply of housing land so does not need further development on greenfield sites

Environment Agency notes that, as of 15 April 2015, Leicestershire County Council in its capacity as Lead Local Flood Authority is the relevant consultee in respect of the management of surface water

Highways Agency has no objections

Leicestershire County Council Local Education Authority requests developer contributions of £456,882.68 in respect of additional provision in the primary, high and upper school sectors

Leicestershire County Council Library Services Development Manager requests a developer contribution of £2,110

Leicestershire County Council Highway Transportation & Waste Management Authority advises that no civic amenity contribution is required

Leicestershire County Council Landscape Officer has no comments

Leicestershire County Council Ecologist has no objections subject to conditions

Leicestershire County Council Highway Authority has no objections subject to conditions, and subject to Section 106 obligations

Leicestershire County Council Lead Local Flood Authority has no objections subject to conditions

Leicestershire County Council Mineral Planning Authority has no objections

Leicestershire County Council Rights of Way Officer has no objections subject to conditions

Leicestershire Police objects unless a developer contribution of £27,278 in respect of policing is provided

National Forest Company has no objections subject to conditions and subject to Section 106 obligations

Natural England has no objections subject to conditions

NHS England (Central Midlands) requests a healthcare contribution of £23,331.83

North West Leicestershire District Council Cultural Services Officer advises that, if the right of way crossing the site were to deviate from its definitive map line, an application to divert it would be required

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

The Ramblers (Leicestershire and Rutland Area) objects to the scheme as shown on the submitted concept plan and considers that the Ivanhoe Way needs to be retained within a green corridor.

Severn Trent Water has no objections subject to conditions

Third Party Representations

45 representations have been received, objecting on the following grounds:

- Further housing not needed
- Site outside Limits to Development
- Adverse impact on the walking experience of users of the Ivanhoe Way (right of way)

O89)

- Attempt to gain a toe-hold in Money Hill and will open up the remainder of Money Hill to development
- Insufficient infrastructure (including in respect of highways, parking, education and healthcare)
- Submitted Transport Assessment not robust
- Increased congestion to roads and footways
- Unsafe access
- Increased highway hazards due to proximity to school
- Woodcock Way too narrow to accommodate additional vehicles and is not a suitable point of access, including in respect of the increased use of the Woodcock Way / Nottingham Road junction
- Loss of green / open space
- Adverse impact on landscape
- Application identical to previous
- Loss of agricultural land
- Loss of habitat
- Dangers from construction vehicles
- Insufficient capacity at Packington sewage treatment works
- Further development would follow
- Existing bus stop on a narrow pavement
- Greenfield site

One representation has been received, supporting the application on the following grounds:

- Development should have happened ten years earlier
- Site was originally part of a wider Money Hill proposal including a surgery and health centre and was known about when nearby houses were first built
- Site is scruffy, and useless scrub land and should not be lying idle
- Area is short of housing
- Silent majority is happy to leave changes in the area to professionals and elected representatives

In addition, representations have been received from the Ashby de la Zouch Civic Society and the Nottingham Road Action Group, objecting on the following grounds:

- District now has a 5 year housing land supply and the housing policies of the Local Plan are hence no longer out of date
- Site located outside Limits to Development
- Arla Dairies site can be developed instead if additional housing is required
- Contrary to Local Plan policies
- Premature
- Proposals do not address previous member concerns so should be recommended for refusal
- Application would prejudice the wider Money Hill development
- Submitted Transport Assessment not robust
- Excessive walking distances to town facilities - unsustainable location
- Poorly connected for safe cycling routes
- Poor accessibility to local employment by public transport
- New developments in Ashby de la Zouch aimed at long distance commuters
- Unsustainable development
- Unsafe access / impacts on wider highway network
- Does not minimise the need to travel
- Poor public transport links

- Adverse impacts on residential amenity from Woodcock Way traffic
- Adverse impact on the walking experience of users of the Ivanhoe Way (right of way O89)

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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

- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 17 (Core planning principles)
- Paragraph 32 (Promoting sustainable transport)
- Paragraph 34 (Promoting sustainable transport)
- Paragraph 47 (Delivering a wide choice of high quality homes)
- Paragraph 49 (Delivering a wide choice of high quality homes)
- Paragraph 57 (Requiring good design)
- Paragraph 59 (Requiring good design)
- Paragraph 61 (Requiring good design)
- Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 112 (Conserving and enhancing the natural environment)
- Paragraph 118 (Conserving and enhancing the natural environment)
- Paragraph 123 (Conserving and enhancing the natural environment)
- Paragraph 131 (Conserving and enhancing the historic environment)
- Paragraph 132 (Conserving and enhancing the historic environment)
- Paragraph 135 (Conserving and enhancing the historic environment)
- Paragraph 173 (Ensuring viability and delivery)
- Paragraph 203 (Planning conditions and obligations)
- Paragraph 204 (Planning conditions and obligations)

Adopted North West Leicestershire Local Plan (2002)

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

- Policy S3 - Countryside
- Policy E2 - Landscaped Amenity Open Space
- Policy E3 - Residential Amenities
- Policy E4 - Design
- Policy E6 - Comprehensive Development

Policy E7 - Landscaping
 Policy E8 - Crime Prevention
 Policy F1 - National Forest General Policy
 Policy T3 - Highway Standards
 Policy T8 - Parking
 Policy H4/1 - Housing Land Release
 Policy H6 - Housing Density
 Policy H7 - Housing Design
 Policy H8 - Affordable Housing
 Policy L21 - Children's Play Areas
 Policy L22 - Formal Recreation Provision

Other Policies

North West Leicestershire District Council Affordable Housing SPD

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

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within Ashby de la Zouch.

North West Leicestershire District Council Play Area Design Guidance SPG

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

6. Assessment

Principle of Development

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

In terms of the adopted North West Leicestershire Local Plan, the majority of the site is outside Limits to Development. Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development; the development proposed would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3. Notwithstanding the countryside location, and whilst the proposals would be contrary to the adopted Development Plan, in determining the application, regard must be had to other material considerations, including other policies, such as national policies and other Development Plan policies.

Housing Land Supply and Limits to Development

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The District Council is currently able to demonstrate a five year supply (and including for a 20% buffer) (although it is noted that the applicants do not concur with this position).

Having regard to the above and to the approach set out in Paragraph 49 of the NPPF, Local Plan Policy S3 is considered to be up-to-date in the context of Paragraph 49. However, given 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), this needs to be taken into account when considering the weight to be applied to any conflict with this policy.

In addition, notwithstanding the principles contained in Paragraph 17 of the NPPF which highlights the need to recognise the intrinsic character and beauty of the countryside, the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set out in more detail in this report.

Site Accessibility and Policy H4/1

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

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The settlement of Ashby de la Zouch benefits from a range of local services and is readily accessible via public transport and, in general, is considered to be an appropriate settlement for new residential development and, as a settlement, would score well against the sustainability advice in the NPPF.

Insofar as the site itself is concerned, and whilst it is located outside Limits to Development, it is well related to the existing built up area of the town. In terms of accessibility, it is noted that the site is within close proximity of the existing town and the range of services available therein. The site access from Woodcock Way is approximately 600m from the town centre (being the closest point of the Core Town Centre Shopping Area as defined in the adopted Local Plan) when taking the shortest all-weather / all user walking route (i.e. via Woodcock Way, Nottingham Road and Wood Street). A shorter walking route is also available via right of way O89 (approximately 450m from the edge of the application site to the Core Town Centre Shopping Area on North Street); whilst this is not suitable for all users, nor likely to be an attractive alternative during adverse weather or at night, the applicants are proposing to make a contribution towards the provision of a continued metalled pedestrian link along this route between the application site and the town centre. In terms of public transport, the nearest bus services are available at stops adjacent to Ashby School, approximately 230m (eastbound) and 300m (westbound) from the site entrance. Services available include approximately two or three buses towards the town centre per hour during the daytime (although with less frequent services on Sundays). Regular connections are also available to and from Coalville, Loughborough, Burton upon Trent and Swadlincote. In addition to its town centre links, the site is considered to be relatively well related to retail and employment areas on the eastern edge of Ashby de la Zouch; if accessed via the existing rights of way network, the entrance of the Ashby Tesco store is approximately 650m from the eastern site boundary.

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

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to the economic growth associated with the proposed development, together with appropriate contributions towards affordable housing would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, whilst the proposed development would result in the development of land outside of the defined Limits to Development, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment and, by virtue of its location, close to the existing built up area and associated services, and its accessibility to public transport, would perform reasonably well in terms of need to travel and the movement towards a low carbon economy.

Relationship to the Wider Money Hill Development

Whilst it is noted that the application for the wider Money Hill scheme (ref. 13/00335/OUTM) was refused, no objection per se to the principle of that development was raised by the Local Planning Authority, and the District Council's concerns to be raised at the forthcoming appeal do not relate to issues of developing the site in principle. The potential therefore exists (and was also anticipated in the former emerging Core Strategy) that the wider Money Hill site could come forward in the future and, as such, it is considered reasonable, in the interests of the proper planning of the area, to ensure that the current scheme to develop a section of that wider site would not prejudice its proper development. In terms of relevant planning policies, adopted Local Plan Policy E6 seeks to prevent development where it would prejudice the comprehensive development and proper planning of a larger area of land of which the site concerned forms part. Insofar as the principle of development is concerned (and when considering in the context of the illustrative material submitted with the application), it is considered that there would be no overriding reason why development of this parcel in isolation would necessarily prejudice the wider development, and subject to appropriate linkages being secured at the reserved matters stage. Whilst it is noted that the revised application recently submitted by the Money Hill Consortium (15/00512/OUTM) now excludes the Woodcock Way site, it is nevertheless considered that the same comprehensive development considerations should continue to apply.

Insofar as supporting infrastructure is concerned, developing the site in isolation could, it is considered, result in some issues if the relevant contributions were not reasonably flexible in their nature. For example, on the one hand, if the wider Money Hill development were to proceed, the relevant contributions to infrastructure would, preferably, be able to contribute towards a comprehensive mitigation for the wider development (as opposed to individual developments within the wider site making "piecemeal" contributions). On the other hand, however, there could be no guarantees at this time that the remainder of the wider site would ever come forward and, in those circumstances, the development the subject of the current application would need to be able to mitigate for its own impact, and at a scale commensurate to the level of development proposed (i.e. 70 dwellings). These issues are not, it is considered, readily resolvable, and the approach as set out within this report is, in officers' view, a reasonable compromise in the circumstances.

The various issues arising from the proposed development's relationship to the wider Money Hill development are set out in more detail within the following sections of this report, where relevant.

Detailed Issues

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

Means of Access and Transportation

As set out above, details of that part of the access relating to the vehicular access from Woodcock Way are provided as part of the outline proposals; all other access details are reserved for subsequent approval. The point of access proposed includes associated alterations to the existing priority junction of Woodcock Way with Nottingham Road; this junction has been subject to a Stage 1 Road Safety Audit. The general form of the development indicated on the submitted concept plan also shows other potential pedestrian links into and through the site connecting to the public right of way passing through the site, together with potential vehicular routes to the wider Money Hill site; these would also be a matter for the reserved matters stage(s) (although their impact on the overall potential accessibility of the site still ought to be considered in those terms in respect of the outline application).

The application is accompanied by a Transport Assessment and a Travel Plan. The Transport Assessment indicates that, in the applicants' consultants' opinion, the development is in a location where all key amenities and facilities are located within acceptable walking distance from the site, stating that all local services are located within 2km walking distance from the site including supermarkets, a restaurant, pubs, schools, a doctor's surgery and a leisure centre, and can be accessed via existing footways and pedestrian crossings. It also considers the accessibility of the site by public transport (and as already assessed under Principle of Development above).

For its part, the County Highway Authority confirms that it has no objections to the application in principle, but having regard to likely impacts on the surrounding highway network, recommends a number of conditions and planning obligations. The County Highway Authority comments on the respective highway-related issues as follows:

Site Access:

"The existing access at Woodcock Way is a simple priority junction serving 20 dwellings. It follows that turning movements at Nottingham Road / Woodcock Way junction would increase with the addition of the proposed 70 dwellings. The proposal is to provide a right-turn lane to keep the ahead flows free from obstruction from right turning vehicles....The proposed layout was subject to an independent Stage 1 Road Safety Audit which recommended minor amendments, but did not raise any material concerns.

The proposed site access design was checked by the CHA [County Highway Authority] against the 6Cs Design Guide and Manual for Streets (MfS) guidance. In strict accordance with guidance, the minimum lane widths should be 3m for all lanes, requiring a total carriageway width of 9m. However, the existing carriageway width is only 8.5m and this accommodates a 2.5m right turning lane. This is considered to be an acceptable relaxation in this instance given that only cars are likely to be using the right turn lane. This also enables a suitable visibility splay to be achieved by keeping the give-way line closer to the main carriageway on Nottingham Road. However, this does mean that the proposed pedestrian refuge is only 2m in comparison to a desirable 2.5m.

Visibility exiting from Woodcock Way is currently partially obscured by overgrown vegetation. The visibility requirement based on MfS guidance is 2.4m by 43m, which has been verified on site as being achievable for the proposed design by maintaining the vegetation. However, given the site constraints, prior to any works beginning on site, further detailed design will need to be submitted to the Highway Authority for review to further demonstrate acceptability. An independent Stage 2 Road Safety Audit will be required alongside the detailed design. On completion of the works an independent Stage 3 Road Safety Audit stage 3 should also be

undertaken.

In conclusion, the proposed junction improvements will mitigate against the increased use of Woodcock Way from a capacity perspective. It also provides enhancements to pedestrian facilities by providing a refuge along the desire line for crossing Nottingham Road."

Traffic Generation and Distribution

Insofar as traffic generation and distribution are concerned, the County Highway Authority advises that vehicle trip rates have been based on the existing trip generation at Woodcock Way, and is consistent with other residential developments. The County Highway Authority has also provided a summary setting out the committed developments taken into account in the formulation of the Transport Assessment, and the off-site junctions assessed in terms of their operational capacity and performance.

Insofar as the affected junctions on the wider highway network (and the associated junction capacity assessments contained within the applicants' submissions) are concerned, the County Highway Authority comments as follows:

"Woodcock Way / Nottingham Road proposed ghost island junction

The junction has been demonstrated to be operating within capacity and the proposed layout is therefore acceptable.

Wood Street / Upper Church Street proposed signalised junction

This junction has been tested against proposed signal arrangement and has been demonstrated to be operating over its capacity both with and without the proposed development. With the proposed development the junction capacity deteriorates slightly from -20.1% to -21.0% reserve capacity (a change in value of 0.9%). Whilst congestion is likely to worsen, the development's traffic impact on this junction is not severe within the context of the NPPF...Mitigation is therefore not required.

Bath Street / Kilwardby Street / Derby Road double mini-roundabout junction

The modelling results in the TA [Transport Assessment] show the junction to be operating over its capacity both with and without the proposed development. Whilst congestion is likely to worsen, the development's traffic impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required.

Nottingham Road / Resolution Road traffic signal junction

This junction has been tested with CHA model, but assumed that pedestrian phase is operational on each cycle, therefore providing worst case scenario. Whilst congestion is likely to worsen, the development's traffic impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required.

A511 / Nottingham Road roundabout junction

The modelling results in the TA show the junction to be operating over capacity both with and without the proposed development. Whilst congestion is likely to worsen, the development's impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required."

Road Safety

The County Highway Authority advises that it has investigated speed survey data in order to understand the speeds along Nottingham Road in the vicinity of Woodcock Way. It advises that speed survey readings indicate that speeds in the vicinity of the site are consistent with those

for a road with a 30mph speed limit and are deemed to be below intervention level. Therefore, at this time, the County Highway Authority advises that there are no speed related concerns on Nottingham Road in the vicinity of Woodcock Way and Ashby School. In terms of collisions which are understood to have occurred in recent years and have been documented by residents, the County Highway Authority advises that, having correlated such incidents against the County Council's database, half of those documented by residents do not appear on the database. However, the County Council notes that its database is compiled from information where emergency services have attended the scene and where casualties have been reported and, as such, this would suggest that a large proportion were property damage only accidents and, whilst regrettable, the County Highway Authority's priorities for intervention are, given budgetary constraints, in respect of more serious incidents. Having reviewed the accidents reported to the County Highway Authority (and, hence, held within the County Council's database), the occurrence of incidents is, it advises, below intervention levels. In particular, and within the context of this application, Leicestershire County Council advises that there were no turning related incidents within the most recent 5 year period at the junction of Woodcock Way and Nottingham Road which could be worsened by the proposed development.

Public Transport and Transportation Developer Contributions

Insofar as public transport is concerned, having regard to the proximity of existing bus stops, and the frequency of the services available from those stops, the County Highway Authority does not require any contribution to public transport enhancements in this case. The County Highway Authority does however consider that improvements to the existing infrastructure would promote bus use and considers that these ought to be secured through Section 106 contributions. In particular, the County Highway Authority comments that, if a bus-ready route could be provided within the development, this would provide the potential for bus penetration to wider development in the area, and that such a route would need to be on roads 6m in width which could, the County Council considers, be detailed at the reserved matters stage. Without this provision, the County Highway Authority notes, bus penetration to wider development in the area could be prejudiced.

Insofar as bus penetration is concerned, it is noted that, as part of the wider Money Hill development the subject of planning application 13/00335/OUTM, the scheme proposed a diverted bus service between Ashby town centre and the development site, including a route whereby buses from the town centre would turn left at the Nottingham Road / A511 roundabout, proceed north westerly along the Ashby bypass, turn left into the application site, drive through it, and then turn right out of Woodcock Way back onto Nottingham Road towards the town centre. As a smaller development (likely to be in the form of a cul-de-sac), and given the proximity to existing bus services on Nottingham Road, the scheme is not, in itself, considered to require diversion of a bus route in this way. However, in order to ensure that any wider Money Hill scheme could secure bus penetration, the County Highway Authority's view that the scheme would need to ensure that a suitable route through the site were deliverable is concurred with. This would need to be taken into account at the reserved matters stage.

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

- Improvements to the public rights of way in the interests of encouraging sustainable travel to and from the site, achieving modal shift, and reducing car use (and as per those requested by the County Highway Authority's Public Rights of Way Officer - see below)
- A Construction Traffic Routeing Agreement
- Travel Packs to inform new residents from first occupation what sustainable travel choices are available in the surrounding area (which can be provided through Leicestershire County Council at a cost of £52.85 per pack/dwelling if required)

- Two six-month bus passes per dwelling to encourage new residents to use bus services as an alternative to the private car and to establish changes in travel behaviour from first occupation (which can be provided through Leicestershire County Council at a cost of £350 per pass if required)
- Provision of information display cases at the two nearest bus stops to inform new residents of the nearest bus services in the area (£120 per display)
- Provision of bus shelters at the two nearest bus stops to provide high quality and attractive public transport facilities to encourage modal shift (£4,908 per shelter)
- Contribution towards equipping the nearest bus stop(s) with Real Time Information (RTI) system to assist in improving the nearest bus service with this facility, in order to provide a high quality and attractive public transport choice, and to encourage modal shift (at a total of £5,840)

The applicants have confirmed their agreement to the contributions listed above which, in officers' view, meet the relevant NPPF and CIL Regulation tests.

Pedestrian Access

In terms of the accessibility of the site generally, this is considered in more detail under Principle of Development above. Whilst not part of the access proposals submitted at this outline stage, the concept plan indicates that non vehicular links to adjacent land would be anticipated at the reserved matters stage. Public right of way O89 (part of the Ivanhoe Way circular route) passes through the site, and connects beyond the site boundary to other rights of way (including rights of way O90, O91 and O92). In terms of right of way O89, Leicestershire County Council's Rights of Way Officer raises no objections to the application subject to conditions, including retention of the route within landscaped areas (including a minimum surfaced width of 2m plus 1m grass borders) together with appropriate new signage and gates. The Ramblers (formerly the Ramblers' Association) raises concerns regarding the treatment of the route of the right of way as shown on the concept plan.

In principle, there appears to be no reason why the development could not accommodate the existing line of right of way O89. Should this not be the case, however, an application to stop up / divert the right of way would be required, and would be likely to be dealt with by the District Council's Cultural Services Officer. As set out in DEFRA Circular 1/09 relating to rights of way, most outline planning applications do not contain sufficient information to enable the effect on any right of way to be assessed (and are not required to do so) and, as such, these issues are usually dealt with at the reserved matters stage. Nevertheless, and as set out above, there appears no reason in principle why a suitable solution could not be found at that time. Insofar as the amenity impacts of the proposed development (i.e. the impacts on the amenity value of the right of way as a leisure / recreational route given that it would no longer pass through a section of undeveloped countryside) are concerned, it is accepted that some adverse impacts on its value in this regard would result. However, having regard to the limited extent of the section subject to this change, and subject to the reserved matters scheme ensuring that the right of way is provided within a landscaped setting as far as practicable, it is not considered that these impacts would be unacceptably harmful, nor sufficient to render the development unsustainable in NPPF terms.

It is also noted that, for the purposes of enhancing connectivity, the applicants are proposing to make a contribution of £110,275 so as to allow for the formation of a continuous metalled pedestrian link between the site and the town centre. Again, such proposals would have an element of an urbanising effect (and, in particular, on those sections where right of way O89 passes through undeveloped agricultural land). However, subject to the use of appropriate surfacing, it is not considered that such alterations would be unacceptable in visual impact or amenity terms. In terms of the sum offered, Leicestershire County Council's Rights of Way

Officer has previously confirmed that the financial contribution proposed is appropriate in this instance.

Subject to the above, therefore (and including the applicants making appropriate contributions towards transportation infrastructure), the proposed development is considered acceptable in terms of Means of Access and Transportation issues.

Landscape and Visual Impact

The application is accompanied by a Landscape and Visual Impact Assessment, as well as a Tree Survey and Arboricultural Impact Assessment.

The Landscape and Visual Impact Assessment considers the site's context in relation to surrounding development / landscape, and considers the impact upon a total of 10 viewpoints, including views close to the application site, and further afield (including from Corkscrew Lane, the Ashby bypass, Western Old Parks Farm and Money Hill Farm).

In terms of landscape effects, the Landscape and Visual Impact Assessment considers that the sensitivity of the landscape is "medium". However, when considered in the context of the proposals which the Assessment finds to be of a low impact (in landscape terms, having regard to the urban fringe character of the landscape), the overall impact would, the Assessment concludes be "minor adverse" (albeit "moderate to major adverse at the site specific level). Insofar as visual effects are concerned, the impacts from three of the various viewpoints considered are categorised as "Moderate"; the others were found to have an impact less severe than that.

The Landscape and Visual Impact Assessment concludes that views towards the site are limited to short and middle distance views from the south-west, south, east and north-east, and that distant views are restricted by the intervening landform and vegetation; "high sensitivity" receptors include visitors to Ashby Castle, residential properties to the south and east of the site and users of the Ivanhoe Way (of which separate analysis is made within the Landscape and Visual Impact Assessment). The Assessment suggests that the development would be visible from a very localised area only and, where it would be seen, "moderate adverse" effects would be limited to receptors in close proximity only. It also considers that, in the longer term, effects would reduce as landscaping became established.

In terms of retained / proposed planting, the site is within the National Forest, and the scheme's performance vis-à-vis the relevant National Forest standards is set out under the relevant section below. There are a number of trees / hedgerows on the site (primarily located to the site periphery) and, whilst a reserved matter, the concept plan would suggest that the majority of the vegetation would be capable of being retained in the event that the reserved matters proposals took the form indicated. The principal areas of the site where removal would be required (were the concept scheme implemented) are to the north western and eastern site boundaries (removal of brambles), and adjacent to Woodcock Way (removal of trees and hedgerow required to accommodate the site access). These latter works would involve the removal of an ash tree (retention category C) and part of a hawthorn / elder hedgerow (retention category C). Were the development implemented in the manner indicated, it is not considered that the impacts in terms of the loss of this vegetation would be unacceptable.

It is noted that the application site forms part of the wider Money Hill site the subject of application 13/00335/OUTM (albeit it is excluded from the more recent Money Hill Consortium application, 15/00512/OUTM), and which proposed strategic landscaping for the site as a whole, and including from the north (i.e. adjacent to the Ashby bypass). Development of this section of

the site in isolation from the remainder of the wider site would not enable the delivery of this strategic landscaping, nor is any contribution towards it proposed. For their part, however, the applicants consider that the scheme as proposed only needs to address its own landscape and visual impacts (and it is accepted that there can be no guarantees at this time that the wider site would ever come forward). It is accepted that, notwithstanding the lack of a contribution towards addressing the wider landscape impacts of the Money Hill site as a whole, it is reasonable to assess the current application on its ability (or otherwise) to mitigate its own impact. It is also accepted that, were the remainder of the Money Hill site developed, the impacts from this particular section in the wider context would be relatively limited (given their resulting position within a built up area). Alternatively, if the wider Money Hill scheme were not to come forward, it is accepted that, subject to an appropriate scheme being proposed at the reserved matters stage(s), there is no reason why a suitable form of landscaping could not be provided at that time. On the basis of the submitted concept plan, it is considered that the case for the scheme as shown has not been demonstrated in that some relatively limited landscaping is shown to the northern and western boundaries which, if the remainder of Money Hill were to stay undeveloped, would form the edge of the town and, hence, would need to provide for an appropriate form of screening to address the transition between the urban and rural landscapes. Notwithstanding this concern, however, it is nevertheless accepted that, in principle, there is no reason why an appropriate landscaping solution could not be achieved.

Overall, in respect of issues relating to Landscape and Visual Impact, the view is taken that the proposals are acceptable.

Loss of Agricultural Land

Whilst not currently in active agricultural use, the proposed development would result in an irreversible loss of this land to non-agricultural use.

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

The application is also accompanied by an assessment of the agricultural quality of the application site, indicating the following distribution of land quality:

Grade 3a:	1.25ha (32% of the site)
Grade 3b:	2.5ha (65%)
Non-agricultural:	0.1ha (3%)

On this basis, approximately 32% of the application site would be BMV and, therefore, contrary to the thrust of the NPPF in this regard. In terms of assessing the significance of this loss, it is noted that, at 1.25 hectares, the area of BMV land falls some way below the 20 hectare threshold at which it is generally accepted that a "moderate" impact from the loss of BMV would result. Whilst the NPPF does not suggest that release of smaller BMV sites is acceptable, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process.

Whilst it is not considered that the proposed development sits particularly comfortably with the requirements of the NPPF and, in particular, the aims of Paragraph 112, this would need to be weighed against other material considerations and, whilst there would be adverse impacts in

this regard, these concerns would not be so significant as to outweigh the considerations in favour of the scheme. When considered in the context of the five year housing land supply issue, and the benefits of releasing the site to assist in maintaining such supply, it is considered that the agricultural land quality issue is not sufficient to render the development unsustainable overall, nor that planning permission should be refused on this issue.

Drainage, Ecology and the River Mease SAC

The submitted documents include assessments of the flood risk, drainage and ecological implications of the proposed development and, having regard to the site's location within the catchment of the River Mease Special Area of Conservation (SAC), the impacts on water quality of the Mease. These issues are considered in more detail below.

Flood Risk and Drainage

A Flood Risk Assessment has been submitted in support of the application. The Environment Agency flood zone maps indicate that the site lies within fluvial Flood Zone 1; on this basis it is considered that the sequential test would be satisfied.

In terms of other sources of flood risk, the Flood Risk Assessment considers the potential flooding impacts from surface water, sewer, groundwater and reservoirs. Of these, it is noted that the site includes areas at risk of pluvial flooding and, including small sections of the site within the 1 in 30 year event. Mitigation measures are therefore recommended to address this issue.

The Flood Risk Assessment includes a drainage strategy which proposes surface water mitigation measures designed to mimic flows from the undeveloped site including attenuation to restrict run-off to the ditch course along the eastern boundary to greenfield rates for storms up to the 1 in 100 year (+30% allowance for climate change) return period event. It also proposes that discharges from the attenuation basin to the existing watercourse would be restricted to 6.3l/s during storms up to the 1 in 100 year (+30% allowance for climate change) return period event by a flow control system, equating to approximately 70% betterment over the existing site. In addition, the strategy proposes other mitigation measures, and including providing finished floor levels at a level of at least 150mm above adjacent ground levels. Insofar as foul drainage is concerned, this is proposed to be discharged to the existing public foul sewer on Woodcock Way. No objections are raised in terms of flood risk or drainage issues by the Lead Local Flood Authority, the Environment Agency or Severn Trent Water.

Overall, in terms of issues of Flood Risk and Drainage, therefore, it is considered that the scheme is acceptable, and would provide for appropriate drainage solutions to accommodate the proposed development.

