

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

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

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

## AGENDA

Item	Pages
<b>1. APOLOGIES FOR ABSENCE</b>	
<b>2. DECLARATION OF INTERESTS</b>	
Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
<b>3. MINUTES</b>	
To confirm and sign the minutes of the meeting held on 7 June 2016	<b>3 - 10</b>
<b>4. PLANNING APPLICATIONS AND OTHER MATTERS</b>	
Report of the Head of Planning and Regeneration.	<b>11 - 14</b>



## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	<b>16/00296/FUL: Change of use from agricultural field to Showman's yard</b>  Field Adjoining Ashby Road Belton Leicestershire	REFUSE	15 - 34
A2	<b>16/00027/FULM: Erection of 13 dwellings along with vehicular access, landscaping and car parking</b>  Land At The Spittal Castle Donington Derby DE74 2NQ	PERMIT Subject to a Section 106 Agreement	35 - 66
A3	<b>15/00512/OUTM: Development of 605 residential dwellings including a 60 unit extra care centre (C2), a new primary school (D1), a new nursery school (D1), a new community hall (D1), new neighbourhood retail use (A1), new public open space and vehicular access from the A511 and Nottingham Road (outline all matters other than part access reserved)</b>  Money Hill Site North Of Nottingham Road And South Of A511 Ashby De La Zouch Leicestershire	PERMIT Subject to a Section 106 Agreement	67 - 92
A4	<b>16/00450/FUL: Erection of four detached dwellings with associated off-street parking and new vehicular access off Manor Drive</b>  Land Off Manor Drive Worthington Leicestershire	PERMIT	93 - 112
A5	<b>16/00160/FUL: Installation of new shop front and air conditioning unit (retrospective application)</b>  Rose Of Bengal 42 Borough Street Castle Donington Derby DE74 2LB	REFUSE	113 - 120
A6	<b>15/00948/FUL: Partial demolition of farm building, conversion and extension of remaining farm buildings to form two dwellings along with the erection of six additional dwellings and alterations to vehicular access</b>  Village Farm 36 Hall Gate Diseworth Derby DE74 2QJ	PERMIT	121 - 152

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 7 JUNE 2016

Present: Councillor D J Stevenson (Chairman)

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

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

Officers: Mr C Elston, Mr J Mattley, Mr R McKillop, Mr A Mellor, Mrs M Meredith, Mr J Newton and Ms S Odedra

### **1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors D Harrison, R Johnson and M B Wyatt.

Councillor M Specht requested that a letter be sent from the Council to Councillor D Harrison sending best wishes from all members of the Committee.

### **2. DECLARATION OF INTERESTS**

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

Councillors R Adams, R Boam, J Bridges, R Canny, J Clarke, J Cotterill, J Geary, J Hoult, G Jones, J Legrys, N Smith, M Specht and D J Stevenson declared that they had been lobbied without influence in respect of item A1, application number 16/00070/FULM.

Councillors R Adams and D Everitt declared a non-pecuniary interest in respect of item A1, application number 16/00070/FULM as members of Whitwick parish council.

Councillor J Legrys declared a non-pecuniary interest in respect of item A1, application number 16/00070/FULM as a member of Leicestershire and Rutland Wildlife Trust.

Councillors R Adams, R Boam, D Everitt, J Hoult, G Jones, J Legrys, M Specht and D J Stevenson declared that they had been lobbied without influence in respect of item A2, application number 16/00352/FUL.

Councillors M Specht and D J Stevenson declared that they had been lobbied without influence in respect of item A3, application number 16/00428/FUL.

Councillors R Adams, R Boam, R Canny, J Clarke, J G Coxon, D Everitt, J Geary, J Hoult, J Legrys, V Richichi, M Specht and D J Stevenson declared that they had been lobbied without influence in respect of item A4, application number 16/00372/FUL.

Councillor R Boam declared a pecuniary interest in item A6, application number 16/00413/VCI as the applicant.

### **3. MINUTES**

Consideration was given to the minutes of the meeting held on 10 May 2016. It was moved by Councillor J Legrys, seconded by Councillor J Bridges and

RESOLVED THAT:

The minutes of the meeting held on 10 May 2016 be approved and signed by the Chairman as a correct record.

**4. PLANNING APPLICATIONS AND OTHER MATTERS**

Consideration was given to the report of the Head of Planning and Regeneration, as amended by the update sheet circulated at the meeting.

**5. 16/00070/FULM: ERECTION OF 28 DWELLINGS TOGETHER WITH PUBLIC OPEN SPACE, NATIONAL FOREST PLANTING, LANDSCAPING, DRAINAGE INFRASTRUCTURE AND VEHICULAR ACCESS**

The Principal Planning Officer presented the report to members.

Councillor T Gillard, ward member, addressed the Committee. He made reference to the attractiveness of the site. He stated that he totally agreed with the officer's recommendation and added that there were endless reasons to refuse the application including a high number of objections, increased traffic and the visual impact upon the attractive countryside. He urged members to support the officer's recommendation and refuse the application.

Mr L Spence, parish councillor, addressed the Committee, stating that Whitwick parish council had long objected to this development which was located in a beautiful part of the village, as they strongly believed the development would be incompatible with the rural nature of the setting. He commented that he was reassured by the officer's recommendation to refuse the application as the site was clearly outside the Limits to Development and was set in an area of particularly attractive countryside. He added that the site was rich in flora and fauna, and was valued by the residents of Whitwick. The county ecologist noted that the site included species rich grassland, and Leicestershire and Rutland Wildlife Trust had objected to the application. He stated that the proposals would be significantly harmful to the character and appearance of the surrounding area and would also form a strong precedent for future proposals seeking further incursion into the countryside. He felt that given its location on the extreme edge of the village, the proposal was unsustainable as there were no bus services or shops. He referred to the serious local concern in respect of water run-off and flooding and added that it should be no surprise that over 700 representations had been made by local people. He added that this level of concern did not have a common precedent. He concluded that this development was wrong for the site and he asked members to refuse it.

Mr S Lewis-Roberts, agent, addressed the Committee. He stated that the application site was located in greater Coalville and represented sustainable development. He added that there were no technical objections from the statutory consultees. He stated that it was evident that the benefits of the proposals outweighed the limited adverse impacts. He referred to a letter of support from Jeremy Cahill QC which outlined benefits and stated that the Council could not demonstrate a 5 year housing land supply and officers recognised that weight could not be attributed to Policy E22; therefore the reason for refusal sought to rely on Policy E4, which was design based, and the proposals clearly accorded with this policy. He added that the development had been subject to a Building for Life 12 assessment which had concluded that the proposals accorded with Policy E4. He stated that it was considered that the site made a positive contribution to the character and appearance of the countryside and the surrounding landscape and therefore there was no basis to rely on Policy E4 as a reason for refusal. He made reference to the large housing developments which had already been permitted in close proximity to this site which had a greater adverse impact on the local landscape. He concluded that there was no objective basis to justify the recommended reason for refusal, and the proposals would

address the Council's lack of a 5 year housing land supply and accordingly should be permitted.

It was moved by Councillor R Adams and seconded by Councillor D Everitt that the application be refused in accordance with the officer's recommendation.

Councillor D Everitt stated at it was clear that any encroachment into the site would be the start of greater encroachment. He felt that the application was not needed and was not necessary. He made reference to the flooding concerns and felt that it was madness to site another estate on the hill. He expressed support for the officer's recommendation.

Councillor J Legrys requested a recorded vote.

The Chairman then put the motion to the vote.

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

For the motion:

Councillors R Adams, R Boam, R Canny, J Clarke, J Cotterill, J G Coxon, D Everitt, J Houl, J Geary, J Legrys, N Smith, M Specht and D J Stevenson (13).

Against the motion:

Councillors J Bridges, G Jones and V Richichi (3).

Abstentions:

None (0).

It was therefore

RESOLVED THAT:

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

**6. 16/00352/FUL: ERECTION OF THREE DWELLINGS WITH ASSOCIATED OFF-STREET PARKING AND GARAGES**

The Senior Planning Officer presented the report to members.

Mr S Haggart, objector, addressed the Committee. He stated that he represented many residents of Coleorton who were baffled why this application was not recommended to be refused. He added that the vast majority of supporters did not live in the village. He made reference to the earlier application which was permitted on the proviso that it would act as a bookend on Lower Moor Road, signifying an end to further development. He felt that it could not now be argued that this application should be permitted as it was at the other end of the road, as this would make a mockery of the previous decision. He added that the site was in open countryside in an unspoilt meadow and contrary to Policy E1 of the adopted local plan which sought to prevent sporadic ribbon development. He stated that the proposals would have a detrimental effect on the unique rural character of the village, destroying its open aspect, and negatively impacting upon the rural amenity enjoyed by its residents. He felt that the proposals were contrary to Policies E18, PPG15, HS4 and S3 and the site was outside the Limits to Development. He added that it was common knowledge it could now be demonstrated that there was sufficient housing and there was no justification for granting the application and allowing further erosion of the countryside. He felt that the application must be refused to ensure the protection of small villages from unnecessary development. He urged members to refuse the application.

Mr A Large, agent, addressed the Committee. He pointed out that the application had been called in to the Committee due to his relationship with a serving member. He stated that in his opinion, the proposals would act a continuation of the existing built forms and would be built to a high standard. The new homes would be individually designed, opposite a new dwelling that was immediately opposite the site. He added that the houses would provide family homes in a desirable location at the sustainable end of Coleorton. With reference to the comment made by the objector about the previous application acting as a bookend, he felt that this was specific to that site and in conjunction with the adjoining site being a nature reserve, and was therefore out of context in his opinion. He asked members to follow the officer's recommendation.

Following a question from the Chairman, the Planning and Development Team Manager offered clarification to members regarding the comments relating to the bookend issue, that the two sites referred to were different, and the proposed nature/ecological area was intended to be a bookend to that particular development to prevent further development on that side of Lower Moor Road, and not in Coleorton altogether.

Councillor R Boam moved that the application be refused as it was located outside the Limits to Development, was in open countryside and was outside the proposed limits to development in the draft local plan. The motion was seconded by Councillor R Canny.

Councillor R Boam stated that he believed this would open the floodgates for the whole road as it would leave a gap in between. He added that the site was outside the limits to development and in open countryside.

Councillor R Canny stated that the design of the houses looked really good, and that she would be happy for them to be built. However she expressed concerns about parcels of land disappearing in Coleorton and the open nature of the village being severely hampered. She added that this could lead to ribbon development which was not appropriate.

Councillor D Everitt endorsed the comments made, adding that it was a greenfield site.

The Chairman then put the motion to the vote. The motion was declared LOST.

Councillor J Bridges moved that the application be permitted in accordance with the officer's recommendation. This was seconded by Councillor J Legrys.

Councillor J Clarke commented that the hedgerow was very attractive and sought assurances that this would be retained. He queried whose responsibility it was for the hedgerow to be maintained.

The Head of Planning and Regeneration advised that the retention of the hedgerow was a recommended condition in the event that planning permission were to be granted, and confirmed that it would be the responsibility of the hedge owners to maintain it.

Councillor M Specht expressed support for the officer's recommendation. He added that he was satisfied that the development was socially and economically sustainable and endorsed the officer's report.

Councillor D J Stevenson made reference to nearby applications which had already been permitted.

The Chairman then put the motion to permit the application to the vote and the motion was declared CARRIED.

It was therefore

RESOLVED THAT:

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

**7. 16/00428/FUL: ERECTION OF A TWO STOREY DETACHED DWELLING**

The Senior Planning Officer presented the report to members.

Mr A Large, the agent, addressed the meeting. He stated that the development would see a local tradesman build his own home. He advised that the proposal was for a modest 3 bedroom dwelling and the siting would allow the occupier to use many of the estate roads. The proposed occupier had worked on the Staunton Harold estate for 25 years, and currently commuted a long way. He added that the occupancy restriction of the property would address any sustainability concerns. He asked members to support the officer's recommendation.

Councillor J Bridges moved that the application be permitted subject to a Section 106 agreement. This was seconded by Councillor J Hoult.

Councillor J Legrys stated that he was somewhat surprised that the proposed development was in such a constrained site, and would amount to backland development. He expressed doubts about maintaining the tenancy to the Staunton Harold estate in perpetuity. He expressed concerns regarding the internal layout of the road network, the location, the access onto Nottingham road and the parking of cars over a cesspit. He felt that there may be better locations within the estate and that this looked like a squeezed in application and concluded that he could not vote in favour of the application.

Councillor D Everitt expressed concerns that a person's home would be dependent upon their job, and he believed that such tenancies had been outlawed years ago.

Councillor D J Stevenson stated that the application site was nearly an acre of land. He said that it was a good idea to be able to get to work without having to use the county highway roads. He welcomed the proposal.

Councillor J Clarke felt that work would have to be done to the road as it was quite narrow and would not be accessible to larger vehicles.

Councillor J Bridges stated that the width of the road was not a consideration and there were roads in Coalville of a similar width, so this was not unusual. He clarified that the highway authority was happy with the proposal. Many philanthropic homes had been built in the past, such as by Cadbury, and that this should be welcomed. He felt that there was plenty of room to build a house on the plot, and confirmed that there were many examples where septic tanks were built over. He stated that he was not keen on back land development, however here it was to be done sensitively. He felt that the application should be supported.

The Chairman then put the motion to permit the application to the vote and the motion was declared CARRIED

RESOLVED THAT:

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

**8. 16/00372/FUL: ERECTION OF THREE TERRACED DWELLINGS AND A TRIPLE GARAGE BLOCK**

The Principal Planning Officer presented the report to members.

Mr K Middleton, applicant, addressed the meeting. He felt that the application should be granted as he had liaised effectively with the planning department, highway authority and Ward Member, and had addressed the concerns raised throughout the process. He outlined the separation distances which were similar to other recent applications and would not be overbearing. He added that the windows had also been positioned strategically to prevent any overlooking. He contended that the Ward Member had objected to the Bloor scheme opposite because of a lack of affordable housing, and queried why the Ward Member did not support this application. He explained that the properties would be extremely attractive to first time buyers and he made reference to the lack of affordable housing in the area. He added that the junction was already greatly used, there were no objections from the Highways Authority and there had never been an accident due to lack of visibility, and therefore there was no reason to refuse the application on the grounds of highway safety. He concluded that the proposals would enhance the area massively and provide much needed starter homes.

It was moved by Councillor D J Stevenson, and seconded by Councillor J Legrys, that the application be refused on highway safety grounds as the access did not meet the required standards in respect of visibility when cars were parked in the parking bays.

Councillor D J Stevenson expressed concerns regarding visibility at the proposed access. He felt that the development would make this junction more dangerous than it was at present, because to exit the junction, drivers would need to pull out into traffic. He further considered that at least two vehicles per new home proposed by the application would make the existing dangerous situation even more dangerous.

Councillor J Geary corrected Mr Middleton's statement that he had publicly stated that he was opposed to the application. He explained that when the plans were first submitted, he did show concern at the close proximity to neighbouring dwellings and these concerns had been addressed. He added that he had no objection in principle to development on this site, however he expressed concerns about the proposals casting a shadow over existing houses in the late afternoon. He also expressed concern regarding the access onto Standard Hill, as he felt this was dangerous, and the Highways Authority did not seem to take on board the comments made. He added that there was a history of accidents on that junction and he would not like to feel any way responsible for causing accidents in future. He further stated that if traffic moved at the speed limit then there would not be a problem but this was not the case.

Councillor J Bridges expressed concern that he thought the Council would lose at appeal if the application were to be refused.

Councillor V Richichi stated that he visited the shop fairly regularly and used the proposed access. He felt the proposal would make little difference to the access and egress, and the road could not be blamed for driver error or speed. He stated that he would support the officer's recommendation.

Councillor G Jones stated that he had also used the store on a regular basis. He felt this was a good development and was needed. He opined that the road could be busy, so under those conditions people should drive with caution. He expressed support for the officer's recommendation.



Councillor D Everitt felt that the junction needed to be put right, including bollards and parking arrangements, before the development could proceed. He considered that the reports about accidents were almost certainly correct.

Councillor J Legrys stated that he was a regular user of Standard Hill. He referred to the police announcement on social media that they were very concerned about the speed of traffic on Standard Hill and monitoring was being increased. There had been a fatality nearby. He expressed deep concerns with the state of the junction as visibility was zero, particularly when a large vehicle was parked.

Councillor M Specht endorsed the comments made by Councillor J Legrys and added that there was no visibility at the junction unless the parking bays were empty, and if parking bays were occupied then road users would have to nose out into fast moving traffic. He stated that he could not support a proposal that could risk a potential future occupier being killed or seriously injured.

Councillor J Geary requested a recorded vote.

The Chairman then put the motion to the vote. A recorded vote having been requested, the voting was as follows:

For the motion:

Councillors R Adams, R Boam, R Canny, J Clarke, J Cotterill, D Everitt, J Hoult, J Geary, J Legrys, N Smith, M Specht and D J Stevenson (12).

Against the motion:

Councillors J Bridges, J G Coxon, G Jones and V Richichi (4).

Abstentions:

None (0).

It was therefore RESOLVED THAT:

The application be refused on highway safety grounds due to the access not meeting the required standards in respect of visibility when vehicles were parked in the parking bays.

#### **9. 16/00287/FUL: FORMATION OF SLURRY LAGOON AND EARTH BUND**

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

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

RESOLVED THAT:

The application be deferred.

#### **10. 16/00413/VCI: VARIATION OF CONDITION 4 OF PLANNING PERMISSION 15/00387/FUL FOR THE CHANGE OF USE TO A TIMBER YARD AND CONSTRUCTION OF OFFICES AND STORAGE BUILDING IN ORDER TO ALLOW FOR THE DISPLAY OF SHEDS ON THE SITE**

Having declared a pecuniary interest, Councillor R Boam left the meeting during consideration of this item and took no part in the discussion or voting thereon.

The Planning Officer presented the report to members.

The Planning and Development Team Manager recommended that condition 7 be

amended to ensure the parking scheme would be implemented within one month of the planning permission.

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

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Head of Planning and Regeneration, to include the amended condition 7 in respect of parking provision.

Councillor T J Pendleton entered the meeting at 5.15pm.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 5.45 pm

**APPENDIX B**

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

**5 July 2016**

**PLANNING & DEVELOPMENT REPORT**



## **PLANNING COMMITTEE FRONT SHEET**

### **1. Background Papers**

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

### **2. Late Information: Updates**

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

### **3. Expiry of Representation Periods**

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

### **4. Reasons for Grant**

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

### **5. Granting permission contrary to Officer Recommendation**

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

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

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

## **6 Refusal contrary to officer recommendation**

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

## **7 Amendments to Motion**

An amendment must be relevant to the motion and may:

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

as long as the effect is not to negate the motion

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

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

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

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

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

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

## **8 Delegation of wording of Conditions**

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

to the Head of Planning and Regeneration.

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

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

Change of use from agricultural field to showman's yard

Report Item No  
A1

Field Adjoining Ashby Road Belton Leicestershire

Application Reference  
16/00296/FUL

Applicant:  
Mr & Mrs M & C Pearson

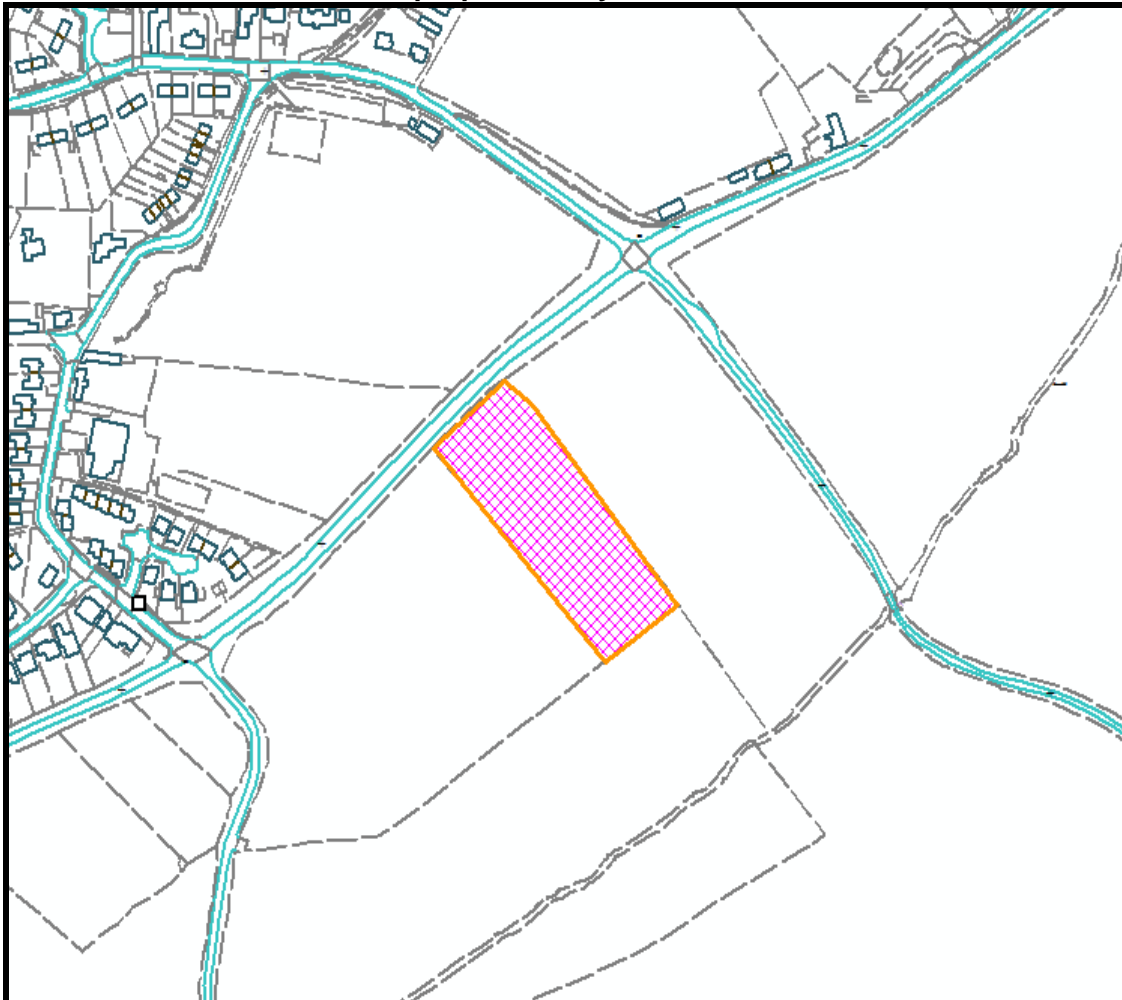
Date Registered  
11 March 2016

Case Officer:  
Adam Mellor

Target Decision Date  
6 May 2016

Recommendation:  
REFUSE

**Site Location - Plan for indicative purposes only**



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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application has been brought to the Planning Committee at the request of Councillor Rushton who has raised concerns over highway safety, the impacts of the development on the rural environment, that the site is a greenfield site, that there is no local need for the proposal, the site is not in a sustainable location and that there are no defensible boundaries which would prevent further development.

### Proposal

Planning permission is sought for the change of use of a 0.89 hectare agricultural field to a showmans yard at land off Ashby Road, Belton. The application site is situated on the southern side of Ashby Road and is outside the defined Limits to Development.

### Consultations

A total of 111 individual representations have been received with 110 of those opposed to the development and one in support. Belton Parish Council and the County Highways Authority have also objected to the application. All other statutory consultees have no objections subject to the imposition of conditions on any consent granted.

### Planning Policy

To permit the development is considered to be contrary to the aims of Paragraphs 24 and 25 of the Planning Policy for Traveller Sites 2015 (PPTS 2015), Paragraphs 32, 57 and 61 of the National Planning Policy Framework (NPPF) and Policies S3, E4 and T3 of the adopted North West Leicestershire Local Plan (Local Plan).

### Conclusion

Consideration has been given to alternative established showpeople sites within the District by the applicant, which have been discounted, but no justification has been provided as to why brownfield sites or other greenfield sites within the District that have a better relationship with the built environment have not been considered. In the absence of such justification it is considered that permitting the proposal would be contrary to Paragraph 24 of the PPTS 2015. Whilst not dominating the settled community of Belton establishment of the land use as a showmans yard would result in the urbanisation of a greenfield site which would be visible from the public domain, and which would be disassociated with existing built forms. Given the lack of justification for the proposal on this particular site, it is considered that conflict with Paragraph 25 of the PPTS 2015 would arise. The unmet need for sites within the District is also considered not to be sufficient grounds to justify an approval of the application. Given the lack of justification for the land use on the application site it is also considered that the proposal would be contrary to Policy S3 of the adopted Local Plan.

The application site is an undeveloped greenfield site situated on the southern side of Ashby Road, which is largely undeveloped. Although the presence of mature vegetation to the site boundaries results in the site having a different character to the neighbouring agricultural fields, the substantial introduction of hardstanding, chalet accommodation, vehicles and fairground rides resulting in the urbanisation of the land which would be significantly adverse to the rural and undeveloped character of the area. It is also considered that the landscaping to the site



boundaries, even if it is reinforced, would not adequately mitigate the visual implications such a change in the land use would have in a rural environment given that the site would be prominent when viewed from Ashby Road. In these circumstances the proposal would conflict with Paragraphs 57 and 61 of the NPPF and Policy E4 of the adopted Local Plan.

The introduction of the use onto the Class B Ashby Road (B5324) has been assessed by the County Highways Authority. They have concluded that the introduction of the use would result in a significant increase in vehicular movements, when taken cumulatively with existing movements, onto and off the highway. Furthermore turning manoeuvres would be an additional source of danger to road users and not in the interests of highway safety. In these circumstances to permit the development would be contrary to the aims of Paragraph 32 of the NPPF and Policy T3 of the adopted Local Plan.

### **RECOMMENDATION - REFUSE**

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the change of use of an agricultural field to a showmans yard at land off Ashby Road, Belton. The 0.89 hectare site lies on the southern side of Ashby Road between the junctions of Church Street and Sadlers Wells with Ashby Road and is outside the defined Limits to Development.

It is proposed that an agricultural field would be changed to a showmans yard serving one family. The change in use would involve surfacing half of the site with hardstanding upon which a chalet for accommodation, various rides, a shed, touring caravan, lorry body and towing trailers would be sited. The existing vehicular access into the site would be upgraded and utilised to serve the yard. Additional landscaping would be planted. As part of the works an existing timber stable/storage building would be removed.

A design and access statement was initially submitted with the application. Following requests from statutory consultees an ecology survey and transport and highways statement have also been received.

No recent planning history was found.

### 2. Publicity

4 no neighbours have been notified.

Site Notice displayed 24 March 2016

### 3. Consultations

Clerk To Belton Parish Council consulted 16 March 2016

County Highway Authority consulted 16 March 2016

Head of Environmental Protection consulted 16 March 2016

Severn Trent Water Limited consulted 16 March 2016

NWLDC Tree Officer consulted 16 March 2016

LCC ecology consulted 16 March 2016

LCC Flood Management consulted 16 March 2016

Matt Bagley Gypsy & Traveller Liaison Officer consulted 16 March 2016

Development Plans consulted 16 March 2016

Head Of Street Management North West Leicestershire District consulted 16 March 2016

### 4. Summary of Representations Received

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

**Belton Parish Council** objects to the application on the following grounds: -

- It is outside the Limits to Development;
- The development will impact negatively on highway safety given the speed of traffic, introduction of pedestrian movements, lack of street lighting and obstructions to road traffic;
- The development will result in noise and environmental pollution with maintenance of vehicles and rides being carried out on site;

**Gypsy & Traveller Liaison Officer** no representation received to date, any comments received will be reported to Members on the Update Sheet.

**Leicestershire County Council - Ecology** initially objected to the application given that an ecological report would be required as the application site is a grassland site. Alternative tree species to be planted were also suggested. Following receipt of an ecological report the County Council Ecologist has removed their objection subject to the hedges on the south-western and north-western boundaries being retained, and a landscaping scheme being agreed to include native tree planting.

**Leicestershire County Council - Highways Authority** have objected to the application due to the impacts on highway safety and the sustainability of the site location. Any further comments received on the submitted transport and highway statement will be reported to Members on the Update Sheet.

**Leicestershire County Council - Lead Local Flood Authority** has no objections subject to their standing advice being considered.

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

**NWLDC - Street Management** has advised on the requirements for a bin collection point around the site access.

**Severn Trent Water** has no objections subject to the inclusion of a foul and surface water drainage condition being imposed on any consent granted.

**Showmen's Guild of Great Britain (Midland Section)** support the application due to the shortage of Showmen's sites in the area and that the site is in an area which benefits from excellent transport links and which has necessary amenities in the neighbouring settlement.

