

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 23 June 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. PLANNING APPLICATIONS AND OTHER MATTERS	
Report of the Head of Planning and Regeneration.	3 - 6



Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	<p>15/00015/FULM: Part full/part outline planning application for the redevelopment of land at Sawley Crossroads, including the demolition of all existing on-site buildings and structures. Full consent sought for the construction of a Regional Distribution Centre (Use Class B8) and ancillary office accommodation (Use Class B1(a)) and associated gatehouse and access arrangements, service station, refuse and recycling area, car parking and landscaping. Outline consent (with all matters reserved except access) for additional Use Class B8 storage and distribution uses.</p> <p>Land At Sawley Crossroads Sawley</p>	PERMIT Subject to a Section106 Agreement	7 - 48
A2	<p>14/01040/OUT: Erection of detached dwelling (outline - access, layout and external appearance included for determination)</p> <p>Site Off Main Street Normanton Le Heath Leicestershire</p>	Permit	49 - 70
A3	<p>15/00204/FUL: Construction of a detached two-storey dwelling involving the formation of a new vehicular access off Melbourne Lane</p> <p>1 Hollow Road Breedon On The Hill Derby DE73 8AU</p>	Permit	71 - 88
A4	<p>15/00466/VCI: Variation of condition 4 attached to planning permission ref:00/00403/PC to extend the hours of opening beyond 23:30 to 01:00 for 12 occasions a year.</p> <p>Ashby Rugby Football Club Nottingham Road Ashby De La Zouch Leicestershire LE65 1DQ</p>	Permit	89 - 96
A5	<p>15/00346/VCI: Variation of condition 4 attached to planning permission ref:06/01140/FUL to extend the hours of lighting of the flood lights from 19:00 to 21:30 to 17:00-21:30</p> <p>Ashby Rugby Football Club Nottingham Road Ashby De La Zouch Leicestershire LE65 1DQ</p>	Permit	97 - 104

APPENDIX B

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

23 June 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 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.

8. 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.

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Part full/part outline planning application for the redevelopment of land at Sawley Crossroads, including the demolition of all existing on-site buildings and structures. Full consent sought for the construction of a Regional Distribution Centre (Use Class B8) and ancillary office accommodation (Use Class B1(a)) and associated gatehouse and access arrangements, service station, refuse and recycling area, car parking and landscaping. Outline consent (with all matters reserved except access) for additional Use Class B8 storage and distribution uses.

Report Item No
A1

Land At Sawley Crossroads Sawley

Application Reference
15/00015/FULM

Applicant:
Wilson Bowden Developments Ltd And Aldi Stores Ltd

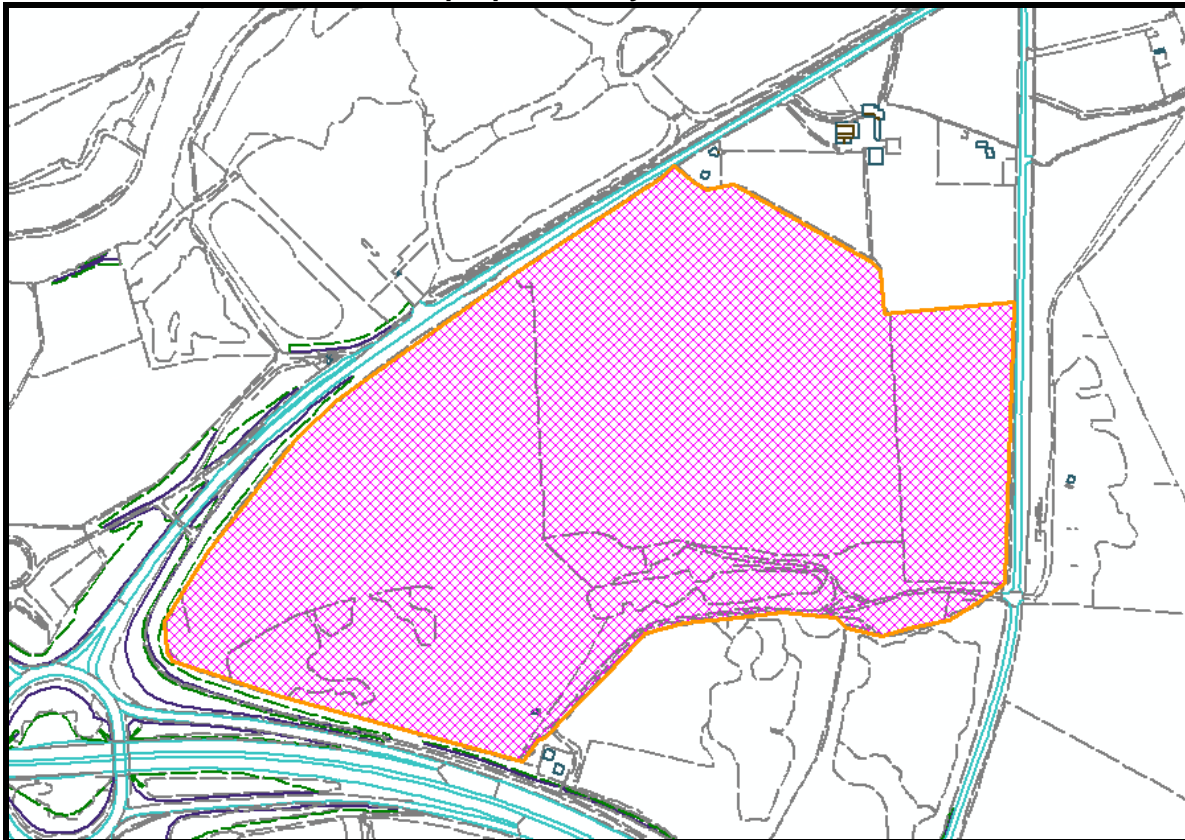
Date Registered
13 January 2015

Case Officer:
James Knightley

Target Decision Date
14 April 2015

Recommendation:
PERMIT Subject to a Section106 Agreement

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Proposal

This is a "hybrid" application (i.e. part full and part outline) seeking planning permission for the erection of units for storage and distribution use (within Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended)), together with ancillary office use and other associated development including a gatehouse, access from Tamworth Road, an HGV service station, a refuse and recycling area, car parking and landscaping.

The full element of the application relates to a proposed regional distribution centre on the northern part of the site (external floorspace 58,364sqm) for a supermarket chain, and including associated office development. The outline element of the application (which includes the proposed vehicular access arrangements from Tamworth Road) proposes a further unit to the southern portion of the site (maximum internal floorspace 60,000sqm) which, the applicants advise, would provide for suitable expansion space to meet the applicants' anticipated future growth plans for the region.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals, and including from Lockington cum Hemington Parish Council.

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 is the supply of employment land in the context of the National Planning Policy Framework (NPPF).

Conclusion

The report below indicates that, whilst the site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, having regard to the existing position in terms of employment land supply within the District and the requirement within the NPPF for Local Planning Authorities to support economic growth through the planning system, the principle of the development is considered acceptable in land use terms. Whilst concerns have been raised by neighbouring occupiers regarding a range of issues, including the impacts on residential amenity, the application is accompanied by an Environmental Statement which indicates that, subject to appropriate mitigation, these issues or other adverse environmental impacts arising from the proposed development would not indicate that planning permission ought to be refused.

RECOMMENDATION:- PERMIT, SUBJECT TO SECTION 106 OBLIGATIONS, AND SUBJECT TO CONDITIONS

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

MAIN REPORT

1. Proposals and Background

This is a "hybrid" application (i.e. part full and part outline), accompanied by an Environmental Statement and seeking planning permission on a site of 38.96ha for the erection of units for storage and distribution use (within Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended)), together with ancillary office use and other associated development including a gatehouse, access from Tamworth Road, an HGV service station, a refuse and recycling area, car parking and landscaping.

The full element of the application relates to a proposed regional distribution centre on the northern part of the site (external floorspace 58,364sqm) for a supermarket chain. The proposed warehouse building would be of approximate maximum dimensions 378m by 196m (when including a projecting office section) and maximum height 17.9m above finished floor level. In addition, the full element of the application includes the following:

- Loading bays (78)
- Car park (307 spaces)
- Two storey offices (3,875sqm)
- Storage for both ambient temperature (38,822sqm) and chilled / frozen goods (14,004sqm)
- Gatehouse (37sqm)
- Truck / servicing washing facility
- Refuse and recycling area
- Vehicular access via a proposed new roundabout junction to the B6540 (Tamworth Road)

The outline element of the application provides for an additional B8 facility on a site of 14.08ha, including:

- Maximum floorspace 60,000sqm
- Associated office accommodation
- Maximum height 17.5m above finished floor level
- Vehicular access via the proposed new roundabout junction to the B6540 (Tamworth Road) (albeit served by a different arm from the unit the subject of the full part of the application)

All matters are reserved in respect of the outline element of the application save for the proposed means of vehicular access to the site; all other "access" matters (i.e. including any other non-vehicular access into the site, together with proposed vehicular and non-vehicular routes through the site itself) are reserved for subsequent approval.

The site was previously the subject of an application for a regional storage and distribution centre (ref. 99/1077), one of three competing applications the subject of a conjoined public inquiry held in 2001; the appeal the subject of this site was however withdrawn prior to the opening of the inquiry following the site's acquisition by the then promoters of the scheme proposed at the former Castle Donington Power Station site (the proposal supported by the Local Planning Authority and, subsequently, by the Secretary of State). Prior to that time, the application site had been the subject of mineral (sand and gravel) extraction (understood to have been undertaken between the mid 1940s and 1980) and some areas of the site from which the minerals had been extracted were subsequently filled with pulverised fuel ash (PFA) from the former power station. It is understood that approximately 60% of the quarried area was filled

to an average depth of 7m, capped with 300m of topsoil and returned to agricultural use between the 1950s and 1973. 20% was later filled with reject gravel and overburden and was re-graded and seeded for similar use. The remainder of the site was retained as lakes.

The site is now principally within agricultural use, and is located adjacent to a number of land uses, including residential, other agricultural use, and the A50 trunk road.

2. Publicity

6 no. neighbours have been notified. (Date of last notification 31/01/2015)

Press Notice published 25 February 2015

Site notices posted 15 January 2015

3. Consultations

Clerk To Lockington Cum Hemington Parish Council consulted
Severn Trent Water Limited consulted 14 January 2015
Environment Agency consulted 14 January 2015
Head of Environmental Protection consulted 14 January 2015
NWLDC Tree Officer consulted 14 January 2015
County Archaeologist consulted 14 January 2015
LCC ecology consulted 14 January 2015
Airport Safeguarding consulted 14 January 2015
NWLDC Conservation Officer consulted 14 January 2015
NWLDC Urban Designer consulted 14 January 2015
County Planning Authority consulted 14 January 2015
LCC Development Contributions consulted 14 January 2015
Development Plans consulted 14 January 2015
Police Architectural Liaison Officer consulted 14 January 2015
Highways Agency- affecting trunk road consulted 14 January 2015
National Grid UK consulted 14 January 2015
Erewash Borough Council consulted 14 January 2015
South Derbyshire District Council consulted 14 January 2015
Derbyshire County Council consulted 14 January 2015
Castle Donington Parish Council consulted 14 January 2015
Shardlow And Great Wilne Parish Council consulted 14 January 2015
County Highway Authority consulted 14 January 2015

4. Summary of Representations Received

Environment Agency has no objections subject to conditions

Erewash Borough Council supports the proposals in view of the potential for significant numbers of employment opportunities for residents of the Borough of Erewash, and highlights the need to provide for enhanced public transport links between the site and settlements in Erewash.

Highways Agency (now Highways England) has no objections

Leicestershire County Council Ecologist has no objections subject to conditions

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

Lockington cum Hemington Parish Council objects on the following grounds:

- Loss of last piece of green space between Hemington, Castle Donington and Long Eaton
- Loss of separation between villages
- Detrimental removal of the rural feel of the area
- Increased road congestion during construction and when operational
- Unemployment in the area is very low so staff likely to be sourced from further away, increasing congestion further
- Regard needs to be had to the cumulative impact with the proposed East Midlands Gateway development

National Grid has no objections

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

Severn Trent Water has no objections subject to conditions

Third Party representations

Representations have been received from the occupiers of three nearby properties, objecting on the following grounds:

- Insufficient consultation
- Contrary to Local Plan policies (including Policies S1, S3, E3 and E4)
- Outside Limits to Development / within the countryside
- Impact on nearby residents' amenities
- Proximity to dwellings
- Overdominant form of development with no design features intended to break up the massing
- Non-conforming use in an area of little or no industrial development on this scale
- Out of scale / character
- Design more suited to an urban or industrial context
- Overshadowing
- Adverse impact on currently open landscape
- Adverse impact on nearby listed building
- Hemington House identified in the Landscape and Visual Impact Assessment as a receptor of high sensitivity and experiencing a moderate adverse impact
- Heritage Statement includes inadequate assessment of the wider setting of the listed building and does not justify its assessment that the northern facade is most important
- Loss of historic field boundaries would adversely affect the listed building's setting
- Application does not pay special regard to the desirability of preserving local heritage assets and their setting as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990
- Proposed landscaped bund would be ineffective in screening the proposed development, particularly during the winter months, and in providing noise mitigation
- Poor design
- Development not needed
- Greenfield site
- Alternative site assessment does not include the proposed East Midlands Gateway site
- Alternative sites discounted for reasons of timescale for delivery

- Premature / prejudicial to the District Council's Local Plan
- Increased risk of flooding
- Proposals do not meet requirement to steer development towards areas with the lowest risk of flooding
- Insufficient surface water capacity to accommodate additional flows
- High water table limits capacity of attenuation ponds
- Impact on wildlife / ecology / habitat
- Noise
- Pollution
- Increased traffic / congestion
- Proposals would not constitute sustainable development
- Adverse impact on the setting of the listed Hemington House

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 19 (Building a strong, competitive economy)
- Paragraph 20 (Building a strong, competitive economy)
- Paragraph 28 (Supporting a prosperous rural economy)
- Paragraph 32 (Promoting sustainable transport)
- Paragraph 34 (Promoting sustainable transport)
- 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 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 133 (Conserving and enhancing the historic environment)
- Paragraph 134 (Conserving and enhancing the historic environment)

Paragraph 135 (Conserving and enhancing the historic environment)
Paragraph 160 (Business)
Paragraph 161 (Business)
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 E30 - Floodplains
Policy F1 - National Forest General Policy
Policy T3 - Highway Standards
Policy T8 - Parking
Policy T10 - Public Transport
Policy T13 - Cycle Parking
Policy T20 - East Midlands Airport - Airport Safeguarding

Other Policies

6Cs Design Guide (Leicestershire County Council)

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

6. Assessment

Principle of Development

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

In terms of the adopted North West Local Plan, the site is 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 those within the National Planning Policy Framework (NPPF).

Employment Land Supply

As set out under Relevant Planning Policy above, the NPPF seeks to encourage proposals for employment / business uses where such schemes would represent sustainable development. Whilst the site is located outside Limits to Development as defined in the adopted Local Plan, regard must also be had to the need to provide for sufficient employment land for new businesses.

The North West Leicestershire Core Strategy was submitted to the Secretary of State on 24 June 2013. Policy CS2 of the submission draft Core Strategy set out the overall District-wide requirement for employment land (i.e. 164 hectares), taking into account existing identified employment sites and commitments, as well as identifying an overall residual requirement of 60 hectares; following an exploratory meeting with the Planning Inspector appointed to examine the Core Strategy, however, it was agreed to withdraw the Core Strategy and, as a result, no weight should be attributed to its provisions in this regard. However, whilst the Core Strategy itself has been withdrawn, the background evidence upon which its provisions in respect of employment land requirements were based is nevertheless considered to remain robust, and it is therefore still accepted that a need remains for the additional 60 hectares of employment land in addition to existing commitments as previously referred to in the Core Strategy. At the present time, having regard to approvals elsewhere in the District, the Authority would have sufficient employment land to meet its requirements. However, this would assume the implementation of schemes which would appear likely to be affected by the currently proposed route of the HS2 high speed rail link; if these sites were not deliverable, there would remain an outstanding requirement to be met. It is noted that there are existing employment units and sites currently vacant within the area (and including on the nearby East Midlands Distribution Centre). However, the additional employment land requirements which had been identified in the evidence base for the draft Core Strategy were for additional employment land (i.e. over and above any existing land, even if unoccupied). Whilst the site lies outside Limits to Development as defined in the 2002 adopted North West Leicestershire Local Plan, these Limits to Development were drawn having regard to, amongst others, employment land requirements up until the end of the Plan Period (i.e. to 2006) and, as such, less weight should be attributed to any conflict with Policy S3 in the overall planning balance.

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.

It is noted that outline planning permission has recently been granted in respect of a 36 hectare site at Ellistown (ref. 13/00249/OUTM) which would address some of the shortfall identified in the Core Strategy background evidence work and the proposed Sawley development would, when aggregated with this proposal, result in an overall supply in excess of that anticipated in that evidence (although, it is accepted, this figure is a likely minimum requirement). Furthermore, the Planning Inspectorate is currently considering the application for the proposed East Midlands Gateway Rail Freight Interchange development (a Nationally Significant Infrastructure Project (ref. TR050002)). If this were permitted, this would provide for significant additional B8 land but, at this time, remains undetermined. Regardless of the potential for the proposed Sawley development to result in a supply of employment land in excess of that

calculated as being necessary, however, consideration needs to be given to whether or not, overall, the proposals would represent sustainable development in NPPF terms.

Contribution to Sustainable Development

As set out above, the NPPF contains a presumption in favour of sustainable development. Having regard to the three dimensions of sustainable development, it is concluded as follows:

Economic Dimension:

The NPPF gives a very strong steer that support should be given for proposals which boost the economy and provide job opportunities. The application documents suggest that this proposal would create around 1,000 full time equivalent direct jobs (400 in respect of the full element, and 600 in respect of the outline), plus a further 150 through the "multiplier" effect. Given the location of the site, it is considered reasonable to assume that a proportion of these positions are likely to be taken by residents from surrounding Districts. Nevertheless, it is accepted that the proposed development would make a significant contribution to employment opportunities in the area as a whole and would, in this regard, sit well with the provisions of the NPPF. It is noted that Erewash Borough Council supports the application on the basis of the expected local employment impacts, and it is accepted that these impacts assist in terms of the scheme's performance in the context of the economic dimension.

Social Dimension:

The economic benefits associated with the proposed development would, by virtue of the jobs created, also be expected to provide some social benefits.

Environmental Dimension:

The site is identified as countryside in the adopted Local Plan. However, the Local Plan only covers the period to 2006 and so the employment requirements contained therein are not up to date. Whilst the NPPF makes it clear that sites of lower environmental quality should be preferred to those of higher value, it appears inevitable that there will be a need for greenfield sites (which, it is considered, this would constitute, given its restoration following the working of its minerals) to be released to meet future needs; furthermore, and on the basis of the work undertaken in respect of the flood risk sequential test (discussed in more detail later in this report), it is accepted that there do not appear to be any brownfield sites available elsewhere in the District of the scale of this proposed development, and available within the limited timescales required by the applicants. Whilst the site lies within an area subject to flood risk as defined on the Environment Agency's fluvial flood risk maps, this issue is not considered to represent an overriding cause for concern in this instance having regard to the particular history and characteristics of the site, as discussed in more detail within the relevant section below. Further issues in respect of the environmental dimension of sustainable development are also considered in more detail within the relevant sections below including, for example, issues such as the impacts on the natural and historic environment, accessibility of the site and loss of agricultural land.

Having regard to the three dimensions of sustainable development, therefore, and having regard to the conclusions in respect of various technical issues below, it is accepted that the contribution to the economic growth associated with the proposed development, coupled with the role played in contributing to employment land supply, 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 greenfield 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, whilst not located immediately adjacent to an existing built up area, has the potential to perform reasonably well in terms of need to travel and the movement towards a low carbon economy, subject to the provision of suitable pedestrian, public transport and cycle linkages.

Conclusions in respect of the Principle of Development

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The site lies outside Limits to Development. As such, the scheme would be in conflict with the relevant Development Plan and other policies designed to protect the countryside from inappropriate development.

However, it is also necessary to consider any other relevant material considerations, including the Government's current intentions in respect of the need to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF), and the current position in the District in terms of employment land supply. Whilst the Core Strategy has been withdrawn, the evidence base used in this regard in terms of calculating the required amount of employment land within the District is considered to remain relevant, and the proposed development would make a contribution towards this (albeit to an extent that would, when aggregated with other permitted developments, result in an overall supply in excess of that calculated as the minimum required).

Thus, overall, the need for and benefits of the proposed development of the site in terms of stimulating economic growth are considered to outweigh the conflict with the Development Plan, and, when taking into account the NPPF's presumption in favour of sustainable development, the development is considered acceptable in principle when assessing in the context of the specific impacts (and their implications on the assessment of sustainable development) as set out in more detail below.

Detailed Issues

In addition to the issues of the principle of development, consideration of other issues relevant to the application (and including those addressed within the Environmental Statement) is set out in more detail below. The Environmental Statement considers the environmental effects of the proposed development, both in their own right, and also cumulatively with other developments (including the proposed East Midlands Gateway development and the East Midlands Distribution Centre site in Castle Donington).

Landscape and Visual Impact

The development has been assessed in terms of its landscape and visual effects both during and after construction. The Environmental Statement identifies what the applicants' landscape consultants consider to be the visual envelope of the site, together with the landscape character of the site and its surroundings, and the susceptibility and sensitivity of the landscape. Insofar as the visual envelope is concerned, the Environmental Statement defines this as follows:

- from the north and north-east by the existing settlement edge of Sawley and vegetation associated with the River Derwent;
- from the north-west by the settlements of Great Wilne and Shardlow;
- from the west by the elevated junction of the A50 with the B6540 and its associated

- vegetation;
- from the south by the ridgeline south of Hemington and Lockington and its associated woodland; and
- from the east by a combination of what the Environmental Statement describes as predominantly flat topography and the network of field boundary vegetation

In terms of its current landscape value, the Environmental Statement suggests that, having regard to a number of factors including surrounding features such as major roads, electricity pylons / cables, lighting columns, the Ratcliffe on Soar power station and nearby employment sites, the Trent Valley Landscape Character Area is of low to medium landscape value, and is of low to medium susceptibility to the type of development proposed. As a result, the Trent Valley Landscape Character Area is, the Environmental Statement states, of low sensitivity in landscape terms. This results, overall, in what the Environmental Statement suggests is a minor adverse effect on the landscape character of the Trent Valley Landscape Character Area.

Insofar as visual amenity effects are concerned, the Environmental Statement assesses the impacts on a range of viewpoints in the surrounding area, both in the immediate vicinity of the site and further afield. The findings of the Environmental Statement indicate a range of effects to the various receptor points. Of these, the most pronounced impacts are assessed as occurring at the following locations, where the effects anticipated to arise (albeit with reduced impacts in some instances during the summer months) are as listed below:

Moderate to Major Adverse:

- Trent and Mersey Canal (two locations)
- Derwent Valley Heritage Way (Warren Lane)
- Tamworth Road (B6540)

Major Adverse:

- Netherfield Lane

As noted, therefore, the most significant adverse effect would be from Netherfield Lane, which forms part of the eastern boundary of the site. Views from this direction are currently available across the flat site, with views of the road infrastructure (including the B6540, A50 and the Sawley interchange) beyond.