Ecological Issues

The application is supported by an Ecological Assessment of the site. This provides that the closest statutorily designated sites of nature conservation of importance to the application site are the Lount Meadows Site of Special Scientific Interest (SSSI) and River Mease Special Area of Conservation (SAC) and SSSI. In terms of non-statutory designation, the Assessment identifies 14 non-statutory sites within 1km of the application site, including three District level sites, five Parish level sites, and six candidate / potential Local Wildlife Sites. Insofar as anticipated impacts on these sites are concerned, the Appraisal concludes as follows:

Lount Meadows: Given the distance from the site, significant adverse impacts are unlikely

River Mease: Subject to the mitigation proposed to be secured via the Developer Contribution Scheme as set out below, significant adverse impacts would not result

Other Sites: The closest site is the Green Lane Parish level site; whilst there would be an

increase in the number of people using the footpath along the Green Lane, this increase is unlikely to have significant effects.

Insofar as protected or notable species are concerned, the Assessment considers the impacts on badgers, bats, reptiles, great crested newts, and birds. In terms of these, no evidence in respect of use of the site by badgers, great crested newts or reptiles was found. The Assessment suggests that the impacts on bat commuting and foraging habitat would not be unacceptable, and could be limited by appropriate retention of suitable trees, and appropriate use of lighting. Similarly, the impacts on birds could, the Assessment indicates, be mitigated by way of retention of suitable trees and undertaking of clearance works outside of the breeding season.

Subject to conditions, no objections are raised by Leicestershire County Council's Ecologist, and the proposals are therefore considered to be acceptable in terms of their ecological impacts, subject to the imposition of suitably-worded conditions.

River Mease Special Area of Conservation (SAC)

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

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

The application is supported by a River Mease SAC Impact Assessment which considers the implications of the proposed development on the River Mease and proposed mitigation. This includes the making of a DCS contribution in accordance with the formulae set out within the DCS, and with the final amount payable being contingent upon the precise nature of the development proposed at the reserved matters stage(s) in terms of number of dwellings, bedrooms and Code for Sustainable Homes level (or equivalent). As such, and subject to the implementation of appropriate obligations, the proposals would comply with the relevant planning policies and the Habitats Regulations. Natural England advises that the proposed development would be unlikely to have a significant effect on the interest features for which the SAC has been classified, and that an Appropriate Assessment would not be required.

The flows from the new dwellings will need to be taken into account against the existing headroom at Packington Treatment Works, which serves the site. As of March 2015 capacity was available for 2,663 dwellings when taking into account the number of dwellings that had consent and / or were under construction; whilst approval of further dwellings since March 2015 would reduce the capacity, sufficient capacity nevertheless remains for the proposed development.

On this basis, it is accepted that the proposed development, either alone or in combination with other plans or projects, would not have an adverse impact on the internationally important interest features of the River Mease SAC or any features of special scientific interest of the River Mease SSSI (nor would there be any other impacts on other aspects of the SAC / SSSI), and the development is acceptable on this basis, subject to the implementation of the mitigation

identified, secured by way of conditions and Section 106 obligations as appropriate.

Design

The application is supported by a Design and Access Statement (and including a Building for Life assessment) setting out the applicants' proposals, and explaining the approach taken in terms of design. Having reviewed the illustrative proposals and the Design and Access Statement originally submitted in respect of application 14/00769/OUTM, the District Council's Urban Designer had raised concerns regarding the illustrative scheme, and considered that the concept lacked strength and suggested, for instance, a street hierarchy that offered no meaningful distinction or no defining or focal point spaces. On the basis of the originally submitted proposals, he was of the view that there was limited distinctiveness between the different street typologies and, having regard in particular to the potential development of the wider Money Hill site, suggested that use of nodal spaces would help aid navigation. The District Council's Urban Designer had also questioned the orientation of the principal street which, on the basis of the illustrative layout, would have run north west from Woodcock Way, then north east, and then north / north west, whereas the Urban Designer considered that it would more appropriately continue direct to the north western boundary. The scheme also, he considered, appeared to lack an overall direction / rationale, and seemed more akin to an extension of the existing Woodcock Way development rather than creating a more "memorable" development which would be landscape or architecture led. He had therefore expressed concern that the proposals were somewhat "lacklustre" and did not embrace the urban design principles and those behind Manual for Streets.

Further to these concerns, and as reported on the Update Sheet to the Planning Committee on 3 February 2015, an updated Design and Access Statement plus additional addendum was subsequently submitted which, in the District Council's Urban Designer's view, demonstrated that a good standard of design could be achieved at the reserved matters stage, and could provide for a development consistent with national, saved local and emerging local policies relating to good design. This revised approach has been incorporated into the new concept plan and, on this basis, the proposals are still considered to remain appropriate in this regard.

Residential Amenity

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

In terms of future residents' amenities, it is noted that the site is not located in close proximity to any existing incompatible land uses and, in principle, there appears no reason why the development would not be appropriate in this regard. Whilst the Environmental Statement submitted in respect of the wider Money Hill proposals noted the potential for impacts from the nearby United Biscuits warehouse (principally due to HGV manoeuvring to the rear of that unit) and made mitigation recommendations (extension of the existing acoustic screen), that proposal involved erection of dwellings significantly closer to the warehouse than would be the case in respect of this particular site, and such mitigation would not appear necessary for this development. No objections are raised by the District Council's Environmental Protection team.

In addition to the noise climate issues identified above, however, are the issues of potential disturbance from vehicular movements to and from (and, potentially, within) the site. In this regard it is noted that, on the basis of the illustrative masterplan, there would appear to be limited areas where internal access roads would be likely to be proposed to the rear of existing dwellings. Nevertheless, regard would need to be had to that issue when devising any reserved

matters proposals. Insofar as this outline stage is concerned, however, of particular relevance are the additional comings and goings likely to be generated along the proposed access which would be likely to lead to some increased levels of disturbance to adjacent properties fronting onto Woodcock Way. Whilst there would be an increased use of the Woodcock Way / Nottingham Road junction, it is not considered that material impacts on amenity of other properties in the vicinity of this junction would arise in this respect (nor along Nottingham Road / Wood Street generally in terms of traffic-related impacts). Insofar as the impacts on existing residents of Woodcock Way are concerned, whilst there would be increased use of this route by vehicles leading to a material change to the existing situation, use of estate roads of this nature to access developments of this scale is not an unusual scenario and, whilst a change would inevitably result, it is not considered that the impacts of the resulting conditions would be so adverse as to warrant a refusal of the application.

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves, whilst an illustrative masterplan has been submitted, all matters are reserved for subsequent approval. The illustrative masterplan indicates that built development would be located adjacent to a number of residential properties to areas to the south of the application site, including properties on Woodcock Way and Lockton Close. Clearly, careful consideration would need to be given to any detailed proposals for these and other areas of the site submitted at the reserved matters stage(s) so as to ensure that an appropriate relationship between existing and proposed dwellings were provided. However, there is no reason to suggest that the eventual form of development proposed at the reserved matters stage(s) would necessarily result in undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, acceptable in this regard.

Heritage Issues

The application is supported by an archaeological desk based assessment; this assessment also includes consideration of designated heritage assets in the vicinity.

Insofar as designated assets are concerned, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard should be had to the desirability of preserving the building or its setting. Section 72 provides that, in the exercise of any powers under the planning acts with respect to any buildings or land within a Conservation Area, special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. The submitted assessment concludes that none of these (comprising listed buildings, the Ashby de la Zouch Conservation Area and the nearby scheduled monument (i.e. Ashby Castle)) would be impacted upon, having regard to their screening from the site by intervening development; this general conclusion is accepted.

In terms of non-designated assets, the assessment has regard to the findings of the earlier appraisal work undertaken in respect of the wider Money Hill site application. Paragraph 135 of the NPPF provides that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that, in weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In terms of archaeological finds within the vicinity of the site, these include finds from the prehistoric and Saxon / medieval eras, although of particular significance in this case is the previously-identified ridge and furrow. Insofar as this feature is concerned, the assessment suggests that it is not exceptionally well preserved, nor complete, and is part of a "once extensive and now heavily eroded set of landscape features that has some visual appeal but which, unlike most significant earthworks, contains within its own matrix little or nothing of

archaeological interest". As such, the assessment concludes that it is not of more than local significance. At the time the wider Money Hill scheme was considered, English Heritage took the view that the significance of the ridge and furrow (which extends to a wider area than just this part of the application site) was a material consideration which the Local Planning Authority needed to weigh against the benefits of development and alternatives, and when considering the layout of the development in relation to the town (and also the contribution made by the ridge and furrow to the setting to the Conservation Area). It is considered that the ridge and furrow within the area the subject of the current application is not as important visually as elsewhere in the wider site. Given this, together with the scale of the current development compared to the wider scheme, and to the increased separation of this area from the Conservation Area as compared to the areas of ridge and furrow within the wider Money Hill site, it is again accepted that this does not represent an overriding issue in the overall planning balance. Furthermore, the development of this site would not preclude preservation of ridge and furrow features elsewhere within the site as previously intended as part of the open space forming the wider Money Hill development. On this basis, the proposals are considered to meet the tests in Paragraph 135 of the NPPF.

It is therefore considered that the proposed development would be acceptable in terms of heritage issues; no representations have been received from the County Archaeologist.

Geo-Environmental Conditions

A Phase 1 environmental risk assessment has been submitted with the application which provides an assessment of the site's ground conditions, and indicates that, whilst a small number of potential risks to receptors have been identified, there are no overriding impediments to the site's development in terms of contamination or general ground conditions, subject to further investigation / mitigation as appropriate; no objections are raised by the District Council's Environmental Protection team in respect of contamination issues. Insofar as mineral resources are concerned, Leicestershire County Council raises no objections in mineral safeguarding terms, and the development is considered acceptable in this respect.

Other Matters

Developer Contributions

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

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

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

The relevant developer contributions (save for those already referred to in respect of access / transportation) are listed below.

Affordable Housing

The applicants propose to make an affordable housing contribution of 30% (i.e. 21 dwellings assuming a 70 unit development) as per the Local Planning Authority's current requirements for the Ashby de la Zouch area for a scheme of this scale.

The precise nature of the contribution in terms of house type / size tenure etc would need to be

resolved pursuant to the Section 106 agreement but, on the basis that it is proposed to make a policy-compliant contribution, the proposed development is considered acceptable in this regard.

Children's Play and Public Open Space

The concept plan shows a proportion of the site given over to landscaping, retained and proposed tree / hedgerow planting and other open space, with the open space including an on-site equipped children's play area; under the Local Planning Authority's Play Area Design Guidance SPG, children's play areas should be provided at a rate of 20 square metres per dwelling. When taking into account the overall extent of landscaped open space indicated, there would appear to be no reason why the minimum requirements of the SPG could not be comfortably met.

In terms of the range of equipment necessary, for developments of this number of dwellings, Local Plan Policy L22 and the District Council's SPG require that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity; again, there would appear to be no reason in principle why the proposed development could not comply with this requirement.

Insofar as youth / adult recreation is concerned, it is noted that, in isolation, the proposed development would fall below the relevant Local Plan and SPG threshold (identified in the SPG as 100 dwellings) for making an appropriate contribution. Nevertheless, the view is taken that the application site, when considered cumulatively with other areas of the wider Money Hill site, would generate a requirement for formal recreational open space. In view of the limited scale of the site, there would be no realistic likelihood of providing an appropriate facility on site, but the applicants have offered an off-site contribution of £91,000 (i.e. equivalent to a contribution of £1,300 per unit); this would then allow the scheme to make a proportionate contribution towards the mitigation necessary to accommodate the wider Money Hill scheme, whether within the wider site, or elsewhere in the vicinity.

National Forest planting

The applicants' proposals show the provision of on-site planting as part of their wider landscaping and public open space proposals and confirm that the proposals will meet the National Forest woodland planting and open space standards of 20% of the site area. The proposals are therefore considered appropriate in this regard, particularly when considered in the context of the conclusions reached under Children's Play and Public Open Space above.

Education

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

Primary School Requirements:

The site falls within the catchment area of Ashby de la Zouch Church of England Primary School. The school has a net capacity of 315 and 454 pupils are projected on the roll should this development proceed; a deficit of 139 places. There are currently 81 pupil places at this school being funded from Section 106 agreements for other developments in the area which reduces the deficit at this school to 58 (of which 41 are existing and 17 would be created by this development).

The County Council also refers to three other primary schools within a two mile walking distance of the development, namely Ashby Willesley Primary School, Ashby Hill Top Primary School and Woodcote Primary School. Taking these schools and other Section 106 contributions into

account, the overall deficit including all schools within a two mile walking distance of the development is 42 pupil places and the 17 deficit places created by this development can therefore not be accommodated at nearby schools and a claim for an education contribution in respect of 17 school places in the primary sector (equating to £203,263.37).

In terms of the earlier application (14/00769/OUTM), the County Council had advised that the site falls within the catchment for Ashby de la Zouch Church of England Primary School which was not able to be extended given its constrained site and location. As such, the County Council advised that it may wish to use the contribution from the current application to extend the new Holywell Spring Farm site school, and may also require a contribution from the applicants to purchase the required land (such land costs not being included in the figure above); this would therefore need to be resolved with Leicestershire County Council through the Section 106 drafting process.

On this basis, therefore, the making of a financial contribution by the applicants in this case would not appear to prejudice the wider Money Hill scheme per se, although the County Council advises that, for the wider Money Hill site, a new school may nevertheless still be required, notwithstanding the current progress towards providing a school on the Holywell Spring Farm site.

High School Requirements:

The site falls within the catchment area of Ivanhoe College. The College has a net capacity of 949 and 1,123 pupils are projected on roll should this development proceed; a deficit of 174 places. Taking this school and other Section 106 contributions into account, the overall deficit is 123 (of which 116 are existing and 7 would be created by this development). There are no other high schools within a three mile walking distance of the site and, in order to provide the additional high school places anticipated by the proposed development, the County Council requests a contribution for the high school sector of £125,133.19. The County Council advises that this contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Ashby Ivanhoe College.

Upper School Requirements:

The site falls within the catchment area of Ashby School. The school has a net capacity of 1,841 and 2,036 pupils are projected on roll should this development proceed; a deficit of 195 places. Taking into account a total of 53 pupil places being funded at the school from Section 106 agreements for other developments in this area, this reduces the total deficit to 142 (of which 135 are existing and 7 would be created by this development). There are no other upper schools within a three mile walking distance of the site, and the County Council requests a contribution for the upper school sector of £128,486.12.

The applicants are agreeable to making the contributions requested (including, potentially, the as yet unknown additional land costs in respect of the primary education contribution referred to by the Local Education Authority).

Library Services

Leicestershire County Council advises that an additional 100 plus users of Ashby Library are anticipated to be generated by the proposed development, requiring an additional 243 items of lending stock (plus reference, audio visual and homework support material), and a contribution of £2,110 is therefore sought by the County Council. The applicants have confirmed they are agreeable to making the contribution sought.

River Mease Special Area of Conservation (SAC) Contributions

As set out above, the applicants propose to make contributions as per the schedule set out in the District Council's Developer Contribution Scheme (DCS). As set out, the precise amount payable would need to be based upon the precise nature of the development proposed at the reserved matters stage(s).

Healthcare

NHS England requests a developer contribution of £23,331.83 in respect of healthcare as set out in the consultation response above. This request has been supported by detailed information setting out the projected impacts on capacity arising from the proposed development (with the principal impacts being on the Ashby Health Centre practice) together with commensurate costs of mitigation. It is considered that this request would meet the relevant CIL and NPPF tests, and the applicants have confirmed they are agreeable to making the contribution sought.

Contributions sought by Leicestershire Police

Leicestershire Police requests a developer contribution of £27,278 in respect of policing as set out in the consultation response above. The contribution sought comprises:

Start up equipment / training	£2,939
Vehicles	£1,779
Additional radio call capacity	£178
Police National Database	£91
Additional call handling	£163
ANPR	£2,055
Mobile CCTV	£375
Additional premises	£19,558
Hub equipment	£140

It is considered that, in principle, contributions towards policing may be capable of being justified in terms of satisfying the relevant NPPF and CIL Regulations tests. In terms of the increased level of police activity associated with the proposed development, Leicestershire Police advises that the scheme would result in 126 additional calls, 16 emergency events, 10 non-emergency events and 8 additional recorded crimes per year. Whilst officers have no alternative data in respect of these levels of activity, officers are concerned that the level of additional calls on Police time assumed to be associated with this development of up to 70 dwellings could be somewhat excessive and, as such, the scale and kind of contributions sought may not be fairly and reasonably related to this development. Insofar as the various individual elements of the requested policing contribution are concerned, however (and putting the issue raised above to one side), it is considered as follows:

Start up equipment / training:

It is accepted that, in principle, such a contribution could be reasonable.

Vehicles:

It is accepted that, in principle, such a contribution could be reasonable.

Additional radio call capacity:

The process of improving radio cover / capacity is, it seems, an ongoing process and would appear to occur regardless of the development going ahead.

Police National Database:

The process of improving capacity of the Police National Database is, it seems, an ongoing process and would appear to occur regardless of the development going ahead.

Additional call handling:

It is accepted that, in principle, such a contribution could be reasonable.

ANPR:

It is not accepted that the proposed development would justify the installation of ANPR CCTV systems (and that, in the development's absence, ANPR would not be required). If there is a need to provide ANPR coverage of this area because of existing crime figures, the cameras should, it is considered, be provided regardless. It is not considered clear why the addition of these dwellings to the town would suggest that such a system would be required when, in the absence of the development, it was not.

Mobile CCTV:

It is not accepted that the proposed development would justify the installation of mobile CCTV systems (and that, in the development's absence, mobile CCTV would not be required). If there is a need to provide mobile CCTV coverage of this area because of existing crime figures, the cameras should, it is considered, be provided regardless. It is not considered clear why the addition of these dwellings to the town would suggest that such a system would be required when, in the absence of the development, it was not.

Additional premises:

The contribution request from Leicestershire Police provides that, within North West Leicestershire, policing is delivered from Coalville LPU premises, and that occupation of premises is maintained at capacity. Contributions are sought for Coalville LPU, plus the Basic Command Unit (BCU) at Loughborough and the Force HQ at Enderby. Insofar as Coalville LPU is concerned, Leicestershire Police advises that occupation is maximised but constrained by its age and condition. Replacement to existing needs is, Leicestershire Police advises, being planned although it is suggested that the proposed development would create a need for additional floorspace. The District Council is also advised that a replacement facility at Loughborough has recently been completed and that this would need to be extended to accommodate staff to cover the proposed development; extension of the Force HQ would also, Leicestershire Police suggests, be required to serve the proposed development, and the request also suggests that the remainder of the premises contribution be directed towards other, unspecified, force-wide premises serving North West Leicestershire. Whilst Leicestershire Police maintains that additional floorspace is required at all of these locations to serve the proposed residential development, it would appear unlikely that a development of this scale would result in such a level of increased employment so as to necessitate extensions to accommodation at all three sites, notwithstanding that Leicestershire Police confirms that all facilities are maintained at capacity. It is not considered that the force has demonstrated that there is definitely no capacity to accommodate additional staff, nor that its various sites would actually be extended to meet any additional accommodation requirement directly attributable to the development in hand.

Hub equipment:

No information has been submitted which indicates that the existing hub (located in Ashby de la Zouch) and equipment would, as a result of the development, be over-capacity.

On this basis, therefore, officers are of the view that, subject to the Police being able to demonstrate in a robust manner that the assumed levels of increased policing activity are

appropriate given the scale of the proposed development, contributions in respect of the start up equipment / training, vehicles and call handling have the potential to satisfy the relevant NPPF and CIL tests. It would also be necessary for Leicestershire Police to demonstrate through the section 106 agreement process that no issues in respect of pooling would arise (insofar as the limitations on pooled contributions as set out within the CIL Regulations are concerned).

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

Conclusions

As set out in the main report above, whilst the site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, and constitutes greenfield land, its release for housing is considered suitable in principle, particularly having regard to the need to release sites in order to meet the District Council's obligations in respect of maintaining a five year housing land supply (and the approach taken in respect of such within the NPPF). Whilst the site is located outside of Limits to Development as defined in the adopted Local Plan, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, benefit from a presumption in favour of such development as set out in that document. The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. It is therefore recommended that outline planning permission be granted.

RECOMMENDATION- PERMIT, subject to Section 106 Obligations, and subject to the following conditions:

- 1 Save for the details of vehicular access into the site from Woodcock Way, details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced.

Reason - This permission is in outline only.

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access (save for the details of vehicular access into the site from Woodcock Way), appearance, landscaping, layout, and scale shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

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

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

- 4 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
- Site location plan (EMS.2533_009) deposited with the Local Planning Authority on 23 April 2015
 - Woodcock Way site access (20954_08_020_02 Rev B) deposited with the Local Planning Authority on 23 April 2015

Reason - To determine the scope of this permission, and for the avoidance of doubt.

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

Reason - To ensure that the development of the site takes place in a consistent and comprehensive manner.

- 6 A total of no more than 70 dwellings shall be erected.

Reason - To define the scope of this permission.

- 7 The development permitted by this planning permission shall not be carried out other than in strict accordance with the Flood Risk Assessment dated August 2014, ref. 20954/08-14/3616 undertaken by MEC Ltd and the following mitigation measures detailed within the FRA:
- At the detailed design stage suitable hydraulic calculations are undertaken to confirm actual flood plain outlines at the site, including but not exclusive of channel capacity, 20 year, 100 year, 100 year plus 20% (for climate change) and 1,000 year (5%, 1%, 1% plus 20% increase in flow, and 0.1%) flood event levels - Sections 4.7 to 4.13, 7.12;
 - No new buildings (including sheds, cycle storage or garages), structures (including gates, walls and fences) or raised ground levels within 5 metres of the top of any bank of any river/watercourse, inside or along the boundary of the site, unless otherwise agreed in writing - Sections 7.11 and 7.13; and
 - Finished floor levels set a minimum of 600mm above the 100 year plus 20% (for climate change) (1% plus 20% increase in flow) flood event levels to be established by Point 1 above - Section 7.12

Unless any alternative programme is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as the mitigation measures have been fully implemented.

Reason - To prevent flooding elsewhere by ensuring no loss of flood plain storage, to ensure permanent retention of a continuous unobstructed area for the preservation of the water course corridor, wildlife habitat, flood flow conveyance and future watercourse maintenance or improvement, and to reduce the risk of flooding to the proposed

development and future occupants.

- 8 The first reserved matters application shall include details of the 100 year (1%) flood plain extent of the Money Hill and Falstaff Brooks. There shall be no raising of ground levels, or storage of materials (including soil) within the 100 year (1%) flood plain extent of the Money Hill and Falstaff Brooks, unless undertaken in accordance with a compensation scheme first submitted to and agreed in writing by the Local Planning Authority.

Reason - To prevent flooding elsewhere by ensuring no loss of flood plain storage, to ensure permanent retention of a continuous unobstructed area for the preservation of the water course corridor, wildlife habitat, flood flow conveyance and future watercourse maintenance or improvement, and to reduce the risk of flooding to the proposed development and future occupants.

- 9 No development shall commence on the site until such time as a surface and foul water drainage scheme for the site (or, in the case of phased development, for the relevant phase of the site), based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and timetable. The scheme shall demonstrate that the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event, and shall include:
- Surface water drainage system(s) to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;
 - Limiting the surface water run-off generated by the all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
 - Provision of surface water attenuation storage on the site to accommodate the difference between the allowable discharge rate and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm;
 - Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
 - Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

Reason - To ensure that the site is appropriately drained, to prevent flooding by ensuring the satisfactory storage / disposal of surface water from the site, to reduce the risk of flooding, both on and off site, to minimise the risk of pollution, to ensure that the development will not impact upon the features of special interest for which the River Mease SAC / SSSI is notified, and in the interests of nature conservation.

- 10 No development shall commence on the site until such time as a scheme of measures to prevent pollution of nearby watercourses (and including during construction works), together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. No works shall take place, nor shall any dwelling be occupied at any time, unless all of the measures as required at the appropriate time

under the agreed timetable are provided in full.

Reason - To prevent pollution of the water environment, and to ensure that the development will not impact upon the features of special interest for which the River Mease SAC / SSSI is notified.

- 11 No development shall commence on the site until such time as a further Risk Based Land Contamination Assessment report as recommended within the M-EC Phase 1 Environmental Risk Assessment (20954/08-14/3584, dated August 2014) has been submitted to and agreed in writing by the Local Planning Authority. The assessment shall be carried out in accordance with:
- BS10175:2011+A1:2013 Investigation of Potentially Contaminated Sites Code of Practice;
 - BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);
 - BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
 - CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004)
- Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan shall be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004); the Verification Plan shall be prepared in accordance with the requirements of:
- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1 (Environment Agency 2010); and
 - CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004)

If, during the course of development, previously unidentified contamination is discovered, development shall cease on that part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. No work shall recommence on that part of the site until such time as a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

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

- 12 None of the dwellings shall be occupied until such time as a verification investigation has been undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme relevant to either the whole development or that part of the development, and the report showing the findings of the verification investigation has been submitted to and agreed in writing by the Local Planning Authority. The verification investigation report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;

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

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

- 13 The first reserved matters application shall include a statement detailing how the proposed mitigation and / or management measures as set out in Section 4.0 of the Ecological Appraisal (dated July 2013 and prepared by FPCR) have been incorporated within the proposed layout and landscaping scheme, together with a timetable for their implementation as applicable. Unless any alternative measures are first agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in strict accordance with the agreed measures and timetable.

Reason - In the interests of nature conservation.

- 14 No external lighting shall be installed on site (and including during the construction phase) unless in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason - In the interests of the amenities of the area, in the interests of nature conservation, and to comply with Policy E4 of the North West Leicestershire Local Plan.

- 15 No hedgerows, trees or shrubs shall be removed during the months of March to August inclusive unless first agreed in writing by the Local Planning Authority. Should nesting birds be found during construction work, all work within 5 metres of the nest shall cease immediately, and shall not resume until such time as the young have left the nest.

Reason - In the interests of nature conservation.

- 16 Notwithstanding the submitted details, no development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a timetable for the undertaking of an updated survey(s) in respect of badger in relation to commencement of site works on the relevant phase (and including the specification of maximum periods between undertaking of surveys and commencement of work on the relevant phase) has been submitted to and agreed in writing by the Local Planning Authority. No development shall thereafter be undertaken at any time unless the relevant survey(s) has been undertaken and the results (including mitigation measures and a timetable for such mitigation where appropriate) have been submitted to and agreed in writing by the Local Planning Authority, and the development shall thereafter be undertaken strictly in accordance with the agreed mitigation measures and timetable.

Reason - In the interests of nature conservation.

- 17 None of the dwellings hereby permitted shall be occupied until such time as a scheme

for the provision of works at the Woodcock Way / Nottingham Road junction (to comply generally with the scheme shown indicatively on drawing no. 20954_08_020_01 Rev A) has been provided in full in accordance with precise details first submitted to and agreed in writing by the Local Planning Authority, and is available for use.

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

18 Notwithstanding the submitted details, nor Condition 4 above, none of the dwellings hereby permitted shall be occupied until such time as a scheme for the provision of access to the site from Woodcock Way (to comply generally with the scheme shown indicatively on drawing no. 20954_08_020_02 Rev B) has been provided in full in accordance with precise details first submitted to and agreed in writing by the Local Planning Authority, and is available for use.

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

19 No development shall commence on the site until such time as a construction vehicle management plan, including wheel cleansing facilities and construction vehicle parking facilities, and a timetable for their provision, has been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative management plan has first been submitted to and agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in accordance with the approved details and timetable.

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

20 Notwithstanding the submitted details, no development shall commence on the site until such time as precise details of all proposed measures as set out in Sections 7.0, 8.0, 9.0 and 10.0 of the submitted Travel Plan (prepared by M-EC, ref. 20954/08-14/3583 Rev A), and including a timetable for their implementation, have been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative measures are first agreed in writing by the Local Planning Authority, the development shall thereafter be occupied in accordance with the agreed scheme and timetable.

