

Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	4.30 pm on Tuesday, 2 August 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 5 July 2016	<b>5 - 14</b>
<b>4. PLANNING APPLICATIONS AND OTHER MATTERS</b>	
Report of the Head of Planning and Regeneration.	<b>15 - 194</b>
<b>5. TO CONSIDER CONFIRMING A TREE PRESERVATION ORDER AT WILLESLEY LANE, ASHBY DE LA ZOUCH</b>	
Report of the Planning and Development Team Manager	<b>195 - 198</b>



## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
<b>A1</b>	<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	<b>PERMIT Subject to a Section 106 Agreement</b>	<b>19 - 48</b>
<b>A2</b>	<b>14/00933/OUTM: Residential development of up to 7 dwellings (including the retention of no.191 Loughborough Road) (Outline - details of part access included)</b>  191 Loughborough Road Whitwick Coalville Leicestershire LE67 5AS	<b>PERMIT</b>	<b>49 - 74</b>
<b>A3</b>	<b>15/00951/OUTM: Residential development of up to 35 dwellings (outline with details of part access included)</b>  Land South Of The Green Donington Le Heath Coalville Leicestershire LE67 2GE	<b>REFUSE</b>	<b>75 - 90</b>
<b>A4</b>	<b>16/00542/OUTM: Residential development of up to 16 dwellings and associated infrastructure (outline - means of access for approval)</b>  Land At Worthington Lane Newbold Coalville Leicestershire	<b>REFUSE</b>	<b>91 - 110</b>
<b>A5</b>	<b>15/00732/FULM: Demolition of existing mill and associated buildings and erection of 19 no. dwellings and associated works.</b>  Holywell Mill Burton Road Ashby De La Zouch Leicestershire LE65 2LL	<b>PERMIT Subject to a Section 106 Agreement</b>	<b>111 - 134</b>
<b>A6</b>	<b>16/00562/OUT: Residential development of three dwellings with formation of new vehicular access onto Top Road (Outline application access and layout for approval)</b>  Land At Top Road Griffydam Leicestershire	<b>PERMIT Subject to a Section 106 Agreement</b>	<b>135 - 152</b>

## Index of Applications to be Considered

<b>Item</b>	<b>Application Number and Details</b>	<b>Recommendation</b>	<b>Page</b>
<b>A7</b>	<b>16/00544/FUL: Erection of detached dwelling with associated detached garage</b>  Land To The Rear Of George Inn Loughborough Road Coleorton Coalville Leicestershire LE67 8HF	<b>PERMIT Subject to Section 106 Agreement</b>	<b>153 - 170</b>
<b>A8</b>	<b>16/00311/OUT: Erection of two detached dwellings and garages (Outline - access and layout included)</b>  Land Adjacent To Wilford House Loughborough Road Coleorton Coalville Leicestershire LE67 8HH	<b>REFUSE</b>	<b>171 - 184</b>
<b>A9</b>	<b>16/00743/FUL: Hay and agricultural machinery store</b>  Land To The Rear Of 56 Main Street Swannington Coalville Leicestershire LE67 8QN	<b>PERMIT</b>	<b>185 - 194</b>

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MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 5 JULY 2016

Present: Councillor D J Stevenson (Chairman)

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

In Attendance: Councillors G A Allman

Officers: Mr C Elston, Mr J Knightley, Mr J Mattley, Mr A Mellor, Mrs M Meredith, Mr J Newton and Miss S Odedra

## **11. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors R Boam and R Johnson.

## **12. DECLARATION OF INTERESTS**

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

Councillors R Adams, J Bridges, R Canny, J G Coxon, D Everitt, D Harrison, J Legrys, M Specht, D J Stevenson and M B Wyatt declared that they had been lobbied without influence in respect of item A1, application number 16/00296/FUL.

Councillors R Canny, J Cotterill, J Legrys, M Specht, D J Stevenson and M B Wyatt declared that they had been lobbied without influence in respect of item A2, application number 16/00296/FUL.

Councillor R Canny declared a non pecuniary interest in item A2, application number 16/00296/FUL, as the ward member.

Councillors J Bridges, R Canny, D Everitt, D Harrison, J Houlton, G Jones, P Purver, V Richichi, N Smith, M Specht, D J Stevenson and M B Wyatt declared that they had been lobbied without influence in respect of item A3, application number 15/00512/OUTM.

Councillor J G Coxon declared a non pecuniary interest in item A3, application number 15/00512/OUTM as a member of Ashby de la Zouch Town Council.

Councillors R Adams, D Everitt, J Geary and J Legrys declared a pecuniary interest in item A3, application number 15/00512/OUTM due to representations made by the Ashby de la Zouch Labour Party.

Councillors R Canny, V Richichi, M Specht and D J Stevenson declared that they had been lobbied without influence in respect of item A4, application number 16/00450/FUL.

Councillors R Canny, J Legrys and M Specht declared that they had been lobbied without influence in respect of item A5, application number 16/00160/FUL.

Councillors R Canny and M Specht declared that they had been lobbied without influence in respect of item A6, application number 15/00948/FUL.

## **13. MINUTES**

Consideration was given to the minutes of the meeting held on 7 June 2016.

It was moved by Councillor J Legrys, seconded by Councillor R Adams and

RESOLVED THAT:

The minutes of the meeting held on 7 June 2016 be approved and signed by the Chairman as a correct record.

#### **14. 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.

#### **15. A1 16/00296/FUL: CHANGE OF USE FROM AGRICULTURAL FIELD TO SHOWMAN'S YARD**

Field Adjoining Ashby Road Belton Leicestershire

Officer's Recommendation: REFUSE

The Senior Planning Officer presented the report to members.

The Senior Planning Officer read out a letter from Councillor N Rushton placing on record his opposition to granting the change of use, his reasons for that, and urging Members to refuse the application.

The Planning and Development Team Manager read out a letter from Andrew Bridgen MP placing on record his opposition to granting the change of use, and urging members to refuse the application.

Mrs N Burbidge Mullen, representing the Parish Council, addressed the committee. She stated that the Parish Council objected to the application due to concerns about highways safety, the speed of traffic, the visibility of the site and previous near misses. She asked members to bear in mind that the Highways Authority refused to allow the school bus to drop children off on the opposite side of the road as it was not deemed safe and there were no plans to install a much needed crossing.

Mrs R Groves, objector, addressed the meeting. She stated that the proposed site was a Greenfield site and outside the Limits to Development as per the Local Plan, and the application did not meet any of the exception criteria. She added that the Highways Authority had advised refusal of the application as the impacts were severe and their concerns had not been addressed by the applicants. She expressed concerns regarding the existing accident record on this stretch of road, the lack of lighting, the lack of a footpath and the excessive speed of traffic recorded by speedwatch. She felt that the access needed to be widened and most of the hedge removed to enable use by large vehicles, contrary to the ecology report. She felt it would be inappropriate and non compliant to allow the extensive list of equipment to be sited there. She stated that the proposal would be totally incompatible and alien to the rural character of village, and the application had totally disregarded the guidance from the showman's guild on the suitability of locations for yards. She made reference to the 4 showman's plots recently approved by Charnwood Borough Council which she felt could satisfy the needs of the proposed development. She stated that the community had worked hard to protect the visual and rural amenity of the village and she asked members to consider the impact this would have upon it. She concluded that there were valid reasons to refuse the application, the showman's yard would be in direct line of site of the recreation ground resulting in a loss of amenity, and permitting it would set a dangerous precedent for future development.

It was moved by Councillor J Legrys, seconded by Councillor J G Coxon and

RESOLVED THAT:

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

**16. A2**  
**16/00027/FULM: ERECTION OF 13 DWELLINGS ALONG WITH VEHICULAR ACCESS, LANDSCAPING AND CAR PARKING**

Land At The Spittal Castle Donington Derby DE74 2NQ

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

The Senior Planning Officer presented the report to members.

Mr R Sizer, representing the Parish Council, addressed the committee. He stated that Castle Donington Parish Council had always objected to proposals for development on this site as it formed a green corridor including Spittal Park between the industrial estate and the village rich with wildlife. He explained that the main concern was access and egress to the site as this was via a very narrow lane, and the attempt to address this issue was nowhere near adequate, as the hill was very steep. He advised that Spittal Park had a skate park and a multi use gym area, and the through walk to the centre of the village could get busy with the events held at the park. He stated that the extra traffic generated by the development would be detrimental to the safety of pedestrians and the many unaccompanied youngsters using the park. He added that the site was a designated area of sensitivity being on the edge of a conservation area and there was a history of subsidence on the site with the retaining walls collapsing, which he felt could be attributed to the run-off water from the top of hill. He felt that the proposed white render would not allow the houses to blend into the hillside and would be an eyesore on the entrance of the conservation area. He stated that there was a history of refused developments on this site. He made reference to the proposed woodland walk which crossed land owned by the Parish Council and no permission had been sought to do so.

Mrs S Clarke, objector, addressed the meeting. She spoke on behalf of local residents who objected to the proposed development as they felt the village had made its fair contribution to future homes. She expressed concerns regarding flooding, as the proposed development was on a steeply sloping site which would increase the surface water running on to The Spittal, impacting upon the use of the playing fields. She added that the lack of facilities had led to anti social behaviour in the past and the Parish Council had worked hard to make improvements. She added that youngsters met opposite the development site and the area was currently shielded. She expressed concerns that potential residents whose properties would face The Spittal would object to the noise which may lead to restrictions on the use of the facility. She also expressed concerns regarding the access as The Spittal was narrow with limited lighting, and the proposed widening utilised land not in the ownership by the applicant. She stated that the development site was the last remaining green area in the village providing a wildlife habitat, and the area had a sensitive eco system, the balance of which would be jeopardised. She added that the village was surrounded by significant pollutants and such green areas were needed to improve the health of local residents. She concluded that residents were not opposed to good development, however they felt that this was tick box architecture with unsympathetic design and materials being used.

Mr L Wiggins, agent, addressed the committee. He stated that whilst the site was located in a sensitive area, important landscape features would be retained to screen the development. He added that the sensitive area designation was not being carried forward into the new Local Plan and so could be given little weight. He added that there were no

technical objections to the scheme. He acknowledged the concerns of the Parish Council in respect of pedestrian safety, however the Highways Authority had raised no objections subject to the road being widened. He added that there was extensive open space nearby and the officer's report stated that the proposals would not give rise to a significant loss of amenity.

Mr C Twomey, architect addressed the committee. He summarised that the development had been designed with sensitivity to the ecology, topography and character of the site. He added that just 13 dwellings were proposed along with a new woodland walk providing residents with access to a community orchard. He advised that the applicant hoped to connect the woodland walk to Campion Hill and would be pleased to discuss this further with the Parish Council. He concluded that the proposal would create truly distinctive sustainable development with a strong sense of place. He pointed out that the scheme had been assessed by the Council's Urban Designer, and awarded 12 green out of 12 under the Building for Life. He urged members to support the officer recommendation.

Councillor R Canny – moved that the application be refused on the grounds that the development site was a greenfield site in a sensitive area, and the character and design was not appropriate for the site. She also expressed concerns regarding ecology and drainage issues. The motion was seconded by Councillor M B Wyatt.

Councillor R Canny stated that the officer's recommendation to permit the application balanced the sustainability of the development and the presumption in favour of development with the issues raised, and she asked members to consider whether this balance was fair or correct. She reiterated that the site was a Greenfield site and a designated area of sensitivity as it adjoined the conservation area, and Policy E1 protection was currently in place. She added that when this lapsed this did not mean that the site was no longer a sensitive area to all those who used the park and lane. She stated that Spittal Park was a meeting place for the whole of Castle Donington and outlined the various events which took place there. She added that Spittal Lane in itself was a much loved semi-pedestrianised rural lane enjoyed by dog owners and walkers, providing a wealth of wildlife and encouraging an ecologically sound method of accessing the village. She felt that the proposals would completely alter the character of the lane. She highlighted the seven applications on the site which had already been refused, all of which were for single dwellings. She added that she could not agree with the urban design assessment, as the integration of the site into the surrounding area did not visually respect the character of the area. She stated that she appreciated that planning should not stifle innovation, however she referred to NPPF paragraph 58, which clearly stated that developments should respond to the local character and history and reflect the identity of the surroundings. She also made reference to paragraph 66 of the NPPF which stated that the view of community should be taken into account and she highlighted that no one she had spoken to had anything positive to say about this development. She stated that this very modern, minimalist design was not innovative, it was urban and was not suited to this area. She added that the highly visible 3 and half story buildings would not blend in to the landscape. She commented that the ecology issues had supposedly been solved, however the loss of foraging ground for wildlife on the site had not been accounted for. She added that the diverse wildlife had nowhere else to go as Spittal fields would not support it. She stated that the site was the only green lung in the village which helped with pollution issues. She expressed concerns regarding the white render.

The Chairman advised Councillor R Canny that she had spoken for 5 minutes in total.

Councillor G Jones stated that this was a low density proposal and he considered the architecture to be innovative. He added that it met 12 of the green building for life criteria and his only concern was water run-off. He concluded that on balance he would support the officer's recommendation.



Councillor D Everitt stated that Castle Donington had contributed a great deal of development and he felt great sympathy with the residents. He felt that another important part of the green space would be lost and that there was the possibility of flooding problems. He also felt what was important to the villagers should be valued, and he questioned why villages continued to be attacked from the inside. He stated that this seemed wrong to him, especially in a village that had contributed to development needs so much.

Councillor D Harrison expressed concerns that any water problems would render damage to the construction unless it was really secured. He also expressed concerns about the elevations and stated that he was not comfortable with this scale of development in that area.

Councillor N Smith stated that the design did not suit Castle Donington as it was out of character and that he would be voting against the proposals.

Councillor J Legrys expressed deep concerns about the design of the buildings in that location, particularly with the white render. He also felt that the proposals simply wouldn't work, and expressed concerns that it would not be possible for the dwellings to be constructed conventionally.

Councillor M Specht commented that the site was merely an overgrown and unkempt paddock, and he had been minded to support the officer's recommendation; however having listened to the speakers and considering the design aspects, he felt he had to agree with the motion to refuse the application.