### **Third Party Representations**

110 individual third party representations have been received, including comments from Councillor Rushton, which object to the application and whose views can be summarised as follows: -

- Application site is a Greenfield site and therefore previously developed land should be explored before an allowance of a Greenfield site;
- Provision of a showman's yard on a landscape which is completely agricultural will not enhance the environment nor increase its openness;
- Properties on the eastern side of the village will have their view impacted on;
- The proposed access would be onto the B5324 which is designated as a 40mph zone but speed surveys have demonstrated that vehicles travel in excess of this limit (some in excess of 70 mph). Movement of large vehicles in the highway will therefore be unsafe;
- Access into the site is on the apex of a bend and therefore dangers exist for vehicles exiting the site;
- The highway would need to be widened to accommodate the size of the vehicles associated with the site;
- Approval will set a precedent for similar proposals which collectively will impact negatively on the rural environment;
- Proposed landscaping will not screen the development;
- The character of the village would be altered as a result of the proposals;
- It is likely that further residential development on the site would be permitted should the

- applicant have further dependents;
- Sufficient sites for travelling show people and travellers have been supplied within the District;
- No facilities such as water and electricity exist into the field and these would be required for residential occupancy;
- Belton lacks services which would make the site sustainable;
- Grace Dieu Brook often floods the fields next to the site and development will further exacerbate such a flooding impact given the provision of hardstanding;
- The application site is of archaeological significance;
- The applicant is not local and therefore there is no 'local' need;
- The process of transporting, maintaining, cleaning and testing the fairground machinery which will cause noise and smells;
- Proposal will impact adversely on ecology with protected species being present in the adjacent stream;
- The settlement of Belton is not to be expanded in the strategic plan as such this development is contrary to that understanding;
- Children will put at risk given that they would wish to investigate the Showman's site;
- There is no provision made for general waste and recycling collection, waste will not be collected as the site is outside the Limits to Development;
- Maintaining machinery on the site will lead to problems with contamination e.g. oil and diesel as well as cleaning fluids;
- Site is directly opposite a school playing field which is only protected by a hedge and wooden gate and any accident on the road will put the children at risk;
- There is no pavement on either side of the highway and therefore occupants of the site will be put at risk having to cross Ashby Road at this point given speed of vehicles;
- Other visitors will be encouraged to the site, given the provision of pick-up trucks and lorries, which will also impact on highway safety and encourage additional residential pitches;
- There are other Showman's Yards in Leicestershire within 10 and 16 miles of Belton respectively (one outside Hoton and Wymeswold and the other in Burbage) which are on a farm complex and industrial yard and not directly outside a village;
- Other showmen sites have 24 hour illuminated lighting and guard dogs and the provision of lighting on this site would further harm the visual amenity of the rural environment;
- The provision of a soak-away for surface water run-off will be inadequate given the nature of the geology of the site and no details supplied on the package treatment plant to be supplied;
- Applicant already resides on a site so why is a new site required?
- How will complaints be managed if the applicant breaches the terms of any planning consent granted?
- In 2000 the Association of Showmen stated "showmen need to live on, maintain and store their equipment on their yards" and that "the showmen should not choose a site in the middle of an open field" as well as "an ideal site is a farm yard or the edge of an industrial development."
- There will be no peaceful integration between the showman's yard and the community of Belton;
- Showman's caravans are 'custom built' and therefore larger than those associated with other traveller groups which would add to the visual implications of the development;
- Development is contrary to Policy S3 of the adopted Local Plan;
- Development of the site for these purposes will result in a reduction in property values;
- Information stated on the application forms is incorrect. For instance the planning application form does not include the provision of the 2 bed chalet or a shed which are clearly shown on the plans;

- Lorries and equipment should be stored at the far end of the field where they would be out of view;
- There is the potential for additional development in the eastern end of the site which should be considered as part of this application;
- Development would be represent approximately 3.33% of the total area of Belton and as such would dominate the settlement;
- Where will maintenance, cleaning and repairs of rides, vehicles and equipment be undertaken on the site?
- A review of the applicant's existing site at Hoton should be undertaken;
- The applicant has been provided with pre-application advice but the findings of this advice have not been supplied;
- The site will be used as a caravan park with an associated heavy goods vehicles maintenance yard;
- There is no policy justification for a dwelling on the site;

In addition to these individual representations a signed petition with 15 signatures objecting to the application have also been received on the basis that the proposal would cause noise from the coming and goings of large lorries and the maintenance and testing of vehicles and rides, as well as the fact that an approval of the proposal will set a precedent for the further development of greenfield sites on the south-eastern side of Ashby Road.

One third party representation has been received in support of the application with the comments raised summarised as follows: -

- The applicant is a hard working man of good character and I would not support a development which I consider would be detrimental to the village of Belton given my former residence in the settlement;
- A screening project will be undertaken on the site therefore making it more aesthetically pleasing;
- His intentions are that his children will attend the local primary school so that they become integrated into the community.

## **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 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 17 (Core planning principles);
- Paragraph 30 (Promoting sustainable transport);
- Paragraph 32 (Promoting sustainable transport);
- Paragraph 39 (Promoting sustainable transport);

Paragraph 57 (Requiring good design);  
Paragraph 61 (Requiring good design);  
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal erosion);  
Paragraph 109 (Conserving and enhancing the natural environment);  
Paragraph 118 (Conserving and enhancing the natural environment);  
Paragraph 120 (Conserving and enhancing the natural environment);  
Paragraph 121 (Conserving and enhancing the natural environment);  
Paragraph 123 (Conserving and enhancing the natural environment);  
Paragraph 203 (Planning conditions and obligations);  
Paragraph 204 (Planning conditions and obligations);  
Paragraph 206 (Planning conditions and obligations);

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

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

Policy S3 - Countryside;  
Policy E2 - Landscaped Amenity Open Space;  
Policy E3 - Residential Amenities;  
Policy E4 - Design;  
Policy E7 - Landscaping;  
Policy T3 - Highway Standards;  
Policy T8 - Parking;

### **Draft Consultation North West Leicestershire Local Plan**

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, as the proposed publication version of the Local Plan is to be considered by Council on 28th June with a view to its submission for examination in September, more weight can now be attributed to its policies at this stage.

Policy S1 - Presumption in Favour of Sustainable Development;  
Policy S2 - Future Housing and Economic Development Needs;  
Policy S3 - Settlement Hierarchy;  
Policy S4 - Countryside;  
Policy S5 - Design of New Development;  
Policy H7 - Provision for gypsies and travellers and travelling showpeople;  
Policy IF4 - Transport Infrastructure and New Development;  
Policy IF7 - Parking Provision and New Development;  
Policy En1 - Nature Conservation;  
Policy En6 - Land and Air Quality;  
Policy Cc2 - Sustainable Design and Construction;  
Policy Cc3 - Water - Flood Risk;  
Policy Cc4 - Water - Sustainable Drainage Systems;

Other Policies

### **National Planning Practice Guidance**

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

### **Planning Policy for Traveller Sites (August 2015)**

Travelling showpeople are considered to be a specific racial group, distinct from gypsies, and from travellers, both in legal terms and in planning terms. For instance, were it to be proposed that an existing showman's yard be changed to a traveller site, that would require planning permission. This planning application is expressly seeking permission for a showman's yard.

The Plan Making section of this document sets out what local planning authorities should have regard to when preparing Local Plans;

Local Plans should identify a supply of specific deliverable sites to provide five years' worth of sites against locally set targets and a supply of sites or broad locations for growth for the next 6-10 and 11-15 years (Paragraph 10); ensure that sites are sustainable economically, socially and environmentally (Paragraph 13); and that in assessing the suitability of sites in rural or semi-rural settings it should be ensured that the scale of the site does not dominate the nearest settled community (Paragraph 14).

The Decision-Taking section of this document sets out that applications must be determined in accordance with the development plan, unless material considerations indicate otherwise (Paragraph 22); taking account of: -

- a) the existing level of local provision and need for sites;
- b) the availability (or lack) or alternative accommodation for the applicants;
- c) other personal circumstances of the applicant;
- d) that locally specific criteria used to guide the allocation of sites in plans or which form that policy where there is no identified need for pitches should be used to assess applications on unallocated sites;
- e) they should determine applications for sites from any travellers and not just those with local connections (Paragraph 24);

New sites in open countryside away from existing settlements should be strictly limited. Authorities should also ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing undue pressure on the local infrastructure (Paragraph 25);

Government guidance advises that authorities should attach weight to the following matters:

- a) effective use of previously developed, untidy or derelict land;
- b) sites being well planned or soft landscaped to positively enhance the environment and increase its openness;
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas;
- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community (Paragraph 26);

Leicestershire, Leicester & Rutland Gypsies' & Travellers' Accommodation Needs Assessment Refresh Report (May 2013) (GTAA)

This sets out detailed information about local gypsies and travellers as well as reliable estimates of future accommodation and housing-related support needs;

### **Housing Act 2004**

Section 225 of the Housing Act 2004 requires local housing authorities, when undertaking a review of housing needs in their district to carry out an assessment of the accommodation needs of gypsies and travellers residing in or resorting to their district;

**European Convention on Human Rights/Human Rights Act 1998**

Article 8 of the European Convention on Human Rights ("Convention") relates to the right to respect for private and family life and home and that there should be no interference by a public authority with the exercise of these rights;

Local authorities are public bodies for the purposes of section 6(3) of the Human Rights Act 1998 (HRA) and are therefore subject to the duty to act compatibly with the Convention when dealing with applications for planning permission imposed by section 6(1) of the HRA.

**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. It 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;

**The Community Infrastructure Levy Regulations 2010**

Provides a legislative requirement that an obligation must meet the following tests:

- 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.

**6. Assessment**

**Principle of Development and Sustainability**

The application site is outside the defined Limits to Development and is therefore on land designated as countryside. For clarification purposes, the District has no Green Belt land and the site does not lie within a designated Area of Outstanding Natural Beauty.

It is highlighted within the accompanying planning statement that the applicant and his family currently reside at Hoton Park, Wymeswold Road, Hoton where they have occupied a 30 metre by 30 metre yard for the past 15 years. At present the applicant has had difficulty in storing all of his rides at the Hoton Park site, and with many showpeople being retired on that site the opportunities to expand the existing yard have been severely restricted. As such the applicant now wishes to establish a new yard which is of a sufficient size to accommodate the applicant, his family and their rides.

Policy S3 of the adopted Local Plan states that development will only be permitted in the countryside where it falls within one of a number of categories including essential development for agriculture, forestry, farm diversification, recreation, community facilities or tourism related purposes, forest related purposes or conversion of rural buildings. The proposed use of the site for a showmans yard would not fall within the categories of Policy S3.

Whilst this is the case, the Leicestershire, Leicester and Rutland Gypsy and Traveller



Accommodation Needs Assessment Refresh Report May 2013 (GTAA) identified a need for 9 travelling showpeople plots for the period 2012 to 2031 and since the publication of the GTAA refresh no planning permissions have been granted for travelling showpeople sites. On this basis there is still a need for 9 plots to be provided.

Also of relevance is the guidance contained in the National Planning Policy for Traveller Sites (PPTS) 2015 which is a material consideration in the decision making process. Paragraph 24 of the PPTS 2015 highlights that Local Authorities should consider, amongst other things, the existing lack of provision and need for sites and the availability (or lack) of alternative accommodation for the applicants. Paragraph 25 also specifies that Local Authorities should strictly limited new sites in the open countryside that is away from existing settlements, that sites in rural areas should respect the scale of and not dominate the nearest settled community as well as the fact that local infrastructure should not be placed under undue pressure.

Taking Paragraph 24 of the PPTS 2015 into account it is considered that the GTAA has highlighted the lack of provision of showmen sites within the District. With regards to availability of alternative sites, the accompanying planning statement highlights that consideration has been given to four alternative sites in the District including three existing showpeople sites as well as the childhood family home of the applicant. Two of the existing showpeople sites have been discounted (Hemington Park, Rycroft Road, Hemington and Land at Ibstock Road, Ravenstone) given that the site owners have confirmed these sites are fully occupied. Another site (Fair Oaks, Burton Road, Oakthorpe) has also been discounted due to ownership disputes on the site and lack of compliance with conditions on planning consents (issues the Council are fully aware of and are dealing with). The applicant's childhood home at Station Hill, Swannington has been discounted given that size and lack of space were reasons why the applicant moved to their current location. Whilst consideration has been given to alternative established showpeople sites within the District, no justification has been provided as to why previously developed, untidy or derelict land could not be utilised for the required land use or why this particular greenfield site has been selected over other greenfield sites within the District which may be better related to the built environment. In the absence of such justification it is considered that compliance with Paragraph 22 of the PPTS 2015 has not been demonstrated and the under provision of sites throughout the District not being a substantial enough reason to support the land use on this particular site.

With regards to Paragraph 25 of the PPTS 2015 sites within the open countryside have been strictly limited. In the circumstances that the proposed site would serve one family it is considered that it would not dominate the settled community of Belton. In addition the local infrastructure would not be placed under undue pressure given the lifestyle of travelling showpeople in that they are not present on the site all of the time. Whilst the establishment of the site would not dominate the settled community it would urbanise a rural greenfield site. Furthermore, as it is located on the south-eastern side of Ashby Road it would be disassociated with existing built forms and would be particularly visible when travelling along Ashby Road. On the basis of the lack of a justification for the provision of the land use on this particular greenfield site, as highlighted above, it is considered that to permit the development would be contrary to Paragraph 25 of the PPTS 2015.

The proposed mixture of residential and storage of rides/equipment on one site is also supported by the provisions of Paragraph 19 of the PPTS 2015 which states that Local Authorities should have regard to the need that travelling showpeople have for mixed-use yards. Although Paragraph 20 of the PPTS 2015 has been cited in the representations received, this would not be of relevance given that the site is not a Rural Exception Site. In addition, the limitations posed on resisting residential and business use on such sites is more related to

travellers than showpeople particularly given the context of Paragraph 19 highlighted above.

Concerns have been raised that the applicant is not an inhabitant of Belton and would not appear to have any connection to the settlement. Whilst any local connection with Belton has not been demonstrated by the applicant, Criteria (e) of Paragraph 24 of the PPTS 2015 highlights that Local Authorities should determine applications for sites from any travellers, and not just those with a local connection. Therefore, such a concern would not justify a refusal of the application.

It is acknowledged that the site is outside the defined Limits to Development and in this respect is contrary to Policy S3 of the adopted Local Plan. Whilst the GTAA highlights there is an unmet need for showmen yards in the District, it is considered that given the absence of a justification as to why this particular greenfield site should be brought forward for such a use over brownfield sites or other greenfield sites closely associated with an urban environment, it is considered that compliance with Paragraphs 22 and 25 of the PPTS has not been demonstrated. Therefore, the principle of the proposal would not be supported.

With regards to the sustainability of the site's location, it is considered that Belton is a settlement which has a sufficient level of services and accessibility to public transport to meet the day to day needs of the applicant and his family. Any future occupants could also contribute towards the sustaining of these services in compliance with Paragraphs 28 and 55 of the NPPF.

Whilst the ability to access such services is dependent on the occupants crossing Ashby Road to reach its northern side and then walking along an unlit grass verge to the recreation ground, or via the raised footway on Church Street, this would not be a sufficient ground to refuse the application. This is considered to be the case given that the lifestyle of travelling showpeople would lead to such movements occurring on an irregular basis (i.e. only in winter months) as well as the fact that alterations could be undertaken within the highway (i.e. crossing point and provision of raised footway on northern grass verge) which could assist in mitigating such impacts. It is noted that appeal decisions at Hemington (appeal ref: APP/G2435/A/07/2056236 of May 2008) and Kelham Bridge Farm, Ibstock Road, Ravenstone (appeal ref: APP/G2435/A/10/21225342 of July 2010) imposed conditions of a similar nature, with the distance to the raised footway on Church Street being less than 100.0 metres from the site entrance.

Issues around the sustainability of a sites location did not outweigh the fact that there was a need for showpeople sites in the above appeal decisions. Guidance previously provided at Paragraph 45 of the Communities and Local Government Circular 04/2007: Planning for Traveller Showpeople advises that *"sites may be found in rural or semi-rural settings... Local Planning Authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services."*

The application site falls within Grade 3 of the Agricultural Land Classification but it has not been established whether the land is Grade 3a or Grade 3b and, therefore, whether any BMV would be affected. However, even if the site does fall within the 3a classification, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in a loss of between 20 and 50ha, and those of 50ha and above respectively). It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process. A loss of less than 1 hectare of agricultural land is not considered to represent a significant loss and, therefore the scheme is considered to be acceptable in this regard. It is also noted that the

proposal would not disrupt the agricultural operations undertaken on the remaining land. There would therefore not be conflict with Paragraph 112 of the NPPF.

### **Residential Amenity**

The nearest residential properties to the site are no. 9 Roesia Close, set 112.0 metres to the south-west, and no. 7 Rempstone Road, set 129.0 metres to the north east.

It is proposed that additional landscape screening would be supplied in close proximity to the boundaries of the site, and given the scale of the proposals there would be no adverse overbearing, overshadowing or overlooking impacts to neighbouring properties. A condition could also be imposed on any consent granted to limit the height at which the equipment would be stored.

With regards to noise implications associated with the proposed maintenance of equipment and vehicles on the site it is noted that the Council' Environmental Protection Team has raised no objections to the development. Given this fact, as well as the separation of the application site from neighbouring properties, it is considered that the noise and smell created by vehicular traffic on Ashby Road as a result of the development would not be adversely impact the amenities of neighbouring properties. This would be further supported by the ability to restrict the hours and days on which maintenance would occur, via a planning condition. Should issues concerning noise and smell arise in the future then assessments under Environmental Health Legislation could be carried out.

The submitted layout plan clearly describes what is proposed on the site and makes no provision for the siting of visitors mobile homes. Any additional homes that may subsequently be sought on the site would require a specific planning permission.

Objections raised over the loss of a view and the Council Tax band of any occupants of the site would not constitute material planning considerations which could be taken into account in the assessment of the application. It is also considered that the development would not impact adversely on Belton Primary School due to the fact that the site would serve one family which would not generate a significant increase in pupil numbers. Pupils at the school would also not be adversely affected by operations conducted on the site given that some noise and pollution are already generated by vehicular movements on Ashby Road, notwithstanding that the Council's Environmental Protection team have not objected to the application.

In these circumstances the proposal would be compliant with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

### **Impact on the Character and Appearance of the Rural Environment and Streetscape**

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

At present the application site is an undeveloped agricultural field, a greenfield site, which is bounded by mature hedgerows which vary in their heights. In the immediate area agricultural fields are generally defined by low level hedges, with trees sporadically planted to boundaries

with highways. Therefore the application site has a different character to that of the neighbouring fields within the immediate vicinity. Whilst having a different character to the neighbouring agricultural sites the southern side of Ashby Road is largely undeveloped with the built forms being contained to the northern side of the highway which defines the extent of the Limits of Development to the settlement of Belton. In order to facilitate the use of the land it would be necessary for hardsurfacing to be provided for the placement of the chalet, rides and other associated equipment. Although the extent of hardsurfacing has been limited to what is necessary, the establishment of such surfacing, as well as the siting of the chalet, vehicles and rides, would urbanise the agricultural land. In the context of the character of the southern side of Ashby Road, as well as the fact that the land immediately adjacent the site on the northern side is undeveloped (being a recreation ground and school playing field), it is considered that such urbanisation of the land would be significantly detrimental to the rural and undeveloped character of the area.

It is understood that larger showground items are usually dismantled for transportation purposes and kept on trailers, except for when maintenance and testing would be carried out on the site. Although the site is defined by mature vegetation of a native species, which it is acknowledged is considerably higher than that established to neighbouring fields, and that additional vegetation would be planted to assist in screening the development, it is considered that the showground rides would remain visible above such screening and thereby increase their prominence resulting in further adverse impacts to the appearance of the rural environment and streetscape. Even if a condition is imposed to limit the height at which the equipment is stored, it is considered that this would not reduce the visual implications particularly as the time of year when the items would be stored (November to February) there would be less vegetation present to the hedges and trees.

In conclusion, therefore, the implications of the development to the character and appearance of the rural environment would be significantly adverse due to the substantial urbanisation of a greenfield site, and the visual prominence of the rides and equipment when they stored on the site. On this basis the proposed development is considered to be contrary to Paragraphs 57 and 61 of the NPPF, as well as Policy E4 of the adopted Local Plan.

### **Highway Safety**

The County Highways Authority have objected to the application on sustainability grounds, which have been assessed in the Principle of Development and Sustainability section of this report, as well as the fact that the proposal would lead to a significant increase in turning traffic using an access onto Ashby Road where the turning manoeuvres would be an additional source of danger to road users.

Section IN5 of the 6Cs Design Guide highlights that objections would be raised to additional traffic movements on a Class A and B roads, Ashby Road being a B-road (B5324), where the speed limit exceeds 40 mph or where measured speeds are in excess of 40 mph.

Whilst the part of Ashby Road where the vehicular access is positioned is subject to a maximum speed limit of 40 mph, the County Highways Authority in conducting speed surveys in the area have ascertained that vehicles travelling in both directions exceed this speed limit. The County Highways Authority have also identified there is an existing accident record on parts of Ashby Road.

On this basis of these facts the County Highways Authority are of the view that the proposed movement of large vehicles associated with the use would result in a significant increase in

turning traffic onto and off Ashby Road at the site access. This would result in detriment to highway safety particularly when assessed cumulatively with existing movements on the highway by other users. In the circumstances that such turning manoeuvres would be severely detrimental to the free and safe movement of vehicles on Ashby Road, as well as causing additional dangers to road users, it is considered that to permit the development would not be in the best interests of highway safety and as such the proposal is contrary to the aims of Paragraph 32 of the NPPF and Policy T3 of the adopted Local Plan.

The applicant has submitted a highways report in order to try and address the concerns raised by the County Highways Authority and this report is currently under consideration. Any amended comments received following the publication of the Committee Agenda will be reported to Members on the Update Sheet.

It is considered that the site layout plan highlights that adequate off-street parking would be provided for the storage of the rides, as well as the private domestic vehicles of the applicant, so as to ensure no on-street parking issues would arise. On this basis the development would be compliant with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan.

### **Ecology**

Following receipt of an ecological survey, the County Council Ecologist has confirmed that they have no objections to the application subject to the retention of hedgerows to the north-western and south-western boundaries which are species-rich. It is considered that the imposition of a landscaping scheme on any permission granted could secure this particularly as the retention of the hedges would be important in screening the development if it were to be permitted. In agreeing such landscaping it could also be ensured that native tree species are planted given that those currently suggested on the plans would not be appropriate.

With regards to the comments raised about maintenance of rides and equipment on the site resulting in pollution to the Grace Dieu Brook, it is noted that this is not designated as a Special Area of Conservation (SAC) or Site of Special Scientific Interest (SSSI) and that the consultation response received from the County Council Ecologist has raised no objections in respect of this issue. Although this is the case, it is considered that the imposition of a surface water condition on any consent granted could ensure any scheme progressed incorporated measures such as treatment trains or interceptors which would capture and prevent polluted surface water run-off reaching the brook and impacting on its integrity.

On this basis it is considered that the development would be compliant with Paragraph 118 of the NPPF and Circular 06/05.

### **Landscaping**

The site is currently bounded by mature hedgerows which vary in height and the proposed hard surfacing to be provided has been off-set from the boundaries so as to protect the root protection areas (RPA's) of these hedges. It is also highlighted that additional landscaping would be provided, in the form of new tree planting and reinforcement of gaps in hedgerows, which whilst not acceptable on the plan supplied given that native tree species would not be supplied, could be amended by agreeing an alternative landscaping scheme. This would therefore be compliant with Policy E7 of the adopted Local Plan.

## Drainage and Flood Risk

The application site lies within Flood Zone 1 as defined by the Environment Agency as having a low probability of flooding. As the site does not exceed 1.0 hectare in size there is no formal requirement to provide a Flood Risk Assessment (FRA) or undertake formal consultation with the Environment Agency. It is, however, noted that the extent of Flood Zone 3 is situated on land which borders the application site to the south-east.

As part of the consideration of the application, Severn Trent Water have raised no objections subject to the imposition of a drainage condition on any consent granted with the Lead Local Flood Authority (LLFA - Leicestershire County Council) also not objecting to the proposals subject to their standing advice being considered.

Hardstanding is to be provided on the site and residents have raised concerns that the provision of such a surface will increase surface water run-off to Grace Dieu Brook, given the topography of the site leading to water draining to this brook, which is prone to flooding of the fields. At this stage the precise material to be utilised for the hard surface, apart from the access road which would be an impermeable tarmac surface, have not been specified and therefore it is unknown whether the remaining surfaces would be permeable or impermeable.

The application forms suggest that a soak-away would be utilised for surface water run-off, although one representation has indicated that the geology of the area would limit the efficiency of this method of drainage. Given the circumstances it is considered reasonable to impose a condition on any consent granted for the surface water drainage scheme to be agreed, particularly given the request of Severn Trent Water, and in reviewing any scheme it could be ensured that it would not further exacerbate any perceived impact on a localised flooding issue. Such a condition could also include the advice of the LLFA in that the level of run-off should not exceed that of the current greenfield run-off rate, although it is noted that any increase in water discharge to the Grace Dieu Brook would need to be agreed with the LLFA under Section 23 of the Drainage Act. It is therefore considered that mitigation for increases in surface water run-off could be secured in order to comply with Paragraph 103 of the NPPF.

In terms of foul drainage it is considered that should the mains sewer be utilised an agreement, under separate legislation, would be required with Severn Trent Water who have suggested the imposition of a planning condition. The provision of a package treatment plant would require the issuing of a permit by the Environment Agency who would be responsible for ensuring that the system is adequate in respect of its capacity and the effluent discharged. On this basis it is considered that the imposition of a condition to agree the precise method of foul drainage would ensure compliance with Paragraph 120 of the NPPF.

## Other Matters

The provision of water and electricity to the site would need to be agreed with the relevant undertakers responsible for providing such services, with these undertakers benefitting from permitted development rights, under the Town and Country (General Permitted Development) (England) Order 2015, to carry out works without planning permission.

The devaluation of properties is not a material planning consideration.

Representations from third parties has included criticism in the way in which the application has been publicised and consultation undertaken. For clarification purposes, the Town and Country Planning (Development Management Procedure) (England) Order 2015 requires that publicity

be undertaken in the form of neighbour notification of properties which immediately adjoin the application site and/or by means of a site notice, and this has been carried out in accordance with the correct procedures.

Two site notices have been posted, one of which on a signpost at the junction of Ashby Road with Church Street and the other to a post next to the bus stop on Church Street.

In addition to this, the Parish Council and statutory consultees have been consulted and the application information was made available on the Council's website. The Ward Member had also requested that the application be reported to the Planning Committee, which provides opportunity for additional representations to be made at the meeting.

On this basis the application has been published in the correct manner in line with planning requirements and consultations have taken place in order to consider the proposal fully. In this context no one has been prejudiced by the recommendation made on the application.

### **Conclusion**

Consideration has been given to alternative established showpeople sites within the District by the applicant, which have been discounted, but no justification has been provided as to why brownfield sites or other greenfield sites within the District that have a better relationship with the built environment have not been considered. In the absence of such justification it is considered that permitting the proposal would be contrary to Paragraph 24 of the PPTS 2015. Whilst not dominating the settled community of Belton establishment of the land use as a showmans yard would result in the urbanisation of a greenfield site which would be visible from the public domain, and which would be disassociated with existing built forms. Given the lack of justification for the proposal on this particular site, it is considered that conflict with Paragraph 25 of the PPTS 2015 would arise. The unmet need for sites within the District is also considered not to be sufficient grounds to justify an approval of the application. Given the lack of justification for the land use on the application site it is also considered that the proposal would be contrary to Policy S3 of the adopted Local Plan.

The application site is an undeveloped greenfield site situated on the southern side of Ashby Road, which is largely undeveloped. Although the presence of mature vegetation to the site boundaries results in the site having a different character to the neighbouring agricultural fields, the substantial introduction of hardstanding, chalet accommodation, vehicles and fairground rides resulting in the urbanisation of the land which would be significantly adverse to the rural and undeveloped character of the area. It is also considered that the landscaping to the site boundaries, even if it is reinforced, would not adequately mitigate the visual implications such a change in the land use would have in a rural environment given that the site would be prominent when viewed from Ashby Road. In these circumstances the proposal would conflict with Paragraphs 57 and 61 of the NPPF and Policy E4 of the adopted Local Plan.

The introduction of the use onto the Class B Ashby Road (B5324) has been assessed by the County Highways Authority. They have concluded that the introduction of the use would result in a significant increase in vehicular movements, when taken cumulatively with existing movements, onto and off the highway. Furthermore turning manoeuvres would be an additional source of danger to road users and not in the interests of highway safety. In these circumstances to permit the development would be contrary to the aims of Paragraph 32 of the NPPF and Policy T3 of the adopted Local Plan.

It is therefore recommended that the application be refused.

**RECOMMENDATION - REFUSE, for the following reasons;**

- 1 Paragraph 24 of the Planning Policy for Traveller Sites 2015 (PPTS 2015) highlights the issues Local Planning Authorities should consider in assessing applications for showpeople sites with Paragraph 25 of the PPTS 2015 specifying that new sites in open countryside away from existing settlements should be strictly limited. Policy S3 of the adopted North West Leicestershire Local Plan (Local Plan) also outlines the forms of development permitted outside the defined Limits to Development. Although consideration has been given to existing showpeople sites within the District no justification has been submitted to demonstrate that brownfield sites, or alternative greenfield sites closely associated with the built environment, have been assessed. The establishment of the site would also result in the urbanisation of a greenfield site which would be disassociated with the existing built forms in the settlement of Belton and which would be highly visible from the public domain. On this basis to permit the application would be contrary to Paragraphs 24 and 25 of the PPTS 2015. In the absence of a justification for the proposal on the site selected it is also considered that the principle would not be supported by Policy S3 of the adopted Local Plan.
- 2 Paragraph 57 of the National Planning Policy Framework (NPPF) highlights that it is important to plan positively for the achievement of high quality and inclusive design for all development with Paragraph 61 of the NPPF outlining, amongst other things, that planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 of the adopted North West Leicestershire Local Plan also emphasises that in the determination of applications regard will be had to the wider setting and that new development should respect the character of its surroundings. It is considered that the introduction of the land use would result in the urbanisation of an agricultural site, particularly given the significant amount of hardstanding required, in an area which is largely undeveloped. As such the proposal would be significantly adverse to the character and undeveloped nature of the rural environment. The associated placement of rides, equipment and habitable accommodation on the site would also compound the visual impacts of the land use given that the level of screening would not adequately mitigate its visual implications in views from the surrounding environment. On this basis the proposal would be contrary to Paragraphs 57, 60 and 61 of the NPPF and Policy E4 of the adopted Local Plan.
- 3 Paragraph 32 of the National Planning Policy Framework (NPPF) outlines, amongst other things, that development should only be prevented or refused on transport grounds where the cumulative impacts of the development are severe. Policy T3 of the adopted North West Leicestershire Local Plan (Local Plan) identifies that development will be permitted only where its highway design and layout make adequate provision for vehicular access and circulation, and servicing arrangements. It is concluded that the proposal would lead to a significant increase, when taken cumulatively with existing movements by other users, in turning manoeuvres onto and off the Class B Ashby Road (B5324) where such movements would not be in the interests of highway safety and would be an additional source of danger to road users. In these circumstances to permit the development would be contrary to the aims of Paragraph 32 of the NPPF and Policy T3 of the adopted Local Plan.



**Notes to applicant**

- 1 Planning permission has been refused for the proposal for the clear reasons set out in this decision notice. In the Local Planning Authority's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. The Local Planning Authority has therefore complied with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application has been brought to the Planning Committee at the request of Councillor Canny on the basis that the proposal would impact adversely on a sensitive area, the design of the dwellings were not in keeping with the character of the area, protected species would be adversely affected and that there would be subsidence issues due to the need to provide retaining walls.

### Proposal

Planning permission is sought for the erection of 13 dwellings along with the formation of a new vehicular access at land off The Spittal in Castle Donington. The application site is located on the southern side of The Spittal and is within the defined Limits to Development as well as a Sensitive Area which would be assessed against Policy E1 of the adopted North West Leicestershire Local Plan ("Local Plan").

### Consultations

Fifteen third party representations have been received objecting to the application. Castle Donington Parish Council have also objected to the proposals. All other statutory consultees have no objections subject to the imposition of conditions on any consent granted.

### Planning Policy

Whilst the principle of the development would conflict with the aims of Policy E1 of the adopted Local Plan, and in part the environmental strand of sustainability, the degree of conflict would not be of such significance to suggest that the application should be refused and would be outweighed by other factors as well as the limited weight afforded to Policy E1 in the decision making process. In addition the developments conflict with Policies H6 and L21 of the adopted Local Plan would not justify reasons to refuse the application. Notwithstanding these conflicts the development would remain compliant with all relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant Policies of the adopted Local Plan, draft Local Plan and other relevant guidance.