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

Notes to applicant

1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through early engagement with the applicant both at the pre-application stage and during the application determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

2 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:

- Collapse of shallow coal mine workings.
- Collapse of, or risk of entry into, mine entries (shafts and adits).
- Gas emissions from coal mines including methane and carbon dioxide.
- Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

- 3 Your attention is drawn to the attached report of Severn Trent Water.
- 4 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of the County Council's role as Lead Local Flood Authority.
- 5 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highway matters. The applicants are advised that the masterplan required to be prepared pursuant to condition 5 above should include for provision of a bus-ready route through the proposed development.
- 6 For the purposes of complying with Condition 20 above, the applicants are advised that the submitted details will not need to include reference to those measures proposed to be secured separately under the associated Section 106 obligation.
- 7 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer. The applicants are advised to have regard to the issues raised when preparing any reserved matters scheme.
- 8 Your attention is drawn to the attached report of North West Leicestershire District Council's Cultural Services Officer regarding Rights of Way.
- 9 Your attention is drawn to the attached report of the National Forest Company.
- 10 Your attention is drawn to the attached report of Natural England.
- 11 Your attention is drawn to the attached report of Leicestershire County Council's Principal Ecologist. The applicants are advised to have regard to the issues raised, together with the recommendations as set out within the submitted Ecological Appraisal (prepared by FPCR, dated July 2013), when preparing any reserved matters scheme.
- 12 This decision is in accordance with the resolution of the Planning Committee of 7 July 2015 and is subject to a Section 106 obligation.

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Erection of up to 70 dwellings together with public open space, National Forest planting, landscaping, drainage infrastructure and access off Woodcock Way (outline - all matters other than part access reserved)

Report Item No
A3

Land Adjoining Woodcock Way Woodcock Way Ashby De La Zouch Leicestershire LE65 1AX

Application Reference
14/00769/OUTM

Applicant:
Miller Homes

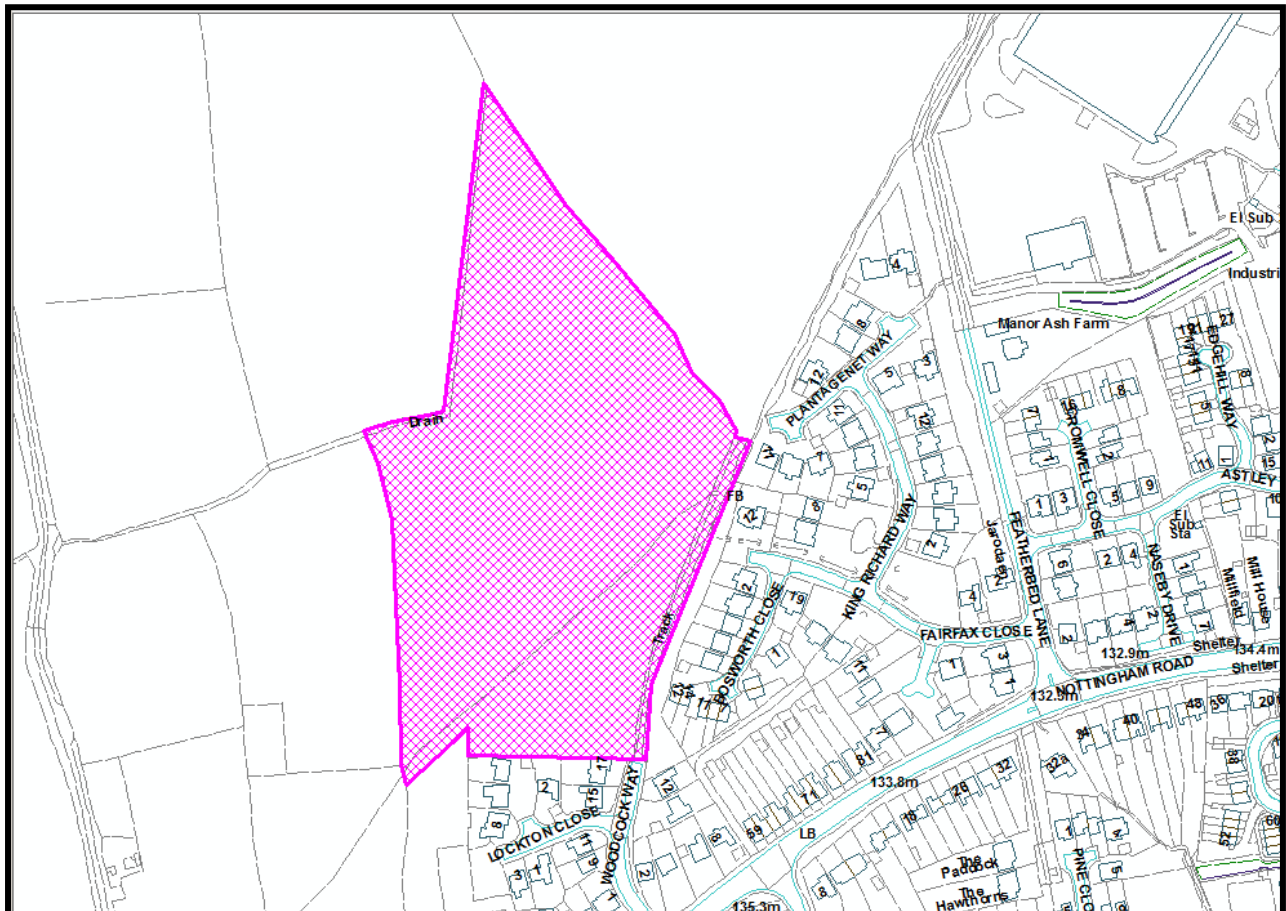
Date Registered
28 August 2014

Case Officer:
James Knightley

Target Decision Date
27 November 2014

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Proposal

This application sought outline planning permission for residential development of up to 70 dwellings and associated works. Following the lodging of an appeal against the application's non-determination, the Local Planning Authority is required to establish what its decision would have been, had it had the opportunity to determine the application.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals (including from Ashby de la Zouch Town Council); no other objections are raised by statutory consultees.

Planning Policy

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

Conclusion

The report below indicates that, whilst the site is a greenfield site outside Limits to Development, having regard to the site's general suitability for housing (including its proximity to the built up area of Ashby de la Zouch) and the need to demonstrate and maintain a five year supply of housing land within the District, the proposals would be considered to constitute sustainable development, and release of the site for residential development would be appropriate in principle. The proposed development would, it is considered, be able to be undertaken in a manner acceptable in terms of access issues; there are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities.

RECOMMENDATION:-

HAD THE LOCAL PLANNING AUTHORITY HAD THE OPPORTUNITY TO DETERMINE THE APPLICATION, IT WOULD HAVE BEEN PERMITTED, SUBJECT TO SECTION 106 OBLIGATIONS, AND SUBJECT TO THE IMPOSITION OF CONDITIONS

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

MAIN REPORT

1. Proposals and Background

This is an outline planning application for residential development of a site of 3.85 hectares (currently unused grassland) for up to 70 dwellings on land to the north of Woodcock Way, Ashby de la Zouch.

The application was previously reported to the Planning Committee on 3 February 2015 with a recommendation to permit subject to Section 106 obligations; the application was however resolved to be deferred to allow further information on access and sustainability to be provided, and pending the outcome of the wider Money Hill site appeal (lodged in respect of planning application 13/00335/OUTM).

Following the deferral, additional information has been submitted in respect of the proposed site access, and access is now no longer a reserved matter (insofar as the principal vehicular access into the site is concerned). Whilst all other matters are reserved, an illustrative masterplan had been submitted showing the proposed dwellings, together with areas of public open space / children's play, proposed and retained tree planting / landscaping and surface water attenuation facilities.

The site is adjacent to other agricultural land (to the north and west) and to existing residential development (to the south and east); the site is crossed by an existing public right of way (Footpath O89).

Vehicular access is proposed to be provided by way of an extension to Woodcock Way, an existing cul-de-sac served from Nottingham Road. Alterations to the existing priority junction of Woodcock Way with Nottingham Road are also proposed, including provision of a new right turn lane and alterations to refuges. In terms of other matters of access (and including non-vehicular routes into the site, and vehicular, cycle and pedestrian routes through the site), these are reserved for consideration at the reserved matters stage(s), although the illustrative masterplan indicates retention of connections to the adjacent rights of way network.

The site is part of a wider area subject to planning application 13/00335/OUTM, an outline application for the erection of 605 dwellings (including a 60 unit extra care centre), a primary school, a health centre, a nursery, a community hall, retail use and public open space with vehicular access taken from both the A511 (Ashby Bypass) and from Woodcock Way. That application was refused at the Planning Committee of 6 May 2014 on the basis of the site's poor connectivity for pedestrians to the town centre, the lack of suitability of Woodcock Way as a means of providing vehicular access, the potential impacts on the operation of Junction 13 of the A42 and the under-provision of affordable housing having regard to the lack of evidence necessary to demonstrate that a policy-compliant contribution would be unviable. As noted above, that application is now the subject of an appeal, although the District Council has resolved to pursue only the final reason for refusal (i.e. the under-provision of affordable housing) at the forthcoming inquiry (due to open in September 2015). A revised application has now been submitted in respect of the wider Money Hill site (ref. 15/00512/OUTM), but excludes the section of the wider site the subject of this application. A revised application has also been submitted in respect of the scheme the subject of this application (ref. 15/00354/OUTM).

Whilst one of the reasons the Woodcock Way application was deferred was to allow the outcome of the wider Money Hill appeal to be known, this application is also now the subject of an appeal (on the basis of the application's non-determination), again to be considered by way

of an inquiry. At the time of preparing this report the appeal had been lodged and was awaiting formal validation by the Planning Inspectorate but, assuming the appeal is accepted by the Inspectorate, the Local Planning Authority will be required to advise the Planning Inspectorate what its decision would have been, had it had the opportunity to determine the application, and the purpose of reporting the application to Planning Committee is, therefore, to establish what that decision would have been.

2. Publicity

104 No neighbours have been notified. Last notified 13th February 2015

Site Notice posted 15 September 2014

Press Notice published 10 September 2014

3. Consultations

Ashby De La Zouch Town Council consulted 05 September 2014

Head of Environmental Protection consulted 05 September 2014

County Highway Authority consulted 05 September 2014

Environment Agency consulted 05 September 2014

Natural England- Within 2k Of SSSI consulted 05 September 2014

NWLDC Tree Officer consulted 05 September 2014

County Archaeologist consulted 05 September 2014

LCC ecology consulted 05 September 2014

NWLDC Urban Designer consulted 05 September 2014

National Forest Company consulted 05 September 2014

LCC Development Contributions consulted 05 September 2014

NHS Leicester, Leicestershire And Rutland Facilities Management consulted 05 September 2014

Development Plans consulted 05 September 2014

Head Of Leisure And Culture consulted 05 September 2014

Manager Of Housing North West Leicestershire District Council consulted 05 September 2014

Police Architectural Liaison Officer consulted 05 September 2014

LCC/Footpaths consulted 05 September 2014

NWLDC Footpaths Officer consulted 05 September 2014

Highways Agency- Article 15 development consulted 05 September 2014

4. Summary of Representations Received

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

- Access through Woodcock Way is unsuitable and will have significant traffic implications for Nottingham Road which is already congested with 15,000 cars a day passing along the road;
- Town Council had concerns about the traffic implications of the previous application when 30 dwellings were using Woodcock Way and this development is for 70 dwellings;
- In the light of large scale planning applications already approved for Ashby, the sustainability of the location and the ability of the town's infrastructure (e.g. roads and schools) to cope with the development is questionable

Environment Agency has no objections subject to conditions

Highways Agency (now Highways England) has no objections

Leicestershire County Council Local Education Authority requests developer contributions of £456,882.68 in respect of additional provision in the primary, high and upper school sectors

Leicestershire County Council Library Services Development Manager requests a developer contribution of £3,800

Leicestershire County Council Highway Transportation & Waste Management Authority advises that no civic amenity contribution is required

Leicestershire County Council Landscape Officer has no comments

Leicestershire County Council Ecologist has no objections subject to conditions

Leicestershire County Council Highway Authority has no objections subject to conditions, and subject to Section 106 obligations

Leicestershire County Council Mineral Planning Authority has no objections

Leicestershire County Council Rights of Way Officer has no objections subject to conditions

Leicestershire Fire and Rescue Service advises that it does not have the resources to comment on proposed access arrangements in respect of new development and notes that this is covered under the Building Regulations

Leicestershire Police objects unless a developer contribution of £27,278 in respect of policing is provided

National Forest Company has no objections subject to conditions and subject to Section 106 obligations

Natural England has no objections subject to conditions

NHS England (Leicestershire and Lincolnshire Area) requests a healthcare contribution of £23,331.83

North West Leicestershire District Council Cultural Services Officer advises that, if the right of way crossing the site were to deviate from its definitive map line, an application to divert it would be required

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

Third Party Representations

75 representations have been received, objecting on the following grounds:

- Further housing not needed
- Site outside Limits to Development
- Adverse impact on the walking experience of users of the Ivanhoe Way (right of way O89)
- Attempt to gain a toe-hold in Money Hill and will open up the remainder of Money Hill to development
- Insufficient highway infrastructure
- Submitted Transport Assessment not robust
- Increased congestion to roads and footways
- Unsafe access

- Increased highway hazards due to proximity to school
- Woodcock Way too narrow to accommodate additional vehicles
- Adverse impact on sustainable operation of the farm
- Loss of agricultural land
- Adverse cumulative impact of development with other schemes in Ashby de la Zouch
- Highways Agency direction preventing the development
- Insufficient capacity at Packington sewage treatment works
- Brownfield sites should be developed in preference to greenfield ones
- Contrary to 2002 Local Plan Inspector's report
- Contrary to Core Strategy
- Insufficient school and healthcare capacity
- Not sustainable development
- Some development acceptable subject to limitations on future development beyond

In addition, representations have been received from the Ashby de la Zouch Civic Society and the Nottingham Road Action Group, objecting on the following grounds:

- District now has a 5 year housing land supply and the housing policies of the Local Plan are hence no longer out of date
- Residents not against the principle of residential development on the Money Hill site
- The SHMA has been judged as sound by Inspectors and further approvals of housing are not needed having regard to existing approvals
- Site located outside Limits to Development
- Further residential development not needed having regard to the requirement for Ashby de la Zouch as set out in the SHMA
- Arla Dairies site can be developed instead if additional housing is required
- Contrary to Local Plan policies
- Unsustainable development
- Premature
- Would impact on development of the District's preferred direction of growth at Money Hill
- Application interferes with the master planning of the area
- Proposals in direct conflict with the Money Hill Consortium's plan
- Would lead to no access rights for the Money Hill Consortium onto Nottingham Road
- Does not address reasons for refusal in respect of the refused wider Money Hill scheme
- Nottingham Road at saturation
- Submitted Transport Assessment not robust
- Transport Assessment indicates that cumulative developments will worsen current congestion - severe cumulative congestion has been found by the Secretary of State to be a reason for refusal in three recent cases
- Excessive walking distances to town facilities - unsustainable location
- Nature of the routes to facilities make walking less desirable
- Poorly connected for cycling
- Poor accessibility to local employment by public transport
- New developments in Ashby de la Zouch aimed at long distance commuters
- Unsafe / illegal access and has been criticised by highways
- Road Safety Audit issues not remedied
- Adverse impact at A42 Junction 13 and adjacent A511 / Nottingham Road roundabout
- Brownfield sites should be developed in preference to greenfield ones
- Adverse impacts on residential amenity of Woodcock Way due to increased traffic
- Adverse impact on the walking experience of users of the Ivanhoe Way (right of way O89)
- Contrary to NPPF
- The Secretary of State has called in the Money Hill appeal because of its significant

- impact on the supply and sustainability of housing
- Approval of the application would significantly alter the case to be judged by the Secretary of State, prejudices the Local Plan and is inappropriate so close to Purdah

Representations have also been received on behalf of the Money Hill Consortium making the following points:

- The site forms part of the wider Money Hill site the subject of a current appeal against the refusal of planning permission
- The Consortium supports the provision of additional development within sustainable locations in Ashby to support its future growth
- The District Council has identified (within the former emerging Core Strategy) Money Hill as the site for the development of a minimum of 605 dwellings, supported by the relevant evidence base prepared by the Council - Money Hill is the most sustainable location for future development in Ashby
- It is essential that the District Council ensures that the matters arising in the determination of the 605 unit scheme, including those identified by the local community stakeholders, are taken into account in the determination of the current application (including restricting the levels of traffic using Woodcock Way, the importance of maintaining the significance and prominence of the Ivanhoe Way (Footpath O89) and the importance of securing inter-connectivity between the proposals and the wider Money Hill strategic growth location
- It is significant that the applicant has made a commitment to ensure inter-connectivity between the application site and the wider Money Hill site - should the Council grant planning permission for the development of the site it should be subject to suitable conditions to ensure that unhindered access is maintained between the proposals and the wider Money Hill strategic growth location
- The imposition of planning conditions to secure suitable access and permeability at the site would ensure the provision of strategic infrastructure, supporting facilities and services that would be delivered through the development of Money Hill could effectively serve the wider community and would ensure the access and movement strategy for the wider area could be coherently and comprehensively planned
- Reliance should not be placed upon the findings of the SHMA, as it does not reflect the full objectively assessed needs of the Council and it has not yet been subject to scrutiny in the local context through the Local Plan process
- District Council's calculations of housing land supply should not include sites which are subject of resolutions to grant planning permission as part of its calculation of its five year housing land supply

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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

Paragraph 14 (Presumption in favour of sustainable development)
Paragraph 17 (Core planning principles)
Paragraph 32 (Promoting sustainable transport)
Paragraph 34 (Promoting sustainable transport)
Paragraph 47 (Delivering a wide choice of high quality homes)
Paragraph 49 (Delivering a wide choice of high quality homes)
Paragraph 57 (Requiring good design)
Paragraph 59 (Requiring good design)
Paragraph 61 (Requiring good design)
Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)
Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)
Paragraph 112 (Conserving and enhancing the natural environment)
Paragraph 118 (Conserving and enhancing the natural environment)
Paragraph 123 (Conserving and enhancing the natural environment)
Paragraph 131 (Conserving and enhancing the historic environment)
Paragraph 132 (Conserving and enhancing the historic environment)
Paragraph 135 (Conserving and enhancing the historic environment)
Paragraph 173 (Ensuring viability and delivery)
Paragraph 203 (Planning conditions and obligations)
Paragraph 204 (Planning conditions and obligations)

Adopted North West Leicestershire Local Plan (2002)

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

Policy S3 - Countryside
Policy E2 - Landscaped Amenity Open Space
Policy E3 - Residential Amenities
Policy E4 - Design
Policy E6 - Comprehensive Development
Policy E7 - Landscaping
Policy E8 - Crime Prevention
Policy F1 - National Forest General Policy
Policy T3 - Highway Standards
Policy T8 - Parking
Policy H4/1 - Housing Land Release
Policy H6 - Housing Density
Policy H7 - Housing Design
Policy H8 - Affordable Housing
Policy L21 - Children's Play Areas
Policy L22 - Formal Recreation Provision

Other Policies

North West Leicestershire District Council Affordable Housing SPD

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

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within Ashby de la Zouch.

North West Leicestershire District Council Play Area Design Guidance SPG

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

6. Assessment

Principle of Development

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

In terms of the adopted North West Leicestershire Local Plan, the site is outside Limits to Development. Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development; the development proposed would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3. Notwithstanding the countryside location, and whilst the proposals would be contrary to the adopted Development Plan, in determining the application, regard must be had to other material considerations, including other policies, such as other Development Plan policies and National policies.

Housing Land Supply and Limits to Development

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The District Council is currently able to demonstrate a five year supply (and including for a 20% buffer) (although it is noted that the applicants do not concur with this position).

Having regard to the above and to the approach set out in Paragraph 49 of the NPPF, Local Plan Policy S3 is considered to be up-to-date in the context of Paragraph 49. However, given 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), this needs to be taken into account when considering the weight to be applied to any conflict with this policy.

In addition, notwithstanding the principles contained in Paragraph 17 of the NPPF which highlights the need to recognise the intrinsic character and beauty of the countryside, the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set out in more detail in this report.

Site Accessibility and Policy H4/1

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

NPPF.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The settlement of Ashby de la Zouch benefits from a range of local services and is readily accessible via public transport and, in general, is considered to be an appropriate settlement for new residential development and, as a settlement, would score well against the sustainability advice in the NPPF.

Insofar as the site itself is concerned, and whilst it is located outside Limits to Development, it is well related to the existing built up area of the town. In terms of accessibility, it is noted that the site is within close proximity of the existing town and the range of services available therein. The site access from Woodcock Way is approximately 600m from the town centre (being the closest point of the Core Town Centre Shopping Area as defined in the adopted Local Plan) when taking the shortest all-weather / all user walking route (i.e. via Woodcock Way, Nottingham Road and Wood Street). A shorter walking route is also available via right of way O89 (approximately 450m from the edge of the application site to the Core Town Centre Shopping Area on North Street); whilst this is not suitable for all users, nor likely to be an attractive alternative during adverse weather or at night, the applicants are proposing to make a contribution towards the provision of a continued metalled pedestrian link along this route between the application site and the town centre. In terms of public transport, the nearest bus services are available at stops adjacent to Ashby School, approximately 230m (eastbound) and 300m (westbound) from the site entrance. Services available include approximately two or three buses towards the town centre per hour during the daytime (although with less frequent services on Sundays). Regular connections are also available to and from Coalville, Loughborough, Burton upon Trent and Swadlincote. In addition to its town centre links, the site is considered to be relatively well related to retail and employment areas on the eastern edge of Ashby de la Zouch; if accessed via the existing rights of way network, the entrance of the Ashby Tesco store is approximately 650m from the eastern site boundary.

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

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to the economic growth associated with the proposed development, together with appropriate contributions towards affordable housing would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, whilst the proposed development would result in the development of land outside of the defined Limits to Development, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment and, by virtue of its location, close to the existing built up area and associated services, and its accessibility to public transport, would perform reasonably well in terms of need to travel and the movement towards a low carbon economy.

Relationship to the Wider Money Hill Development

Whilst it is noted that the application for the wider Money Hill scheme (ref. 13/00335/OUTM) was refused, no objection per se to the principle of that development was raised by the Local

Planning Authority, and the District Council's concerns to be raised at the forthcoming appeal do not relate to issues of developing the site in principle. The potential therefore exists (and was also anticipated in the former emerging Core Strategy) that the wider Money Hill site could come forward in the future and, as such, it is considered reasonable, in the interests of the proper planning of the area, to ensure that the current scheme to develop a section of that wider site would not prejudice its proper development. In terms of relevant planning policies, adopted Local Plan Policy E6 seeks to prevent development where it would prejudice the comprehensive development and proper planning of a larger area of land of which the site concerned forms part. Insofar as the principle of development is concerned (and when considering in the context of the illustrative material submitted with the application), it is considered that there would be no overriding reason why development of this parcel in isolation would necessarily prejudice the wider development, and subject to appropriate linkages being secured at the reserved matters stage. Whilst it is noted that the revised application recently submitted by the Money Hill Consortium (15/00512/OUTM) now excludes the Woodcock Way site, it is nevertheless considered that the same comprehensive development considerations should continue to apply.

Insofar as supporting infrastructure is concerned, developing the site in isolation could, it is considered, result in some issues if the relevant contributions were not reasonably flexible in their nature. For example, on the one hand, if the wider Money Hill development were to proceed, the relevant contributions to infrastructure would, preferably, be able to contribute towards a comprehensive mitigation for the wider development (as opposed to individual developments within the wider site making "piecemeal" contributions). On the other hand, however, there could be no guarantees at this time that the remainder of the wider site would ever come forward and, in those circumstances, the development the subject of the current application would need to be able to mitigate for its own impact, and at a scale commensurate to the level of development proposed (i.e. 70 dwellings). These issues are not, it is considered, readily resolvable, and the approach as set out within this report is, in officers' view, a reasonable compromise in the circumstances.

The various issues arising from the proposed development's relationship to the wider Money Hill development are set out in more detail within the following sections of this report, where relevant.

Detailed Issues

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

Means of Access and Transportation

As set out above, details of that part of the access relating to the vehicular access from Woodcock Way are now provided as part of the outline proposals; all other access details are reserved for subsequent approval. The point of access proposed includes associated alterations to the existing priority junction of Woodcock Way with Nottingham Road; this junction has been subject to a Stage 1 Road Safety Audit. The general form of the development indicated on the submitted illustrative layout also shows other potential pedestrian links into and through the site connecting to the public right of way passing through the site; these would also be a matter for the reserved matters stage(s) (although their impact on the overall potential accessibility of the site still ought to be considered in those terms in respect of the outline application).

The application is accompanied by a Transport Assessment as well as a Travel Plan; both documents were amended during the course of the application following dialogue with the County Highway Authority. The Transport Assessment indicates that, in the applicants' consultants' opinion, the development is in a location where all key amenities and facilities are

located within acceptable walking distance from the site, stating that all local services are located within 2km walking distance from the site including supermarkets, a restaurant, pubs, schools, a doctor's surgery and a leisure centre, and can be accessed via existing footways and pedestrian crossings. It also considers the accessibility of the site by public transport (and as already assessed under Principle of Development above).

The County Highway Authority's original comments were submitted prior to the removal of all access matters from the outline application (and the subsequent reinstatement of the principal vehicular access from Woodcock Way within the application), but has provided further comments which confirm no significant changes to its previous advice. Overall, the County Highway Authority confirms that it has no objections to the application in principle, but having regard to likely impacts on the surrounding highway network, recommends a number of conditions and planning obligations. The County Highway Authority comments on the respective highway-related issues as follows:

"Site Access:

The existing access at Woodcock Way is a simple priority junction serving 20 dwellings. It follows that turning movements at Nottingham Road / Woodcock Way junction would increase with the addition of the proposed 70 dwellings. The proposal is to provide a right-turn lane to keep the ahead flows free from obstruction from right turning vehicles....The proposed layout was subject to an independent Stage 1 Road Safety Audit which recommended minor amendments, but did not raise any material concerns.

The proposed site access design was checked by the CHA [County Highway Authority] against the 6Cs Design Guide and Manual for Streets (MfS) guidance. In strict accordance with guidance, the minimum lane widths should be 3m for all lanes, requiring a total carriageway width of 9m. However, the existing carriageway width is only 8.5m and this accommodates a 2.5m right turning lane. This is considered to be an acceptable relaxation in this instance given that only cars are likely to be using the right turn lane. This also enables a suitable visibility splay to be achieved by keeping the give-way line closer to the main carriageway on Nottingham Road. However, this does mean that the proposed pedestrian refuge is only 2m in comparison to a desirable 2.5m.

Visibility exiting from Woodcock Way is currently partially obscured by overgrown vegetation. The visibility requirement based on MfS guidance is 2.4m by 43m, which has been verified on site as being achievable for the proposed design by maintaining the vegetation. However, given the site constraints, prior to any works beginning on site, further detailed design will need to be submitted to the Highway Authority for review to further demonstrate acceptability. An independent Stage 2 Road Safety Audit will be required alongside the detailed design. On completion of the works an independent Stage 3 Road Safety Audit stage 3 should also be undertaken.

In conclusion, the proposed junction improvements will mitigate against the increased use of Woodcock Way from a capacity perspective. It also provides enhancements to pedestrian facilities by providing a refuge along the desire line for crossing Nottingham Road."

Further to the submission of additional access details following the earlier deferral by the Planning Committee, the County Highway Authority advises that it is content that the proposed scheme for the extension of Woodcock Way would be suitable for serving the proposed development and for future-proofing to enable public transport access through the site as it meets the standard set out in the County Council's 6Cs Design Guide which requires a 6m wide carriageway to accommodate access for buses. The County Council advises that Woodcock

Way currently does not meet the width requirement for bus access, as it is only 5.5m wide and the junction radii at the junction of Woodcock Way and Nottingham Road are such that left turn movements by buses would be unlikely to be possible. However, County Highway Authority maintains that the proposed development would in any event be adequately served by existing public transport and, therefore, whilst the County Council welcomes measures to future-proof the proposed development for potential public transport access, the proposed development itself would not require buses to route through Woodcock Way to ensure adequate public transport accessibility.

Further to other concerns raised (for example by residents) over potential road safety issues, in particular speeding and collisions, the County Highway Authority has undertaken further investigations in respect of these matters. Speed survey data collated by the County Council in 2012 indicates, the County Council advises, that speeds in the vicinity of the site are consistent with those for a road with a 30mph speed limit and are deemed to be below intervention level. The County Highway Authority is therefore satisfied that there are no speed related concerns on Nottingham Road in the vicinity of Woodcock Way and Ashby School.

Whilst the County Highway Authority notes that a number of collisions in recent years have been documented by residents, half of those documented by residents do not appear on the County Council's database. As the database is compiled from information where emergency services have attended the scene and where casualties have been reported, this would suggest, the County Council advises, that a large proportion were property damage only accidents and, whilst regrettable, are not within the County Highway Authority's priority against more serious incidents. The occurrence of incidents is below intervention levels and, the County Council comments, there were no turning related incidents within the most recent 5 year period at the junction of Woodcock Way and Nottingham Road which could be worsened by the proposed development.