The Chairman then put the motion to the vote.

It was moved by Councillor R Canny, seconded by Councillor M B Wyatt and

RESOLVED THAT:

The application be refused on the grounds that the development site was greenfield and in a sensitive area, and the character and design, together with the site's prominence due to the topography, was not appropriate.

17.

**A3**

**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)**

Money Hill Site North Of Nottingham Road And South Of A511 Ashby De La Zouch  
Leicestershire

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

Having declared a pecuniary interest in this item, Councillors R Adams, D Everitt, J Geary and J Legrys left the meeting during consideration of this item and took no part in the discussion or voting thereon.

The Principal Planning Officer presented the report to members.

Councillor G A Allman, ward member, addressed the committee. He stated that one could measure the strong feelings about what wicked developments were being planned for the town which would irreversibly change it for our children. He highlighted that the impact of

such a development would result in the junction with the A42 at Flagstaff island being oversaturated, and any such development should only take place once this had been mitigated. He asked what infrastructure plans there were for in place for this, and stated that the application was rendered undeliverable if there were none. He respectfully reminded members that planning applications had to be sensible, and he pleaded passionately with the committee to listen to the residents of Money Hill and Ashby de la Zouch as a whole. He quoted from the Local Plan which stated that the purpose of planning was to help achieve sustainable development, which meant ensuring that providing for the needs of the current generation did not make life worse for future generations, and this proposal most certainly would.

Mr M Ball, representing the Town Council, addressed the committee. He reiterated his concerns about the perils of Nottingham Road and the opposition to building an access onto it from the Money Hill development. He added that when the planning inspector approved the development, he concluded that the proposed development would not compromise highway safety or result in any significant increase in congestion because the entire access was from the bypass; however this application was very different and would result in up to 450 extra vehicles using Nottingham Road every morning and evening. He expressed concerns regarding the additional traffic and stated that in reality the road was already saturated and dangerous for residents. He commented that millions was spent bypassing Ashby de la Zouch to reduce this misery and this would tip it over the edge. He made reference to the endorsement of the Local Plan which meant it now carried weight. He urged members to utilise policy H3 and highways safety as firm ground to refuse an application which placed developer profits over public safety.

Ms L Titley, objector, addressed the meeting. She stated that residents risked life and limb to exit their driveways onto Nottingham Road and Wood Street every day, as the road was blighted by tailbacks, congestion and speeding cars. She commented that two bypasses had been built, but congestion was now at pre-bypass levels. She added that residents had been witness to accidents. She expressed concerns regarding the safety of children, residents and road users. She commented that the traffic flow data was out of date and the proposed access was 6 metres wide against guidelines. She commented that Ashby was a historic town and that this road and junction belonged in the past and she urged members not to risk the safety of residents by accepting it.

Mr J Bompas, agent, addressed the meeting. He stated that this outline application was very similar to that approved by the Secretary of State and differed only in the provision of vehicular access onto Nottingham Road and a new car park, which had been identified by the Town Council as being needed to support the vitality of the town centre. He added that since the approval of the previous application, this development had been fully incorporated into the wider fabric of planning policy by its inclusion in the draft neighbourhood plan and the Local Plan. He commented that where the application differs from the existing consent, this had been discussed in detail with the Highways Authority and the Town Council. He explained that the proposed access was entirely subservient to the main access, and the Nottingham Road access would serve a limited number of dwellings, and would be utilised primarily for buses and to allow access to the new primary school and car park. He added that the impact on the A511 had been fully tested through the appeal and the Highways Authority had confirmed that the proposed access would result in no significant increase in congestion. In addition he stated that the proposed car park has been enlarged to address the shortage of parking.

Councillor D J Stevenson commented that he was bitterly disappointed that the access was not solely off the bypass.

It was moved by Councillor D J Stevenson, seconded by Councillor J G Coxon and

RESOLVED THAT:

The application be deferred to allow further consideration of site access arrangements, with the preference remaining for this to be from the bypass only.

- 18. A4**  
**16/00450/FUL: ERECTION OF FOUR DETACHED DWELLINGS WITH ASSOCIATED OFF-STREET PARKING AND NEW VEHICULAR ACCESS OFF MANOR DRIVE**  
 Land Off Manor Drive Worthington Leicestershire

Officer's Recommendation: PERMIT

The Principal Planning Officer presented the report to members.

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

RESOLVED THAT:

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

- 19. A5**  
**16/00160/FUL: INSTALLATION OF NEW SHOP FRONT AND AIR CONDITIONING UNIT (RETROSPECTIVE APPLICATION)**  
 Rose Of Bengal 42 Borough Street Castle Donington Derby DE74 2LB

Officer's Recommendation: REFUSE

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

Mr R Sizer, representing the Parish Council, addressed the committee. He stated that the centre of Castle Donington was promoted by traders as a historic market town, and the Rose of Bengal was located in a conservation area. He advised that the Parish Council objected to the application on the grounds that the renovations to the shop front did not accord with the Council's guidance, which he made reference to. He highlighted the importance of context, as shop fronts were never seen in isolation, and should respect the building it formed part of and the wider streetscene. He also advised that shop fronts were to be timber constructions, usually, but this was pvc. He also made reference to policy HE1 which stated that heritage assets should be enhanced or preserved.

Mr R Morrell, agent, addressed the committee. He said that pre-application advice had been sought by himself with his client present, and they had been informed that there were no restrictions on the shops on Borough Street. He added that he had dealt with many applications in conservation areas over the years. He explained that one of the key points requested by his client was better access for the disabled, as there were changing floor levels inside the shop. He stated that under Building Regulations the design of windows must comply with zero carbon emissions and that this was achieved via large panel double glazing. He also added that sound tests were also requested by building control as was a noise pollution audit, which also formed the requirement of the windows. He advised that the plans were submitted to the local building control and all other alterations were successfully approved. He stated that no consultation between building control and development control had ever taken place. He reiterated that all requirements had been fulfilled and advice sought on the design of the shop front.

The motion to move the application in line with officer recommendation was put to members and was moved by Councillor J Bridges, seconded by Councillor R Canny.

Councillor D Everitt stated that there must be documentation to verify the facts raised by the agent. He added that what concerned him was the way in which the shop front projected forward and how the shop front looked considering the rest of the streetscene. He also considered it amazing that one would undertake work in a conservation area without knowing the regulations and being liable. He sought clarification on how long the shop front had been in existence.

Councillor R Canny clarified that the forward projection was not original, but had been undertaken many years ago and was not part of this renovation. She stated that the property was previously a cake shop and that there had been no problems with disabled access. She made reference to the Council's policies and stated that the character that was there had been completely taken out. She added that the Parish Council wanted to encourage people to consult with them and take on board the guidelines when they were replacing windows. She felt that the Parish Council ought to be afforded some weight to enable them to take control of this historic village. She added that the window could have been improved significantly by working with officers and taking on board the guidance.

Councillor D Harrison expressed concern that the applicant could receive a substantial penalty which could jeopardise their business when they believed they had followed the due process and were doing nothing wrong.

The Head of Planning and Regeneration stated that he had spoken with colleagues and there was no building control requirement that resulted in the shop front needing to be replaced. He added that building control would not check as a matter of course whether planning permission was required, and it was the applicant's responsibility to do so. He explained that there was no formal record of pre-application advice being given in this case, and he was certain that if it had been, the advice would have been that a planning application was needed. He concluded therefore that the applicant had taken a risk and had completed the work without obtaining planning permission. This had subsequently been investigated by the enforcement team, and assessed by officers. It was considered by officers that, had the application been submitted before the works were carried out, some improvements could have been achieved, hence the recommendation.

Councillor V Richichi stated that the shop front was not in keeping with the locality and expressed concerns that this had been rushed through.

Councillor D J Stevenson clarified that what was under discussion was only the window and the door, which was virtually the same as the one next door and the Co-operative store opposite.

Councillor M Specht felt removing the glass panes and inserting Georgian bars would not be too onerous a cost, and therefore he supported the officer's recommendation.

The application was moved to the vote and it was

RESOLVED THAT:

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

**20. A6**  
**15/00948/FUL: PARTIAL DEMOLITION OF FARM BUILDING, CONVERSION AND EXTENSION OF REMAINING FARM BUILDINGS TO FORM TWO DWELLINGS ALONG WITH THE ERECTION OF SIX ADDITIONAL DWELLINGS AND ALTERATIONS TO VEHICULAR ACCESS**

Village Farm 36 Hall Gate Diseworth Derby DE74 2QJ

Officer's Recommendation: PERMIT

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

Mrs C Chave, agent, addressed the committee. She outlined the context to the request to remove the affordable housing obligation and made reference to the unfortunate timing of the high court decision and the subsequent reinstatement of the threshold by the court of appeal. She added that this sort of proposal should be encouraged and was why the national threshold was introduced. She stated that this was an exempt scheme and hoped members would support the proposals.

It was moved by Councillor J Bridges, seconded by Councillor J Legrys and

RESOLVED THAT:

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

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 6.16 pm

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**APPENDIX B**

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

**2 August 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.

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)

Report Item No  
A1

Money Hill Site North Of Nottingham Road And South Of A511  
Ashby De La Zouch Leicestershire

Application Reference  
15/00512/OUTM

Applicant:  
Money Hill Consortium

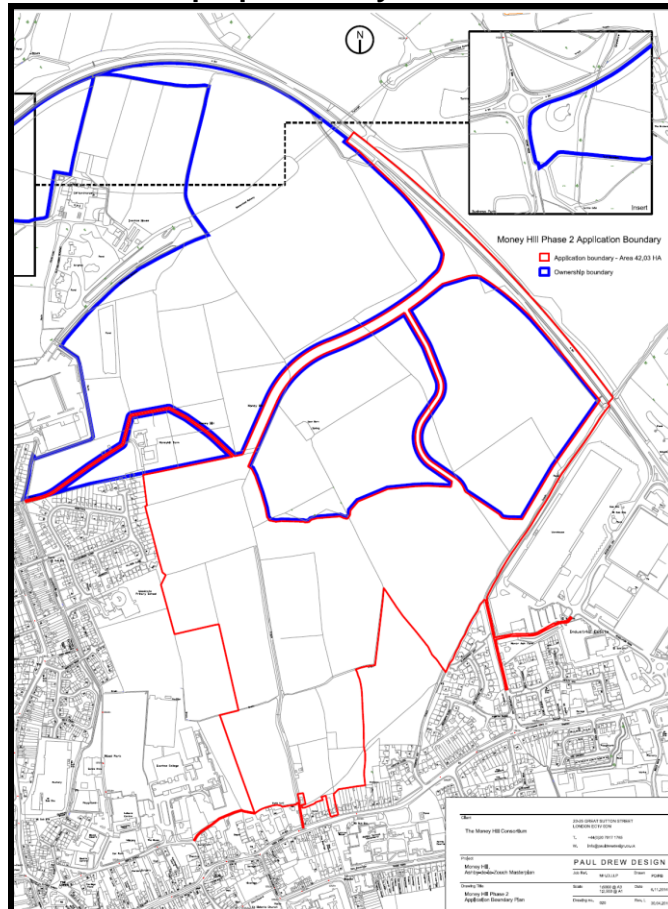
Date Registered  
13 May 2015

Case Officer:  
James Knightley

Target Decision Date  
12 August 2015

Recommendation:  
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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

### **Proposal**

This application seeks outline planning permission for residential development of 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. The entire site is allocated for housing development in both the publication Local Plan and the Publication Neighbourhood Plan.

### **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, remain unchanged. Whilst the Local Highway Authority had previously 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

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. Following amendment of the appeal proposals, the existing planning permission allows access for up to 30 dwellings via Woodcock Way (but does not require it); the remainder of the 605 dwellings would be served via the A511.

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). The applicants' proposed planning obligations (and including the proposed affordable housing contributions) are generally as per those secured under the unilateral undertaking agreed as acceptable by the Secretary of State in respect of the earlier appeal.

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

The application was reported to Planning Committee on 5 July 2016 when it was resolved to be deferred in order to enable officers to negotiate with the applicant with a view to the application being amended so as to provide for all vehicular access via the A511.

In response (and on the basis that the application is resolved to be approved at the Planning Committee meeting of 2 August 2016), the applicants have proposed reducing the maximum number of residential units capable of exiting the site from the Nottingham Road access from 150 to 100. They advise that, in the event that the application is deferred again, or refused, this compromise offer would not be carried forward in any subsequent appeal.

## 2. Publicity

768 neighbours have been notified (date of last notification 2 June 2015)

Press Notice published 3 June 2015

Site Notice published 1 June 2015

## 3. Consultations

Ashby De La Zouch Town Council consulted 28 May 2015  
Derbyshire County Council consulted 18 June 2015  
Ramblers' Association consulted 29 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 Management 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- 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** has no objections subject to conditions and Section 106 obligations

**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**

90 representations have been received, raising the following concerns:

- Unsafe access onto Nottingham Road
- Nottingham Road / Wood Street already very busy / unsafe
- Exacerbation of existing congestion problems
- 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
- Publication version of the emerging North West Leicestershire Local Plan indicates that no more than 70 dwellings will be permitted from Nottingham Road
- Previous approval was limited to only 30 dwellings from Nottingham Road
- Contrary to Policy H3 of the emerging North West Leicestershire Local Plan
- Council is able to demonstrate a five year housing land supply
- If permitted, the scheme would only substitute 605 dwellings for an existing permission for 605 dwellings, so the contribution to housing supply should not be material to the decision
- No masterplan for the wider Money Hill allocation has been provided
- Transport Assessment and its associated traffic survey data are out of date, and predates signalisation of the Wood Street / Upper Church Street junction
- Limited scope to increase traffic light controlled junction capacity
- No account taken of previous nearby accidents
- Conditions imposed by the previous Inspector should be enforced
- No account taken of on street car parking
- No account taken of impact of road levels on visibility splays
- No turning circles provided (including for emergency vehicles)
- Insufficient assessment of junction capacities
- Validation of LLITM model needs to be confirmed

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)
- Adverse impact on highway safety
- Contrary to emerging Local Plan
- Proposed car park too far from town centre to be of use
- If permitted, the scheme would only substitute 605 dwellings for an existing permission for 605 dwellings, so the contribution to housing supply should not be material to the decision

**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

**Ashby de la Zouch Civic Society** objects for the following reasons:

- District has a five year supply of housing land
- Previous appeal decision limited the number of dwellings served from Nottingham Road

- to 30
- No masterplan as required by emerging Local Plan
- History of accidents in the Nottingham Road area
- Delivery of the site can still be achieved without the access in accordance with the existing permission

**Nottingham Road and Wood Street Action Group (NoRAG)** objects for the following reasons:

- Leicestershire County Council unhappy with proposals
- Transport Assessment and its associated traffic survey data are out of date
- Contrary to emerging Local Plan
- Insufficient capacity on A511 / Nottingham Road roundabout

## 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.

### **Publication Version North West Leicestershire Local Plan**

On 15 September 2015 the District Council's Full Council approved a draft Local Plan for consultation. That consultation has now ended and the publication version of the Local Plan was agreed by Council on 28 June 2016 with a view to its submission for examination in September 2016. Given the more advanced stage that has now been reached with agreement of a publication version of the Local Plan it is considered that more weight can be attached to the policies listed below.