### Conclusion

Although the application site is a greenfield site and part of a Sensitive Area, it is considered that the conflict with the environmental strand of sustainability, as well as Policy E1 of the adopted Local Plan, would be outweighed by the positive social and economic sustainability credentials of the site. This is on the basis that the development could be integrated onto the site whilst also maintaining important landscape features, which would screen the development, and that it would not be isolated from built forms given the relationship with residential development to the west and south of the site. Consideration also needs to be given to the fact that the designation of the site as a Sensitive Area will not be progressed in the Submission Local Plan. Overall the development would be compliant with the key principles of the NPPF, specifically Paragraphs 28 and 55.

Whilst having a density of development which would be lower than the threshold normally expected in the settlement, given the constraints and importance in maintaining landscaping on the site, it is considered that the proposed density of 13 dwellings is an efficient use of the land

in this instance. In addition, the conflict with Policy H6 of the adopted Local Plan would not substantiate a refusal of the application. An appropriate housing mix would be provided in accordance with Paragraph 50 of the NPPF.

It has been confirmed that the education contribution sought will be paid, given that the District Valuer has confirmed such a payment would not compromise the viability of the development, and therefore the development is considered compliant with Paragraphs 173, 203 and 204 of the NPPF.

The submitted plans, as well as section drawings, have identified that the residential development could be provided without adversely affecting the amenities of existing occupants and that it would also protect future amenities in respect of overbearing, overshadowing, overlooking or noise impacts. As such, the development is considered compliant with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

As submitted, the scheme has been assessed against Building for Life 12 by the Council's Urban Designer and has been merited with 12 green indicators. It is considered, therefore, that the design and layout of the development would be a positive addition to the settlement and would raise the design standard in the immediate area. This is on the basis that the landscape and architectural led qualities of the scheme in comparison to the modern standardised house types to the south and west which would be viewed in the same context. It is also considered that no harm would be caused to the setting of heritage assets to the east of the site. On this basis the development would accord with Paragraphs 57, 60, 61, 63, 131, 132, 134 and 137 of the NPPF, Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policies E4 and H7 of the adopted Local Plan.

In respect of highway and pedestrian safety, the County Council Highways Authority has raised no objections subject to the imposition of conditions on any consent granted with one such condition proposing the widening of The Spittal. On this basis it is considered that the additional vehicular movements associated with the development would not compromise the free and safe passage of vehicles on the highway as the level of pedestrian movements would be no different to those experienced on the eastern part of The Spittal where no pedestrian footway exists. Within the site a sufficient level of off-street parking would be supplied, as well as adequate manoeuvring facilities. In conclusion the development would not be severely detrimental to highway safety and would accord with Paragraphs 32 and 39 of the NPPF, and Policies T3 and T8 of the adopted Local Plan.

Subject to the imposition of conditions on any consent granted for the dense scrub and escape route for protected species to be provided and thereafter retained and low level bollard lighting being installed, it is considered that the implications of the development on protected species would be adequately mitigated and would ensure compliance with Paragraph 118 of the NPPF and Circular 06/05.

The Council's Tree Officer has concluded that the proposed layout will be acceptable and will ensure that important trees on the site could be retained. It would, however, be necessary to impose conditions requesting a soft landscaping scheme and a site specific tree protection plan. Subject to such conditions being imposed on any consent granted, the development would accord with Policies E2 and E7 of the adopted Local Plan.

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

directed to the mains sewer with any connection being agreed with Severn Trent Water who have advised that a condition be imposed on any consent granted. On this basis the proposal accords with Paragraph 120 of the NPPF.

No objections, or requirement for mitigation, has been suggested by the County Council Archaeologist and as such, the development is compliant with Paragraph 141 of the NPPF. The imposition of conditions will also address land contamination concerns, in accordance with Paragraphs 120 and 121 of the NPPF. No representation has been received from East Midlands Airport Safeguarding and therefore the development is considered compliant with Policy T20 of the adopted Local Plan.

It is therefore recommended that the application be permitted subject to the completion of a Section 106 Agreement to secure the education contribution.

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

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

**MAIN STREET****1. Proposals and Background**

Planning permission is sought for the erection of 13 dwellings along with vehicular access, landscaping and car parking at land at The Spittal, Castle Donington. The 0.78 hectare site is located on the southern side of The Spittal, to the north and west of properties on Campion Hill and to the east of dwellings on Walton Hill, and falls within the Limits to Development as well as land identified as a Sensitive Area under Policy E1 of the adopted Local Plan. To the north of the site lies The Spittal Recreation Ground with the western boundary of the Castle Donington Conservation Area being situated to the east. It is also noted that the land to the north of the site lies within Flood Zones 2 and 3, therefore at a medium to high risk of flooding.

The scheme consists of the provision of 13 detached dwellings which would range from two-storey to three-storey in height, with those properties which are three-storey being designed to utilise the ground floor as a retaining support due to the topography of the site. An internal access road from The Spittal would run parallel with this highway, with two units being located to the north of the access road and the remaining eleven being to the south of the access road. All units, with the exception of plots 2, 4 and 7, would be orientated to face onto The Spittal and it is proposed that a mix of three, four and five bedroom properties would be provided.

Off-street parking is proposed for each dwelling with all of the plots being served by integral garages.

A design and access statement, Building for Life 12 statement, draft heads of terms for a Section 106 Agreement, highway impact statement, protected species survey, heritage statement, trial pit investigation and arboricultural survey and report have been submitted in support of the application.

Relevant planning history associated with the site is as follows: -

- 74/0725/P - Erection of dwellings and formation of access - Refused 18th December 1974 (Land at No. 71 The Spittal);
- 80/1208/P - Erection of a single storey dwelling (outline) - Refused 17th December 1980 (Land at No. 71 The Spittal);
- 92/0092/P - Erection of a two-storey dwelling - Refused 18th March 1992 (Land at No. 71 The Spittal);
- 93/0959/P - Erection of a detached dwelling (outline) - Refused 17th November 1993 (Land at No. 71 The Spittal);
- 94/1044/P - Erection of one dwelling and alterations to access - Refused 14th December 1994 (Land at No. 71 The Spittal);
- 96/0101/P - Erection of one dwelling and alterations to access - Refused 13th March 1996, Dismissed at Appeal 3rd February 1997 (Land at No. 71 The Spittal);
- 09/00562/FUL - Erection of a detached dwelling (Outline application with details of access) - Refused 30th July 2009, Dismissed at Appeal 15th April 2010;
- 13/00019/FUL - Erection of 1 no. dwelling (partially sub-terrain) - Approved 27th March 2013.

**2. Publicity**

27 no. neighbours have been notified (Date of last notification 16 May 2016)

Site Notice displayed 19 January 2016

### 3. Consultations

Castle Donington Parish Council consulted 13 January 2016  
 LCC ecology consulted 1 April 2016  
 Leicester & Rutland Wildlife Trust consulted 1 April 2016  
 Head of Environmental Protection consulted 28 January 2016  
 LCC Flood Management consulted 23 May 2016  
 County Highway Authority consulted 13 January 2016  
 Severn Trent Water Limited consulted 13 January 2016  
 Natural England- Within 2k Of SSSI consulted 13 January 2016  
 NWLDC Tree Officer consulted 13 January 2016  
 County Archaeologist consulted 13 January 2016  
 Airport Safeguarding consulted 13 January 2016  
 NWLDC Conservation Officer consulted 13 January 2016  
 NWLDC Urban Designer consulted 13 January 2016  
 LCC Development Contributions consulted 13 January 2016  
 NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 13 January 2016  
 Head Of Leisure And Culture consulted 13 January 2016  
 Police Architectural Liaison Officer consulted 13 January 2016  
 Head Of Street Management North West Leicestershire District consulted 13 January 2016  
 Leicester & Rutland Wildlife Trust consulted 9 June 2016

### 4. Summary of Representations Received

The following summary of representations has been provided. Members may inspect full copies of correspondence received on the planning file.

**Castle Donington Parish Council** object to the application on the following principal grounds: -

- (a) Ecology - area is rich in wildlife and forms part of a green corridor;
- (b) Public Safety - there is no pavement on The Spittal and the highway becomes extremely busy when public events are held and sporting activities undertaken at the recreation ground. Proposal access and egress will be detrimental to highway safety;
- (c) Setting - design and height of houses is inappropriate and will not blend into the hillside given the use of white render, setting is sensitive due to proximity to the conservation area and the earthworks required to support the development will be substantial with known subsidence problems in the area. There is a history of refused applications on this site;
- (d) Woodland Walk - the proposed new woodland walk crosses Parish Council land and no contact has been made in order to request permission;

**East Midlands Airport Safeguarding** no representation received.

**Leicestershire and Rutland Badger Group** object to the application due to the impacts on protected species.

**Leicestershire and Rutland Wildlife Trust** object to the application due to the impacts on protected species.

**Leicestershire County Council - Archaeology** has no objections and do not require any further archaeological investigations to be undertaken.

**Leicestershire County Council - Developer Contributions** in relation to infrastructure matters



seek commuted sums towards education of £76,540.20 for the Primary and Secondary School Sectors with no contributions sought for landscaping, biodiversity, civic amenity or libraries.

**Leicestershire County Council - Ecology** initially objected to the application due to the implications the development would have on protected species. Following revisions made to the plans the County Council Ecologist has no objections subject to the imposition of conditions on any consent granted.

**Leicestershire County Council - Flood Management** initially objected to the application on the basis of the greenfield run-off rates from the site as well as the drainage strategy proposed. Following the submission of further information this objection has been removed subject to the imposition of a condition on any consent granted.

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

**Natural England** has no comments to make on the application subject to their standing advice on protected species being taken into account.

**NHS Leicester, Leicestershire and Rutland Facilities Management** no representation received.

**NWLDC - Conservation Officer** has no observations to make on the proposals.

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

**NWLDC - Environmental Protection (Contaminated Land)** has no objections subject to the imposition of contaminated land conditions on any consent granted due to the historic use of neighbouring sites.

**NWLDC - Head of Leisure and Culture** no representation received.

**NWLDC - Head of Street Management** outlines that consideration should be given to the provision of a bin collection area and an adequate turning area within the site for a refuge vehicle to manoeuvre in.

**NWLDC - Tree Officer** has no objections subject to the imposition of a condition on any consent granted.

**NWLDC - Urban Designer** supports the application as it scores well against Building for Life 12, although consideration needs to be given to the materials which would be utilised and landscaping of the site as well as the details of any retaining structures. Concerns are raised over the use of white render within this development.

**Police Architectural Liaison Officer** no representation received.

**Severn Trent Water Limited** has no objection subject to the imposition of a condition relating to details of foul and surface water drainage being agreed.

### **Third Party Representations**

15 representations to the application have been received objecting to the development with the comments raised summarised as follows: -

- Proposed development is an over-extensive use of the site;
- Given the elevated nature of the site the development would be visually intrusive and detrimental to the rural and historic aspect of the area;
- There will be an increase in traffic and noise on The Spittal which would result in the loss of amenity;
- Trees, shrubs and wildlife would be destroyed due to the extensive earth movements required to facilitate the development;
- The aesthetics of the houses do not 'fit in' with the historical style which runs through Castle Donington;
- The colour scheme and use of white render would not respond positively to the character of the surrounding area with the render being discoloured by the relationship with trees and the shade cast;
- Increase in vehicular movements on The Spittal would be detrimental to highway safety;
- Development will result in loss of amenity to properties from overlooking and increased noise from use of the public paths;
- Street lighting will impact negatively on the visual amenities of the area;
- Development will result in the loss of a view;
- Development will impact adversely on protected species;
- Proposed vegetation in close proximity to boundaries of neighbouring properties will lead to more maintenance work being required;
- Development will result in land stability issues given the removal of vegetation;
- Proposal results in the loss of a greenfield area;
- Proposed pathways will impact on the roots of trees;
- Previous decisions on the site have rejected three-storey dwellings with only a subterranean dwelling being permitted;
- Development will impact on property values;

One representation has been received which does not object to the application but does request that the strip of land between the site and Campion Hill be tidied up and kept maintained as a wooded strip to lessen the impact of the development within the view. A fence line would also require repair and maintenance.

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

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

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

Paragraph 32 (Promoting sustainable transport);  
 Paragraph 34 (Promoting sustainable transport);  
 Paragraph 39 (Promoting sustainable transport);  
 Paragraph 47 (Delivering a wide choice of high quality homes);  
 Paragraph 49 (Delivering a wide choice of high quality homes);  
 Paragraph 50 (Delivering a wide choice of high quality homes);  
 Paragraph 54 (Delivering a wide choice of high quality homes);  
 Paragraph 55 (Delivering a wide choice of high quality homes);  
 Paragraph 56 (Requiring good design);  
 Paragraph 57 (Requiring good design);  
 Paragraph 59 (Requiring good design);  
 Paragraph 60 (Requiring good design);  
 Paragraph 61 (Requiring good design);  
 Paragraph 63 (Requiring good design);  
 Paragraph 64 (Requiring good design);  
 Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 109 (Conserving and enhancing the natural environment);  
 Paragraph 112 (Conserving and enhancing the natural environment);  
 Paragraph 118 (Conserving and enhancing the natural environment);  
 Paragraph 121 (Conserving and enhancing the natural environment);  
 Paragraph 123 (Conserving and enhancing the natural environment);  
 Paragraph 131 (Conserving and enhancing the historic environment);  
 Paragraph 132 (Conserving and enhancing the historic environment);  
 Paragraph 134 (Conserving and enhancing the historic environment);  
 Paragraph 137 (Conserving and enhancing the historic environment);  
 Paragraph 141 (Conserving and enhancing the historic environment);  
 Paragraph 203 (Planning conditions and obligations);  
 Paragraph 204 (Planning conditions and obligations);  
 Paragraph 206 (Planning conditions and obligations);

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

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

Policy S1 sets out 13 criteria which form the overall strategy for the adopted Local Plan;  
 Policy S2 - Limits to Development;  
 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 E30 - Floodplains;  
 Policy T3 - Highway Standards;  
 Policy T8 - Parking;  
 Policy T10 - Public Transport;  
 Policy T13 - Cycle Parking;  
 Policy T20 - East Midlands Airport: Airport Safeguarding;  
 Policy H4/1 - Housing Land Release;  
 Policy H6 - Housing Density;  
 Policy H7 - Housing Design; and  
 Policy L21 - Children's Play Areas

### **Draft Consultation North West Leicestershire Local Plan**

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, as the proposed publication version of the Local Plan is to be considered by Council on 28th June with a view to its submission for examination in September, more weight can now be attributed to its policies at this stage.

Policy S1 - Presumption in Favour of Sustainable Development;  
 Policy S2 - Future Housing and Economic Development Needs;  
 Policy S3 - Settlement Hierarchy;  
 Policy S5 - Design of New Development;  
 Policy H6 - House Types and Mix;  
 Policy Ec6 - East Midlands Airport: Safeguarding;  
 Policy IF4 - Transport Infrastructure and New Development;  
 Policy IF7 - Parking Provision and New Development;  
 Policy En1 - Nature Conservation;  
 Policy En6 - Land and Air Quality;  
 Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;  
 Policy Cc2 - Sustainable Design and Construction;  
 Policy Cc3 - Water - Flood Risk; and  
 Policy Cc4 - Water - Sustainable Drainage Systems;

### **Other Policies**

#### **National Planning Practice Guidance**

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

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

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

#### **Leicestershire County Council Statement of Requirement for Developer Contributions in Leicestershire**

The County Council's Statement of Requirement for Developer Contributions in Leicestershire sets out the circumstances in which developer contributions will be required in respect of County and District service areas, as well as other public services, and the level of contributions required.

#### **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. It advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting

European sites.

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

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

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

## **6. Assessment**

### **Principle and Sustainability**

The application site is situated within the defined Limits to Development where the principle of residential development is considered acceptable, although it is also recognised that the land in question is designated as a Sensitive Area and therefore assessed under Policy E1 of the adopted Local Plan.

With regards to the environmental sustainability credentials of the scheme, it is specified on the application forms that the land is currently garden land associated with no. 71 The Spittal. However following the site visit, as well as reviewing the previous planning applications associated with the site, the land in question would appear to be grazing paddock land/open space. The land in question, therefore, would be a greenfield site.

With regards to the Sensitive Area, Paragraph 4.7 of the adopted Local Plan states 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."*

As such sensitive areas of open land can include the following, as defined in Paragraph 4.8 of the adopted Local Plan:

- (a) Important open breaks in street frontages;
- (b) Important amenity or other open areas within settlements;
- (c) Important settings and approaches to settlements; and
- (d) Ends of sporadic or ribbon development.

In many respects this policy would be supported by the principles of Paragraphs 17 and 109 of the NPPF.

The Sensitive Area is one of three in the immediate area of The Spittal Recreation Ground, to the north, and a smaller area within the conservation area, to the east, also being classed under this designation. Given the location of these Sensitive Areas it is considered that their designation would be under criteria (b) (important amenity or other open areas within settlements) of Paragraph 4.8 of the adopted Local Plan. In respect of this particular Sensitive Area, it is bounded by residential development to the south and west with further residential

development on the northern side of The Spittal being present to the north-east. A scheme has been submitted which works with the difficult topography of the site whilst retaining the majority of the mature tree planting which is present. As such, the wider visual implications to the surrounding environment would not be particularly adverse given that the current roof slopes of dwellings on Campion Hill, to the immediate south, are visible on the main thoroughfare through the settlement. Therefore, the dwellings would integrate with existing buildings which are considered to be prominent. Whilst development on the site will result in the loss of a Sensitive Area, the containment of the development within a mature landscaped buffer mitigates the implications to the openness of the wider area, which in many respects would be maintained due to the presence of the recreation ground to the north, as a result the conflict with Policy E1 of the adopted Local Plan would not substantiate a reason to refuse the application.

It is also important to note that the designation of the site as a Sensitive Area will not be progressed in the Submission Local Plan and therefore the land would become acceptable for development in principle, given its setting within the Limits to Development.

To conclude on this point, it is considered that the application should not be refused in relation to Policy E1 of the adopted Local Plan, or the advice in Paragraphs 17 and 109 of the NPPF, given the status of the saved policy and the characteristics of the proposed development.

From a socially sustainable perspective, Castle Donington is considered to be a sustainable settlement for new residential development given its accessibility by public transport, other transport links and range of local services. The site itself is situated within an accessible walking distance of the settlement centre and as such, a residential development on the site for thirteen dwellings would score very well against the sustainability advice contained within the NPPF. A residential development of this nature would also help to sustain the services which are available within the settlement which is a key intention of Paragraphs 28 and 55 of the NPPF. It is also considered that there would be economic benefits associated with the construction of 13 dwellings.

Overall, whilst some conflict with the environmental strand of sustainability would arise, because of the location of the dwellings on a greenfield site, this conflict would not be substantial due to the land being within the defined Limits to Development and the fact that the dwellings would integrate well with existing built forms. It is also considered that such conflict with the environmental strand would be outweighed by the positive social and economic aspects of the proposal particularly given the sustainability of the site location. As such the principle of the development would be acceptable.

### **Density and Housing Mix**

With a site area of 0.78 hectares the proposed development would have a density of 10.14 dwellings per hectare which would be significantly below the 40 dwellings per hectare advised by Policy H6 of the adopted Local Plan in locations well served by public transport and accessibility to services.

Whilst this density would fall below that advised in Policy H6, this policy also identifies that it is important to factor into any assessment the principles of good design as well as green space and landscaping requirements. It is noted that the Council's Tree Officer has outlined the importance of the trees on the site and that these should be retained as part of the development proposals, with the Council's Urban Designer also supporting the design and layout of the scheme which has been presented. The relief of the site limits the achievable density. The retention of the trees on the site reduces the availability of large areas of the site (which would

be included in the overall site area identified) and also assists in reducing the visibility of the proposed development which is considered important. In this context a scheme for 13 dwellings would be the most viable option for the site and although the low density would result in conflict with Policy H6, this in itself would not be considered a suitable reason to warrant a refusal of the application. Given the conflict with Policy H6, it is considered that the representations received highlighting that the development is an over intensive form of development could not be supported.

It is proposed that a mix of 3, 4 and 5 bed dwellings would be provided within properties which would either be two or three storeys. This is considered to represent an appropriate housing mix on the site for a development of this scale. As such the proposals would accord with Paragraph 50 of the NPPF.

### **Viability of the Development**

A request has been made for Section 106 Contributions towards education. This has been assessed against the equivalent legislative tests contained within the Community Infrastructure Levy (CIL) Regulations 2010 (CIL Regulations) as well as Paragraphs 203 and 204 of the NPPF which outline that planning obligations should be: -

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

#### *Education*

Leicestershire County Council (Education) request a primary school contribution of £37,748.91 for St Edward's Church of England Primary School, as well as a secondary school contribution of £38,791.29 for Castle Donington Community College. No requests have been made for the post 16 sector or special school sectors. The reasoning for the request outlines that no more than five obligations (including this proposed) have been sought for the scheme project and as such no issues arise in respect of pooling (insofar as the limitations on pooled contributions as set out within the CIL Regulations are concerned).

A total contribution of £76,540.20 is therefore sought for education.

It has been identified by the planning agent that there are viability constraints associated with the development. This is due to there being significant financial costs involved in providing a high quality development and the need for significant retaining/structural work, and as such these abnormal costs would not result in the development providing a competitive return to any landowner or developer. A viability assessment has been submitted to demonstrate this and this assessment has been independently reviewed by the District Valuer (DV). The DV initially queried that further information would need to be supplied to demonstrate the abnormal costs involved in the project and further information has subsequently been received from the planning agent.

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

The viability assessment submitted in support of the application has been independently assessed by the DV who has concluded that the scheme could be policy compliant. This is based on an all private housing development with a profit of 17.5% and section 106 contribution of £76,540.20 which would provide a land value of £774,647.00. This would equate to £401,371.00 per acre on a gross basis and would be viable against a benchmark of £500,000. The DV has also advised that additional contributions up to £106,432.80 would also be viable.

Following the findings of the DV's report it was requested by the applicant whether the education authority would agree to a staged payment of 50% on commencement and 50% on the completion of the 7th dwelling. Following reconsultation with the education authority it has been confirmed that such an approach would be acceptable. Whilst the findings of the DV's report are still being reviewed by the agent for the application, they have stipulated that the applicant is willing to enter into a Section 106 Agreement to provide the education contribution.

As it stands, therefore, the development would be considered compliant with Paragraph 173 of the NPPF.

#### *Play Area/Open Space*

No representation has been received from the Council's Leisure Section in respect of whether any on-site play provision should be made or whether an off-site contribution would be sufficient in this instance. The layout plan shows that no on-site play equipment would be provided but a small area to the south and south-west of the dwellings would be provided for open space and a 'community garden.' It is considered that the lack of 'on-site' provision, or contribution to improve facilities in the area would conflict with the aims of Paragraph 73 of the NPPF and Policy L21 of the adopted Local Plan. Whilst this is the case, it is noted that the draft Local Plan specifies that on-site play provision, or any off-site contribution, would only be applicable on development schemes of 50 dwellings or more. Therefore, a reason to refuse the application on this basis could not be sustained, particularly as no request has been made by the Council's Leisure Section, and in any event any future occupants of the dwellings would be well served by the recreation facilities available at The Spittal Recreation Ground which lies immediately to the north of the application site.

#### **Residential Amenity**

It is considered that the residential properties most immediately affected by the proposed development would be Spittal Hill Farm, The Spittal, nos. 10, 12 and 15 Walton Hill, no. 71 The Spittal and nos. 12, 12A and 17 to 45 (odd numbers inclusive) Campion Hill.

The site sections submitted in support of the application identify that the ridge heights of the proposed dwellings, on the highest part of the site, would be roughly level with the cill heights of those properties on the southern side of Campion Hill with plot 1 being set in excess of 50.0 metres from no. 12 Campion Hill and plot 13 being set over 55.0 metres from no. 12A Campion Hill. Given the orientation of dwellings on Campion Hill and the application site to its south, as well as the proximity of the new dwellings to those on Campion Hill, it is considered that no adverse overlooking, overshadowing or overbearing impacts would occur to the amenities of residents on Campion Hill.

With regards to properties on Walton Hill, it is proposed that plot 1 would be set 8.0 and 11.0 metres, respectively, from the shared boundaries with nos. 10 and 12 Walton Hill. These properties are both orientated so that their eastern (rear) elevations face towards the application site. The shared boundaries are currently defined by fencing and vegetation (which is largely



overgrown) and it was observed during the site visit that properties on Walton Hill respond to the topography of the land by stepping up in height in a southern direction. The site sections supplied identify that land levels rise from west to east and as such plot 1 would be situated on higher ground than nos. 10 and 12 Walton Hill. Whilst this is the case, the site sections show that the ridge height of plot 1 would be lower than that of no. 15 Walton Hill to the immediate south of no. 12 Walton Hill. In this circumstance it is considered that the relationship between plot 1 and nos. 10 and 12 would not result in any adverse overbearing or overshadowing impacts to the occupants amenities particularly, as the distance between elevations would be 21.5 and 31.0 metres respectively, and that plot 1 would not dominate the shared boundary with these properties. In terms of overlooking impacts, plot 1 would contain two windows and two roof lights above ground floor level in its western (side) elevation which would serve an en-suite, secondary windows to two bedrooms and a landing. It is considered that the roof lights would be at a sufficient height above the internal floor level so as to prevent any overlooking implications, with the proposed windows being obscure glazed and with a restricted opening. Subject to a condition being imposed to ensure that the windows accord with this restriction, no adverse overlooking impacts would arise. Plot 1 would also be situated 25.0 metres from no. 15 Walton Hill and given that no. 15 is situated on higher ground, no adverse impacts to the occupant's amenities would arise.

Plot 2 would be set in excess of 30.0 metres from the boundary and 65.0 metres from the elevation of Spittal Hill Farm. The site section supplied identifies that an acceptable relationship would be established between plot 2 and Spittal Hill Farm so as to avoid any adverse overbearing, overshadowing or overlooking impacts on the occupants amenities.

A distance of 27.0 metres would exist between plot 13 and no. 71 The Spittal, which is set to the north-east of this plot. Whilst the land levels increase away from no. 71, it is considered that plot 13 has been positioned so that it is not directly behind this property and as such, the distances involved would be sufficient in ensuring that no adverse overbearing or overshadowing impacts would arise. Whilst windows are proposed in the eastern (side) elevation of this plot, no adverse overlooking impacts would arise given that a distance of around 15.5 metres would exist to the boundary. Direct views from windows on the northern (front) elevation of plot 13 would also be at an oblique angle towards the rear amenity area of no. 71 and therefore would not be significantly adverse.

In terms of future amenities, it is considered that the relationship the proposed plots would have with existing residential dwellings neighbouring the sites would be acceptable given the general separation distances, with the distances between the plots also being acceptable given the change in land levels across the site. It is proposed that the plots are to be provided with balconies/terraces above ground floor level and, in the main, these would be positioned to the frontage of the plots. Therefore, no adverse overlooking impacts would arise given that views could be established from the public domain onto these areas. The provision of boundary treatments to the rear of the dwellings by way of a condition would also prevent views from those balconies/terraces to the rear of the plots.

Whilst on a site with difficult topography, the site sections demonstrate that a usable private amenity space would be provided for each plot given that access onto the rear gardens would be provided at first floor level rather than ground floor level. Trees of a mature stature exist within the application site, although those to be retained are concentrated close to the boundaries of the site. Whilst it is inevitable that shadows would be cast by the trees to the eastern and southern boundaries towards the gardens of plots 4 and 8 to 13, the Council's Tree Officer is satisfied that the 13 dwellings could be accommodated on the site so that they would not be subject to excessive shading. On this basis it is considered that the extent of shadowing

would not be sufficiently detrimental as to warrant a refusal of the application and overall, future amenities would be adequately protected with any future occupant being aware of the relationships prior to their purchase.

Objections have been raised on the basis that the provision of the pedestrian link between The Spittal and Campion Hill will result in disturbance and loss of privacy to the amenities of properties on Walton Hill given its proposed route. It is considered that the frequency of use of the pedestrian link and presence of boundary treatments, as well as landscaping, to the rear of the dwellings on Walton Hill would ensure that there would be no loss or privacy or excessive noise disturbance particularly as the relationship would be no different to a dwelling on a housing estate whereby an alleyway passes either between elevations or behind properties. It is also observed that the Council's Environmental Protection team have raised no objection to the application on this basis. Should there be any anti-social issues associated with the use of the pedestrian link and open space area in the future this would be a matter for the Police. If excessive noise was experienced then this could be investigated separately under Environmental Health Legislation.

It is also considered that the level of traffic associated with the dwellings which would travel along The Spittal would not be of such significance to be considered detrimental to amenities, particularly as the relationship would not be too dissimilar to having a development on a corner site with a road running close to the dwelling and its associated garden, which was considered in a 2008 appeal to be an acceptable yardstick to an acceptable standard (Appeal Ref: APP/G2435/A/08/2065885/WF).

A condition could also be imposed on any consent granted for the lighting scheme on the development to be agreed. Due consideration can therefore be given to the design and illumination levels of such lighting, and in agreeing such a scheme due consideration could also be given to the relationship with the neighbouring properties. This however, would only be applicable to lighting on the development site given that the Highways Authority benefit from permitted development rights, under Part 12 of the Town and Country Planning (General Permitted Development) (England) Order 2015, to install street lighting on The Spittal (or other adopted highways) without planning permission.

Objections raised in respect of the loss of a view and impacts on a property's value are not material planning considerations which could be taken into account in an assessment of the application.

In conclusion it is considered that the development would accord with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

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

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

Concerns have been raised in respect of the development integrating into the local environment. These concerns are based on the design of the houses not 'fitting in' with the historical style which runs through Castle Donington, that the prevalent use of white render would not respond

positively to the character of the surrounding area and that such a colour would become discoloured due to the relationship the plots would have with retained trees. Consideration has also been given to the previous appeal decision of 2010 on part of the site which proposed a three storey dwelling and was dismissed at appeal.