Insofar as traffic generation and distribution are concerned, the County Highway Authority advises that vehicle trip rates have been based on the existing trip generation at Woodcock Way, and is consistent with other residential developments. The County Highway Authority has also provided a summary setting out the committed developments taken into account in the formulation of the Transport Assessment, and the off-site junctions assessed in terms of their operational capacity and performance.

Insofar as the affected junctions on the wider highway network (and the associated junction capacity assessments contained within the applicants' submissions) are concerned, the County Highway Authority comments as follows:

Woodcock Way / Nottingham Road proposed ghost island junction

The junction has been demonstrated to be operating within capacity and the proposed layout is therefore acceptable.

Wood Street / Upper Church Street proposed signalised junction

This junction has been tested against proposed signal arrangement and has been demonstrated to be operating over its capacity both with and without the proposed development. With the proposed development the junction capacity deteriorates slightly from -20.1% to -21.0% reserve capacity (a change in value of 0.9%). Whilst congestion is likely to worsen, the development's traffic impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required. [In addition, the County Highway Authority confirms that highway improvement schemes which were conditioned as part of the David Wilson Homes development are currently being progressed.]

Bath Street / Kilwardby Street / Derby Road double mini-roundabout junction

The modelling results in the TA [Transport Assessment] show the junction to be operating over its capacity both with and without the proposed development. Whilst congestion is likely to worsen, the development's traffic impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required.

Nottingham Road / Resolution Road traffic signal junction

This junction has been tested with CHA model, but assumed that pedestrian phase is operational on each cycle, therefore providing worst case scenario. Whilst congestion is likely to worsen, the development's traffic impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required.

A511 / Nottingham Road roundabout junction

The modelling results in the TA show the junction to be operating over capacity both with and without the proposed development. Whilst congestion is likely to worsen, the development's impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required."

Public Transport and Transportation Developer Contributions

Insofar as public transport is concerned, having regard to the proximity of existing bus stops, and the frequency of the services available from those stops, the County Highway Authority does not require any contribution to public transport enhancements in this case. The County Highway Authority does however consider that improvements to the existing infrastructure would promote bus use and considers that these ought to be secured through Section 106 contributions. In particular, the County Highway Authority comments that, if a bus-ready route could be provided within the development, this would provide the potential for bus penetration to wider development in the area, and that such a route would need to be on roads 6m in width which could, the County Council considers, be detailed at the reserved matters stage. Without this provision, the County Highway Authority notes, bus penetration to wider development in the area could be prejudiced.

Insofar as bus penetration is concerned, it is noted that, as part of the wider Money Hill development the subject of planning application 13/00335/OUTM, the scheme proposed a diverted bus service between Ashby town centre and the development site, including a route whereby buses from the town centre would turn left at the Nottingham Road / A511 roundabout, proceed north westerly along the Ashby bypass, turn left into the application site, drive through it, and then turn right out of Woodcock Way back onto Nottingham Road towards the town centre. As a smaller development (likely to be in the form of a cul-de-sac), and given the proximity to existing bus services on Nottingham Road, the scheme is not, in itself, considered to require diversion of a bus route in this way. However, in order to ensure that any wider Money Hill scheme could secure bus penetration, the County Highway Authority's view that the scheme would need to ensure that a suitable route through the site were deliverable is concurred with. This would need to be taken into account at the reserved matters stage.

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

- Improvements to the public rights of way in the interests of encouraging sustainable travel to and from the site, achieving modal shift, and reducing car use (and as per those requested by the County Highway Authority's Public Rights of Way Officer - see below)
- A Construction Traffic Routeing Agreement

- Travel Packs to inform new residents from first occupation what sustainable travel choices are available in the surrounding area (which can be provided through Leicestershire County Council at a cost of £52.85 per pack/dwelling if required)
- Two six-month bus passes per dwelling to encourage new residents to use bus services as an alternative to the private car and to establish changes in travel behaviour from first occupation (which can be provided through Leicestershire County Council at a cost of £350 per pass if required)
- Provision of information display cases at the two nearest bus stops to inform new residents of the nearest bus services in the area (£120 per display)
- Provision of bus shelters at the two nearest bus stops to provide high quality and attractive public transport facilities to encourage modal shift (£4,908 per shelter)
- Contribution towards equipping the nearest bus stop(s) with Real Time Information (RTI) system to assist in improving the nearest bus service with this facility, in order to provide a high quality and attractive public transport choice, and to encourage modal shift (at a total of £5,840)

The applicants have confirmed their agreement to the contributions listed above which, in officers' view, meet the relevant NPPF and CIL Regulation tests.

Pedestrian Access

In terms of the accessibility of the site generally, this is considered in more detail under Principle of Development above. Whilst not part of the access proposals submitted at this outline stage, the illustrative masterplan indicates that non vehicular links to adjacent land would be anticipated at the reserved matters stage. Public right of way O89 (part of the Ivanhoe Way circular route) passes through the site, and connects beyond the site boundary to other rights of way (including rights of way O90, O91 and O92). In terms of right of way O89, Leicestershire County Council's Rights of Way Officer notes that the route of the right of way as shown on the illustrative masterplan does not appear to follow precisely the definitive map route. However, subject to the route being retained within landscaped areas, and including a minimum surfaced width of 2m plus 1m grass borders for the section of the footpath passing through the site, raises no objections. Appropriate new signage and gates are also requested.

In principle, there appears to be no reason why the development could not accommodate the existing line of right of way O89. Should this not be the case, however, an application to stop up / divert the right of way would be required, and would be likely to be dealt with by the District Council's Cultural Services Officer. As set out in DEFRA Circular 1/09 relating to rights of way, most outline planning applications do not contain sufficient information to enable the effect on any right of way to be assessed (and are not required to do so) and, as such, these issues are usually dealt with at the reserved matters stage. Nevertheless, and as set out above, there appears no reason in principle why a suitable solution could not be found at that time. Insofar as the amenity impacts of the proposed development (i.e. the impacts on the amenity value of the right of way as a leisure / recreational route given that it would no longer pass through a section of undeveloped countryside) are concerned, it is accepted that some adverse impacts on its value in this regard would result. However, having regard to the limited extent of the section subject to this change, and subject to the reserved matters scheme ensuring that the right of way is provided within a landscaped setting as far as practicable, it is not considered that these impacts would be unacceptably harmful, nor sufficient to render the development unsustainable in NPPF terms.

It is also noted that, for the purposes of enhancing connectivity, the applicants are proposing to make a contribution of £110,275 so as to allow for the formation of a continuous metalled pedestrian link between the site and the town centre. Again, such proposals would have an

element of an urbanising effect (and, in particular, on those sections where right of way O89 passes through undeveloped agricultural land). However, subject to the use of appropriate surfacing, it is not considered that such alterations would be unacceptable in visual impact or amenity terms. In terms of the sum offered, Leicestershire County Council's Rights of Way Officer considers that the financial contribution proposed is appropriate in this instance.

Subject to the above, therefore (and including the applicants making appropriate contributions towards transportation infrastructure), the proposed development is considered acceptable in terms of Means of Access and Transportation issues.

Landscape and Visual Impact

The application is accompanied by a Landscape and Visual Impact Assessment, as well as a Tree Survey and Arboricultural Impact Assessment.

The Landscape and Visual Impact Assessment considers the site's context in relation to surrounding development / landscape, and considers the impact upon a total of 10 viewpoints, including views close to the application site, and further afield (including from Corkscrew Lane, the Ashby bypass, Western Old Parks Farm and Money Hill Farm).

In terms of landscape effects, the Landscape and Visual Impact Assessment considers that the sensitivity of the landscape is "medium". However, when considered in the context of the proposals which the Assessment finds to be of a low impact (in landscape terms, having regard to the urban fringe character of the landscape), the overall impact would, the Assessment concludes be "minor adverse" (albeit "moderate to major adverse at the site specific level). Insofar as visual effects are concerned, the impacts from three of the various viewpoints considered are categorised as "Moderate"; the others were found to have an impact less severe than that.

The Landscape and Visual Impact Assessment concludes that views towards the site are limited to short and middle distance views from the south-west, south, east and north-east, and that distant views are restricted by the intervening landform and vegetation; "high sensitivity" receptors include visitors to Ashby Castle, residential properties to the south and east of the site and users of the Ivanhoe Way (of which separate analysis is made within the Landscape and Visual Impact Assessment). The Assessment suggests that the development would be visible from a very localised area only and, where it would be seen, "moderate adverse" effects would be limited to receptors in close proximity only. It also considers that, in the longer term, effects would reduce as landscaping became established.

In terms of retained / proposed planting, the site is within the National Forest, and the scheme's performance vis-à-vis the relevant National Forest standards is set out under the relevant section below. There are a number of trees / hedgerows on the site (primarily located to the site periphery) and, whilst a reserved matter, the illustrative masterplan would suggest that the majority of the vegetation would be capable of being retained in the event that the reserved matters proposals took the form indicated. The principal areas of the site where removal would be required (were the illustrative scheme implemented) are to the north western and eastern site boundaries (removal of brambles), and adjacent to Woodcock Way (removal of trees and hedgerow required to accommodate the site access). These latter works would involve the removal of an ash tree (retention category C) and part of a hawthorn / elder hedgerow (retention category C). Were the development implemented in the manner indicated, it is not considered that the impacts in terms of the loss of this vegetation would be unacceptable.

It is noted that the application site forms part of the wider Money Hill site the subject of application 13/00335/OUTM (albeit it is excluded from the more recent Money Hill Consortium application, 15/00512/OUTM), and which proposed strategic landscaping for the site as a whole, and including from the north (i.e. adjacent to the Ashby bypass). Development of this section of the site in isolation from the remainder of the wider site would not enable the delivery of this strategic landscaping, nor is any contribution towards it proposed. For their part, however, the applicants consider that the scheme as proposed only needs to address its own landscape and visual impacts (and it is accepted that there can be no guarantees at this time that the wider site would ever come forward). It is accepted that, notwithstanding the lack of a contribution towards addressing the wider landscape impacts of the Money Hill site as a whole, it is reasonable to assess the current application on its ability (or otherwise) to mitigate its own impact. It is also accepted that, were the remainder of the Money Hill site developed, the impacts from this particular section in the wider context would be relatively limited (given their resulting position within a built up area). Alternatively, if the wider Money Hill scheme were not to come forward, it is accepted that, subject to an appropriate scheme being proposed at the reserved matters stage(s), there is no reason why a suitable form of landscaping could not be provided at that time. On the basis of the submitted illustrative plan, it is considered that the case for the scheme as shown has not been demonstrated in that some relatively limited landscaping is shown to the northern and western boundaries which, if the remainder of Money Hill were to stay undeveloped, would form the edge of the town and, hence, would need to provide for an appropriate form of screening to address the transition between the urban and rural landscapes. Notwithstanding this concern, however, it is nevertheless accepted that, in principle, there is no reason why an appropriate landscaping solution could not be achieved.

Overall, in respect of issues relating to Landscape and Visual Impact, the view is taken that the proposals are acceptable.

Loss of Agricultural Land

Whilst not currently in active agricultural use, the proposed development would result in an irreversible loss of this land to non-agricultural use.

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to the five year housing land supply issue as set out above, it would seem inevitable that land outside Limits to Development (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification. Whilst the applicants have not provided a detailed assessment of the agricultural quality of the site in support of this application, the resubmitted application (15/00354/OUTM) is accompanied by such an assessment, indicating the following distribution of land quality:

Grade 3a:	1.25ha (32% of the site)
Grade 3b:	2.5ha (65%)
Non-agricultural:	0.1ha (3%)

On this basis, approximately 32% of the application site would be BMV and, therefore, contrary to the thrust of the NPPF in this regard. In terms of assessing the significance of this loss, it is noted that, at 1.25 hectares, the area of BMV land falls some way below the 20 hectare threshold at which it is generally accepted that a "moderate" impact from the loss of BMV would result. Whilst the NPPF does not suggest that release of smaller BMV sites is acceptable, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process.

Whilst it is not considered that the proposed development sits particularly comfortably with the requirements of the NPPF and, in particular, the aims of Paragraph 112, this would need to be weighed against other material considerations and, whilst there would be adverse impacts in this regard, these concerns would not be so significant as to outweigh the considerations in favour of the scheme. When considered in the context of the five year housing land supply issue, and the benefits of releasing the site to assist in maintaining such supply, it is considered that the agricultural land quality issue is not sufficient to render the development unsustainable overall, nor that planning permission should be refused on this issue.

Drainage, Ecology and the River Mease SAC

The submitted documents include assessments of the flood risk, drainage and ecological implications of the proposed development and, having regard to the site's location within the catchment of the River Mease Special Area of Conservation (SAC), the impacts on water quality of the Mease. These issues are considered in more detail below.

Flood Risk and Drainage

A Flood Risk Assessment has been submitted in support of the application. The Environment Agency flood zone maps indicate that the site lies within fluvial Flood Zone 1; on this basis it is considered that the sequential test would be satisfied.

In terms of other sources of flood risk, the Flood Risk Assessment considers the potential flooding impacts from surface water, sewer, groundwater and reservoirs. Of these, it is noted that the site includes areas at risk of pluvial flooding and, including small sections of the site within the 1 in 30 year event. Mitigation measures are therefore recommended to address this issue.

The Flood Risk Assessment includes a drainage strategy which proposes surface water mitigation measures designed to mimic flows from the undeveloped site including attenuation to restrict run-off to the ditch course along the eastern boundary to greenfield rates for storms up to the 1 in 100 year (+30% allowance for climate change) return period event. It also proposes that discharges from the attenuation basin to the existing watercourse would be restricted to 6.3l/s during storms up to the 1 in 100 year (+30% allowance for climate change) return period event by a flow control system, equating to approximately 70% betterment over the existing site. In addition, the strategy proposes other mitigation measures, and including providing finished floor levels at a level of at least 150mm above adjacent ground levels. Insofar as foul drainage is concerned, this is proposed to be discharged to the existing public foul sewer on Woodcock Way. No objections are raised in terms of flood risk or drainage issues by the Environment Agency or Severn Trent Water. Whilst the Agency notes that some of the site appears to drain to an alternative watercourse from that proposed, there appears no reason why retention of natural drainage paths could not be secured subject to appropriate measures being secured by way of condition.

Overall, in terms of issues of Flood Risk and Drainage, therefore, it is considered that the scheme is acceptable, and would provide for appropriate drainage solutions to accommodate the proposed development.

Ecological Issues

The application is supported by an Ecological Assessment of the site. This provides that the closest statutorily designated sites of nature conservation of importance to the application site are the Lount Meadows Site of Special Scientific Interest (SSSI) and River Mease Special Area of Conservation (SAC) and SSSI. In terms of non-statutory designation, the Assessment

identifies 14 non-statutory sites within 1km of the application site, including three District level sites, five Parish level sites, and six candidate / potential Local Wildlife Sites. Insofar as anticipated impacts on these sites are concerned, the Appraisal concludes as follows:

Lount Meadows: Given the distance from the site, significant adverse impacts are unlikely

River Mease: Subject to the mitigation proposed to be secured via the Developer Contribution Scheme as set out below, significant adverse impacts would not result

Other Sites: The closest site is the Green Lane Parish level site; whilst there would be an increase in the number of people using the footpath along the Green Lane, this increase is unlikely to have significant effects.

Insofar as protected or notable species are concerned, the Assessment considers the impacts on badgers, bats, reptiles, great crested newts, and birds. In terms of these, no evidence in respect of use of the site by badgers, great crested newts or reptiles was found. The Assessment suggests that the impacts on bat commuting and foraging habitat would not be unacceptable, and could be limited by appropriate retention of suitable trees, and appropriate use of lighting. Similarly, the impacts on birds could, the Assessment indicates, be mitigated by way of retention of suitable trees and undertaking of clearance works outside of the breeding season.

Subject to conditions, no objections are raised by Leicestershire County Council's Ecologist, and the proposals are therefore considered to be acceptable in terms of their ecological impacts, subject to the imposition of suitably-worded conditions.

River Mease Special Area of Conservation (SAC)

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

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

The application is supported by a River Mease SAC Impact Assessment which considers the implications of the proposed development on the River Mease and proposed mitigation. This includes the making of a DCS contribution in accordance with the formulae set out within the DCS, and with the final amount payable being contingent upon the precise nature of the development proposed at the reserved matters stage(s) in terms of number of dwellings, bedrooms and Code for Sustainable Homes level (or equivalent). As such, and subject to the implementation of appropriate obligations, the proposals would comply with the relevant planning policies and the Habitats Regulations. Natural England advises that the proposed development would be unlikely to have a significant effect on the interest features for which the SAC has been classified, and that an Appropriate Assessment would not be required.

The flows from the new dwellings will need to be taken into account against the existing headroom at Packington Treatment Works, which serves the site. As of March 2015 capacity was available for 2,663 dwellings when taking into account the number of dwellings that had consent and / or were under construction; whilst approval of further dwellings since March 2015 would reduce the capacity, sufficient capacity nevertheless remains for the proposed

development.

On this basis, it is accepted that the proposed development, either alone or in combination with other plans or projects, would have no likely significant effect on the internationally important interest features of the River Mease SAC or any features of special scientific interest of the River Mease SSSI (nor would there be any other impacts on other aspects of the SAC / SSSI), and the development is acceptable on this basis, subject to the implementation of the mitigation identified, secured by way of conditions and Section 106 obligations as appropriate.

Design

The application is supported by a Design and Access Statement (and including a Building for Life assessment) setting out the applicants' proposals, and explaining the approach taken in terms of design. Having reviewed the illustrative proposals and the Design and Access Statement, however, the District Council's Urban Designer had raised concerns regarding the illustrative scheme, and considered that the concept lacked strength and suggested, for instance, a street hierarchy that offered no meaningful distinction or no defining or focal point spaces. On the basis of the originally submitted proposals, he was of the view that there was limited distinctiveness between the different street typologies and, having regard in particular to the potential development of the wider Money Hill site, suggested that use of nodal spaces would help aid navigation. The District Council's Urban Designer had also questioned the orientation of the principal street which, on the basis of the illustrative layout, would run north west from Woodcock Way, then north east, and then north / north west, whereas the Urban Designer considered that it would more appropriately continue direct to the north western boundary. The scheme also, he considered, appeared to lack an overall direction / rationale, and seemed more akin to an extension of the existing Woodcock Way development rather than creating a more "memorable" development which would be landscape or architecture led. He had therefore expressed concern that the proposals were somewhat "lacklustre" and did not embrace the urban design principles and those behind Manual for Streets.

Further to these concerns, and as reported on the Update Sheet to the Planning Committee on 3 February 2015, an updated Design and Access Statement plus additional addendum was subsequently submitted which, in the District Council's Urban Designer's view, demonstrated that a good standard of design could be achieved at the reserved matters stage, and could provide for a development consistent with national, saved local and emerging local policies relating to good design.

Residential Amenity

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

In terms of future residents' amenities, it is noted that the site is not located in close proximity to any existing incompatible land uses and, in principle, there appears no reason why the development would not be appropriate in this regard. Whilst the Environmental Statement submitted in respect of the wider Money Hill proposals noted the potential for impacts from the nearby United Biscuits warehouse (principally due to HGV manoeuvring to the rear of that unit) and made mitigation recommendations (extension of the existing acoustic screen), that proposal involved erection of dwellings significantly closer to the warehouse than would be the case in respect of this particular site, and such mitigation would not appear necessary for this development. No objections are raised by the District Council's Environmental Protection team.

In addition to the noise climate issues identified above, however, are the issues of potential disturbance from vehicular movements to and from (and, potentially, within) the site. In this regard it is noted that, on the basis of the illustrative masterplan, there would appear to be limited areas where internal access roads would be likely to be proposed to the rear of existing dwellings. Nevertheless, regard would need to be had to that issue when devising any reserved matters proposals. Insofar as this outline stage is concerned, however, of particular relevance are the additional comings and goings likely to be generated along the proposed access which would be likely to lead to some increased levels of disturbance to adjacent properties fronting onto Woodcock Way. Whilst there would be an increased use of the Woodcock Way / Nottingham Road junction, it is not considered that material impacts on amenity of other properties in the vicinity of this junction would arise in this respect (nor along Nottingham Road / Wood Street generally in terms of traffic-related impacts). Insofar as the impacts on existing residents of Woodcock Way are concerned, whilst there would be increased use of this route by vehicles leading to a material change to the existing situation, use of estate roads of this nature to access developments of this scale is not an unusual scenario and, whilst a change would inevitably result, it is not considered that the impacts of the resulting conditions would be so adverse as to warrant a refusal of the application.

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves, whilst an illustrative masterplan has been submitted, all matters are reserved for subsequent approval. The illustrative masterplan indicates that built development would be located adjacent to a number of residential properties to areas to the south of the application site, including properties on Woodcock Way and Lockton Close. Clearly, careful consideration would need to be given to any detailed proposals for these and other areas of the site submitted at the reserved matters stage(s) so as to ensure that an appropriate relationship between existing and proposed dwellings were provided. However, there is no reason to suggest that the eventual form of development proposed at the reserved matters stage(s) would necessarily result in undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, acceptable in this regard.

Heritage Issues

The application is supported by an archaeological desk based assessment; this assessment also includes consideration of designated heritage assets in the vicinity.

Insofar as designated assets are concerned, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard should be had to the desirability of preserving the building or its setting. Section 72 provides that, in the exercise of any powers under the planning acts with respect to any buildings or land within a Conservation Area, special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. The submitted assessment concludes that none of these (comprising listed buildings, the Ashby de la Zouch Conservation Area and the nearby scheduled monument (i.e. Ashby Castle)) would be impacted upon, having regard to their screening from the site by intervening development; this general conclusion is accepted.

In terms of non-designated assets, the assessment has regard to the findings of the earlier appraisal work undertaken in respect of the wider Money Hill site application. Paragraph 135 of the NPPF provides that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that, in weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgment will be required having regard to the scale of any harm or loss and the significance of

the heritage asset. In terms of archaeological finds within the vicinity of the site, these include finds from the prehistoric and Saxon / medieval eras, although of particular significance in this case is the previously-identified ridge and furrow. Insofar as this feature is concerned, the assessment suggests that it is not exceptionally well preserved, nor complete, and is part of a "once extensive and now heavily eroded set of landscape features that has some visual appeal but which, unlike most significant earthworks, contains within its own matrix little or nothing of archaeological interest". As such, the assessment concludes that it is not of more than local significance. At the time the wider Money Hill scheme was considered, English Heritage took the view that the significance of the ridge and furrow (which extends to a wider area than just this part of the application site) was a material consideration which the Local Planning Authority needed to weigh against the benefits of development and alternatives, and when considering the layout of the development in relation to the town (and also the contribution made by the ridge and furrow to the setting to the Conservation Area). It is considered that the ridge and furrow within the area the subject of the current application is not as important visually as elsewhere in the wider site. Given this, together with the scale of the current development compared to the wider scheme, and to the increased separation of this area from the Conservation Area as compared to the areas of ridge and furrow within the wider Money Hill site, it is again accepted that this does not represent an overriding issue in the overall planning balance. Furthermore, the development of this site would not preclude preservation of ridge and furrow features elsewhere within the site as previously intended as part of the open space forming the wider Money Hill development. On this basis, the proposals are considered to meet the tests in Paragraph 135 of the NPPF.

It is therefore considered that the proposed development would be acceptable in terms of heritage issues; no representations have been received from the County Archaeologist.

Geo-Environmental Conditions

A Phase 1 environmental risk assessment has been submitted with the application which provides an assessment of the site's ground conditions, and indicates that, whilst a small number of potential risks to receptors have been identified, there are no overriding impediments to the site's development in terms of contamination or general ground conditions, subject to further investigation / mitigation as appropriate; no objections are raised by the District Council's Environmental Protection team in respect of contamination issues. The proposals would also not have any implications in terms of mineral sterilisation.

Other Matters

Developer Contributions

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

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

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

The relevant developer contributions (save for those already referred to in respect of access / transportation) are listed below.

Affordable Housing

The applicants propose to make an affordable housing contribution of 30% (i.e. 21 dwellings

assuming a 70 unit development) as per the Local Planning Authority's current requirements for the Ashby de la Zouch area for a scheme of this scale.

The precise nature of the contribution in terms of house type / size tenure etc would need to be resolved pursuant to the Section 106 agreement but, on the basis that it is proposed to make a policy-compliant contribution, the proposed development is considered acceptable in this regard.

Children's Play and Public Open Space

The illustrative masterplan shows a proportion of the site given over to landscaping, retained and proposed tree / hedgerow planting and other open space, with the open space including an on-site equipped children's play area. In terms of the extent of the equipped parts of the play area, on the basis of the illustrative details, this would be in the order of 400 square metres. Under the Local Planning Authority's Play Area Design Guidance SPG, children's play areas should be provided at a rate of 20 square metres per dwelling. Therefore, for a development of 70 dwellings, an area for children's play of 1,400 square metres would normally be required. Whilst this would represent a shortfall in this regard, the extent of the "play area" in its general terms (which is the figure to which the SPG relates) is normally calculated in its wider sense and, when taking into account the other landscaped open space in the immediate vicinity of the equipped play area (and as discussed under Landscape and Visual Impact above), the minimum requirements of the SPG would be comfortably met.

In terms of the range of equipment necessary, for developments of this number of dwellings, Local Plan Policy L22 and the District Council's SPG require that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity; there would appear to be no reason in principle why the proposed development could not comply with this requirement.

Insofar as youth / adult recreation is concerned, it is noted that, in isolation, the proposed development would fall below the relevant Local Plan and SPG threshold (identified in the SPG as 100 dwellings) for making an appropriate contribution. Nevertheless, the view is taken that the application site, when considered cumulatively with other areas of the wider Money Hill site, would generate a requirement for formal recreational open space. In view of the limited scale of the site, there would be no realistic likelihood of providing an appropriate facility on site, but the applicants have offered an off-site contribution of £91,000 (i.e. equivalent to a contribution of £1,300 per unit); this would then allow the scheme to make a proportionate contribution towards the mitigation necessary to accommodate the wider Money Hill scheme, whether within the wider site, or elsewhere in the vicinity.

National Forest planting

The applicants' proposals show the provision of on-site National Forest planting as part of their wider landscaping and public open space proposals and confirm that the proposals will meet the National Forest woodland planting and open space standards of 20% of the site area. The proposals are therefore considered appropriate in this regard, particularly when considered in the context of the conclusions reached under Children's Play and Public Open Space above.

Education

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

Primary School Requirements:

The site falls within the catchment area of Ashby de la Zouch Church of England Primary

School. The school has a net capacity of 315 and 474 pupils are projected on the roll should this development proceed; a deficit of 159 places. There are currently 109 pupil places at this school being funded from Section 106 agreements for other developments in the area which reduces the deficit at this school to 50 (of which 33 are existing and 17 would be created by this development).

The County Council also refers to three other primary schools within a two mile walking distance of the development, namely Ashby Willesley Primary School, Ashby Hill Top Primary School and Woodcote Primary School. Taking these schools and other Section 106 contributions into account, the overall deficit including all schools within a two mile walking distance of the development is 39 pupil places and the 17 deficit places created by this development can therefore not be accommodated at nearby schools and a claim for an education contribution in respect of 17 school places in the primary sector (equating to £203,263.37) is made. Whilst it is noted that some pupil number figures provided by the Local Education Authority differ slightly from those provided in respect of application 15/00354/OUTM, such changes are expected due to ongoing changes in school roll numbers and, in this case (and in respect of the other school sectors below), do not result in an overall change in the contribution required to mitigate the proposed development.

Insofar as the relationship to the wider Money Hill scheme is concerned, it is noted that, at the time that application 13/00335/OUTM was under consideration, an on-site primary school was proposed, and the Local Education Authority was requesting the provision of this school or, if the proposed school on the Holywell Spring Farm site were progressed first, a contribution towards extension of that facility (and vice versa if the Money Hill scheme progressed first). At the present time, the County Council advises that it is currently liaising with developers in respect of the Holywell Spring Farm site with regard to the delivery of the new school on that site, which would secure a school with 4 classrooms which would be sufficient to accommodate the 96 pupils that site would yield with scope for expansion.

In terms of the current application, the County Council advises that the site falls within the catchment for Ashby de la Zouch Church of England Primary School which is not able to be extended given its constrained site and location. As such, the County Council advises that it may wish to use the contribution from the current application to extend the new Holywell Spring Farm site school, and may also require a contribution from the applicants to purchase the required land (such land costs not being included in the figure above); this would therefore need to be resolved with Leicestershire County Council through the Section 106 drafting process.