In terms of mitigation, the Environmental Statement identifies this as including the proposed landscaping (and including proposed landscaped bunds of between 2 and 4 metres in height), together with appropriate use of materials / finishes, and use of a Construction Environmental Management Plan and, when taking these into account, identifies the residual landscape effects (at a date 15 years following completion of the development). As would be expected, the mitigation proposed results in some reduction in severity of what would otherwise be the resulting unmitigated effects. Insofar as the receptor points referred to above are concerned, the Environmental Statement concludes that the impacts at one of the canal viewpoints would be reduced to moderate adverse (with the other remaining moderate to major adverse); similarly the impacts at Warren Lane would be reduced to moderate adverse. The impacts from Tamworth Road would remain moderate to major adverse, and the impacts from Netherfield Lane would remain as major adverse.

As such, whilst the impacts from a number of the viewpoints considered would be relatively limited, it nevertheless remains the case that some significantly adverse effects would arise as a result of the proposed development and, as such, notwithstanding the nature of the existing landscape quality, the scheme would not perform well in terms of the presumption in favour of

sustainable development in the landscape and visual element of the environmental dimension. However, as well as assessing the proposals' overall contribution to the other dimensions of sustainable development, it is also considered reasonable to have regard to the likely landscape and visual impacts of providing this form of development elsewhere. For the reasons already set out, the opportunities to identify a site within Limits to Development for a scheme of this nature may be limited; whilst there are clearly adverse landscape and visual impacts associated with the scheme, such impacts are, it is considered, likely to arise in respect of a development of this scale regardless of its location and, whilst the impacts are adverse, given the low sensitivity of the landscape character area within which the site is located, the view is taken that the overall impacts in this regard are not so unacceptable as to suggest that planning permission ought to be withheld.

It is noted that concerns have been raised regarding the impacts the development would have in terms of reducing the separation between settlements in the area (and, in particular, between Hemington, Castle Donington and Long Eaton). Whilst there are clearly various areas of built development between the northern edges of Hemington / Castle Donington and the southern extent of the village of Sawley where it meets the River Trent (including, for example, individual housing, Sawley Marina, the Plank and Leggitt public house, the building materials yard on Tamworth Road and the A50), much of this area currently remains undeveloped, and the proposed scheme would, inevitably, reduce the extent of undeveloped land between the settlements, both physically and visually. Whilst this separation would therefore, to a degree, be reduced, it is not however considered that this concern would, in itself, represent a sufficient reason to resist the development, particularly when considering (i) the likelihood that sites outside Limits to Development would need to be released to meet the need for employment development and (ii) the fact that the site (and / or the wider area) is not subject to any special protection designed to retain a degree of separation between the settlements (e.g. Green Belt, Area of Separation etc).

Ground Conditions

The applicants have undertaken a geotechnical investigation and have produced a Geotechnical Factual and Interpretive Report which has been used to inform the Environmental Statement's findings in respect of these issues. The Environmental Statement has particular regard to made ground on the site (including, but not only, the pulverised fuel ash imported from the former Castle Donington Power Station).

Insofar as the relationship of the proposed development to the historic use of the site are concerned, the Environment Agency confirms that the site has been subject to landfilling operations since 1965 and currently benefits from a landfill environmental permit. The Agency advises that the operator of the landfill remains responsible for maintaining, monitoring and controlling activities on the site for as long as required by the permit (i.e. until such time as the permit is surrendered), and that developments proposed on top of permitted closed landfills, or areas of permitted landfill that have ceased accepting waste, must not compromise the operator's ability to manage and monitor the site in accordance with the permit.

The potential impacts of the proposed works during construction (including topsoil stripping, excavation, filling using imported material and earthworks) are considered within the Environmental Statement, and including in respect of their geological, soil, "trackout" and contamination effects impacts. Whilst the Environmental Statement suggests that the contamination impacts in particular could be of minor to moderate adverse significance, a range of mitigation measures (including the adoption of an earthworks strategy and a soil management plan as well as other pollution prevention measures) are proposed. On this basis,

the Environmental Statement concludes, the residual impacts would not be significant. Similarly, no geotechnical impacts are anticipated in respect of the completed development. The District Council's Environmental Protection team raises no objection to the application in this regard subject to conditions.

The proposals are therefore considered acceptable in terms of these issues.

Drainage and Flood Risk

The Environmental Statement includes assessment of the proposed development's impacts on water resources, drainage and flood risk, informed by a Flood Risk Assessment (FRA), setting out how the site is proposed to be drained, and assessing the existing flood risk to the site along with any resulting flood risk associated with the proposed development.

Insofar as fluvial flood risk is concerned, the application site lies within Flood Zone 3 (i.e. high probability of flooding) as defined on the Environment Agency's flood risk mapping. In terms of the site's status within Zone 3, the District Council's Strategic Flood Risk Assessment indicates that the majority of the site falls within Zone 3a (i.e. land having a 1 in 100 or greater annual probability of river flooding), although some areas of the site (including sections to the north eastern, south eastern and western edges of the site) would appear to fall within Zone 3b (i.e. functional floodplain).

Notwithstanding the site's location within Zones 3a and 3b as defined by the Environment Agency, additional modelling work has been undertaken by the applicants' consultants which, they contend, demonstrates that, in effect, the majority of the site falls within Zone 1 (i.e. with a less than 1 in 1,000 year probability of flooding in any one year), albeit with some areas of the site (to the north eastern and north western parts of the site) remaining in Zones 2 and 3a. This is, it is understood, essentially as a result of historic raising of site levels within the application site following its post mineral extraction restoration.

The NPPF and the DCLG's Planning Practice Guidance set out the relevant requirements in respect of the sequential test, and indicate that the Local Planning Authority's Strategic Flood Risk Assessment will provide the basis for applying this test and, on this basis, it is considered that, notwithstanding the evidence from the applicants' modelling, for the purposes of applying the sequential test, the site should be treated as falling within Zone 3 (and, in detail, both 3a and 3b).

In terms of the development search area, having regard to the applicants' development requirements, it is considered reasonable to limit this to the area within which they need to be located operationally. In this instance, the applicants advise that they need to be located within a 20 mile radius of Junction 25 of the M1 Motorway; insofar as the site itself is concerned, the applicants advise that they require the site to be able to accommodate at least one warehouse unit of 55,000sqm (and with a preference for expansion space, if possible). Having regard to these operational requirements, it is accepted that the search criteria applied by the applicants when considering alternatives (which, in effect, match these site prerequisites) are reasonable. In terms of timescales, the application documents indicate that the applicants require the development to be operational within two years.

Having applied these criteria, the applicants have assessed a total of five sites which meet their operational criteria, and have concluded that, sequentially, the application site is, in their view, preferable. The alternative sites considered (and the reasons for being discounted) are as follows:

Derby Commercial Park Phase 2, Raynesway, Derby:

The site is approximately 13ha in size and is located approximately 6.5 miles from Junction 25 of the M1. The site lies within Flood Zone 3 and was previously used by heavy industry which, the application documents state, suggests that site investigation, remediation and remodelling of the site may be required, and could take some time to address. Based on the timescales at which Phase 1 had come forward, an operational start date in 2017 is expected possible which, the applicants advise, would not be sufficient to enable them to complete the development in accordance with their required timescales.

Findern Farm, A38, Findern, Derby:

The site is approximately 40ha in size and is located approximately 11 miles from Junction 24 of the M1 (and, hence, approximately 16 miles from Junction 25); the site lies within Flood Zone 1. Again, however, the applicants advise that it is unlikely that a planning permission could be obtained within the time frames required by the applicant.

East Midlands Intermodal Park, A38, Etwall, Derby:

The site is approximately 80 ha in size and is located approximately 11 miles from Junction 24 of the M1 (and, hence, approximately 16 miles from Junction 25); the site lies within Flood Zone 1. It is anticipated that planning permission could be obtained by the end of 2015 but, again, however, this does not fit with the time frames required by the applicant.

Glebe Farm, Thrumpton Lane, Barton-in-Fabis, Nottingham:

The site is approximately 70ha in size and is located approximately 4 miles from Junction 24 of the M1 (and, hence, approximately 10 miles from Junction 25); the site lies within Flood Zones 1 and 2. In the absence of planning policy support for the proposals, it is again considered unlikely to be available within the applicants' required timescales.

In terms of other sites, it is noted that neither the East Midlands Distribution Centre nor the proposed East Midlands Gateway Freight Interchange have been included within the applicants' assessed alternatives for the purposes of the sequential test. The applicants clarify that this is because (i) the plots available at East Midlands Distribution Centre are not of sufficient size to accommodate the development (the largest plot advertised as available on the Distribution Centre site is Plot 2 (46,000sqm)); and (ii) the Secretary of State's decision on East Midlands Gateway is not expected until 2016 at the earliest. The Local Planning Authority has also requested that, as part of the sequential assessment process, consideration be given to the potential for the use of the site at Little Battleflat Farm on Beveridge Lane Ellistown which has the benefit of outline planning permission for employment uses of up to 120,373sqm (ref. 13/00249/OUTM). In respect of this site the agents comment that the construction period for a building that would be suitable for use by the applicants would be expected to be 18 months, and it is their intention to commence work on the Phase 1 unit in the third quarter of 2015 with a view to opening by the first quarter of 2017. They consider that, whilst outline permission has been granted for the Ellistown scheme, development could not commence until a reserved matters approval had been secured and any pre-commencement planning conditions attached to the reserved matters approval discharged (together with all pre-commencement conditions attached to the outline consent). They note that no reserved matters application for that site is anticipated to be submitted imminently, nor have any pre-application discussions regarding the reserved matters submission(s) yet taken place. On this basis, they consider it highly unlikely that work could commence on the construction of a building on the Ellistown site which would meet their requirements by the third quarter of 2015, particularly given the timescales involved in preparing such a scheme. On this basis, it is again accepted that this alternative site would be unlikely to be deliverable within the applicants' identified timescales.

On the basis of the above, therefore, it is considered that, notwithstanding the actual status of the site in flood risk terms as identified in the site-specific modelling, the application site's Zone 3 status indicates that, in purely flood risk terms, the site is not the most suitable of those considered. However, in applying the sequential test, paragraph ref. ID: 7-033-20140306 of the DCLG's Planning Practice Guidance requires Local Planning Authorities to take a pragmatic approach on the availability of alternatives. In this case, whilst sites which would meet the size and locational requirements of the applicants have been identified, they have been ruled out on the grounds of their timescales for availability. In the case of the East Midlands Intermodal Park, the applicants advise that planning permission could be obtained by the end of 2015 but have nevertheless disregarded this as being too late. Whilst this appears a relatively short timescale, and whilst it is considered that applicants should also take a reasonable and pragmatic approach to applying their operational criteria, it is not considered that it is inappropriate to apply such a timescale if this is required to be met to allow the business to react quickly to economic conditions and for it to be able to operate and compete effectively. As such, it is accepted that, in the circumstances, it is reasonable to discount these alternative sites on this basis, and that the proposals pass the sequential test. By the same token, however, and in order to ensure that the applicants progress the development at the rate advised as required (and used as justification to disregard alternative sites), it is recommended that, in the event that planning permission is resolved to be permitted, this should be subject to a shorter period for implementation of the first phase of the development (i.e. the "full" element of the application).

Insofar as the fluvial flood risk impacts associated with the proposed development are concerned, the FRA provides that the hydraulic modelling undertaken demonstrates that the 1 in 1,000 year flood extent crosses into the site "slightly" at the north-western perimeter of the site and, it suggests, may affect the proposed building locations. The DCLG's Planning Practice Guidance provides that, in flood risk vulnerability terms, storage and distribution uses are classified as "less vulnerable"; less vulnerable uses are deemed within the Guidance to be appropriate uses within Zones 1, 2 and 3a. As set out above, it would appear that, in practice, the site lies within these zones. For its part, the Environment Agency accepts the findings of the Environmental Statement and FRA and raises no objections, subject to a number of conditions, and including in respect of the need to comply with the submitted Environmental Statement / FRA.

In terms of mitigation, the FRA suggests a number of measures, as follows:

- Raising of finished floor levels to a minimum of 300mm above the 1 in 100 year plus climate change flood level (i.e. at 32.24m AOD, 300mm above 31.94m AOD); on the basis of the submitted plans, the floor level of the phase 1 unit would be positioned at 33.75m AOD and, therefore, some way above the minimum level recommended (and, in fact, above the 1 in 1,000 year flood level)
- Setting of external ground levels within the proposed development and road network higher than the 1 in 100 year plus climate change flood level
- Setting of the proposed main site access onto Tamworth Road higher than the 1 in 100 year plus climate change flood level

The Environment Agency accepts the findings of the FRA in this regard, and confirms that it agrees that finished floor levels should be set no lower than the 33.75m AOD set out in that document.

In terms of the floodplain displacement effects of the proposed development, the FRA provides that, where development results in a displacement of existing floodplain storage volume, this may result in a detrimental impact on flood risk elsewhere in the catchment. As such, in order to

mitigate the impacts of this loss of capacity, a scheme of floodplain compensation is proposed within the site. For its part, the Environment Agency agrees that such compensation is required, and advises that a detailed compensatory works scheme must effectively recreate the existing floodplain to ensure the local flood regime is not adversely affected by the works. It advises that an appropriate scheme, including a method statement of proposed working, should be secured by way of an appropriate condition so as to ensure the continuity of flood protection to the area, and including during the period of construction, with the flood compensation works being completed prior to commencement of the "main" site works.

Other potential sources of flood risk identified in the FRA include canals (including the nearby Trent and Mersey Canal), groundwater, reservoirs, sewers and pluvial run-off. These are for the most part found to constitute a low risk to this site; insofar as surface water drainage is concerned, however, the FRA provides that mitigation is required to ensure that increased risk does not result elsewhere, and a scheme of SUDS measures is therefore proposed as part of the scheme. The scheme proposes limiting storm water discharge from the site to the 1 in 30 year greenfield run-off rate which, for the 12ha area of impermeable surfacing within the full application area, would limit storm water discharge to 70 litres per second for the 1 in 30 year rainfall event and above, with pumping stations pumping surface water from the service yards at this rate. Similar surface water proposals are envisaged in respect of the area of the site subject to the outline scheme. For its part, the Environment Agency advises that surface water run-off should be attenuated to the existing greenfield run-off rate (5 l/s/ha), and that the drainage system should be designed to a 1 in 100 year standard, with an additional 20% capacity to account for climate change. Flows in excess of the permitted discharge rate would, the Environment Agency comments, need to be attenuated on site, up to a 1 in 100 year (return period) flood event. The Environment Agency advises that the detailed SUDS scheme should include one treatment train for roofs and at least two treatment trains for roads and hard-standing areas in line with CIRIA C697 recommendations.

In response to concerns raised regarding the ability of the attenuation measures proposed to function in view of their location within an existing floodplain are concerned, the Environment Agency comments that groundwater levels appear to be fairly consistent but variable between 30.1mAOD and 30.6mAOD and the proposal includes a substantial sustainable drainage scheme with attenuation volumes ranging from 15,100 cubic metres and 20,400 cubic metres with a greenfield rate of 5 l/s/ha discharging from the site (and restricted to an allowable rate of 82 litres per second in total).

Insofar as foul drainage is concerned, the Environmental Statement indicates that the site does not benefit from connections to the sewerage network and, as such, foul water is proposed to be treated on site prior to discharge into an existing watercourse. The treatment system will, the Environmental Statement states, be designed to meet the Environment Agency's requirements for discharge from the site and would be subject to a discharge permit application. The DCLG's Planning Practice Guidance provides (paragraph ref. ID 34-020-21040306) that "When drawing up wastewater treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment worksWhere a connection to a public sewage treatment plant is not feasible (in terms of cost and/or practicality) a package sewage treatment plant can be considered....The package sewage treatment plant should offer treatment so that the final discharge from it meets the standards set by the Environment Agency". For its part, on the basis that no public foul sewer is available to serve the development, the Environment Agency raises no objections to the applicants' proposed use of a package treatment plant and reed bed system, subject to them being granted a Consent to Discharge under the Environmental Permitting Regulations (England and Wales) 2010 (i.e. a separate consent required to be sought from the Agency), and

subject to the foul drainage being kept separate from clean surface and roof water.

Subject the above, therefore, and subject to the imposition of conditions, the Environment Agency raises no objections to the application, and the development is considered acceptable in this regard.

Ecology

The submitted Environmental Statement includes a detailed assessment of the ecological implications of the proposed development on various receptors of ecological value, informed by an Ecological Appraisal, together with separate reports in respect of various protected species. In addition to assessment of the anticipated impacts, mitigation measures are also proposed.

The Ecological Appraisal provides that the closest statutorily designated site of nature conservation interest to the application site is approximately 1.9km from the site (being the Lockington Marshes Site of Special Scientific Interest (SSSI)); no other statutory sites are located within close proximity of the site. Insofar as non-statutory designations are concerned, there are a total of 36 sites within 1km of the site, including two (scrub woodland and a lake / former gravel pit) within the application site itself. In terms of the various ecological features / habitat identified on the site, these include arable, grassland, ruderal vegetation, woodland and waterbodies.

The effects of the development are assessed within the Environmental Statement in terms of both the construction and post-construction (operational) impacts.

Insofar as the construction effects on habitats are concerned, the Environmental Statement indicates that there would be no direct impacts upon statutory designated sites. In terms of non-statutory sites, direct impacts are anticipated as a result of proposed ground remodelling and site clearance undertaken in order to create the development platforms, resulting in the loss of approximately 2.5ha of parish level woodland / grassland, a permanent loss assessed within the Environmental Statement as being of "moderate adverse" significance. Other habitat lost is identified as having a no greater than "minor adverse" significance. In terms of the operational phase effects, potential indirect impacts on the Hemington Gravel Pits LWS and Pond P3 parish level site are suggested as possible. These include disturbance arising from the increased use of the area as an open green space for employees and traffic disturbance, increased noise and light pollution from vehicles and site lighting, and increased surface water run-off. None of these impacts are identified as having more than "minor adverse" significance, however.

Insofar as the effects upon wildlife are concerned (from both construction and post-construction impacts), the following conclusions are reached within the Ecological Appraisal and Environmental Statement:

Badgers:

By virtue of their location in an area not proposed for built development, the Ecological Appraisal suggests that it is unlikely that any higher status badger setts (e.g. those that are continuously or frequently occupied) would be directly affected by proposals. Whilst the potential for lower status setts to be affected is accepted, their loss is considered unlikely to impact significantly on any local population. Nevertheless, the Ecological Appraisal notes that, where disturbance (such as the use of heavy machinery) occurs close to retained setts or where setts may be lost as a result of proposals, it would be necessary to secure a licence from Natural England. The Environmental Statement notes the potential effects of increased traffic and external lighting impacting upon foraging areas, along with increased disturbance and road

casualties. However, having regard to the proposed mitigation (including implementation of a badger sett buffer zone, the retention of foraging habitat and implementation of appropriate lighting), the residual effect of the development is assessed as negligible.

Bats:

The Ecological Appraisal suggests that the loss of mature trees and sections of hedgerow could lead to an interruption in regular routes of movement. In order to mitigate for the loss of roosting potential, bat boxes are proposed to be provided, and it is intended that lighting would be low pressure sodium and limited along foraging / flight lines; on this basis the residual effect of the development is assessed as negligible within the Environmental Statement.

Birds:

The Ecological Appraisal indicates that, of the 44 species recorded on the site, five species were confirmed as breeding within the site. The Appraisal notes that the surveys identified that the site supports a species assemblage typical of the habitats present on site and consisting in the most part of widespread, common and abundant species, and a small assemblage of birds associated with wetlands and (including reed bunting, reed warbler and willow tit). The Environmental Statement identifies that the potential effects of the development include the loss of arable habitat arising from the associated site clearance, and disturbance / nest desertion. However, subject to relevant works being undertaken outside of the breeding season (or, alternatively, undertaking of additional pre-commencement surveys / mitigation), the residual effects are assessed to be limited to "minor adverse".

Amphibians:

The Ecological Appraisal notes that, as the three on-site ponds are actively used for angling, they would be unlikely to support great crested newts. However, given that two of the ponds support extensive reed bed, it could still be possible that great crested newts could evade predation and breed. In addition, potential terrestrial habitats, including grassland and hedgerows, have also been identified within the site. As such, great crested newt aquatic surveys have been undertaken but, whilst common toads and some smooth newts were found, no great crested newts were recorded.

Reptiles:

The Ecological Appraisal notes that, whilst the arable habitat in the northern part of the site lacks structural diversity, making it largely unsuitable for reptiles, habitats in the south provide an appropriate mosaic of habitats considered to be of importance to reptiles. In view of this, additional reptile surveys have been undertaken, but no reptiles recorded.

No other protected species are considered likely to be affected, having regard to the findings of the Ecological Appraisal and Environmental Statement.

Under Regulation 53 of the Habitat Regulations 2010, activities which would otherwise contravene the strict protection regime offered to European Protected Species under Regulation 41 can only be permitted where it has been shown that the following three tests have been met:

- The activity must be for imperative reasons of overriding public interest or for public health and safety;
- There must be no satisfactory alternative; and
- The favourable conservation status of the species in question must be maintained.

Whilst these tests would need to be applied by Natural England at the appropriate time in respect of any required licence submission, it is nevertheless considered appropriate to also have regard to them at this stage in respect of the planning process. In this case, it is

considered that the tests would be met as (i) for the reasons set out under Principle of Development above, it is considered that the site needs to be released for the proper operation of the planning system in the public interest; (ii) the works affecting the protected species would be necessary to enable the development to proceed in a logical / efficient manner; and (iii) the proposed mitigation measures would satisfactorily maintain the relevant species' status.

Insofar as the County Ecologist's advice is concerned, she considers that the ecology chapter and appendices of the Environmental Statement are satisfactory but advises that it would be necessary to undertake updated badger and grassland surveys prior to the commencement of development on or site clearance of each phase. The County Ecologist notes that the development would result in the loss of some (possibly) species-rich grassland, but that the wetlands and the wildlife site to the south would not be adversely impacted except in a minor way. The County Ecologist considers that the development would provide opportunities for creation of species-rich grassland in compensation for the loss and, on this basis, is considered acceptable.

Subject to the imposition of suitably-worded conditions, therefore, the submitted scheme is considered acceptable in ecological terms, and would provide suitable mitigation for the habitat affected, as well as appropriate measures for biodiversity enhancement.

Means of Access, Highways and Transportation Issues

As set out in the introduction above, the application is in part full and in part outline. Insofar as the outline element is concerned, however, the proposed vehicular access into the site from Tamworth Road is included for consideration at the outline stage. The proposed access arrangements include the formation of a new five arm roundabout; the respective arms include two serving Tamworth Road (i.e. north east and south west bound), a new access to the existing Tamworth Road layby (the existing north eastern access of which would be stopped up), and two new accesses to the development site. Insofar as the proposed site accesses are concerned, one would serve the full application site, and the other the outline application site.