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

The following draft Local Plan policies are considered relevant:

Policy D1 - Design of new development

Policy D2 - Amenity

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 Ec8 - Town and local centres: Hierarchy and management of development

Policy Ec9 - Town and local centres: Thresholds for Impact Assessments

Policy IF1 - Development and infrastructure

Policy IF2 - Community and cultural 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 - Flood risk

Policy Cc3 - 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 site lies within Limits to Development as defined in the emerging Neighbourhood Plan. The following draft Neighbourhood 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 Development  
 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 overall from the position taken by the Secretary of State.

In terms of emerging policy, given the early stages reached in their progress towards adoption, the Secretary of State afforded only very limited weight to the draft North West Leicestershire Local Plan and to the draft Ashby de la Zouch Neighbourhood Plan. As noted under Relevant Planning Policy above, the publication version of the draft Local Plan has now been agreed by Council with a view to its submission for examination in September 2016 and, as such, more weight may now be attributed to its policies.

The site forms part of a wider site allocated for a total of 1,750 dwellings under Policy H3 of the

publication Local Plan (allocation H3a). It is considered that, in principle, the current outline scheme for 605 units has the potential to comply with the majority of the requirements set out in that policy. Whilst explanatory paragraph 7.17 indicates that a third point of access from Nottingham Road (i.e. in addition to accesses from the A511 and Smisby Road) would be allowed, this would, in effect, be the 70 units accessible via Woodcock Way; the publication Local Plan is silent on the issue of whether a fourth point of access would be acceptable. Regardless, however, given the acceptance by the County Highway Authority (as set out in more detail below) that the scheme as submitted would be suitable, it is not considered that a refusal of the scheme on the grounds that the development would result in more accesses than envisaged in the emerging policy could be successfully defended on appeal.

Insofar as the emerging Neighbourhood Plan is concerned, it is noted in particular that Policy H1 of the draft Neighbourhood Plan indicates that the minimum 2,050 new houses to be provided within the plan area by 2031 would be accommodated on, amongst others, the Money Hill site; Policy H2 sets out the requirement for a masterplan. In terms of the weight to be attached to the emerging Neighbourhood Plan, however, it is not considered that any further progress has taken place in respect of that plan since the time the appeal was determined that would warrant materially greater weight being attached to its policies at this time.

### **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 (100 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 (albeit the Phase 1 arrangements above would enable drivers to access (but not egress) the remainder of the development via Nottingham Road)

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 to Nottingham Road); the means in which this would be achieved would be addressed at the reserved matters stage, however.

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. Following the submission of an amended access plan, however, the County Highway Authority 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.

Insofar as the proposed Nottingham Road access is concerned, the County Council confirms that the design is compliant with the requirements set out in the 6Cs Design Guide and, whilst

this specific layout has not been subject to a Stage 1 Road Safety Audit, previous iterations of the same principle of access have been, and the RSA1 reports did not raise any significant areas of concern.

The County Highway Authority advises that it considers a 6.75m wide site access to be necessary given that the access is proposed for bus use, and as a school is proposed to be provided on the site. Whilst the County Highway Authority advises that it would not wish to encourage the significant intensified use of an access on to Nottingham Road, there are various mechanisms which could be put in place within the layout of the development at the reserved matters stage(s) to discourage this.

Insofar as the proposed traffic management measures within the site intended to limit the level of through traffic between Nottingham Road and the A511 are concerned (and which include a bus gate and a one-way system), the County Highway Authority advises that it has concerns over these proposals as they would be subject to a Traffic Regulation Order (TRO); this TRO would require public consultation, and it could not therefore be guaranteed at this time what the outcome of that process would be. Furthermore, the County Highway Authority notes, there is a risk that any measures could be petitioned in the future by residents for removal, which would result in significant financial cost to the County Council. However, the County Council accepts that such matters cannot be addressed at this outline application stage, and understands that the detailing of any such measures would be considered as part of any subsequent reserved matters applications.

The County Highway Authority has noted that junctions along Nottingham Road currently have ghost island right turn lanes to facilitate the free flow of traffic. However, the County Highway Authority recognises that this section of Nottingham Road is generally between the eastbound queue (towards Tesco) and the westbound queue (towards the town centre) and therefore suffers less from the effects of queuing traffic compared to the rest of the corridor. Whilst the County Council advises that, during site visits undertaken by the County Highway Authority, it was noted that the westbound (town centre bound) queues did extend as far back as the location of the proposed access, this was not a persistent queue throughout the whole peak period.

The County Highway Authority also notes that there is some on-street parking within the vicinity of the proposed site access but that dwellings in the immediate vicinity of the site have off-street parking. As per the previous application, given the constraints around the vicinity of the site access, the County Highway Authority recommends a contribution be sought towards the consultation and implementation of a no-waiting TRO in the vicinity of the site access to facilitate bus movements.

The County Council also advises that the junction capacity assessment provided alongside the proposed site access demonstrates that the junction is likely to operate within capacity, as a simple priority junction.

In terms of road safety, the County Highway Authority draws attention to a fatal accident in the vicinity of the site in January 2016. Whilst the County Highway Authority states that it considers any fatal incident to be regrettable, it advises that there are no accident clusters in the vicinity of the site access with similar accident characteristics and would not therefore advise resisting the proposal for a new site access on the basis of this single incident.

In view of the similarity between the approved and proposed schemes, the County Highway Authority does not consider that there are any significant differences in terms of their respective

off-site traffic and sustainable travel implications.

Having regard to the above, therefore, the County Highway Authority raises no objections to the application subject to conditions and Section 106 obligations. In addition, the conclusions of the County Highway Authority have been independently verified on behalf of the District Council.

#### *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 which has already been accounted for, 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. The Environmental Statement indicates that 87% of the site would constitute Best and Most Versatile (BMV) land (of which the majority would fall within Grade 3a).

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 nor 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 a bilateral 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, the Local Education Authority has concerns that the development of 605 homes on the site will not provide sufficient land and money within the Section 106 agreement to provide an entire school. This is because the development will not generate enough pupils to fill a school, and it is obviously not possible to build part of a school. The applicant used the County Council's formula, when calculating the education financial contribution, which only considers classrooms and does not include other associated support services. This cash sum,

based on the formula, was accepted by the appeal which was allowed in January 2016, with reference to the alternative version of the application that this report refers to. The applicant therefore has a strong fall-back position, in that it can develop 605 homes on the site, and pay the education contribution that is set out in that legal undertaking.

The Education Authority has suggested a number of possible solutions to this funding shortfall, including taking the financial contribution and pooling it with the Holywell Spring Farm development to build a school on that site. The children from the current application site could then attend the new school on the Holywell Spring Farm development. Alternatively, given that the application is in outline, the land that the development will provide towards the school could be located at the edge of the site, to enable additional school land immediately adjacent to it to be provided when the wider site comes forward.

It is the case that the Education Authority has reservations about the inability of the site to provide a whole school by itself, but it is also the case that an existing legal commitment by the developer provides a significant sum, and there is potential for that sum to be pooled with others to provide a whole school. On that basis, it is considered that the proposed education contribution of £1,756,776.25 plus land (minimum 1.5ha) is policy compliant.

### *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, 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 / CABI 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 relevant access, no construction works shall take place at any time unless either (i) the A511 site access junction as shown on drawing no. 11-T097\_30 has been provided in full and is available for use by construction traffic; or (ii) a construction traffic access from the A511 in accordance with details first submitted to and agreed in writing by the Local Planning Authority has been provided in full and is available for use by construction traffic. No more than 100 dwellings shall be occupied within the development 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, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.*

- 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, routing 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 100 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 100 dwellings shall be accessed off Nottingham Road.

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

31 None of the dwellings hereby permitted shall be occupied until such time as the Nottingham Road site access junction as shown on drawing no. 11-T097\_40.1 has been provided in full and is available for use by vehicular traffic.

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

32 No more than 100 dwellings constructed pursuant to this planning permission shall be occupied until such time as a scheme for the connection between the roundabout access at the A511 and the Nottingham Road access has been implemented in full in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To allow for bus penetration through the site, in the interests of promoting sustainable travel.*

### 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.
- 12 For the avoidance of doubt, all references within phases of development within the conditions above should be construed as being those phases of development to be set out and agreed pursuant to Condition 5.
- 13 This decision is in accordance with the resolution of the Planning Committee of 2 August 2016 and is subject to a Section 106 Obligation.



Residential development of up to 7 dwellings (including the retention of no.191 Loughborough Road) (Outline - details of part access included)

Report Item No  
A2

191 Loughborough Road Whitwick Coalville Leicestershire  
LE67 5AS

Application Reference  
14/00933/OUTM

Applicant:  
Mr S Hall

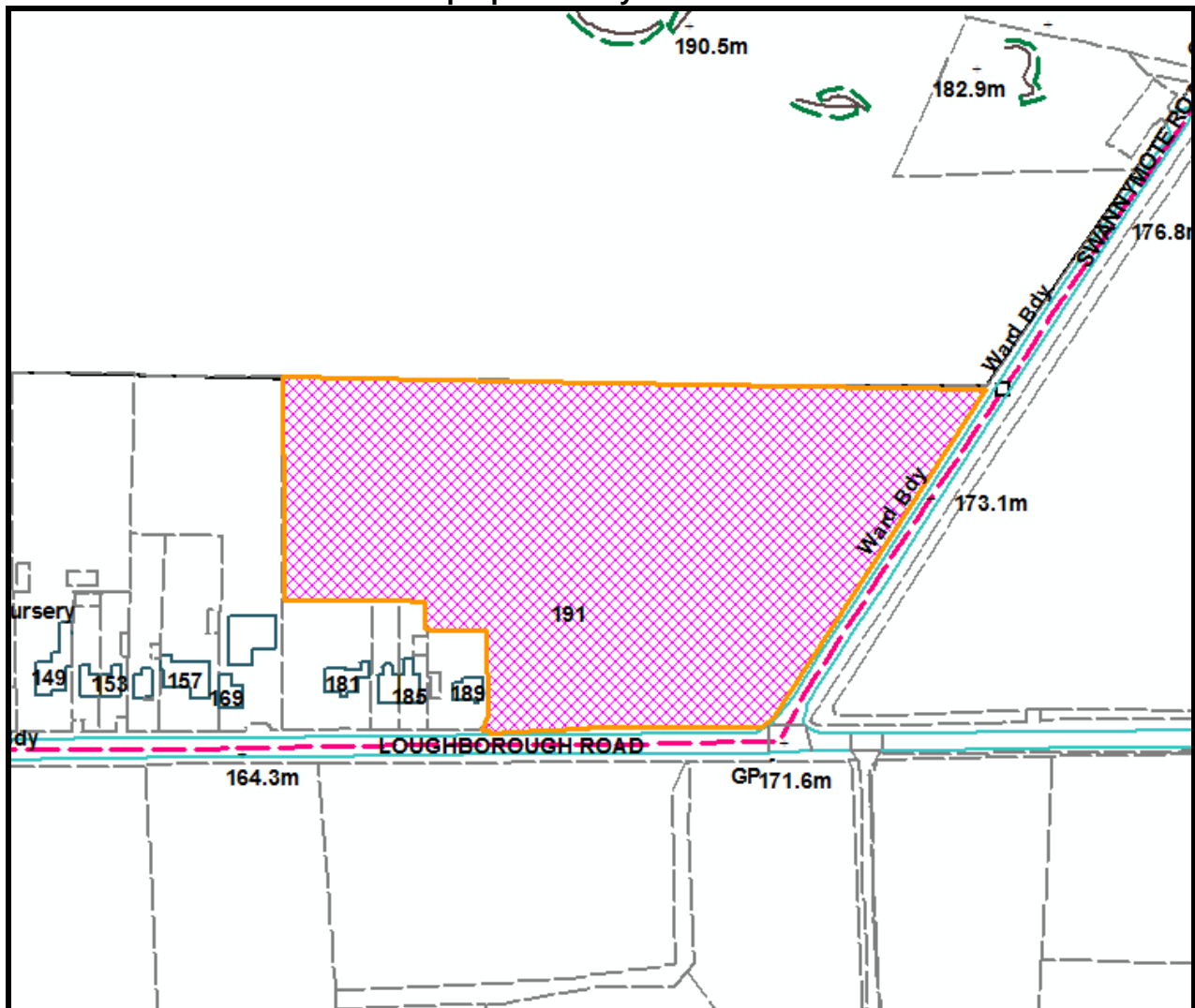
Date Registered  
26 September 2014

Case Officer:  
Adam Mellor

Target Decision Date  
26 December 2014

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

When the application was originally submitted in 2014 it was requested by the then Ward Member, Councillor Woodward, that the application be determined by the Planning Committee due to the site being outside the defined Limits to Development as well as the adverse impacts the proposal would have on the Area of Particularly Attractive Countryside (APAC), residential amenities, highway safety, ecology and flood risk. Although Councillor Woodward is no longer the Ward Member for Thornborough the Ward Member responsible for this area, Councillor Goacher, has reaffirmed that the application should be determined by the Planning Committee for the above reasons.