On this basis, therefore, the making of a financial contribution by the applicants in this case would not appear to prejudice the wider Money Hill scheme per se, although the County Council advises that, for the wider Money Hill site, a new school may nevertheless still be required, notwithstanding the current progress towards providing a school on the Holywell Spring Farm site.

High School Requirements:

The site falls within the catchment area of Ivanhoe College. The College has a net capacity of 949 and 1,070 pupils are projected on roll should this development proceed; a deficit of 121 places. Taking this school and other Section 106 contributions into account, the overall deficit is 78 (of which 71 are existing and 7 would be created by this development). There are no other high schools within a three mile walking distance of the site and, in order to provide the additional high school places anticipated by the proposed development, the County Council requests a contribution for the high school sector of £125,133.19. The County Council advises that this contribution would be used to accommodate the capacity issues created by the

proposed development by improving, remodelling or enhancing existing facilities at Ashby Ivanhoe College.

Upper School Requirements:

The site falls within the catchment area of Ashby School. The school has a net capacity of 1,841 and 2,044 pupils are projected on roll should this development proceed; a deficit of 203 places. Taking into account a total of 71 pupil places being funded at the school from Section 106 agreements for other developments in this area, this reduces the total deficit to 132 (of which 125 are existing and 7 would be created by this development). There are no other upper schools within a three mile walking distance of the site, and the County Council requests a contribution for the upper school sector of £128,486.12.

The applicants are agreeable to making the contributions requested (save for the as yet unknown additional land costs in respect of the primary education contribution referred to by the Local Education Authority).

Library Services

Leicestershire County Council advises that an additional 100 plus users of Ashby Library are anticipated to be generated by the proposed development, requiring an additional 243 items of lending stock (plus reference, audio visual and homework support material), and a contribution of £3,800 is therefore sought by the County Council. [It is however noted that the equivalent request in respect of the revised application for this site (ref. 15/00354/OUTM), and confirmation would need to be sought from Leicestershire County Council as part of the Section 106 drafting process in the event that the application was resolved to be permitted subject to Section 106 obligations]. The applicants have confirmed they are agreeable to making the contribution sought.

River Mease Special Area of Conservation (SAC) Contributions

As set out above, the applicants propose to make contributions as per the schedule set out in the District Council's Developer Contribution Scheme (DCS). As set out, the precise amount payable would need to be based upon the precise nature of the development proposed at the reserved matters stage(s).

Healthcare

NHS England requests a developer contribution of £23,331.83 in respect of healthcare as set out in the consultation response above. This request has been supported by detailed information setting out the projected impacts on capacity arising from the proposed development (with the principal impacts being on the Ashby Health Centre practice) together with commensurate costs of mitigation. It is considered that this request would meet the relevant CIL and NPPF tests, and the applicants have confirmed they are agreeable to making the contribution sought.

Contributions sought by Leicestershire Police

Leicestershire Police requests a developer contribution of £27,278 in respect of policing as set out in the consultation response above. The contribution sought comprises:

Start up equipment / training	£2,939
Vehicles	£1,779
Additional radio call capacity	£178
Police National Database	£91
Additional call handling	£163
ANPR	£2,055

Mobile CCTV	£375
Additional premises	£19,558
Hub equipment	£140

It is considered that, in principle, contributions towards policing may be capable of being justified in terms of satisfying the relevant NPPF and CIL Regulations tests. In terms of the increased level of police activity associated with the proposed development, Leicestershire Police advises that the scheme would result in 126 additional calls, 16 emergency events, 10 non-emergency events and 8 additional recorded crimes per year. Whilst officers have no alternative data in respect of these levels of activity, officers are concerned that the level of additional calls on Police time assumed to be associated with this development of up to 70 dwellings could be somewhat excessive and, as such, the scale and kind of contributions sought may not be fairly and reasonably related to this development. Insofar as the various individual elements of the requested policing contribution are concerned, however (and putting the issue raised above to one side), it is considered as follows:

Start up equipment / training:

It is accepted that, in principle, such a contribution could be reasonable.

Vehicles:

It is accepted that, in principle, such a contribution could be reasonable.

Additional radio call capacity:

The process of improving radio cover / capacity is, it seems, an ongoing process and would appear to occur regardless of the development going ahead.

Police National Database:

The process of improving capacity of the Police National Database is, it seems, an ongoing process and would appear to occur regardless of the development going ahead.

Additional call handling:

It is accepted that, in principle, such a contribution could be reasonable.

ANPR:

It is not accepted that the proposed development would justify the installation of ANPR CCTV systems (and that, in the development's absence, ANPR would not be required). If there is a need to provide ANPR coverage of this area because of existing crime figures, the cameras should, it is considered, be provided regardless. It is not considered clear why the addition of these dwellings to the town would suggest that such a system would be required when, in the absence of the development, it was not.

Mobile CCTV:

It is not accepted that the proposed development would justify the installation of mobile CCTV systems (and that, in the development's absence, mobile CCTV would not be required). If there is a need to provide mobile CCTV coverage of this area because of existing crime figures, the cameras should, it is considered, be provided regardless. It is not considered clear why the addition of these dwellings to the town would suggest that such a system would be required when, in the absence of the development, it was not.

Additional premises:

The contribution request from Leicestershire Police provides that, within North West Leicestershire, policing is delivered from Coalville LPU premises, and that occupation of

premises is maintained at capacity. Contributions are sought for Coalville LPU, plus the Basic Command Unit (BCU) at Loughborough and the Force HQ at Enderby. Insofar as Coalville LPU is concerned, Leicestershire Police advises that occupation is maximised but constrained by its age and condition. Replacement to existing needs is, Leicestershire Police advises, being planned although it is suggested that the proposed development would create a need for additional floorspace. The District Council is also advised that a replacement facility at Loughborough has recently been completed and that this would need to be extended to accommodate staff to cover the proposed development; extension of the Force HQ would also, Leicestershire Police suggests, be required to serve the proposed development, and the request also suggests that the remainder of the premises contribution be directed towards other, unspecified, force-wide premises serving North West Leicestershire. Whilst Leicestershire Police maintains that additional floorspace is required at all of these locations to serve the proposed residential development, it would appear unlikely that a development of this scale would result in such a level of increased employment so as to necessitate extensions to accommodation at all three sites, notwithstanding that Leicestershire Police confirms that all facilities are maintained at capacity. It is not considered that the force has demonstrated that there is definitely no capacity to accommodate additional staff, nor that its various sites would actually be extended to meet any additional accommodation requirement directly attributable to the development in hand.

Hub equipment:

No information has been submitted which indicates that the existing hub (located in Ashby de la Zouch) and equipment would, as a result of the development, be over-capacity.

On this basis, therefore, officers are of the view that, subject to the Police being able to demonstrate in a robust manner that the assumed levels of increased policing activity are appropriate given the scale of the proposed development, contributions in respect of the start up equipment / training, vehicles and call handling have the potential to satisfy the relevant NPPF and CIL tests. It would also be necessary for Leicestershire Police to demonstrate through the section 106 agreement process that no issues in respect of pooling would arise (insofar as the limitations on pooled contributions as set out within the CIL Regulations are concerned).

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

Conclusions

As set out in the main report above, whilst the site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, and constitutes greenfield land, its release for housing is considered suitable in principle, particularly having regard to the need to release sites in order to meet the District Council's obligations in respect of maintaining a five year housing land supply (and the approach taken in respect of such within the NPPF). Whilst the site is located outside of Limits to Development as defined in the adopted Local Plan, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, benefit from a presumption in favour of such development as set out in that document. The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. It is therefore recommended that the District Council confirm to the Planning Inspectorate that, had the Local Planning Authority had the opportunity to determine the application, outline planning permission would have been granted, subject to Section 106 obligations, and subject to conditions.

RECOMMENDATION- Had the Local Planning Authority had the opportunity to determine the application, it would have been PERMITTED, subject to Section 106 Obligations, and subject to the following conditions:

- 1 Save for the details of vehicular access into the site from Woodcock Way, details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced.

Reason - This permission is in outline only.

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access (save for the details of vehicular access into the site from Woodcock Way), appearance, landscaping, layout, and scale shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

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

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

- 4 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
 - Site location plan (EMS.2533_002) deposited with the Local Planning Authority on 28 August 2014
 - Woodcock Way site access (20954_08_020_02 Rev B) deposited with the Local Planning Authority on 29 April 2015

Reason - To determine the scope of this permission, and for the avoidance of doubt.

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

Reason - To ensure that the development of the site takes place in a consistent and comprehensive manner.

6 A total of no more than 70 dwellings shall be erected.

Reason - To define the scope of this permission.

7 The development permitted by this planning permission shall not be carried out other than in strict accordance with the Flood Risk Assessment dated August 2014, ref. 20954/08-14/3616 undertaken by MEC Ltd and the following mitigation measures detailed within the FRA:

- At the detailed design stage suitable hydraulic calculations are undertaken to confirm actual flood plain outlines at the site, including but not exclusive of channel capacity, 20 year, 100 year, 100 year plus 20% (for climate change) and 1000 year (5%, 1%, 1% plus 20% increase in flow, and 0.1%) flood event levels - Sections 4.7 to 4.13, 7.12;
- No new buildings (including sheds, cycle storage or garages), structures (including gates, walls and fences) or raised ground levels within 5 metres of the top of any bank of any river/watercourse, inside or along the boundary of the site, unless otherwise agreed in writing - Sections 7.11 and 7.13; and
- Finished floor levels set a minimum of 600mm above the 100 year plus 20% (for climate change) (1% plus 20% increase in flow) flood event levels to be established by Point 1 above - Section 7.12

Unless any alternative programme is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as the mitigation measures have been fully implemented.

Reason - To prevent flooding elsewhere by ensuring no loss of flood plain storage, to ensure permanent retention of a continuous unobstructed area for the preservation of the water course corridor, wildlife habitat, flood flow conveyance and future watercourse maintenance or improvement, and to reduce the risk of flooding to the proposed development and future occupants.

8 The first reserved matters application shall include details of the 100 year (1%) flood plain extent of the Money Hill and Falstaff Brooks. There shall be no raising of ground levels, or storage of materials (including soil) within the 100 year (1%) flood plain extent of the Money Hill and Falstaff Brooks, unless undertaken in accordance with a compensation scheme first submitted to and agreed in writing by the Local Planning Authority.

Reason - To prevent flooding elsewhere by ensuring no loss of flood plain storage, to ensure permanent retention of a continuous unobstructed area for the preservation of the water course corridor, wildlife habitat, flood flow conveyance and future watercourse maintenance or improvement, and to reduce the risk of flooding to the proposed development and future occupants.

9 No development shall commence on the site until such time as a surface and foul water drainage scheme for the site (or, in the case of phased development, for the relevant phase of the site), based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and timetable. The scheme shall demonstrate that the surface water run-off generated up to and including the 100 year plus 30% (for climate change)

critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event, and shall include:

- Surface water drainage system(s) to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;
- Limiting the surface water run-off generated by the all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
- Provision of surface water attenuation storage on the site to accommodate the difference between the allowable discharge rate and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm;
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
- Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

Reason - To ensure that the site is appropriately drained, to prevent flooding by ensuring the satisfactory storage / disposal of surface water from the site, to reduce the risk of flooding, both on and off site, to minimise the risk of pollution, to ensure that the development will not impact upon the features of special interest for which the River Mease SAC / SSSI is notified, and in the interests of nature conservation.

- 10 No development shall commence on the site until such time as a scheme of measures to prevent pollution of nearby watercourses (and including during construction works), together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. No works shall take place, nor shall any dwelling be occupied at any time, unless all of the measures as required at the appropriate time under the agreed timetable are provided in full.

Reason - To prevent pollution of the water environment, and to ensure that the development will not impact upon the features of special interest for which the River Mease SAC / SSSI is notified.

- 11 No development shall commence on the site until such time as a further Risk Based Land Contamination Assessment report as recommended within the M-EC Phase 1 Environmental Risk Assessment (20954/08-14/3584, dated August 2014) has been submitted to and agreed in writing by the Local Planning Authority. The assessment shall be carried out in accordance with:

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

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan shall be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of CLR 11 Model

Procedures for the Management of Land Contamination (Environment Agency 2004); the Verification Plan shall be prepared in accordance with the requirements of:

- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1 (Environment Agency 2010); and
- CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004)

If, during the course of development, previously unidentified contamination is discovered, development shall cease on that part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. No work shall recommence on that part of the site until such time as a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

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

12 None of the dwellings shall be occupied until such time as a verification investigation has been undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme relevant to either the whole development or that part of the development, and the report showing the findings of the verification investigation has been submitted to and agreed in writing by the Local Planning Authority. The verification investigation report shall:

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

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

13 The first reserved matters application shall include a statement detailing how the proposed mitigation and / or management measures as set out in Section 4.0 of the Ecological Appraisal (dated July 2013 and prepared by FPCR) have been incorporated within the proposed layout and landscaping scheme, together with a timetable for their implementation as applicable. Unless any alternative measures are first agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in strict accordance with the agreed measures and timetable.

Reason - In the interests of nature conservation.

- 14 No external lighting shall be installed on site (and including during the construction phase) unless in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason - In the interests of the amenities of the area, in the interests of nature conservation, and to comply with Policy E4 of the North West Leicestershire Local Plan.

- 15 No hedgerows, trees or shrubs shall be removed during the months of March to August inclusive unless first agreed in writing by the Local Planning Authority. Should nesting birds be found during construction work, all work within 5 metres of the nest shall cease immediately, and shall not resume until such time as the young have left the nest.

Reason - In the interests of nature conservation.

- 16 Notwithstanding the submitted details, no development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a timetable for the undertaking of an updated survey(s) in respect of badger in relation to commencement of site works on the relevant phase (and including the specification of maximum periods between undertaking of surveys and commencement of work on the relevant phase) has been submitted to and agreed in writing by the Local Planning Authority. No development shall thereafter be undertaken at any time unless the relevant survey(s) has been undertaken and the results (including mitigation measures and a timetable for such mitigation where appropriate) have been submitted to and agreed in writing by the Local Planning Authority, and the development shall thereafter be undertaken strictly in accordance with the agreed mitigation measures and timetable.

Reason - In the interests of nature conservation.

- 17 None of the dwellings hereby permitted shall be occupied until such time as a scheme for the provision of works at the Woodcock Way / Nottingham Road junction (to comply generally with the scheme shown indicatively on drawing no. 20954_08_020_01 Rev A) has been provided in full in accordance with precise details first submitted to and agreed in writing by the Local Planning Authority, and is available for use.

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

- 18 No development shall commence on the site until such time as a construction vehicle management plan, including wheel cleansing facilities and construction vehicle parking facilities, and a timetable for their provision, has been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative management plan has first been submitted to and agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in accordance with the approved details and timetable.

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

- 19 Notwithstanding the submitted details, no development shall commence on the site until such time as precise details of all proposed measures as set out in Sections 7.0, 8.0, 9.0

and 10.0 of the submitted Travel Plan (prepared by M-EC, ref. 20954/08-14/3583 Rev A), and including a timetable for their implementation, have been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative measures are first agreed in writing by the Local Planning Authority, the development shall thereafter be occupied in accordance with the agreed scheme and timetable.

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

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Erection of 1 no 500 KW wind turbine and associated infrastructure.

**Report Item No
A4**

**Land West Of Heather Lane Heather Lane Ravenstone
Coalville Leicestershire LE67 2AH**

**Application Reference
15/00147/FUL**

Applicant:

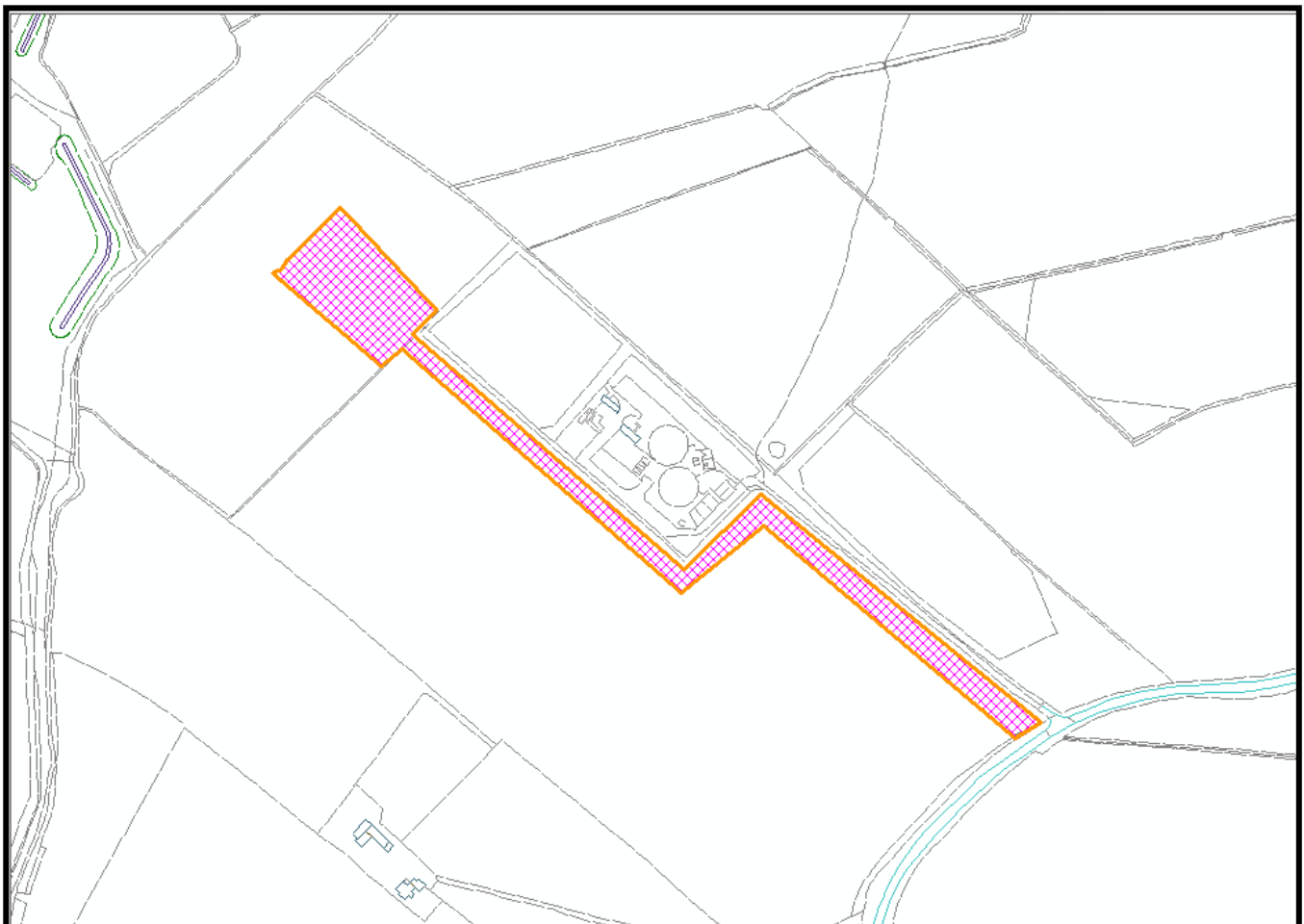
**Date Registered
13 February 2015**

**Case Officer:
Ebony Mattley**

**Target Decision Date
10 April 2015**

**Recommendation:
PERMIT**

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application has been called in at the request of Cllr Smith on the following grounds:- the turbine is not required, strong local opposition, is located next to National Forest and loss of visual amenity.

Proposal

This application seeks full planning permission for the erection of a wind turbine and associated infrastructure including access track at land off Heather Lane, Ravenstone. The 1 no. three bladed 500 kilowatt turbine with a 54 blade diameter on a 50 metre (hub height) monopole, would measure a maximum of 77 metres to blade tip.

Consultations

Members will see from the main report below that objections have been received in respect of the proposal, including from Ravenstone and Packington Parish Councils with x objection letters being received from members of the public.

Planning Policy

The application site is outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan. One of the core planning principles of the National Planning Policy Framework (NPPF) as set out in Paragraph 17 is to support the transition to a low carbon future in a changing climate by encouraging the use of renewable resources and the development of renewable energy. This is set out further in Paragraph 93 of the NPPF which states that planning has a key role in supporting the delivery of renewable and low carbon energy and associated infrastructure which is central to the economic, social and environmental dimensions of sustainable development. A recent written Ministerial Statement 'Local Planning' was published on 18 June 2015 which states that local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing. In accordance with the Statement, amendments to the relevant sections within the National Planning Practice Guidance (NPPG) have also been undertaken to reflect these changes.

Conclusion

There is specific planning policy support for the development of renewable energy projects at a national level and it is considered that the proposed erection of a 500 kW wind turbine would contribute to the overall outputs of renewable energy. It is however considered that these positive benefits of renewable energy of the proposed development must be carefully balanced against the harmful impacts and perceived impacts. The scheme has been assessed from its landscape and visual impacts, impacts upon areas of historical and designated landscapes, impact upon residential amenity in relation to safety, noise and shadow flicker, ecology, coal, River Mease SAC/SSSI and other associated impacts including highway considerations, aviation and electromagnetic interference.

The scheme is not considered to cause any significant impacts in respect of these considerations and there are no other material impacts identified, that would indicate that the proposal is not in compliance with local development plan policies and overarching government

guidance. Accordingly the application is recommended for approval, subject to the imposition of planning conditions.

RECOMMENDATION:- PERMIT SUBJECT TO THE IMPOSITION OF CONDITIONS

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

MAIN REPORT

1. Proposals and Background

This application seeks full planning permission for the erection of a wind turbine and associated infrastructure and access track at land off Heather Lane, Ravenstone.

The 1 no. three bladed 500 kilowatt turbine with a 54 blade diameter on a 50 metre (hub height) monopole, would measure a maximum of 77 metres to blade tip.

The submitted details confirm that this turbine's height and scale for the purposes of this application is only a candidate (sample) turbine, as the exact model of the wind turbine to be used at the site would be decided through a future tendering process. As such this application seeks consent for a turbine up to a maximum of 77 metres in height. The turbine has a predicted 20 year life span.

The other infrastructure includes a kiosk measuring approximately 5.9 by 2.6 metres, a concrete foundation base measuring 12 by 12 metres and a crane pad measuring 35 by 15 metres is proposed.

The access from Heather Lane will utilise an existing field gate. A proposed 3.5 metres wide access track and turning head is proposed across the turbine field, incorporating the underground cabling.

The turbine and associated infrastructure will be situated within an overall site of approximately 0.3 hectares.

During the course of the application, following concerns raised by officers the applicant has provided the following additional information:-

- a) Additional cumulative assessment
- b) Additional wireframes and photomontages
- c) Access junction layout and visibility splay plan

Re-consultation has been undertaken with the County Highway Authority

The application site is located within an existing agricultural arable field, approximately 715 metres southwest of Hall Farm, farm buildings. There is a sewage treatment works to the southeast, with the Woodland Trust's Queen Elizabeth Jubilee Woodlands to the west. The site is located 1km southwest of Ravenstone and 3.5 km west of Coalville. The application site is located outside Limits to Development, as defined by the North West Leicestershire Local Plan Proposals Map 2002.

The application is accompanied by:-

Coal Mining Risk Assessment,
Heritage and Archaeological Statement,
Ecological Appraisal,
Landscape and Visual Impact Appraisal,
Noise Impact Assessment
Planning Statement,

Statement of Community Engagement,
Transport, Storage and Crane Guidelines,
Delivery Route Assessment and Traffic Management Plan,
Technical and Operational Assessment
Technical Specification

Planning History:-

None

2. Publicity

257 No neighbours have been notified. Last notified 02 March 2015

Site Notice posted 04 March 2015
Press Notice published 11 March 2015

3. Consultations

Ravenstone With Snibston Parish Council consulted 02 March 2015
Heather Parish Council consulted 02 March 2015
Packington Parish Council consulted 02 March 2015
Environmental Protection consulted 02 March 2015
County Highways Authority consulted 02 March 2015
Environmental Agency consulted 02 March 2015
Severn Trent Water consulted 02 March 2015
Natural England consulted 02 March 2015
County Archaeologist consulted 02 March 2015
LCC Ecology consulted 02 March 2015
Airport Safeguarding consulted 02 March 2015
NWLDC Conservation officer consulted 02 March 2015
English Heritage consulted 02 March 2015
Coal Authority consulted 02 March 2015
MOD Safeguarding consulted 02 March 2015
National Air Traffic Services consulted 02 March 2015

4. Summary of Representations Received

The following summary of representations is provided.

Statutory Consultees

Ravenstone Parish Council objects on the following grounds:-

- a) Detrimental visual impact
- b) Proximity to residential areas contrary to guidance setting out no less than 2000 metres with new approved residential development would be closer still
- c) Proximity to ancient woodland, being the Jubilee Wood
- d) Noise
- e) Wildlife, including birds affected when the turbine is operational

Packington Parish Council objects on the following grounds:-

- a) the construction would be detrimental to the outlook of the vicinity

b) approving this could set a future precedent.

The Coal Authority raises no objection, subject to the imposition of a planning condition.

NERL Safeguarding raises no objection.

Joint Radio Company raises no objection.

Civil Aviation Authority provides advice to the applicant.

Historic England advises that the application should be determined in accordance with national and local policy guidance and on the basis of the Authority's specialist conservation advice.

Severn Trent raises no objection.

Natural England raises no objection.

Environment Agency do not wish to make formal comment on the application.

Coventry Airport raises no objection.

Leicestershire County Council - Highways raises no objection, subject to the imposition of a planning condition.

Leicestershire County Council - Ecology raises no objection, subject to the imposition of a planning condition.

Leicestershire County Council - Archaeology raises no objection, subject to the imposition of planning conditions.

Leicestershire County Council - Footpaths raises no objection.

NWLDC Environmental Protection raises no objection, subject to the imposition of a planning condition.

NWLDC Conservation Officer raises no objection.

At the time of writing no comments have been received from East Midlands Airport or the Woodland Trust.

Third Party Representations

14 letters of objection has been received raising the following concerns:-

Impact upon the Landscape

- Visual impact will dominate the landscape/dramatically alter the landscape character
- Contrary to PPS7
- None of the viewpoints were taken from Ravenstone
- Significant impact as a result of 75 metres height, industrial appearance, compounded by movement of the blades.
- The site lies in greenbelt

- Fundamentally undermines the principles contained with the Ravenstone Conservation Area Appraisal and Study
- Ravenstone is at the heart of the National Forest and is the site of the Queen's Diamond Jubilee Wood
- Picturesque and tranquil view would be spoilt
- The two turbines in view will dominate the aspect from Ravenstone

Impact upon Residential Amenity

- Loss of view
- Impairment to the residential amenity value of the area which will reduce property prices
- Too close to residential properties
- Central Government policy is being developed with the Distances from Residential Premises Bill which is proposing a minimum distance of 1500 m for 50m-100m turbines
- Leicestershire County Council believes that turbines should not normally be closer than 2km to the nearest home, except for those related directly to the generation for that home
- The UK Noise Association recommends that wind turbines are not sited within 1 mile/1.6 km of houses
- Health effects
- Noise, low frequency and vibration
- Strobe effect causes distress
- A health impact assessment must be carried out

Impact upon Wildlife

- Sited close to an area specifically created to attract wildlife
- Impact upon the wildlife - birds and evidence that wind turbines disturb nesting and feeding grounds, and the rotating blades kill birds

Other

- Affect the local primary school
- Given proximity to the Diamond Jubilee Woodland, would adversely affect walkers and horse riders of the local paths and bridleways, comprising safety due to the distraction to horses
- Adverse effect on the experience of local and recreational users of these facilities because of its constant active presence and would significantly reduce the visual amenity.
- Increasing evidence that wind as a sustainable and economic model for energy is flawed
- No economic benefit
- Most wind turbines in similar size to that proposed are more commonly used as part of a wind farm
- Interference with television reception and a survey should be carried out
- Concern it will set a precedent for future wind turbine applications
- Already suffered from years of open cast mining and now subject to this
- Implement solar panels instead
- The proposal should not be permitted if the local community is against it, as set out in the Localism Act 2011
- Appeal decision - Wells Farm, Sewstern Lane - noise and effects on people living and

working close to the turbines, landscape impact, setting and visual amenity of heritage assets

- A public right of way has been missed by the applicants.

1 letter of support has been received stating the following:-

Green energy sources are valuable to our society as fossil fuels dwindle and steps should be taken for a better and sustainable future society to benefit all.