Site Access

The County Highway Authority draws attention to the provisions of its 6Cs Design Guide and, in particular, Policy IN5, which provides that the County Council will normally apply restrictions on new accesses for vehicles on roads with a speed limit of more than 40mph. Tamworth Road (B6540) is currently derestricted (i.e. subject to the national speed limit), and the proposed new site access would therefore conflict with this policy. However, the County Highway Authority considers that (i) the proposal to incorporate the existing lay-by into the site access roundabout would improve existing road safety concerns associated with vehicles emerging from the lay-by and attempting u-turning manoeuvres; and (ii) the introduction of a new roundabout in this location is likely to contribute to managing speeds on the approach to the A50 junction. As such, the County Highway Authority does not object to the application on the basis of non-compliance with Policy IN5.

The County Highway Authority notes that the site access has been revised during the course of the application's consideration so as to take account of comments from both the County Highway Authority and an independent Stage 1 Road Safety Audit (RSA1). The original RSA1 identified nine issues which, on redesign, were reduced to six issues. Of the outstanding issues identified in the revised RSA1, the potential for HGV rollovers had remained an issue which was considered by the County Council to be particularly significant. The County Council notes that the RSA identified that "northbound vehicles approach the circulatory carriageway through a

reverse curve. HGVs heading north and then intending to turn right will undertake a series of contrasting bending movements to execute the turn, at a point where the road falls away to the west. Depending on the crossfall on the roundabout, there is a potential for vehicles to roll over as they undertake these manoeuvres". Following the submission of supplementary information to the highway authority, however, the County Council is now generally content on this issue, and is of the view that an appropriate scheme can be secured as part of the detailed carriageway vertical design work.

In addition to issues highlighted in the RSA, the County Highway Authority advises that it had also raised concerns over the level differences in the area. In particular it notes that the existing road embankment is owned and maintained by the County Council and any tie-ins would need to be agreed, and sets out its design requirements for any associated works to accommodate any required embankments / retaining structures etc. However, this also now appears to have been addressed to the County Highway Authority's satisfaction.

Insofar as the capacity of the proposed roundabout is concerned, the County Highway Authority advises that the access has been subject to capacity testing in ARCADY, which has been verified by the County Council. Notwithstanding the design issues as identified above, the County Highway Authority confirms that capacity testing shows that the roundabout is likely to operate with sufficient capacity, both at opening and in the 2031 future year assessment.

Overall in respect of the site access, therefore, whilst the County Highway Authority had some unresolved design and safety concerns with the proposed site access, it is now content that the roundabout access is suitable in principle, and considers that any remaining issues can be resolved through the detailed design work.

Off-Site Implications and Junction Assessments

The County Highway Authority advises that the anticipated trip generation has been calculated using trip rates from the Three Counties Traffic Model and that comparison of these trip rates against the industry standard TRICS database confirms that those adopted in the Transport Assessment are robust; the County Council also advises that comparison of the traffic flows obtained from the Three Counties Model with traffic surveys undertaken following the submission of the application shows that those flows used in the Transport Assessment are robust.

The Transport Assessment also considers the potential off-site impact should the proposed East Midlands Gateway Strategic Rail Freight Interchange scheme be approved / implemented. The County Highway Authority advises that background traffic flows (without the current Aldi application) have been derived from the Three Counties Model and uses information contained within the Transport Assessment prepared for the East Midlands Gateway scheme. The County Highway Authority confirms the correct extraction of information into the current Transport Assessment and advises that a sense check has been undertaken to support the general correctness of traffic flows should the East Midlands Gateway development be delivered.

Insofar as distribution of traffic is concerned, the County Council advises that heavy goods vehicles are likely to travel directly on to the strategic road network via the A50 and all HGV traffic has therefore been assigned to join the A50. The distribution of light vehicles (i.e. employee cars) has been based on 2011 Census Travel to Work data.

Insofar as the A50 Junction 1 (Sawley Interchange) is concerned, the junction itself however forms part of the strategic road network and falls under the control of Highways England, but the

B6540 approach, which leads to the proposed site access, is part of the local highway network under the control of the County Highway Authority. The junction is currently partially signalised with both A50 off-slips being signalised on entry to the roundabout. The County Highway Authority has reviewed the junction capacity assessment submitted within the Transport Assessment which has tested the operation of the junction in its current configuration both with and without the proposed development traffic. The County Council confirms that results show that the roundabout is likely to operate within capacity in all assessment years and scenarios. The County Council notes that further signalisation of the junction is conditioned as part of the proposed mixed-use development at land to the north and south of Park Lane, Castle Donington (planning permission ref. 09/01226/OUTM). The County Highway Authority advises however that it has reviewed the junction capacity assessment submitted in addition to those in the Transport Assessment which tested the operation of the junction with the Park Lane improvements both with and without the proposed development traffic. The results show that the roundabout is likely to operate within capacity in all assessment years and scenarios. The County Council is also of the view that, in the event that the Park Lane development did not come forward (and, hence the mitigation associated with that development was not implemented), the existing junction would be capable of accommodating the development (although this would be principally a matter for Highways England); it is also understood that, given the considerable margin by which the assumed flows are considered robust when compared to traffic count data, both the proposed Aldi development and that part of the Park Lane development permitted to be occupied prior to the threshold for the improvements being reached could be accommodated at the junction. Insofar as the position of Highways England is concerned, the application had been the subject of a TR110 Direction issued by the former Highways Agency (on behalf of the Secretary of State for Transport) preventing the Local Planning Authority from permitting the application pending the resolution of unresolved issues in respect of the impacts on the A50 trunk road. However, further to the completion of further assessment work by consultants acting on behalf of the Highways Agency, the Agency subsequently confirmed it was satisfied that the proposed development would not have an adverse impact on the nearest strategic routes, the A50 trunk road and the and M1 motorway. Insofar as the A50 is concerned, the Highways Agency's consultants have concluded that queue lengths at the Sawley Crossroads junction are currently limited in length, thus not resulting in any queuing within the A50 mainline; subject to the implementation of the proposed off-slip signals, they are satisfied that any additional queuing on the slip road could be accommodated by increasing green time to that arm. Overall, therefore, no mitigation is considered to be required to this junction to accommodate the proposed development.

In terms of the impacts on the M1 motorway (and including on Junctions 24 and 24a), in order to minimise the potential for rat-running (particularly through Castle Donington, and including the potential for trips to and from the A42, rat-running through the village to avoid the M1), the County Highway Authority had advised the applicants to undertake capacity assessments of those junctions so as to demonstrate that the strategic road network has sufficient capacity to accommodate the likely trip generation; given the weight restriction on this route, any rat-running which could potentially arise would, the County Council advises, most likely be attributed to employee movements as opposed to HGVs. However, the County Highway Authority is now satisfied that, based on the traffic generation and the 2011 Census based distribution analysis presented in the Transport Assessment, the volume of traffic likely to use the A42 would be minimal (less the 30 vehicles in the peak periods when the strategic road network is most likely to be congested) and therefore the potential for rat-running associated with the development would not, the County Council advises, be likely to be significant.

Insofar as the direct impacts on the M1 and its junctions themselves are concerned, the Highways Agency has advised that, whilst there would be an impact at Junction 24 of

approximately 90 two-way trips, it is accepted that the scale of the impact would not be sufficient to warrant mitigation in that such a mitigation scheme would be too small to make it worthwhile implementing and any more extensive scheme to accommodate existing and development generated traffic at the junction would be disproportionate. It is also noted that the recently completed Pinch Point scheme at the junction has provided some additional capacity for traffic accessing the M1 southbound from the A50 direction.

Site Accessibility

Insofar as public transport is concerned, the site is currently well served, benefitting from a regular bus service (the Nottingham Skylink) not only linking the site with East Midlands Airport and Nottingham, but also providing services to Castle Donington, Kegworth, Loughborough and Long Eaton. The service currently provides approximately three buses per hour in each direction during the day on Mondays to Saturdays, and two per hour on Sundays. A minimum hourly service is also provided through the night. The proposed site access design shows that the existing northbound bus stop would be retained and upgraded whilst the southbound bus stop will be relocated. In addition to the existing subway under the A50, crossing facilities have been proposed around the site access junction to enable bus users to access the proposed bus stops. The County Council considers that, in addition to the proposed bus shelters, bus stops should also be equipped with raised kerbs, timetable cases and Real-Time Information in order to promote the use of public transport to the site; this view is agreed with by officers, and would, it is considered, represent important measures necessary to encourage employees to make use of the existing bus services.

It is noted that Erewash Borough Council has suggested that contributions could be sought towards improving public transport between settlements within that Borough (namely Ilkeston and Long Eaton) which, having regard to the application site's linkages to East Midlands Airport, would have the effect of improving wider access within Erewash to the Airport. Whilst it is agreed that wider public transport improvements would be welcome, and whilst such a contribution could help improve the site's accessibility from settlements such as Ilkeston, it is not considered that a case could reasonably be made that such contributions would be necessary to render the development acceptable in planning terms and, in terms of the level of service currently available to the site, the scheme would, it is considered, be accessible by public transport to a reasonable extent, providing a realistic travel choice for employees in a number of settlements in the region. As such, it is accepted that any public transport improvements / contributions would, more reasonably, be designed to encourage use of the existing services. For its part, Leicestershire County Council advises that, whilst such an approach to pooling contributions in the area is supported in principle, matters are not yet sufficiently advanced to be in a position to commence calculation / requesting of such contributions. As such, and when considered in the context of the tests for planning obligations as set out in the NPPF and Community Infrastructure Levy (CIL) Regulations 2010, it is accepted that, at this time, additional contributions to wider transport enhancements could not be reasonably required.

To ensure that the development is fully served by high quality non-motorised routes to locations outside of the site and to promote access to the site by walking and cycling, Leicestershire County Council considers that improvements to public rights of way L91 and L91a between the rear of the layby opposite the site and Long Horse Bridge would be appropriate, including resurfacing, signage, gates / access barriers, and marker posts where necessary. It is understood that the improvements to these routes would allow linkages to be secured with programmed works being promoted on the other side of the Long Horse Bridge by Derbyshire County Council and, as such, would allow for viable non-motorised routes for employees accessing the site from settlements within Derbyshire. It is considered that these improvements

could be secured by way of an appropriately worded condition.

In addition, the County Highway Authority notes that the RSA1 also identified that pedestrians should be encouraged to use the existing subway to minimise pedestrian collisions and that the design team has responded that measures would be put in place to encourage the use of the existing subway and that subway conditions would be checked and improved if required. On this basis, the County Council advises that a subway condition survey should be undertaken to ensure that subway facilities are appropriate to encourage its use and to minimise pedestrian collisions. The CHA also advises the provision of a Travel Pack and 6 month bus pass for each employee so as to encourage travel by sustainable modes.

Insofar as other measures are concerned, the submitted Environmental Statement includes a Travel Plan setting out existing conditions / accessibility (including public transport as already set out above), and identifying potential measures to encourage sustainable modes of travel to and from the site by employees. Following a revision of the submitted Travel Plan so as to include additional targets, the County Highway Authority considers that this document is now broadly acceptable (although notes that it is, in effect, a Framework Travel Plan in view of the currently unknown factors associated with the outline element of the proposals). The County Highway Authority also requires the provision of an iTrace monitoring fee (£11,337.50) so as to enable monitoring of the effectiveness of the Travel Plan.

On this basis, it is considered that an adequate level of accessibility by modes other than the private car would be available to employees of the development.

Access and Transportation Contributions:

Insofar as the various contributions requested by the County Highway Authority are concerned (and including those already referred to above), these are as set out below.

- iTrace monitoring fee (£11,337.50) in respect of the Framework Travel Plan;
- Construction traffic routeing;
- Appointment of a Framework Travel Plan Co-ordinator from occupation of the first unit for a minimum of five years following the occupation of the last unit
- Provision of travel packs to employees (or a financial contribution of £52.85 per pack to Leicestershire County Council in order for the County Council to provide the packs instead);
- Provision of one six month bus pass per employee (or a financial contribution of £586.50 per pass to Leicestershire County Council in order for the County Council to provide the passes instead);
- Provision of new or improvements to the two nearest bus stops (including raised and dropped kerbs to allow level access) (£3,263 per stop);
- Contribution towards information display cases at the two nearest bus stops (£120 per display);
- Provision of bus shelters at the two nearest bus stops (£4,908 per shelter);
- Contribution towards equipping the two nearest bus stops with Real Time Information (RTI) system (£5,150 in total)
- Improvements to Public Rights of Way L91 and L91a (as set out above)
- Implementation of Traffic Regulation Orders required to deliver the site access roundabout (£5,000 per order)

Of these, it is accepted that a number of these (and including in respect of works to bus stops / shelters and rights of way) can be addressed by way of condition; payment of costs incurred in respect of promoting / implementing Traffic Regulation Orders would appear to be more

appropriately addressed directly between the applicants and the County Highway Authority.

Other than these matters, it is considered that the contributions sought would meet the relevant NPPF and Community Infrastructure Levy Regulations tests as set out under Developer Contributions below, and would be appropriate.

Air Quality

The Environmental Statement assesses the impacts on nitrogen dioxide and particles associated with the development, including impacts arising from the construction works and the additional traffic associated with the development once it is in use. The Environmental Statement has been assessed by the District Council's Environmental Protection team.

In terms of National policy, Paragraph 124 of the NPPF sets out the Government's approach to air quality and Air Quality Management Areas (AQMAs). However, this also needs to be read in the context of the wider approach to sustainable development as set out in the NPPF, and its economic, social and environmental roles.

The Environmental Statement considers likely air quality effects in two principal categories: impacts during the earthworks and construction phase (principally dust emissions), and impacts from road traffic during the operational phase (nitrogen dioxide and particulates).

In terms of the earthworks and construction phase, the Environmental Statement indicates that, during the early phases of the works, activities such as soil stripping, excavations and earthworks, temporary stockpiling of potentially dusty materials and the use of unsurfaced haul roads would be likely to be the principal sources of dust. During the middle phases, when the buildings are being erected from prefabricated materials, the principal sources of dust would, the Environmental Statement suggests, be likely to be from the cutting and grinding of materials and the movement of construction related road vehicles. During the latter phases, when the majority of the buildings and infrastructure would be complete, the landscaping and finishing works (and the associated the storage, handling and movement of materials) would be the principal sources of dust.

Insofar as receptors affected dust emissions are concerned, these are identified in the Environmental Statement as including residential properties near to the site boundary and a road side food retailer on Tamworth Road.

The earthworks and construction air quality impacts are identified in the Environmental Statement as being strongly influenced by weather conditions at the time of the works. With good site practice the earthworks would, the Environmental Statement suggests, have a slight adverse effect on amenity and a negligible effect on short term particulate concentrations at receptors. Insofar as construction impacts are concerned, the Environmental Statement states that the method of construction would make extensive use of pre-constructed materials and, as such, there would be less potential to generate emissions of dust than during the earthworks. Whilst dust emissions during construction could give rise to elevated dust deposition and particulate concentrations, these are, the Environmental Statement suggests, generally short-lived changes over a few hours or days, which occur over a limited time period of several weeks or months. Subject to the proposed good practice measures being implemented, the Environmental Statement concludes that the overall, residual impacts arising from the earthworks and construction phases would be local, short term adverse effects on local amenity (at worst) and a negligible effect on local air quality; the Environmental Statement does not consider these residual effects to be significant.

In terms of the operational phase, the impacts are considered to be limited to emissions from additional road traffic movements. Five receptor locations are identified in the Environmental Statement, including nearby residential properties plus Sawley Marina and the Plank and Leggit public house. The Environmental Statement identifies that all predicted concentrations for both nitrogen dioxide and particulates would be below the annual mean Air Quality Objective Values for England of 40 micrograms per cubic metre ($\mu\text{g}/\text{m}^3$). The Environmental Statement provides that the predicted change in annual mean concentrations of nitrogen dioxide are $0.4\mu\text{g}/\text{m}^3$ or less at residential receptors located off Tamworth Road and $0.7\mu\text{g}/\text{m}^3$ or less at an existing residential property near the A50. It also states that the "imperceptible increase at receptors located off Tamworth road would have a negligible effect at these properties in the long term". No mitigation measures are proposed in respect of the operational phase but, nevertheless, the proposals are considered acceptable in this regard in that no mitigation is identified as being necessary.

Further to a request by the Local Planning Authority, an additional technical note has been provided to consider the impacts on the Castle Donington AQMA (located in the vicinity of the High Street / Delven Lane / Park Lane junction). This indicates that an additional 260 vehicles (light vehicles only due to the weight limit) would be expected to be directed towards Castle Donington from the site (i.e. via the A50 Sawley Crossroads junction). On the assumption that all of these would pass through the junction, this would, the technical note provides, represent an increase of 1% of the am or pm peak passenger car units (PCUs), an insignificant impact, and thus not affecting the overall Environmental Statement conclusions.

No objections are raised in respect of air quality issues by the District Council's Environmental Protection team. The proposed development is considered acceptable in terms of its air quality implications, both generally, and within the Castle Donington AQMA.

Neighbours' Amenities

In terms of amenity issues, the impacts of the proposed development need to be considered both in terms of the effects on nearby residents arising from the undertaking of the construction of the proposed development (including, in particular, construction noise and vibration), as well on the future living conditions of residents following construction, having regard to the noise and other amenity impacts of the proposed development. These are considered in turn below.

Construction Noise and Vibration

The submitted Environmental Statement suggests that the potential for significant construction noise effects at the façade of residential properties, is likely to be limited to the closest residential properties to the north and south of the site. Whilst specific details of the activities and plant required to construct the proposed development are not available at this stage, it is anticipated that piled foundations are likely to be required for the new buildings on the site, and the Environmental Statement therefore includes example calculations of noise levels from driven piling at each of the closest four properties. The Environmental Statement indicates that, at the most affected property (70m away for the purposes of the noise calculations), the estimated one hour noise level at the dwelling's façade would be $75\text{LAeq},1\text{h}$. It also suggests, however, that, given the size of the development site, the duration of works at the closest approach to these receptors would be likely to be limited and that, when works occur away from the site boundaries, the magnitude of the construction noise levels would be considerably reduced.

Insofar as the vibration effects of the foundation piling is concerned, the Environmental

Statement indicates that, having regard to the distance between the proposed piling locations and the nearest dwellings, there would be no risk of damage to buildings, and any annoyance as a result of the vibration would (at the most affected property) be classed as "minor adverse" and over a short-term period only.

The Environmental Statement also considers the noise effects of construction traffic; the assessment concludes that, having regard to the existing volume of traffic on the proposed construction traffic route (i.e. southwards along Tamworth Road towards the A50) and the lack of receptors on this section of Tamworth Road, the magnitude of the direct (short term) adverse construction traffic noise impact would be likely to be very low.

Insofar as construction phase noise mitigation is concerned, the Environmental Statement sets out a range of good practice measures which, if adopted, would reduce the residual effect to moderate to minor adverse.

Post Construction / Operational Impacts

Insofar as the noise impacts arising from operation of the proposed development itself are concerned, these are considered within the Environmental Statement in terms of the noise from additional road traffic in the surrounding area, and from the on-site operations.

With respect to traffic noise implications, the Environmental Statement indicates that the magnitude of the impact of the change in traffic noise levels would be "very low" on the A50 and on that part of Tamworth Road to the north of the site. On that part of Tamworth Road to the south of the site the magnitude of the permanent direct impact is classed as "low" but, given the absence of sensitive receptors adjacent to this section of Tamworth Road, the significance of this impact would be classed as "negligible".

In terms of on-site noise impacts, the Environmental Statement suggests that the noise sources are likely to include:

- Light vehicles on site associated with the car park;
- Heavy vehicles on site associated with the goods in and goods out yards;
- "Shunter" vehicle operating in the goods out yard moving trailers;
- Electric Forklift operating in the recycling area;
- Balers and compactors process cardboard and plastic in the recycling area; and
- Rooftop refrigeration plant

The on-site noise impacts are assessed in respect of four principal receptors (i.e. the four closest dwellings), and having regard to the two principal elements of the scheme (i.e. the full and outline parts of the proposals) and the impacts during the daytime and at night. Insofar as properties closest to the site of the full application proposals (i.e. those dwellings located to the north of the application site) are concerned, the dominant noise impacts are predicted to be from the proposed recycling area, and from vehicular movements. Insofar as the recycling area is concerned, the main noise source would be the balers and at night (when the balers would not be in use) from the electric forklift in the recycling area. In terms of vehicle impacts, HGV movements in the goods in yard would affect these properties, although to a lesser extent at night (due to fewer HGVs being present). Noise from rooftop plant is not predicted to be significant. In addition to the three properties to the north, a further dwelling is located to the south of the site, adjacent to the area of the site subject to the outline element of the application. The dominant noise sources affecting this dwelling would, assuming the general form of development indicated on the outline proposals and the associated shielding of noise by that proposed building, be vehicle movements and the operation of the "shunter" in the goods out yard serving the full application unit.

In terms of the extent of this disturbance, the Environmental Statement suggests that one of the adjacent properties on Tamworth Road would experience the greatest impact, having regard to its proximity to the goods in yard. In all cases, however, when taking into account existing background noise conditions and proposed operational phase mitigation (including various operational practices and a proposed landscaped earthworks bund of between 2 and 4 metres in height to the northern edge of the site), the residual on-site operational noise would, the Environmental Statement concludes, be negligible.

Overall in terms of noise and vibration, therefore, whilst there would clearly be significant amounts of activity on the site both during construction and once the site was operational, the impacts in this regard would not appear likely to be unacceptable, and particularly when having regard to the proposed implementation for the various mitigation measures set out in the Environmental Statement. No objections on noise or vibration grounds have been raised in respect of the proposed development by the District Council's Environmental Protection team.

Other Residential Amenity Impacts

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves, the application site is in the vicinity of existing residential properties, namely three to the north of the site, and one to the south. The existing dwellings to the north are located at distances of between approximately 145m and 225m from the proposed full application unit at its closest point (albeit areas of residential curtilage would be located closer than this), and the unit would be of maximum height 17.9m above finished floor level; having regard to the ground level of the proposed recycling area to this northern side and the relationship to the finished floor level, however, the unit would, in effect, be 20m high when viewed from this direction. Whilst the southern unit is only proposed in outline form at this stage, the siting as indicated on the proposed parameters plan indicates a building of maximum height 17.5m above finished floor level approximately 65m from the existing dwelling to the south of the application site (or approximately 45m from the closest part of the dwelling's curtilage).

Whilst these existing dwellings would be some distance from the proposed buildings, the proposed development would clearly be of some scale in terms of height and width when viewed from adjacent land. Whilst it is accepted that significant impacts on existing dwellings in terms of loss of light or overshadowing would seem unlikely at any time of year given the height of the proposed unit and the distances involved, it is considered that issues relating to overdominance and visual impacts would arise. However, the view is taken that, whilst some adverse impacts on amenities would be likely to result from the development in this regard, those impacts would not be so unduly significant so as to warrant a refusal of the application; loss of view is not a material planning consideration.