### Proposal

Outline planning permission is sought for a residential development of up to 7 new dwellings and the retention of no. 191 Loughborough Road with part access included for determination at this stage. The 1.86 hectare site is situated on the northern side of Loughborough Road and is partially within the Limits to Development as well as outside the Limits to Development and is within an Area of Particularly Attractive Countryside (APAC). The Grace Dieu & High Sharpley Site of Scientific Interest (SSSI) is also to the north of the site.

### Consultations

A total of 537 representations, as well as a signed petition with 240 signatories, have been received objecting to the application. Whitwick Parish Council also objects to the proposals. All other statutory consultees have no objections subject to conditions.

### Planning Policy

Whilst the principle of the development would conflict with the aims of Policies S3, E22 and H6 of the adopted Local Plan and Policy S3 of the publication version Local Plan, as well as 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 E22 in the decision making process. Only a limited area of the site would be outside the defined Limits to Development. The development's conflict with Policy H6 of the adopted Local Plan could justify a reason to refuse the application. Notwithstanding these conflicts the development would remain compliant with all other relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant policies of the adopted Local Plan, publication version Local Plan and other relevant guidance.

### Conclusion

The site is greenfield, and lies both within and outside the defined Limits to Development with the parts outside the defined limits also being within an Area of Particularly Attractive Countryside (APAC). All of the development would be proposed on greenfield land.

Only one of the proposed dwellings would be within the APAC and therefore outside the defined limits. The remainder of the site that is outside the defined limits would remain undeveloped. A landscape buffer is to be supplied to the Grace Dieu & High Sharpley Site of Scientific Interest (SSSI). On balance, the limited harm caused to the environment as a result of the proposal

would be outweighed by the economic benefits of the development and the overall sustainability credentials of the Whitwick and Greater Coalville area, on this basis the principle of the development is accepted.

On the basis that built forms of development already exist which do not directly front onto Loughborough Road, as well as the fact that the site would be well screened, it is considered that a development could be progressed at the reserved matters stage which would not impact adversely on the character and appearance of the streetscape or the wider area and which could incorporate design characteristics consistent with properties in the area. On this basis the proposal would be compliant with Paragraphs 57, 59, 60 and 61 of the NPPF as well as Policy E4 of the adopted Local Plan and Policy D1 of the publication version Local Plan. Should reserved matters be dealt with under the adopted Local Plan, the proposal would be required to meet the requirements of Policies H7 and F1. If reserved matters are dealt with after the Council has adopted a new Local Plan, reserved matters will be dealt with in accordance with its policies.

The County Highways Authority have raised no objections to the application, subject to the imposition of conditions.

It is considered that a scheme could be devised at the reserved matters stage which would not impact adversely on the amenities of existing residential properties and as such the development would be compliant with Paragraph 123 of the NPPF, Policy E3 of the adopted Local Plan and Policy D2 of the publication version Local Plan.

Subject to careful consideration being given to the layout it is considered that a scheme could be progressed which will retain the existing protected trees and which could provide appropriate landscaping in the buffer area to be created. On this basis the development accords with Policies E7, F1, F2 and F3 of the adopted Local Plan as well as Policies En3 and En4 of the publication version Local Plan.

Subject to the imposition of conditions, archaeology and ecology would not act as a constraint on the development and as such compliance with Paragraphs 118 and 141 of the NPPF, Circular 06/05 and Policies En1 and He1 of the publication version Local Plan would be met. Severn Trent Water and the Environment Agency have raised no objections to the proposal, subject to conditions, and therefore the scheme would accord with Paragraphs 103 and 120 of the NPPF. Compliance with Paragraphs 120 and 121 of the NPPF would also be met with the imposition of contaminated land conditions on any consent granted.

It is therefore recommended that the application be permitted.

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

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

## MAIN REPORT

### 1. Proposals and Background

Outline planning permission is sought for a residential development of up to 7 new dwellings (Outline - details of part access included) at 191 Loughborough Road, Whitwick. The application site measures 1.86 hectares and is positioned to the north of Loughborough Road and west of Swannymote Road and comprises land around the existing property at No. 191 (within the applicant's ownership) which is a two-storey detached dwelling set back from Loughborough Road by approximately 33 metres. Neighbouring dwellings at Nos. 181 - 189 are two-storey detached and semi-detached dwellings that follow a building line much closer to the highway at approximately 10 metres.

The majority of the area to be developed is within the defined Limits to Development, and partially outside these Limits with the parts outside also being within an Area of Particularly Attractive Countryside (APAC). Cademan Wood is located to the north of the site.

The majority of the site is currently lawn and hard standing with minimal landscaping within the front amenity area to No. 191 (to the south of the dwelling) and open grassed paddock to the north-west, north and east of No. 191. Along the highway boundary (southern boundary) are a number of substantial trees of which three (Beech, Lime and Sycamore) are protected by Tree Preservation Order (TPO) 430. Additional trees to the southern boundary and eastern boundary (along Swannymote Road) are protected by Tree Preservation Order (TPO) 438. The protected trees would be retained as part of the development.

As part of the consideration of the application the total number of dwellings has been reduced from 34 to 7 (including the retention of no. 191) and an illustrative masterplan has been provided to show a potential arrangement of dwellings on the site as well as the provision of additional landscaping and buffer zone between the development and the Grace Dieu & High Sharpley Site of Special Scientific Interest (SSSI). Vehicular access into the site would be from a new access onto Loughborough Road ( and an existing access point is to be closed).

A design and access statement, planning statement, affordable housing statement, flood risk assessment, tree survey, ecology scoping survey, Building for Life 12 Statement and energy performance statement have been submitted in support of the application.

The relevant planning history of the site is as follows

- 12/00292/FUL - Erection of four no. two-storey (with habitable accommodation in the roof space) dwellings and associated garaging - Withdrawn 16th July 2012;
- 12/01094/FUL - Erection of four no. two-storey (with habitable accommodation in the roof space) dwellings and associated garaging (revised scheme) - Refused 18th November 2013;
- 14/00219/FUL - Erection of three no. single storey detached dwellings and one no. two-storey dwelling and associated garaging - Refused 9th May 2014.

### 2. Publicity

43 neighbours have been notified.

Press Notice published 22 October 2014

Site Notice posted 4 November 2014

### 3. Consultations

Whitwick Parish Council consulted  
 Head of Environmental Protection consulted 21 October 2014  
 County Highway Authority consulted 21 October 2014  
 Environment Agency consulted 21 October 2014  
 Severn Trent Water Limited consulted 21 October 2014  
 Head of Environmental Protection consulted 21 October 2014  
 Natural England consulted 21 October 2014  
 NWLDC Tree Officer consulted 21 October 2014  
 County Archaeologist consulted 21 October 2014  
 LCC ecology consulted 21 October 2014  
 NWLDC Urban Designer consulted 21 October 2014  
 National Forest Company consulted 21 October 2014  
 LCC Development Contributions consulted 21 October 2014  
 NHS Leicester, Leicestershire And Rutland Facilities Management consulted 21 October 2014  
 Development Plans consulted 21 October 2014  
 Head Of Leisure And Culture consulted 21 October 2014  
 Manager Of Housing North West Leicestershire District Council consulted 21 October 2014  
 Police Architectural Liaison Officer consulted 21 October 2014  
 Planning Enforcement consulted 21 October 2014  
 Head Of Street Management North West Leicestershire District consulted 21 October 2014

### 4. Summary of Representations Received

The following summary of representations is provided with relate only to the scheme for 7 dwellings. Members may inspect full copies of correspondence received on the planning file.

**Environment Agency** has no objections subject to the imposition of conditions relating to drainage (foul and surface water).

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

**Leicestershire County Council - Ecology** has no objections subject to conditions.

**Leicestershire County Council - Highways** has no objections subject to conditions.

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

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

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

**NWLDC - Environmental Protection (Contaminated Land)** has no objections subject to conditions.

**NWLDC - Tree Officer** has no objections subject to conditions.

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

**Whitwick Parish Council** object to the application on grounds of unsustainability, outside limits to development, contrary to planning policies to protect Charnwood Forest and areas of

attractive countryside, highway issues relating to speeding traffic and local schools, dangerous access at both points but especially onto Swannymote Road, lack of convenient access to public transport or local amenities, increasing flooding risks, detrimental to air quality and lack of local public service infrastructure. In the event of permission being granted the Parish Council would wish to see Section 106 Obligations relating to traffic calming and extension of the '30mph' speed limit on Loughborough Road and onto Swannymote Road and transfer of green buffer zones into public ownership to prevent further expansion. The amendments made to the scheme to reduce the overall number of dwellings have not altered these views.

### **Third Party Representations**

537 letters of representation have been received from local residents and visitors from further afield. 62 representations have been received which are not on a standard pro-forma with the remainder being received on four different types of pro forma letters: 265 of one letter; 104 of another; 76 of another; and, 30 of the fourth type. Some letters have been received from different members of the same household. All representations are objections to the proposal, and the concerns raised can be summarised as follows:

#### *'In Principle' issues*

- Two previous applications for No. 4 dwellings refused on unsustainability grounds.
- The Core Strategy is not in place so no planning permissions should be given until the new one is in place.
- The Council's housing needs can be fully met by the redevelopment of existing brownfield sites and the proposed Bardon development.
- The development is not required when there is a 5 year supply of housing;

#### *Countryside, appearance and amenity issues*

- The development will have an adverse impact on the open character of the area and adjacent countryside contrary to Policy E1.
- The application should be refused for unacceptable landscape and visual impact including that it would impact on an Area of Particularly Attractive Countryside contrary to Policy E22.
- The development would be outside Limits to Development contrary to Policy S3.
- The development, by reason of scale, mass and oppressiveness, would be detrimental to the area contrary to Policy E3.
- I use the woods and countryside of the area for recreational purposes.

#### *Flooding issues*

- The development will make localised flooding problems worse.
- Photographic evidence of local flooding has been provided on previous planning applications for this site.

#### *Infrastructure issues*

- There is no regular bus service within a kilometre of this development.
- There are no village amenities within a kilometre of the site, and the amenities are spread all over the village rather than being in one place.

#### *Highways issues*

- Swannymote Road and Loughborough Road are fast dangerous roads.
- Increased car travel leads to increases in risk of traffic accidents.

*Other issues*

- There would be a loss of long range views.

A signed pro-forma letter with 240 signatories objecting to the application in the circumstances the land should become 'greenfield' land and that the Site of Special Scientific Interest and Cademan Wood should be protected has also 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 NPPF. The closer the policies in the development plan to the policies in the NPPF, 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 10 (Achieving sustainable development);
- Paragraph 14 (Presumption in favour of sustainable development);
- Paragraph 17 (Core planning principles);
- Paragraph 32 (Promoting sustainable transport);
- Paragraph 35 (Promoting sustainable transport);
- Paragraph 39 (Promoting sustainable transport);
- Paragraph 47 (Delivering a wide choice of high quality homes);
- Paragraph 49 (Delivering a wide choice of high quality homes);
- Paragraph 53 (Delivering a wide choice of high quality homes);
- Paragraph 55 (Delivering a wide choice of high quality homes);
- Paragraph 57 (Requiring good design);
- Paragraph 60 (Requiring good design);
- Paragraph 61 (Requiring good design);
- Paragraph 64 (Requiring good design);
- Paragraph 73 (Promoting healthy communities);
- Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);
- Paragraph 109 (Conserving and enhancing the natural environment);
- Paragraph 112 (Conserving and enhancing the natural environment);
- Paragraph 118 (Conserving and enhancing the natural environment);
- Paragraph 120 (Conserving and enhancing the natural environment);
- Paragraph 121 (Conserving and enhancing the natural environment);
- Paragraph 123 (Conserving and enhancing the natural environment);
- Paragraph 141 (Conserving and enhancing the historic environment);

Paragraph 203 (Planning conditions and obligations);  
Paragraph 204 (Planning conditions and obligations);  
Paragraph 206 (Planning conditions and obligations);

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

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

Policy S2 - Limits to Development;  
Policy S3 - Countryside;  
Policy E3 - Residential Amenities;  
Policy E4 - Design;  
Policy E7 - Landscaping;  
Policy E8 - Crime Prevention;  
Policy E22 - Areas of Particularly Attractive Countryside;  
Policy F1 - National Forest General Policy;  
Policy F2 - National Forest Tree Planting;  
Policy F3 - National Forest Landscaping and Planting;  
Policy T3 - Highway Standards;  
Policy T8 - Parking;  
Policy T10 - Public Transport;  
Policy T13 - Cycle Parking;  
Policy H4/1 - Housing Land Release;  
Policy H6 - Housing Density;  
Policy H7 - Housing Design;  
Policy H8 - Affordable Housing;  
Policy L21 - Children's Play Area;  
Policy L22 - Formal Recreation Provision;

**Publication Version North West Leicestershire Local Plan**

The publication version of the Local Plan was agreed by Council on 28th June 2016 with a view to its submission for examination in September 2016. Given the advanced stage that has now been reached it is considered that weight can be attached to the following policies: -

Policy S1 - Future Housing and Economic Development Needs;  
Policy S2 - Settlement Hierarchy;  
Policy S3 - Countryside;  
Policy D1 - Design of New Development;  
Policy D2 - Amenity;  
Policy H4 - Affordable Housing;  
Policy H6 - House Types and Mix;  
Policy IF1 - Development and Infrastructure;  
Policy IF3 - Open Space, Sport and Recreation Facilities;  
Policy IF4 - Transport Infrastructure and New Development;  
Policy IF7 - Parking Provision and New Development;  
Policy En1 - Nature Conservation;  
Policy En3 - The National Forest;  
Policy En4 - Charnwood Forest;  
Policy En6 - Land and Air Quality;  
Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;  
Policy Cc2 - Water - Flood Risk; and



Policy Cc3 - 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.

#### **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 Development**

In accordance with the provision 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 Local Plan (2002 (as amended)).

The application site lies both within and outside the defined Limits to Development with residential development being an acceptable form of development within the limits, in the context of Policy S2 of the adopted Local Plan, but not outside these limits, in the context of Policy S3 of the adopted Local Plan and Policy S3 of the publication version Local Plan.