Given the application constitutes a 'major' development proposal it has been assessed by the Council's Urban Designer who has concluded that the scheme would perform very well against Building for Life 12 with 12 green indicators being merited. In respect of the 'Connections', 'Character' and 'Working with the site and its context' questions, the Council's Urban Designer has stated, amongst other things, the following: -

*"1 Connections*

*The site is a small site located on the edge of the current built up area of Castle Donington. The site would be accessed off The Spittal and include a footpath across the site that would not only contribute towards providing good pedestrian connections for residents of the proposed development but for existing residents in and around Campion Hill wishing to get to the park.*

*The site is steeply sloping and the cross sections provided demonstrate that the buildings will be set at or below the ridge lines of properties on Campion Hill.*

*5 Character*

*The Design and Access Statement demonstrates a well considered response to both the site and the positive characteristics of the settlement that afford it a distinctive identity.*

*The development proposals respond well to the topography and through the use of both retained and new landscaping will create a development that is afforded a distinctive character through both landscape and architectural character.*

*6 Working with the site and its context*

*The illustration on p.29 of the Design and Access Statement explains how the topography will be responded to working around the existing tree network, with built form allowing views through to the woodland belt through the orientation of dwellings (i.e. narrow rather than wide fronted).*

*The Landscape Proposals (ref Section 4.7) demonstrate how green and blue infrastructure will be used to integrate the development into its setting, with the provision of swales a welcome feature."*

The only concerns raised by the Urban Designer include the use of white render, given that there is a significant risk that the render will become discoloured and stained, and that natural roofing materials (such as clay or slate) should be utilised rather than the proposed fibre cement tiles. It is considered that such concerns could be addressed by the imposition of a condition on any consent granted for the precise materials to be agreed.

It has also been advised by the Council's Urban Designer that high quality fencing panels should be utilised as boundary treatments (rather than ship lap style fencing) and that hard and soft landscaping, as well as bin storage and bin collection areas, should be subject to detailed approval via a planning condition.

Whilst the provision of a 'three-storey' dwelling has previously been dismissed on part of the site, as well as refusal of applications for dwellings on other parts of the site, it is considered that the conclusions of the Inspector in the appeal decisions were as a result of the conflict with Policy E1 of the adopted Local Plan which, as highlighted in the 'Principle and Sustainability'

section of this report, could no longer substantiate a reason to refuse the application. In any event the submitted scheme is considered to be different to that previously assessed as whilst more dwellings would be provided, great care has been taken to ensure that the built forms would integrate successfully with important soft landscaping on the site, as well as responding better to the topography of the land. Given the vegetation which would be retained, the proposed dwellings would also be screened from view. Furthermore, should roof slopes be visible they would be seen in the context of a relationship with the roof slopes and elevations of existing properties on both Walton Hill and Campion Hill. As such, it is difficult to conclude that the proposed development would be visually harmful to the character and appearance of the wider area and streetscape given the visual integration with existing built forms.

With regards to the modern design approach offered by the scheme it is noted that Paragraph 60 of the NPPF highlights that *"planning policies and 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,"* with Paragraph 63 emphasising that *"great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area."* In the context of these Paragraphs it is considered that the design approach, being modernistic, would be acceptable and in many respects would raise the standard of design in the locality. Great weight has therefore been given to the context of Paragraph 63. Overall the proposed design and layout would not result in detriment to the character and appearance of the wider area or the streetscape on which it would be set.

In respect of the impacts to neighbouring heritage assets, with the boundaries of the Castle Donington Conservation Area being set to the east of the site, the Council's Conservation Officer has been consulted and has concluded that there would be no harm to the setting of heritage assets. This view is taken given that the substantial landscape buffer which defines the western boundary of the Conservation Area would not be breached by the development and would act as a screen in respect of views into and out of this area from the public domain. In the circumstances that there is 'no harm', an assessment against Paragraph 134 of the NPPF would not be required.

Overall the layout, appearance and scale of the dwellings would be acceptable and would ensure compliance with Paragraphs 57, 60, 61, 63, 131, 132, 134 and 137 of the NPPF, Policies E4 and H7 of the adopted Local Plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Highway Safety**

As part of the application a highways report has been provided which indicates that a new vehicular access with appropriate levels of visibility, in order to accord with the 6Cs Design Guide, would be provided onto The Spittal. The provision of an access to this standard will ensure that vehicles exiting the site can do so in a slow and controlled manner in order to avoid conflict with vehicles and pedestrians utilising The Spittal. Visibility to the west of the access would also be more critical than that the east given the termination of the highway at the recreation ground which prevents direct vehicular access to Bondgate. Suitable manoeuvring facilities, to allow vehicles to exit in a forward direction, along with off-street parking provision would also be accommodated within the site.

Objections have been raised in respect of the narrow nature of The Spittal, the safety of pedestrians who have to walk within the highway and issues associated with the parking of vehicles on this highway by people who utilise the recreational facilities at the neighbouring site.

Whilst such objections have been received, the County Highways Authority have reviewed the highways report and have raised no objections subject to the imposition of conditions on any consent granted. Such conditions include the provision of the visibility splays detailed within the report, surfacing of the access road, off-street parking provision and highway drainage. In terms of the comments received relating to the width of The Spittal, a condition is proposed by the County Highways Authority for the applicant to widen this carriageway to 4.85 metres so that it matches the effective width of the highway from the junction of The Spittal with Back Lane to the point where the highway width would be extended to, and this would enable vehicles to pass each other safely within the highway. The County Highways Authority are also of the view that the parking of vehicles on The Spittal would not disrupt the free and safe passage of vehicles given the increase in the width of the highway, and that the high levels of on-street parking would only be anticipated outside the times when peak traffic flows at the site would be expected. In any event, should such an issue have been considered severe the County Highways Authority would be in a position to place restrictions within the carriageway (i.e. double yellow lines). The provision of a proposed walkway through the development from Campion Hill to The Spittal would also improve pedestrian connectivity from the residential estate to the south to the recreation ground, which may reduce the on-street parking demands given that a convenient access would be supplied. It is, however, noted that for this to be provided an agreement would be required with Castle Donington Parish Council who own the section of land adjacent to the southern boundary of the site.

In terms of the safety of pedestrians, it is noted that occupants who reside to the east of the barrier on The Spittal have to walk on the highway in order to reach Bondgate. Given that the level of vehicular activity on the eastern part of The Spittal, as a whole, would not be too dissimilar to that which would become established on the western part, the implications to pedestrian safety would not be severely adverse particularly as the County Highways Authority have not raised this as an issue.

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

The submitted plans highlight that a sufficient level of off-street parking would be provided in connection with each dwelling and that the associated garages would have adequate internal dimensions to enable them to be utilised for parking purposes. Three visitor parking spaces would also be accommodated within the site which would be of benefit to the scheme. Subject to the submitted parking details being conditioned on any consent granted, it is considered that the development would accord with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan.

## **Ecology**

The County Council Ecologist, as well as the Leicestershire and Rutland Wildlife Trust and Leicestershire and Rutland Badger Group, initially objected to the application due to the implications the development would have on protected species. It was feared that they would become trapped within the development and would not be able to access suitable foraging grounds.

Following continued discussions between the applicant and the County Council Ecologist the

overall objection to the application has been removed. This is further to amendments which have been made to the proposal to accommodate an adequate escape route for the protected species so that they can access adequate foraging grounds, thereby ensuring they would not be trapped by the dwellings which would be created. The removal of the objection, however, is subject to the imposition of conditions on any consent granted to ensure that the escape route is provided and thereafter retained, and that the dense scrub is retained along the route.

It is proposed that the escape route would follow that of the pedestrian connectivity link through the development. Concerns were therefore expressed by the County Council Ecologist in respect of the potential lighting of this route given that it would be shared with pedestrians. Following further discussions it has been determined that the use of low level bollard lighting which is hooded and directed in a particular manner would be acceptable, as this would not direct light towards the dense scrub utilised as the escape route. This would therefore ensure that it could still be used by protected species. The installation of such lighting would also ensure that the pedestrian link could be utilised in the hours of darkness, although use at these times is likely to be infrequent given the times sporting activities are undertaken on the recreation ground.

In the circumstances that the objection to the development has been removed, it is considered that the development would be compliant with Paragraph 118 of the NPPF and Circular 06/05.

## Landscaping

As submitted, the layout allows for the retention of the important trees and groups including those in the northern part of the site bordering The Spittal (G8 - G10 in the submitted arboricultural report) which include Oak, Hawthorn, mature Ash and mature Cypress, all of which will be important in obscuring views into and out of the site and which have been given adequate space to grow into so they are retained as a screening barrier. The Council's Tree Officer is of the view that these trees, and the relevant groups, merit protection via a TPO.

No objections are raised to the site clearance of Hawthorn and Elder scrub (identified as G4, G5 and G11 on the submitted arboricultural report) as well as other scrub areas within the western areas of the site which are categorized as retention Category C (low value). Given the retention category of these trees they should not act as a constraint on the development given that they are not worthy of protection via a Tree Preservation Order (TPO).

It is considered that in approving a landscaping scheme for the development it could be ensured that the important trees are retained and that mitigation planting is provided for those which would be lost, which would provide an opportunity to provide more suitable species of planting given the importance vegetation will have in screening the development site. The Council's Tree Officer has also advised that a condition should be imposed for a site specific tree protection plan to be agreed which should provide protective weldmesh and scaffold barriers specified, installed in accordance with BS5837:2012 (S6.2 - Fig 2), and positioned 1.0 metre outside the crown spreads of woodland groups. A condition requiring this information would be imposed on any planning consent granted.

As identified in the Residential Amenity section of this report it is noted that it is inevitable that some of the proposed dwellings (namely plots 4 and 8 to 13) would have their associated garden in the shade when the sun is positioned to the east and south due to the relationship with retained trees. However BS5837 (2012) Trees in relation to design, demolition and construction outlines that *"NOTE The presence of large species trees is increasingly being seen as advantageous, since it contributes to climate change resilience, amongst other benefits;"* and

*"NOTE 1 Shading can be desirable to reduce glare or excessive solar heating, or to provide for comfort during hot weather. The combination of shading, wind speed/turbulence reduction and evapo-transpiration effects of trees can be utilised in conjunction with the design of buildings and spaces to provide local microclimate benefits."* Whilst such shading impacts would occur the Council's Tree Officer considers that the scheme for 13 dwellings could be progressed on the site which would provide adequate amenity space and which would not be unduly impacted on by the relationship with retained trees, this would therefore ensure that were not placed under unnecessary pressure to be removed.

In conclusion it is considered that subject to the imposition of relevant conditions, the proposed development would accord with the aims of Policy E7 of the adopted Local Plan.

### **Archaeology**

The County Council Archaeologist has specified that no archaeological mitigation is necessary as part of the proposal and, as such, archaeology would not act as a constraint on the development. On this basis the scheme is compliant with Paragraph 141 of the NPPF.

### **Drainage and Flood Risk**

The Lead Local Flood Authority (LLFA) initially objected to the application given that the information submitted did not demonstrate that the development could match greenfield run-off rates, as well insufficient information being provided on the management of the surface water drainage scheme.

Following further discussions on this matter, as well as additional information being supplied, the LLFA have confirmed that the drainage strategy proposed, including the use of swales within a sustainable urban drainage scheme (SuDS), would be acceptable and will ensure that there is betterment in surface water drainage from the site. In the circumstances that a condition is imposed on any consent granted to secure such a scheme, the proposal would be considered compliant with Paragraph 103 of the NPPF and would not exacerbate any localised surface water flooding issue.

Insofar as foul drainage is concerned, it is indicated on the application forms that this would be discharged to the mains sewer with such discharge being agreed with Severn Trent Water who have requested the imposition of a condition for the precise details of the foul drainage connection to be agreed. Given that no objection has been raised by Severn Trent Water it is considered that the additional demands for foul drainage could be met by the existing sewerage system in place and therefore, the proposed development would accord with Paragraph 120 of the NPPF.

### **Other Matters**

The Council's Environmental Protection team have raised no objections to the development subject to the imposition of a land contamination condition to ensure that the land is fit for purpose and can be developed as the plans envisage. Whilst concerns have been raised over land stability, and that the development would increase the probability of subsidence given the excavation works required, no evidence has been supplied to substantiate such a claim and the planning agent has supplied information from a structural engineer which highlights that: -

*"The retaining walls at The Spittal will be designed to modern codes of practice, and constructed in reinforced concrete (a highly engineered material), or gabion baskets (manufactured in*

*accordance with modern regulations). Design will be completed under the supervision of an experienced and qualified Structural Engineer, taking into consideration the effects of heavy rain, high water tables, trees and other potential issues. Appropriate factors of safety will be built into the design, and all calculations submitted for Building Regulations approval."*

Given the approval of such details under building regulations it is considered that the proposed development would comply with the aims of Paragraphs 120 and 121 of the NPPF.

No representation to the development has been received from East Midlands Airport Safeguarding and as such it is considered to be compliant with Policy E20 of the adopted Local Plan.

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

Although the application site is a greenfield site and part of a Sensitive Area it is considered that the conflict with the environmental strand of sustainability, as well as Policy E1 of the adopted Local Plan, would be outweighed by the positive social and economic sustainability credentials of the site. This is on the basis that the development could be integrated on the site whilst also maintaining important landscape features which would screen the development, and that it would not be isolated from built forms given the relationship with residential development to the west and south. Consideration also needs to be given to the fact that the designation of the land as a Sensitive Area will not be progressed in the Submission Local Plan. Overall the development would be compliant with the key principles of the NPPF, specifically Paragraphs 28 and 55.

Whilst having a density of development which would be lower than the threshold normally expected in the settlement, given the constraints and importance in maintaining landscaping on the site it is considered that the proposed density is an efficient use of the land in this instance. In addition, the conflict with Policy H6 of the adopted Local Plan would not substantiate a refusal of the application. An appropriate housing mix would be provided in accordance with Paragraph 50 of the NPPF.

It has been confirmed that the education contribution sought will be paid, given that the District Valuer has confirmed such a payment would not compromise the viability of the development, and therefore the development is considered compliant with Paragraphs 173, 203 and 204 of the NPPF.

The submitted plans, as well as section drawings, have identified that the residential development could be provided without adversely affecting the amenities of existing occupants and that it would also protect future amenities in respect of overbearing, overshadowing, overlooking or noise impacts. As such, the development is considered compliant with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

As submitted the scheme has been assessed against Building for Life 12 by the Council's Urban Designer and has been merited with 12 green indicators. It is considered, therefore, that the design and layout of the development would be a positive addition to the settlement and would raise the design standard in the immediate area. This is on the basis that the landscape and architectural led qualities of the scheme in comparison to the modern standardised house types to the south and west which would be viewed in the same context. It is also considered that no harm would be caused to the setting of heritage assets to the east of the site. On this basis the development would accord with Paragraphs 57, 60, 61, 63, 131, 132, 134 and 137 of the NPPF, Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and



Policies E4 and H7 of the adopted Local Plan.

In respect of highway and pedestrian safety, the County Council Highways Authority have raised no objections subject to the imposition of conditions on any consent granted with one such condition proposing the widening of The Spittal. On this basis it is considered that the additional vehicular movements associated with the development would not compromise the free and safe passage of vehicles in the highway with the level of pedestrian movements being no different to those experienced on the eastern part of The Spittal where no pedestrian footway exists. Within the site a sufficient level of off-street parking would be supplied as well as adequate manoeuvring facilities. In conclusion the development would not be severely detrimental to highway safety and would accord with Paragraphs 32 and 39 of the NPPF and Policies T3 and T8 of the adopted Local Plan.

Subject to the imposition of conditions on any consent granted for the dense scrub and escape route for protected species to be provided and thereafter retained and low level bollard lighting being installed, it is considered that the implications of the development on protected species would be adequately mitigated and would ensure compliance with Paragraph 118 of the NPPF and Circular 06/05.

The Council's Tree Officer has concluded that the proposed layout will be acceptable and will ensure that important trees on the site would be retained. It would, however, be necessary to impose conditions requesting a soft landscaping scheme and a site specific tree protection plan. Subject to such conditions being imposed on any consent granted the development would accord with Policies E2 and E7 of the adopted Local Plan.

A condition would also be imposed to secure flood risk mitigation measures, with surface water drainage also being appropriately controlled via a planning condition, and on this basis the development accords with Paragraph 103 of the NPPF. In terms of foul drainage, this would be directed to the mains sewer with any connection being agreed with Severn Trent Water who have advised that a condition be imposed on any consent granted. On this basis the proposal accords with Paragraph 120 of the NPPF.

No objection, or requirement for mitigation, has been suggested by the County Council Archaeologist and as such the development is compliant with Paragraph 141 of the NPPF. The imposition of conditions will also address land contamination concerns, in accordance with Paragraphs 120 and 121 of the NPPF. No representation has been received from East Midlands Airport Safeguarding and therefore the development is considered compliant with Policy T20 of the adopted Local Plan.

It is therefore recommended that the application be permitted subject to the completion of a Section 106 Agreement to secure the education contribution.

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

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

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

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

- 6976\_001 Revision A (Site Location Plan) received by the Local Authority on the 7th January 2016;
- 6976\_002 Revision A (Site Plan Existing) received by the Local Authority on the 7th January 2016;
- 6976\_003 Revision A (Site Existing Topographic Plan) received by the Local Authority on the 7th January 2016;
- 6976\_010 Revision A (Site Plan Proposed) received by the Local Authority on the 7th January 2016;
- 6976\_012 Revision A (Site Ground Floor Plan) received by the Local Authority on the 7th January 2016;
- 6976\_013 Revision A (Site First Floor Plan) received by the Local Authority on the 7th January 2016;
- 6976\_014 Revision A (Site Second Floor Plan) received by the Local Authority on the 7th January 2016;
- 6976\_015 Revision B (Site Roof Plan) received by the Local Authority on the 23rd June 2016;
- 6976\_020 Revision A (Proposed Site Elevations) received by the Local Authority on the 7th January 2016;
- 6976\_021 Revision A (Proposed Site Sections 1) received by the Local Authority on the 7th January 2016;
- 6976\_022 Revision A (Proposed Site Sections 2) received by the Local Authority on the 7th January 2016;
- 6976\_131 Revision A (House Type 3.1) received by the Local Authority on the 7th January 2016;
- 6976\_141 Revision A (House Type 4.1) received by the Local Authority on the 7th January 2016;
- 6976\_142 Revision A (House Type 4.2) received by the Local Authority on the 7th January 2016;
- 6976\_151 Revision A (House Type 5.1) received by the Local Authority on the 7th January 2016;
- 6976\_132 (House Type 3.1 (Handed)) received by the Local Authority on the 7th January 2016;
- 6976\_143 (House Type 4.1 (Handed)) received by the Local Authority on the 7th June 2016;
- 6976\_152 (House Type 5.1 (Handed)) received by the Local Authority on the 7th June 2016;

unless otherwise required by another condition of this permission.

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

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

- Precise details of the external materials to be used in the development (including the details of construction materials for doors and windows);
- Precise details, including manufacturer details, of the paint finish to all external joinery;
- Position of the meter boxes and their external finish;
- Precise details of the rainwater goods;

The development shall then be carried out in accordance with the approved details unless alternative materials are first submitted to and agreed in writing by the Local Planning Authority.

*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 provisions of Part 1 (Classes A - E) of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) the dwellings, hereby permitted, shall not be enlarged, improved or altered nor shall any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse be erected within the curtilage unless planning permission has first been granted by the Local Planning Authority.

*Reason - to enable the Local Planning Authority to retain control over future development in view of maintaining the overall appearance of the scheme and in the interests of preserving the amenities of neighbouring properties and the visual amenities of the wider area given the topography of the site.*

- 5 The windows serving the en-suite at first floor level and third bedroom at second floor level in the western (side) elevations of plots 1, 5, 9 and 12; en-suite at first floor level and third bedroom at second floor level in the eastern (side) elevations of plots 3 and 8; en-suite at second floor level in the eastern (side) elevation of plot 10 and en-suite at second floor level in the western (side) elevation of plot 11 shall be shall be glazed with obscure glass, to Pilkington Standard 3 (or its equivalent), and non-opening, unless the opening part is more than 1.7 metres above the internal floor level of the room in which the window is installed, which once provided shall thereafter be so retained.

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

- 6 No development shall commence on site until such time as a site specific tree protection plan (which shall provide for protective weldmesh and scaffold barriers to be installed in accordance with BS5837:2012 (S6.2 Fig 2) at least 1.0 metre outside the crown spread of woodland groups) has first been submitted to and agreed in writing with the Local Planning Authority. The scheme shall then be carried out in accordance with the approved details. Within the fenced off areas there shall be no alteration to the ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand.

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

- 7 Notwithstanding the details shown on the approved plans, nor Condition. 2 above, before first occupation of any of the dwellings, hereby permitted, a scheme of soft and hard landscaping (which shall include information on the retained trees and any work to these trees) shall be submitted to and agreed in writing by the Local Planning Authority. The approval landscaping scheme shall be implemented in the first planting and seeding season following the first occupation of any dwellings with the hard landscaping scheme being provided in full prior to the first occupation of any dwelling. The above applies unless alternatives landscaping details, or implementation programme, are first submitted to and agreed in writing by the Local Planning Authority.

*Reason - to ensure a satisfactory landscaping scheme is provided within a reasonable period, in the interests of visual amenity given the location of the dwellings and to protect the amenity of trees and maintained wildlife habitat.*

- 8 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.*

- 9 Notwithstanding the details shown on the approved plans, nor Condition 2 above, no development shall commence until the finished floor levels of the proposed dwellings and finished ground levels, which shall be related to a fixed datum point off the site, have first been submitted to and agreed in writing by the Local Planning Authority. Once agreed the development shall be carried out in accordance with the approved details and shall thereafter be so retained.

*Reason - to determine the scope of the permission given that no precise details have been supplied, in the interests of residential and visual amenity and to ensure the development takes the form envisaged by the Local Authority.*

- 10 Notwithstanding the details shown on the approved plans, nor Condition 2 above, before first occupation of any of the dwellings, hereby permitted, a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railing, other means of enclosure and retaining walls) as well as the relevant elevation details of the retaining walls 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 of any dwelling hereby approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.

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

*Reason - to preserve the amenities of the locality and residents, in the interests of highway safety and to ensure the development takes the form envisaged by the Local Authority.*

- 11 Notwithstanding the details shown on the approved plans, nor Condition 2 above, no dwelling shall be built above damp proof course level until the precise details of the enclosed bin/cycle stores to the plots (which will provide for 2.11 square metres of dedicated space for waste/recycling storage) as well a bin collection area (which may be enclosed but will require 1.25 square metres of space per plot) have first been submitted to and agreed in writing by the Local Planning Authority. Once agreed the enclosed bin/cycle stores and bin collection point(s) shall be provided in accordance with the approved details prior to the first occupation of any of the dwellings and shall thereafter

be so retained.

*Reason - to ensure that the development takes the form envisaged by the Local Planning Authority and in the interests of residential and visual amenity.*

- 12 No development shall commence on site until the following have first been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Highways Authority: -
- Details of design for off-site highway works being the widening of The Spittal to a width of not less than 4.5 metres for a distance of 80.0 metres to the west of the site access;
  - A construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision.
- Once agreed the development shall then be carried out in accordance with the approved details and timetable with the off-site highway works on The Spittal being provided before the occupation of the 5th dwelling.

*Reasons - the proposal will lead to an increase in traffic on The Spittal and an increase in conflict between vehicles and pedestrians. The improvements are therefore required in the interest of highway safety; to reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the area.*

- 13 Prior to the first occupation of any of the dwellings, hereby permitted, the following shall be provided: -
- Visibility splays in accordance with the details shown on drawing number F15007/01 Revision A within the Bancroft Consulting Limited Highway Impact Statement of July 2015 (Revised December 2015), received by the Local Authority on the 7th January 2016, at the junction of the access with The Spittal. These shall be in accordance with the standards contained in the current County Council design guide;
  - Any shared private drive serving more than 5 but no more than 25 dwellings shall be a minimum of 4.8 metres wide for at least the first 5.0 metres behind the highway boundary and have a drop crossing of a minimum size as shown in Figure DG20 of the 6Cs Design Guide at its junction with the adopted road carriageway.  
NOTE: If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides;
  - Car parking shall be provided, hard surfaced and made available for use to serve the dwellings on the basis of 2 spaces for a dwelling with up to three bedrooms and 3 spaces for a dwelling with four or more bedrooms;
  - Turning facilities shall be provided, hard surfaced and made available for use within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed;
  - The access drive and any turning space shall be surfaced with tarmac, concrete or similar hard bound material (not loose aggregate) for a distance of at least 10.0 metres behind the highway boundary;
  - Drainage shall be provided within 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 nothing being positioned or allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

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

- 14 The gradient of the access drive(s) shall not exceed 1:12 for the first 10.0 metres behind the highway boundary.

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

- 15 The development hereby permitted shall not commence until drainage plans for the disposal of foul sewerage have first been submitted to and approved in writing by the Local Planning Authority in consultation with Severn Trent Water. The scheme shall then be implemented in accordance with the approved details before the development is first brought into use.

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

- 16 No development shall commence until such time as a detailed surface water drainage scheme has first been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority (LLFA) and Severn Trent Water.

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

The scheme shall be fully implemented prior to the occupation of the first dwelling and subsequently maintained in accordance with the approved scheme or within any other period as may subsequently be agreed in writing by the Local Planning Authority in consultation with the LLFA and Severn Trent Water.

Full details for the drainage proposal should be supplied, including but not limited to; headwall details, flow control details, pipe protection details (e.g. trash screens), long sections, cross sections, construction details and full model scenario's for the 1 in 1, 1 in 30 and 1 in 100 year plus climate change. Where discharging to a sewer, this should be modelled as surcharged for all events above the 1 in 30 year, to account for the design standards of the public sewers.

*Reason - to prevent flooding by ensuring the satisfactory storage of and disposal of surface*

*water from the site.*

- 17 No development (except any demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has first been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
- BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
  - BS 8576:2013 Guidance on Investigation for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs); and
  - CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.
- Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, no development shall commence on site until a Remedial Scheme and a Verification Plan have been prepared, and submitted to, and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of: -
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004; and
  - BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings;
- The Verification Plan shall be prepared in accordance with the requirements of:
- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
  - CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004;
  - BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings;
  - CIRIA C735, "Good practice on the testing and verification of protection systems for buildings against hazardous ground gases" CIRIA 2014.
- If, during the course of the development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

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

- 18 Prior to the occupation of the completed development, or part thereof, either: -
1. If no remediation was required by condition 17 a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of development, or part thereof, is received and approved in writing by the Local Planning Authority, or
  2. A Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to the whole development, or part

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

- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
- Contain Test Certificates of imported material to show that it is suitable for the 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 works specified in the Remedial Scheme have been completed.

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

- 19 No development shall commence until such time as an ecological/landscape management plan, which shall include long term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), together with a timetable for their implementation (which shall include the implementation of the escape route specified on drawing number 6976\_SK\_201 (Site Western Edge Woodland Walk) contained within the report by Ramm Sanderson Ecology Consultants (ref: RSE\_154) of the 24th May 2016 and received by the Local Authority on the 25th May 2016) has first been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist. The development shall then be carried out in accordance with the agreed ecological/landscape management plan unless any variation to the agreed scheme is first submitted to and agreed in writing by the Local Planning Authority.

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

- 20 Prior to the installation of any external lighting on the site the precise details and positions, including illumination levels, shall first be submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist and Council's Environmental Protection team. The submitted scheme will have due regard to the provision of low level bollard lighting which is shielded/hooded at intervals of 10.0 metres along the retained escape route for protected species. Once agreed the lighting shall be installed in accordance with the approved details and shall thereafter be so retained.

*Reason - to ensure the protection of wildlife and in the interests of visual and residential amenity.*

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy



- Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 This decision is subject to a Section 106 Obligation regarding the following matters: -
- a. Contribution towards education;
- 4 Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.
- 5 The proposed road does not conform to an acceptable standard for adoption and therefore it will NOT be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all plots served by the private road within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg) or email [road.adoptions@leics.gov.uk](mailto:road.adoptions@leics.gov.uk). Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it. Details of the future maintenance of the private road should be submitted for the approval of the Local Planning Authority before any dwelling is occupied.
- 6 It would appear from the proposed site layout plan that the access road is to remain private as it is not to an adoptable standard. Proposed adoptable highway corridors should measure a minimum of 7.5 metres and incorporate a minimum carriageway width of 4.8 metres, a minimum 2.0 metre footway and a minimum 0.7 metre service margin along its entire extents. Refer to 6Cs Design Guide Section DG2, table DG1 for guidance.
- 7 The maximum distance between junctions, 90-degree bends or a speed control feature is 40 metres for access ways. Please refer to 6Cs Design Guide Section DG5: Speed control for guidance.
- 8 The geometry of the turning heads are not to an adoptable standard. Turning heads should be in accordance with 6Cs Design Guide, Section DG2, figure DG4b.
- 9 Forward visibility within the development appears to be acceptable. Please ensure visibility at all junctions, bends and any vertical crests are in accordance with the 6Cs Design Guide, Section DG2: Visibility splays.
- 10 The County Highways Authority is unable to comment on the drainage proposals as no level or gully positions have been shown. All drainage infrastructure should be in accordance with 6Cs Design Guide Part 3, DG12. Gradients within the development must accord to table DG1, Part 3, Section DG2.
- 11 Where a proposed building fronts directly onto the highway, that is, it has no front garden, it should be set back at 0.5 metres behind the proposed highway boundary to allow for opening windows, drainage downpipes, overhanging eaves and so on, as per 6Cs Design Guide Part 3, Section DG2, Paragraph 3.13(f).
- 12 Where trees outside of the highway boundary are planted within close vicinity of the highway boundary, root deflectors or root protection barriers may need to be considered. For further guidance on the use of trees within the highway corridor please see 6Cs

- Design Guide, Part 3, DG13. It is vital that clear maintenance arrangements of green areas and trees are established to avoid any future doubt.
- 13 You will be required to enter into a suitable Legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
- 14 C.B.R Tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Highways Manager.
- 15 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from the Infrastructure Planning team. For further information, including contact details, you are advised to visit the County Council website: - see Part 6 of the '6Cs Design Guide' at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg).
- 16 The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.
- 17 If you intend to provide temporary directional signing to your proposed development, you must ensure that prior approval is obtained from the County Council's Highway Manager for the size, design and location of any sign in the highway. It is likely that any sign erected in the Highway without prior approval will be removed. Before you draw up a scheme, the Highway Managers' staff (tel: 0116 3050001) will be happy to give informal advice concerning the number of signs and the locations where they are likely to be acceptable. This will reduce the amount of your abortive sign design work.
- 18 The design for the access will be not be acceptable in the format shown on the submitted plan; the Highway Authority would expect that the access should be developed in a dropped crossing arrangement rather than by including the radius kerbs shown on the plan. Further details should be submitted for approval.
- 19 If there are any works proposed as part of an application which are likely to affect flows in a watercourse or ditch, then the applicant may require consent under s.23 Land Drainage Act 1991. This legislation is separate from the planning process. Guidance on this process and a sample application form can be found via the following website: - <http://www.leicestershire.gov.uk/Flood-risk-management>. No development should take place within 5.0 metres of any watercourse or ditch without first contacting the County Council for advice.
- 20 The LLFA note that the industry best practice at the time of developing the proposals may have been CIRIA C697 in relation to SuDs design, but that new guidance has been produced in the form of CIRIA C753. The LLFA would recommend that the SuDs designs refer to the new guidance, including where the following aspects are detailed: treatment requirements and maintenance schedules for the surface water system.
- 21 Please note it is the responsibility of the Local Planning Authority under the DEFRA/DCLG legislation (April 2015) that the adoption and future maintenance of SuDs features should be discussed with the developer and a suitable maintenance schedule agreed before commencement of the works.