Historic Environment

The application is accompanied by a Heritage Statement.

In terms of designated heritage assets, whilst the Statement identifies a number of Conservation Areas and scheduled monuments in the wider vicinity, it is accepted that no Conservation Areas or monuments would be materially affected by the proposals.

Insofar as listed buildings are concerned the Statement considers in particular the impacts on Hemington House, a Grade II listed building, (one of the dwellings located to the north of the application site). 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. The Statement suggests that the setting of Hemington House was originally defined by open fields and a predominately rural landscape, and that the most significant part of its setting lies immediately to the north and north-west. Whilst the historic field divisions to the south would have originally contributed to the building's setting, the subsequent mineral extraction has, the Statement suggests, resulted in the loss of field boundaries and hedgerows with the resulting loss of any historical relationship between the application site and Hemington House. Having regard to this, and to the twentieth century transformation of nearby land from agricultural fields to water filled gravel pits, the Statement suggests that the wider setting of the listed building has changed exponentially. On this basis, the applicants consider that the most historically significant extant setting of the listed building is experienced within close proximity to the building itself (namely the approaches from Tamworth Road), and note that the proposal would not result in any harm to this significance. The Heritage Statement also suggests that any visual impact of the proposed development on the southern aspect of the listed building would be mitigated through the creation of a landscaped bund, and, on this basis, any harm to the setting of Hemington House would, the Statement provides, be defined as "less than substantial" under the threshold set out in the NPPF. The District Council's Conservation Officer agrees with the applicants' findings in this regard, and it is accepted that a less than substantial degree of harm would arise, particularly when bearing in mind previous impacts on the setting of the listed building. Paragraph 134 of the NPPF provides that, "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use". In this instance, therefore, any harm considered to arise in respect of the heritage asset needs to be weighed against public benefits (which, in this case, would, it is considered, principally be in respect of the contributions to the economic and social strands of sustainable development). In accordance with the requirements of NPPF Paragraph 132, "great weight" should be given to the asset's conservation and, notwithstanding the approach set out in Paragraph 134, regard nevertheless still needs to be had to the statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990. In this case, and when applying the duty under Section 66 of the Act together with the tests set out in the NPPG, the view is taken that, whilst there would be a degree of harm to the setting of the listed building, the overall impact would be acceptable. The Heritage Statement also identifies the presence of two other listed buildings in the vicinity (mile posts), but it is noted that these have previously been relocated from their original locations, and no material impact on their setting or value would seem likely.

Insofar as non-designated heritage assets are concerned, the applicants' heritage consultant considers that there are no buildings, monuments, sites, places, areas or landscapes within or surrounding the site which could potentially be considered non-designated heritage assets. In terms of the archaeological potential of the site the applicants consider that any which may have existed would no longer be present having regard to the site's working for minerals and subsequent restoration with PFA. Again, this position is accepted; no comments have been received from Leicestershire County Council's Planning Archaeologist.

Design

The application is supported by a Design and Access Statement explaining the applicants' rationale for the scheme as proposed, and setting out the principal design considerations. In terms of constraints and opportunities, the Design and Access Statement identifies these as including:

- Mitigation of the visual impact of the development from the dwellings to the North of the

- site
- Existing adjacent roads
- Flood considerations
- Future development considerations
- Ground remediation considerations
- The need to accommodate 6 pallet high racking
- Restriction of solar gain (use of colour)

Opportunities are identified within the Design and Access Statement as including:

- The positive use of a vacant plot of land
- Additional employment opportunities
- Improvement of existing habitat around the site
- Amenity space for staff

Insofar as the proposed full application unit is concerned, the Design and Access Statement provides that the design is based upon a standard regional distribution centre template developed by Aldi, and sets out the rationale for the scale of the building and the disposition of the various functions within it. Use of materials is, the Design and Access Statement indicates, dictated to by the need to minimise solar gain in this temperature controlled environment.

The proposal has been assessed by the District Council's Urban Designer (both prior to submission and during the course of the application's consideration), who has raised a number of issues regarding the scheme. In particular, it is noted that the applicants do not appear to have explored layout and massing options (i.e. they are instead relying on a pre-determined standard type design for both layout structure used elsewhere) and, as such, the effect is that the applicants are then put in a position whereby they are trying to minimise the visual impact through planting (which will always have limited impact due to the height of trees and the scale of the proposed structure) and use of cladding / materials etc. In this sense, the concern is raised that the scheme is one that runs counter to the design led process embedded in planning policy. In particular, it is noted that the NPPF provides in Paragraph 64 that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Whilst these concerns have been raised, it would appear that the applicants are unwilling or unable, operationally, to follow what would, it is considered, be a more appropriate approach to formulating the design. On this basis, the District Council's Urban Designer has queried whether the form of the buildings would be negotiable, even if the positioning is not (and queries, for example, whether the buildings have to be in a rectangular "box" type form, suggesting that, for instance, the roof form could be curved with roof lights to bring natural daylight into interior spaces). It is also suggested that different options could be explored in terms of cladding treatment. Nevertheless, no further options in respect of these issues have been provided, and the application remains as submitted.

As such, the position remains that, in terms of the design led approach to development, the scheme is not considered to have been fully explored so as to whether it makes best use of the opportunities available as per the requirements of the NPPF. However, this also needs to be considered in the context of the merits of the scheme proposed. In this regard it is considered that, whilst it has not, officers consider, been demonstrated that the scheme proposed (and, in particular the northern (full application) unit) represents the most appropriate option for development achievable, it is nevertheless accepted that the scheme would, subject to appropriate control over materials, not be unacceptable in design terms.

Agricultural Land Quality

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 employment land requirements 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 application submissions do not contain an assessment of agricultural land quality, under MAFF's Post 1988 Agricultural Land Classification, the site falls primarily within Grade 4 and, as such, would not constitute BMV land. The development of the site is therefore considered acceptable in this regard.

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 are as per those requested by the County Highway Authority and as set out under Means of Access, Highways and Transportation Issues above; in view of the nature of the proposals, no other contributions are considered to be required to mitigate the impacts of the development.

Conclusions

As set out above, the site is considered suitable in principle for the proposed development. It is considered that the supporting information indicates that the development is acceptable in technical terms, and the conclusions as set out in the applicants' Environmental Statement and other supporting documents are for the most part accepted (and, where not fully concurred with, officers are content that no unacceptably adverse impacts would arise in any event). Whilst the site is outside Limits to Development and, therefore, would be contrary to existing National and Development Plan policies designed to protect the countryside from unnecessary development, regard also needs to be had to other material considerations and including the District's employment land requirements as well as the NPPF's stated aim of supporting economic growth through the planning system. The need for and the benefits of the development in terms of stimulating economic growth are in this case considered to outweigh any conflict with the Development Plan. Whilst the design of the northern unit does not appear to have been formulated specifically for this site, the scheme would not, it is considered, have such adverse impacts so as to render the development unacceptable in this respect.

In terms of other technical issues affecting the proposed development, and as set out in the applicants' Environmental Statement and other supporting documents, it is considered that the proposals are, overall, acceptable. It is also proposed that appropriate contributions to transportation infrastructure would be secured in order to accommodate the development, and

the proposals would make a significant contribution to local employment opportunities. Whilst these benefits need to be considered in the context of the other environmental effects, and whilst there would, it is considered, be implications on the outlook of nearby dwellings, it is considered that, overall, these impacts would be acceptable environmentally and, when assessed in the wider context of all three dimensions to sustainable development as set out in the NPPF, the proposed development would benefit from the presumption in favour of sustainable development, and approval is therefore recommended.

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

- 1 The development within that part of the application site edged in red on drawing no. A13A49-P004 Rev F shall be begun before the expiration of one year 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), and to ensure that the development takes place within a reasonable period, having regard to the timescales as set out within the submitted flood risk sequential test documents.

- 2 Save for the details of vehicular access into the site from Tamworth Road, details of the access, appearance, landscaping, layout, and scale in respect of that part of the application site edged in red on drawing no. A13A49-P005 Rev F, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced within that part of the site.

Reason - This permission is in outline only.

- 3 Plans and particulars of the reserved matters referred to in Condition 2 above, relating to the access (save for the details of vehicular access into the site from Tamworth Road), 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).

- 4 Application for approval of the reserved matters referred to in Condition 2 above shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development scale in respect of that part of the application site edged in red on drawing no. A13A49-P005 Rev F 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).

- 5 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 (A13A49-P001 Rev A) deposited with the Local Planning Authority on 13 January 2015
 - Site layout and parameters plan (A13A49-01-P002 Rev H) deposited with the Local

- Planning Authority on 13 January 2015
- Existing site boundary (A13A49-P003 Rev F) deposited with the Local Planning Authority on 13 January 2015
- Site boundary (full) (A13A49-P004 Rev F) deposited with the Local Planning Authority on 13 January 2015
- Site boundary (outline) (A13A49-P005 Rev F) deposited with the Local Planning Authority on 13 January 2015
- Proposed elevations (A13A49-01-P006 Rev C) deposited with the Local Planning Authority on 13 January 2015
- Proposed gatehouse (A13A49-01-P007 Rev A) deposited with the Local Planning Authority on 13 January 2015
- Proposed truck wash, servicing and fuel (A13A49-01-P008 Rev B) deposited with the Local Planning Authority on 13 January 2015
- Site sections (A13A49-01-P009) deposited with the Local Planning Authority on 13 January 2015
- Proposed office floor plans (A13A49-01-P010) deposited with the Local Planning Authority on 13 January 2015
- Ambient and TCA warehouse plan (A13A49-01-P011) deposited with the Local Planning Authority on 13 January 2015
- Proposed roundabout access (NTT/2438/100-01 Rev P9) deposited with the Local Planning Authority on 2 June 2015

Reason - To determine the scope of this permission.

- 6 A total floorspace of no more than 117,209 square metres (gross internal) shall be erected.

Reason - To define the scope of this permission.

- 7 Save for any approved works associated with the diversion of watercourses within the site, no development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as precise details of all means of mitigation measures for the site or that particular phase as set out in the Environmental Statement (and appendices), and including timetables for their provision, have been submitted to and agreed in writing by the Local Planning Authority. The approved measures shall be implemented in accordance with the approved details and timetables unless in accordance with any variation first agreed in writing by the Local Planning Authority.

Reason - To ensure the development and associated impacts take the form envisaged in the Environmental Statement.

- 8 Notwithstanding the submitted details, nor Condition 5 above, save for any approved works associated with the diversion of watercourses within the site, no development shall commence on that part of the application site edged in red on drawing no. A13A49-P004 Rev F until such time as precise details of all external building materials / finishes to be used in the construction of the external surfaces of the buildings / structures within that part, together with details of the interface between materials and methods of fixing, have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the agreed details.

Reason - To enable the Local Planning Authority to retain control over the external appearance,

in the interests of the amenities of the area.

- 9 Save for any approved works associated with the diversion of watercourses within the site, no development shall commence on that part of the application site edged in red on drawing no. A13A49-P004 Rev F until such time as a landscaping scheme for that part (including earthworks bunds where applicable), and to accord generally with the principles shown on plan no. Bir.4703_12A, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in the first planting and seeding season following either the first occupation or the bringing into use of the development hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority.

Reason - To ensure satisfactory landscaping is provided within a reasonable period, and to comply with Policies E2 and E7 of the North West Leicestershire Local Plan.

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

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

- 11 The development permitted by this planning permission shall be carried out in accordance with the submitted Environmental Statement (Chapter 9: Drainage and Flood Risk) and the submitted Flood Risk Assessment, Rev 2 dated 05/01/2015.

Reason - To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to protect water quality; to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided; to ensure flood protection to the development, thereby reducing the risk of flooding.

- 12 Notwithstanding the submitted details nor Conditions 5, 7 and 11 above, no development shall commence on site until such time as precise details of all measures of foul and surface water drainage for the site or that particular phase (and including a scheme for the provision, implementation and future maintenance of a Sustainable Drainage (SuDs) system and any alterations to existing watercourses), together with a timetable for its implementation and details of its ongoing management, has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out and thereafter so maintained in accordance with the agreed details and timetable.

Reason - To ensure the site is adequately drained, to prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to protect water quality.

- 13 Notwithstanding the submitted details nor Conditions 5, 7, 11 and 12 above, no development shall commence on site until such time as a scheme for the provision and implementation of level for level compensatory flood storage for the site or that particular phase, together with a method statement of proposed working, a timetable for its implementation and details of its ongoing management, has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out and thereafter so maintained in accordance with the agreed details and timetable.

Reason - To ensure that compensatory storage of flood water is provided, thereby reducing the risk of flooding, and to comply with Policy E30 of the North West Leicestershire Local Plan.

- 14 Notwithstanding the submitted details nor Conditions 5, 7, 11 and 12 above, save for any approved works associated with the diversion of watercourses within the site, no development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as precise details of all ground and finished floor levels within the site or phase (and including all earthwork bunds) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out and thereafter so maintained in accordance with the agreed details.

Reason - To ensure flood protection to the development, thereby reducing the risk of flooding, to ensure the development takes the form envisaged by the Local Planning Authority, in the interest of amenity, to limit the harm to the significance of the nearby listed building, and to comply with Policies E3, E4 and E30 of the North West Leicestershire Local Plan.

- 15 Notwithstanding the submitted details nor Conditions 7, 11 and 12 above, 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 scheme for the site or that particular phase to treat and remove suspended solids from surface water run-off during construction works has been submitted to and agreed in writing by the Local Planning Authority. No construction works shall be undertaken at any time other than in accordance with the agreed scheme.

Reason - To minimise the risk of pollution of the water environment.

- 16 Notwithstanding the submitted details nor Conditions 2, 5, 7 and 9 above, no development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until a habitat protection, creation, biodiversity and landscape management plan for the site or phase, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas for the site or that particular phase has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include the following elements:

- Detail of the extent and type of new native species planting;
- Details of maintenance regimes;
- Detailed designs of any new / compensatory habitats created on site, ensuring habitat connectivity within the site and off site to the wider landscape;
- Details of treatment of site boundaries and/or buffers around water bodies;
- Detailed management plan for newly created and existing habitats on site; and
- Timetables for implementation

The site and landscaping shall thereafter be maintained in accordance with the agreed management plan and timetables (or in accordance with any alternative management plan and / or timetables first submitted to and agreed in writing by the Local Planning Authority).

Reason - To ensure the protection of wildlife and supporting habitat and to secure opportunities for the enhancement of the nature conservation value of the site.

- 17 Notwithstanding the submitted details, nor Condition 7 above, save for any approved

works associated with the diversion of watercourses within the site, no development or site clearance shall commence on the site until such time as a timetable for the undertaking of updated surveys 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 surveys have 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.

- 18 Notwithstanding the submitted details, nor Condition 7 above, save for any approved works associated with the diversion of watercourses within the site, no development or site clearance shall commence on the site until such time as a timetable for the undertaking of updated surveys in respect of semi-improved grassland on the site 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 surveys have 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.

- 19 Notwithstanding the submitted details, nor Condition 7 above, save for any approved works associated with the diversion of watercourses within the site, 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 Risk Based Land Contamination Assessment has been submitted to and agreed in writing by the Local Planning Authority. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
- BS10175:2011+A1:2013 Investigation of Potentially Contaminated Sites Code of Practice;
 - 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)

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

- 20 If, pursuant to Condition 19 above, any unacceptable risks are identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan for the site or that particular phase shall be 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), and 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 the affected 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 undertaken in accordance with the approved details and thereafter be so maintained.

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

- 21 None of the development hereby permitted shall be brought into use until such time as a Verification Investigation for the relevant part of the site 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. No part of the development (or, in the case of phased development, no part of the relevant phase) shall be brought into use until such time as a report showing the findings of the Verification Investigation has been 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, to ensure protection of controlled waters and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.

- 22 Unless any alternative measures or timescale is first agreed in writing by the Local Planning Authority, no development shall commence on that part of the application site edged in red on drawing no. A13A49-P004 Rev F until such time as all existing trees or hedgerows within 10 metres of that part of the application site and shown as retained on drawing no. BIR.4703_1-A (Environmental Statement Appendix 3.1) have been securely fenced off in accordance with the scheme for their protection first submitted to and agreed in writing by the Local Planning Authority. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand, unless any alteration is first agreed in writing by the Local Planning Authority.

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

- 23 Save for any approved works associated with the diversion of watercourses within the site, no development shall commence on that part of the application site edged in red on drawing no. A13A49-P004 Rev F until such time as precise details of all hard surfacing within that part of the site have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the agreed details.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, in the interests of the amenities of the area, and to comply with Policies E4 and E7 of the North West Leicestershire Local Plan.

- 24 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 and nearby residents, in the interests of nature conservation, in the interests of highway safety and to comply with Policy E4 of the North West Leicestershire Local Plan.

- 25 Notwithstanding the submitted drawings, nor Condition 5 above, save for any approved works associated with the diversion of watercourses within the site, no work shall commence in respect of those parts of the application site edged in red on drawing nos. A13A49-P004 Rev F and A13A49-P005 Rev F respectively until such time as precise details of all measures proposed to be incorporated within the relevant part of the site as set out generally within Section 5 of the submitted Sustainability Statement (dated December 2014 and produced by Dalkin Scotton Partnership Architects), together with a timetable for their implementation, have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and timetable.

Reason - To ensure the environmental integrity of the scheme is secured.

- 26 No vehicles shall be washed, serviced or fuelled on the site at any time other than those ordinarily used for the distribution of goods to and from the site.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, in the interests of the amenities of the area.

- 27 Notwithstanding the submitted drawings, nor Condition 5 above, nor 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), save for those detailed on drawing no. A13A49-01-P008 Rev B, no fences, gates, walls or other means of enclosure shall be erected on the site unless in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason - To preserve the amenities of the locality, in the interests of highway safety, in the interests of the amenities of the area, and to comply with Policies T3 and E4 of the North West Leicestershire Local Plan.

- 28 Notwithstanding the submitted drawings, nor Condition 5 above, no externally sited sprinkler tanks or associated equipment shall be installed at any time unless in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, in the interests of visual amenity, and to comply with Policy E4 of the North West Leicestershire Local Plan.

- 29 Notwithstanding the submitted drawings, nor Condition 5 above, there shall be no external storage or processing of any goods, materials, pallets, packaging or waste items at any time unless in accordance with a detailed external storage strategy (including details of types of items stored, maximum height of storage above ground level and any mitigation where applicable) first submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, in the interests of visual amenity, and to comply with Policy E4 of the North West Leicestershire Local Plan.

- 30 Notwithstanding the submitted drawings, nor Condition 5 above, the weighbridge as shown on drawing no. A13A49-01-P002 Rev H shall not be installed until such time as details have been submitted to and agreed in writing by the Local Planning Authority. The weighbridge shall be installed strictly in accordance with the agreed details.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, in the interests of visual amenity, and to comply with Policy E4 of the North West Leicestershire Local Plan.

- 31 Notwithstanding the submitted drawings, nor Condition 5 above, no part of the development hereby permitted shall be brought into use until such time as the site access on B6540 Tamworth Road (and as shown generally on drawing no. NTT/2438/100-01 Rev P9) has been provided in full and made available for use in accordance with precise details (including any associated forward horizontal and vertical visibility) first submitted to and agreed in writing by the Local Planning Authority. Once provided the access shall thereafter be so maintained.

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

- 32 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 construction traffic / site traffic management plan, including wheel cleansing facilities and construction vehicle parking facilities for the site or that particular phase, 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.

- 33 Notwithstanding the submitted Travel Plan, no part of the development shall be brought into use until details of an updated Travel Plan for that part of the site has been submitted to and agreed in writing by the Local Planning Authority. The updated Travel Plan shall be prepared taking into account the quality of provisions available, including the pedestrian subway, and shall address the travel implications of the use of the whole site as if the development approved were to have been fully completed and occupied. The Plan shall specify facilities and measures with measurable output and outcome targets designed to:
- Reduce single occupancy vehicle use, reduce vehicular travel at peak traffic times and reduce vehicle emissions for journeys made for all purposes to and from the developed site;
 - Increase the choice and use of alternative transport modes for any journeys likely to be made to and from the developed site and, in particular, to secure increases in the proportion of travel by car sharing, public transport use, cycling and walking modes and the use of IT substitutes for real travel; and
 - Manage the demand by all users of the developed site for vehicle parking within and in the vicinity of the developed site.

The Plan shall also specify:

- The on-site Plan implementation and management responsibilities, including the identification of a Travel Plan Co-ordinator;
- The arrangements for regular travel behaviour and impact monitoring surveys and Plan reviews covering a period extending to at least one year after the last unit of development is occupied or a minimum of 5 years from first occupation, whichever will be the longer;
- The timescales or phasing programmes for delivery of the Plan's proposals and for the achievement of the specified output and outcome targets;
- Additional facilities and measures to be implemented if monitoring shows that the Plan's targets are not likely to be met, together with clear trigger dates, events or threshold levels for invoking these measures; and
- Proposals for the regular ongoing monitoring and review of associated targets and measures, together with mechanisms for agreement of those details by the Local Planning Authority

The development hereby permitted shall not be occupied at any time other than in accordance with the approved details (or any alternative Travel Plan first submitted to and agreed in writing by the Local Planning Authority).

Reason - To ensure that adequate steps are taken to achieve and maintain reduced travel, traffic and parking impacts and to provide and promote use of more sustainable transport choices to and from the site.

- 34 Notwithstanding the submitted drawings, nor Condition 5 above, no part of the development within that part of the application site edged in red on drawing no. A13A49-P004 Rev F shall be brought into use until such time as a detailed scheme of off-street car and cycle parking to serve that part of the development has been implemented in full in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Once provided the relevant parking provision shall thereafter be so maintained.

Reason - To ensure that an appropriate level of car and cycle parking is available to serve the development, and to comply with Policy T8 of the North West Leicestershire Local Plan.

- 35 No part of the development within that part of the application site edged in red on drawing no. A13A49-P004 Rev F shall be brought into use until such time as the whole of the lorry parking to serve that part of the development as shown on drawing no. A13A49-01-P002 has been implemented in full and, once provided, shall thereafter be so maintained.

Reason - To ensure that an appropriate level of lorry parking is available to serve the development, and to comply with Policy T8 of the North West Leicestershire Local Plan.

- 36 Unless any alternative timescale is first agreed in writing by the Local Planning Authority, no part of the development shall be brought into use until such time as a scheme of bus stop provision to Tamworth Road (including details of raised and dropped kerbs, information display cases, bus shelters and Real Time Information) has been implemented in full in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason - In the interests of encouraging use of sustainable modes of travel to and from the site, achieving modal shifts, and reducing car use.