The NPPF requires that the District Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Local Authority is able to demonstrate a five year supply of housing (with 20% buffer) against the requirements contained in the publication Local Plan.

Paragraph 17 of the NPPF highlights the need to recognise the intrinsic character and beauty of the countryside, but does not specifically preclude development within the countryside. Consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set out below.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF and it is noted that in considering previous applications on the site, for four dwellings, the site has generally been considered socially sustainable. However, in a recent appeal decision reference was made to the Institute of Highways and Transportation document '*Providing for Journeys on Foot*' which outlines that the preferred maximum walking distance to local services would be 800 metres and 1000 metres to a school. Previous assessments have been based around the Department of Transport (DoT)

statistics which show that the average trip length undertaken by foot would be 1km, however, the Inspector in the above appeal considered that does not take into account those people who would walk but are put off by such distances and choose to travel by alternative means. Although accepting that the site is located within Greater Coalville the actual application site is located on the edge of the settlement of Whitwick and any non-vehicular trips to services in Whitwick and the wider area would involve navigating significant gradients on Loughborough Road and/or Parsonwood Hill. It is also noted that there is no regular bus service operating in the immediate area with the nearest bus stop only providing a Demand Responsive Transport Service on Mondays to Wednesdays and limited bus service on Thursdays to Saturday. These services do not operate at late hours, or at all on Sundays.

On this basis the proposal would result in a development in which residents would be fairly dependent on their cars and where opportunities for non-car modes of travel would be limited. However, the wider sustainability credentials of Whitwick and Greater Coalville are noted and this would ensure that the length of trips for many purposes would be limited. Overall the accessibility of the application site is considered to not be so poor as to warrant a refusal of the application on this matter alone, but this conflict with the social sustainability aspect of the NPPF does count against the scheme in the overall planning balance.

From an environmental sustainability point of view it is noted that half of the developable site area would currently be located within an Area of Particularly Countryside (APAC) although such designation of land in the area is not carried forward within the publication version Local Plan and so the land would be considered 'countryside'.

The adopted Local Plan confirms that the APAC represents the most significant and important rural landscape locally with Policy E22 specifying that: -

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

- (a) *Land to the east of Greenhill, Thringstone, Whitwick and Worthington, including part of Charnwood Forest...*

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

*Accompanying paragraph 4.93 provides that "In addition the District Council will seek to:*

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

As well as being within an APAC as defined in the adopted Local Plan, the site also falls within the Charnwood Forest Regional Park, an area comprising land within the District of North West Leicestershire, and the Boroughs of Charnwood and Hinckley and Bosworth, distinctive for its rugged upland landscape. Regional Parks are non-statutory partnership-led initiatives, and designation does not provide affected land with any statutory protection. There are no adopted Local Plan policies relating to the Regional Park, although a Vision has been agreed between Leicestershire County Council and the respective District and Borough Councils and provides that *"The unique natural and cultural heritage features of the Charnwood Forest will be managed and promoted through the Charnwood Forest Regional Park. The Regional Park will be recognised as an essential part of the growing communities in the Derby, Leicester and Nottingham area, now and in the future"*. The publication version Local Plan does contain a policy in relation to the Charnwood Forest (En4) and this seeks to protect and enhance the landscape, biodiversity, natural history and cultural heritage of the Charnwood Forest Regional Park (CFRP).

The proposed application is in outline form but on the basis of the indicative layout plan it is indicated that only one dwelling would be constructed in the area designated as APAC, which would be of a similar scale to no. 191. Should planning permission be granted it could be ensured at the reserved matter stage that a layout of a similar design is progressed with a note to the applicant advising of this requirement.

Ultimately the provision of a dwelling within the APAC is, in principle, contrary to the aims of Policy E22 of the adopted Local Plan. Whilst conflict arises this Policy does highlight that built development is not inappropriate provided that it respects the established character and that measures should be in place to promote landscape, wildlife and habitat management

On the basis of the indicative layout plot 7 would be positioned in a manner so that its building line would be consistent with no. 191 and would be of a similar scale, this plot would also benefit from an enlarged curtilage. The site as a whole would also be enhanced with the indicative layout plan highlighting that significant ecological and landscape improvements would be made within a large 'buffer zone' to the north of the proposed dwellings which would be secured by condition should planning permission be granted.

It is considered that the reduction in the number of dwellings also allows enhancements to be made to biodiversity and ecology via the creation of the 'buffer zone', which in turn helps to protect the Grace Dieu & High Sharpley Site of Scientific Interest (SSSI), weigh in favour of the development given the specification of the criteria of Policy E22, particularly as the introduction of only one dwelling into the APAC would not significantly affect its present open character to an extent whereby the application should be resisted. This is due to the site's enclosure within a significant tree screen as well as the fact that the built form, as proposed, respects the character and scale of development it would be associated with. The weight attached to Policy E22 in the overall assessment would be reduced given that this policy would not be progressed in the publication version Local Plan.

It is not considered that the dwellings would be 'isolated'.

Whilst there would be some impact on the 'openness' of the rural environment, given that a greenfield site would be built upon, the dwellings could be positioned so as to ensure that they would be viewed in connection with existing built forms with it also being ensured that there would be a limited projection into the rural environment by only allowing one dwelling to be constructed to the east of no. 191. In this circumstance the implications to the 'openness' of the rural environment would not be so adverse as to suggest the development should be resisted

particularly when the majority of the dwellings, on the basis of the indicative layout plan, would be within the Limits to Development, where there would be a presumption in favour of this form of development.

In conclusion whilst some environmental harm would arise by virtue of the development being on a greenfield site partially outside the limits of development the degree of harm would not be of such detriment as to warrant a refusal of the application given the limited harm to the 'openness' of the rural environment and the containment of dwellings in close proximity to existing built forms. Some harm would also be outweighed by the economic benefits associated with the construction of the dwellings and the overall social sustainability credentials associated with the Whitwick and Greater-Coalville area. With respect to Policy E22 of the adopted Local Plan it is considered that the conflict with this policy would also be limited given that only one dwelling is proposed within the APAC, and that significant ecological and biodiversity enhancements would be carried out within a 'buffer' zone between the developable site area and the boundary with Cademan Wood (containing the Grace Dieu & High Sharpley SSSI). It is also has to be recognised that only limited weight would be attached to Policy E22 in the decision making process given that it would not be progressed in the publication version Local Plan.

Overall the principle of the development would be acceptable.

### **Landscape and Visual Impact**

The proposed plans have been assessed on the Local Planning Authority's behalf by a landscape consultant (Jon Etchells Consulting). It is considered that the character of the local landscape is assessed in the '*Charnwood Forest Landscape and Settlement Character Assessment*' (2008) which shows that the site is within the 'Charley' landscape character area which includes a number of landscape recommendations including: -

*"Conserve the integrity of key features such as the woodland, rocky outcrops, areas of heathland and strong landscape pattern formed by the dry stone walls and hedgerows;"*

*"Conserve the wooded nature of the character area and the appearance of built form nestled in the landscape. Built form should also retain its scattered and small form. The strongly defined and vegetated edges of larger settlements should be retained and augmented through new planting."*

In assessing the development in relation to the 34 dwellings originally proposed the landscape consultant raised a number of concerns and concluded that the proposed dwelling types, their density and rectilinear layout would not reflect the more open, informal arrangement of existing houses along Loughborough Road. Such an approach to development would therefore adversely affect and diminish the present open characteristics and attractive rural landscape of the site and surrounding area and would not be appropriate to the character of Area of Particularly Attractive Countryside (APAC) in which the development would be partially set.

The scheme has been significantly amended from that originally proposed with the overall number of dwellings first being reduced to 10 and now to 7 in order to address the concerns highlighted by the landscape consultant who has advised that the negative impacts originally highlighted have been reduced accordingly.

It is likely that only the roof slope of the new dwelling would be readily visible, due to the mature trees present to the southern and eastern boundaries, which would be viewed in association

with the roof slope of no. 191 in wider views with the proposed dwelling projecting no further north than the existing built forms associated with no. 191 which reduces the urbanising impact. On this basis the development would be compatible with the established character in the area by virtue of it being progressed as a large detached dwelling in a spacious plot.

The proposed scheme also mitigates the limited implications to the APAC by dedicating a large proportion of the application site to ecological and biodiversity enhancements with tree planting and wetlands which would complement the Grace Dieu & High Sharpley SSSI within Cademan Wood to the north. Such measures are considered compliant with the aims of Policy E22 of the adopted Local Plan by virtue of the protection and enhancement of the landscape and would also strengthen the landscape barrier at the edge of the Whitwick Greater Coalville area consistent with the recommendations of the Charley landscape character area.

The proposed development would not diminish the open character to an extent whereby the APAC would be adversely affected and would be mitigated by the significant ecological and biodiversity enhancements undertaken.

### **Density**

It is specified on the application forms that the application site area is 1.86 hectares but it is noted that this is applicable to when 34 dwellings were proposed on the site. Now that the scheme has been reduced to 7 new dwellings the site area has been reduced to 1.03 hectares. On this basis the scheme would have a density of 6.80 dwellings per hectare which would be significantly below the 40 dwellings per hectare normally expected within the Greater Coalville Area.

Policy H6 of the adopted Local Plan, 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 substantial landscape buffer to the Grace Dieu & High Sharpley Site of Scientific Interest (SSSI) it is considered that the proposed density would be an appropriate use of the land in this instance.

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

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

All matters are reserved for subsequent approval except for access (insofar as vehicular access into and out of the site is concerned). The point of access would be newly created and would have a width of 5.5 metres with the provision of vehicular visibility splays of 2.4 metres by 120 metres in an eastern and a western direction. An existing access, which lies 7.0 metres to the east of the new access, would be closed. Whilst the illustrative layout shows internal access roads and pedestrian links through the site, these would be considered at the reserved matters stage(s), although their impact on the overall potential accessibility and connectivity of the site still ought to be considered.

The County Highways Authority (CHA) has been consulted on the application and have raised no objections subject to the imposition of relevant planning conditions. The suggested planning conditions of the CHA include off-site highway works for speed reduction measures on Loughborough Road as well as the relocation of the existing 30 mph speed limit and provision of satisfactory pedestrian and visibility splays. It will also be a requirement that a construction

traffic management plan is agreed to ensure that this element of the development proposals does not result in adverse impacts on the highway.

Whilst concerns have been expressed in respect of highway safety Paragraph 32 of the NPPF indicates that "development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe." In the circumstances that the CHA have raised no objections to the proposed access arrangements and the level of vehicular activity associated with 7 additional dwellings would not be significant it is considered that the proposal would not have a severe impact on highway safety as to justify a refusal of the application. On this basis it would be compliant with Paragraph 32 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF4 of the publication version Local Plan.

The specific parking arrangements for each individual property would be addressed by reserved matters and as such the particular requirements of Paragraph 39 of the NPPF as well as Policies T8 and T10 of the adopted Local Plan and/or Policy IF7 of the publication version Local Plan would be satisfied at that time.

In terms of the formation of a new access into the site off Swannymote Road it is noted that following a reduction in the overall number of dwellings this access would no longer be used in connection with the development. As such it will be made explicit within the planning conditions, should permission be granted, that this application does not provide for the retention of the existing access off Swannymote Road which has been formed without planning permission.

## **Ecology**

An ecology scoping survey was submitted in support of the application and this has been assessed by both Natural England and the County Council Ecologist. Initially, when the scheme proposed 34 dwellings, the County Council Ecologist raised concerns about the proximity of development to the Grace Dieu & High Sharpley SSSI and that a larger area of open space should be created due to the significant erosion of existing open space on the site, whilst this view was provided a decision was deferred to Natural England given the presence of an SSSI.

Natural England raised no objections to the development subject to the imposition of a condition on any consent granted to ensure that the SSSI was not adversely affected. This condition relates to measures to ensure that a construction management plan is agreed, that the curtilages of properties close to the SSSI are restricted, that the SSSI is not accessed from the site and that an agreement is made on who would be responsible for the long-term maintenance of any 'buffer zone' established between the application site and the SSSI. Such requirements could be secured by appropriate conditions although any condition to restrict the curtilages of the properties would be applicable to the reserved matters submission given that the layout is not for approval at this stage.

Following a reduction in the overall amount of dwellings the County Council Ecologist has no concerns subject to the imposition of conditions on any consent granted for the landscaping scheme to provide suitable wildlife habitats adjacent to the SSSI as well as locally native species of planting.

In the circumstances that protected species would not act as a constraint on the development proposals it is considered that it would be compliant with Paragraph 118 of the NPPF, Circular 06/05 and Policy En1 of the publication version Local Plan.

## Landscaping

In respect of the scheme as originally proposed the Council's Tree Officer commented that the construction of the Swannymote Road access would result in the felling of three oak trees on the highway verge to provide the necessary visibility splays with the proposed attenuation pond and Locally Equipped Area of Play (L.E.A.P) providing only limited scope for new tree planting with negligible front garden space not allowing for successful avenue planting to be provided. The National Forest Company also outlined concerns due to the proximity of the site to the Grace Dieu & High Sharpley SSSI and the loss of tree coverage on the site outside that protected by Tree Preservation Orders (TPO) 430 and 438.

Following a reduction in the overall number of dwellings the concerns previously expressed by the Council's Tree Officer and the National Forest Company have been addressed by the provision of a substantial buffer zone between the new development and the SSSI in order to ensure that it is adequately protected. Within this zone additional landscaping planting could be provided to meet the requests of the National Forest Company as well as provision of a management schedule for its future maintenance. Existing trees on the site, outside those protected by TPO's 430 and 438, would also not be adversely impacted on and their protection could be secured when a layout is provided under any subsequent reserved matters application.

On this basis the proposed development is considered to accord with the aims of Policies E7, F1, F2 and F3 of the adopted Local Plan as well as Policies En3 and En4 of the publication version Local Plan.

## Design

The need for good design in new residential development is outlined not only in adopted Local Plan Policies E4 and H7, as well as Policy D1 of the publication version Local Plan, but also Paragraphs 57, 60 and 61 of the NPPF.