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

### **Proposal**

This application seeks outline planning permission for residential development of 605 dwellings together with an extra care centre, primary school, nursery school, community hall and retail development as well as new public open space served via vehicular accesses from the A511 and a new access from Nottingham Road.

### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposals (and including from Ashby de la Zouch Town Council).

### **Planning Policy**

The majority of the application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. This Policy now has to be considered as not being up-to-date in the context of the National Planning Policy Framework (NPPF) as the Council cannot currently demonstrate a five year supply of deliverable housing sites.

### **Conclusion**

The report below indicates that, whilst the scheme differs from the scheme permitted by the Secretary of State in February 2016 (and, including in respect of the proposed means of vehicular access to Nottingham Road), the conclusions in respect of the issues relating to the principle of development, together with the majority of technical matters, would remain unchanged. Whilst the Local Highway Authority had raised a number of issues in respect of the proposed means of access to the site from Nottingham Road, those concerns have now been addressed, and the Local Highway Authority is now content that an appropriate form of access to serve the development would be provided. There are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities.

## **RECOMMENDATION:- PERMIT, SUBJECT TO SECTION 106 OBLIGATIONS, AND SUBJECT TO THE IMPOSITION OF CONDITIONS**

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

## MAIN REPORT

### 1. Proposals and Background

This is an outline planning application, accompanied by an Environmental Statement, for the mixed development of a site of approximately 42 hectares to the north / north east of Ashby de la Zouch currently used primarily for agricultural purposes. Whilst some matters are reserved for subsequent approval, an illustrative masterplan has been submitted which shows:

- 605 new dwellings
- A 60 unit extra care facility
- A primary school (single form entry on a site of 1.5ha with capacity to be enlarged to 2.1ha)
- A nursery school
- A community hall
- Retail development
- Public open space, and play areas
- Pedestrian and cycle links

As set out above, the application is in outline. All matters are reserved save for the access insofar as it relates to the proposed means of vehicular access into the site. The remainder of the "access" matters (i.e. including the pedestrian and cycle links to adjacent land and circulation routes through the site itself as shown on the illustrative masterplan) are reserved for subsequent approval.

The application is similar to an earlier application (ref. 13/00335/OUTM) refused at the Planning Committee meeting of 6 May 2014 and subsequently approved at appeal. The current application differs principally from that previously considered under application 13/00335/OUTM and the subsequent appeal in that, rather than including access via Woodcock Way, the applicants now propose to form a new priority junction serving the site from Nottingham Road, created following demolition of a pair of semi-detached dwellings (Nos. 3 and 5 Nottingham Road). Other differences vis-à-vis the approved scheme include the omission of the previously proposed health centre (following the progression of a proposed new facility as part of the Holywell Spring Farm development).

As per the approved scheme, the application is EIA development and, as such, is accompanied by an Environmental Statement.

### 2. Publicity

768 no neighbours have been notified (date of last notification 24 June 2016)

Press Notice published 3 June 2015

Site Notice posted 116 June 2015

### 3. Consultations

Derbyshire County Council consulted 18 June 2015

Ramblers' Association consulted 29 June 2015

Ashby de la Zouch Town Council consulted 2 June 2015

County Highway Authority consulted 2 June 2015

Environment Agency consulted 2 June 2015

Severn Trent Water Limited consulted 2 June 2015

Head of Environmental Protection consulted 2 June 2015

Natural England consulted 2 June 2015  
 NWLDC Tree Officer consulted 2 June 2015  
 County Archaeologist consulted 2 June 2015  
 LCC ecology consulted 2 June 2015  
 Airport Safeguarding consulted 2 June 2015  
 NWLDC Conservation Officer consulted 2 June 2015  
 NWLDC Urban Designer consulted 2 June 2015  
 National Forest Company consulted 2 June 2015  
 LCC Fire and Rescue consulted 2 June 2015  
 Historic England- Grade I/II\* LB Setting consulted 2 June 2015  
 County Planning Authority consulted 2 June 2015  
 LCC Development Contributions consulted 2 June 2015  
 NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 2 June 2015  
 Development Plans consulted 2 June 2015  
 Head Of Leisure And Culture consulted 2 June 2015  
 Manager Of Housing North West Leicestershire District Council consulted 2 June 2015  
 Police Architectural Liaison Officer consulted 2 June 2015  
 LCC/Footpaths consulted 2 June 2015  
 NWLDC Footpaths Officer consulted 2 June 2015  
 Highways Agency- Article 15 development consulted 2 June 2015  
 Head Of Street Management North West Leicestershire District consulted 2 June 2015  
 Coal Authority consulted 2 June 2015  
 South Derbyshire District Council consulted 2 June 2015  
 LCC Flood Management consulted 2 June 2015  
 Natural England- Within 2k Of SSSI consulted 30 June 2015

#### 4. Summary of Representations Received

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

- Safety concerns over proposed Nottingham Road access close to a school
- Exacerbation of existing congestion on Nottingham Road
- Scheme is speculative and unviable
- Site is outside Limits to Development

**Coal Authority** has no objections subject to conditions

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

**Highways England** has no objections

**Historic England** recommends that the Local Planning Authority considers the impacts on the setting of Ashby Castle and St Helen's Church in accordance with the relevant legislative and planning policy requirements

**Leicestershire County Council Education Authority** requests provision of a primary school or a financial contribution in respect of the primary sector of £1,756,776.25, a financial contribution in respect of the high school sector of £1,081,508.29, and a financial contribution in respect of the upper school sector of £1,110,487.18 (although attention is also drawn to supplementary comments made by the Local Education Authority under Developer Contributions below).

**Leicestershire County Council Library Services Development Manager** requests a

developer contribution of £18,260

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

**Leicestershire County Council Highway Authority** final comments awaited

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

**Leicestershire County Council County Planning Authority** has no objections in respect of potential sterilisation of mineral resources

**Leicestershire County Council Rights of Way Officer** has no objections subject to conditions securing the upgrading and diversion of various rights of way in the vicinity of the site

**Leicestershire Local Access Forum** suggests the improvement and extension of various rights of way

**Leicestershire Police** requests a policing contribution of £219,029

**National Forest Company** requests submission of further information in respect of additional landscaping and footpath linkages and the imposition of conditions

**Natural England** has no objections subject to conditions

**NHS England (Central Midlands)** requests a healthcare contribution of £201,878.28

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

**North West Leicestershire District Council Cultural Services Officer** comments that the Ivanhoe Way will need diverting and that advice on the requirements will be provided by Leicestershire County Council

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

**South Derbyshire District Council** has no objections

### **Third Party representations**

88 representations have been received, raising the following concerns:

- Unsafe access onto Nottingham Road
- Nottingham Road / Wood Street already very busy / unsafe
- Increased traffic congestion
- Nottingham Road access close to existing school and its associated traffic
- Nottingham Road access close to a sharp bend
- Access contrary to design requirements in the 6Cs guide
- Proposed Nottingham Road access not suitable in terms of junction design to accommodate the level of development
- Bus gate mechanism could fail
- Supporting transportation evidence is flawed
- Inappropriate relocation of bus stop

- Loss of two period homes to form Nottingham Road access
- Adverse impacts on occupants of properties adjacent to the proposed Nottingham Road access
- Adverse impacts on existing properties from proposed pedestrian routes through the site
- Loss of on-street car parking
- Damage to vehicles
- Increased difficulties accessing / egressing nearby driveways
- Rat-running
- Access should be provided via the A511 / Featherbed Lane / Smisby Road
- Impact on capacity of Ashby Bypass
- Insufficient infrastructure (including schools, healthcare, water supply, sewage, waste management and highway network capacity)
- Insufficient town centre car parking
- Adverse impact on town centre shops
- Loss of amenity value of rights of way
- Brownfield sites should be used in preference to greenfield ones
- Loss of green space
- Site outside Limits to Development
- Proposal contrary to planning policy
- Flooding
- Impact on wildlife / habitat / water quality
- Pollution
- Health centre should not be included
- Adverse impact on Ashby de la Zouch Conservation Area
- Ashby de la Zouch already has sufficient / too much housing
- Ashby de la Zouch has a disproportionate amount of planning applications compared to other settlements
- Loss of privacy
- Impact on adjacent properties' security
- Loss of agricultural land
- Loss of property value
- Poor design / materials
- Would not create additional business or employment
- Additional sewage generated greater than the headroom available at Packington Sewage Treatment Works
- Loss of character of Ashby de la Zouch
- Potential over-heating of dwellings if excessive glazing used
- Limited options explored in terms of renewable or low carbon forms of development

Two representations have been received supporting the development on the following grounds:

- Would allow more people to live in one of the nicest towns in Leicestershire
- Proposed facilities would benefit the whole town
- Developers need to be required to include proposed benefits

In addition, the **Ashby Labour Party** objects for the following reasons:

- Increased traffic (cars and buses)
- New access opposite an existing school with its attendant traffic
- Would be more logical to only allow access via the A511 (other than for emergency services)

**Ashby School** has no objection to the proposed development per se, but raises concerns regarding the access arrangements as follows:



- New access would be opposite the school where the road is heavily congested with parents' vehicles when dropping off or collecting children
- New access would add to the already significant risk
- School entrance close to a blind bend

## 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 24 (Ensuring the vitality of town centres)
- Paragraph 26 (Ensuring the vitality of town centres)
- Paragraph 28 (Supporting a prosperous rural economy)
- Paragraph 32 (Promoting sustainable transport)
- Paragraph 34 (Promoting sustainable transport)
- Paragraph 38 (Promoting sustainable transport)
- Paragraph 47 (Delivering a wide choice of high quality homes)
- Paragraph 49 (Delivering a wide choice of high quality homes)
- Paragraph 56 (Requiring good design)
- Paragraph 57 (Requiring good design)
- Paragraph 59 (Requiring good design)
- Paragraph 61 (Requiring good design)
- Paragraph 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 120 (Conserving and enhancing the natural environment)
- Paragraph 121 (Conserving and enhancing the natural environment)
- Paragraph 123 (Conserving and enhancing the natural environment)
- Paragraph 131 (Conserving and enhancing the historic environment)
- Paragraph 132 (Conserving and enhancing the historic environment)
- Paragraph 134 (Conserving and enhancing the historic environment)
- Paragraph 135 (Conserving and enhancing the historic environment)
- Paragraph 173 (Using a proportionate evidence base)
- Paragraph 203 (Planning conditions and obligations)

Paragraph 204 (Planning conditions and obligations)

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

The majority of the site falls outside of Limits to Development as defined in the adopted North West Leicestershire Local Plan; the remainder falls within Limits to Development. No other site-specific policies apply.

The following adopted Local Plan policies are considered relevant:

- Policy S2 - Limits to Development
- Policy S3 - Countryside
- Policy H4/1 - Housing Land Release
- Policy H6 - Housing Density
- Policy H7 - Housing Design
- Policy H8 - Affordable Housing
- 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 F2 - National Forest Tree Planting
- Policy F3 - National Forest Landscape and Planting
- Policy T3 - Highway Standards
- Policy T8 - Parking
- Policy R1 - Central Areas Shopping
- Policy L21 - Children's Play Areas
- Policy L22 - Formal Recreation Provision

**Other Policies**

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

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

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

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

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

**Ashby de la Zouch Conservation Area Appraisal and Study SPG**

The south western part of the application site abuts the Ashby de la Zouch Conservation Area. The Ashby de la Zouch Conservation Area Appraisal and Study identifies individual factors considered to have a positive impact on the character of the Conservation Area. These factors include principal listed buildings and unlisted buildings of interest in the vicinity of the site.

### **Emerging North West Leicestershire Local Plan**

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, as the proposed publication version of the Local Plan is to be considered by Council on 28th June with a view to its submission for examination in September, more weight can now be attributed to its policies at this stage.

The site is located within Limits to Development as defined in the draft Local Plan and also includes areas identified as new housing and employment allocations.

The following draft Local Plan policies are considered relevant:

- Policy S1 - Presumption in favour of sustainable development
- Policy S5 - Design of new development
- Policy H3 - Housing provision: new allocations (site H3a)
- Policy H4 - Affordable housing
- Policy H6 - House types and mix
- Policy Ec2 - Employment provision: new allocations
- Policy Ec9 - Town and local centres: Hierarchy and management of development
- Policy Ec10 - Town and local centres: Thresholds for Impact Assessments
- Policy IF1 - Development and infrastructure
- Policy IF2 - Community facilities
- Policy IF3 - Open space, sport and recreation facilities
- Policy IF4 - Transport infrastructure and new development
- Policy IF7 - Parking provision and new development
- Policy En1 - Nature conservation
- Policy En2 - River Mease Special Area of Conservation
- Policy En3 - The National Forest
- Policy En6 - Land and air quality
- Policy He1 - Conservation and enhancement of North West Leicestershire's historic environment
- Policy Cc2 - Sustainable design and construction
- Policy Cc3 - Flood risk
- Policy Cc4 - Water: sustainable drainage systems

### **Emerging Ashby de la Zouch Neighbourhood Plan**

On 2 May 2016 Ashby de la Zouch Town Council commenced public consultation on a pre-submission Neighbourhood Plan. The draft policies listed below are considered relevant to this application. However, in view of the very early stage to which the draft Neighbourhood Plan has progressed, only very limited weight can be attributed to its policies at this stage.

The site lies within Limits to Development as defined in the emerging Neighbourhood Plan. The following draft Local Plan policies are considered relevant:

- Policy S1 - Presumption in Favour of Sustainable Development
- Policy S2 - Limits to Development
- Policy S4 - Design
- Policy S5 - Priority to be given to Brownfield Sites
- Policy H1 - Sustainable Housing Growth
- Policy H2 - Requirement for Masterplan

Policy H4 - Housing Mix  
 Policy H5 - Affordable Housing  
 Policy TC1 - Town Centre Uses  
 Policy T1 - Sustainable Development  
 Policy T2 - Travel Plans  
 Policy T3 - Safer Routes to Schools Schemes  
 Policy ELWB 3 - Open Space, Sport and Recreation Provision in New Housing Developments  
 Policy ELWB 4 - Allotment Provision in New Developments  
 Policy ELWB 5 - Biodiversity  
 Policy ELWB 6 - Trees and Hedges  
 Policy ELWB 7 - Listed Buildings  
 Policy ELWB 8 - Ashby de la Zouch Conservation Area  
 Policy ELWB 10 - Areas of Archaeological Interest  
 Policy ELWB 12 - New Community Facilities  
 Policy ELWB 14 - New Arts / Community Centre  
 Policy ELWB 15 - Education  
 Policy DC1 - Community Infrastructure

## **6. Assessment**

### **Relationship to Approved Scheme**

As set out above, a similar form of development has the benefit of an extant outline planning permission granted on appeal by the Secretary of State in February 2016. In view of the limited differences between the current application proposals and those permitted on appeal, and the limited changes in circumstances since the time that the permission was issued, the officer view, overall, is that the conclusions reached by the Secretary of State (and by his Inspector with whose recommendations the Secretary of State generally concurred) continue to be relevant, and are a material consideration of very significant weight in the determination of this application. As such, this report focuses principally on those issues where there are material differences between the two schemes.

### **Principle of Development and Contribution to Sustainable Development**

The principle of development has already been established by the appeal decision of February 2016. The issues relating to the principle of development and its contribution to sustainable development are considered to be unchanged from the position taken by the Secretary of State.

### **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.

### **Means of Access, Highways and Transportation Issues**

As set out in the introduction above, the application is in outline with all matters reserved save for the access insofar as it relates to the vehicular access points into the site; the applicants propose the use of restrictive measures (bus gate(s)) to ensure that the site could only be accessed or egressed as follows:

Phase 1 (150 dwellings) plus proposed car park: Accessible via Nottingham Road only, but also able to be exited via the A511

Remainder of the development: Accessed and egressed via the A511

Use of the bus gate(s) would allow bus penetration throughout the whole site (i.e. via both Nottingham Road and the A511). The proposed car park would, it is understood, be accessible from both routes (but laid out so as to prevent "through" travel).

The proposed vehicular access arrangements have been the subject of extensive discussions between the applicants and the County Highway Authority, with the County Council expressing particular concern over the design of the proposed Nottingham Road access. An amended access plan has now been submitted. Whilst, at the time of preparing this report, the final, formal comments of the County Highway Authority had not been received, it is understood that the County Council considers that the amended proposals now meet the design requirements of the 6Cs Design Guide and, in terms of junction capacity, work from a modelling point of view. The amended scheme is therefore likely to be agreed from a technical point of view.

In terms of the impacts of the development on the wider highway network, it is understood that the County Highway Authority accepts that the impacts are not significantly different from those arising from the approved scheme and, as such, are considered to remain acceptable in this regard. Whilst the proposed access arrangements set out above would appear to enable access northbound from Nottingham Road to the remainder of the development (i.e. through Phase 1), it is understood that, given that use of such a route would be of limited usefulness and would be likely to be somewhat tortuous in its nature, the County Highway Authority considers that significant rat-running would be unlikely. The final views of Leicestershire County Council will, however, be reported on the Update Sheet.

#### *Public Rights of Way / Connectivity of the Site*

The site is crossed by existing right of way O89 which via the south western section, connects the site to the town centre at North Street. As per the proposals secured under the Section 106 unilateral undertaking obligation entered into at the time of the earlier appeal, it is the applicants' intention to make a contribution of £105,651 in respect of improvements to existing public rights of way and to make an "enhanced connectivity" contribution of £400,000 intended to be directed towards a range of measures (including assessment of existing public transport, cycle and pedestrian connectivity within the town, and implementation of measures identified as a result of that assessment in order to enhance the site's connectivity with the town). Other proposed transportation-related contributions are as set out under Developer Contributions below.

#### **Landscape and Visual Impact**

As per the previous application, the development has been assessed in terms of its landscape and visual effects both during and after construction. The Environmental Statement identifies the elements of the site and its surroundings that are important in terms of landscape resources and landscape character, and the extent to which these would be affected by the proposals. Given the nature of the changes vis-à-vis the approved and amended schemes, the overall conclusions in respect of this issue as set out in the Environmental Statement are unchanged. The Inspector who considered the previous appeal determined that, other than the right of way passing through the site, there is no public access through the site, and it therefore has no recreational value and can be valued only for the outlook that is available over it. Whilst he accepted that the loss of this outlook would be regrettable, the proposed development would not have any significant effect on the character of the area.

Given the limited differences between the two schemes in this regard, it is considered that the

Secretary of State's previous conclusions would continue to be applicable.

### **Drainage, Ecology and the River Mease SAC**

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

#### *Flood Risk and Drainage*

The Environmental Statement is informed by a Flood Risk Assessment (FRA), assessing the existing flood risk to the site along with any resulting flood risk associated with the proposed development. The revised application includes an updated FRA, but the overall conclusions remain broadly unchanged, as do those contained within the relevant section of the Environmental Statement. Neither the Environment Agency nor the Lead Local Flood Authority raise objection to the application and its associated surface water drainage proposals subject to conditions. It is noted that the Environment Agency requests imposition of an additional condition not previously sought nor imposed, but has clarified that this is now necessary given that the FRA does not otherwise cover the relevant hydraulic modelling the condition seeks to secure. As such, it is accepted that the attachment of the additional condition requested by the Agency is warranted (see Condition 10 below).

Insofar as foul sewage is concerned, given its location within Ashby de la Zouch, the site's foul drainage would discharge to the Packington sewage treatment works. The development proposed under this application would however simply replace that approved under the earlier permission, so would have no overall change in terms of sewerage capacity; Severn Trent Water raises no objections subject to the conditions. The issues relating to the River Mease SAC are addressed in more detail below.

#### *Ecological Issues*

The previous application's Environmental Statement included a detailed assessment of the ecological implications of the proposed development on various receptors of ecological value, and setting out proposed mitigation measures. Updated ecological assessment work has been undertaken in support of the revised application, and the relevant Environmental Statement chapter amended accordingly.

In recommending the Secretary of State allow the appeal, the Inspector who considered the earlier scheme considered that there was no evidence to indicate that ecology or biodiversity interests would be harmed. Whilst noting that the site is subdivided by hedgerows and has other biodiversity credentials, he accepted that the proposed development would have significant areas of open space and that all residential gardens, to a lesser or greater extent, include features and opportunities for the enhancement of biodiversity.

Insofar as the updated supporting information is concerned, the revised Environmental Statement suggests that, with the relevant mitigation measures, the overall ecological impacts of the scheme would be positive, would ensure no net loss of biodiversity, and would provide for enhanced habitat.

The County Ecologist and Natural England have been consulted in respect of the application and raise no objections subject to conditions. 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.

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. It is also considered that imposition of those relevant conditions previously imposed by the Secretary of State in respect of the appeal scheme would address the issues raised by the statutory consultees, and ensure the required mitigation and enhancement measures are secured.

#### *River Mease Special Area of Conservation (SAC)*

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The Habitat Regulations 2010 set out how development proposals within an SAC should be considered. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. 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 will have a significant effect on the SAC is required.

In order to mitigate the impacts of the development, the approved scheme was subject to a contribution under the Developer Contribution Scheme (DCS), and based on the relevant requirements of that document. The dwellings have, in effect, therefore, already been accounted for under the first DCS (DCS1). Whilst the flows from the new dwellings would need to be taken into account against the existing headroom at Packington sewage treatment works, given that the dwellings have already been accounted for under the capacity for the previous scheme, there are no further issues with regards to capacity at the treatment works.

On this basis, it is accepted that the proposed development would not have an adverse impact on water quality (nor would there be any other impacts on other aspects of the SSSI / SAC), and the development is acceptable on this basis, subject to the implementation of the mitigation identified, secured by way of conditions and Section 106 obligations as appropriate.

#### **Historic Environment**

The Environmental Statement indicates that the site itself does not contain any Scheduled Monuments, listed buildings or Conservation Areas, but there are Grade II listed buildings in close proximity as well as the Ashby de la Zouch Conservation Area which abuts the site. The

Environmental Statement also considers the impacts on other designated heritage assets including Ashby Castle (a Scheduled Monument as well as a Grade I listed building) and the Parish Church of St Helen (listed Grade II\*). Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard should be had to the desirability of preserving the building or its setting. Section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

The submitted Environmental Statement includes a detailed assessment of the archaeology and historic environment implications of the proposed development. This reaches similar conclusions to the Environmental Statement submitted in respect of the previously approved scheme, and including in respect of its impacts on the Ashby de la Zouch Conservation Area, nearby listed buildings and non-designated heritage assets. Insofar as Ashby Castle is concerned, Historic England draws attention to the need to understand the context and setting of the Castle (and the Church of St Helen), and the impacts of the setting on those features' significance.

In recommending approval of the earlier scheme, the Inspector noted that there are views across the site from the top of the ruined keep of the castle. He accepted that the proposed development would replace a section of countryside in this view but noted that it would be seen in the context of existing development to the west and south-east. He considered that the proposed development would not cause any demonstrable harm to the setting of the Conservation Area, nor to the setting of any listed building within it. As such, he (and the Secretary of State) concluded, Paragraphs 133 and 134 of the NPPF (which identify the approach to be taken where harm is identified) were not engaged. In terms of non-designated heritage assets, the Environmental Statement (as previously) identifies the archaeological potential of the development. However, it is again accepted that any impacts can be addressed by way of the imposition of an appropriate condition requiring the implementation of an archaeological mitigation strategy.

It is therefore accepted that the scheme continues to meet the relevant NPPF tests and, in reaching this view, the legislative requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 would be met.

### **Air Quality**

Whilst there are no Air Quality Management Areas (AQMAs) within close proximity of the site, the Environmental Statement assesses the impacts on dust, particulates and nitrogen oxides associated with the construction and post-construction phases of the proposed development. Whilst the amended scheme includes a revised form of access to Nottingham Road, this does not affect the overall conclusions of the revised Environmental Statement and, as previously, the proposed development would not be expected to result in any significant harm to air quality (either during or post construction); no objections in respect of air quality issues have been raised by the District Council's Environmental Protection team.

### **Neighbours' and Future Occupiers' Amenities**

In terms of amenity issues, the impacts of the proposed development need to be considered both in terms of the impacts on existing residents arising from the proposed development (including, in particular, construction noise), as well on the future living conditions of residents of the proposed development, having regard to the site's location. Insofar as the impacts of



construction noise on existing residents, and the suitability of the site for residential development given its relationship to existing nearby land uses etc are concerned, it is considered that there are no significant differences between the approved and proposed revised schemes which would indicate that a different conclusion ought to be reached in this regard.

The principal difference between the schemes in terms of residential amenity issues is, it is considered, the impact of the proposed Nottingham Road access on existing occupiers. In particular, it is considered that the provision of a new access road between nos. 1 and 7 Nottingham Road has the potential to result in increased noise to the rear of existing properties (and, not least, nos. 1 and 7). The Environmental Statement does not identify any specific unacceptable impacts from and it is noted that no objections are raised in this regard by the District Council's Environmental Protection team. It is considered that, on balance, whilst it would seem likely that some impacts would result from the development, they would not be so harmful as to warrant refusal and could, to a significant degree, be mitigated by provision of suitable screening. From a design perspective, the Local Planning Authority would usually seek to secure brick walls (as opposed to fencing) in locations prominent from the public realm so, in that respect, provision of such features would, it is considered, assist in mitigating the impacts.

### **Loss of Agricultural Land**

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

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. However, in allowing the previous appeal, the Secretary of State accepted that, whilst the proposed development would result in the loss of agricultural land, the scheme would, on balance, satisfy the environmental role of sustainable development.

### **Geotechnical Issues and Land Contamination**

The applicants have undertaken a non-intrusive Geo-environmental and Geotechnical Desk Study, and the Environmental Statement assesses the potential impacts of the proposed development to various receptors, including residents of the proposed development, controlled waters, flora and fauna and the built environment; mitigation, and including more detailed ground investigations, is recommended. No significantly different impacts are identified from those previously considered, and the proposals are considered acceptable in this regard.

### **Proposed Main Town Centre Uses**

The Planning Statement sets out that, as per the previous scheme, the revised proposals include for up to 560sqm retail space as part of two new local centres. There are therefore no material changes from the approved scheme which would indicate that the scheme is no longer acceptable in respect of retail issues.

### **Design**

The proposed scheme is outline only, with all matters other than part access reserved for later consideration. A number of issues were raised by the District Council's Urban Designer in respect of the earlier application and, it is considered, these would largely remain to be addressed in terms of the current application.

As such, as per the view taken at the time that the previous application was considered, whilst further work is required in respect of this issue it is not considered that approval of the outline application would, in this case, unacceptably fetter the prospects of achieving a sound design approach. As per the appeal decision, any approval granted could include appropriate conditions (and including reference to Building for Life 12) and, subject to this, the proposed development is considered acceptable at this outline stage.

It is noted that the proposed access to Nottingham Road would result in the demolition of two semi-detached twentieth century dwellings. It is considered that, whilst forming a relatively attractive pair of dwellings, their loss would be neither significant or unacceptable in the street scene, and would not result in any harmful gap to the detriment of the existing amenity or historical interest of Nottingham Road.

## 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 proposed infrastructure and other developer contributions / Section 106 obligations are as set out in the preceding sections of this report (including in respect of accessibility / transportation and the River Mease DCS) and as listed below.

In allowing the previous appeal, the Secretary of State had regard to a unilateral undertaking entered into by the appellants. This secured the following which, in the Secretary of State's view, met the relevant statutory and policy tests:

- Affordable Housing (30%, subject to viability)
- Contribution of £219,029 in respect of policing
- Contribution of £201,878.28 in respect of healthcare
- Provision of a community facility building of minimum floorspace 410sqm
- Contribution in respect of River Mease mitigation (sum dependent on the final form of development provided)
- On-site public open space / children's play
- Contribution of £18,260 in respect of libraries
- Contributions in respect of education, including provision of a new on-site primary school (or off-site primary school contribution of £1,756,776.25), high school contribution of £1,081,508.29 and upper school contribution of £1,110,487.18
- Construction traffic routeing
- Provision of travel packs to new residents (or payment of £52.85 per dwelling to Leicestershire County Council to provide them on the developer's behalf)
- Provision of bus passes to new residents (or payment of £650 per dwelling to Leicestershire County Council to provide them on the developer's behalf)
- Contribution of £11,674 in respect of improvements to bus stops on Nottingham Road
- Contribution of £5,000 in respect of implementation of a Traffic Regulation Order

- Contribution of £105,651 in respect of public rights of way improvements
- Enhanced connectivity contribution of £400,000
- Travel Plans / monitoring
- Section 106 monitoring

It is understood from the applicants that they intend to enter into an equivalent Section 106 obligation in respect of the revised application (albeit likely to be in the form of an agreement rather than a unilateral undertaking). Subject to the agreement of the relevant service providers in any subsequent negotiations entered into in respect of the Section 106 obligation and appropriate framing of the obligations, it is considered that this would be an appropriate approach in this case in principle. Insofar as the education contribution is concerned, however, Leicestershire County Council comments that the primary school contribution listed above would be appropriate if the Local Education Authority was to use the funding to extend the school on the Holywell Spring farm site or any other existing school site. In the event that a new school is required on the Money Hill site, however (which, the County Council considers is likely), it would require the Section 106 agreement to either provide sufficient funding to build the core of a 210 place school at a cost of around £3,555,000, or to require the developer to build it. In response, the applicants comment that they cannot be asked to pay more than the sum which policy requires, particularly given that they are also providing a serviced site at no additional cost to the County Council, and are also making what they consider to be significant other education payments. They also comment that other payments expected to be secured in respect of the Woodcock Way and Arla Dairies sites would be available to the County Council for the new Money Hill school. It is not considered that the County Council's favoured approach is necessarily unreasonable, nor is it clear why the applicants consider it to not meet policy requirements. However, it is also acknowledged that the applicant's proposals reflect the position taken on the earlier application, accepted on appeal by the Secretary of State as appropriate, and this matter would therefore appear to require further consideration by the parties. It is recommended, however, that officers be authorised to agree an appropriate contribution through the Section 106 negotiations having regard to the above.

#### *Conclusions*

Overall, therefore, it is considered that the extent of differences between the currently proposed scheme and the scheme approved on appeal is limited, and that those differences that do apply would not indicate that the scheme no longer constitutes sustainable development nor that approval of the revised scheme ought to be withheld. Approval subject to Section 106 obligations and conditions is therefore recommended.