- 37 Unless any alternative timescale is first agreed in writing by the Local Planning Authority, the development shall not brought into use until such time as a scheme of improvements to public right of ways L91 and L91a between the junction of right of way L91a with Tamworth Road and Long Horse Bridge (including details of resurfacing, signage, gates / access barriers and marker posts as appropriate) has been implemented in full in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure that the development is fully served by high quality non-motorised routes and to promote access to the site by walking and cycling.

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 prior to the application's submission 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 Your attention is drawn to the attached report of the Environment Agency.
- 3 Your attention is drawn to the attached report of the Highways Agency.
- 4 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highways and transportation matters.
- 5 Your attention is drawn to the attached report of Leicestershire County Council's Principal Ecologist.
- 6 Your attention is drawn to the attached report of National Grid.
- 7 The applicant is advised that information about business support in North West Leicestershire can be obtained from the NWLDC Business Focus Team and website www.nwleics.gov.uk. In addition, information about business support in Leicester and Leicestershire can be found via <http://www.llep bizgateway.co.uk/> and includes information on starting a business, growing a business, accessing finance, hiring and

training and premises and investing in addition to compliance information via the Better Business for All pages.

8 For the avoidance of doubt, all references to phases of development within the conditions above should be construed as being those elements of the development within the two areas of the site indicated on drawing nos. A13A49-P004 Rev F and A13A49-P005 Rev F.

9 This decision is in accordance with the resolution of the Planning Committee of 23 June 2015 and is subject to a Section 106 Obligation.

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Erection of detached dwelling (outline - access, layout and external appearance included for determination)

Report Item No
A2

Site Off Main Street Normanton Le Heath Leicestershire

Application Reference
14/01040/OUT

Applicant:
Mr Stephen Bryan

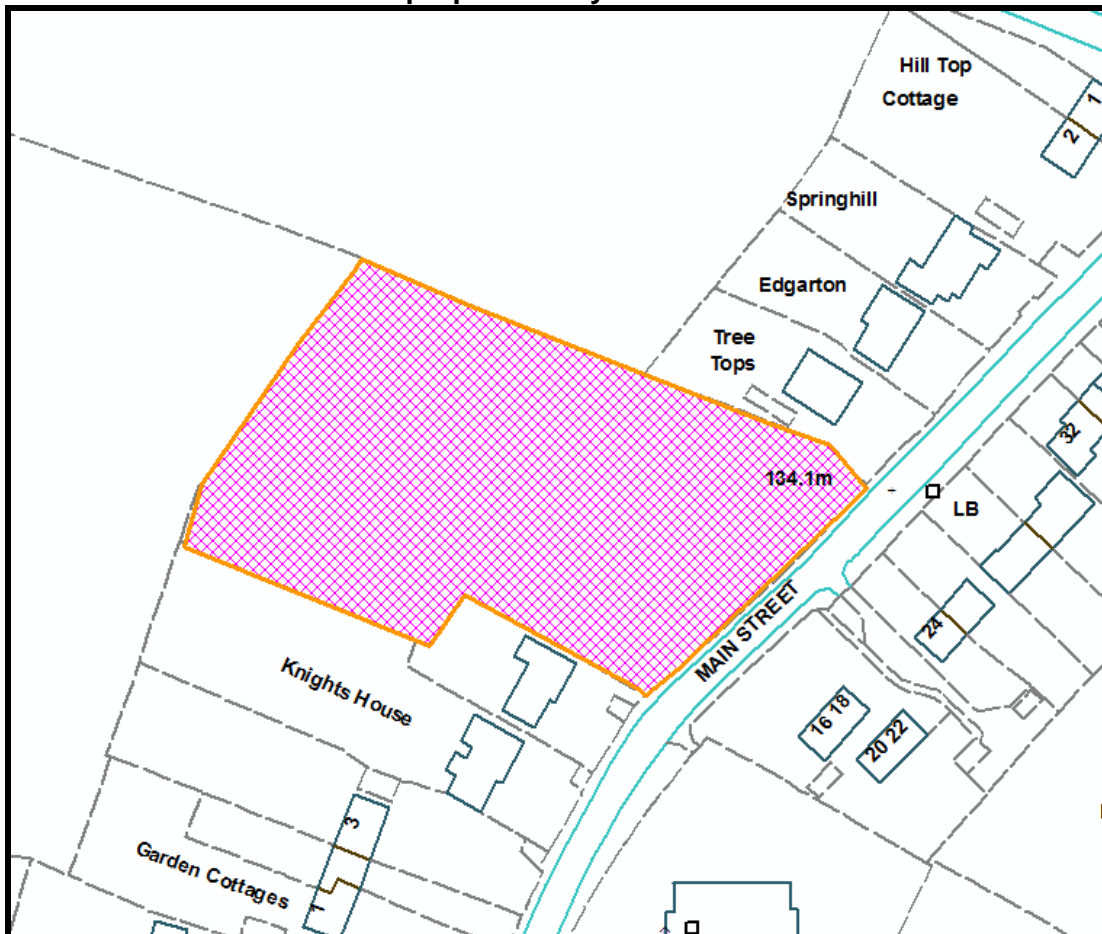
Date Registered
13 November 2014

Case Officer:
Chris Elston

Target Decision Date
8 January 2015

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

Call In

This application is reported to Members of the Planning Committee at the request of Councillor Nigel Smith on the grounds that previous applications on the site have been refused.

Proposal

Outline permission is sought for the erection of one dwelling on land off Main Street, Normanton le Heath. The dwelling would be sited on the northern part of the front of the site and would form a three storey dwelling with a single storey/two storey rear projection. The application originally included operation of a tutoring business and agricultural/equestrian trailer business from the site but these businesses no longer form part of the application. A previous application for three dwellings on the rear of the site was refused at Planning Committee in February 2014 on the grounds of being an unsustainable form of development and impact on the rural setting and character of the village, intruding further into the countryside than the current proposal.

Consultations

A total of 28 letters of objection have been received from members of the public including a petition with 67 signatures, along with one letter of support. Normanton le Heath Parish Meeting objects to the proposal. No other objections have been received from statutory consultees.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and in the countryside which is protected by Policy S3. The site is also a Sensitive Area as designated under Policy E1 of the 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

While the site lies outside limits to development in a Sensitive Area, a finely balanced view is taken that the scale of the development would be generally in keeping with the character of the village whilst also maintaining part of the Sensitive Area and setting of the village. It is considered that the design of the dwelling complies with the provisions of Policies E4 and E7 of the Local Plan and the route of the public footpath that crosses the site would not be affected. It is considered that the proposal would not adversely impact on highway safety and would be unlikely to result in overshadowing, overlooking or an oppressive outlook to the adjacent dwellings. The development would not adversely affect the setting of the Grade 2* listed Holy Trinity Church and its significance would therefore be retained and conditions could be imposed relating to archaeology. It can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. It is therefore recommended that planning permission be granted.

RECOMMENDATION - APPROVE, subject to conditions;

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

MAIN REPORT

1. Proposals and Background

Outline planning permission is sought for the erection of one dwelling on land off Main Street, Normanton le Heath. Details of access, scale, layout and external appearance have been included for consideration.

The dwelling would be sited on the northern part of the front of the site and would form a three storey dwelling with a single storey/two storey rear projection which would wrap around a courtyard to the rear of the main part of the dwelling. A detached double garage would be located between the new dwelling and the dwelling known as Tree Tops. Amended plans have been submitted which have amended the design and position of the dwelling following officer concerns regarding the design and scale of the dwelling and its impact on the character of the area and retains the legal route of public footpath (O60) that crosses the site. Access to the dwelling would be via a new access off Main Street at the northern end of the site and parking and turning space would be provided to the front of the proposed garage.

The dwelling would provide accommodation for three generations of one family. The application originally included operation of a tutoring business and agricultural/equestrian trailer business from the site. However the applicant and agent have confirmed that these businesses no longer form part of the application, although two small studies and a study/spare bedroom are indicated on the submitted plans which could be used for home working.

The Church of the Holy Trinity which lies on the opposite side of Main Street is a Grade 2* listed building. The site lies in the catchment area for the River Mease Special Area of Conservation.

A previous application for three dwellings on land to the rear of the site was refused by Planning Committee in February 2014 (13/00913/OUT) on the following two grounds:

1. The site that is subject to this application is located outside the Limits to Development where there is a presumption against development non-essential residential development as set out in Policy S3 of the adopted Local Plan. 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 provide an environmental role, including in respect of minimising pollution and mitigating and adapting to climate change, and moving to a low carbon economy. The site is in a location remote from services and public transport and occupiers of the development would be likely to be reliant on the use of the private car for accessing goods and services to meet their day to day needs, not providing for a sustainable form of development compatible with a move towards a low carbon economy, and contrary to the policies and intentions of the NPPF. The development of this site for housing would therefore, be contrary to Policy S3 of the adopted Local Plan and the provisions of the NPPF.

2. Policy E4 of the North West Leicestershire Local Plan requires that in determining planning applications, regard should be had to the wider setting of new buildings and that new development should respect the character of its surroundings, in terms of scale, design, density, height, massing, materials of construction, the spaces between and around buildings and the streetscene generally. The application site forms part of a large piece of agricultural land within the village that extends up to Main Street and allows long and important open views from within

the village of the wider countryside beyond, which contributes to the rural setting and character of the settlement. There are limited opportunities within the centre of the village for glimpses of the wider countryside beyond the settlement boundaries and therefore, the site, along with the land forward of the site is considered to be an important vista that makes a positive contribution to the rural setting of the village. Therefore, the development of the site for housing would result in an important view out of the centre of the village being lost to the detriment of the rural setting and character of Normanton le Heath. Approval of the proposal would therefore, be contrary to the provisions of Policy E4 of the Local Plan and the provisions of the NPPF.

Other Planning History:

88/1304- Residential Development (Outline) - Refused on the grounds that the proposal would develop an open break in the street frontage that has been designated as a Sensitive area where development will be resisted to maintain the character of the streetscene and the character of the area. An appeal was lodged and was dismissed by the Planning Inspector.

84/0045- Residential Development (Outline) - Refused on the ground that the site forms part of a field extending up to the back of the footway on Main Street and between existing development. To develop the site as proposed would close up this important area of informal open space with its attractive views to the north-west, and would be detrimental to the rural amenities enjoyed by residents of the village.

AR5204 - Residential Development (Outline) - Approved on 1 March 1974. No reserved matters submitted and planning permission not implemented and has therefore expired.

2. Publicity

22 no. neighbours have been notified (Date of last notification 3 June 2015)

Press Notice published 3 December 2014

Site Notice posted 27 November 2014

3. Consultations

- Normanton-le-Heath Parish Meeting consulted
- County Highway Authority consulted 27 November 2014
- Environment Agency consulted 19 November 2014
- Severn Trent Water Limited consulted 19 November 2014
- Head of Environmental Protection consulted 19 November 2014
- County Archaeologist consulted 19 November 2014
- LCC ecology consulted 19 November 2014
- NWLDC Conservation Officer consulted 19 November 2014
- LCC/Footpaths consulted 19 November 2014
- NWLDC Footpaths Officer consulted 19 November 2014

4. Summary of Representations Received

Statutory Consultees

Normanton le Heath Parish Meeting advise that a significant number of residents are totally opposed to the proposal and have raised many objections at the Village Meeting.

The Parish Meeting objects to both the original and amended plans on the following grounds:
 - the site is outside the defined Limits to Development and the site has been the subject of numerous applications all of which have been refused by the Council and at appeal;

- proposal would affect the nature of the village;
- the site has been designated as a Sensitive Area in the rural core of the village, is the only 'green wedge' in the village and is an ancient, beautiful and well used feature of the community;
- the countryside views and ancient holly hedge are accessible to all and would be erased by the development;
- the public footpath through the site is extremely well used;
- the proposal would result in the introduction of enormous housing and a business complex to the centre of this tiny hamlet and would increase sustainability and environmental problems;
- the village centre is crowded with houses and flats and there is a lot of on-street parking;
- the proposal would enormously increase activity, noise and inconvenience from added volume and type of traffic;
- the lack of public transport is a major issue and the actual distance to a bus stop is much greater than suggested in the application;
- the site is not a vacant plot;
- the development at Highfield Close was a brownfield site and replaced previous buildings;
- the location of an agricultural/equestrian and tutoring businesses in the heart of the village would create a nuisance and exacerbate existing traffic problems;
- attempts to present the development as sustainable are ridiculous as whilst it may be a low carbon property, it is the general sustainability of every day living that is the issue;
- claims that the family would walk along non-pavemented roads or cycle to remote bus stops and rely on supermarket deliveries are ludicrous;
- the proposal would encounter the same issues with transport, work, leisure and amenities as existing residents;
- we hope the Council will continue its policy of rejecting developments on this 'sensitive site' as the rurality of the village would be prejudiced by replacing the panoramic views and beautiful pasture land with a visually dominant house and business complex.

The County Highways Authority initially raised objection on the ground that the application fails to demonstrate that the proposal will be in a location where services are readily and safely accessible by walking, cycling and public transport. The Highway Authority later clarified that if the businesses were removed then it would not object on sustainability grounds. Following submission of amended plans the Highway Authority refers to its Standing Advice.

Severn Trent Water has no comments to make.

The Environment Agency does not wish to make any formal comments.

The Environmental Protection team has no environmental observations.

The Leicestershire County Council Ecologist has no objections.

NWLDC Conservation Officer initially advised that the proposal is unlikely to affect the setting of the nearby Grade II* listed church and therefore has no objections. Following the submission of amended plans the Conservation Officer welcomes the changes to the design and has no objections.

The Leicestershire County Council Footpaths Officer does not raise any objections to the original or amended plans.

NWLDC Footpaths Officer initially advised that the line of the public footpath needs to be shown on the plans and does not raise any objections to the amended plans.

No comments have been received from the County Archaeologist by the date of this report.

Third Party Representations

29 letters of objection including one petition with 67 signatures have been received which object on the following grounds:

- the Planning Committee's reasons for refusal on the previous application for three dwellings still apply to this application;
- trust that Planning Committee's position regarding the previous application will remain unchanged;
- the Council has previously advised that the site is unsuitable for development;
- previous owner was unable to build a bungalow on the site for her husband who has a terminal illness;
- system is unfair as other people have tried to obtain planning permission for houses in the countryside and have been unsuccessful;
- Normanton has limited facilities and is an unsustainable village;
- nearest bus service is in Ravenstone;
- unlikely to use the bus service due to need to walk along unlit 50mph bendy lanes with no footways;
- more cars would be brought into the village;
- village has poor mobile phone and broadband access;
- the plot is not within the village building line;
- no need for another large house in the village;
- village needs affordable starter homes;
- dwelling offers same level of accommodation as three dwellings previously proposed;
- any precedent from dwelling approved 41 years ago has surely been superseded by other refused applications;
- one of the applicants last lived in the village over 20 years ago;
- no interest has been shown by the applicants in living in other houses that have come up for sale in the village;
- anyone could live in the dwelling once it is built;
- the general sustainability of the proposal is questionable;
- any carbon saving would be outweighed by increase in traffic;
- nothing particularly noteworthy in respect of the dwelling's sustainability/green credentials as would only subscribe to current regulations regarding insulation, services and other features;
- new dwelling would have no less impact than the previous application;
- increasing problems with traffic congestion and on-street parking in the village would be exacerbated by more traffic in particular from the businesses which could include large vehicles;
- Main Street is very narrow;
- businesses should not be operated in a residential area with limited access;
- loss of long and important views across the site and of the village and church;
- site is an important vista that makes a positive contribution to the rural setting of the village;
- loss of last remaining open area in the village;
- the rural setting and character of the village would be destroyed;
- site has distinctive open feel which adds to character of the village;
- contrary to Policy E1 of the Local Plan as site is a Sensitive Area and its present open character would be diminished;
- Sensitive Area considered important under the previous appeal decision and there is nothing within the application to outweigh this;
- Highfield Close development was built on a farmyard and there were no open views available;
- size of dwelling out of scale with other buildings on Main Street and would dominate street frontage;

- permission was refused for a large frontage dwelling at Highfield Close;
- development is not modest in scale and applicants want to impose development on a smaller village than the now expanding Packington;
- access for and enjoyment of users of public footpath would be compromised;
- ancient and traditional public footpath route would be lost or diverted;
- the public footpath would be repositioned increasing noise and resulting in overlooking of the neighbouring dwelling;
- limited information given regarding the businesses;
- vague terms have been used to replace the references to 'businesses' which are open to interpretation;
- no buildings to accommodate the equestrian business and further applications likely which could be difficult to refuse if business established on the site;
- businesses would increase activity and noise and compromise village security with peace, tranquility and privacy lost;
- residents choose to live in the village due to its tranquility which is already under threat from existing increasing traffic;
- noise and disturbance from use of driveway and garage;
- capacity of Ravenstone Treatment Works needs to be checked;
- existing sewerage problems would be exacerbated, in particular as village pumping station now closed;
- no benefits for the village;
- land is Green Belt;
- small size of site means it isn't an agricultural holding;
- when last development was erected in the village it was stated that no buildings would be allowed for agricultural business purposes;
- scaremongering as proposal presented as an alternative to affordable housing on the site and eradication of risk of future development;
- proposal could set precedent for more development and infilling green gaps in the village;
- no discussions with neighbours have taken place and there is a great deal of opposition to the proposal;
- the timing of the application means there is less time for residents to consider the application;
- inaccuracies and misleading information/photographs in application submission.

One letter of support has been received which states that as approval would inevitably be granted in the future due to demand for new homes, one dwelling would enhance street scene and remove uncertainty regarding use of the land. The design and setting are good and it would be an eco friendly sustainable house.

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 32 and 34 (Promoting sustainable transport)
Paragraphs 49 and 55 (Delivering a wide choice of high quality homes)
Paragraphs 57, 61 and 64 (Requiring good design)
Paragraphs 109, 112, 118 and 119 (Conserving and enhancing the natural environment)
Paragraphs 129, 131, 132 and 134 (Conserving and enhancing the historic 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 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 E1 - Sensitive Areas
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

Other Guidance

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

6. Assessment

The main considerations in the determination of this application relate to the principle and sustainability of development, impact on the character of the area, design and impacts on highway safety, residential amenities, historic environment and the River Mease Special Area of Conservation/SSSI.

Principle and Sustainability:

The previous application for three dwellings was in part refused for the following reason:

The site that is subject to this application is located outside the Limits to Development where

there is a presumption against development non-essential residential development as set out in Policy S3 of the adopted Local Plan. 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 provide an environmental role, including in respect of minimising pollution and mitigating and adapting to climate change, and moving to a low carbon economy. The site is in a location remote from services and public transport and occupiers of the development would be likely to be reliant on the use of the private car for accessing goods and services to meet their day to day needs, not providing for a sustainable form of development compatible with a move towards a low carbon economy, and contrary to the policies and intentions of the NPPF. The development of this site for housing would therefore, be contrary to Policy S3 of the adopted Local Plan and the provisions of the NPPF.

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)).

The site lies outside the Limits to Development for Normanton le Heath 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 site is bounded by housing to the north and south and on the opposite side of Main Street and the proposal would not extend or encroach any further to the west of the settlement than existing housing on the western side of Main Street and would not be an isolated development in the countryside.

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).

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 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. Normanton le Heath has no services and facilities other than a church and no bus service, with the nearest service/facilities/bus service being located in Packington and Heather, which are both at least 2 km away. Therefore, occupiers of the new dwelling would be dependent on the private car to reach basic services to meet their day to day needs. Anyone working in connection with or visiting the initially proposed trailer and tutoring businesses would also be dependent on private vehicles to visit the site due to its distance from other nearby settlements.

In seeking to overcome the previous reason for refusal, the applicant has submitted information

relating to the principle and sustainability of the proposal:

- Supermarket food delivery services available to the village;
- Bus service within 0.8km walking distance;
- Other successful appeals in the area which have demonstrated that settlements similar to Normanton le Heath are suitable for new residential development, e.g. at The Brambles in Coleorton;
- Removal of the trailer and tutoring businesses from the application;
- Provision of offices for home working;
- Proposing one family house which allows the applicants, their children and an elderly parent to live in a multi-generational family context;
- Planning permission previously granted in 1974 for a similar development of one dwelling on the site creating a precedent;
- Eradication of unknown risk of future unacceptable development on land behind existing housing, i.e. there is a shortage of affordable housing in the District which would be more harmful than one dwelling;
- Creation of a low carbon dwelling;

In respect of this additional information, the provision of supermarket deliveries is not considered to significantly increase the sustainability of the settlement and in the case of the appeal decision other services/facilities were available within Coleorton and in closer proximity than in respect of the application site. As noted above there is no bus service within the village. The applicant and agent have confirmed that the two businesses no longer form part of the application and that no other businesses would be run from the site. The two studies would allow for home working only.

The provision of one dwelling would be a reduction when compared to the previous scheme. Although it is acknowledged that three generations of one family would occupy the dwelling and that the layout would allow for separate living arrangements, communal living is more likely to occur (and the likely resultant reduction in journeys to and from the site) when compared to the previously proposed occupation of three separate homes. Although a large dwelling, the proposal could also be occupied by a one-generation family. In any event, a condition could be imposed requiring the property to be occupied as one dwelling.

The 1974 permission is not considered to set a precedent given the subsequent decisions relating to proposals on the site in the 1980s. The application can only be considered on the basis of its own merits and the potential for other forms of development on the site cannot be taken into account.

The application advises that the dwelling would be constructed to the equivalent of Level 6 of the Code for Sustainable Homes (which has now been abolished), which was the highest level achievable under this former national standard for the design and construction of sustainable new homes. A summary scoring report showing how the dwelling would achieve this level has been submitted. The Design and Access Statement also includes an Energy and Sustainability Statement which sets out that the dwelling would be more than 40% more efficient than the minimum standards required to obtain Building Control approval. The application states that the dwelling would attempt to achieve zero carbon emissions by way of ground source heating with biomass fires, very high insulative properties and air tightness in line with passive design strategies and low water usage fittings and rainwater harvesting would also be included. Local bricks and tiles are also proposed along with FSC timber.

As to whether the proposal would result in a sustainable form of development, it is

acknowledged that the site is in a location remote from services and public transport and occupiers of the dwelling would be likely to be reliant on the use of the private car for accessing goods and services to meet their day to day needs. Whilst the Authority has a five year housing land supply small sites such as this can help to maintain this supply although only to a minimum degree. The scheme has been reduced from three dwellings to one dwelling (albeit to be occupied by three generations of the family) and the dwelling would incorporate sustainable design principles to achieve zero carbon emissions and the equivalent of Sustainable Code for Homes Level 6, which might help to offset the reliance on the private car to some degree but would not in itself make the development sustainable. Therefore, on balance it is considered that, while the proposal is contrary to planning policy, the development would be well related to and in keeping with existing development and result in limited harm to the character of the village as set out below.