The application site is sloped with the land along the western boundary being lower than that along the eastern boundary by around 2.2 metres. Residential properties within the immediate vicinity of the site predominately front onto Loughborough Road with the two exceptions being Nos. 169 and 191 Loughborough Road and the dwellings generally consist of detached or semi-detached types.

A key challenge for any future reserved matters application, should the principle of development be accepted, will relate to the creation of a scheme which has character and how a place with local or otherwise distinctive character can be created by drawing influence from the positive and distinctive characteristics of Whitwick. This could be achieved by drawing upon selected local characteristics of dwelling and their materials within the vicinity of the site, i.e. window details, brick and cill details, verge and eaves detailing, and combining these with a strong landscape character which in turn creates a locally distinctive identity.

Overall, therefore, the development would not result in sufficient conflict with Paragraphs 57, 59, 60 and 61 of the NPPF, Policy E4 of the adopted Local Plan or Policy D1 of the publication version Local Plan as to warrant a refusal of the application. Should reserved matters be dealt with under the adopted Local Plan, the proposal would be required to meet the requirements of Policies H7 and F1. If reserved matters are dealt with after the Council has adopted a new Local Plan, reserved matters will be dealt with in accordance with its policies.

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

The impact on neighbouring occupiers arising from the proposed buildings would need to be assessed at the reserved matters stage(s). The most critical assessment would be in respect of the relationship which would be established between new dwellings and nos. 169, 181, 183, 185 and 189 Loughborough Road to the south and south-west as well as no. 191 itself. Notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 7 new units, along with the retention of no. 191, could not be provided on the site in a manner which would not adversely impact upon neighbours' amenities.

Concerns have been expressed about the potential noise generated by vehicles utilising the access road, however, it is noted that the internal access roads are not for approval under this application and therefore this is a matter which would be assessed in more detail at the reserved matters stage. In any event it is noted that the Council's Environmental Protection Team have not raised any objections in relation to any potential noise impacts associated with the development. With regards to any objections raised over construction noise it is considered that this is an inevitable temporary manifestation of any development project. The site does not lie within an Air Quality Management Area (AQMA) and no objections have been received from the Council's Environmental Protection Air Quality Officer in respect of any potential impacts on air quality in the area.

In conclusion it is deemed that the development would not have any significantly detrimental impacts upon neighbouring residential amenities and is therefore considered compliant with Paragraph 123 of the NPPF as well as Policy E3 of the adopted Local Plan and Policy D2 of the publication version Local Plan.

### **Flood Risk and Drainage**

The site lies within Flood Zone 1 as defined by the Environment Agency as having a low probability of flooding.

Surface water run-off would be addressed with the provision of a sustainable urban drainage scheme (SuDs) and direction of water to an existing watercourse with foul drainage being directed to the mains sewer.

In these circumstances the proposed development would accord with Paragraphs 103 and 120 of the NPPF as well as Policies Cc2 and Cc3 of the publication version Local Plan.

### **Archaeology**

No representation to the application has been received from the County Council Archaeologist 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 and He1 of the publication version Local Plan.

### **Viability of the Development**

The scheme has been reduced from a total of up to 34 dwellings (including the retention of no. 191 Loughborough Road) to now being up to 7 dwellings (including the retention of no. 191). On this basis the development would no longer constitute a 'major' proposal (i.e. a scheme of 10 dwellings or more) and therefore would not be a level of development on which developer contributions would be sought. On this basis the development would not be required to be



compliant with Paragraphs 203 and 204 of the NPPF.

### **Other Matters**

The Council's Environmental Protection team have raised no objections to the development with regards to ground contamination subject to imposition of a relevant condition on any consent granted. The application site is also not within a Coal Mining Referral Area and given this status it is considered that the proposals would not lead to land instability issues to neighbouring properties which would ensure compliance with Paragraphs 120 and 121 of the NPPF as well as Policy En6 of the publication version Local Plan. Should any future issue arise with regards to land stability then this would be a civil matter between the residential properties affected and the developers of the site.

There is no evidence to suggest that the 'blasting' of granite rock would be required to form the drainage channels and in any case this method of construction would be covered by separate legislation and would not form a material planning consideration. The implications of the development on property values and the right to a view are also not material considerations which can be taken into account in the determination of this application.

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

The site is greenfield, and lies both within and outside the defined Limits to Development with the parts outside the defined limits also being within an Area of Particularly Attractive Countryside (APAC). All of the development would be proposed on greenfield land.

Only one of the proposed dwellings would be within the APAC and therefore outside the defined limits. The remainder of the site that is outside the defined limits would remain undeveloped. A landscape buffer is to be supplied to the Grace Dieu & High Sharpley Site of Scientific Interest (SSSI). On balance, the limited harm caused to the environment as a result of the proposal would be outweighed by the economic benefits of the development and the overall sustainability credentials of the Whitwick and Greater Coalville area, on this basis the principle of the development is accepted.

On the basis that built forms of development already exist which do not directly front onto Loughborough Road, as well as the fact that the site would be well screened, it is considered that a development could be progressed at the reserved matters stage which would not impact adversely on the character and appearance of the streetscape or the wider area and which could incorporate design characteristics consistent with properties in the area. On this basis the proposal would be compliant with Paragraphs 57, 59, 60 and 61 of the NPPF as well as Policy E4 of the adopted Local Plan and Policy D1 of the publication version Local Plan. Should reserved matters be dealt with under the adopted Local Plan, the proposal would be required to meet the requirements of Policies H7 and F1. If reserved matters are dealt with after the Council has adopted a new Local Plan, reserved matters will be dealt with in accordance with its policies.

The County Highways Authority have raised no objections to the application, subject to the imposition of conditions.

It is considered that a scheme could be devised at the reserved matters stage which would not impact adversely on the amenities of existing residential properties and as such the development would be compliant with Paragraph 123 of the NPPF, Policy E3 of the adopted Local Plan and Policy D2 of the publication version Local Plan.

Subject to careful consideration being given to the layout it is considered that a scheme could be progressed which will retain the existing protected trees and which could provide appropriate landscaping in the buffer area to be created. On this basis the development accords with Policies E7, F1, F2 and F3 of the adopted Local Plan as well as Policies En3 and En4 of the publication version Local Plan.

Subject to the imposition of conditions, archaeology and ecology would not act as a constraint on the development and as such compliance with Paragraphs 118 and 141 of the NPPF, Circular 06/05 and Policies En1 and He1 of the publication version Local Plan would be met. Severn Trent Water and the Environment Agency have raised no objections to the proposal, subject to conditions, and therefore the scheme would accord with Paragraphs 103 and 120 of the NPPF. Compliance with Paragraphs 120 and 121 of the NPPF would also be met with the imposition of contaminated land conditions on any consent granted.

It is therefore recommended that the application be permitted.

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

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

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

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

*Reason - this permission is in outline only.*

- 3 The proposed development shall be implemented in accordance with the access arrangements shown on the site location plan (1:1250), received by the Local Authority on the 26th September 2014, and drawing number HMD/PD/0288/01 Revision C, received by the Local Authority on the 3rd June 2016, unless otherwise required by another condition of this permission.

*Reason - for the avoidance of doubt and to determine the scope of the permission.*

- 4 Notwithstanding the requirements of Condition 3 above, or the information shown on drawing number HMD/PD/0288/01 Revision C, received by the Local Authority on the 3rd June 2016, this planning permission does not authorise the retention of the vehicular access created into the site off Swannymote Road which will be need to be the subject of a separate planning application.

*Reason - for the avoidance of doubt and to determine the scope of the permission.*

- 5 A total of no more than 7 new dwellings shall be erected.

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

- 6 The reserved matters application shall include details of existing and finished ground levels and the proposed floor levels of the dwellings in relation to an existing datum point off the site. The development shall then be carried out in accordance with the approved details.

*Reason - to ensure that the development takes a form envisaged by the Local Planning Authority and in the interests of residential amenities given that no precise details have been provided.*

- 7 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on the site until such time as a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railings and other means of enclosure) has been 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.

*Reason - to preserve the amenities of the locality, in the interests of highway safety and because insufficient information has been submitted as part of the outline application.*

- 8 The gradient of the access drive 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 interests of general highway safety.*

- 9 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected at the access they shall be set back a minimum distance of 15.0 metres behind the highway boundary and shall be hung so as to open inwards only.

*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 the site until such time as a construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority in consultation with the County Highways Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

*Reason - to reduce the possibility of deleterious material (mud, stones etc.) being deposited onto 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.*

- 11 No development shall commence on site until details of the design for off-site highway works being speed reduction measures on Loughborough Road including the relocation of the existing 30 mph limit have been approved in writing by the Local Planning

Authority in consultation with the County Highways Authority. Once agreed the approved scheme shall be provided in accordance with the approved details prior to the first occupation of the 7th dwelling.

*Reason - in the interests of highway safety, including pedestrian safety.*

- 12 Before first use of the development, hereby permitted, the following shall be provided: -
- Drainage shall be provided within the site such that surface water does not drain into the public highway and thereafter shall be so maintained;
  - Visibility splays of 2.4 metres by 43.0 metres shall be provided at the junction of the access with Loughborough Road. These shall be in accordance with the standards contained in the current County Council design guide;

Once provided the above shall thereafter be so maintained with nothing being allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

*Reason - to reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users; 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.*

- 13 Within 30 days of the new access identified on drawing number HMD/PD/0288/01 Rev C, received by the Local Planning Authority on the 3rd June 2016, being provided a scheme for the closure of the vehicular access to no. 191 Loughborough Road and the reinstatement of the existing vehicular crossings shall be submitted to the Local Planning Authority for approval in consultation with the County Highways Authority. The approved scheme shall be implemented within 30 days of the date of approval, or any other timescale first submitted to and agreed in writing by the Local Planning Authority, and maintained thereafter in perpetuity.

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

- 14 No development shall commence until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The scheme shall subsequently be implemented in accordance with the approved details prior to the first occupation of any of the new dwellings. The scheme to be submitted shall demonstrate: -
- Surface water drainage system(s) designed in accordance with CIRIA C697 and C687 or the National SuDS Standards, should the later be in force when the detailed design of the surface water drainage system is undertaken.
  - Limiting the discharge rate generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm ideally to Greenfield rates for the site but as a minimum so that it will not exceed the run-off from the undeveloped site and will not increase the risk of flooding off-site
  - Provision of surface water run-off attenuation storage in accordance with the requirements specified in 'Science Report SC030219 Rainfall Management for Developments'.

- Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
- Details of how the on-site surface water drainage system shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

*Reason - to prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures.*

- 15 No development shall commence until drainage plans for the disposal of foul drainage have first been submitted to and approved in writing by the Local Planning Authority in consultation with Severn Trent Water. The scheme shall be implemented in accordance with the approved details prior to the first occupation of any of the new dwellings.

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

- 16 No development (except any demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with: -

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

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, No development shall commence on site until a Remedial Scheme and Verification Plan have been prepared, and submitted to, and 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 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 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.*

17 Prior to occupation of the completed development, or part thereof, either: -

- 1) If no remediation was required by Condition 16 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 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.*

18 No development shall commence on site until such time as a site specific tree and hedge protection plan, particularly for the trees protected by Tree Preservation Orders (TPOs) 430 and 438, has first been submitted to and agreed in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details which shall remain in place until all works relating to the development proposals are complete. 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, in particular trees protected by Tree Preservation Orders 430 and 438; in the interest of health and safety.*

- 19 The first reserved matters application in respect of the matter of landscaping shall provide for an ecological/landscape management plan, including long term design objectives (which should include the creation of wildlife habitats adjacent to the SSSI), management responsibilities and maintenance for all landscaped areas (except privately owned domestic gardens). The development shall be carried out in accordance with the landscape management plan, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist and Natural England.

*Reason - to ensure the protection of wildlife and supporting habitat, to secure opportunities for the enhancement of the nature conservation value of the site in line with National Planning Policy and to provide for an appropriate form of development.*

- 20 Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to September inclusive unless otherwise agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist. This is to ensure that breeding birds will not be adversely affected by any works.

*Reason - to reduce the impact of the proposal on nesting birds, which are a protected species.*

- 21 No development shall commence on site until a method statement for the construction of the development, which shall include how access from the site to the Grace Dieu & High Sharpley Site of Scientific Interest (SSSI) will be prevented, has first been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist and Natural England. The method statement shall have particular regard to the pollution control measures which will reduce the risk of pollution events within the Grace Dieu & High Sharpley Site of Scientific Interest (SSSI). 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; to ensure that the features of special interest within the SSSI are not impacted on.*

### **Notes to applicant**

- 1 Outline 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 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 is advised that the dwelling proposed to the east of no. 191 Loughborough

- Road should be of a similar scale to no. 191 in order to respect the established character this particular dwelling has created.
- 4 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager (telephone 0116 3050001).
  - 5 With regard to the design for off-site highway works being speed reduction measures on Loughborough Road, a satisfactory design may include a village gateway entry treatment with dragon's teeth road markings, and a raised table junctions. Consideration may also be given to the provision of mini-roundabouts junctions, in order to further reduce speeds.
  - 6 On the basis of the submitted plans, the details of the tactile paving crossings at the access are not in accordance with the guidance contained in the 6Cs Design Guide. Before development commences, an amended plan should be submitted to and approved in writing by the Local Planning Authority.
  - 7 If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.
  - 8 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 to and approved in writing by the Local Planning Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
  - 9 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 you are advised to visit the County Council website ([www.leics.gov.uk/6CSDG](http://www.leics.gov.uk/6CSDG)), or email [roadadoptions@leics.gov.uk](mailto:roadadoptions@leics.gov.uk).
  - 10 C.B.R. Tests shall be taken and submitted to the County Council's Highways Manager prior to the development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Highways Manager.
  - 11 Any statutory undertaker apparatus that requires relocation shall be moved entirely at the expense of the applicant, who shall first obtain the separate consent of the relevant authority.
  - 12 Proposed adoptable highway corridors should measure a minimum of 7.5 metres and incorporate a 2m minimum footway and minimum 0.7m service margin along its entire extents. Turning head provided for lane 2 may require tweaking. See 6Cs Design Guide, Part 3, Section DG2, Paragraph 3.36 for future guidance.
  - 13 Off-street parking located behind the 0.7m service margin will lead to problematic levelling issues causing cars to bottom against the footway back edging where the land level change is greater than a 1:14 gradient. To avoid the risk and potential damage to vehicles and edging, it is recommended that the footway width is increased to 1.5m in width to reduce the severity of level change over a short distance or raise the carriageway levels over the extents of the private off-street parking via installing raised speed tables. For further guidance see 6Cs Design Guide, standard drawings SD/11/10.
  - 14 Trees planted within the highway boundary will attract a commuted sum and should incorporate root ball protection, tree grilles/pits, and root deflectors. For further guidance



- on the use of trees within the highway corridor please see 6C's, part 7, section L4.
- 15 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 or oil or fuel of any kind and 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.
  - 16 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 recommended as they can consume more water than an average bath. Water efficient versions of appliances such as washing machines 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.
  - 17 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.
  - 18 The applicant is advised that the County Ecologist has requested that all tree, shrub and landscape planting provided should be of a locally native species only.