#### **RECOMMENDATION- PERMIT, subject to Section 106 Obligations, subject to no contrary representations being received by 8 July 2016, and subject to the following conditions:**

- 1 Save for the details of vehicular access into the site from Nottingham Road and the A511, details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for the relevant phase (as defined under Condition 5 below) shall be submitted to and approved in writing by the Local Planning Authority before any development begins in respect of the relevant phase.

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

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access save for the details of vehicular access into the site from Nottingham Road and the A511, appearance, landscaping, layout, and scale shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

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

- 3 Application for approval of the reserved matters for the relevant phase (as defined under Condition 5 below) 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 for that phase to be approved.

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

- 4 The proposed development shall be carried out strictly in accordance with the following plans:
- Application Boundary Plan (020 Rev L - 30.04.2015)
  - Site access plans (11-T097\_30 and 11-T097\_40.1)

*Reason - In the interests of certainty.*

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

*Reason - To ensure that the development of the site (including where undertaken in a phased manner) takes place in a consistent and comprehensive manner, and to ensure that the proposed development delivers the proposed residential and non-residential development at the appropriate time.*

- 6 A total of no more than 605 dwellings shall be erected on the area shown as "Residential" (17.53 hectares), "Health / Residential" (0.52 hectares) and "Extra Care / Residential / Community Hall" (0.62 hectares) as shown on Parameter Plan 1 - Land Use and Amount (021.1 Rev H 10.06.2015).

*Reason - To define the scope of the permission.*

- 7 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 as set out in the Environmental Statement, including timetables for their provision in respect of the development (or, in the case of phased development, in respect of that phase), have been submitted to and agreed in writing by the Local

Planning Authority. The measures shall be implemented in accordance with the agreed details and timetables.

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

- 8 No development shall commence on the site until such time as a Design Code for the entirety of the developed area shown on Parameter Plan 1 - Land Use and Amount (021.1 Rev H 10.06.2015) has been submitted to and agreed in writing by the Local Planning Authority. The Design Code shall substantially accord with the principles and parameters described and illustrated in the Design and Access Statement, and demonstrate compliance with Building for Life 12 (or any subsequent replacement standard issued by the Design Council / CABE or any successor organisation). The development shall thereafter be carried out in accordance with the agreed Design Code.

*Reason - To ensure an appropriate form of design, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 9 Notwithstanding the submitted details, no construction work shall commence on site until such time as intrusive site investigation works in respect of potential risks to the proposed development arising from former coal mining operations together with precise details of any required mitigation and a timetable for its implementation have been submitted to and agreed in writing by the Local Planning Authority. Where the agreed details indicate that mitigation is required, the development shall be carried out strictly in accordance with the agreed mitigation and timetable.

*Reason - To ensure the safe development of the site.*

- 10 No reserved matters applications shall be submitted until such time as a scheme of hydraulic calculations / modelling to confirm actual flood plain outlines from the on-site Money Hill and Falstaff Brooks submitted to and agreed in writing by the Local Planning Authority. The calculations / modelling shall include:
- Assessing the flood extents for the channel capacity, 20 year, 100 year, 100 year plus 20% (for climate change) and 1,000 year (5%, 1%, 1% plus 20% increase in flow, and 0.1%) flood event levels;
  - A comparison of the watercourse, hydraulic and topographic information for the above flood levels to confirm the likely extent and depth of flooding and Flood Zone classification at the site;
  - Topographic survey to GPS Ordnance Datum (adjusted to Ordnance Survey GPS, where traditional surveying methods are used) and any other topographic level information provided corrected to Ordnance Survey GPS; and
  - Appropriate plans and cross-section(s) of the site extending through the watercourse and beyond (where necessary), detailing the site layout and levels and the predicted flood levels, with the above flood event outlines marked on the plan(s) as contour lines.

*Reason - To confirm that no buildings or surface water attenuation areas will be located within Flood Zone 2 or Flood Zone 3; and to reduce the risk of flooding to the proposed development and future occupants.*

- 11 The development hereby permitted shall not be carried out other than in strict accordance with the submitted Flood Risk Assessment (FRA) dated 1 May 2015, ref. 031052 (ES Appendix 14-1) and Drainage Strategy Revision 01, dated 1 May 2015, ref.

031052 (ES Appendix 14 -2) and the following mitigation measures detailed within the FRA:

- Limiting the discharge rate for surface water run-off and provision of surface water attenuation storage on the site, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site - FRA sections 5.3 and 7.4, and Drainage Strategy sections 3.1, 5.1, 7.1 to 7.3.6;
- Management of Silt and the prevention of pollution of the watercourse during the construction phase - FRA section 7.3;
- Provision of safe access and egress within the site - FRA section 7.2;
- Finished floor levels - FRA section 7.1

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

*Reason - To prevent flooding by ensuring the satisfactory storage / disposal of surface water from the site and to reduce the risk of flooding to the proposed development.*

12 Notwithstanding the submitted details and other conditions, no development shall commence on the site until such time as a surface and foul water drainage scheme for the entire developed area shown on Parameter Plan 1 - Land Use and Amount (021.1 Rev H 10.06.2015) (or, in the case of phased development, for the relevant phase of the development), based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, together with a timetable for its implementation in respect of the development (or, in the case of phased development, for that phase), has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the agreed details and timetable. The scheme shall include:

- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;
- Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm;
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

No development shall be carried out (or, in the case of phased development, no development in that phase shall be carried out), nor any part of the development shall be brought into use at any time unless in accordance with the agreed scheme and timetable.

*Reason - To prevent the increased risk of flooding, to improve and protect water quality, to*

*improve habitat and amenity, and to ensure the development is provided with a satisfactory means of drainage.*

- 13 The development hereby permitted shall not be commenced until such time as a scheme to detail each individual watercourse crossing (including pedestrian footbridge and vehicular crossings) demonstrating that no raising of ground levels, nor bridge soffit levels as set will result in elevated flood levels, and that there will be no loss of flood plain storage due to the provision of any new crossing of the Money Hill Brook, has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Environment Agency and Lead Local Flood Authority (LLFA). The scheme shall include, but not be exclusive of:
- Limiting the number of crossings of the Money Hill Brook, and removal/upgrade of any existing crossings;
  - Crossings to be provided as clear span bridges or arches in preference to any culverting (including the upgrading of existing crossings, where upgrading is required or proposed);
  - Bridge soffits set a minimum of 600mm above the modelled 100 year plus 20% (for climate change) flood level applicable at the crossing site;
  - Bridge abutments set back beyond the top of the natural bank of the watercourse;
  - Where necessary, culverts designed in accordance with CIRIA C689 (including up sizing to provide a free water surface and natural bed), and to have a minimum width / length of culvert essential for access purposes;
  - Provision of compensatory flood storage for all ground levels raised within the 100 year flood plain applicable at any crossing sites, including proposed location, volume (calculated in 200mm slices from the flood level) and detailed design (plans, cross, and long sections) of the compensation proposals;
  - Compensatory flood storage provided before (or, as a minimum, at the ground works phase) of the vehicle bridge and any other crossing construction;
  - Detailed designs (plans, cross, long sections and calculations) in support of any crossing;
  - Details of how the scheme shall be maintained and managed after completion; and
  - A timetable for the relevant works.

The scheme shall be fully implemented and subsequently maintained in accordance with the approved details including the timing / phasing arrangements embodied within the scheme.

*Reason - To avoid adverse impact on flood storage, to reduce the risk of flooding to the proposed development and future occupants, to reduce the risk of flooding to adjacent land and properties, to improve and protect water quality, to improve habitat and amenity, and to ensure future maintenance of the surface water drainage system.*

- 14 No development shall commence until a construction working method statement to cover all watercourse works (including pedestrian and vehicular crossings and any other works within 8 metres of any watercourse) has been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme.

*Reason - To protect local watercourses from the risk of pollution.*

- 15 Notwithstanding the submitted details and other conditions, no development (save for demolition works) shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until a further Risk Based Land Contamination

Assessment has been submitted to and agreed in writing by the Local Planning Authority (or, in the case of phased development, in respect of that phase). The Risk Based Land Contamination Assessment shall identify all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination at the site and 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, published by the 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.*

- 16 If, pursuant to Condition 15 above, any unacceptable risks are identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan 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, published by the Environment Agency 2004, and the Verification Plan (which shall identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action) shall be prepared in accordance with the requirements of Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010, and CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004. If, during the course of development, previously unidentified contamination is discovered, development 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 agreed 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.*

- 17 No part 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 approved Remedial Scheme relevant to either the whole development or that part of the development and a report showing the findings of the Verification Investigation for the relevant part of the site has been submitted to and agreed in writing by the Local Planning Authority. The Verification Investigation Report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
  - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;



- Contain Movement Permits 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 approved 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.*

- 18 There shall be no infiltration of surface water drainage into the ground at any time other than in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Development shall be undertaken strictly in accordance with the submitted Outline Construction Environmental Management Plan (Revision 02, 1 May 2015, ref. 031052).

*Reason - To protect controlled water receptors.*

- 19 Notwithstanding the submitted details and other conditions, no development shall commence in any phase until such time as a timetable for the undertaking of updated surveys in respect of badgers in 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 in that phase unless the relevant surveys have been undertaken in accordance with the approved details 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.*

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

*Reason - In the interests of nature conservation.*

- 21 Notwithstanding the submitted details and other conditions, the first reserved matters application in respect of the development (or, in the case of phased development, the first reserved matters application in respect of the relevant phase) shall be accompanied by full details of all measures proposed in respect of the enhancement and / or management of the ecology and biodiversity of the development (or in respect of phased development, that phase), including proposals in respect of future maintenance and a timetable for the implementation of the relevant measures. The development shall thereafter be undertaken and occupied in accordance with the agreed measures and timetable.

*Reason - In the interests of nature conservation.*

- 22 Notwithstanding the submitted details, all reserved matters applications for the erection of non-residential development shall include full details of the proposed buildings' anticipated level of achievement in respect of criteria / sub-categories contained within the Building Research Establishment's Environmental Assessment Method (BREEAM). No building shall be brought into use until such time as an assessment of the building has been carried out by a registered BREEAM assessor and a BREEAM Certificate has been issued for the relevant building certifying that the relevant BREEAM Level has been achieved.

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

- 23 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking or re-enacting that Order), the total gross floorspace of uses falling within Class A1 of that Order shall not exceed 560 square metres at any time, nor shall the total gross floorspace of any single retail unit exceed 460 square metres at any time, unless planning permission has first been granted by the Local Planning Authority.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority, for the avoidance of doubt, and to ensure satisfactory control over the impact of the development on nearby centres.*

- 24 The first reserved matters application submitted pursuant to this permission (or, in the case of phased development, the first reserved matters application in respect of the relevant phase) shall include a detailed Archaeological Mitigation Strategy for the respective area(s). The Strategy shall be based upon the results of a programme of exploratory archaeological fieldwalking and trial trenching undertaken within the relevant area(s) in accordance with a Written Scheme of Investigation (WSI) first submitted to and agreed in writing by the Local Planning Authority. Both the WSI and final Strategy shall include an assessment of significance and research questions, and:
- The programme and methodology of site investigation, recording and post-investigation assessment (including the initial fieldwalking and trial trenching, assessment of results and preparation of an appropriate mitigation scheme);
  - The programme for post-investigation assessment;
  - Provision to be made for analysis of the site investigation and recording;
  - Provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - Provision to be made for archive deposition of the analysis and records of the site investigation;
  - Nomination of a competent person or persons / organisation to undertake the works set out within the Written Scheme of Investigation; and
  - A detailed timetable for the implementation of all such works / measures.

No development shall take place at any time within the relevant area other than in accordance with the agreed Written Scheme of Investigation, Strategy and timetable for that area.

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

- 25 Notwithstanding the submitted details and other conditions, no development shall commence on the site until such time as a scheme of structural landscaping to the A511 (indicating species, densities, sizes and numbers of proposed planting both within and outside of the application site, as appropriate, together with all existing trees and hedgerows on the land including details of those to be retained, and those to be felled / removed), together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. No development shall be occupied at any time unless all measures specified in the agreed scheme required to be implemented by the relevant stage / phase have been undertaken in full in accordance with the agreed details.

*Reason - In the interests of amenity and to ensure that the development is appropriate in its National Forest setting.*

- 26 Notwithstanding the submitted details and other conditions, no development shall commence (or, in respect of a phased development, no development shall commence in the relevant phase) until such time as details specifying which of the proposed tree protection measures shown on drawing no. SJA TPP 15068-01.1a Rev A (Arboricultural Implications Report May 2015, Appendix 3) within the development (or, in respect of a phase development, that phase) are proposed to be implemented in respect of the construction of the proposed accesses / roads (together with a timetable for their implementation) have been submitted to and agreed in writing by the Local Planning Authority. No development (or, in respect of a phased development, no development in the relevant phase) shall be undertaken at any time unless all of the agreed protection measures relating to the relevant stage / phase are in place. 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.

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

- 27 Save for any works associated with the formation of the access as shown on drawing no. 11-T097\_30, no part of the development shall be occupied until such time as the A511 site access junction as shown on drawing no. 11-T097\_30 has been provided in full and is available for use by vehicular traffic.

*Reason - To provide vehicular access to the site, including for construction traffic, and in the interests of highway safety.*

- 28 No development shall commence on the site until such time as a scheme for the provision of a new or diverted bus service serving the development, and providing a connection between the site and Ashby de la Zouch town centre, has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall include hours of operation, service frequencies, routeing and provision of necessary on and off site infrastructure (including pole and flag, bus shelter, raised kerbs and information display cases). The scheme shall include any works / measures required for the initial implementation of the scheme, together with a phased programme for the implementation of any measures required by the scheme as the development progresses. No more than 131 dwellings constructed pursuant to this Planning Permission shall be occupied until such time as the whole of the approved scheme is fully operational.

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

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

*Reason - In the interests of highway safety and to prevent unacceptable on-street parking.*

- 30 No more than 150 dwellings shall be accessed off Nottingham Road.

*Reason - To limit access to the site off Nottingham Road.*

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 Your attention is drawn to the attached report of the Coal Authority.
- 3 Your attention is drawn to the attached report of Severn Trent Water.
- 4 Your attention is drawn to the attached report of the Environment Agency.
- 5 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.
- 6 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer.
- 7 Your attention is drawn to the attached report of Leicestershire County Council in its capacity as Lead Local Flood Authority.
- 8 Your attention is drawn to the attached report of Natural England.
- 9 Your attention is drawn to the attached report of the National Forest Company; the applicants are advised to have regard to the advice provided when formulating the detailed proposals at the reserved matters stage(s).
- 10 The applicants are advised that the Local Planning Authority will expect any associated reserved matters application to demonstrate compliance with Building for Life 12 and, in particular, to include have regard to the provision of a suitable gateway to the site from the A511.
- 11 The applicants are advised that the Local Planning Authority will expect any associated reserved matters application to include provision for suitable, robust, boundary treatment and landscaping adjacent to existing residential property in the vicinity of the proposed Nottingham Road access.

Erection of four detached dwellings with associated off-street parking and new vehicular access off Manor Drive

Report Item No  
A4

Land Off Manor Drive Worthington Leicestershire

Application Reference  
16/00450/FUL

Applicant:  
IJA Property Ltd And Adam Page

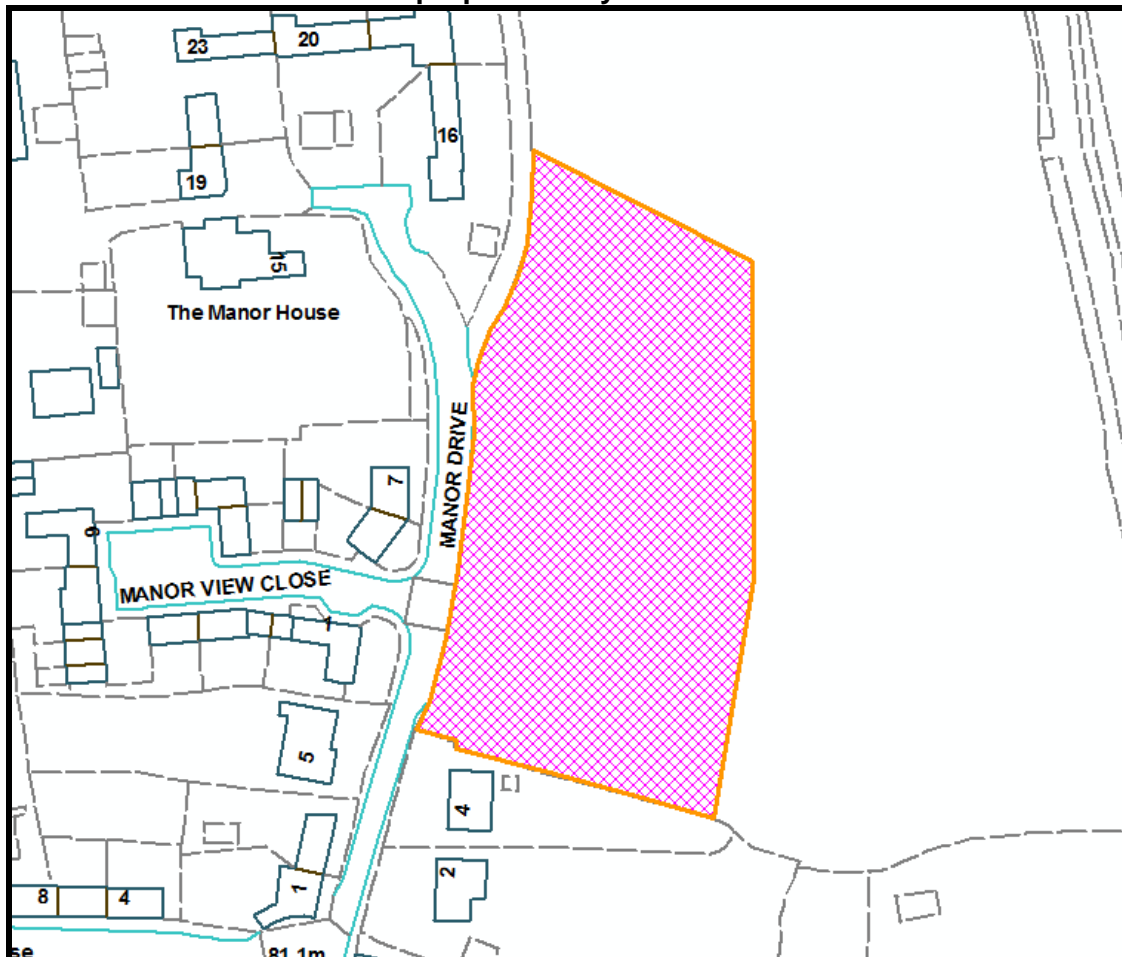
Date Registered  
3 May 2016

Case Officer:  
Adam Mellor

Target Decision Date  
28 June 2016

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 as the planning agent is related to a serving councillor (Councillor Blunt) and contrary representations to the recommendation to permit the application have been received.

### Proposal

Planning permission is sought for the erection of four detached dwellings with associated off-street parking and vehicular accesses at land off Manor Drive, Worthington. The application site is situated on the eastern side of the highway and is outside the defined Limits to Development with residential properties being situated to the west and south.

### Consultations

A total of 9 representations have been received with 5 of those representations opposed to the development and 4 in support of the development. Consultation responses from Worthington Parish Council, County Council Highways, Environmental Protection and Severn Trent Water are outstanding and will be reported to Members on the Update Sheet. All other statutory consultees have raised no objections subject to the imposition of conditions on any consent granted.

### Planning Policy

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

### Conclusion

Although the application site is a greenfield site outside the defined Limits to Development it is considered that the conflict with the environmental strand of sustainability would be outweighed by the positive social and economic sustainability credentials of the site particularly as the development would not be isolated from built forms and would not adversely impact on the openness of the rural environment. Consideration also needs to be given to the fact that the Local Authority is unable to demonstrate a five year housing land supply. Overall the development would be compliant with the key principles of the NPPF as well as Paragraphs 28 and 55. No significant impacts upon best and most versatile agricultural land (defined as Grades 1, 2 and 3a of the Agricultural Land Classification) have been established and, as such the development would not conflict with Paragraph 112 of the NPPF.

It is considered that the density proposed whilst lower than what would be considered appropriate under Policy H6 of the adopted Local Plan is an acceptable use of the land in this instance considering the importance in ensuring that the development is of an appropriate design and that a landscape buffer is supplied.

The dwellings have been positioned so as to ensure an acceptable level of amenity is maintained with existing residential dwellings on Manor Drive and Manor View Close, with the position and orientation of the dwellings also ensuring future amenities would be adequately protected. Overall, therefore, the proposal accords with Paragraph 123 of the NPPF as well as

Policy E3 of the adopted Local Plan.

It is considered that the development would act as a 'natural' completion of the 'cul-de-sac' which would be created on Manor Drive and would respect the linear nature of development progressed along the eastern side of Manor Drive and Main Street, as such it would integrate into the existing built environment. The proposed scale and heights of the dwellings would also be consistent with those which exist on Manor Drive, particularly those of the new development at Manor View Close, and would include design detailing which the Local Authority considers desirable. On this basis the development is considered compliant with Paragraphs 59, 60 and 61 of the NPPF and Policies E4 and H7 of the adopted Local Plan.

The final comments of the County Highways Authority will be reported to Members on the Update Sheet but given that the proposed development would not add considerably to the total number of vehicular movements which occur on Manor Drive, particularly given the recent construction of 12 dwellings, it is considered that the relative width of the highway and visibility available at the junction would be sufficient and would ensure that the vehicular movements associated with four additional properties would not severely impact on pedestrian or highway safety. Adequate manoeuvring facilities would also be provided within the individual plots to enable vehicles to exit in a forward direction and assess the movement of vehicles on Manor Drive before exiting the plot. On this basis the proposal would be compliant with Paragraph 32 of the NPPF and Policy T3 of the adopted Local Plan. Each dwelling would also be provided with a sufficient level of off-street parking so as to reduce the possibilities of the proposal creating, or contributing to, any off-street parking problem. On this basis the proposal is compliant with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan. Pedestrians utilising the public byway would also not be compromised by the additional vehicular movements associated with the dwellings given the speed of traffic on Manor Drive and clear visibility available.

Subject to the imposition of a landscaping condition on any consent granted, to secure native species planting, it is considered the proposal would accord with Policy E7 of the adopted Local Plan.

There are no ecological or archaeological constraints associated with the site and therefore the development would be compliant with Paragraphs 118 and 141 of the NPPF and Circular 06/05.

As the site lies within Flood Zone 1, and is also not in a critical surface water drainage area, it is considered that any surface water drainage solution would not exacerbate any localised flooding impact. As the surface water drainage solution would be subject to a separate legislative procedure, which would have to ensure flood risk is not increased elsewhere, it is considered the development would accord with Paragraph 103 of the NPPF. Foul drainage would be directed to the mains sewer with such a connection being agreed with Severn Trent Water under separate legislation. Such a proposal would be acceptable in the context of Paragraph 120 of the NPPF.

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

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of four detached dwellings with associated off-street parking and new vehicular access off Manor Drive, Worthington. The 0.39 hectare site is currently used for agricultural purposes and is located on the eastern side of Manor Drive to the north of no. 4 and south-east of no. 16. It is identified on the Proposals Map to the adopted Local Plan that the site is outside the defined Limits to Development with the surrounding area comprising residential dwellings of differing design and scales to the north-west, west, south-west and south along with open agricultural land to the north and east.

The dwellings to be constructed on the site would be of the following scales and types: -

Plot 1 - 4 bed two-storey detached dwelling with a floor area of 158.0 square metres and use of a gable ended pitched roof with a ridge height of 8.8 metres.

Plot 2 - 4 bed three-storey (habitable accommodation in the roof slope) detached dwelling with a floor area of 155.0 square metres and use of a gable ended pitched roof with a ridge height of 9.7 metres.

Plot 3 - 4 bed two-storey detached dwelling with a floor area of 168.0 square metres and use of a gable ended pitched roof with a ridge height of 9.0 metres.

Plot 4 - 4 bed two-storey detached dwelling with a floor area of 298.0 square metres and use of a gable ended pitched roof with a ridge height of 8.8 metres.

Each plot would be served by its own vehicular access onto Manor Drive with double garages being supplied to each plot which would cover ground areas of 43.56 square metres and utilise gable ended pitched roofs of 5.5 metres. The exception to this being the garage to plot 4 which would have a first floor studio accessed by an external staircase which would lead to the ridge height being 6.2 metres.

A design and access statement has been submitted in support of the application.

No recent planning history was found.

### 2. Publicity

23 no.neighbours have been notified (Date of last notification 4 May 2016)

Site Notice displayed 6 May 2016

Press Notice published 18 May 2016

### 3. Consultations

Clerk To Worthington Parish Council consulted 4 May 2016

County Highway Authority consulted 1 June 2016

Severn Trent Water Limited consulted 4 May 2016

Head of Environmental Protection consulted 4 May 2016

County Archaeologist consulted 4 May 2016

LCC ecology consulted 4 May 2016



LCC/Footpaths consulted 4 May 2016  
 NWLDC Footpaths Officer consulted 4 May 2016

#### 4. Summary of Representations Received

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

**Leicestershire County Council - Archaeology** has no objections and considers that no archaeological mitigation is required as part of the development.

**Leicestershire County Council - Ecology** has no objections subject to locally native species of planting being provided as part of a landscaping scheme to the northern and eastern boundaries.

**Leicestershire County Council - Footpaths** has no objections subject to the provision of notes to the applicant on any consent granted.

**Leicestershire County Council - Highways Authority** provided initial advice in respect of the proposed development removing the turning head off Manor Drive and that the visibility splays provided to plot 1 were inadequate. An amended plan has been received to address these matters and a revised response is awaited, this will be reported to Members on the Update Sheet.

**NWLDC - Environmental Protection** no representation received to date, any response received will be reported to Members on the Update Sheet.

**Severn Trent Water** no representation received to date, any response received will be reported to Members on the Update Sheet.

**Worthington Parish Council** no representation received to date, any response will be reported to Members on the Update Sheet.

#### Third Party Representations

Five letters of representation have been received objecting to the development with the comments raised being summarised as follows: -

- Manor Drive is not of a sufficient width to allow two vehicles to pass each other and additional dwellings will only add to this problem;
- Junction of Manor Drive with Church Street/Main Street is not suitable for additional vehicular movements due to the sharpness of any right turn and level of visibility;
- Vehicles associated with new development at Manor View Close impact on the safe usage of the carriageway;
- Building of dwellings on the land will result in the loss of a view;
- Surface water drainage from Manor Drive continues to be an issue during heavy rainfall;
- Garage to plot 1 could be relocated and reduced in height to lessen impact on the view;
- Bedroom window in side gable of plot 1 should be relocated to avoid overlooking impacts;
- The local bus service is under threat and does not run at convenient times for shift workers at the airport;
- Three-storey dwelling may prove difficult to sell given that other such dwellings in the settlement have failed to sell;

- Stock proof fencing is not necessary as agricultural land is arable;
- Buffer planting will not be provided given that this failed to be provided on Manor View Close and simply became garden land;
- Difficult to support the view that development enhances the visual appearance of the land given that this and the development on Manor View Close terminates all views of Cloud Hill Wood;
- School would not be able to deal with additional influx of pupils;
- Sewerage system will not be able to accommodate additional drainage from these four dwellings;
- Flood Zone 3 is within close proximity to the site;
- Plot 3 would result in overshadowing and overlooking impacts to those dwellings opposite on Manor View Close;
- Development will prevent access to our off-street parking spaces;
- Users of the public byway will be impacted on by the development along with the width of the public footpath;
- Application site is a greenfield site and therefore should not be built upon;
- If constructed the highway should be kept clear of debris and mud given a field would be built upon;

Four letters of representation have been received supporting the development with the comments raised being summarised as follows: -

- Development being limited to four dwellings will minimise the increase in traffic;
- Design is in keeping with existing properties on Manor Drive with houses spaced in a non-regimented fashion;
- Provision of gardens and shrubs which improves appearance;
- Houses have individual garages and driveways to remove parking of vehicles on Manor Drive;
- Four dwellings more suitable infill than estate created at Manor View Close.

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

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

- Paragraph 10 (Achieving sustainable development);
- Paragraph 14 (Presumption in favour of sustainable development);
- Paragraph 17 (Core planning principles);
- Paragraph 28 (Supporting a prosperous rural economy);
- Paragraph 32 (Promoting sustainable transport);
- Paragraph 39 (Promoting sustainable transport);

Paragraph 49 (Delivering a wide choice of high quality homes);  
Paragraph 53 (Delivering a wide choice of high quality homes);  
Paragraph 55 (Delivering a wide choice of high quality homes);  
Paragraph 57 (Requiring good design);  
Paragraph 60 (Requiring good design);  
Paragraph 61 (Requiring good design);  
Paragraph 75 (Promoting healthy communities);  
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);  
Paragraph 118 (Conserving and enhancing the natural environment);  
Paragraph 120 (Conserving and enhancing the natural environment);  
Paragraph 123 (Conserving and enhancing the natural environment);  
Paragraph 141 (Conserving and enhancing the historic environment);  
Paragraph 203 (Planning conditions and obligations);  
Paragraph 206 (Planning conditions and obligations);

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

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

Policy S3 - Countryside;  
Policy E3 - Residential Amenities;  
Policy E4 - Design;  
Policy E7 - Landscaping;  
Policy T3 - Highway Standards;  
Policy T8 - Parking;  
Policy H4/1 - Housing Land Release;  
Policy H6 - Housing Density;  
Policy H7 - Housing Design.

### **Draft Consultation North West Leicestershire Local Plan**

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, as the proposed publication version of the Local Plan is to be considered by Council on 28th June with a view to its submission for examination in September, more weight can now be attributed to its policies at this stage.

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

### **Other Policies**

#### **National Planning Practice Guidance**

In March 2014 the Government published National Planning Practice Guidance (NPPG) to

supplement the NPPF. The Guidance does not change national policy but offers practical guidance as to how such policy is to be applied;

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

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

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

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

**6. Assessment**

**Principle of the Development**

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

With regards to the application site it is noted that it lies outside the defined Limits to Development with residential dwellings not being a form of development permitted by Policy S3 of the adopted Local Plan.

The Inspector's decision concerning the recent Greenhill Road appeal (ref: APP/G2435/W/15/3005052) sets out that the Authority is currently unable to demonstrate a five year supply of housing land. This means that "saved" adopted Local Plan policies that are concerned with housing supply, such as S3 and H4/1, must be considered to be out of date, and accordingly 'weight' should not be afforded to them when determining planning applications. The NPPF includes a clear presumption in favour of sustainable development, which taken together with the current inability to demonstrate a five year supply, indicates that planning permission for new homes should normally be granted in sustainable locations.