Character of the Area:

The previous application for three dwellings was located on the rear part of the site and was refused for the following reason:

Policy E4 of the North West Leicestershire Local Plan requires that in determining planning applications, regard should be had to the wider setting of new buildings and that new development should respect the character of its surroundings, in terms of scale, design, density, height, massing, materials of construction, the spaces between and around buildings and the streetscene generally. The application site forms part of a large piece of agricultural land within the village that extends up to Main Street and allows long and important open views from within the village of the wider countryside beyond, which contributes to the rural setting and character of the settlement. There are limited opportunities within the centre of the village for glimpses of the wider countryside beyond the settlement boundaries and therefore, the site, along with the land forward of the site is considered to be an important vista that makes a positive contribution to the rural setting of the village. Therefore, the development of the site for housing would result in an important view out of the centre of the village being lost to the detriment of the rural setting and character of Normanton le Heath. Approval of the proposal would therefore, be contrary to the provisions of Policy E4 of the Local Plan and the provisions of the NPPF.

The proposal would result in a density of 2 dwellings per hectare, which is significantly below that sought under Policy H6 of the Local Plan (a minimum of 30 dwellings per hectare). The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances. This density is considered appropriate having regard to the nature of the settlement and character of the area.

The dwelling would be located on the front part of the site, which falls within an area designated as a 'Sensitive Area' under Policy E1 of the Local Plan. This policy provides that development will not be permitted within the Sensitive Areas, identified on the Proposals Map, which would adversely affect or diminish the present open character of such areas and the contribution they may make to the character, form and setting of settlements, the streetscene generally or the relationship with adjoining countryside. The supporting text for the policy provides that *'The need to protect open areas within or closely related to urban areas is widely recognised. There are many instances of important open areas within or adjoining settlements which contribute positively to the character of the settlement concerned, its streetscene or its setting or approaches. It is important that such areas are kept free from development in view of the contribution they make to local environmental quality.* The policy identifies types of sensitive areas of open land; including important open breaks in street frontages and important settings and approaches to settlements.

In considering an earlier appeal lodged against a 1988 outline application for residential development on the Sensitive Area, an Inspector commented as follows:

'Normanton le Heath is a small village with strong linear form along Main Street. On the north-west side of Main Street, between the B5326 and Normanton Lane, the frontage has been developed apart from the appeal site. The development could be regarded as infilling, i.e infilling a small gap in an otherwise built up frontage, however, in this case, the appeal site has been specifically excluded from the limits to development and designated a Sensitive Area in the recently adopted plan, to which, I must give considerable weight. The site has several trees along the road frontage and there are fine views from Main Street across the site towards the rolling countryside in the direction of Packington and Ashby de la Zouch. This is the only substantial gap on the north-west side of Main Street and offers the only significant view of the countryside to the north. Outbuildings associated with farms and garages restrict the views between the existing dwellings. I therefore consider that this is an important vista to retain. I also consider that this open land contributes to the rural character of the village particularly due to its proximity to the designated Sensitive Area around the church on the opposite side of Main Street. Since 1984 it has been the aim of the Local Planning Authority to retain this area as open land within the village and I find no overriding reason to depart from this Policy. I conclude that this open land makes a significant contribution to the form and character of Normanton le Heath and that the proposed development would harm the character and appearance of the village streetscene.' The appeal was dismissed.

The application site forms part of a large piece of agricultural land within the village that extends up to Main Street and allows long and important open views from within the village of the wider countryside beyond, which contributes to the rural setting and character of the settlement. There are limited opportunities within the centre of the village for glimpses of the wider countryside beyond the settlement boundaries and therefore, the site, is considered to be an important vista that makes a positive contribution to the rural setting of the village.

The dwelling was originally located on the central part of the site and had a larger footprint than now proposed which would have resulted in the loss of any views across the site. Taking into account the comments of the Inspector in the previous appeal decision, officers sought amendments to the proposals and amended plans have been submitted which show the dwelling located on the northern part of the site and with a smaller footprint, which would allow for open views across the southern part of the site from Main Street and along the public footpath to be retained. Although the contribution of the site to the character of the area would change, as the open break in the street frontage and views across the site and out of the village would be reduced, they would not be lost completely and the site would still make a positive contribution to the form and character of the village. Views of the church from the footpath would also be retained. It should also be noted that the applications for development on the Sensitive Area in the 1980s related to 'residential development', which could have been more likely to result in several dwellings on the site rather than for a single dwelling as currently proposed and that the recent scheme for three dwellings on the land to the rear of the site would have resulted in development extending across the entire width of the site and the view. In views from the public footpath in an easterly direction towards the village, the dwelling would be seen in the foreground of existing dwellings and would not be more significantly prominent than existing development.

Therefore the finely balanced view is taken that the development would result in limited harm to the rural setting and character of the village and Sensitive Area.

Design:

The scale, proportions and design of the dwelling were initially considered to be out of keeping with other traditional dwellings in the village and it was not clear where the inspiration for the dwelling's design had been drawn from. Amended plans have therefore been submitted which show a dwelling that better reflects the scale, proportions and design of the older and larger dwellings elsewhere in the village. The front element of the dwelling would have three floors of accommodation with the second floor provided in the roof and would incorporate traditional detailing. The side/rear parts of the dwelling are lower in height and wrap around a courtyard in an attempt to reflect a traditional farmyard arrangement. The front of the dwelling would be broadly in line with existing dwellings and the side/rear parts and garage are set back within the site and would not be significantly prominent within the streetscene. Although the dwelling is large in size, much of its bulk would be set back within the site. There is also a mix in the scale and design of dwellings within the village. There is nothing on the plans to suggest that the holly hedge would be removed and details of landscaping and boundary treatments would need to be submitted as part of a reserved matters application. As such it is considered that the design of the dwelling complies with the provisions of Policies E4 and E7 of the Local Plan.

The impact on the route of public footpath O60 was not clear on the original plans. On site the footpath starts at the stile adjacent to the field gate (two-three metres from the site's southern boundary with The Laurels), and then crosses the site diagonally before leaving the site at the centre of its western boundary. However this does not appear to completely reflect the Definitive Map of Public Rights of Way, which shows the eastern stretch of the footpath's legal route running parallel with the site's southern boundary with The Laurels before turning to the north west towards the western boundary. The amended plans appear to reflect the legal route of the footpath based on the Definitive Map. The dwelling would not affect the route of the footpath as it appears on the ground or based on the Definitive Map and it is not shown to be diverted on the plans. An application for a Footpath Diversion Order would need to be made to divert the footpath and the County Council has provided advice regarding matters that need to be adhered to in respect of the footpath. It is therefore considered that the proposal would not significantly impact on the enjoyment of users of the footpath given the distance of the dwelling from the footpath.

Highway Safety:

Concerns have been raised by the Parish Meeting and local residents in respect of highway safety matters, in particular the exacerbation of existing traffic and on-street parking problems and from traffic associated with the businesses. There is space within the site to provide for off-street parking and turning for the dwelling. As noted above the tutoring and trailer businesses have been removed from the application and the offices proposed are for home working only. A 43 metre visibility splay in a northerly direction cannot quite be achieved and so a condition would need to be imposed requiring the access to be repositioned slightly further southwards to provide this splay. The County Highway Authority has not raised any objections in relation to highway safety matters subject to conditions and did not raise any objections in relation to the scheme for three separate dwellings. The existing access at the southern end of the site frontage is not shown to be closed and the Highway Authority has no objection to it being retained given that the rest of the site would remain as a field. As such it is considered that a safe and suitable access could be provided and the proposal would not result in severe impacts on highway safety and would therefore comply with the advice in the NPPF and Policies T3 and T8 of the Local Plan.

Residential Amenities:

It is considered that any noise and disturbance from comings and goings of vehicles into the site would not give rise to any significant adverse impact on the amenities of neighbouring residents.

As noted above the line of the footpath shown on the amended plans appears to follow the legal route of the footpath closer to the boundary with The Laurels rather than the route on the ground which is approximately 8 metres from this boundary.

The dwelling would be sited 21 metres from the boundary of the dwelling known as The Laurels and would be 23 metres from the dwelling itself. The front part of the new dwelling would be 23 metres from the dwelling known as Tree Tops and 16 metres from its boundary, with the side/rear element being 20 metres away from Tree Tops and 8-13 metres from its boundary. The garage would be single storey and between 1.5-3.5 metres from the boundary with Tree Tops and 9.5 metres from the dwelling, with a mature hedge on the boundary. The proposal is therefore unlikely to result in overshadowing or an oppressive outlook to these dwellings. Given the distances of the front element of the dwelling from the adjacent dwellings and the existing fence/hedgerow on the boundaries, it is considered that there would not be any significant direct overlooking from the second floor side windows. The side/rear element of the amended dwelling initially had several first floor windows serving habitable rooms which could result in direct overlooking of the rear garden to Tree Tops. Amended plans have been submitted which remove all windows in this elevation serving habitable rooms and therefore this element of the proposal is unlikely to result in direct overlooking.

Historic Environment

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess. Paragraph 131 of the NPPF requires, amongst other things, new development to make a positive contribution to local character and distinctiveness. Paragraph 132 of the Framework stipulates that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The application site lies to the north west of the Grade II* listed Holy Trinity Church which is sited on the opposite side of Main Street. The development site falls within the setting of the listed building and, therefore, the impact of the development on the setting of the listed building should be given special regard as required by the 1990 Act. The new dwelling would be seen in views of the church from the public footpath which crosses the site but would not be directly in front of the church in any of these views and existing buildings on Main Street already obscure views of the church building. The Conservation Officer has been consulted on the application and advises that the proposal would be unlikely to affect the setting of the Grade II* listed building. On this basis it is considered that the development would not adversely affect the setting of the listed building and its significance would therefore be retained.

Concern has been raised by local residents and the Parish Meeting about the archaeological remains that may be potentially present on the site which may be affected by the proposals. The County Archaeologist has been consulted but no response has been received. However in respect of the previous application for three dwellings the County Archaeologist advised that the Leicestershire and Rutland Historic Environment Record (HER) notes that the projected line of a Roman road, the 'Via Devana' (HER ref.: MLE4345), appears to run c. 200m to the south of the application area. Whilst it is unlikely that the proposed development will, consequently, disturb evidence of the road, its presence in the vicinity raises the potential that there may be as yet unrecorded Roman remains in the area. The proposed development also lies squarely within the historic settlement core of the medieval and post-medieval village (MLE16886); this is the area within which it is anticipated to find evidence of Anglo-Saxon and later settlement and

activity. The potential for such remains is enhanced by the location of the site close to Holy Trinity church, first recorded in the 13th century. The place name Normanton-le-Heath is suggested to indicate a farmstead and settlement established by Norwegian Viking settlers, however, it is not mentioned in the Domesday Book.

The County Archaeologist previously reviewed historic mapping and available aerial photographs for the site, and it appears there were some earthworks in the area of the proposed development in the 1960's, these appear to survive at least in part until the 1990's but were damaged by ploughing/cultivation in or before 2001. It is also likely that the main focus of any medieval and post-medieval archaeological remains will be to the front of the site.

Therefore in accordance with the NPPF, archaeological recording will be required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development, which could be secured by condition.

River Mease SAC/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.

Although the site lies within the catchment of the River Mease, Severn Trent Water advised in respect of the previous application that waste water from the site would be pumped to Ravenstone Sewage Treatment Works which lies outside the River Mease catchment area. Therefore the proposal would not contribute additional wastewater within the River Mease catchment and would be not subject to the requirements of the DCS.

In terms of surface water run-off, the application advises that surface water would be dealt with by a soakaway system and this can be secured by condition. Therefore it can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Other Matters:

The proposal would result in the loss of Grade 3 agricultural land. However, when having regard to the size of the site, it is not considered that the proposal would result in a significant loss of agricultural land in the area.

Severn Trent Water has been consulted on the application and has not made any comments in respect of drainage.

With regard to comments raised by local residents that have not already been covered above, there is no Green Belt land within the District. The personal circumstances in terms of one of the applicants having previously lived in the village does not have any weight in this case and

the Council cannot take into account whether previous attempts have been made by the applicants to live elsewhere in the village.

In respect of the concerns raised regarding inaccuracies and misleading information/photographs in the application submission, the submitted information together with all of the information gathered when undertaking the site visit and assessing the application have allowed for the application to be fully and adequately assessed.

In terms of concern about the proposal setting a precedent, it is a fundamental principle of planning legislation that each application should be assessed on its own merits. Other sites will be affected by a different set of circumstances. The statutory period for consultation of local residents and consultees was undertaken when the application was first submitted and further consultation has been undertaken in respect of the amended plans.

Conclusion

While the site lies outside limits to development in a Sensitive Area, a finely balanced view is taken that the scale of the development would be generally in keeping with the character of the village whilst also maintaining part of the Sensitive Area and setting of the village. It is considered that the design of the dwelling complies with the provisions of Policies E4 and E7 of the Local Plan and the route of the public footpath that crosses the site would not be affected. It is considered that the proposal would not adversely impact on highway safety and would be unlikely to result in overshadowing, overlooking or an oppressive outlook to the adjacent dwellings. The development would not adversely affect the setting of the Grade 2* listed Holy Trinity Church and its significance would therefore be retained and conditions could be imposed relating to archaeology. It can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. It is therefore recommended that planning permission be granted.

RECOMMENDATION, PERMIT subject to the following condition(s):

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

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

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

Reason- this permission is in outline only.

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

- Drawing No. 2738_030 RevA (Existing and Proposed Site Plans) received by the Local Planning Authority on 13 May 2015;

- Drawing No. 2738_031 (Proposed Plans and Elevations) received by the Local Planning Authority on 4 June 2015.

Reason- To determine the scope of this permission.

- 4 No development shall commence on site until such time as precise details of the existing and finished ground levels on the site and the proposed floor levels of the dwelling and garage in relation to an existing datum point have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

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

- 5 No building shall be erected on site above damp proof course until details/drawings/representative samples (as appropriate) of the:-

- (i) Bricks and brick bond;
- (ii) Roof tiles;
- (iii) Materials and paint finish for the windows and doors and their headers and cills;
- (iv) Drawings of the proposed door and window units and rooflights including headers and cills, to a scale of 1:10;
- (v) Eaves and corbelling details to a scale of 1:10;
- (vi) Chimney details to a scale of 1:10

have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason- to enable the Local Planning Authority to retain control over the external appearance in the interests of visual amenities, as precise details have not been submitted.

- 6 No development shall commence on site until details of the sustainability/low or zero carbon measures as set out in the Code for Sustainable Homes Achievement Plan and letter from Gary Phillips received by the Authority on 1 June 2015 and set out in the Energy and Sustainability Statement received by the Authority on 14 May 2015 have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and shall thereafter be so retained.

Reason- these measures form part of the assessment of the sustainability of the proposal.

- 7 The curtilage relating to the dwelling hereby approved shall be confined to the area hatched on the attached plan number LPA/14/01040/FUL.

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

- 8 Notwithstanding the provisions of Part 1 (Classes A, B, C and E) 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) the dwelling hereby permitted shall not be enlarged, improved or altered (excluding the installation of windows subject to the provisions of condition xx) nor shall any building, enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse be provided

within the curtilage of the dwelling, unless planning permission has first been granted by the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain control over future development in view of the site's relationship with existing dwellings and its location within a Sensitive Area.

- 9 The windows serving ensembles and a dressing room in the first floor of the northern elevation of the two storey rear projection shall be glazed with obscure glass (to at least Pilkington Level 3 or its equivalent) and shall have top opening lights only, which shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority.

Reason- to avoid the possibility of overlooking in the interests of preserving the amenities of residents.

- 10 Notwithstanding the provisions of Part 1 of Schedule 2, Article 3, of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking and re-enacting that Order) no window or opening (other than any that may be shown on the approved drawings) shall be formed in the first and second floors of the northern and southern elevations of the main three storey part of the dwelling or in the first floor of the northern elevation of the two storey rear projection unless planning permission has first been granted by the Local Planning Authority.

Reason- to avoid the possibility of overlooking in the interests of preserving the amenities of residents.

- 11 Notwithstanding the provisions of Parts 1 and 2 of Schedule 2, Article 3, of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking and re-enacting that Order) the rooflights installed in the roofslope of the two storey rear projection shall serve first floor accommodation only.

Reason: to avoid the possibility of direct overlooking in the interests of preserving the amenities of residents.

- 12 The development hereby approved shall be occupied as one dwelling and each part of the dwelling shall not be severed from the principal house as a separate and unconnected dwelling.

Reason - the creation of additional dwellings is likely to be unacceptable in this location on sustainability and highway safety grounds.

- 13 The development hereby approved shall only use the mains sewer system for its 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.

- 14 Before first occupation of the dwelling hereby approved, the surface water shall be disposed from the site 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 have been submitted to

and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details, which shall thereafter be so retained.

Reason- To prevent an adverse impact on the River Mease Special Area of Conservation.

- 15 Before first occupation of the dwelling hereby approved, three car parking spaces (which can include one garage space) shall be provided in full in accordance with the details shown on Drawing No. 2728_030 (Existing and Proposed Site Plans) and once provided the parking spaces shall thereafter be permanently available for car parking at all times.

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

- 16 Before first occupation of the development hereby permitted a plan showing the following details shall be submitted to and agreed in writing by the Local Planning Authority:

- (i) the revised position of the access drive to enable visibility splays of 2.4 metres by 43 metres in both directions at the junction of the access road with Main Street;
- (ii) 1 metre by 1 metre pedestrian visibility splays on the highway boundary.

The development shall be carried out in accordance with the agreed details and the access surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least five metres behind the highway boundary, and once provided the access drive and visibility splays shall thereafter be permanently retained. Nothing shall be allowed to grow within any of the visibility splays above a height of 0.6 metres above ground level.

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; in the interests of pedestrian safety.

- 17 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.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority on 01530 454666 for further details.
- 3 You must also apply to the Northern Area Manager, Leicestershire County Council,

Granite Way, Mountsorrel, Leicestershire, LE12 7TZ (Tel: 0116 305 0001) for consent to construct or alter a vehicular crossing or any works within the highway limits.

4 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

5 A public footpath crosses the site and this must not be obstructed or diverted without obtaining separate consent from Leicestershire County Council. You are advised to refer to the attached comments from the County Footpaths Officer.

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

Report Item No
A3

1 Hollow Road Breedon On The Hill Derby DE73 8AU

Application Reference
15/00204/FUL

Applicant:
Mr James Burton

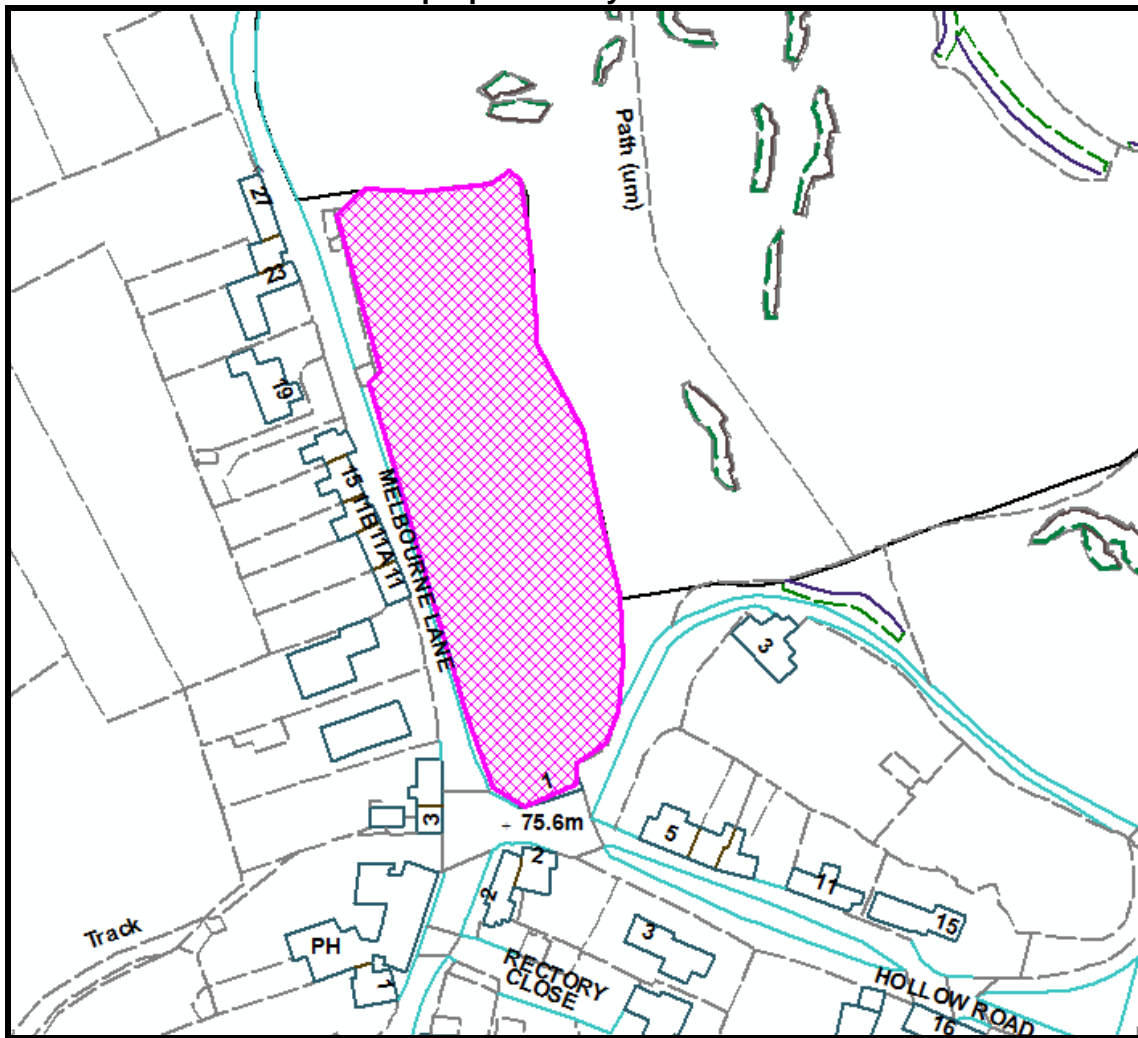
Date Registered
25 March 2015

Case Officer:
Adam Mellor

Target Decision Date
20 May 2015

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

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

Proposal

Permission is sought for the construction of a detached two-storey dwelling involving the formation of a new vehicular access off Melbourne Lane at land to the north of No. 1 Hollow Road, Breedon on the Hill. It is noted that the site in question is situated outside the defined limits to development and is also within the Breedon on the Hill Conservation Area. Following the removal of an existing studio and storage building a dwelling within three distinct parts, and based on a modernistic agricultural approach, would be formed which would be two-storey in height, albeit the first floor accommodation would largely be contained within the roof space which keeps the ridge height lower than that of a traditional two-storey dwelling.

Consultations

To date four letters of individual representation from third parties and a signed petition with 10 signatories raising objections to the proposals have been received. All statutory consultees have no objections subject to the inclusion of relevant planning conditions.

Planning Policy

It is considered that the development would comply with all relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant Policies of the North West Leicestershire Local Plan and Circular 06/05.