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Residential development of up to 35 dwellings (outline with details of part access included)

Report Item No  
A3

Land South Of The Green Donington Le Heath Coalville  
Leicestershire LE67 2GE

Application Reference  
15/00951/OUTM

Applicant:  
Wrenbury Properties Ltd

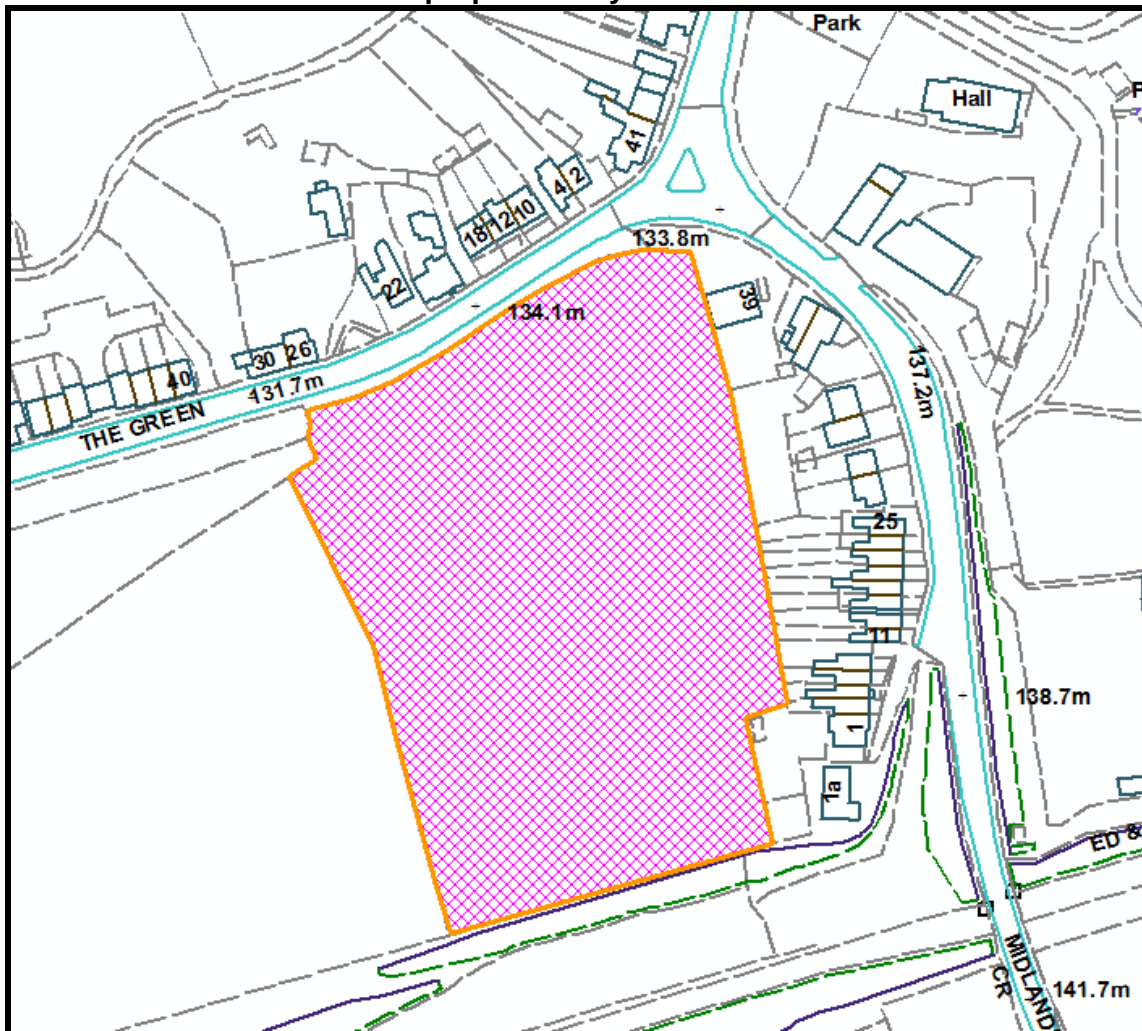
Date Registered  
7 October 2015

Case Officer:  
James Mattley

Target Decision Date  
6 January 2016

Recommendation:  
REFUSE

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application has been 'called in' by Councillor Johnson on the grounds that it is not in the public interest, highway safety matters and because the site is in an area of separation.

### Proposal

Planning permission is sought for a residential development of up to 35 dwellings (outline with details of part access included) on land to the south of The Green, Donington Le Heath. The application site which measures some 1.49 hectares is located outside the Limits to Development and in an area of separation.

### Consultations

A total of 26 representations have been received opposing the development and the Parish Council object to the development. All other remaining statutory consultees have raised no objections subject to the imposition of conditions on any consent granted.

### Planning Policy

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

### Conclusion

The site is outside the Limits to Development as defined in both the adopted and Publication Version North West Leicestershire Local Plan, is greenfield land and is located in an area of separation. The District Council is able to demonstrate a five year housing land supply. The proposed development would result in significant environmental harm. Overall the proposal would not represent sustainable development, contrary to the policies and intentions of the NPPF.

Therefore, it is recommended that the application be refused for these reasons.

### RECOMMENDATION - REFUSE;

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

## MAIN REPORT

### 1. Proposals and Background

Outline planning permission is sought for a residential development of up to 35 dwellings on land to the south of The Green, Donington Le Heath. All matters other than part access from The Green are reserved for subsequent approval. The application site, which measures 1.49 hectares, is located outside of the limits to development and in an area of separation.

The scheme when it was originally submitted was for 45 dwellings but has been reduced to 35. Whilst all matters other than part access are reserved for subsequent approval, an illustrative masterplan has been submitted showing the proposed dwellings, together with public open space and landscaping.

The application is accompanied by a design and access statement, geotechnical desk study, travel plan, transport statement, landscape and visual appraisal, flood risk assessment, ecology report, tree survey and planning statement.

The application has been 'called in' by Councillor Johnson on the grounds that it is not in the public interest, highway safety matters and because the site is in an area of separation.

No relevant planning history found.

### 2. Publicity

35 neighbours have been notified (date of last notification 23 February 2016)

Site Notice displayed 14 October 2015

Press Notice published 21 October 2015

### 3. Consultations

Hugglescote & Donington Le Heath PC consulted 9 October 2015

County Highway Authority consulted 23 February 2016

Manager Of Housing North West Leicestershire District Council consulted 4 February 2016

LCC ecology consulted 4 February 2016

NWLDC Urban Designer consulted 4 February 2016

LCC Development Contributions consulted 27 April 2016

Environment Agency consulted 27 April 2016

County Archaeologist consulted 27 April 2016

Head Of Street Management North West Leicestershire District consulted 27 April 2016

NHS Leicester, Leicestershire And Rutland Facilities Management consulted 27 April 2016

Severn Trent Water Limited consulted 27 April 2016

Natural England- Within 2k Of SSSI consulted 27 April 2016

Police Architectural Liaison Officer consulted 27 April 2016

Head of Environmental Protection consulted 27 April 2016

Head Of Leisure And Culture consulted 27 April 2016

NWLDC Urban Designer consulted 27 April 2016

LCC ecology consulted 27 April 2016

LCC Flood Management consulted 27 April 2016

NWLDC Tree Officer consulted 27 April 2016

Natural England- Within 2k Of SSSI consulted 9 October 2015

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

**Hugglescote and Donington Le Heath Parish Council** objects to the application on the following grounds:

- Site is located outside of the limits to development;
- The parish is becoming over-developed;
- An extensive offsite drainage network is required as there are no surface water sewers in the vicinity of the site;
- Highway safety concerns regarding visibility, speed of traffic and on-street car parking;
- Countryside would be severely affected;
- Existing parking along The Green is not always considerate.

**Environment Agency** has no comment to make on the application.

**Lead Local Flood Authority** raises no objection subject to the imposition of conditions.

**Leicestershire County Council Archaeologist** raises no objection subject to the imposition of conditions.

**Leicestershire County Council Ecologist** raises no objection subject to the imposition of conditions.

**Leicestershire County Council Highway Authority** raises no objection subject to the imposition of conditions.

**Leicestershire County Council Library Services Development Manager** requests a contribution of £970.

**Leicestershire County Council Local Education Authority** requests a contribution of £164,198.28.

**Leicestershire County Council Civic Amenity** requests a contribution of £2,288.

**National Forest Company** has no objection subject to the National Forest Planting being secured and managed through a legal agreement.

**Natural England** has no comments to make.

**North West Leicestershire District Council Contaminated Land Officer** has no objections subject to conditions.

**North West Leicestershire District Council Environmental Health Officer (EHO)** has no objections subject to conditions.

**Severn Trent Water** has not responded at the time of writing this report.

#### **Third party representations**

26 letters of representation have been received raising the following comments/objections:

- separation distances on the illustrative masterplan are unacceptable;
- a total of 45 dwellings is too many and there should be a reduced number of dwellings on the site;
- access arrangements are unsuitable due to speed of traffic and on-street car parking along The Green;
- application is outside the limits to development;
- there is already a sufficient supply of housing in the district;
- proposal could result in additional yellow lines along The Green which would prevent existing residents parking;
- flood risk and drainage concerns;
- there is an existing accident record on the road;
- impact upon existing infrastructure;
- increased traffic and noise;
- impact upon archaeology;
- density of development is unacceptable;
- site is located within a Sensitive Area as defined by the local plan and the proposal would result in development getting closer to Ellistown;
- impact upon the visual amenity of the area;
- land was formerly allotments and should be protected;
- scheme should include for car parking for existing residents.

## 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)
- Paragraph 28 (Supporting a prosperous rural economy)
- Paragraph 32 (Promoting sustainable transport)
- Paragraph 34 (Promoting sustainable transport)
- Paragraph 47 (Delivering a wide choice of high quality homes)
- Paragraph 49 (Delivering a wide choice of high quality homes)
- Paragraph 57 (Requiring good design)
- Paragraph 59 (Requiring good design)
- Paragraph 60 (Requiring good design)
- Paragraph 61 (Requiring good design)
- Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 109 (Conserving and enhancing the natural environment)

Paragraph 112 (Conserving and enhancing the natural environment)  
Paragraph 118 (Conserving and enhancing the natural environment)  
Paragraph 123 (Conserving and enhancing the natural environment)  
Paragraph 124 (Conserving and enhancing the natural environment)  
Paragraph 203 (Planning conditions and obligations)  
Paragraph 204 (Planning conditions and obligations)

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

The application site is outside Limits to Development as defined in the adopted 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 E21 - Separation of Settlements  
Policy F1 - National Forest General Policy  
Policy F2 - National Forest Tree Planting  
Policy F3 - National Forest Landscaping and Planting  
Policy T3 - Highway Standards  
Policy T8 - Parking  
Policy H4/1 - Housing Land Release  
Policy H6 - Housing Density  
Policy H7 - Housing Design  
Policy H8 - Affordable Housing  
Policy L21 - Children's Play Areas

**Other Policies**

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

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

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

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

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

**Publication Version North West Leicestershire Local Plan**

The publication version of the Local Plan was agreed by Council on 28th June 2016 with a view to its submission for examination in September 2016. Given the advanced stage that has now been reached it is considered that weight can be attached to the following policies:

S1 - Future housing and economic development needs  
S2 - Settlement Hierarchy



S3 - Countryside  
 D1 - Design of new development  
 D2 - Amenity  
 H4 - Affordable Housing  
 IF1 - Development and Infrastructure  
 IF4 - Transport Infrastructure and new development  
 IF7 - Parking provision and new development  
 En1 - Nature Conservation  
 En3 - The National Forest  
 Cc2 - Flood risk  
 Cc3 - Sustainable Drainage Systems

## 6. Assessment

### Principle of Development

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

The application site 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 or Policy S3 of the emerging Local Plan. The site is also within an area of separation as defined by Policy E21 of the adopted Local Plan although it is noted that this designation would not be carried forward as part of the emerging Local Plan. Whilst the emerging Local Plan proposes a new Areas of Separation policy, this would not be applicable to any of the areas identified under Policy E21 of the adopted Local Plan.

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Local Authority is able to demonstrate a five year supply of housing (with 20% buffer) against the requirement contained in the published local plan.

Paragraph 17 of the NPPF highlights the need to recognise the intrinsic character and beauty of the countryside, but does not specifically preclude development within the countryside. Consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set below.

Donington Le Heath is located within the Greater Coalville Area which benefits from a range of public services and facilities that could contribute to reducing the reliance of future occupants of the dwelling on the private car.

Having regard to the three dimensions of sustainable development, it is accepted that the development has the potential to make a positive contribution to the economic dimension by virtue of the growth associated with the proposed development. Socially the development would benefit from the provision of up to 35 dwellings which would include for 20% affordable properties which would contribute to the housing needs of different groups in the community. Subject to the inclusion of appropriate contributions to local services as detailed below and the inclusion of affordable housing, the scheme has the potential to sit well in terms of the economic and social dimensions.