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

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

With regards to the sustainability credentials of the site, it is noted that in previous assessments of applications reference has been made to the Department of Transport (DoT) statistics which outlined that the average trip length undertaken by foot would be 1000.0 metres. However, in a

recent appeal decision relating to a residential development on Willesley Road in Ashby De La Zouch (ref: APP/G2435/W/15/3027396) the Inspector concluded that such a statistic does not take into account those people who would walk but are put off by such distances and choose to travel by alternative means. In the aforementioned appeal, reference was made to the Institute of Highways and Transportation document 'Providing for Journeys on Foot' and in respect of a rural environment the acceptable walking distance to services was considered to be 800 metres or 1000 metres for a school. On the basis of these distances a shop/post office (St Matthews Avenue - 260.0 metres), recreation ground (St Matthews Avenue - 278.0 metres); public house (The Malt Shovel, 29 Main Street - 362.0 metres), church (St Matthews Church, Church Street - 359.0 metres), bus stop for one service (Robert Coaches Air Link Service 155 1 hourly between Coalville and East Midlands Airport Monday to Saturday - 359.0 metres on Church Street) and school (Worthington Primary School, Main Street - 181.0 metres) would be within an acceptable walking distance. The walk to these services could largely be carried out along maintained footpaths which are well lit.

Having regard to the location of the site it is considered that residents of the development would have access to services which would meet their day to day needs (i.e. a shop) with other facilities and employment opportunities being accessible by utilising the public transport option. In this circumstance it is considered that a scheme for four dwellings would score well against the social sustainability advice contained within the NPPF with occupants of the property also assisting in sustaining these services for the future which is a key intention of Paragraphs 28 and 55 of the NPPF.

From an environmentally sustainable point of view the site is outside the defined Limits to Development and therefore assessed in the context of Policy S3 of the adopted Local Plan with the site adjoining the Limits to Development on its northern and southern boundaries. The topography of the site sees land levels falling from west to east and north to south.

As identified above no weight can be afforded to Policy S3 in the determination of the application, given the absence of a five year housing land supply, and therefore a determination would need to be made as to whether the proposed development would be 'isolated' or would impact adversely on the 'openness' of the rural environment in the context of Paragraph 55 of the NPPF. The site is bordered by existing residential development to the west, south and north-west and in this context it is difficult to determine that the dwellings would be 'isolated'. Although the proposal would result in some impact on the openness of the rural environment, due to a greenfield site being built upon, it is proposed that the dwellings would be constructed in close proximity to Manor Drive and when viewed from the public domain in both close and far views the dwellings would be viewed in connection with existing built forms. The concentration of dwellings on Manor Drive, with the development being viewed as a natural completion of the 'cul-de-sac', would also reduce the overall visual implications given that the scale of the dwellings would be comparable with neighbouring properties. As a result of this the implications to the 'openness' of the rural environment would not be so adverse as to resist the development proposal.

The application site falls within Grade 3 of the Agricultural Land Classification but it has not been established whether the land is Grade 3a or Grade 3b and, therefore, whether any BMV would be affected. However, even if the site does fall within the 3a classification, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in a loss of between 20 and 50ha, and those of 50ha and above respectively). It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process. A

loss of less than 1 hectare of agricultural land is not considered to represent a significant loss and, therefore the scheme is considered to be acceptable in this regard. It is also noted that the proposal would not disrupt the agricultural operations undertaken on the remaining land.

In conclusion whilst there would be some conflict with the environmental strand of sustainability, given the setting of the dwellings, this conflict would not be substantial due to the positioning of the dwellings in close proximity to the highway and their association with built forms with it also being of relevance that the Council does not have a five year housing land supply. This conflict would also be outweighed by the positive economic and social benefits associated with the development and as such the principle of the development would be acceptable.

### **Density**

Policy H6 of the adopted Local Plan seeks to permit housing development which is of a type and design to achieve as high a net of density as possible taking into account factors such as housing mix, accessibility to centres and design. Policy H6 of the adopted Local Plan also requires a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services and a minimum of 30 dwellings per hectare elsewhere.

With a site area of 0.39 hectares, the proposed development would have a density of 10.26 dwellings per hectare. Whilst this density would fall significantly below that advised in Policy H6, this policy also identifies that it is important to factor into any assessment the principles of good design as well as green space and landscaping requirements. In the circumstances that the Local Authority values good design in its approach to residential development and that provision has been made to create a landscape buffer to the eastern site boundary it is considered that the proposed density would be an efficient use of the land in this instance

In conclusion whilst there is conflict with Policy H6 this is not considered a suitable reason, in itself, to warrant a refusal of the application.

### **Residential Amenity**

It is considered that the properties most immediately affected by the proposed development would be no. 4 Manor Drive, to the south, nos. 1, 11 and 12 Manor View Close, no. 15 Manor Drive (Manor House) to the west and no. 16 Manor Drive to the north-west.

The separation distances between the principal elevation on plot 1 and no. 1 Manor View Close would be 22.0 metres whereas the distance between plot 3 and nos. 11 and 12 Manor View Close would be 16.00 metres. It is considered that these separation distances would be acceptable in ensuring that no adverse overlooking impacts would arise between habitable room windows. The land sloping downwards away from Manor Drive would also ensure that the scale and height of the dwellings would not result in any adverse overbearing or overshadowing impacts.

It is proposed that the 6.0 metre wide end gable of plot 1 would be set 3.0 metres from the boundary and 5.5 metres from the northern (side) elevation of no. 4 Manor Drive which contains four ground floor windows (serving a kitchen, bathroom, water closet and study) and a first floor roof light (serving a bedroom). In the circumstances that the study and first floor roof light are secondary windows to these rooms it is considered that the proposed proximity and height of plot 1 would not result in any adverse overbearing impacts. No adverse overshadowing impact would occur given that plot 1 is orientated to the north of no. 4. In respect of overlooking impacts first floor bedroom windows are proposed in a rear projection to plot 1 which would be set 10.0

metres from the shared boundary and given this distance it is considered that no adverse overlooking impacts would occur which would warrant a refusal of the application given that such a distance has been deemed acceptable between the new properties at nos. 1, 2 and 3 Manor View Close and no. 5 Manor Drive. The detached garage to plot 1 would be set 12.0 metres to the north-east of the rear elevation of no. 4 and would be orientated so that the roof slopes away from the shared boundary, given this distance, the scale of the garage and extent of garden available to no. 4 it is considered that no adverse impacts would arise.

Plot 4 would be set 15.5 metres from the boundary and 39.0 metres from the elevation of no. 15 Manor Drive (Manor House) and 10.0 metres from the boundary and 24.0 metres from the elevation of no. 16 Manor Drive. Such distances are deemed appropriate in ensuring that no adverse overbearing, overshadowing or overlooking impacts would arise particularly given the amount of garden associated with no. 15 and the position of the private amenity area to no. 16.

An acceptable separation distance between each of the plots within the site would be established, in order to avoid any adverse overbearing or overshadowing impacts, with the positioning of windows also ensuring that no adverse overlooking impacts would arise. In terms of plot 1 it is considered that the relationship with no. 4 Manor Drive would be acceptable, given its one and a half storey nature, with views from the first floor roof light being directed towards the front amenity area of plot 1.

The loss of a view is not a material planning consideration which could be taken into account in an assessment of the application.

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

### **Impact on the Character and Appearance of the Area and Rural Landscape**

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

Manor Drive comprised dwellings clustered around the former Manor Farm and those dwellings positioned in close proximity to the junction of Manor Drive with Main Street/Church Street. However, following the approval of planning application reference 13/00061/FULM, 12 new properties have been introduced on land between no. 5 Manor Drive and the former Manor Farm site which now comprise an estate called Manor View Close. Predominately the properties on Manor Drive and Manor View Close are two-storey detached types with those towards the junction of Manor Drive and Main Street being orientated to address the highway whereas those around The Manor House and on Manor View Close are formed around a central courtyard. It is proposed that the new dwellings would be orientated to address Manor Drive and would be arranged in a linear fashion in order to be consistent with the pattern of development not only on the eastern side of Manor Drive but also the eastern side of Main Street. The extent of the gardens associated with the dwellings would also be consistent with those to properties on the eastern side of Manor Drive and Main Street in order to limit the encroachment onto the existing agricultural land. Given this context it is considered that the proposed development would be a natural completion of the 'cul-de-sac' created on Manor Drive and would respect the characteristics of the existing streetscape. Land levels on the site reduce from west to east and

as such the proposed dwellings would also not be dominant in views established from the wider rural environment given that they would largely be screened by the new dwellings created at Manor View Close which is on higher ground. In any event any view which is established would assess the development in the context of the close relationship it would have with existing built forms of similar scales thereby limiting its impact on the openness of the surrounding agricultural fields.

In respect of the design of the dwellings themselves it is considered that they have been influenced by those created at Manor View Close, which were assessed to be in keeping with the character of dwellings within Worthington, and would include design features which the Local Authority deem desirable including chimneys, stone cills, brick headers, dentil course, eaves and verge detailing and timber framed porches. On this basis the design of the dwellings would respond positively to the visual aesthetics of the streetscape. It is also considered that the scale and height of the dwellings would be consistent with those in the immediate area thereby ensuring that they would integrate into the environment in which they are set.

The submitted plans highlight that red bricks and a mix of slate and plain tiles would be utilised in the construction of the dwellings which would be considered appropriate and consistent with the materials used on neighbouring built forms. Whilst the use of such materials would be acceptable it is considered reasonable to impose a materials condition on any consent granted in order to ensure that the precise materials are agreed as well as consideration being given to alternative materials due to wide use of render and painted brickwork in the surrounding area. The colour and construction finish of the windows could also be controlled via a planning condition.

Public byway M21 runs along Manor Drive before diverting in a north-eastern direction on land that, if permission is granted, would lie between plot 4 and no. 16 Manor Drive. Whilst the dwellings would be visible in views when travelling north to south, and when looking in an eastern direction on Manor Drive, it is considered that they would not obstruct views onto any features of significance in the wider rural landscape and would be assessed in the context of the relationship they would have with existing residential properties which are of similar scales.

Overall the layout, design and scale of the dwellings would be considered appropriate and would ensure compliance with Paragraphs 57, 60 and 61 of the NPPF as well as Policies E4 and H7 of the adopted Local Plan.

### **Highway Safety**

The County Highways Authority in initially commenting on the application highlighted concerns over the loss of a turning head opposite no. 1 Manor View Close given that it had not been made clear whether an Order under Section 247 of the Planning Act would be submitted to stop up this extent of the highway. It was also identified that appropriate visibility splays at the junction of the access to plot 1 with Manor Road had not been provided.

A revised plan has subsequently been submitted which has amended the layout arrangements for plot 1 so that the existing turning head is maintained and will be connected with the vehicular access to this particular plot. Adequate visibility splays have also been provided for plot 1. Reconsultation with the County Highways Authority has been undertaken although revised comments are yet to be received. Comments received after the publication of the Committee Agenda will be reported to Members on the update sheet.

Concerns have been received in respect of the suitability of Manor Drive to accommodate



additional movements, due to its relative width, and that the junction of Manor Drive with Church Street and Main Street lacks adequate visibility and that 'right-turn' manoeuvres are difficult. Manor Drive has been subject to additional vehicular movements associated with 12 dwellings following the approval of application reference 13/00061/FULM and in allowing that application the County Highways Authority raised no concerns over the adequacy of the junction in accommodating these movements nor the width of the carriageway. Whilst the development will introduce further vehicular movements these would not contribute significantly to the total number of movements which currently occurs and as a consequence the width of the carriageway and visibility available at the junction would remain sufficient. Each dwelling would also be served by a separate access which would be provided with visibility splays that would enable future residents to assess the movement of vehicles on Manor Drive before entering the carriageway thereby reducing the potential for conflicts to arise.

It is also highlighted on the amended layout plan that each dwelling would be provided with adequate manoeuvring facilities within the curtilage to ensure that vehicles exit in a forward direction.

Paragraph 32 of the NPPF highlights that the applications should only be refused on highway safety grounds where the cumulative impacts are 'severe' and given the above conclusions it is considered that the proposal would not conflict with the intentions of this Paragraph or Policy T3 of the adopted Local Plan.

It is proposed that each dwelling would be served by a detached double garage and external off-street parking spaces which would equate to around four spaces being available. Given that each dwelling is a 4-bed property this level of off-street parking would be considered sufficient and would reduce the possibility of on-street parking occurring. As a result the development complies with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan.

As the County Council Rights of Way Officer has raised no objections it is also considered that the limited increase in vehicle movements associated with the dwellings would not adversely impact on the safe movement of pedestrians on Manor Drive given that such users would already be aware of vehicular movements occurring. Manor Drive itself is also not subject to any restrictions or controls on the level of vehicular activity which can occur. On this basis the proposal accords with Paragraph 75 of the NPPF.

## **Ecology**

The County Council Ecologist has commented on the application and has raised no objections and does not require an ecological survey to be undertaken. It is requested that due consideration be given to the planting of native species to the eastern and northern boundaries, in order to encourage biodiversity, and such planting could be secured as part of a landscaping scheme on any consent granted. On this basis it is considered that ecology would not act as a constraint on the development and it therefore accords with Paragraph 118 of the NPPF and Circular 06/05.

## **Landscaping**

No planting exists on the site and as such the provision of the dwellings would not impact on any vegetation which would contribute to the visual amenities of the area. The imposition of a condition to secure a soft landscaping scheme would lead to planting being provided which, in time, could contribute positively to the visual amenity of the streetscape and wider rural landscape. Subject to the imposition of such a condition it is considered that the development

would accord with Policy E7 of the adopted Local Plan.

### **Archaeology**

The County Council Archaeologist has specified that no archaeological mitigation is necessary as part of the proposal and as such archaeology would not act as a constraint on the development. On this basis the scheme is compliant with Paragraph 141 of the NPPF.

### **Drainage and Flood Risk**

The site lies within flood zone 1 and is not identified as a site with a critical drainage issue on the Environment Agency's Surface Water Flooding Maps. It is highlighted on the application forms that surface water run-off would be addressed by the provision of a soak-away and in the circumstances that the site is not within Flood Zones 2 or 3, nor a critical drainage area, it is anticipated that any surface water run-off solution identified would not further exacerbate any localised flooding issue. As a result of this the development is considered to be compliant with Paragraph 103 of the NPPF.

Insofar as foul drainage is concerned it is indicated on the application forms that this would be discharged into the main sewer with such discharge being agreed with Severn Trent Water under separate legislation. Severn Trent Water have not raised an objection to the application and therefore this means of foul drainage is considered appropriate and would ensure compliance with Paragraph 120 of the NPPF.

### **Other Matters**

The development would not be at a level where financial contributions towards services, such as schools, would be sought. Therefore, it would be the responsibility of the education authority (Leicestershire County Council) to ensure that the Worthington Primary School has adequate capacity to accommodate any increase in pupil numbers which could occur with or without the development.

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

Although the application site is a greenfield site outside the defined Limits to Development it is considered that the conflict with the environmental strand of sustainability would be outweighed by the positive social and economic sustainability credentials of the site particularly as the development would not be isolated from built forms and would not adversely impact on the openness of the rural environment to such an extent to warrant a refusal of the application. Consideration also needs to be given to the fact that the Local Authority is unable to demonstrate a five year housing land supply. Overall the development would be compliant with the key principles of the NPPF and specifically Paragraphs 28 and 55. No significant impacts upon agricultural land have been established and as such the development would not conflict with Paragraph 112 of the NPPF.

It is considered that the density proposed whilst lower than what would be considered appropriate under Policy H6 of the adopted Local Plan is an acceptable use of the land in this instance considering the importance in ensuring that the development is of an appropriate design and that a landscape buffer is supplied.

The dwellings have been positioned so as to ensure an acceptable level of amenity is maintained with existing residential dwellings on Manor Drive and Manor View Close, with the

position and orientation of the dwellings also ensuring future amenities would be adequately protected. Overall, therefore, the proposal accords with Paragraph 123 of the NPPF as well as Policy E3 of the adopted Local Plan.

It is considered that the development would act as a 'natural' completion of the 'cul-de-sac' which would be created on Manor Drive and would respect the linear nature of development progressed along the eastern side of Manor Drive and Main Street, as such it would integrate into the existing built environment. The proposed scale and heights of the dwellings would also be consistent with those which exist on Manor Drive, particularly those of the new development at Manor View Close, and would include design detailing which the Local Authority considers desirable. On this basis the development is considered compliant with Paragraphs 59, 60 and 61 of the NPPF and Policies E4 and H7 of the adopted Local Plan.

The final comments of the County Highways Authority will be reported to Members on the Update Sheet but given that the proposed development would not add considerably to the total number of vehicular movements which occur on Manor Drive, particularly given the recent construction of 12 dwellings, it is considered that the relative width of the highway and visibility available at the junction would be sufficient and would ensure that the vehicular movements associated with four additional properties would not severely impact on pedestrian or highway safety. Adequate manoeuvring facilities would also be provided within the individual plots to enable vehicles to exit in a forward direction and assess the movement on vehicles on Manor Drive before exiting the plot. On this basis the proposal would be compliant with Paragraph 32 of the NPPF and Policy T3 of the adopted Local Plan. Each dwelling would also be provided with a sufficient level of off-street parking so as to reduce the possibilities of the proposal creating, or contributing to, any off-street parking problem. On this basis the proposal is compliant with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan. Pedestrians utilising the public byway would also not be compromised by the additional vehicular movements associated with the dwellings given the speed of traffic on Manor Drive and clear visibility available. On this basis the proposal accords with Paragraph 75 of the NPPF.

Subject to the imposition of a landscaping condition on any consent granted, to secure native species planting, it is considered the proposal would accord with Policy E7 of the adopted Local Plan.

There are no ecological or archaeological constraints associated with the site and therefore the development would be compliant with Paragraphs 118 and 141 of the NPPF and Circular 06/05.

As the site lies within Flood Zone 1, and is also not in a critical surface water drainage area, it is considered that any surface water drainage solution would not exacerbate any localised flooding impact with a soak-away being an acceptable drainage solution, therefore compliance with Paragraph 103 of the NPPF would be met. Foul drainage would be directed to the mains sewer with such a connection being agreed with Severn Trent Water under separate legislation. Such a proposal would be acceptable in the context of Paragraph 120 of the NPPF.

It is therefore recommended that the application be permitted.

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

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

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

- 2 The proposed development shall be carried out strictly in accordance with the site location plan (1:2500) and WOR.PRP.003 Revision A (Proposed Plans - Plot 1), WOR.PRE.004 Revision A (Proposed Elevations - Plot 1), WOR.PRP.005 Revision A (Proposed Plans and Elevations - Plot 2), WOR.PRP.007 Revision B (Proposed Plans - Plot 3), WOR.PRE.008 Revision B (Proposed Elevations - Plot 3), WOR.PRP.009 Revision B (Proposed Plans - Plot 4) and WOR.PRE.010 Revision B (Proposed Elevations Plot 4), WOR.GAR.011 Revision A (Proposed Garage) and WOR.GAR.012 Revision A (Proposed Garage/Studio - Plot 4), received by the Local Authority on the 3rd May 2016, as well as drawing number WOR.LAY.002 Revision C (Proposed Layout for 4 Dwellings), received by the Local Authority on the 31st May 2016, 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, none of the dwellings shall be built above damp proof course level until the following have been submitted to and agreed in writing by the Local Planning Authority: -

- Details 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;
- Details of the brick bond (which shall not be a stretcher bond);
- Details of the rainwater goods;
- Position and finish of the meter boxes (if external);
- Construction material of the cills and lintels;
- Precise details of the dentilation, corbelling and verge finish to the dwellings;

The development shall then be carried out in accordance with the approved details unless alternative materials are first submitted to and agreed in writing by the Local Planning Authority.

*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 details shown on the approved plans before first occupation/use of any of the dwellings hereby permitted a scheme of soft and hard landscaping (which shall include the planting of locally native species to the eastern and northern boundaries) 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 any of the dwellings unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. The approved hard landscaping scheme shall be provided in full prior to the occupation of any of the dwellings unless otherwise agreed in writing by the Local Planning Authority and shall thereafter be so retained.

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

- 5 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 vegetation.*

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

*Reason - to enable the Local Planning Authority to retain control over future development in view of maintaining the overall appearance of the scheme and in the interests of preserving the amenities of neighbours as well as the visual amenity of the rural environment.*

- 7 Notwithstanding the details shown on the approved plans before first occupation/use of any of the dwellings, hereby approved, a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railings and other means of enclosure) 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 of any of the dwellings hereby approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.

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

- 8 Before first occupation of any of the dwellings, hereby permitted, the following shall be provided: -
- The off-street parking and turning facilities as shown on drawing numbers WOR.GAR.011 Revision A and WOR.GAR.012 Revision A, received by the Local Authority on the 3rd May 2016, and drawing number WOR.LAY.002 Revision C, received by the Local Authority on the 31st May 2016;
  - The access drive and turning areas shall be surfaced in accordance with the details agreed under Condition 4 of this consent;

Once provided the above shall thereafter be so maintained.

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

- 9 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 5.0 metres behind the highway boundary and shall be hung so as not to open outwards onto the highway.

*Reason - to enable vehicles 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.*

- 10 No development shall commence on site until such time as details of the proposed finished floor levels of the dwellings and finished ground levels of the development, which shall be related to a fixed datum point off the site, have first been submitted to and agreed in writing by the Local Planning Authority.

*Reason - to determine the scope of the permission and in the interests of residential amenity.*

- 11 The curtilages relating to the properties shall be confined to the areas outlined in red on the attached plan number LPA/16/00450/FUL.

*Reason - to enable the Local Planning Authority to retain control over future development in view of the form of development proposed and its location in close proximity to flood zones.*

### Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the pre-application stage which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 The 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; 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.
- 4 The available width of the Public Rights of Way must not be encroached upon by works associated with the development. The Public Rights of Way must not be further enclosed in any way without undertaking discussions with the County Council's Safe and Sustainable Travel Team (0116) 305 0001.
- 5 The Public Rights of Way must not be re-routed, encroached upon or obstructed in any way without proper authorisation. To do so may constitute an offence under the Highways Act 1980.
- 6 If the developer requires a Right of Way to be temporarily closed or diverted, for a period of up to six months, to enable construction works to take place, an application should be made to [roadclosures@leics.gov.uk](mailto:roadclosures@leics.gov.uk) at least 8 weeks before the temporary closure/diversion is required.
- 7 Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
- 8 No new gates, stiles, fences or other structures affecting a Public Right of Way, of either

a temporary or permanent nature, should be installed without the written consent of the Highway Authority having been obtained. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.

- 9 Prior to and during construction, measures should be taken to ensure that users of the Public Rights of Way are not exposed to any elements of danger associated with construction works, and wherever appropriate they should be safeguarded from the site by a secure fence.

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Installation of new shop front and air conditioning unit  
(retrospective application)

Report Item No  
A5

Rose Of Bengal 42 Borough Street Castle Donington Derby  
DE74 2LB

Application Reference  
16/00160/FUL

Applicant:  
Mr Hana Miah

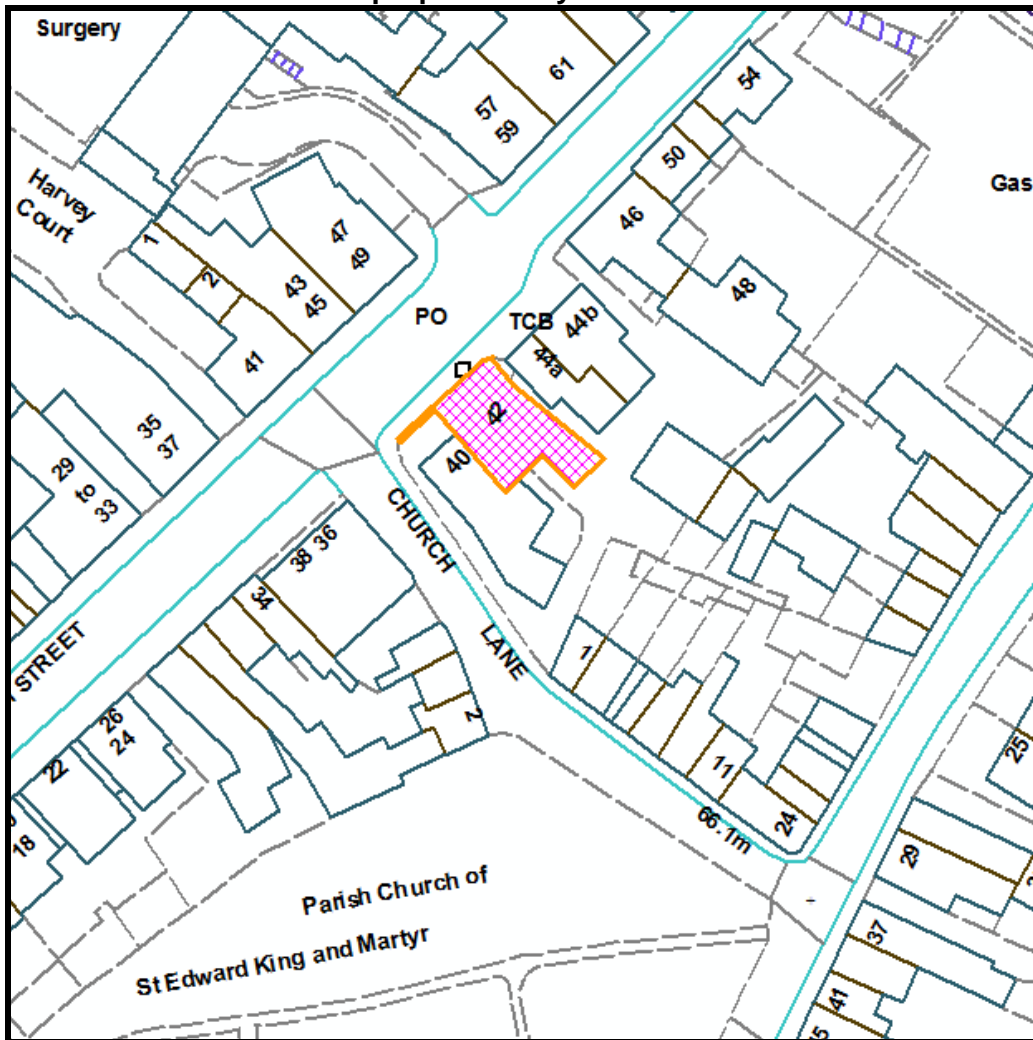
Date Registered  
22 April 2016

Case Officer:  
Adam Mellor

Target Decision Date  
17 June 2016

Recommendation:  
REFUSE

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application has been brought to the Planning Committee to allow Members to assess the design detailing and material of construction utilised in the replacement shop front.

### Proposal

Retrospective planning permission is sought for the installation of a new shop front and air conditioning unit at the Rose of Bengal, 42 Borough Street, Castle Donington. The application site is situated on the southern side of Borough Street and is within the Castle Donington Conservation Area and Local Centre.

### Consultations

No third party representations have been received although Castle Donington Parish Council have objected to the application.

### Planning Policy

The proposed development is considered contrary to the aims of Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the National Planning Policy Framework, Policy E4 of the adopted North West Leicestershire Local Plan and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### Conclusion

In the opinion of the Local Planning Authority, because of the inappropriate design of the shop front as installed, the proposed development would have an adverse impact on the character and appearance of the Castle Donington Conservation Area. Therefore, the proposal would not accord with Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the NPPF, Policy E4 of the adopted Local Plan and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### RECOMMENDATION - REFUSE.

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

## MAIN REPORT

### 1. Proposals and Background

Retrospective planning permission is sought for the installation of a new shop front and air conditioning unit at the Rose of Bengal, 42 Borough Street, Castle Donington. The site is located on the southern side of Borough Street and forms a semi-detached three storey building with a restaurant at ground floor level and flats above. The building is set at a higher land level than Borough Street, being approximately 1-1.8 metres higher. The previous shop front was made up of two large stained timber windows with glazing bars set on a red brick stall riser, with an off-centre door and its northern pane set back 300mm from its southern pane. The new shop front is made up of four equal sized uPVC windows (with no glazing bars) with a dark brown finish on a painted brick stall riser, with a door located at its northern end, and the whole shop front is on a straight alignment. The shop front is located on a modern single storey front extension which projects forward of the three storey older building. An air conditioning unit has also been installed on the northern elevation of the three storey building at ground floor level.

The site lies within the Castle Donington Conservation Area. No. 41 Borough Street is a Grade 2 listed building. Nos. 40, 43 & 45 and Nos. 47 & 49 Borough Street are designated in the Conservation Area Appraisal as unlisted buildings of interest. The site is identified on the Proposals Map for the adopted North West Leicestershire Local Plan as being within the defined Limits to Development and the Castle Donington Local Centre, with the surrounding area consisting of other commercial uses often with flats above.

The most recent application relates to the display of three externally illuminated fascia signs (15/00362/ADC) which was approved August 2015 and permission was also granted for a rear porch and alterations (02/01472/FUL) in March 2003. Other applications relate to the use of the site as a restaurant and for the sale of takeaway hot food (04/00641/VCI, 99/0036, 98/0506, 95/0101 and 92/0260 refer).

### 2. Publicity

12 no. neighbours have been notified (Date of last notification 26 April 2016)

Site Notice displayed 6 May 2016

Press Notice published 4 May 2016

### 3. Consultations

Castle Donington Parish Council consulted 26 April 2016

Airport Safeguarding

NWLDC Conservation Officer

Planning Enforcement

Head of Environmental Protection

### 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.

**Castle Donington Parish Council** objects as the proposal does not conform to shop front/Conservation Area guidelines or match with other shops and suggests that the applicant

liaises with the Conservation Officer.

**East Midlands Airport Safeguarding** has no objection.

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

**NWLDC - Environmental Protection** has no environmental observations.

### **Third Party Representations**

No third party representations have been received.

## **5. Relevant Planning Policy**

### **National Policies**

#### *National Planning Policy Framework*

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

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

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

Paragraph 14 (Presumption in favour of sustainable development);  
 Paragraph 17 (Core planning principles);  
 Paragraphs 18-20 (Building a strong, competitive economy);  
 Paragraph 57 (Requiring good design);  
 Paragraph 60 (Requiring good design);  
 Paragraph 61 (Requiring good design);  
 Paragraph 69 (Promoting healthy communities);  
 Paragraph 123 (Conserving and enhancing the natural environment);  
 Paragraph 131 (Conserving and enhancing the historic environment);  
 Paragraph 132 (Conserving and enhancing the historic environment);  
 Paragraph 134 (Conserving and enhancing the historic environment);  
 Paragraph 137 (Conserving and enhancing the historic environment);  
 Paragraph 203 (Planning conditions and obligations);  
 Paragraph 204 (Planning conditions and obligations);  
 Paragraph 206 (Planning conditions and obligations);

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

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

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan;  
 Policy S2 - Limits to Development;  
 Policy E3 - Residential Amenities;  
 Policy E4 - Design;

Policy T20 - Airport Safeguarding;

### **Draft Consultation North West Leicestershire Local Plan**

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, as the proposed publication version of the Local Plan is to be considered by Council on 28th June with a view to its submission for examination in September, more weight can now be attributed to its policies at this stage.