Conclusion

Breedon on the Hill is considered to be a sustainable settlement and any future occupants would help to sustain the available services within the settlement. The dwelling would also not be 'isolated' from built forms or impact adversely on the openness of the rural environment. As such it would not conflict with the key principles of the NPPF, as well as Paragraphs 28 and 55, or Policies S3 or H4/1 of the Local Plan. The development of a dwelling on land currently defined as residential garden would also not impact adversely on the visual amenity of the area and therefore accords with Paragraph 53 of the NPPF.

Whilst the topography of the site means that land levels are higher than those associated with Melbourne Lane, and the dwellings opposite, it is considered that the finished floor levels and scale of the dwelling would ensure that it would have an acceptable relationship with existing properties with the amenities of any future occupant also being protected. As such the development would accord with Policy E3 of the Local Plan.

Although the dwelling would not be 'isolated' it is considered that it would be viewed as an 'individual' property and therefore a design approach has been adopted whereby the building is based on an 'agricultural' building given the historic use of the site with three distinct parts being created to reduce the visual mass. Whilst part of the open space associated with the conservation area would be lost to facilitate the dwelling this would be fairly minimal and overall it is considered that the development would not impact adversely on the character and appearance of the streetscape, or wider area, and would result in less than significant harm to the setting of heritage assets. As such the development would accord with Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the NPPF, Sections 66 and 72 of the Listed Buildings and Conservation Areas Act 1990 as well as Policies E4 and H7 of the Local Plan.

No objections have been raised by the County Highways Authority and it is considered that an access with suitable visibility, along with off-street manoeuvring facilities, could be achieved which would not result in sufficient detriment to highway safety with the amount of vehicular movements associated with one dwelling also not being significant. An adequate amount of off-street parking would also be accommodated for the dwelling. Overall, therefore, the proposal would accord with Paragraphs 32 and 39 of the NPPF and Policies T3 and T8 of the Local Plan.

Subject to the imposition of relevant conditions to address the proximity of the site to a badger sett and access into the Breedon Hill SSSI it is considered that the scheme would not result in any adverse ecological impacts and would therefore accord with Paragraph 118 of the NPPF and Circular 06/05. The loss of four trees and part of the hedgerow to facilitate the access would also be adequately mitigated by the provision of additional landscaping secured as part of a condition and as such the scheme would accord with Policy E7 of the Local Plan. There are no airport safeguarding or archaeological concerns associated with the development and as such it would accord with Paragraph 141 of the NPPF and Policy T20 of the Local Plan.

It is therefore recommended that the application be permitted.

RECOMMENDATION - APPROVE, subject to conditions;

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

MAIN REPORT

1. Proposals and Background

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

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

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

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

The planning history of the site is as follows: -

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

2. Publicity

3 no. neighbours have been notified (Date of last notification 1 June 2015)

Site Notice displayed 1 April 2015

Press Notice published 8 April 2015

3. Consultations

Breedon On The Hill PC consulted
County Highway Authority
Severn Trent Water Limited
Head of Environmental Protection

Natural England
 NWLDC Tree Officer
 County Archaeologist
 LCC ecology
 Airport Safeguarding
 NWLDC Conservation Officer

4. Summary of Representations Received

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

Breedon on the Hill Parish Council has no objections.

East Midlands Airport Safeguarding has no objections.

Leicestershire County Council - Archaeology no representation received.

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

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

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

NWLDC - Conservation Officer initially had no objections to the principle of the development but raised concerns in respect of the prominence of the garage element (Second Structure) and the large façade due to the garage doors being off-set. Following subsequent revisions the Council's Conservation Officer has no objections.

NWLDC - Environmental Protection no representation received.

Severn Trent Water has no objections.

Third Party Representations

Four no. individual representations have been received (from the occupants of Nos. 9, 11 (x2) and 11B Melbourne Lane) along with a signed petition with 10 signatures which object to the application and whose objections are summarised below: -

- *Melbourne Lane narrows outside No. 11 Melbourne Road with it not being possible for two cars to pass each other due to the width. The access is within 5 metres of this point;*
- *Whilst Melbourne Lane is restricted to 30mph vehicles regularly exceed this limitation despite the width of the highway;*
- *Development would detract and not enhance the Conservation Area;*
- *Development of the site would set a precedent for the development of the remainder of the site which would be detrimental to the character of the area and integrity of the*

- Conservation Area;*
- *Siting of property and differences in land levels (site is 1.8 metres higher than Melbourne Lane) would result in detriment to the amenities of properties on Melbourne Lane as it is not only No. 9 Melbourne Lane which would be affected;*
 - *Insufficient detail has been supplied to demonstrate the ridge height of the new dwelling in comparison to existing properties on Melbourne Lane;*
 - *There is adequate land provision within the SHLAA for housing development and as such there is no need for this site to be developed;*
 - *The removal of ancillary domestic outbuildings from the site does not justify the provision of a new dwelling;*
 - *The design of the proposal would dominate the street scene and change its overall character;*
 - *The overall width of the driveway to the property (including splays), make a material difference to the character of the lane;*

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

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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

- Paragraph 10 (Achieving sustainable development);
- Paragraph 14 (Presumption in favour of sustainable development);
- Paragraph 17 (Achieving sustainable development);
- Paragraph 28 (Supporting a prosperous rural economy);
- Paragraph 32 (Promoting sustainable transport);
- Paragraph 39 (Promoting sustainable transport);
- Paragraph 49 (Delivering a wide choice of high quality homes);
- Paragraph 53 (Delivering a wide choice of high quality homes);
- Paragraph 55 (Delivering a wide choice of high quality homes);
- Paragraph 57 (Requiring good design);
- Paragraph 60 (Requiring good design);
- Paragraph 61 (Requiring good design);
- Paragraph 118 (Conserving and enhancing the natural environment);
- Paragraph 128 (Conserving and enhancing the historic environment);
- Paragraph 129 (Conserving and enhancing the historic environment);
- Paragraph 131 (Conserving and enhancing the historic environment);

Paragraph 132 (Conserving and enhancing the historic environment);
Paragraph 134 (Conserving and enhancing the historic environment);
Paragraph 137 (Conserving and enhancing the historic environment);
Paragraph 141 (Conserving and enhancing the historic environment);
Paragraph 203 (Planning conditions and obligations);
Paragraph 204 (Planning conditions and obligations);

Adopted North West Leicestershire Local Plan (2002)

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

Policy S3 - Countryside;
Policy E3 - Residential Amenities;
Policy E4 - Design;
Policy E7 - Landscaping;
Policy T3 - Highway Standards;
Policy T8 - Parking;
Policy T20 - Airport Safeguarding;
Policy H4/1 - Housing Land Release;
Policy H7 - Housing Design;

Other Policies

National Planning Practice Guidance

In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The Guidance does not change national policy but offers practical guidance as to how such policy is to be applied.

6Cs Design Guide (Leicestershire County Council)

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

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

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

Planning (Listed Buildings and Conservation Areas) Act 1990

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) requires that special regard shall be had to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

6. Assessment

Principle of the Development

The District Council is able to demonstrate a five year supply of housing and as a result of this Policies S3 and H4/1 are considered to not be 'out of date' in the context of Paragraph 49 of the NPPF. However, in terms of the weight which should be afforded to these policies consideration has to be given to 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 the Plan Period (i.e. to 2006).

With regard to 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 and as the development proposal would not meet the criteria for development in the countryside an approval of the application would be contrary to the provisions of Policy S3. The development itself, relating to the provision of one dwelling, would also not make a significant contribution to the Council's five year housing land supply.

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.

In terms of the North West Leicestershire Local Plan, Policy H4/1 identifies that, in releasing appropriate land for housing, the Council will have regard to:

- up-to-date housing land availability figures;
 - the latest urban capacity information;
 - the need to maintain an appropriate supply of available housing land;
 - lead times before houses will be expected to be completed and build rates thereafter;
- and
- other material considerations.

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

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

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

Overall, therefore, the development is considered to accord with the three strands of sustainability and as such the principle of the development would be acceptable.

Paragraph 53 of the NPPF outlines that inappropriate development of residential gardens should be resisted where there is potential that development would cause harm to the local area. No. 1 Hollow Road would retain an appropriate level of private amenity space, and a significant extent of the paddock would be retained as green open space given that a condition could be imposed on any consent granted to limit the curtilage of the property. Overall, the implications of the development to the character and appearance of the streetscape and surrounding area (as discussed in more detail below) would not be sufficiently detrimental to justify a refusal of the application, given the above conclusion, and as such there would not be conflict with the aims of Paragraph 53.

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

Residential Amenity

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

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

In respect of Nos. 11, 11A and 11B it is noted that these properties abut Melbourne Lane and it is proposed that the first structure would be set 11.2 metres from Nos. 11 and 11A and 13.6 metres from 11B. The finished floor level of the first structure is also proposed to be 80.5 metres which would be 2.26 metres higher than the land level at the boundary situated 8.6 metres from the western (front) elevation of the first structure. A site section drawing has been supplied to show the relationship with properties on Melbourne Lane and this shows that the ridge height would be 1.2 metres higher than No. 11. Although located on higher ground the separation distance between the proposal and properties on Melbourne Lane, as well as the ridge height of the proposal, would ensure that the property would not be physically dominant particularly as the eaves height would match the dwellings opposite with the roof sloping away, as such it would not be sufficiently detrimental to neighbouring amenities as to justify a refusal of the application. In terms of overlooking implications it is considered that the distance between the elevations would ensure that there would be no prominent views established from a ground floor dining room window or roof light serving a bedroom at first floor level.

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

second structure contains no windows in its side elevation and the third structure is set 12.0 metres from the shared boundary.

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

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

Impact on the Historic Environment and Streetscape

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

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

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

With regards to the Conservation Area, which includes an area identified as open space in the Breedon on the Hill Conservation Area Appraisal, and setting of the Grade I Listed Building the Council's Conservation Officer has commented as follows: *"the proposal would only develop a small part of the open space and would be set well away from the listed church. The setting of this building would not be affected. On balance I consider the minor encroachment could be acceptable subject to a dwelling of high quality being developed. I note the application site extends significantly to the north and consider the garden area should be limited to land closer to the dwelling with rest remaining undeveloped and beyond the curtilage to minimise the impact on the green space."* Whilst concerns were initially raised in respect of the garage element (second structure) following amendments to the plans no objections are now raised.

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

and dormer windows, this is considered to be acceptable in a new build particularly when assessed in the context of Paragraph 60 of the NPPF which indicates that "*decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.*" In conclusion, as the eastern side of Melbourne Lane becomes more rural in character when travelling northwards it is considered that the 'agricultural' design approach adopted acts as a nature transition between the built and rural environments and as such would not result in sufficient impacts to the character and appearance of the streetscape and would have less than significant harm to the setting of heritage assets.

Whilst the dwelling would have a relatively large footprint its visual mass is reduced by the formation of three separate elements which each have individual design characteristics, therefore its scale would not be out of keeping with the built forms situated on Melbourne Lane or The Hollow. The substantial natural screening retained to the eastern, northern and western boundaries would also result in the development not being substantially prominent in the wider environment and as such it would not be detrimental to the appearance of the surrounding area or detract from the significance of the heritage assets.

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

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

Overall the layout, design and scale of the dwelling is considered to be appropriate and would ensure that the development accords with Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the NPPF, Sections 66 and 72 of the 1990 Act as well as Policies E4 and H7 of the Local Plan.

Highway Safety

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

A highways report has been submitted in support of the application which outlines that an access junction with visibility splays of 2.4 metres x 43.0 metres to the north and south could be achieved, albeit this would result in the loss of a 27.2 metre section of the existing boundary hedgerow (the loss of which is assessed in other sections of this report). The provision of a vehicular access with this level of visibility would ensure that vehicles exiting the site could do so in a safe and controlled manner with the site frontage having adequate manoeuvring facilities to ensure that vehicles would likely exit the site in a forward direction. Given that Paragraph 32

of the NPPF outlines that *"development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe,"* it is considered that the highway network of Melbourne Lane would be able to accommodate the additional vehicular movements associated with one dwelling and as such the implications to highway safety would not be severely detrimental. The proposal would therefore accord with the aims of Paragraph 32 of the NPPF and Policy T3 of the Local Plan.

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

Ecology

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

Landscaping

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

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

Other Matters

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

No representation to the development has been received from the County Council Archaeologist and as such it is considered that there would be no archaeological constraints associated with the development which would ensure compliance with Paragraph 141 of the NPPF.

Summary Reasons for Granting Planning Permission

Breedon on the Hill is considered to be a sustainable settlement and any future occupants would help to sustain the available services within the settlement. The dwelling would also not be 'isolated' from built forms or impact adversely on the openness of the rural environment. As

such it would not conflict with the key principles of the NPPF, as well as Paragraphs 28 and 55, or Policies S3 or H4/1 of the Local Plan. The development of a dwelling on land currently defined as residential garden would also not impact adversely on the visual amenity of the area and therefore accords with Paragraph 53 of the NPPF.

Whilst the topography of the site means that land levels are higher than those associated with Melbourne Lane, and the dwellings opposite, it is considered that the finished floor levels and scale of the dwelling would ensure that it would have an acceptable relationship with existing properties with the amenities of any future occupant also being protected. As such the development would accord with Policy E3 of the Local Plan.

Although the dwelling would not be 'isolated' it is considered that it would be viewed as an 'individual' property and therefore a design approach has been adopted whereby the building is based on an 'agricultural' building given the historic use of the site with three distinct parts being created to reduce the visual mass. Whilst part of the open space associated with the conservation area would be lost to facilitate the dwelling this would be fairly minimal and overall it is considered that the development would not impact adversely on the character and appearance of the streetscape, or wider area, and would result in less than significant harm to the setting of heritage assets. As such the development would accord with Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the NPPF, Sections 66 and 72 of the Listed Buildings and Conservation Areas Act 1990 as well as Policies E4 and H7 of the Local Plan.

No objections have been raised by the County Highways Authority and it is considered that an access with suitable visibility, along with off-street manoeuvring facilities, could be achieved which would not result in sufficient detriment to highway safety with the amount of vehicular movements associated with one dwelling also not being significant. An adequate amount of off-street parking would also be accommodated for the dwelling. Overall, therefore, the proposal would accord with Paragraphs 32 and 39 of the NPPF and Policies T3 and T8 of the Local Plan.

Subject to the imposition of relevant conditions to address the proximity of the site to a badger sett and access into the Breedon Hill SSSI it is considered that the scheme would not result in any adverse ecological impacts and would therefore accord with Paragraph 118 of the NPPF and Circular 06/05. The loss of four trees and part of the hedgerow to facilitate the access would also be adequately mitigated by the provision of additional landscaping secured as part of a condition and as such the scheme would accord with Policy E7 of the Local Plan. There are no airport safeguarding or archaeological concerns associated with the development and as such it would accord with Paragraph 141 of the NPPF and Policy T20 of the Local Plan.

It is therefore recommended that the application be permitted.

RECOMMENDATION - PERMIT, subject to the following conditions;

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

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

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

- 19998_OGL Revision 0 (Topographical Survey), received by the Local Authority on the 25th March 2015;
- (08) 01 Revision C (Location and Context Plan), received by the Local Authority on the 5th May 2015;
- (08) 02 Revision C (Site Plan), received by the Local Authority on the 23rd May 2015;
- (08) 03 Revision C (Site Plans), received by the Local Authority on the 23rd May 2015;
- (08) 04 Revision B (Ground Floor Plan), received by the Local Authority on the 23rd May 2015;
- (08) 05 Revision C (First Floor Plan), received by the Local Authority on the 23rd May 2015;
- (08) 06 Revision C (Roof Plans), received by the Local Authority on the 23rd May 2015;
- (08) 07 Revision C (Elevations 1 of 2), received by the Local Authority on the 23rd May 2015;
- (08) 08 Revision C (Elevations 2 of 2), received by the Local Authority on the 23rd May 2015;
- (08) 09 Revision B (Street Elevation), received by the Local Authority on the 23rd May 2015;
- (08) 10 Revision B (Typical Section), received by the Local Authority on the 23rd May 2015;
- (08) 11 Revision A (Site Section), received by the Local Authority on the 23rd May 2015;

unless otherwise required by another condition of this permission.

Reason - to determine the scope of the permission.

3 Notwithstanding the details shown on the approved plans, no development shall commence until the following have been submitted to and agreed in writing by the Local Planning Authority: -

- Samples of the materials to be utilised in all external surfaces (including the construction material of windows and doors);
- The proposed colour/stain finish for all joinery and timber cladding;
- The proposed colour and finish of the render;
- Precise details, including sections, of the joinery;
- Details of the brick bond;
- Details of the rainwater goods;
- Proposed mortar methods for the stone wall/brickwork;
- Precise details of the chimney;
- Position and finish of the meter boxes;
- Precise details of the front entrance porch/canopy to be installed;

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

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

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

the Local Planning Authority.

Reason - to enable the Local Planning Authority to retain control over future development in view of maintaining the overall appearance of the scheme, given its setting within the Breedon on the Hill Conservation Area, and in the interests of preserving the amenities of neighbours.

- 5 Notwithstanding the details shown on the approved plans before first occupation/use of the dwellings, hereby permitted, a scheme of soft and hard landscaping (including for the retention of any existing trees and hedgerows) shall be submitted to and agreed in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the first occupation/use of the dwelling with the hard landscaping scheme being provided in full prior to the first occupation/use of any dwelling unless alternative implementation programmes are first agreed in writing with the Local Planning Authority.

Reason - to ensure a satisfactory landscaping scheme is provided within a reasonable period and in the interests of visual amenity given the site's location within a Conservation Area.

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

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

- 7 No development shall commence until all the existing trees to be retained have been securely fenced off by the erection, to coincide with the canopy of the tree where possible, of a 1.4 metre high protective barrier in accordance with BS5837:2012. In addition all hedgerows that are to be retained shall be protected by a 1.2 metre high protective barrier which shall be erected at least 1.0 metre from the hedgerow. Within the fenced off area there shall be no alteration to the ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand.

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

- 8 Notwithstanding the details shown on the approved plans before occupation/use of the dwelling, hereby permitted, a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railing, other means of enclosure and the secure boundary treatment between the site and the Breedon Hill SSSI, which will ensure there will no direct access) and the relevant elevation details shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be provided in full prior to the first occupation/use of any dwelling hereby approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.

Reason - to preserve the amenities of the locality, in the interests of highway safety, in the interests of the significance of heritage assets and to ensure the development does not impact on the features of special interest for which Breedon Hill SSSI is notified.

- 9 Prior to the first occupation/use of any of the dwellings, hereby approved the following shall be provided: -
- The detached garages and parking and turning areas for the dwellings shall be provided in strict accordance with those shown on drawing numbers (08) 02 Revision C and (08) 03 Revision C and (08) 04 Revision B, received by the Local Authority on the 23rd May 2015;
 - Visibility splays in accordance with those shown on drawing number ADC1137/001, received by the Local Authority on the 25th March 2015;
 - An access gradient in accordance with that shown on drawing number (08) 03 Revision C, received by the Local Authority on the 23rd May 2015;
 - All areas to be used by vehicles 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 in accordance with the details agreed under Condition 5 of this permission;
 - Drainage shall be provided with the site such that surface water does not drain into the Public Highway, including private access drives;

Once provided the above shall thereafter be so maintained with the parking and turning areas kept available for use at all times.

Reasons - to ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area; to ensure that vehicles can exit the site in a safe manner; to ensure that vehicles enter and exit the site in a slow and controlled manner; to reduce the possibilities of deleterious material being deposited in the highway (loose stones etc) and 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 5 metres behind the highway boundary and shall be hung so as to not 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 proposed site levels and finished floor level of the dwelling shall be provided in strict accordance with those shown on drawing numbers (08) 03 Revision C and (08) 05 Revision C, received by the Local Authority on the 23rd May 2015, when read in conjunction with those shown on drawing number 19998_OGL Revision 0, received by the Local Authority on the 25th March 2015.

Reason - to determine the scope of the permission and in the interests of residential and visual amenities.

- 12 No development shall commence on site until a 20 metre buffer zone around the badger sett, identified on Figure 3. Phase 1 Habitat Plan within the Ecology Report by JTEcology of March 2015, received by the Local Authority on the 25th March 2015, has been provided and appropriately fenced off. The buffer zone will remain in situ until such time as the development is completed. Any trenches left open overnight will also be provided

with a means of escape for any animal which may fall in as outlined in Paragraph 4.7 of Section 4.0 Discussion & Recommendations of the Ecology Report by JTEcology of March 2015, received by the Local Authority on the 25th March 2015.

Reason - in the interests of the protection of badgers which are a protected species.

- 13 The residential curtilage of the property shall be restricted to the area outlined in red on the attached plan number LPA/15/00204/FUL.

Reason - for the avoidance of doubt and to prevent encroachment of the residential garden onto land designated as open space in the Breedon on the Hill Conservation Area Appraisal.

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 as well as during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015;
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 All works within the limits of the highway with regard to access shall be carried out to the satisfaction of the Highways Manager (telephone 0116 3050001).
- 4 Bats are a rare and declining group of species. Hence, all British species of bat and bat roosts are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection or disturb bat roosts. If bat or bat roosts are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0115 929 1191) should be notified and further advice sought. Failure to comply with this advice may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both.
- 5 The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in prosecution any anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both, as it is an offence to disturb nesting/breeding birds.

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Variation of condition 4 attached to planning permission
ref:00/00403/PC to extend the hours of opening beyond 23:30
to 01:00 for 12 occasions a year.