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

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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

- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 17 (Presumption in favour of sustainable development)
- Paragraph 93 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 97 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 98 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 109 (Conserving and enhancing the natural environment)
- Paragraph 118 (Conserving and enhancing the natural environment)
- Paragraph 119 (Conserving and enhancing the natural environment)
- Paragraph 123 (Conserving and enhancing the natural environment)
- Paragraph 131 (Conserving and enhancing the historic environment)
- Paragraph 132 (Conserving and enhancing the historic environment)

Adopted North West Leicestershire Local Plan (2002)

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

- Policy S3 - Countryside
- Policy E2 - Landscaped Amenity Open Space
- Policy E3 - Residential Amenities
- Policy E4 - Design

Policy E7 - Landscaping
 Policy F1 - National Forest General Policy
 Policy T3 - Highway Standards
 Policy T8 - Parking

Other Guidance

The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations')
 Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)
 River Mease Water Quality Management Plan - August 2011
 River Mease Development Contributions Scheme - November 2012
 Leicester, Leicestershire and Rutland Landscape Character Areas - 2006
 The Assessment and Rating of Noise from Wind Farms (ETSU-R-1997)
 Written Ministerial Statement: Local Planning (18 June 2015)
 National Planning Practice Guidance - March 2014 - including updates to renewable energy (18 June 2015)

6. Assessment

The main issues for consideration in the determination of this application relate to the principle of development, landscape and visual impacts, cumulative landscape and visual impacts, impact upon heritage assets, ecology, impact upon residential amenity, highway considerations, impact upon the River Mease Special Area of Conservation/SSSI, coal, aviation, electromagnetic interference and other matters.

Principle of Development

At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF states that there are three dimensions to sustainable development:- economic; social; and environmental.

There is support and encouragement for sustainable development and the sensitive exploitation of renewable energy sources within the NPPF.

One of the core planning principles of the National Planning Policy Framework (NPPF) as set out in Paragraph 17 is to support the transition to a low carbon future in a changing climate by encouraging the use of renewable resources and the development of renewable energy. This is set out further in Paragraph 93 of the NPPF which states that planning has a key role in supporting the delivery of renewable and low carbon energy and associated infrastructure which is central to the economic, social and environmental dimensions of sustainable development.

Paragraph 97 within the NPPF states that to help increase the use and supply of renewable and low carbon energy, Local Planning Authorities (LPAs) should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. It says LPAs should:-

- a) have a positive strategy to promote energy from renewable and low carbon sources
- b) design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts
- c) consider identifying suitable areas for renewable and low carbon energy sources, and

- d) supporting infrastructure, where this would help secure the development of such sources support community-led initiatives for renewable and low carbon energy, including development outside such areas being taken forwards through neighbourhood planning; and
- e) identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

Paragraph 98 within the NPPF states that "applicants should not be required to demonstrate the overall need for renewable energy and that planning application should be approved if their impacts or can be made acceptable". Notwithstanding Paragraph 98, since the introduction of the National Planning Practice Guidance (NPPG), this now confirms that the LPA would need to consider energy generating potential.

The accompanying Planning Statement estimates that the 500 kW turbine is expected to generate 1,270,000 kWh per year, equivalent to providing electricity to approximately 297 homes per year and would save approximately 566 tonnes of carbon dioxide per annum.

The application site is located outside the limits to development where permission for new development would not normally be granted unless it is for certain uses as set out under Policy S3 of the Local Plan. The supporting information states that the proposal is a diversification opportunity for the farm which will help sustain the farm business in the long term by reducing farming costs for the landowner. As such it can be considered to be a farm diversification scheme and would fall within category (b) of Policy S3. It is also considered that the proposal would fall within criteria (c) (is a public service or utility which cannot, for operational reasons, be accommodated within the defined Limits) of Policy S3 and as such would constitute an acceptable form of development in this location. This view is further supported by the appeal decision for application reference 12/00343/FUL (Wind Monitoring Mast at Stretton en le Field) (Appeal Ref: APP/G2435/A/12/2185513) where the planning inspector stated: "the mast is however a utility, as it relates to the provision of electricity, and it would be unlikely to be able to be accommodated within the LP defined Limits of Development."

In the circumstances that the NPPF supports proposals which provide energy from renewable energy, as well as the fact that Policy S3 of the Local Plan would support renewable energy projects in the countryside, it is considered that the overall principle of the provision of a wind turbine would be acceptable.

In summary, there is specific planning policy support for the development of renewable energy projects at a national level and it is considered that the proposed erection of a 500 kW wind turbine would contribute to the overall outputs of renewable energy, whilst also bringing benefits to the existing agricultural operations, consistent with national planning policy. Accordingly whilst there is no in-principle objection to the use of renewable wind energy, which is a national priority, this must be carefully balanced against all other planning matters being adequately addressed.

Impact upon the Visual Landscape

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

Paragraph 17 of the NPPF also states that planning should recognise the intrinsic character and

beauty of the countryside and supporting thriving rural communities within it, and paragraph 109 states that the planning system should protect and enhance valued landscapes.

Paragraph 97 of the NPPF supports this, stating that cumulative landscape and visual impacts of renewable energy sources should be addressed. Paragraph 98 of the NPPF also states that when determining wind turbine planning applications, local planning authorities should "approve the application if its impacts are (or can be made) acceptable."

Landscape and Visual Impacts

Landscape Impacts

Landscape impacts are the effects of a proposed development on the fabric, character and quality of the landscape and concern the degree to which a proposed renewable energy development will become a significant or defining characteristic of the landscape. The National Planning Practice Guidance (NPPG) states that some landscapes may be more sensitive to certain types of change than others and it should not be assumed that a landscape character area deemed sensitive to one type of change cannot accommodate another type of change.

The site does not fall within any national or local protected landscape designations, such as Areas of Outstanding Natural Beauty. Notwithstanding the lack of formal landscape designation or recognition, the character of the area is valued locally by its residents. Objections have been received on the grounds of the turbine being an alien feature and detracting from the character of the landscape. The NPPF recognises that the "intrinsic character and beauty of the countryside" is a material planning consideration.

The site lies within Natural England's Leicestershire and South Derbyshire Coalfield Landscape Character Area (National Character Area (NCA) 71) and some of its key characteristics include mixed and arable pasture, gently undulating landform of shallow valleys and ridges and localised areas of small fields and dense hedgerows. Some of its key characteristics make reference to the area's former mining heritage. Although the Long Moor Surface Mine was until recently in operation to the west of the site, it is now the site of the Diamond Jubilee Woodland. NCA71 provides the overriding landscape features and characteristics of the site within a wider landscape context. A more localised assessment of character can be found within the County Landscape Character Assessment undertaken by Leicestershire County Council in 2001 and the National Forest Strategy 2004-2014, as discussed below.

Within the Leicester, Leicestershire and Rutland Landscape Character Assessment (2001) the site lies in 'The Coalfield' Character Area, and within the National Forest Strategy (2004-2014) the site is identified as being within the 'Enclosed Farmlands' Character Area.

The 'Coalfield' is distinguished by a denser settlement patterns than almost any other part of Leicestershire. Whilst it is recognised that there is a distinctive landscape character found to the very north east of 'The Coalfield' area towards Coleorton, most of the area is characterised by a gently undulating landform. The area is characterised as having relatively dense settlement patterns, mixed farmland with low woodland cover and effects of past and present coal and clay working. The 'Enclosed Farmlands' area is characterised by predominantly open, sparsely wooded mixed farmland, a strong rural character and field patterns defined by hedgerows.

There is no specific reference to the sensitivity of these different character areas in any of these Assessments. However, the Landscape Visual Impact Assessment (LVIA) considers that local

landscape's susceptibility to change is considered Low/Medium, meaning that the has a medium level of sensitivity which is capable of accommodating the proposed turbine without introducing significant harm to the wider landscape character.

For the avoidance of doubt the National Forest is a non-statutory designation and that no specific designation applied to the Queen Elizabeth Jubilee Woodland.

In respect of topography, with the exception of the area within the Diamond Jubilee Woodland's containing the lake which is flat and the application site sits on a similar level, the turbine is considered to be sited on lower ground, in comparison to surrounding land levels. Levels rise steeply to the south east along Heather Lane, in the direction of Heather, with levels also rising from the lake to the south back towards the Woodland's car park (and entrance on Heather Lane, between Normanton le Heath and Heather) to the south west of the turbine.

The immediate landscape is characterised by hedge lined fields and scattered trees, with the turbine adjacent to tree plantation 'Long Spinney Moor'. The surrounding land is either in agricultural use or is covered by National Forest plantations, along with the Woodland Trust's Queen Elizabeth Diamond Jubilee Woodland. The plantations and Woodland are largely planted with young trees with some areas, including the Woodland, being open for public access.

The villages of Ravenstone and Heather, along with nearby farm buildings, provide some urban influence within the landscape, and there are isolated pockets of development at other farms, individual dwellings and the newly created car park to the Diamond Jubilee Woodland.

There are also other examples of man-made intervention, namely wooden telegraph poles in close vicinity, electricity pylons in the wider landscape (towards Coalville), the existing turbine at Cattows Farm (ref: 13/00165/FUL), the consented but not constructed solar farm Between School Lane Normanton Le Heath and Ashby Road Ravenstone (ref: 14/00786/FULM) and more immediately the Severn Trent infrastructure, adjacent to the site.

Upon viewing the site from the public footpaths within the Diamond Jubilee Woodland, the landscape pallet is typically that of green and brown, with the exception of the glimpses of man-made features, identified above, with the most prominent being the Severn Trent infrastructure. There are also glimpses of more contrasting and bright colours from the residential properties to the South of Ravenstone - namely a cream rendered dwelling and other examples of white rendered properties.

As such it is considered that the turbine would undoubtedly be visible, by virtue of its height and colour, but as there are other examples of both property and infrastructure (already constructed) and contrasting colours both in the foreground and background, this ensures that the turbine is not an unduly prominent and alien feature within the landscape.

It is acknowledged that the introduction of a turbine would bring a change and a degree of impact upon the visual character of the area, however the surrounding area is subject to other existing tall, static and moving structures and as such would not appear significantly out of character with its surroundings.

In summary, the lack of any statutory landscape designations on or around the site is significant in assessing the level of harm arising from the proposal. The landscape has characteristics that are fairly common in rural areas of England and is not within any formal designations or a particularly sensitive area. As such it is considered that the landscape can accommodate a

single turbine without its overall character being significantly harmed.

Visual Impacts

Visual impacts concern the degree to which proposed renewable energy development will become a feature in particular views and the impact this has upon the people experiencing those views. In assessing the impact on visual amenity, factors to consider include: establishing the area in which a proposed development may be visible, identifying key viewpoints, the people who experience the views and the nature of the views.

The accompanying LVIA follows the relevant guidelines and evaluates the effect of the proposed turbine on landscape character and visual amenity. The effect of the development depends on its scale, as well as the sensitivity of its surroundings and the capacity of those surroundings to absorb the impact of the turbine given its physical characteristics, the topography, consistency and content of the landscape, and the cumulative effects of other development.

The LVIA has been supported by plans presenting landscape character areas, topography, Zones of Theoretical Visibility to the turbine's hub and blade tip and photo views of existing, photomontages with the turbine superimposed and wireframes from 14 viewpoints. The level of study is considered to be proportionate to this scale of scheme and as there are no local, national or international landscape designations affected.

The accompanying Zone of Theoretical Visibility (ZTV) assesses the potential visual impact on the proposed turbine and assumes a worst case scenario without trees, hedges and buildings. Areas in which the turbine up to the hub is theoretically visible is in close proximity to the site. In terms of areas in which the turbine up to the maximum blade tip is theoretically visible is inevitably lower and concentrated. This is reflective of the viewpoints for a single turbine in an agricultural landscape - that the impacts are generally expected to be more significant in close proximity to the site and reduce rapidly with distance.

The photo viewpoints, photomontages and wireframes from the 14 viewpoints have been provided which predominantly range from approximately 500 metres to 3 km from the turbine, with 2 viewpoints from the north-west at a distance ranging up to 4km from the turbine.

In response to a letter of objection, viewpoint 2 is taken from Ravenstone. It is not necessary for photomontages to be taken from every single viewpoint and distance; their purpose is to provide a visual aid and should ideally be taken from public vantage points, such as roads and footpaths to provide views from which the turbine would be visible to the public. The selected viewpoints offer a useful range of study providing line of sight photographs from different directions. Extensive officer site visits have also been undertaken close to the site and from the Diamond Jubilee Woodlands.

Officers are in general agreement with the assessment and conclusions reached by the applicant within the landscape and visual impact appraisal, with the exceptions being the level of impact upon the public rights of way within the Queen Elizabeth's Diamond Jubilee Woodlands, which are expanded upon in the table below.

PLANNING APPLICATIONS- SECTION A

Viewpoint	Approx. distance from turbine	Officer observations from submitted details	Conclusions reached in LVIA by applicant	Officer Agree (A) / Disagree (D)
7. View north from the junction of the PROW on the eastern fringe of the Queen Elizabeth Diamond Jubilee Wood	1.15 km SSW of turbine	The pole is similar in height to mature tree planting but with upper pole, hub and blades protruding above the tree line. Ravenstone Hall in the background.	Minor adverse effect	Disagree Moderate
8. View from the 'Legacy Camera' position within the Queen Elizabeth Diamond Jubilee Wood	1.1 km SW of turbine	Prominent, can be seen against backdrop of residential properties to the south of Ravenstone	Moderate/Minor effect, with mature woodland planting expected to fully screen the proposed turbine resulting in no effects in 5-10 years time.	Disagree Moderate De-creasing to moderate/ minor effects once planting established
10. View east from Bridleway and Public Footpath east of Normanton le Heath	0.8 km due west of turbine	Prominent, can be seen against backdrop of residential properties to the south of Ravenstone	Moderate/Minor effect, with mature woodland planting expected to fully screen the proposed turbine resulting in no effects in 5-10 years time.	Disagree Moderate De-creasing to moderate/ minor effects once planting established

It is also acknowledged that the greatest visual impacts are those closest to the turbine, and thereby by virtue of the close proximity and extent and range of the public footpaths from the Woodland, the turbine would be visually prominent from this location.

It would be difficult to quantify that the wind turbine would result in people not visiting the Diamond Jubilee Woodland and the public rights of way as this is very much down to people's preference and it is not clear how it would be demonstrated that the proposal would reduce visitors to the area. It is also considered that given the Cattows Farm turbine is already visible from the Diamond Jubilee Woodland (when facing south), there has been no evidence presented to demonstrate that this turbine has already resulted in a loss of tourism.

Furthermore, it is not considered that the proposed turbine would result in any further additional visual impact from users of the woodlands, than what already exists from the Cattows Farm turbine (given that the two turbines are not both easily viewed from within the same point, from within the Woodlands).

It is clearly impossible to mitigate all of the visual impacts of a wind turbine. The level of visual prominence will reduce further away from the turbine, with distance, topography, and existing vegetation, buildings and overhead powerlines reducing its impact. The use of a non-reflective

off-white colour to the tower and blades will also reduce the turbine's visibility in longer views.

As noted above the area is not of a significant scenic quality and it is not within any national or local statutory landscape designation. Whilst there will be some impact on and change to the landscape, given the above circumstances the turbine would not significantly undermine or change its character or that of the National Forest and therefore on balance this impact is not so significantly detrimental to the landscape and its visual amenities to justify a reason for refusal in this case.

A condition has been imposed requiring the cable trench to be installed underground to ensure that there would be no visual harm caused.

In summary, it is considered that wind turbines have to be tall structures to be effective and located away from features which could interfere with the wind speed and flow across the site, which often results in them being prominent within the landscape. As such, it is acknowledged that there would be a change and an impact upon the visual appearance of the area. However, given the overall scale of the turbine against the backdrop of existing natural and man-made landscape features and topography there would not be any significant detrimental impacts upon the countryside nor is the turbine considered to harm the local character or landscape of the National Forest.

Cumulative Landscape and Visual Impacts

With regard to the cumulative impacts of wind turbines consideration has been given to advice contained within the NPPG.

The cumulative landscape impacts are the effects of a proposed development on the fabric, character and quality of the landscape; it is concerned with the degree to which a proposed renewable energy development will become a significant or defining characteristic of the landscape. Cumulative visual impacts concern the degree to which proposed renewable energy development will become a feature in particular views (or sequence of views) and the impact this has upon the people experiencing those views.

Cumulative visual impacts may arise where two or more of the same type of renewable energy development will be visible from the same point, or will be visible shortly after each other along the same journey. Simultaneous effects include viewing a number of schemes from a single fixed viewpoint without an observer turning their head, and repetitive effects where the observer is able to see two or more schemes, but only if they turn around. Sequential effects on visibility occur when an observer moves through a landscape and sees two or more schemes.

The information submitted considers simultaneous cumulative visual effects, successive cumulative visual effects and sequential cumulative visual effects. Furthermore, during the course of the application, the applicant has provided additional information and assessment of the cumulative impacts, taking into consideration other turbines.

The applicant has therefore provided cumulative zones of theoretical visibility to the maximum blade tip with the Cattows Farm, Ashby Road and Farm Town turbines. The supplied photomontages and ZTV plans demonstrate that the applicant has met the requirements to inform a landscaping and visual impact assessment, as set out in the NPPG.

From most viewpoints, it is considered unlikely that there would be any simultaneous effects, although there are examples of repetitive effects and sequential effects.

In the case of the two turbines consented at Farm Town, Coleorton and the single turbine at Cattows Farm, it is possible that there could be limited simultaneous views of the proposal with these turbines, given the closer proximity. It is considered, however that where a proposed turbine is in close proximity, the others will be in the distance, and vice versa.

The applicant concludes that the proposed turbine can be accommodated without unacceptable landscape and visual effects and that any significant effects are contained with relatively close proximity of the turbine and will affect a limited number of receptors, as topography and natural screening features combine to filter the effects to the wider area.

Overall officers are in agreement with the findings and conclusions reached by the applicant in their assessments in respect of these matters.

Cumulative Impacts Upon the Diamond Jubilee Woodlands

From within the Diamond Jubilee Woodland, given that the proposed turbine is located to the east and the Cattows Farm turbine to the south west, it is not considered that the two turbines would be easily visible from the same viewpoint. The Cattows Farm turbine is most visually prominent from within the Diamond Jubilee Woodland when facing and walking in the direction of the car park, and at this point the proposed turbine would be behind or to the side (left) of the visitor/user. Accordingly the only time the two may be visible without the user turning their head is within the Woodlands and facing in south east direction - towards the middle point of the area between the two turbines, where the two turbines might be on the users/visitors outer peripheries.

It is not considered that this proposed turbine would be read in conjunction with the approved solar farm, ref: 14/00786/FULM given the physical separation and the solar panels are low level in nature, reaching a maximum of 2.7 metres in height.

Further matters for consideration are the visual impact of the proposed development upon areas of designated and historical landscape.

Impact upon the Historical Environment

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

The Planning Practice Guidance states that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting.

In addition to the designated Conservation Areas, there are 13 Listed Buildings in Ravenstone, including the Grade II* St. Michael's Church, Ravenstone Hall, Ravenstone Hospital, Chaplains House and Chapel. There are 8 Listed Buildings in Heather, including the Grade II* St. John's Church and Manor House. There are 4 Listed Buildings in Normanton le Heath, including the Grade II* Holy Trinity Church and 6 Listed Buildings in Swepstone, including the Grade II* St.

Peter's Church.

The scheme has been considered by English Heritage who state that the application should be determined in accordance with national and local policy guidance, and on the basis of specialist conservation advice.

The Council's Conservation Officer confirms that:-

"I have viewed the site from a number of vantage points and considered the heritage statement submitted as part of the application. I consider this to be a thorough assessment of the impact of the proposal and a good basis for judging the proposal in conservation terms. Given the topography and location of the site and surroundings I consider the impact on heritage assets would be limited. The verticality of the nearby churches on the skyline would not be significant and the relationship with secular listed buildings would be acceptable. Although the turbine is likely to be visible from Ravenstone Hall I do not consider the setting would be unduly harmed by the proposal given the existing relationship between the hall and outlying rural landscape and the distances involved. I have no objection on heritage grounds."

In summary, for the reasons discussed above it is considered that the scheme would not result in an unacceptable impact upon local heritage assets and the historical landscape. The scheme is therefore considered to be in accordance with the overarching guidance contained within chapter 12 of the NPPF and Sections 66(1) and 72 of the Listed Buildings and Conservation Areas Act 1990.

In addition, the scheme has been considered by the County Archaeologist who advises that a condition requiring a programme of archaeological work including a Written Scheme of Investigation is submitted to and approved in writing by the Local Planning Authority.

Ecology

Paragraph 109 of the NPPF recognises the wider benefits of ecosystems and that the planning system should minimise impacts on biodiversity. The NPPG states that wind turbines can have ecological impacts such as a risk of collision between moving turbine blades, birds and bats. Other risks include disturbance and displacement of bird and bat habitats. Due to the drop in air pressure close to the blades there is a risk of barotrauma (lung expansion) in bats which can be fatal. These risks are generally low, however in some situations, such as in close proximity to important habitats used by birds or bats the risk can be greater.

The site does not fall within any national or local designations. The nearest statutory designated sites are Snibston Grange located approximately 2km east of the proposed turbine, the River Mease SAC/SSSI 3 km to the west and Newton Burgoland Marshes SSSI approximately 3 km to the south. The application has been accompanied with an Ecological Appraisal which has been considered by the County Ecologist.

The proposal has been considered by the County Ecologist who has raised no objections to the proposal as it is sited in accordance with Natural England's guidance and no habitats of note or known populations of protected species will be impacted by the development. The County Ecologist have recommended a condition, requiring that the scheme be undertaken in accordance with the reptile/amphibian method statement.

In summary, given the sufficient siting of the turbine from an ecological feature that could be used for bats for foraging, it is concluded that the turbine would not have any adverse impacts

upon any sites of ecological important or protected species. Accordingly the scheme is considered to be in accordance with the overarching intentions of the NPPF and guidance contained within the NPPG.

Impact upon Residential Amenity

Proximity to Neighbouring Residents

Concerns have been expressed regarding the proximity of the turbine to residential properties.

The nearest other residential property is Long Moor Farm, approximately 350 metres south of the proposed turbine, with the properties in Ashby Road, Ravenstone, approximately 700 metres to the northeast of the application site.

Although The Wind Turbines (Minimum Distance from Residential Premises) Bill 2012-13 was at the first stage of reading in the House of Lords 14 May 2012, no date for a second reading has been confirmed since that time, and this therefore does not carry any weight. There are also a number of guidance documents and reports referred in the letters of representation, however, these are not development plan documents or emerging ones and as such carry no weight in the determination of this application.

The NPPG states that risks can often be mitigated through appropriate siting and consultation with affected bodies. In relation to fall-over distance from the turbine to adjacent residential properties, this is calculated as the height of the turbine to the tip of the blade plus 10% which is seen as a minimum safe separation distance.

In this instance as the height of the turbine to the blade is 77 metres, with an additional 10% equates to 84.7 metres. The nearest residential properties are located well in excess of this requirement.

In summary, the distance between a turbine and occupied properties is not purely assessed in terms of the distance, but in terms of the potential impacts.

Noise

The NPPG states that the 'Assessment and Rating of Noise from Wind Farms (ETSU-R-1997)' should be used by local planning authorities when assessing and rating noise from wind energy developments.

The application has been accompanied by a Noise Impact Assessment which has been considered by the Council's Environmental Health team who raise no objections to the proposal.

Shadow Flicker

The NPPG states that under certain combinations of geographical position and time of day, the sun may pass behind the rotors of a wind turbine and cast a shadow over neighbouring properties. When the blades rotate, the shadow flicks on and off; the impact is known as 'shadow flicker'. Only properties within 130 degrees either side of north, relative to the turbines can be affected at these latitudes in the UK - turbines do not cast long shadows on their southern side.

It is generally accepted that the potential for shadow flicker to occur is seriously diminished at a

distance of ten times the rotor diameter of the turbine in question.

The turbines have 54 metres diameter blades and therefore the potential shadow flicker effect could be felt up to 540 metres, 130 degrees either side of north from the turbine.

There are no residential properties located within 540 metres (130 degrees either side of north) of the turbine. For the avoidance of doubt the outline planning permission (ref: 13/00780/OUTM) has been granted for up to 50 dwellings on land off Heather Lane, Ravenstone, however this is in excess of 540 metres from the turbine.

The guidance contained at a national level does not indicate that there are any significant safety or health risks as a result of wind turbines and on this basis it is considered that there would be minimal risks to the health and safety of neighbouring residents and properties. The NPPF also states that Local Planning Authorities should approve the application if its impacts are (or can be made) acceptable and for the reasons stated above it is considered that there are no significant impacts in respect of a noise or shadow flicker.

A recent written Ministerial Statement 'Local Planning' was published on 18 June 2015 which states:-

"I am today setting out new considerations to be applied to proposed wind energy development so that local people have the final say on wind farm applications, fulfilling the commitment made in the Conservative election manifesto. Subject to the transitional provision set out below, these considerations will take effect from 18 June and should be taken into account in planning decisions. I am also making a limited number of consequential changes to planning guidance.

When determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if:-

- *the development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and*
- *following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing.*

Where a valid planning application for a wind energy development has already been submitted, the local planning authority and the development plan does not identify suitable sites, the following transitional provision applies. In such instances, local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing."

In accordance with the statement, amendments to the relevant sections within NPPG has also been undertaken to reflect these changes.

The Local Planning Authority is satisfied through the consultation process that the planning related issues identified by neighbouring properties, had been considered and addressed as part of the application process, but ultimately it is for Members to decide, as decision makers, whether they are also satisfied that all issues had been addressed.

Highway Considerations

The scheme has been considered by the County Highway Authority (CHA) who originally raised concerns over the forward visibility. During the course of the application, the applicant has submitted a plan showing the access junction layout and visibility splays which have been re-considered by the CHA who raise no objection, subject to the access and junction with Heather Lane to be hard surfaced and construction to an appropriate standard.

Planning conditions are recommended to secure details of all hard and permeable surfacing on site and for the access and visibility to be provided in accordance with the submitted details.

The scheme has been considered by the County Footpath Officer who has confirmed that Public Footpath 051 (which runs adjacent to the proposed access track and then diverts in a generally north easterly direction) would not be affected by the proposed development and therefore raises no objection. In response to the neighbouring objection regarding use of bridleways, there is no statutory distance between a turbine and a designated bridleway.

Impact on the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI):

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

Given the nature of the turbine, the proposal does not include any foul drainage discharge. Although the access track is proposed to be hard surfaced, a condition can be imposed requiring details of the extent of the hard surfacing and whether any permeable surfacing could be proposed, and/or provision made for the direction of surface water to a soak-away.

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

Coal

Parts of the site lie within the Coal Authority Referral Area and accordingly a Coal Mining Risk Assessment accompanied the application submission. The scheme has been considered by the Coal Authority who recommend a condition be imposed requiring that further site investigations be undertaken. A condition has been imposed to this effect.

Aviation

The NPPG states that wind turbines may have an adverse impact upon air traffic movement and safety either through the risk of collision with low flying aircraft or through interference with the operation of radar. No objections have been received to the proposal by Coventry City Airport or NATS and the Civil Aviation Authority have provided advice. The proposal is therefore not considered to impact upon aviation safeguarding requirements.

Electromagnetic Interference

It is recognised within the NPPG that wind turbines can potentially affect electromagnetic transmissions and that specialist organisations responsible for the operation of electromagnetic links typically require 100 metre clearance either side of a line of sight link from the swept area of turbine blades. The proposal has been considered by the Joint Radio Company who has raised no objection to the proposal based on known interference scenarios to radio systems operated by utility companies in support of their regulatory operational requirements. It is therefore not considered that the proposal would cause any electromagnetic interference.

Other Matters

Letters of Representation

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

- There is no requirement for the applicant to submit a Health Impact Assessment.
- Loss of property value is not a material planning consideration.
- A right to a view is not a material planning consideration.
- In response to the appeal decisions outside the District, it is not considered that this carried any significant weight in the determination of this application.
- In respect of precedence, it should be noted that a planning application would be required for any potential future wind turbine developments and such an application would be considered on its own merits.

Conclusion

The NPPF states that there is a presumption in favour of sustainable development and that for decision-making this means approving development proposals that accord with the Development Plan, without delay.

There is specific planning policy support for the development of renewable energy projects at a national level and it is considered that the proposed erection of a 500 kW wind turbine would contribute to the overall outputs of renewable energy. It is however considered that these positive benefits of renewable energy of the proposed development must be carefully balanced against the harmful impacts and perceived impacts.