Policy S1 - Presumption in Favour of Sustainable Development;

Policy S5 - Design of New Development;

Policy Ec6 - East Midlands Airport: Safeguarding;

Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;

Policy Cc2 - Sustainable Design and Construction;

### **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;

#### **Castle Donington Conservation Area Character Appraisal and Management Plan - March 2001**

This document highlights that the village centre displays a variety of architectural styles ranging from late medieval timber framed cottages, through good quality Georgian and Regency town houses to later Victorian shops and houses. The streetscape typically comprises a mixture of two and three storey buildings, the commercial premises having a street-facing shop fronts, service areas to the rear, and domestic or storage accommodation above. Many properties within the village centre are set up to the back edge of the footway, particularly along Borough Street and Clapgun Street.

#### **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**

The main issues for consideration in the determination of this application relate to the impacts of the development on the historic environment and residential amenities.

#### **Residential Amenity**

The building is adjoined by other commercial properties at ground floor and does not extend higher than the previous shop front. As such it does not adversely impact on the amenities of occupiers of nearby residential properties.

Due to the changes in land levels the air conditioning unit is close to the flats located at first and second floor at no. 44 Borough Street. As part of the consideration of the application the Council's Environmental Protection team have been consulted and have raised no objections. Therefore it is considered that a reason for refusal on the basis of an impact on residential amenities from noise and disturbance could not be justified in this case particularly as any noise complaint raised could be addressed under Environmental Health Legislation.

On this basis the proposal would accord with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

### **Impact on the Streetscape and Historic Environment**

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

The heritage statement submitted in support of the application highlights that the shop front installed has been designed to improve disabled access into the premises and that it is contained within a modern single storey flat roof extension which projects forward of the principal elevation of the building. The Castle Donington Conservation Area Appraisal also identifies that the building is not an 'unlisted building of particular architectural or historic interest.'

In raising objection to the application Castle Donington Parish Council has stated that the proposed shop front does not conform to shop front/conservation area guidelines or match with other shops and suggest the applicants liaise with the Council's Conservation officer.

In light of the objection from the Parish Council, the Council's "Shopfront Guidance - advice on traditional shop fronts and signage" has been taken into account, even though the Rose of Bengal does not have a traditional shop front.

In reviewing the application the Council's Conservation Officer has stated the following: -

*"The previous shop front was made of stained timber on a red brick stall riser. There was a central entrance door set in a slight recess. To either side of the entrance door, there was a single shop window with glazing bars. The glazing bars reflected the character of the upper floor windows, but the use of glazing bars in that manner is not a characteristic of shop fronts on Borough Street.*

*The replacement shop front is made of uPVC with a dark brown finish, set on a painted brick stall riser. There is no entrance recess. The entrance door is set to the extreme left of the shop front. The shop window is divided into four parts by mullions; there are no glazing bars.*

*I would not object to the replacement of the shop front. I remember that PPG15 (1994) advised that "factory-made standard windows of all kinds, whether in timber or plastic, [are] almost always damaging to the character and appearance of historic buildings". PPG15 also advised against the use of "stained or varnished softwood." In this context I consider that a factory-made uPVC shop front is generally no more harmful than a factory-made timber shop front. The*

*retention of glazing bars would have better reflected the character of the upper floor windows, but the incorporation of mullions better reflects the character of shop fronts on Borough Street including the listed shop front at 41 Borough Street."*

For the avoidance of doubt, the shop front which has been replaced was not the 'traditional' shop front for the premises given that it was constructed on a modern extension and had design detailing which was not particularly consistent with shop fronts in the immediate area.

The shop front as installed does not strictly accord with, the Council's "Shopfront Guidance - advice on traditional shop fronts and signage". However, in the context that any new shop installed would be in a modern front extension, a more modern shop front at the Rose of Bengal would be considered to be acceptable in principle.

It is noted that the new shop front was installed without planning permission and that the applicant did not seek any pre-application advice on the shop front detail before it was installed. While it is accepted that the Council's Conservation officer has raised no objections to the proposal, it is considered that the detailed design of the shop front could have been improved if pre-application advice had been sought. Potential improvements could have been achieved by the introduction of smaller glazing panels and a structural transom and by incorporating a recessed door opening.

While the new modern shop front at the Rose of Bengal better reflects the character of some shop fronts on Borough Street including the listed shop front at 41 Borough Street, on balance, it is considered that the design of the shop front as installed results in harm to character and appearance of the Castle Donington Conservation Area and consequently to the significance of heritage assets. This harm is not outweighed by the benefits of the proposal, including that the applicant designed the shop front to improve disabled access into the premises.

It is considered that the retention of the air conditioning unit would not result in harm to the significance of the heritage asset given its location on the side of the building and lack of visibility from the public domain. This position would also ensure that the air conditioning unit would not impact adversely on the appearance of the streetscape.

Overall, by virtue of the design of the proposed shop front, the development would not accord with Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the NPPF, Policy E4 of the adopted Local Plan and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Other Matters**

East Midlands Airport Safeguarding have raised no objections to the application and as such the development would accord with Policy T20 of the adopted Local Plan.

### **Conclusion**

In the opinion of the Local Planning Authority, because of the inappropriate design of the shop front as installed, the proposed development would have an adverse impact on the character and appearance of the Castle Donington Conservation Area. Therefore, the proposal would not accord with Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the NPPF, Policy E4 of the adopted Local Plan and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

**RECOMMENDATION - REFUSE, for the following reason;**

- 1 In the opinion of the Local Planning Authority, because of the inappropriate design of the shop front as installed, the proposed development would have an adverse impact on the character and appearance of the Castle Donington Conservation Area. Therefore, the proposal would not accord with Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the NPPF, Policy E4 of the adopted Local Plan and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

**Notes to applicant**

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



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

Report Item No  
A6

Village Farm 36 Hall Gate Diseworth Derby DE74 2QJ

Application Reference  
15/00948/FUL

Applicant:  
Mr & Mrs Dakin

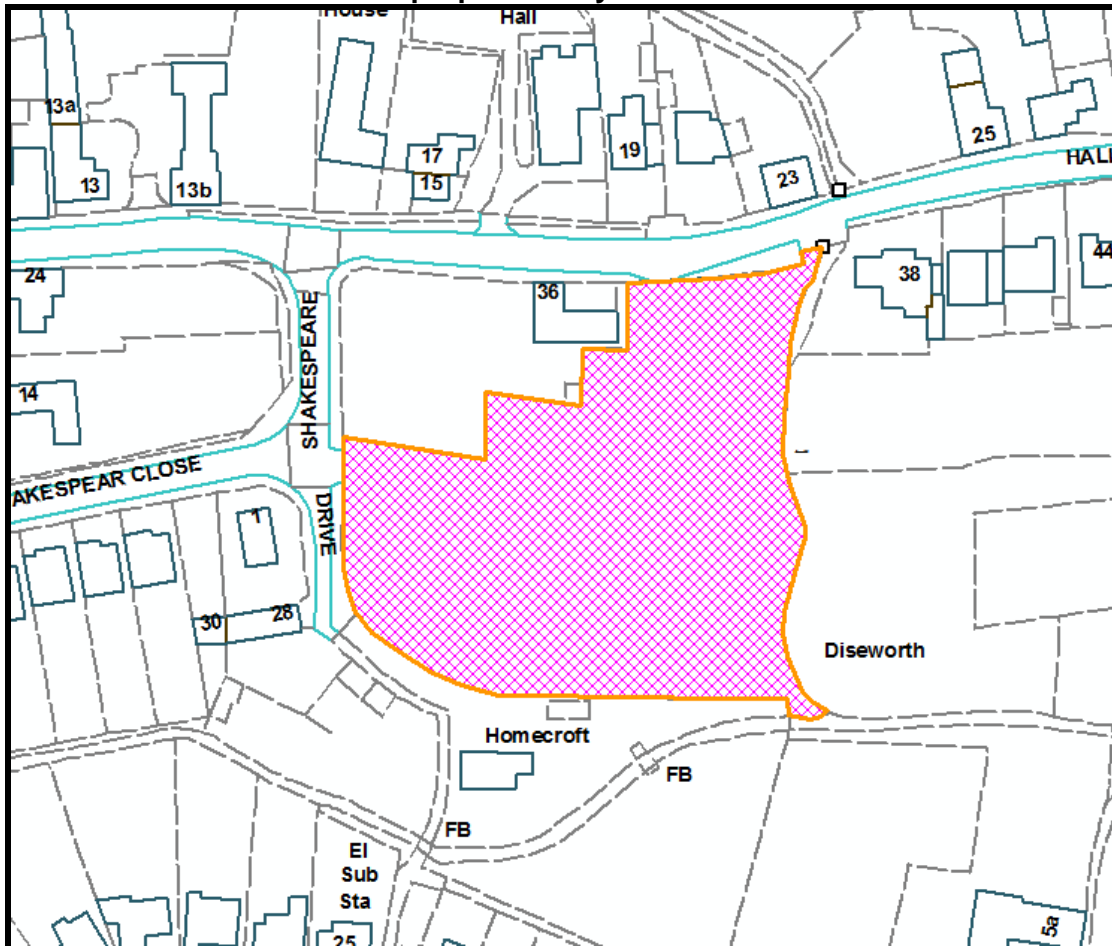
Date Registered  
12 October 2015

Case Officer:  
Adam Mellor

Target Decision Date  
7 December 2015

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## UPDATE

This application was previously reported to Members of the Planning Committee on 1 March 2016, with an officer recommendation of approval subject to the completion of a Section 106 agreement in order to provide for an-off site affordable housing contribution of £193,814. The Agreement has yet to be completed and, therefore, the planning permission has not yet been issued. However in May 2016, in *West Berkshire District Council Reading Borough Council v Department for Communities and Local Government [2015]*, the Court of Appeal backed government plans to exempt small development sites from the need to have affordable housing included on them. On 19 May 2016 Therefore, it is now national planning policy that schemes of 10 dwellings or less or spanning less than 1000 square metres of combined floor space should not be required to provide affordable housing or be subject to off-site contributions. On this basis, the Local Planning Authority could no longer request that an off-site affordable contribution is required as part of this proposal.

This is not considered to alter the previous conclusions reached that the scheme would be acceptable (as detailed in the original planning committee report) as the proposal remains compliant with current planning guidance.

**UPDATED RECOMMENDATION - PERMIT, subject to conditions but without the need to complete a Section 106 Agreement in relation to an off-site affordable housing contribution;**

The previous report that was considered by planning committee is provided in full below:

## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

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

### Proposal

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

### Consultations

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

### Planning Policy

It is considered that the development would remain compliant with all relevant Paragraphs of the

National Planning Policy Framework (NPPF) as well as the relevant Policies of the current, and draft emerging, North West Leicestershire Local Plan and other guidance.

## Conclusion

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

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

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

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

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

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

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

constraints would also be addressed by the imposition of conditions on any consent granted in order to comply with Paragraph 141 of the NPPF.

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

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

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

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

## MAIN REPORT

### 1. Proposals and Background

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

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

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

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

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

No previous planning history was found.

### 2. Publicity

29 no. neighbours have been notified (Date of last notification 16 December 2015)

Site Notice displayed 13 October 2015

Press Notice published 21 October 2015

### 3. Consultations

Clerk To Long Whatton & Diseworth consulted 13 October 2015  
 LCC Flood Management consulted 15 December 2015  
 County Highway Authority consulted 14 October 2015  
 Environment Agency consulted 14 October 2015  
 Severn Trent Water Limited consulted 14 October 2015  
 Head of Environmental Protection consulted 14 October 2015  
 Natural England- Within 2k Of SSSI consulted 14 October 2015  
 NWLDC Tree Officer consulted 14 October 2015  
 County Archaeologist consulted 14 October 2015  
 LCC ecology consulted 14 October 2015  
 NWLDC Conservation Officer consulted 14 October 2015  
 Manager Of Housing North West Leicestershire District Council consulted 14 October 2015  
 LCC/Footpaths consulted 14 October 2015  
 NWLDC Footpaths Officer consulted 14 October 2015  
 Building Control - NWLDC consulted 14 October 2015

### 4. Summary of Representations Received

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

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

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

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

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

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

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

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

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

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

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

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

**NWLDC - Footpaths** no representation received.

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

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

**Severn Trent Water** no representation received.

### **Third Party Representations**

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

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

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

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

## **5. Relevant Planning Policy**

### **National Policies**

#### *National Planning Policy Framework*

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

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

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

Paragraph 14 (Presumption in favour of sustainable development);

Paragraph 17 (Core planning principles);  
 Paragraphs 18-20 (Building a strong, competitive economy);  
 Paragraph 32 (Promoting sustainable transport);  
 Paragraph 39 (Promoting sustainable transport);  
 Paragraph 47 (Delivering a wide choice of high quality homes);  
 Paragraph 49 (Delivering a wide choice of high quality homes);  
 Paragraph 50 (Delivering a wide choice of high quality homes);  
 Paragraph 54 (Delivering a wide choice of high quality homes);  
 Paragraph 55 (Delivering a wide choice of high quality homes);  
 Paragraph 57 (Requiring good design);  
 Paragraph 60 (Requiring good design);  
 Paragraph 61 (Requiring good design);  
 Paragraph 63 (Requiring good design);  
 Paragraph 64 (Requiring good design);  
 Paragraph 75 (Promoting healthy communities);  
 Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 109 (Conserving and enhancing the natural environment);  
 Paragraph 112 (Conserving and enhancing the natural environment);  
 Paragraph 118 (Conserving and enhancing the natural environment);  
 Paragraph 121 (Conserving and enhancing the natural environment);  
 Paragraph 123 (Conserving and enhancing the natural environment);  
 Paragraph 131 (Conserving and enhancing the historic environment);  
 Paragraph 132 (Conserving and enhancing the historic environment);  
 Paragraph 134 (Conserving and enhancing the historic environment);  
 Paragraph 137 (Conserving and enhancing the historic environment);  
 Paragraph 141 (Conserving and enhancing the historic environment);  
 Paragraph 203 (Planning conditions and obligations);  
 Paragraph 204 (Planning conditions and obligations);  
 Paragraph 206 (Planning conditions and obligations);

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

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

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

**Draft Consultation North West Leicestershire Local Plan**

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and



resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, in view of the very early stage to which the draft Local Plan has progressed, only very limited weight can be attributed to its policies at this stage.

Policy S1 - Presumption in Favour of Sustainable Development;  
 Policy S2 - Future Housing and Economic Development Needs;  
 Policy S3 - Settlement Hierarchy;  
 Policy S5 - Design of New Development;  
 Policy H6 - House Types and Mix;  
 Policy IF4 - Transport Infrastructure and New Development;  
 Policy IF7 - Parking Provision and New Development;  
 Policy En1 - Nature Conservation;  
 Policy En6 - Land and Air Quality;  
 Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;  
 Policy Cc2 - Sustainable Design and Construction;  
 Policy Cc3 - Water - Flood Risk;  
 Policy Cc4 - Water - Sustainable Drainage Systems;

**Other Policies**

**National Planning Practice Guidance**

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

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

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

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

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

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

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

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

**Diseworth Village Design Statement**

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

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

Circular 06/2005 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in

order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

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

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

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

## **6. Assessment Principle and Sustainability**

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

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

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

Given this level of service it is considered that a scheme for eight dwellings would score well against the sustainability advice contained within the NPPF, with any future occupants of the development also helping to sustain these services in the future which is a key intention of Paragraphs 28 and 55 of the NPPF.

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

It is also concluded that the redevelopment of the site would fund the relocation of the farmstead to a new site at The Green with the resulting benefits of this being the removal of agricultural

traffic from the centre of the settlement and the fact that the long-term viability of the farming enterprise would not be compromised by the lack of agricultural development opportunities at the existing sites.

### **Density and Housing Mix**

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

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

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

### **Viability of the Development**

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

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

#### *Affordable Housing*

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

are proposed.

It has been identified by the planning agent that there are viability constraints associated with the development due to there being significant financial cost involved in the conversion of the historic farmbuildings as well as removing the dilapidated farm buildings; as a result of this the development would not provide a competitive return to any landowner or developer. If viability is to be a constraint on the development then the Council's Affordable Housing Enabler has advised that a viability assessment would need to be supplied which should be independently assessed.

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

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

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

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

### **Residential Amenity**

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

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

No. 1 Shakspear Close and 28 Hall Gate lie to the west of the site and a distance of 19.0 metres would exist between the western (side) elevation of plot 8, a two-storey detached dwelling, and

the eastern (front) elevation of no. 1 Shakespear Close with 16.0 metres being provided between the south-western corner of plot 8 and the eastern (side) elevation of no. 28 Hall Gate. No. 1 Shakespear Close and no. 28 Hall Gate are situated at a higher land level than those associated with the application site and given the distances proposed it is considered that there would be no adverse overbearing or overshadowing impacts on the occupants amenities. In respect of overlooking implications a first floor landing and bathroom window are proposed in the western (side) elevation of plot 8 and as such there would be no direct overlooking impacts given that these rooms are not habitable rooms.

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

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

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

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

With regards to future amenities it is considered that in the whole an acceptable relationship would exist between the proposed properties and the majority of the existing development around the site. Views may be established from no. 28 Hall Gate towards the rear amenity area of plot 8 but such views would be obscured by the presence of vegetation to the boundary with Shakespeare Drive and no views would be established into the dwelling itself. Views from the farmhouse (no. 36 Hall Gate) may also be established onto the private amenity space associated with the converted threshing barn (plot 2). Whilst such views may be established they are not considered to be of sufficient detriment to the future amenities of any occupants' as to warrant a refusal of the application given that any potential buyer would be aware of this relationship prior to their purchase. It is proposed that plots 6 and 7 would have first floor

balconies projecting from their southern (rear) elevations and it considered reasonable to impose a condition on any consent granted for a screen to be provided to the eastern and western boundaries of these balconies in order to prevent a direct overlooking impact from occurring. This would also assist in protecting future amenities.

Overall it is considered that the development would accord with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

### **Impact on the Historic Environment and Streetscape**

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

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

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

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

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

In respect of the layout of the development this is largely influenced by where built forms are currently located with plots 1 and 2 being the converted buildings and the remaining dwellings being situated on land vacated by the modern agricultural structures. Such a layout is

considered appropriate in the context of the characteristics of the surrounding area particularly as Shakespear Close, adjacent to the site, exists as a linear modern residential curl-de-sac located behind existing built forms on Hall Gate. The orientation of the principal elevation to plot 2 (converted threshing barn) also allows for a 'courtyard' aspect to be created which would respect the historic significance of agricultural operations conducted from the site.

Although the proposed new dwellings would be of a modern design it is noted that Paragraph 60 of the NPPF indicates that *"decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles."* In the circumstances that the Council's Conservation Officer has raised no objections it is considered that the contemporary design approach would be welcomed in providing dwellings which would have distinctive character, whilst still maintaining some significance to agriculture, and which would separate themselves from the neighbouring built forms.

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

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

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

### Highway Safety

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

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

The proposed development of the site will ensure that the relative vehicular accesses off Hall Gate and Shakespeare Drive are upgraded to meet the requirements of the 6Cs Design Guide, in terms of access width and visibility achieved at the accesses, with the loss of agricultural traffic from the site representing a highway gain. Space also exists within the confines of the site to ensure that vehicles can manoeuvre and exit the site in a forward direction. In conclusion the development would not have a detrimental impact on pedestrian or highway safety and therefore the development accords with Paragraph 32 of the NPPF and Policy T3 of the adopted Local Plan.

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

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

### **Ecology**

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

### **Landscaping**

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

It is intended that landscaping would be provided as part of the development proposals, along with the retention of existing vegetation. At this stage the precise planting to be provided has not been specified and as such it is considered reasonable for a condition to be imposed on any consent granted for a soft landscaping scheme to be submitted to the Local Planning Authority



for approval to ensure that the species of trees, and any potential hedgerows, are appropriate and will integrate well into the development. Subject to the imposition of such a condition it is considered that the development would accord with Policies E2 and E7 of the adopted Local Plan.

### **Archaeology**

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

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

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

### **Development and Flood Risk**

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

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

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

### **Other Matters**

The Council's Land Contamination Officer has reviewed the submitted land contamination report

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Authority on the 8th December 2015;
- 150 (08) Revision B (Plot 7 - Proposed Plans and Elevations), received by the Local Authority on the 8th December 2015;
- 150 (08) 018 Revision D (Plot 8 - Proposed Plans and Elevations), received by the Local Authority on the 25th November 2015;

unless otherwise required by another condition of this permission.

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

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

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

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

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

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

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

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

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

- 6 Notwithstanding the details shown on the approved plans, nor Condition 2 above, plots 6

and 7 shall not be built above damp proof course level until details of a screen to prevent overlooking to the east and west to a height of 1.8 metres for the projecting rear balconies on these plots has first been submitted to and agreed in writing by the Local Planning Authority. Once approved the screening shall be provided before first occupation of the relevant plots and shall thereafter be so retained.

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

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

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

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

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

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

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

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

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

- 11 No development shall commence on site until a method statement detailing how a no-dig drive design (which will include an indication of existing and finished ground levels) will

avoid soil compaction and root damage to the Black Maple and Hawthorn tree adjacent to plot 8, as shown on drawing number 150 (08) 002 Revision G received by the Local Authority on the 25th November 2015, has been submitted to and agreed in writing by the Local Planning Authority. Once approved the development shall be carried out in accordance with the approved scheme.

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

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

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

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

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

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

NOTE: If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides;

- The external car parking and turning facilities (to ensure vehicles exit the site in a forward direction) shown on drawing number 150 (08) 002 Revision G, received by the Local Authority on the 25th November 2015, and the internal car parking shown on drawing numbers 150 (08) 012 Revision D (Plot 2), 150 (08) 015 Revision D (Plot 5) and 150 (08) 018 Revision D (Plot 8), received by the Local Authority on the 25th November 2015, and drawing numbers 150 (08) 011 Revision D (Plot 1), 150 (08) 013 Revision B (Plot 3), 150 (08) 014 Revision B (Plot 4), 150 (08) 016 Revision B (Plot 6) and 150 (08) Revision B (Plot 7), received by the Local Authority on the 8th December 2015;
- Drainage shall be provided within the site such that surface water does not drain into the public highway;
- The access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate), in accordance with the scheme agreed under Condition 8 of this permission, for a distance of at least 5.0 metres behind the highway boundary;

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

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

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

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

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

- The programme and methodology of historic building survey and recording;
- The programme for post investigation assessment and analysis;
- Provision to be made for publication and dissemination of the analysis and records of the investigation;
- Provision to be made for archive deposition of the analysis and records of the site

- investigation;
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation;

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

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

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

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

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

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

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

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

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

1. No development or land raising within Flood Zone 2 and 3;
2. Areas within the flood plain such as gardens will remain at the same level to enable flood water to flow;
3. Any decking within the Flood Zones should be made floodable to ensure there is no increase in flood risk elsewhere;



4. Identification and provision of safe route(s) into and out of the site to an appropriate safe haven as outlined in section 3.6.4 of the FRA;
5. Run-off from the site will be 30% better than the current to ensure no increase in river flows.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the Environment Agency.

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

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

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

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

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

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

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

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

- 21 No development (except any demolition permitted by this permission) shall commence on site until a Further Risk Based Land Contamination Assessment, as recommended by GRM report Diseworth, Leicestershire Phase I Site Appraisal (Desk Study) for F J Dakin & Son Ltd Project Ref: P6659/DS.1 Date: July 2014 Prepared for: F J Dakin & Son Ltd Village Farm 36 Hall Gate Diseworth Derby DE74 2QJ, received by the Local

Authority on the 12th October 2015, has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

- BS10175:2011+A1:2013 Investigation of Potentially Contaminated Sites Code of Practice;
- BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);
- BS 8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.

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

- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004; and
- BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.

The Verification Plan shall be prepared in accordance with the requirements of:

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

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

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

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

If no remediation was required by Condition 21 a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of the development, or part thereof, is received and approved in writing by the Planning Authority, or

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

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

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

23 No new dwelling shall be built above damp proof course level until the following have been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist: -

- The proposed position and design of bat boxes to be installed in the dwellings;
- The proposed position and design of bird boxes for swallows to be installed in the dwellings;
- The proposed position and design of external lighting to the properties which should be directed away from retained boundary features and Diseworth Brook, where this is not possible the lighting shall be of a down-lighting or cut-off beam type in order to reduce the overall amount of light spill;

Once agreed the development shall thereafter be carried out in accordance with the approved details which shall thereafter be retained unless alternative details are first submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist.

*Reason - to ensure that protected species are adequately protected and their habitat enhanced.*

24 No development shall commence on site until a method statement for the construction of the development has been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist. The method statement shall have particular regard to the pollution control measures which will reduce the risk of pollution events within Diseworth Brook, i.e. increased sediment load in surface water run-off. Once agreed the development shall thereafter be carried out in strict accordance with the method statement.

*Reason - to ensure that protected species are adequately protected and their habitat enhanced.*

25 Operations that involve the destruction/removal/management of vegetation, or the conversion of the dairy parlour and threshing barn, shall not be undertaken during the

months of March to August inclusive unless otherwise agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist.

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

- 26 Prior to the occupation of any dwelling a landscape/ecological management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas and areas of retained habitat (which shall include any planting within a 3 metre buffer zone of the banks of Diseworth Brook but exclude all other planting within the privately owned domestic gardens), together with a timetable for implementation, shall first be submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist. Thereafter, the management plan shall be implemented in accordance with the approved details and timetable, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority.

*Reason - to ensure that protected species are adequately protected and their habitat enhanced.*

- 27 If no development has commenced on site, with regards to the partial demolition of farm building, conversion and extension of remaining farm buildings to form two dwellings along with the erection of six additional dwellings and alterations to vehicular access prior to September 2018 then no development shall commence until an updated bat survey (which shall include any mitigation measures and licenses which would be obtained) has been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist. Once agreed the development shall thereafter be carried out in accordance with the recommendations of the bat survey and any mitigation measures once provided shall thereafter be so retained.

*Reason - to ensure that protected species are adequately protected and their habitat enhanced.*

- 28 No development shall commence on site until the finished floor levels of the proposed dwellings, which shall be related to a fixed datum point off the site, have first been submitted to and agreed in writing by the Local Planning Authority. Once agreed the development shall be carried out in accordance with the approved details and shall thereafter be so retained.

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

- 29 Notwithstanding the requirements of Condition 2 above, nor the information shown on drawing number 150 (08) 002 Revision G, received by the Local Authority on the 25th November 2015, no dwelling shall be built above damp proof course level until details of an enclosed bin collection area/point have been submitted to and agreed in writing by the Local Planning Authority. Once agreed the bin collection area shall be provided prior to the first occupation/use of any of the dwellings and shall thereafter be so retained.

*Reason - to ensure that the development takes the form envisaged by the Local Planning Authority and in the interests of residential and visual amenity.*

**Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 This decision is subject to a Section 106 Obligation regarding the following matters: -
- Contribution towards off-site affordable housing;
- 4 The proposed road(s) do not conform to an acceptable standard for adoption and therefore they will NOT be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all plots served by the private roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg) or email [road.adoptions@leics.gov.uk](mailto:road.adoptions@leics.gov.uk). Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it. Details of the future maintenance of the private road should be submitted for the approval of the Local Planning Authority before any dwelling is occupied.
- 5 Drawing no. 150(08)002 Revision G (Proposed Site Layout), received by the Local Authority on the 25th November 2015, provides details of physical kerbs (solid lines on both sides, demarcating the accesses) at the junctions of the accesses with Hall Gate and Shakespeare Drive. However, in accordance with the above conditions, the accesses shall be provided in a dropped crossing arrangement.
- 6 The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.
- 7 This planning permission does NOT allow you to carry out access alterations in the highway. Before such works can begin, separate permits or agreements will be required under the Highways Act 1980 from the Infrastructure Planning team. For further information, including contact details, you are advised to visit the County Council website: - see Part 6 of the '6Cs Design Guide' at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg).
- 8 Any street furniture or lining that requires relocation or alteration shall be carried out entirely at the expense of the applicant, who shall first obtain the separate consent of the Highway Authority.
- 9 During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage)(England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.
- 10 It is recommended that the installation of fittings that will minimise water usage such as low, or dual, flush WC's, spray taps and economical shower-heads in the bathroom are

installed. Power showers are not recommended as they can consume more water than an average bath. Water efficient versions of appliances such as washing machine and dishwashers are also recommended. For outdoors consider installing a water butt, or even a rainwater harvesting system, to provide a natural supply of water for gardens. Simple treatment systems exist that allow rainwater to be used to supply WC's within the home. Following the above recommendations will significantly reduce water consumption and associated costs when compared to traditional installations. Rainwater harvesting utilises a free supply of fresh water and reduces the cost to the environment and the householder.

- 11 In respect of Condition 29 of the consent given the site's setting within a Conservation Area the bin collection area will need to be an enclosed structure constructed from the approved materials for the residential scheme;
- 12 Bats are a rare and declining group of species. Hence, all British species of bat and bat roosts are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection or disturb bat roosts. If bat or bat roosts are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0115 929 1191) should be notified and further advice sought. Failure to comply with this advice may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both.
- 13 The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in prosecution any anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both, as it is an offence to disturb nesting/breeding birds.
- 14 If there are works proposed as part of an application which are likely to affect flows in a watercourse or ditch, then the applicant may require consent under s.23 Land Drainage Act 1991. This legislation is separate from the planning process. Guidance on this process and a sample application form can be found via the following website: [www.leics.gov.uk/watercourse](http://www.leics.gov.uk/watercourse). No development should take place within 5 metres of any watercourse or ditch without first contacting the County Council for advice.
- 15 Following the DEFRA/DCLG consultation and subsequent legislation change surrounding the future adoption and maintenance of SuDS brought into power on April 15th 2015, Leicestershire County Council are no longer the SuDS Approval Body (SAB) and are now a statutory consultee in the planning process. For all enquiries regarding the application and future adoption and maintenance of SuDS features, please direct these to the District Council.
- 16 Please note, it is the responsibility of the Local Planning Authority under the DEFRA/DCLG legislation (April 2015) that the adoption and future maintenance of the SuDS features should be discussed with the developer and a suitable maintenance schedule agreed before commencement of the works.
- 17 The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor. The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning

authority.

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