Report Item No
A4

Ashby Rugby Football Club Nottingham Road Ashby De La
Zouch Leicestershire LE65 1DQ

Application Reference
15/00466/VCI

Applicant:
Ashby Rugby Football Club

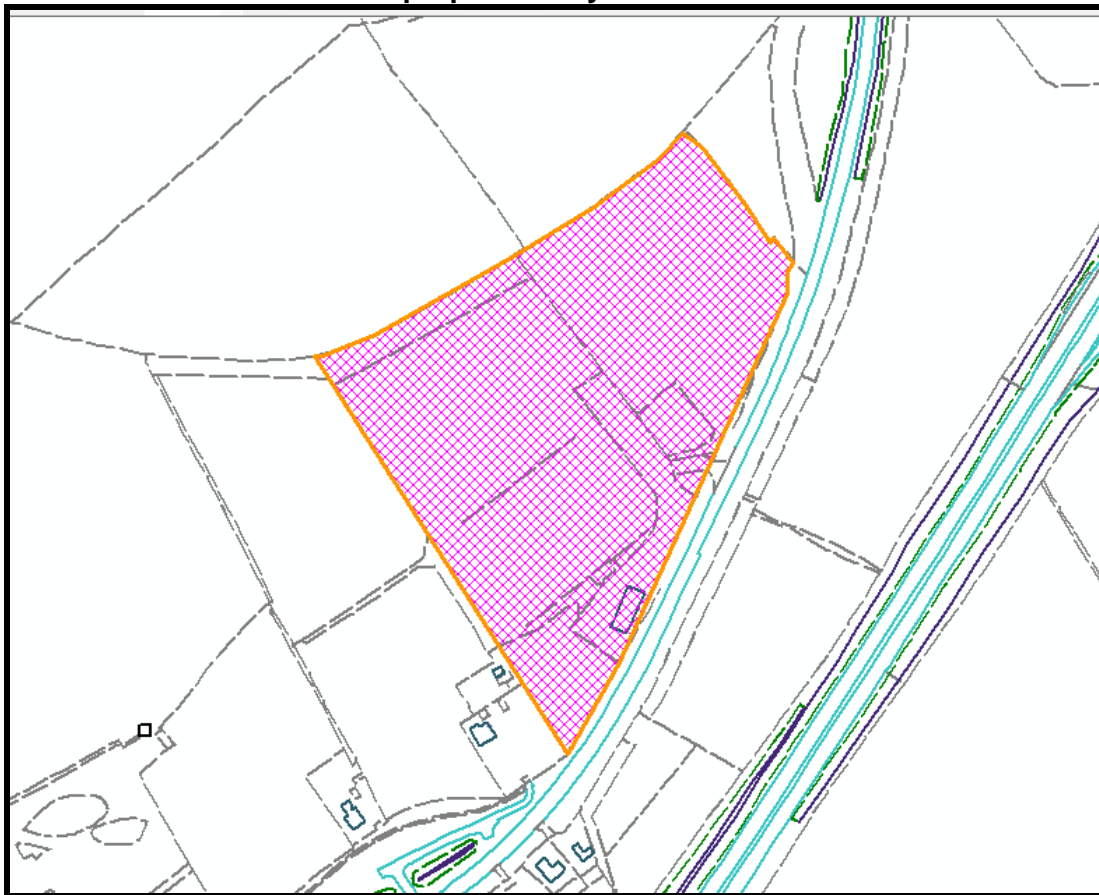
Date Registered
16 April 2015

Case Officer:
Ebony Mattley

Target Decision Date
11 June 2015

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application falls to be determined by the Planning Committee as the agent is related to Cllr Richard Blunt.

Proposal

This application proposes to vary condition 4 attached to planning permission 00/00403/PC, which states that the clubhouse shall not be used for any purposes after 11.30pm. This application seeks to extend the clubhouse opening hours to 1.00am on 12 occasions throughout the year.

Consultations

Members will see from the report below that one objection and twenty-five letters of support have been received from neighbours. There have been no objections from statutory consultees, including Ashby Town Council.

Planning Policy

Whilst the application sites lies outside limits to development, the existing recreational/sports use is already established on the site, and the clubhouse has been constructed. Saved Policies L3 and E3 of the Local Plan and paragraphs 109,120 and 123 of the NPPF are of relevance.

Conclusion

The principle of this development has already been established through the earlier grant of planning permission (ref: 00/0403/PC). The main issue in the determination of the application is, therefore, whether the revised hours of use would impact upon surrounding residential amenity.

The scheme has been considered by the Council's Environmental Protection Section who raise no objections and given that the scheme does not result in a permanent extension of opening hours - as it relates to an additional 1 and a half hours on 12 occasions a year, it is therefore considered that the scheme would not therefore result in a permanent source of significant noise to the detriment of residential amenity.

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 is an application to vary condition 4 attached to planning permission 00/00403/PC.

The previous application (ref: 00/00403/PC) sought permission for the erection of a replacement clubhouse and received consent on 20 September 2000.

This application proposes to vary condition 4, which states that the clubhouse shall not be used for any purposes after 11.30pm, by seeking to extend the clubhouse opening hours to 1.00am for twelve occasions throughout a year.

The application has been accompanied with a supporting statement which states that the change in opening hours will be used for social and fund raising events, which in turn directly support the facilities and the service that the rugby club provides for the local community.

Relevant Planning History:-

00/00403/PC - Erection of a replacement clubhouse - Approved - 20 September 2000

2. Publicity

3 no neighbours have been notified.(Date of last notification 13 May 2015)

Site Notice displayed 15 May 2015

3. Consultations

Ashby De La Zouch Town Council consulted

LCC County Highways

NWLDC Planning Enforcement

NWLDC Head Of Environmental Protection

4. Summary of Representations Received

The following summary of representations is provided.

Statutory Consultees

Ashby Town Council raises no objection.

NWLDC Environmental Protection has no environmental observations.

Third Party Representations:

1 letter of objection has been received raising the following concerns:-

- a) Noise Pollution and Detriment to Amenity
- b) The applicant is in breach of condition 3 and will do so with the extension of hours
- c) Contrary to E3 and Paragraphs 109,120 and 123 of the NPPF.

46 letters of support have been received raising the following comments:-

- a) The club provides a valuable venue and sporting facility to the local community
- b) Will help with fund raising/charitable events
- c) Will contribute to the growth of the club

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 109 (Conserving and enhancing the natural environment)
- Paragraph 120 (Conserving and enhancing the natural environment)
- Paragraph 123 (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 L3- Built Development of Recreation Sites Outside Limits to Development.

Policy E3 - Residential Amenities

Other Guidance

National Planning Practice Guidance - March 2014.

6. Assessment

Principle of Development

The principle of this development has already been established by the previous planning permission (00/00403/PC), which was granted in September 2000.

Condition 4 attached to planning permission 00/00403/PC states:-

"The Clubhouse shall not be used for any purposes after 11.30pm.

Reason:- To preserve the amenities of the locality."

It is considered appropriate to consider the amended scheme in the context of the changes between the two schemes which relate to the extension of opening hours from 23:30 to 01:00 for 12 occasions a year. The main issue in the determination of the application is, therefore, whether the revised hours of use would impact upon surrounding residential amenity.

Impact upon Residential Amenity

The nearest residential dwelling is No. 219 Nottingham Road, and an objection has been raised from this property. There is a distance of at least 96 metres between the side wall of No. 219 Nottingham Road and the closest point to the western side elevation of the clubhouse.

It is necessary to consider the additional noise and disturbance that may arise from within the club house and associated comings and goings from vehicular movements and other associated noises, for example the revving of engines and the closing of car doors.

The scheme has been considered by the Council's Environmental Protection Section who raises no objections to this application.

It is considered that as the consent would not result in a permanent extension of opening hours - as it relates to an additional 1 and a half hours, on 12 occasions a year, the scheme would not therefore result in a permanent source of noise, to the detriment of residential amenity, and in the absence of concerns raised by the Council's Environmental Protection Section, it is not considered that a reason for refusal could be sustained in this case.

Overall, it is considered that the development would not have any significant detrimental impact upon neighbouring residential amenities and the proposal is considered to be acceptable in relation to Policy E3 (Residential Amenity) of the Local Plan.

In respect of the alleged breach of the planning condition, this will need to be considered by the Council's Enforcement Team.

Conditions

Application ref: 00/0403/PC was subject to 7 conditions, one of which is for consideration in this application.

Condition 1 - The first condition related to time allowing development to commence within five years.

Condition 2 - This condition related to materials, which has been formally discharged on 20 December 2000 and has been implemented.

Condition 3 - This condition relates to the use of the clubhouse being limited to the use of the sports club only and not to be hired out separately for private functions and is still relevant.

Condition 4 - This condition is hereby varied.

Conditions 5 and 6 - These conditions related to a landscaping scheme, and there is no formal evidence of this being discharged. Given that this related to 15 years ago, it is not considered necessary to re-impose this condition.

Condition 7 - This condition related to visibility splays and ensuring that there is no obstruction/anything to grow above 0.6 metre within the splays. In respect of the latter part of the condition, it is still considered relevant and necessary and therefore will be carried forward.

Conclusion

In conclusion, the principle of this development has already been established through the earlier grant of planning permission (ref: 00/0403/PC).

The scheme relates to an existing recreational/sports use on the site, and clubhouse has already been consented. This scheme will effectively enhance the existing facilities by increasing the opening hours of the clubhouse for social events.

The scheme has been considered by the Council's Environmental Protection Section who raise no objections and given that the scheme does not result in a permanent extension of opening hours - (as it relates to 12 times a year) it is considered that the scheme would not therefore result in a permanent source of significant noise to the detriment of residential amenity.

Overall, it is considered that the development would not have any significant detrimental impact upon neighbouring residential amenities and the proposal is considered to be acceptable in relation to Policy E3 (Residential Amenity) of the Local Plan.

Accordingly it is recommended that planning permission be granted, subject to the imposition of the previous planning conditions, where applicable.

RECOMMENDATION, PERMIT, subject to the following condition(s):

- 1 The use of the clubhouse shall be limited to the use of the sports club only and shall not be used or hired out separately for private functions.

Reason: To preserve the amenities of the locality.

- 2 The clubhouse shall not be used for any purposes after 23:30, with the exception of no more than 12 occasions per calendar year whereby the clubhouse shall not be used for any purpose after 01:00.

Reason: To preserve the amenities of the locality.

- 3 No splays shall be maintained to 4.5 x 215 metres and there shall be no obstruction to visibility above 600 m in height.

Reason: In the interests of 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 2010 (as amended).

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Variation of condition 4 attached to planning permission
ref:06/01140/FUL to extend the hours of lighting of the flood
lights from 19:00 to 21:30 to 17:00-21:30

Report Item No
A5

Ashby Rugby Football Club Nottingham Road Ashby De La
Zouch Leicestershire LE65 1DQ

Application Reference
15/00346/VCI

Applicant:
Ashby Rugby Football Club

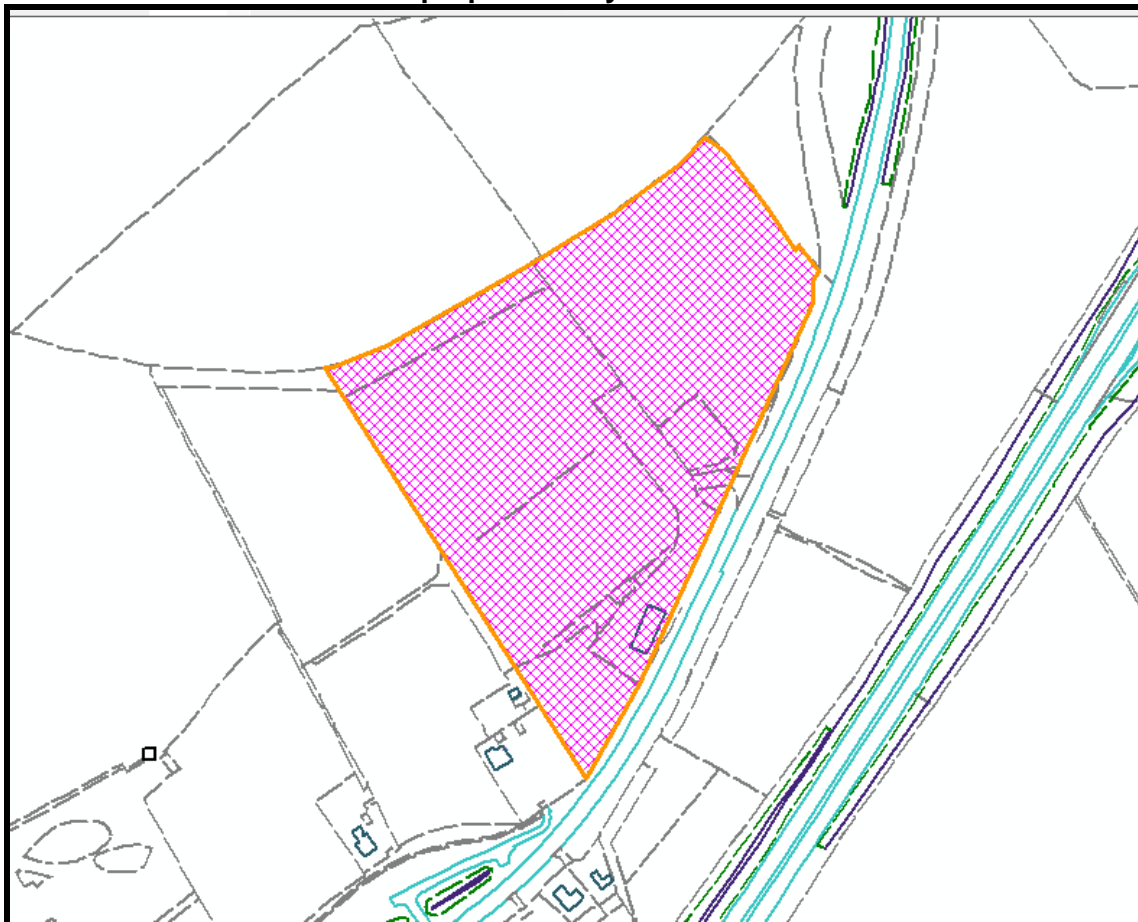
Date Registered
7 May 2015

Case Officer:
Ebony Mattley

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

Call In

The application falls to be determined by the Planning Committee as the agent is related to Cllr Richard Blunt.

Proposal

This application proposes to vary condition 4 attached to planning permission 06/01140/FUL, which states that the floodlights should not be illuminated before 7pm or after 9.30 pm. This application seeks to extend the hours of lighting to 5pm to 9.30 pm.

Consultations

Members will see from the report below that one objection and twenty-five letters of support have been received from neighbours. There have been no objections from statutory consultees, including Ashby Town Council.

Planning Policy

Whilst the application sites lies outside limits to development, the existing recreational/sports use is already established on the site, and floodlights have already been consented.

Saved Policies L3 and E4 of the Local Plan and paragraph 125 of the NPPF are of relevance.

Conclusion

The principle of this development has already been established through the earlier grant of planning permission (ref: 06/01140/FUL). The main issue in the determination of the application is, therefore, whether the revised hours of illumination and therefore use would impact upon surrounding residential amenity.

The scheme has been considered by the Council's Environmental Protection Section who raises no objection and given that the scheme results in an extension of the illumination in the floodlights in the early evening, (and not beyond 9.30pm), and that the floodlights are to be used, only when necessary within these time frames, it is not considered that the proposed changes, in comparison to the previously approved scheme would result in any significant impacts, to the detriment of residential amenity.

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 is an application to vary condition 4 attached to planning permission 06/01140/FUL.

The previous application (ref: 06/01140/FUL) sought permission for the erection of 12 no. floodlights and received consent on 10 October 2006.

This application proposes to vary condition 4, which states that the floodlights should not be illuminated before 7pm or after 9.30 pm, by seeking to extend the hours of lighting to 5pm to 9.30 pm.

The application has been accompanied with a supporting statement which states that allowing the light to be switched on from 5pm will allow for the junior teams to train in the week, during the winter months, which in turns promotes healthy physical education.

Relevant Planning History:-

15/00024/BOC - Breach of Planning Condition - 06/01140/FUL - Pending Consideration.

06/01140/FUL - Erection of 12 no. floodlights - Approved - 10.10.2006.

2. Publicity

3 no neighbours have been notified.(Date of last notification 13 May 2015)

Site Notice displayed 15 May 2015

3. Consultations

Ashby De La Zouch Town Council consulted
LCC County Highways
NWLDC Planning Enforcement
NWLDC Head Of Environmental Protection
Airport Safeguarding

4. Summary of Representations Received

The following summary of representations is provided.

Statutory Consultees

Ashby Town Council raises no objection.

NWLDC Environmental Protection has no environmental observations.

Third Party Representations:

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

1 letter of objection has been received raising the following concerns:-

- a) Light Pollution
- b) The floodlights have been used until times ranging from 23:00 to 00:15 hours and the luminaires appear to be angled up to increase the lit area and as early as 18:30 and therefore has already been in breach of condition 4
- c) A detailed assessment of luminance levels must be undertaken and the application must not be determined until this is undertaken
- d) A full assessment of the impact of extending the operating hours of the floodlights to almost double the hours permitted must be undertaken and the application must not be determined until this is undertaken.

46 letters of support have been received raising the following comments:-

- a) The club provides a valuable venue and sporting facility to the local community
- b) Will only be required for a few months of the year when it is not light
- c) Will enable groups to train mid-week.

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 125 (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 L3- Built Development of Recreation Sites Outside Limits to Development.

Policy E3 - Residential Amenities

Other Guidance

National Planning Practice Guidance - March 2014.

Supplementary Planning Guidance for Lighting Scheme (SPG).

6. Assessment

Principle of Development

The principle of this development has already been established by the previous planning permission (06/01140/FUL), which was granted in October 2006.

Condition 4 attached to planning permission 06/01140/FUL states:-

"The floodlights hereby permitted shall not be illuminated before 19.00 hours or after 21:30 hours on any day.

Reason- in the interests of visual and residential amenities."

It is considered appropriate to consider the amended scheme in the context of the changes between the two schemes, which relate to the extension of the illumination of the floodlights from the previously consented 7pm to the time now sought - 5pm. The main issue in the determination of the application is, therefore, whether the revised hours of illumination from the floodlight would impact upon surrounding residential amenity.

Impact upon Residential Amenity

The nearest dwelling (No. 219 Nottingham Road) adjoins the site to the south west and an objection has been raised from this property, with other properties lying further along and on the opposite side of Nottingham Road.

It was previously established in the previous application ref: 06/01140/FUL that given the height and positioning of the columns and floodlights, the vegetation along the site's boundaries and the luminance, that there were no significant impacts to neighbouring dwellings.

The scheme has been considered by the Council's Environmental Protection Section who raises no objections to this application.

It is not therefore considered that allowing the floodlights to be in used an additional 2 hours from 5 pm (in comparison to the previously approved 7pm) everyday would be significantly harmful to residential amenities, and in any case the intention is for the floodlights only to be turned on when they are needed, which is more likely to be on darker early evenings, during the winter months. For the avoidance of doubt there is no proposed increase beyond the existing 9.30 pm.

Conditions are recommended to be re-imposed to limit the times the floodlights can be used and to state that the floodlights can only be used in connection with sports training and playing. It is therefore considered that the proposal would not result in significant detriment to nearby residents from light pollution or from an increase in noise and disturbance.

In response to the concerns expressed by the neighbour, as the luminance levels and positioning of the floodlights is not proposed to be changed, then is no requirement for this information to be re-provided, and the application has been accompanied with a supporting statement justifying why the lighting is required and for the intended end users. In respect of the

proposed frequency of use, the original application did not restrict the days of use and therefore this is not for consideration in this application. In respect of the alleged breach of the planning condition, this is being considered by the Council's Enforcement Team ref: 15/00024/BOC.

Overall, it is considered that the development would not have any significant detrimental impact upon neighbouring residential amenities and the proposal is considered to be acceptable in relation to Policy E3 (Residential Amenity) of the Local Plan.

Conditions

Application ref: 06/01140/FUL was subject to 12 conditions, one of which is for consideration in this application.

Condition 1 - The first condition related to time allowing development to commence within three years.

Condition 2 - This condition relates to the approved plans and is still relevant.

Condition 3 - This condition related to the colour of the columns and floodlights and this condition has been formally discharged as part of application ref: 06/01140/FUL. It is only relevant to carry forward the part of the condition requiring that they are maintained in accordance with the approved details.

Condition 4 - This condition is hereby varied.

Condition 5 - This condition requires that the floodlights shall only be illuminated when the pitches directly lit by the floodlights are in use for sports, training or the playing of sport and this condition is still considered to be relevant.

Condition 6 - This condition related to a scheme for the shielding the light sources and information was submitted to discharge this condition as part of application ref: 06/01140/FUL. During an enforcement case ref: 07/00284/UD the Council employed a lighting engineer to look into the alleged issues raised in respect of this condition. The lighting engineer agreed with the rugby clubs report in that shielding on the type of lighting fitted is not an option and therefore condition 6 was not a reasonable condition and should not be pursued. Accordingly it is not necessary to carry this condition forward.

Condition 7 - This condition related to luminance details of each floodlight (luminaire) and a diagram showing the luminance levels from the floodlights and information was submitted to discharge this condition as part of application ref: 06/01140/FUL. During an enforcement case ref: 07/00284/UD the Council employed a lighting engineer to look into the alleged issues raised in respect of this condition. The lighting engineer states that there was no adverse impact into the complainants home (No.219) as the lighting columns were too far away to have an adverse impact and that there is a recommended limit of 7,500 candelas, and it is 3,303 candelas lower than this limit, and that even if the bulbs were 400 watts, they would only emit approximately 6,000 candelas. Accordingly it is only relevant to carry forward the part of the condition requiring that they are maintained in accordance with the approved details.

Condition 8 - This condition relates to cabling linking the columns to be provided underground and is still necessary.

Conditions 9 and 10 - These conditions related to the submission of a landscaping scheme and

the planting within the first available planting season thereafter and during a period of 5 years from the first implementation. The landscaping condition was formally discharged as part of application ref: 06/01140/FUL and the 5 year period has subsequently lapsed and therefore these conditions do not need to be carried forward.

Condition 11 - This relates to no portable or temporary floodlighting being used at the site and is still relevant.

Condition 12 - This relates to the number of floodlights per column to be accordance with the submitted details and is still relevant.

Conclusion

In conclusion, the principle of this development has already been established through the earlier grant of planning permission (ref: 06/01140/FUL).

The scheme relates to an existing recreational/sports use on the site, and floodlights have already been consented. This scheme will effectively enhance the existing facilities by increasing the length of time that the pitches can be used.

The scheme has been considered by the Council's Environmental Protection Section who raises no objection and given that the scheme results in an extension of the illumination in the floodlights in the early evening, (and not beyond 9.30pm), and that the floodlights are to be used, only when necessary within these time frames, it is not considered that the proposed changes, in comparison to the previously approved scheme would result in any significant impacts, to the detriment of residential amenity.

Overall, it is considered that the development would not have any significant detrimental impact upon neighbouring residential amenities and the proposal is considered to be acceptable in relation to Policy E3 (Residential Amenity) of the Local Plan.

Accordingly it is recommended that planning permission be granted, subject to the imposition of the previous planning conditions, where applicable.

RECOMMENDATION, PERMIT, subject to the following condition(s):

- 1 The proposed development shall be carried out strictly in accordance with the following schedule of plans:
 - the red line plan and details of the 'large area' floodlights received by the Authority on 25 July 2006;
 - the elevational drawings received by the Authority on 16 August 2006; and
 - the ground plan showing the position and type of floodlights received by the Authority on 11 September 2006.

Reason: To determine the scope of this permission.

- 2 The approved mottled silver galvanised floodlights and black diecast aluminium floodlights shall be maintained, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over the external appearance.

- 3 The floodlights hereby permitted shall not be illuminated before 17.00 hours or after 21:30 hours on any day.

Reason: In the interests of visual and residential amenities.

- 4 The floodlights hereby permitted shall only be illuminated when the pitches directly lit by the floodlights are in use for sports training or the playing of sport.

Reason: In the interests of visual and residential amenities.

- 5 The maximum luminance of each floodlight shall not exceed the approved luminance.

Reason: In the interests of highway safety and visual and residential amenities.

- 6 Any cabling to connect or link the columns and floodlights shall be provided underground unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the visual amenities of the area.

- 7 No portable or temporary floodlighting shall be used on the site at any time.

Reason: In the interests of visual and residential amenities.

- 8 The number of floodlights per column shall be in accordance with the details provided on the plan received by the Authority on 11 September 2006.

Reason: For the avoidance of doubt and in the interests of visual and residential amenities.

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 2010 (as amended).