The scheme has been assessed from its landscape and visual impacts, impacts upon areas of historical and designated landscapes, impact upon residential amenity in relation to safety, noise and shadow flicker, ecology, coal, River Mease SAC/SSSI and other associated impacts including highway considerations, aviation and electromagnetic interference.

The scheme is not considered to cause any significant impacts in respect of these considerations and there are no other material impacts identified, that would indicate that the proposal is not in compliance with local development plan policies and overarching government guidance.

The NPPF supports the transition to a low carbon future in a changing climate by encouraging the use of renewable resources and the development of renewable energy and that local planning authorities should approve the application if its impacts are (or can be made) acceptable.

Accordingly the application is recommended for approval, subject to the imposition of planning conditions.

RECOMMENDATION - PERMIT, subject to the following conditions:-

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

Reason- To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall not be carried out otherwise than in accordance with the submitted applications details, as follows: 'Landplan showing position of proposed turbine' Drawing No. LAND-2-001 and 'Blockplan showing proposed turbine and crane pad position' Drawing No. LAND-2-002 received by the Local Planning Authority 13 February 2015.

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

- 3 The overall height of the turbine shall not exceed 77 metres to the tip of the blades or 50 metres to the hub height, when the turbine is in the vertical position, as measured from natural ground level immediately adjacent to the turbine base. The diameter of the blades of the turbine shall not exceed 54 metres and there shall be no more than 3 blades.

Reason - To define the scale parameters of the development, and to ensure that the ecological, noise and visual impacts of the turbine do not vary during its lifetime.

- 4 Prior to the commencement of development a scheme for the external appearance of the turbine and associated cabinet/kiosk, including materials, colour and finish shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

Reason - In the interests of visual amenity.

- 5 All cabling on the site between the turbine and the connection point shall be installed underground.

Reason- In the interests of visual amenity.

- 6 The permission hereby granted shall endure for a period of 20 years from the date when electricity is first exported from the wind turbine to the electricity grid network (the 'First Export Date'). After such time the use shall cease and the turbine and associated equipment shall be removed from site in accordance with Condition 8.

Reason - To ensure development appropriate for the area and to prevent unnecessary clutter within the landscape.

- 7 Written confirmation of the First Export Date of electricity to the National Grid from the wind turbine hereby approved shall be provided to the Local Planning Authority within one month of the date of this taking place.

Reason - To enable proper record to be kept of operational wind turbines to aid aviation safeguarding.

- 8 Not less than one year prior to the expiry of this permission a Decommissioning Method Statement shall be submitted to and in agreed in writing by the Local Planning Authority. This shall include details of the works for the removal of the turbine, ancillary equipment and structures, foundations, works for the restoration of the site and the proposed timetable for the works to be carried out. The decommissioning works shall then be carried out in accordance with the agreed Decommissioning Method Statement.

Reason - To ensure development appropriate for the area and to prevent unnecessary clutter within the landscape.

- 9 Should the wind turbine hereby approved no longer be required for the purposes of electricity generation or cease to operate for a continuous period of 6 months then a Decommissioning Method Statement as per the requirements of Condition 8 shall be submitted to and agreed in writing by the Local Planning Authority within 3 months of the end of the 6 months cessation period. The decommissioning works shall then be carried out in accordance with the agreed Decommissioning Method Statement.

Reason - To ensure development appropriate for the area and to prevent unnecessary clutter within the landscape.

- 10 No development shall commence on site until the further research and site investigation works as outlined in the submitted Coal Mining Risk Assessment by BWB (dated February 2015) has been carried out. In the event that the site investigations confirm the need for remedial works to treat any shallow mine workings and/or any other mitigation measures to ensure the safety and stability of the proposed development and/or special foundations, no development shall commence on site until these works have been carried out in full.

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

- 11 All cables shall be set underground.

Reason - In the interests of visual amenity.

- 12 No demolition/development shall commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording
- b. The programme for post investigation assessment
- c. Provision to be made for analysis of the site investigation and recording
- d. Provision to be made for publication and dissemination of the analysis and records of the

- e. site investigation
Provision to be made for archive deposition of the analysis and records of the site investigation
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

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

Reason- To ensure satisfactory archaeological investigation and recording.

- 13 Prior to the first use of the development the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 12 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason- To ensure satisfactory archaeological investigation and recording.

- 14 Notwithstanding the submitted details no development shall commence until details of and implementation for the surfacing of the access/track, crane pad and all other associated infrastructure have first been submitted to and approved in writing by the Local Planning Authority. The information shall include the areas to be of a permeable or hard bound material (tarmacadam or concrete) and where hard surfaced, the disposal of surface water shall be to soakaway(s) or another sustainable drainage system, unless evidence to demonstrate that these means of drainage are not suitable for the site and alternative details of surface water discharge to mains sewer are first submitted to and agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with the approved details and implementation period and thereafter retained.

Reason- To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) and to prevent an adverse impact on the River Mease Special Area of Conservation.

- 15 None of the pieces of the turbine nor associated infrastructure shall be brought onto the site until such time as the access has first been undertaken in accordance with the 'Access Junction Layout & Visibility Splays' Drawing No. ADC1154/004 received by the Local Planning Authority on 18 June 2015.

Reason - In the interests of highway safety.

- 16 The development hereby approved shall be carried out in accordance with Ecological Appraisal (by Avian Ecology Ltd dated 2014) including mitigation measured detailed within it.

Reason - In the interests of protected species.

- 17 The noise levels should not exceed those as specified within the submitted Noise Impact Assessment, unless an updated or amended Noise Impact Assessment is first submitted to and approved in writing by the Local Planning Authority.

Reason - The information provided is for a candidate turbine and in the interests of residential amenity.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor. The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

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Proposed Erection of 2 No. Detached Dwellings, Access & Parking

**Report Item No
A5**

33 Ashby Road Moira Swadlincote Derby DE12 6DJ

**Application Reference
15/00364/FUL**

Applicant:

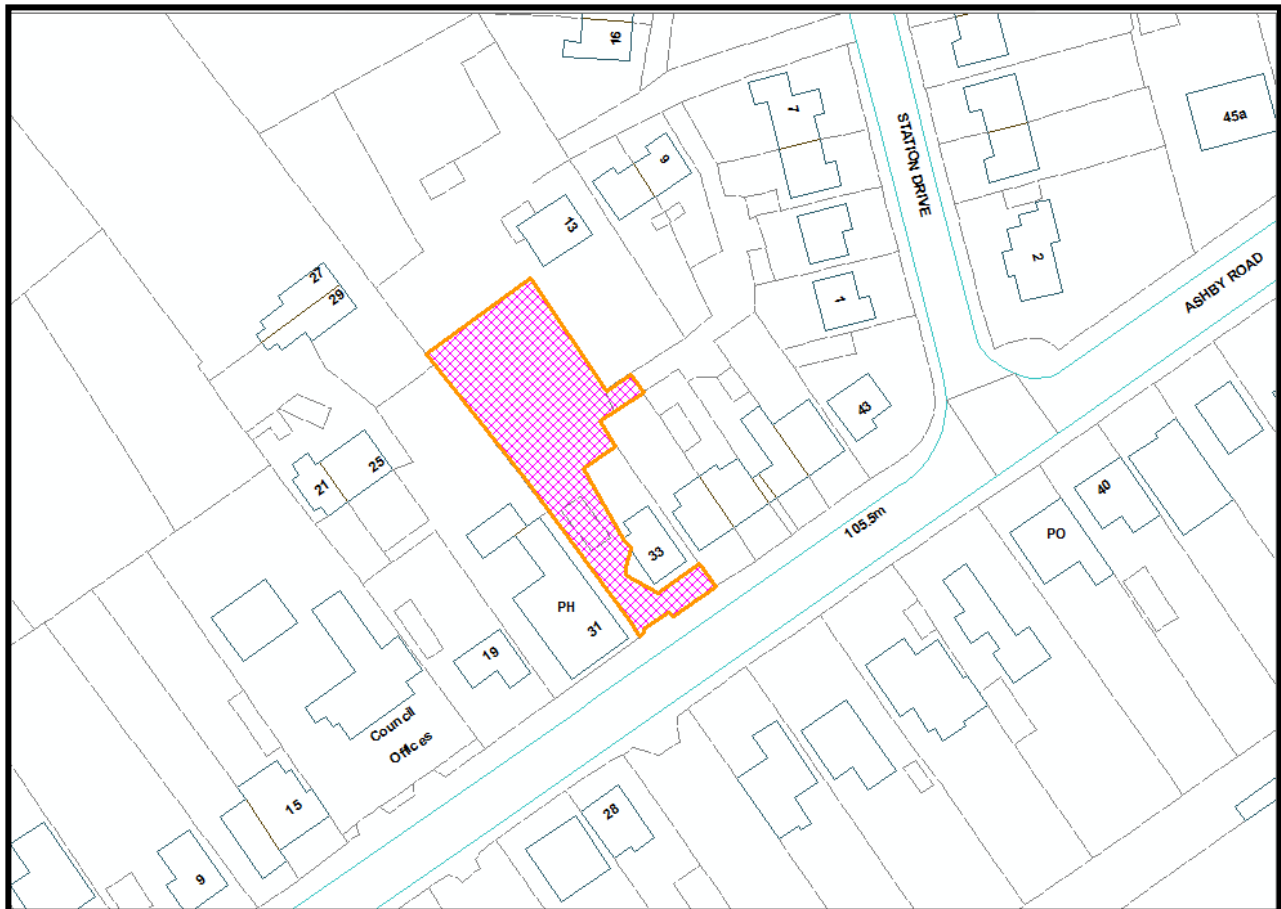
**Date Registered
29 April 2015**

**Case Officer:
Ebony Mattley**

**Target Decision Date
24 June 2015**

**Recommendation:
PERMIT Subject to a Section 106 Agreement**

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application has been called in at the request of Councillor John Bridges on the grounds of loss of amenity space, sighting of the dwellings, potential overbearing impacts from the scale, back garden developments that cause a nuisance to the amenity space of neighbours and highway safety grounds.

Proposal

Planning permission is sought for the erection of 2 no. two storey detached dwellings, one of three bed and one of four bed configuration and associated access and parking at land to the rear of No 33 Ashby Road, Moira.

Consultations

Members will see from the main report below that three letters of objection have been received. No objections have been received from any of the statutory bodies consulted upon with the exception of Ashby Woulds Town Council.

Planning Policy

The application site within Limits to Development as defined in the adopted North West Leicestershire Local Plan.

Conclusion

The site lies within Limits to Development where there is a presumption in favour of development subject to all other matters being addressed. The scheme does not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, or highway safety and would not be likely to have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION:- PERMIT, SUBJECT TO LEGAL AGREEMENT, AND SUBJECT TO THE IMPOSITION OF CONDITIONS

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

MAIN REPORT

Planning permission is sought for the erection of 2 no. two storey detached dwellings, access and parking at land to the rear of No 33 Ashby Road, Moira.

In respect of the access, dropped kerbs are to be extended at the existing access from Ashby Road.

During the course of the application, amended plans have been received showing the following alterations:-

- a) Plot 1 has been altered to a 3 bedroomed property with first floor Home Office / Study with 2 parking spaces and plot 2, a 4 bedroomed property has 3 parking spaces.
- b) Reduction in the eaves height to the front elevations and reduced them by 1 brick course, also lowered the main roof pitch to 37.5 degrees.
- c) External chimney stacks have been added.
- d) The proposed landscaping to the frontage of Ashby Road has been removed and the existing hedge shown to be retained between 33 and the neighbouring property.

Re-consultation has been undertaken with neighbouring dwellings.

The site is garden land of No. 33 Ashby Road, Moira and is located within Limits to Development, as defined by the North West Leicestershire Local Plan Proposals Map 2002.

Planning History:-

14/00791/FUL - Erection of first floor extension - Approved - 02.10.2014

2. Publicity

5 No Neighbours have been notified (Date of last notification 19 June 2015)

Site Notice displayed 07 May 2015

3. Consultations

Ashby Woulds Town Council consulted 7 May 2015

County Highway Authority consulted 7 May 2015

Head of Environmental Protection consulted 7 May 2015

4. Summary of Representations Received

The following summary of representations is provided.

Statutory Consultees

Ashby Woulds Town Council raise the following objections:-

- a) Highway and access grounds
- b) Backland development
- c) Position of the proposed dwellings
- d) Comings and goings and impact on neighbours

Leicestershire County Council - Highways raises no objection, subject to conditions.

NWLDC Environmental Protection has no environmental observations.

Third Party Representations

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

- Overbearing, loss of privacy, loss of light
- Noise and fumes from vehicles close to boundary
- Access to the side of the pub is busy and dangerous
- Unsuitable, backland development
- Detriment to the local National Forest and at a cost to the community
- Land ownership/boundary disputes and blocking right of way
- Plans are not to scale
- Proposed hedgerows restricting visibility
- Numerous developments in Moira already consented

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

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

Save where stated otherwise, the policies of the North West Leicestershire Local Plan as listed in the 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 28 (Supporting a prosperous rural economy)
- Paragraph 49 (Delivering a wide choice of high quality homes)
- Paragraph 53 (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 118 (Conserving and enhancing the natural environment)

Adopted North West Leicestershire Local Plan (2002)

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

Policy 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

Other Guidance

National Planning Practice Guidance - March 2014.
The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).
River Mease Water Quality Management Plan - August 2011.
River Mease Development Contributions Scheme - November 2012.

6Cs Design Guide (Leicestershire County Council)

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

6. Assessment

The main issues for consideration in the determination of this application relate to the principle of development, scale and design, impact upon residential amenity, highway considerations and impact upon the River Mease Special Area of Conservation/SSSI.

Principle of Development

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.

In March 2012 the National Planning Policy Framework (NPPF) was published and introduces the presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved without delay and where relevant policies are out of date planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

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

The concept of new development being directed to locations that minimise reliance on the

private motorcar is contained within the NPPF. The settlement of Moira benefits from a range of local services and is readily accessible via public transport. The proposal for the erection of new residential dwellings is, therefore, considered to score well against the sustainability advice in the NPPF.

Siting and Design and Impact upon Character

The site is 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.

Paragraph 53 within the National Planning Policy Framework states that Local Planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. The need for good design in new residential development is also outlined in Local Plan Policy H7, but also paragraphs 57, 60 and 61 of the NPPF, with paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 indicates that in the determination of planning applications regard will be had to the wider settings of new buildings; new development should respect the character of its surrounding, in terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

The pattern of existing residential development in the immediate vicinity of the site is characterised by both properties sited sited fronting the road, and examples of backland development at Ashby Road and Station Drive.

There is already the existence of dwellings sited within back land positions - namely No's 20A and 20B Main Street. Therefore the principle of back land development has already been established within this area and on this basis the siting of a two dwelling in this set back position, is in principle considered to be acceptable.

There are a range of detached and semi-detached properties, of single and two storey proportions and therefore the detached two storey dwellings are considered reflective of surrounding properties. The footprints are also similar in scale to the host dwelling.

The two plots propose a symmetrical arrangement with projecting gables and the design incorporates some fenestration detailing to reflect details along Ashby Road.

Overall the proposed development accords with the general siting and scale of existing dwellings within the vicinity, ensuring that the development appears in keeping with the scale and character of existing dwellings and the design approach is considered acceptable.

Impact upon Residential Amenity

Objections have been received from No. 29A and 35 Moira Road, Ashby and Ashby Wouldes Town Council.

The residential dwelling most immediately impacted upon as a result of the proposal would be No. 13 Station Drive, Moira, located to the north east of Plot 2. There is a distance of at least 11 metres between the closest points between the rear of plot 2 and the rear/side elevation of No. 13, which is sufficient to ensure no overbearing impact. Plot 1 has a garden length of 10 metres, which adjoins No 13's side garden. Whilst there are first floor habitable windows proposed in the rear elevation of both plots, which would overlook this side, western garden area, No. 13 also has a large rear, south facing garden (which would not be overlooked by the proposed plots). The applicant proposes a 2 metre high fencing and planting on this boundary and it is not considered the degree of overlooking to be significantly over and above that of a typical arrangement with adjacent neighbouring properties, to the detriment of residential amenity.

There is a distance of some 18 metres between the front - forward projecting gable of plot 2 and the rear wall of No. 35. It is considered that this distance is sufficient to ensure no overbearing impacts and the gable has been designed to ensure there are no windows at first floor, ensuring no direct overlooking over the garden area of No. 35.

No. 25 Ashby Road, Moira located due west of plot 1 is sited approximately 16 metres away, which is considered an acceptable distance for the side-to-side relationship and contains one window in the side elevation which is non-habitable and obscurely glazed.

It is considered that all other neighbouring dwellings (including No. 29A to the north west of plot 2) are sited at sufficient distances away not to be impacted upon as a result of the proposal.

For the avoidance of doubt the building to the south west of the site (to the west of the access drive) is a public house, and its car park extends to the rear, adjacent to the side elevation of plot 1.

The relationship between the two proposed properties is considered to be acceptable.

Conditions are recommended to be imposed to secure obscure glazing and fixed shut or top opener windows only for the proposed bathrooms and en-suites.

Overall, it is considered that the development would not have any significant detrimental impact upon the amenity of neighbouring residential properties (or future neighboring residents) and the proposal is considered to be acceptable in relation to Policy E3 (Residential Amenity) of the Local Plan.

Highway Considerations

Alterations are proposed to the existing access, currently serving the host dwelling at Ashby Road, to facilitate an access to serve all three properties.

During the course of the application, amended plans have been received altering Plot 1 to a 3 bedroomed property with first floor Home Office / Study with 2 vehicular parking spaces and Plot 2 remains as a 4 bedroomed property, but provided with 3 parking spaces.

The County Highway Authority (CHA) raises no objections, subject to the imposition of planning conditions.

In summary, subject to the imposition of conditions it is considered that the scheme is

acceptable in relation to Saved Policies T3 and T8 of the Local Plan.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required. The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS is considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

The flows from the proposed dwellings need to be taken into account against the existing headroom at Donisthorpe Treatment Works. Where there is no existing capacity at the time of determination a condition is proposed which seeks to prevent occupation of the proposed dwellings until additional capacity has been provided at Donisthorpe Treatment Works.

Accordingly whilst there is no current capacity at Donisthorpe, in time Severn Trent will facilitate the transfer of some capacity to treatment works (Packington and Snarestone) to create such capacity for the 2 dwellings. As such a reason for refusal based on limited capacity at the treatment works could not be justified.

The application proposes that foul drainage would be dealt with via the mains sewer system and confirms that the applicant will pay the required contribution under the DCS, which is to be secured by way of a legal agreement.

As surface water should discharge to a soakaway to ensure that unnecessary water volume does not go to the sewage treatment plant, a condition to this affect is imposed.

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

Other Matters

Boundary disputes are private, civil matters and are not material planning considerations.

Conclusion

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

In conclusion, the site lies within Limits to Development where there is a presumption in favour of development subject to all other matters being addressed. The scheme does not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, or highway safety and would not be likely to have a significant effect on the internationally important interest features of the River Mease SAC, or

any of the features of special scientific interest of the River Mease SSSI. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

A legal agreement is currently under negotiation and subject to the acceptability of this, it is recommended that planning permission be granted, subject to the imposition of planning conditions.

RECOMMENDATION:- Permit, subject to a legal agreement and the following conditions:-

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

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

- 2 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission: Location Plan Drawing No. 214-72.01 received by the Local Planning Authority on 29 April 2015 and amended details: Proposed Site Plan Drawing No. 214-72.02 A and Proposed Dwellings Drawing No. 215-24-03 A received by the Local Planning Authority on 11 June 2015.

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

- 3 No development shall commence on site until such time as precise details of the finished ground levels on the site and the finished floor levels of the dwellings in relation to an existing datum point have been submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

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

- 4 No dwelling shall be erected on site above damp proof course level until samples of the materials to be used in all external surfaces of the dwellings have been submitted to and agreed in writing with the Local Planning Authority. The works shall be undertaken in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain control over the external appearance in the absence of details.

- 5 The boundary treatments and landscaping shall be carried out in accordance with Proposed Site Plan Drawing No. 214-72.02 A received by the Local Planning Authority on 11 June 2015. The boundary treatments shall be erected, prior to the first occupation of the respective dwelling. The approved landscaping scheme shall be implemented in the first planting and seeding season following the first occupation of the first dwelling hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the

landscaping scheme is agreed in writing with the Local Planning Authority.

Reason- To preserve the amenities of the locality and to ensure satisfactory landscaping is provided within a reasonable period and to provide a reasonable period for the replacement of any planting.

- 6 The windows serving a wc at ground floor (plot 1) and en-suite and bathroom at first floor (plot 2) shall be glazed with obscure glass to Pilkington Standard 3 (or equivalent) and non-opening or top opening only which shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority.

Reason- To ensure that the development is not detrimental to the privacy and amenities of the neighbouring property.

- 7 The dwellings hereby approved shall only use the mains sewer system for their foul drainage discharge.

Reason- Any other means of dealing with foul discharge could have an adverse impact on the River Mease Special Area of Conservation.

- 8 The dwelling hereby approved shall not be occupied until, within a period of four months prior to occupation, the Local Planning Authority (in consultation with Severn Trent Water) has confirmation in writing that there is sufficient headroom capacity available at Donisthorpe Waste Water Treatment Works or elsewhere within Severn Trent Water's sewer system to take the foul drainage discharge from the dwelling hereby approved.

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

- 9 Before first occupation of the dwelling hereby approved, the surface water shall be disposed from the site to soakaways or another sustainable drainage system, unless evidence to demonstrate that these means of drainage are not suitable for the site and alternative details of surface water discharge to mains sewer are first submitted to and agreed in writing with the Local Planning Authority.

Reason- To prevent an adverse impact on the River Mease Special Area of Conservation.

- 10 Any shared private drives serving no more than a total of 5 dwellings shall be a minimum of 4.25 metres wide for at least the first 5 metres behind the highway boundary and have a drop crossing of a minimum size as shown in Figure DG20 of the 6CsDG at its junction with the adopted road carriageway. The access drive shall be provided before any dwelling hereby permitted is first occupied and shall thereafter be permanently so maintained. If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.

Reason- To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

- 11 Before first occupation of any dwelling hereby approved, the access drive shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the Highway boundary and shall be

so maintained this way thereafter.

Reason- To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

- 12 Before first occupation of any dwelling hereby permitted, turning facilities shall be provided, hard surfaced and made available for use within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall thereafter be permanently so maintained.

Reason - To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

- 13 Before first occupation of any dwelling hereby approved, the respective parking provision shall be made within the curtilage in accordance with Proposed Site Plan Drawing No. 214-72.02 A received by the Local Planning Authority on 11 June 2015. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.

Reason - To ensure that adequate off-street parking facilities are available.

- 14 Before the first occupation of the dwellings hereby approved, 1.0 metre by 1.0 metre pedestrian visibility splays shall be provided on the Highway boundary on both sides of all accesses with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway. These shall be in accordance with the standards contained in the Highways Transportation and Development design guide and shall be so maintained in thereafter.

Reason - In the interests of pedestrian safety.

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

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

- 16 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as not to open outwards.

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

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority

acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

- 2 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Infrastructure Planning team (for `major' accesses serving more than one dwelling) or the Highways Manager (for `minor' accesses serving one dwelling only). For further information, including contact details, you are advised to visit the County Council website as follows: -

For `major' accesses - see Part 6 of the '6Cs Design Guide' at www.leics.gov.uk/6csdg
For 'minor' accesses serving one dwelling contact the Customer Service Centre team
Tel: 0116 3050001.

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

Construction of access road and associated services to serve existing vacant site and erection of four lighting columns

**Report Item No
A6**

Land At Smithy Road Ashby De La Zouch Leicestershire LE65 1JG

**Application Reference
15/00278/FULM**

Applicant:

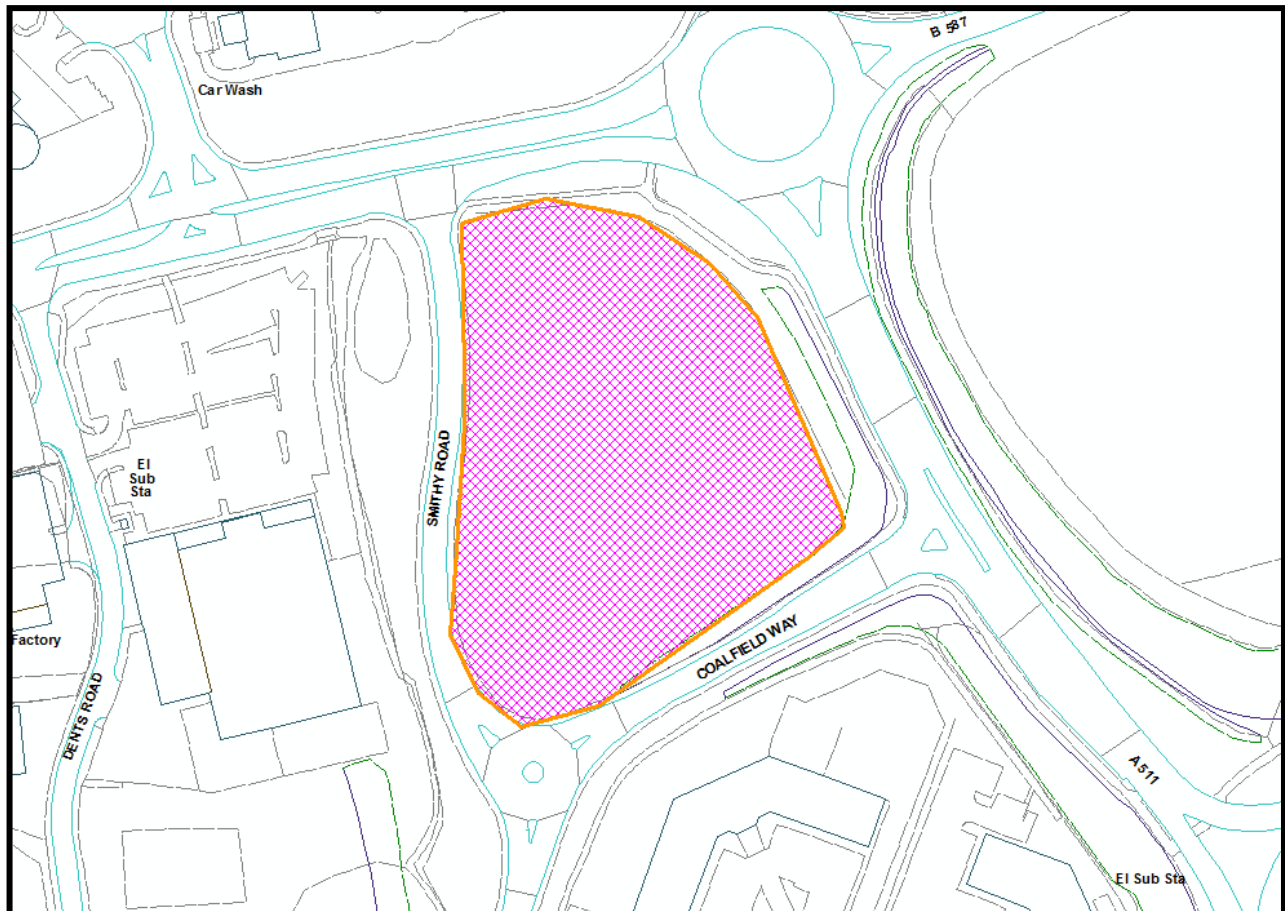
**Date Registered
2 April 2015**

**Case Officer:
Jenny Davies**

**Target Decision Date
2 July 2015**

**Recommendation:
PERMIT**

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Proposal

The application has been called to Planning Committee by Councillor Allman on the grounds of the wider public interest of the proposal. Planning permission is sought for the construction of an access road and associated services to serve an existing vacant site and the erection of four lighting columns on land at Smithy Road, Ashby de la Zouch. The site is known as the 'Ashby Gateway' site, is located on the eastern edge of the town and is bounded by the A511, Nottingham Road, Smithy Road and Coalfield Way. The access road would be located on the site's western/south western sides and would enter the site from Smithy Road. Land levels would decrease by approximately up to 0.5 metres and increase by approximately up to 0.8 metres. The four lighting columns would each be six metres tall.

Consultations

Ashby de la Zouch Town Council objects to the proposal and two letters of objection (both from Ashby Civic Society) have been received. No other objections have been received from statutory consultees.

Planning Policy

The application site lies within the Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application is the need to consider whether the proposals would, overall, constitute sustainable development in the context of the National Planning Policy Framework (NPPF).

Conclusion

It is considered that significant harm to the future development of the site is unlikely to occur and therefore a reason for refusal under Policy E6 of the Local Plan could not be justified in this case. The proposal would not significantly detract from the character of the streetscene and locality and is unlikely to result in severe highway safety impacts. It is considered that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. The proposal is unlikely to result in significant detriment to the residential amenities of occupiers of these dwellings and would not adversely affect protected species. Conditions can be imposed in relation to coal mining risk and contaminated land. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

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

MAIN REPORT

1. Proposals and Background

Permission is sought for the construction of an access road and associated services to serve an existing vacant site and the erection of four lighting columns on land at Smithy Road, Ashby de la Zouch. The site is known as the 'Ashby Gateway' site, is located on the eastern edge of the town and is bounded by the A511, Nottingham Road, Smithy Road and Coalfield Way. The site is currently vacant and overgrown and has been the subject of several planning applications for its potential redevelopment:

- erection of a discount food retail store (Class A1), Public House/Restaurant (Class A3/A4) and 60 no. Bed hotel (Class C1) with associated parking, access, landscaping and drainage (outline) (13/00033/OUTM) withdrawn October 2014;
- erection of discount food retail store (Class A1), Public House/Restaurant (Class A3/A4) and 60 no. bed hotel with associated parking, access, landscaping and infrastructure (09/00734/FULM) - appeal dismissed May 2011;
- erection of retail units (4,645 square metres) and garden centre (929 square metres) - (outline - means of access) (03/01464/FULM) refused May 2005 and appeal dismissed July 2006;
- erection of a business park (93/0284) approved 1994.

The access road would be located on the site's western/south western sides and would enter the site from Smithy Road, approximately 90 metres north from the southern end of Smithy Road, extending into the site for 28 metres before turning 90 degrees to run southwards for 78 metres. Three smaller accesses would lead off the main access road with the maximum length of these accesses being 15 metres long. Land levels are fairly level on this part of the site but do increase gradually from Smithy Road and to the north and east and the site is at a lower land level than Coalfield Way. Land levels would decrease by approximately up to 0.5 metres and increase by approximately up to 0.8 metres to accommodate the access road. The four lighting columns would be located on either side of the access road and would each be six metres tall, with two options proposed for their design and type of lighting. A surface water sewer and service ducts would be incorporated within the access road and three foul drainage connections made to the site.

The three smaller accesses are shown to serve three parts of the site (identified on the plans as 'Plot A', 'Plot B' and 'Proposed M&B Site'). No further information has been provided regarding the site layout and the use of the proposed plots. The agent has advised that the purpose of constructing the road is to make the site more attractive to end users, as it has been undeveloped for many years.

The site lies within the Coal Authority Development High Risk Area and within the catchment area for the River Mease Special Area of Conservation. A tributary of the River Mease lies 20 metres from the site on the western side of Smithy Road.

2. Publicity

11 No neighbours have been notified.

Site Notice displayed 17 April 2015

Press Notice published 22 April 2015

3. Consultations

Ashby De La Zouch Town Council consulted 16 April 2015

County Highways Authority consulted 16 April 2015

Head of Environmental Protection consulted 16 April 2015

LCC Ecology consulted 16 April 2015

Coal Authority consulted 16 April 2015

4. Summary of Representations Received

Statutory Consultees

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

- applications for this site have previously turned down on appeal;
- it is not possible to comment effectively on this application without seeing a comprehensive plan for the entire site layout, which would place the access arrangements in context;
- assessments about highways issues cannot be made without knowledge of the overall scheme;
- the Town Council's objections have not been adequately addressed by the agent's response.

The County Ecologist has no objections.

The Environmental Protection team requests the imposition of conditions and has no other environmental observations.

The Coal Authority has no objection subject to a condition.

The County Highway Authority has no objection subject to conditions.

No comments have been received from Packington Parish Council by the date of this report.

Third Party Representations

Two letters of representation have been received (from Ashby Civic Society) which objects on the following grounds:

- no technical concerns but the road design may restrict the comprehensive development of the site contrary to Local Plan Policy E6;
- no references to how the site will be developed and no masterplan;
- unsafe to approve the application without considering the impact on future development of the site which has been undeveloped for many years and the subject of an appeal;
- application should be refused until a comprehensive plan for the site is submitted and approved;
- the applicant's response gives no reassurance to the issues we have raised;
- the sub-division of the plot will add restrictions to the site restraining a suitable development scheme.

All responses from statutory consultees and third parties are available for Members to view on

the planning file.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

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

Paragraph 14 (Presumption in favour of sustainable development)

Paragraph 17 (Core planning principles)

Paragraphs 57, 61 and 64 (Requiring good design)

Paragraphs 109, 118, 119, 120 and 125 (Conserving and enhancing the natural environment)

Paragraph 203 (Planning conditions and obligations)

North West Leicestershire Local Plan:

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

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

Policy S1 - Overall Strategy

Policy S2 - Limits to Development

Policy E2 - Landscaped Amenity Open Space

Policy E3 - Residential Amenities

Policy E4 - Design

Policy E6 - Comprehensive Development

Policy E7 - Landscaping

Policy F1 - National Forest - General Policy

Policy F2 - Tree Planting

Policy F3 - Landscaping & Planting

Policy T3 - Highway Standards

Policy T8 - Parking

Policy J5 - High Quality Employment Site at Flagstaff Interchange, Ashby

Other Guidance

National Planning Practice Guidance - March 2014

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

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

River Mease Water Quality Management Plan - August 2011

6Cs Design Guide (Leicestershire County Council)

6. Assessment

The main issues for consideration in the determination of this application relate to the principle and sustainability of the development, its design and visual impact and impact on highway safety and the River Mease Special Area of Conservation/SSSI.

Principle and Sustainability

The site is located within the Limits to Development as defined in the adopted North West Leicestershire Local Plan and is subject to Policy J5 which relates to its development for a high quality employment use. It is difficult to consider the sustainability of the proposal as no uses for the site are proposed and this matter would be considered should applications be received for the wider development of the site.

As noted earlier in the report the site has been subject to previous applications for its redevelopment which have not been successful, having been refused and dismissed on appeal or withdrawn. The plans show the potential subdivision of this part of the site into three plots ('Plots A and B' and 'Proposed M&B Site') but no information has been provided regarding the wider site layout or proposed uses. The agent has advised that the purpose of constructing the road is to make the site more attractive to end users, as it has been undeveloped for many years.

The Town Council and Ashby Civic Society have raised concerns regarding the lack of information regarding how the site would be developed and the potential for the road to restrict the comprehensive development of the site. Whilst it is acknowledged that it would be helpful for further information to be provided regarding the potential future development of the site, the Authority cannot insist on this information being provided. A judgment therefore has to be made as to whether the access road would prevent the comprehensive development of the site under Policy E6 of the Local Plan. In this case the access road would not significantly extend into the site and whilst one parcel of land is partly isolated from the rest of the site (Plot B), the vast majority of the site would not be subdivided and indeed 'Plot B' is not completely cut off from the rest of the site. The position of the three smaller access roads would not prevent additional accesses being proposed in their place, alternative or additional access roads from being proposed nor for a different subdivision of the rest of the site from that indicated on the plans. Furthermore future applications for the development of the site would be considered on their own merits. Whilst it would be best practice for the site to be developed in a comprehensive manner, given the circumstances set out above it is considered that significant harm to the future development of the site is unlikely to occur and therefore a reason for refusal under Policy E6 of the Local Plan could not be justified in this case.

Design and Visual Impact

Whilst the access road would introduce an engineered element into an undeveloped and vegetated site, it would occupy a relatively small part of the whole site and would be well related to existing roads that bound the site. The site itself is well related to existing development with commercial development to the north, south and west and the A511 (with McDonalds and a Premier Inn) beyond). Two options are proposed for the lighting columns would be similar in scale and design to streetlights. There would be some changes in land levels but there are some levels changes within the site and to the surrounding land and therefore it is considered that the road is unlikely to be significantly prominent within the streetscene. The site is well vegetated, mainly with grass and shrubs on this part of the site along with some young trees, none of which are considered likely to be worthy of a Tree Preservation Order. It is likely that some of the shrubs and some young trees would need to be removed but the majority would be retained and most of the site would remain vegetated. As such it is considered that the proposal

would not significantly detract from the character of the streetscene and locality.

Highway Safety:

The Town Council has advised that it cannot consider highway safety issues without further information relating to the proposed development of the site. The County Highway Authority advises that in its view the residual cumulative impacts of the proposal can be mitigated and are not considered severe and therefore does not object. If applications for development of the wider site are received, then the highway safety impacts of such proposals and the suitability of access to the site would be considered as part of such applications. On this basis it is considered that the proposal is unlikely to result in severe highway safety impacts.

River Mease Special Area of Conservation/SSSI:

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. A tributary of the River Mease lies 20 metres to the west of the site on the opposite side of Smithy Road. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required.

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

The proposed changes to the approved scheme would not result in any increase in foul drainage from the site and as such a contribution under the DCS would not be required. There would be an increase in surface water discharge from the existing situation and this is shown on the plans to discharge to mains sewer. However in the SAC catchment surface water is expected to go to a sustainable drainage system rather than the mains, in order to assist with reducing the amount of waste water discharged to Severn Trent Water's treatment works and therefore further reduce the level of phosphate going into the river. A condition could be imposed to deal with this matter. Given the proximity of the tributary, a condition could also be imposed requiring submission of a method statement for construction.

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

Other Matters

The nearest dwellings are located over 100 metres from the site and therefore use of the access drive and light from either type of lighting column are unlikely to result in significant detriment to the residential amenities of occupiers of these dwellings.

The site is located within the Coal Authority's Development High Risk Area and it is understood was previously in use for open cast coal mining and has subsequently been restored. A Coal Mining Risk Assessment and Phase 1 Desktop Study has been submitted which recommends that investigative works should be undertaken to further assess contamination and ground stability. The Coal Authority and the Council's Environmental Protection team have no objections subject to conditions to secure these investigations and any remediation/verification.

The site is an unused and overgrown piece of land covered with grasses and some shrubs and young trees. A stream runs to the west of the site on the opposite side of Smithy Road. All of these are habitats that can be home to European and nationally protected species. The road would result in the loss of relatively small part of the site and the majority of the grassed area, along with the shrubs and trees would be retained. The stream lies 20 metres away and is separated from the site by the footway and road. The County Ecologist has no objections. On this basis it is considered that the proposal would not adversely affect protected species.

Whilst the overall site area is approximately 1.3 hectares, the area that would be taken up by the road is less than one hectare and therefore a Flood Risk Assessment has not been submitted.

Conclusion

It is considered that significant harm to the future development of the site is unlikely to occur and therefore a reason for refusal under Policy E6 of the Local Plan could not be justified in this case. The proposal would not significantly detract from the character of the streetscene and locality and is unlikely to result in severe highway safety impacts. It is considered that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. The proposal is unlikely to result in significant detriment to the residential amenities of occupiers of these dwellings and would not adversely affect protected species. Conditions can be imposed in relation to coal mining risk and contaminated land. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION - PERMIT, subject to the following conditions:

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

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

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

- Drawing No. 14098 (08)01 Rev A (Existing Location Plan) received by the Authority on 2 April 2015;
- Drawing No. ADC1112/100 Rev B (Infrastructure Works General Arrangement) received by the Authority on 2 April 2015;
- Drawing No. ADC1112/110 Rev B (Infrastructure Works Setting Out) received by the Authority on 2 April 2015;
- Drawing No. ADC1112/111 Rev B (Infrastructure Works Long Sections) received by the Authority on 2 April 2015;
- Drawing No. ADC1112/120 Rev B (Infrastructure Works Construction Layout) received by the Authority on 2 April 2015;
- Drawing No. ADC1112/121 Rev A (Infrastructure Works Typical Cross Sections) received by the Authority on 2 April 2015;
- Drawing No. ADC1112/130 Rev B (Infrastructure Works Drainage Layout) received by the Authority on 2 April 2015;

- Drawing No. ADC1112/140 Rev C (Infrastructure Works Utility Services Layout) received by the Authority on 2 April 2015;
- Drawing No. CPW-EX-100-01 Rev P1 (Electrical Services Proposed Lighting Access Road) OR Drawing No. CPW-EX-100-02 Rev P1 (Electrical Services Proposed Lighting (LED) Access Road) received by the Authority on 2 April 2015.

Reason - to determine the scope of this permission.

- 3 All external materials used in the development hereby approved shall be in accordance with the following details:
- (i) the access road and footways - the details shown on Drawing No. ADC1112/120 Rev B (Infrastructure Works Construction Layout);
 - (ii) the lighting columns - the details shown on Drawing No. CPW-EX-100-01 Rev P1 (Electrical Services Proposed Lighting Access Road) OR Drawing No. CPW-EX-100-02 Rev P1 (Electrical Services Proposed Lighting (LED) Access Road);

unless details of alternative materials are first submitted to and agreed in writing by the Local Planning Authority.

Reason- to ensure a satisfactory standard of external appearance.

- 4 Notwithstanding the submitted plans, before first use of the access drive hereby approved, the surface water shall be disposed from the site to soakaway(s) or other sustainable drainage system, unless evidence to demonstrate that these means of drainage are not suitable for the site and alternative details of surface water discharge to mains sewer have both been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details, which shall thereafter be so retained.

Reason- To prevent an adverse impact on the River Mease Special Area of Conservation.

- 5 No development shall commence on site until a detailed method statement for construction works on the site has been submitted to and agreed in writing by the Local Planning Authority. The method statement should set out methodologies to remove any risk of fuel, petrol, oil, soils, building materials, bankside material and waste water entering the stream (on the western side of Smithy Road) during construction, including how and where materials, fuel and plant will be stored and contained, containment of waste water on the construction site, use of site spill kits and briefing to construction staff. All construction works relating to the development hereby approved shall be carried out in accordance with the agreed method statement.

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

- 6 No development shall commence on site until a Risk Based Land Contamination Assessment and a scheme of intrusive site investigations relating to coal mining legacy issues have been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes and to establish the situation relating to coal mining legacy issues. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
- o BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
 - o BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile

Organic Compounds (VOCs)

- o BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

The scheme of intrusive site investigations relating to coal mining legacy issues shall then be undertaken and a report of the finding of these investigations shall then be submitted to and agreed in writing by the Local Planning Authority.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment or should any need for remedial works relating to coal mining legacy issues be identified, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

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

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

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

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

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

Reason:- To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF; To ensure that the land is, or can be made, safe and stable for the proposed development due to the risk from its coal mining history.

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

- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;

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

Reason: To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF; To ensure that the land is, or can be made, safe and stable for the proposed development due to the risk from its coal mining history.

- 8 Before first use of the access drive hereby approved, visibility splays of 2.4 metres by 43 metres shall be provided at the junction of the access with Smithy Road in both directions, in accordance with the standards contained in the current County Council design guide, and the access drive shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 15 metres behind the highway boundary, and the surfacing and splays shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

Reason - To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety; To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

- 9 Before first occupation of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained.

Reason - To reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users.

- 10 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 15 metres behind the highway boundary and shall be hung so as not to open outwards.

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

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

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

Notes to applicant

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in

line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

2 The applicant's attention is drawn to the following advisory notes of the County Highways Authority:

- The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.
- This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from the Infrastructure Planning Team or the Highways Manager. For further information you are advised to visit the County Council website (www.leics.gov.uk/6CSDG), email roadadoptions@leics.gov.uk or contact 0116 305 0001.
- On the basis of the submitted plans, it would appear that the road layout will not be suitable for adoption in its current format. To enable further consideration, details of the types of uses and floor areas of uses, and ideally details of car and HGV trips will be required. Initially, the Applicant is encouraged to submit such details and design details of a layout that will be suitable for adoption.
- If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.
- C.B.R. Tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Highways Manager.

3 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at www.defra.gov.uk

4 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:

- Collapse of shallow coal mine workings.
- Collapse of, or risk of entry into, mine entries (shafts and adits).
- Gas emissions from coal mines including methane and carbon dioxide.
- Spontaneous combustion or ignition of coal which may lead to underground heatings and

production of carbon monoxide.

- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – 7 JULY 2015

Title of report	PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT FORMER FOREST WAY SCHOOL.
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 454675 james.knightley@nwleicestershire.gov.uk</p>
Purpose of report	To consider a request from the developers of the above site to amend the Section 106 obligations 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	Fairer CAT
Risk Management	Not applicable
Equalities Impact Assessment	Not applicable
Human Rights	Not applicable
Transformational Government	Not applicable
Comments of Head of Paid Service	The report is satisfactory
Comments of Section 151 Officer	The report is satisfactory

Comments of Monitoring Officer	The report is satisfactory
Consultees	Leicestershire County Council Councillor M Specht (ward member) North West Leicestershire District Council Strategic Housing Team North West Leicestershire District Council Environmental Development Officer
Background papers	Application documents in respect of planning application ref. 12/00258/OUTM
Recommendations	TO AGREE TO THE AMENDMENT OF THE PREVIOUSLY AGREED OBLIGATIONS SO AS TO SECURE ALL UNITS AS AFFORDABLE HOUSING AND WITH NO OBLIGATIONS IN RESPECT OF BUS PASSES, CHILDREN'S PLAY, CIVIC AMENITY, LIBRARIES, NATIONAL FOREST PLANTING, TRAVEL PACKS AND SECTION 106 MONITORING, THE PRECISE WORDING OF WHICH BE DELEGATED TO THE HEAD OF LEGAL AND SUPPORT SERVICES, AND LIMITED TO A PERIOD OF THREE YEARS

1.0 INTRODUCTION AND BACKGROUND

- 1.1 In January 2013, the District Council's Planning Committee resolved to grant outline planning permission for residential development on the site of the former Forest Way School on Waterworks Road, Coalville (ref. 12/00258/OUTM). The applicants were Leicestershire County Council.
- 1.2 The Section 106 agreement was completed in November 2013, and the planning permission was subsequently issued.
- 1.3 A reserved matters approval for the development of the site for 28 dwellings (submitted by Williams Homes) was issued in April 2015 (ref. 15/00034/REMM).
- 1.4 The Section 106 agreement includes obligations in respect of, amongst others, the following:
- 20% of the proposed dwellings to be provided as affordable housing units
 - Provision of an on-site children's play area (or payment of £28,872 to the District Council as an off-site contribution)
 - Provision of National Forest planting area of 0.11 hectares (i.e. 20% of the site) (or payment of £11,000 to the District Council as an off-site contribution)
 - Provision of travel packs to first occupiers
 - Provision of bus passes to first occupiers
 - Payment of £1,470 to Leicestershire County Council in respect of library services

- Payment of £1,706 to Leicestershire County Council in respect of civic amenity
- Payment of District Council and County Council monitoring costs

1.5 The site is now however intended to be developed on behalf of Waterloo Housing Group, a Registered Provider (RP), and the RP has approached the Local Planning Authority with a view to entering into an amended scheme of obligations by way of a Deed of Variation or similar so as to secure the whole of the site as affordable housing, but excluding the other previously agreed contributions as listed above.

1.6 Section 106A of the Town and Country Planning Act 1990 (as amended) allows, in effect, a developer to apply formally to the Local Planning Authority to modify obligations and, together with Section 106B, for an appeal to be lodged in the event of a refusal. However, this process only applies to obligations entered into at least five years previously, so is not applicable in this case. Any modification of the obligation would therefore need to be entered into by way of agreement between the parties.

2.0 PROPOSED AMENDED OBLIGATIONS

2.1 The developers contend that, given anticipated costs and receipts, were the site to be developed as a fully affordable scheme, the provision of the other contributions as set out under 1.4 above would not be viable. They therefore propose that amended obligations be entered into which would (i) secure all proposed dwellings as affordable housing and (ii) exclude all other contributions / obligations.

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 supports the proposed alternative obligation for the reasons set out in Section 5.2 below.

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

Policy F1 – National Forest General Policy

Policy F2 - National Forest Tree Planting

Policy L21 - Children's Play Areas

4.3 **Other Local Policies**

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

Play Area Design Guidance Note Supplementary Planning Guidance - July 2001

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 proposed amended affordable housing proposals would be appropriate;
- (ii) Whether implementation of the developers' proposed affordable housing scheme would, when implemented in conjunction with the other previously agreed Section 106 obligations, be viable; and
- (iii) If not, whether the implementation of the developers' proposed alternative affordable housing scheme would be acceptable given the associated "loss" of other contributions.

5.2 **Proposed Amended Affordable Housing Obligations**

5.2.1 The existing obligations meet the minimum requirements for affordable housing in the Coalville area (i.e. 20%). The developers are however intending to undertake the scheme in association with a Registered Provider, and the proposed development would therefore be a 100% affordable housing scheme (comprising 28 units). The outline planning permission did not limit the total number of dwellings on the site but, were the reserved matters scheme approved in April 2015 implemented under the current Section 106 obligation, six of those 28 units would be required to be provided as affordable housing. In effect, therefore, assuming a development of 28 dwellings, an additional 22 affordable dwellings over and above that currently required would be secured by accepting the RP's proposals.

5.2.2 In supporting the proposed changes, the District Council's Strategic Housing Team advises that changes to District Council policy to prioritise necessary infrastructure improvements on all sites in Coalville providing 50 or more dwellings (i.e. the District Council's adopted "*Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville*" policy) has, to date, resulted in the provision of 117 fewer affordable homes within Coalville and, therefore, the provision of 100% affordable housing sites in Coalville such as now proposed would help to redress the balance.

5.2.3 The District Council's Strategic Housing Team also advises that, as a result of its discussions with the RP, the property types proposed would meet the District Council's highest priorities in Coalville, housing a mix of applicants whilst also providing a design that conforms to the Council's "ourplace" design standards. The Strategic Housing Team also confirms that it has negotiated an appropriate, fully policy compliant, tenure mix, namely 82% affordable rented and 18% part rent part buy shared ownership properties.

The rented homes would, the Team advises, be allocated through the Leicestershire Sub Regional Choice Based Lettings Scheme and the shared ownership homes would be advertised locally. This would ensure that those households with a District connection would be given priority and the Strategic Housing Team advises that it would seek to ensure that the homes provided as part rent part buy shared ownership properties would similarly be offered initially to households that meet that District connection.

5.2.4 The District Council's Strategic Housing Team considers that the proposed scheme seeks to provide much needed affordable homes on a former brownfield site located on the outskirts of Coalville but within easy access of the centre of the town. It advises that Waterloo Housing Group has secured funding through the Homes & Communities Agency (HCA) National Affordable Housing Programme 2015-18 bid round which would ensure the properties were delivered within the delivery timetable agreed with the HCA. The Strategic Housing Team also notes that the District Council has supported Waterloo Housing Group's development programme with £166,000 of funding to secure the delivery of affordable homes in the District and that this funding would help to ensure the provision of the affordable homes on this site.

5.2.5 On the basis of the above advice, whilst it is noted that the provision of 100% affordable housing would exceed the normal 20% requirement for a development, and whilst it is also considered that it would generally be preferable, where possible, for different housing tenures to be integrated, it is accepted that the proposals would assist in providing much needed affordable housing within the District, and would assist in offsetting some of the effects of reduced affordable housing contributions secured within the Coalville area as a result of the need to prioritise transportation contributions over affordable housing on residential developments of more than 50 units where the need to make those transportation contributions would have otherwise rendered development unviable.

5.3 **Development Viability**

The RP considers that, as a result of the proposed provision of a 100% affordable housing scheme, there are implications on viability (when compared with the provision of a scheme only delivering 20% affordable housing). As a result, the RP considers, the scheme cannot support the other developer contributions secured under the Section 106 agreement (and as set out above). The RP has provided a viability appraisal in support of its position which has been assessed by the District Valuer on behalf of the District Council. The District Valuer is content that, with a 100% affordable housing scheme, and even when taking into account other subsidies etc, the scheme is not viable and, therefore, cannot support any other Section 106 contributions.

5.4 **Impacts of Non Provision of Other Contributions**

5.4.1 In the event that an amended Section 106 obligation was entered into which secured the provision of additional affordable housing in lieu of other developer contributions, the impacts of the non-provision of these contributions need to be considered. These are addressed in turn below, together with the associated impacts on sustainable development. In terms of the benefits to sustainable development of the proposed changes, it is accepted that, in terms of the social dimension, the provision of a 100% affordable housing scheme would be of a clear benefit given the significant need for affordable housing within Coalville and the District generally. Whilst the provision of such a scheme would not assist in terms of creating mixed and balanced communities (i.e. by way of the concentration of affordable tenure types separate from market housing), the overall

contribution to sustainable development resulting from a fully affordable scheme is nevertheless considered positive. There would, however, it is considered, be some adverse impacts of the proposals in NPPF sustainable development terms accruing in respect of both the social and environmental dimensions.

5.4.2 *Children's Play*

Under the provisions of the District Council's Play Area Design Guidance Note SPG, children's play areas are required at a rate of 20sqm per dwelling, and all proposed dwellings should be within 400m walking distance of a facility. The Section 106 agreement entered into at the outline stage allowed for either on-site provision or an off-site contribution so as to increase capacity elsewhere. In terms of the non-provision of children's play contributions, there could, it is considered, be an adverse impact on the social dimension insofar as, whilst there are alternative play areas within 400m of the site, no contributions would be made to these facilities so as to increase their capacity, with the resulting implications of that in terms of amenity and child development

5.4.3 *National Forest Planting*

In accordance with the relevant National Forest Company requirements, the existing Section 106 agreement requires an on-site contribution of 20% of the site or payment of £11,000 to the District Council as an off-site contribution. As a result of the non-provision of this contribution, there would be an environmental impact on the wider National Forest in terms of the Forest's development and the provision of enhanced green infrastructure within the Forest but, having regard to the relatively small contribution involved, an unacceptable impact would not be considered to result when balanced against the other benefits of the scheme.

5.4.4 *Travel Packs and Bus Passes*

The measures secured in this regard are intended to reduce reliance on the private car, and some impacts in terms of congestion etc could result, with the resulting implications on the environmental dimension of sustainable development, and the overall environmental credentials of the development would, overall, be reduced with fewer residents being encouraged to make full use of local public transport alternatives to the private car. However, consideration also needs to be given to the extent of the impacts in view of the number of properties involved and, in this case, it is not considered that this non-provision would be so unacceptable as to outweigh the benefits of enhanced affordable housing contributions.

5.4.5 *Library Services*

The non-provision of this contribution would result in increased use of the existing facilities at Coalville Library without an associated increase in stock and other materials. This would, it is considered, have resulting implications on the social dimension. Again, however, when bearing in mind the number of properties involved, it is not considered, in this instance, that these adverse impacts would be so unacceptable as to outweigh the benefits of enhanced affordable housing contributions.

5.4.6 *Civic Amenity*

The non-provision of this contribution would result in increased demand on waste processing facilities (i.e. through additional refuse generation); in the absence of increased capacity at the civic amenity site, this could have environmental implications. However, it would seem more likely that the impacts would need to be absorbed by the waste authority and, therefore, implications on the social dimension would seem likely. On the basis of the

extent of the increased demand on services, however, it is not considered that the adverse impacts would be so severe as to outweigh the benefits of enhanced affordable housing contributions.

5.4.7 *Monitoring Fees*

In the event that the obligations were amended in the manner proposed, there would be no remaining obligations in respect of Leicestershire County Council functions, and no County Council monitoring fee would therefore be required. Insofar as the remaining obligations (i.e. relating to affordable housing) are concerned, it is considered that, given the findings of the District Valuer, the District Council monitoring fee would also need to be excluded. This would also therefore have some financial implications on the District Council (the relevant fee in the event that only affordable housing obligations remained would be £250).

6.0 **CONCLUSIONS**

- 6.1 Having regard to the advice of the District Council's Strategic Housing Team and the existing need for more affordable housing in the District, it is considered that, notwithstanding issues relating to integration of housing tenure, the proposed increased provision of affordable housing within the development (i.e. to 100%) would be positive in terms of the approach to sustainable development. On the basis of the independent advice provided to the Local Planning Authority by the District Valuer, it is also accepted that the RP has demonstrated that, when applying this 100% affordable housing contribution, the development would be unviable, and other obligations would need to be relaxed to enable the affordable housing scheme to proceed.
- 6.2 Whilst it is acknowledged that the resulting loss of other contributions currently secured would have a negative impact on the overall assessment of sustainable development, it is accepted that, in the round, the adverse impacts (and including cumulatively) would not be so severe as to outweigh the benefits of the proposals, and it is therefore recommended that the RP's proposed amendments to the Section 106 obligations be agreed by the District Council. It is noted that the original obligation was entered into by both the District and County Councils; whether or not Leicestershire County Council would also be agreeable to entering into a revised obligation would be a matter for that authority.
- 6.3 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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