However, from an environmental sustainability point of view it is noted that the site is located outside the limits to development in both the adopted and published Local Plans, both of which seek to resist residential development on greenfield sites in the countryside. These policies are considered to be supported by the principles of Paragraphs 17 and 109 of the NPPF and the ministerial letter from Brandon Lewis of the 27th March 2015 urging Inspectors to protect the intrinsic beauty of the countryside.

The land is also subject to Policy E21 in the current Local Plan which seeks to ensure that Hugglescote and Ellistown remain as separate and distinct settlements in the Local Plan. This policy states that development will not be permitted which would result in a reduction in the physical separation between the built-up areas of adjoining settlements. Whilst no such specific policy is proposed as part of the publication Local Plan, Policy S3 of the emerging Local Plan does allow some forms of development (not including residential) where 'it does not undermine, either individually or cumulatively with existing or proposed development, the physical and perceived separation and open undeveloped character between nearby settlements either through contiguous extensions to existing settlements or through development on isolated sites on land divorced from settlement boundaries'. In terms of compliance with the adopted and emerging Local Plans, the scheme would not be in accordance with adopted Local Plan Policies E21 and S3. However, it is reasonable to have regard to the specific impacts of developing the site and whether this would result in a physical or perceived reduction in the separation between Donington Le Heath and Ellistown. A former railway line is located on the southern boundary and this forms a defensible boundary between further encroachment between Donington Le Heath and Ellistown. Such a strong defensible boundary is not located on the western boundary of the site and it is noted that the land further to the west is also currently located within the area of separation. When having regard to these impacts, it is considered that they would not be so severe as to warrant refusal of the application on this basis alone, but would count against the scheme in the overall planning balance.

In terms of any built development being proposed, the landscape and visual impacts are considered in more detail below, although the site makes a positive contribution to the character and appearance of the countryside and the surrounding landscape. The proposed development would urbanise the site and result in the loss of this area of countryside. It is clear that the development would result in a significant physical intrusion into the rural environment and would not be in keeping with the character and appearance of the surrounding area. In this circumstance it would conflict with a fundamental principle of the NPPF by virtue of its failure to protect or enhance the natural environment.

The key issue under consideration is whether the identified environmental harm from the development would significantly and demonstrably outweigh the social and economic benefits. On balance, the proposal cannot be considered to represent sustainable development and, therefore, the application is not considered to be acceptable in relation to the NPPF.

### **Detailed Issues**

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

### **Landscape and Visual Impact**

The application is accompanied by a landscape and visual impact assessment (LVIA). The site is not protected by any national landscape designations. The application site covers 1.49 hectares and is a field which was previously used as allotments but which now has been

allowed to naturally regenerate with scrub planting. Immediately to the north and east of the site are residential properties. The southern boundary of the site borders the disused railway and there is strong landscaping present in this area. An unmanaged hedgerow with hedgerow trees runs long the western site boundary adjacent to land which lies in open countryside.

The submitted LVIA states that in terms of landscape impacts the proposed development on relatively low ground can be sympathetically accommodated within the existing landscape and will not have a significant adverse effect on the character of the local and wider landscape. This is on the basis that the existing hedgerows and trees are retained as part of the proposed development. With regards to visual effects the LVIA asserts that views of the proposed development will be localised with direct views mainly possible from properties on The Green and Midland Road. It goes on to conclude that it is unlikely that the residential development will be highly visible or viewed as a prominent built feature in the local landscape.

The LVIA states that the proposed development on relatively 'low ground' could be sympathetically accommodated with the retention of the existing landscaping. However, the illustrative masterplan submitted shows that two storey dwellings would be constructed which would be between 4-6 metres higher than the level of The Green due to land level differences. In addition the plans show that the hedge would be reduced in height along much of its length and the combination of this would result in the development being highly visually prominent from areas along The Green and from Station Road and which would fundamentally and significantly alter the landscape character in the immediate vicinity of the site.

Overall, therefore, it is considered that the landscape and visual effects of the proposed development on the existing greenfield site are substantial.

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

All matters are reserved for subsequent approval except for access (insofar as vehicular access into and out of the site is concerned). The point of access proposed shows the creation of a new vehicular access onto The Green. Whilst the illustrative layout shows internal access roads, these would be a matter for the reserved matters stage(s) (although their impact on the overall potential accessibility and connectivity of the site still ought to be considered).

The application is accompanied by a highway report which concludes that the development would be in a sustainable location and that the development would not materially increase traffic flows on the surrounding highway network and a road safety problem would not be introduced.

The County Highway Authority (CHA) reviewed the highway report and originally raised concerns over the level of on-street car parking along The Green. Further information in respect of tracking of the largest vehicles (such as delivery lorries and recycling lorries) was requested along with the provision of a new footway from the point of the proposed access to existing footways on the junction of The Green and Station Road.

Following the submission of further tracking information, the CHA now raises no objection to the proposed scheme subject to the inclusion of conditions and legal obligations. The legal obligation would need to secure details of the routeing of construction traffic along with other contributions in respect of public transport.

In conclusion, the County Highway Authority raises no highway safety objections to the proposed scheme subject to the inclusion of relevant conditions and obligations. Taking these matters into account, therefore, the proposed development is considered acceptable in terms of

Means of Access and Transportation issues and would comply with Local Plan Policy T3 in the adopted Local Plan, Policy IF4 in the emerging Local Plan and the advice in the NPPF.

### **Neighbours' Amenities**

The impacts on neighbouring occupiers arising from the proposed development would need to be assessed at the reserved matters stage(s); notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 35 units could not be provided on the site in a manner which would not significantly adversely impact upon neighbours' amenities.

The District Council's Environmental Protection team has no objections and it is not considered that the proposal would result in significant adverse impacts on health or quality of life. Accordingly, the requirements Policy E3 of the adopted Local Plan and D2 of the emerging Local Plan are considered to have been met by the scheme and the proposal would not conflict with paragraph 123 of the NPPF.

### **Design**

The proposed scheme has been assessed by the District Council's Urban Designer, and rated in accordance with CABE's Building for Life 12 criteria which scores on the basis of red/amber/green. The Council's Urban Designer reviewed the original proposals for up to 45 dwellings and originally had some concerns over the illustrative layout that had been submitted as part of the application. These concerns included issues regarding the amount of development, form of development, distribution of open space and layout of built form.

The applicant submitted a revised layout reducing the overall number of dwellings from 45 to 35 and have also provided additional information which has addressed some of the issues which have been raised. It is accepted that the majority of these issues would need to be fully addressed by reserved matters. Suitable conditions and notes to applicant can be provided to indicate that the design concerns would need to be fully addressed as part of any future reserved matters application(s).

Therefore, whilst the scheme in outline cannot be assessed fully against Building for Life, it is considered that it has been demonstrated that, in principle, an appropriate scheme for up to 35 dwellings could be satisfactorily developed on the site, and would comply with E4 of the adopted Local Plan, D1 of the publication Local Plan and advice in the NPPF.

### **Density**

Local Plan Policy H6 provides that, for sites of 0.3 hectares and above, residential development should meet a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services, and a minimum density of 30 dwellings per hectare elsewhere.

The application site area is given as 1.49 hectares and the maximum of 35 dwellings proposed by the developers would therefore equate to a maximum density of 20.1 dwellings per hectare, which would fall short of the requirements set out in Policy H6. However, when considering that parts of the site would be taken up by the creation of landscaping and public open space, the net dwelling density would be higher and more in-line with that stated in Policy H6. It is also recognised that a reduced density would be more appropriate in this edge of settlement location. Therefore, the scheme is considered to have an appropriate density.

### **Ecology and Trees**

The application is supported by an ecological appraisal. The appraisal concludes that there are no statutory designated sites within 1km of the site. However, there are a number of non-statutory designated sites in the vicinity of the site, the closest of which is 190 metres away from the site.

There are trees and hedges on the site boundaries which provide suitable habitat for protected species. The majority of hedgerows and trees are to be retained although there would be some impacts in respect of the access point along The Green. In the event that planning permission were to be granted, this should be secured by condition.

Leicestershire County Council's ecologist considers that the ecology report is satisfactory and there was no evidence of protected species on site. However, concern was expressed regarding the illustrative masterplan as the land to the south of the site is an important wildlife corridor and should be protected by a buffer zone. Following the submission of an amended plan the concerns of the County Ecologist have been addressed and no objections are raised subject to the inclusion of relevant planning conditions.

Therefore, subject to the imposition of suitably-worded conditions and notes to applicant the submitted scheme is considered acceptable in ecological terms and in respect of the impact upon trees.

### **Flood Risk and Drainage**

A Flood Risk Assessment (FRA) and drainage strategy has been submitted in support of the application. The Environment Agency flood zone maps indicate that the site lies within Flood Zone 1, and on this basis the site would appear suitable for development in principle (and in flood risk sequential terms, would meet the requirements of the NPPF).

The submitted FRA and drainage strategy indicates that the site is not at risk of significant flooding from surface water runoff from adjacent land or from ground water. The flood risk assessment indicates that surface water discharge to the ground via infiltration should be achievable and that foul water from the proposed development would discharge into the public sewer. In the event that planning permission were granted, conditions would be needed to ensure that detailed and satisfactory surface water and foul drainage schemes are provided on the site.

Overall, in terms of issues of Flood Risk and Drainage, it is considered that the scheme is acceptable, and it would be possible to provide for appropriate drainage solutions to accommodate the proposed development. In coming to this conclusion it is noted that the Lead Local Flood Authority raises no objections to the proposed development subject to the inclusion of relevant planning conditions and notes to applicant.

### **Developer Contributions**

The requested developer contributions are listed below.

#### *Affordable Housing*

The Council's SPD on affordable housing indicates that for developments of this scale in the

Greater Coalville area 20% of the units should be provided as affordable housing (i.e. 7 units, assuming the construction of the maximum 35 dwellings as proposed). In terms of tenure split, the District Council's Affordable Housing Enabler advises that a tenure split of 70% affordable rented and 30% shared ownership would be sought and the District Council's Strategic Housing Team is seeking the following:

Affordable Rented - 5

2 x 1 bed homes

2 x 2 bed homes

1 x 3 bed home

Shared ownership - 2

1 x 2 bed home

1 x 3 bed home

However, it is accepted that the current requirements are likely to change over time, and it is considered appropriate for the Section 106 agreement to secure a minimum of 20% (and including the tenure split suggested above) with the actual contribution in terms of unit types to be agreed by the District Council.

#### *Transportation Contributions*

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

- Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
- 6 month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £350.00 per pass - NOTE it is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate).
- New/Improvements to 2 nearest bus stops (including raised and dropped kerbs to allow level access); to support modern bus fleets with low floor capabilities. At £3263.00 per stop.
- Information display cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display.
- Contribution towards equipping the nearest bus stop(s) with Real Time Information (RTI) system; to assist in improving the nearest bus service with this facility, in order to provide a high quality and attractive public transport choice to encourage modal shift. 3 line display - £5000.00.

The County Highway Authority have also requested that details of the routing of construction traffic be included in the legal agreement. It is understood that the applicants are agreeable to making these contributions

*Education*

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

*Primary School Requirements*

The site falls within the catchment area of Hugglescote Community Primary School. The School has a net capacity of 420 and 1012 pupils are projected on the roll should this development proceed; a deficit of 592 pupil places. A total of 533 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have to be discounted. This reduces the total deficit for this school to 59 pupil places (of which 50 are existing and 9 are created by this development).

The overall deficit including all schools within a two mile walking distance of the development is 86 pupil places. A total of 615 pupil places have been discounted that are being funded from S106 agreements for other developments in the area. The 9 deficit places created by this development can therefore not be accommodated at nearby schools and a claim for an education contribution of 9 pupil places in the primary sector is justified.

In order to provide the additional primary school places anticipated by the proposed development the County Council requests a contribution for the Primary School sector of £101,631.68. This contribution would be used to accommodate the need created by the proposed development by improving, remodelling or enhancing existing facilities at Hugglescote Community Primary School.

*High School Requirements*

The site falls within the catchment area of Newbridge High School. The School has a net capacity of 590 and 774 pupils are projected on the roll should this development proceed; a deficit of 184 pupil places. A total of 166 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have to be discounted. This reduces the total deficit for this school to 18 pupil places.

There are no other high schools within a three mile walking distance of the development. A claim for an education contribution in the high school sector is therefore justified. In order to provide the additional high school places anticipated by the proposed development the County Council requests a contribution for the High School sector of £62,566.60. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Newbridge High School.

*Upper School Requirements*

The site falls within the catchment area of King Edward VII College. The College has a net capacity of 1193 and 1294 pupils are projected on roll should this development proceed; a deficit of 101 pupil places after taking into account the 4 pupils generated by this development. There are currently no pupil places at this school being funded from S106 agreements for other developments in the area. There is one other upper school within a three mile walking distance of the development which has a surplus of 259 places. There is an overall surplus in this sector after including all upper schools within a three mile walking distance of the development of 158 pupil places. An education contribution is therefore not requested for this sector.

*Children's Play Equipment*

Under the District Council's Play Area Design Guidance Supplementary Planning Guidance (SPG), on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 35 dwellings are proposed, this would require a play area of not less than 700 square metres. No on-site children's play area is proposed as part of this proposal and no off-site commuted sum is proposed. The Council's SPG regarding children's play areas specifies that the Council will not seek any additional provision where existing play areas, within 400 metres walking distance, satisfy the needs of the area, including the proposed development.

There would be a distance of less than 400 metres between any part of the proposed site and the existing children's play area on the recreation ground off Station Road and, therefore, this would be considered a reasonable walking distance in accordance with the Council's SPG. The existing children's play area is considered to be of a sufficient size and accommodates a sufficient level of equipment. Therefore, an off-site commuted sum will not be required in this instance.

#### *National Forest Planting*

The application site extends to 1.49ha and the National Forest Company's (NFC) Planting Guidelines, as set out in the Guide for Developers and Planners, expects 20% of the site area to be for woodland planting and landscaping. This would equate to 0.3ha in this instance. The NFC welcomes the combination of woodland planting and open space as indicated on the indicative layout plan. In the event that planning permission were to be granted, this would need to be secured by condition or legal obligation.

Subject to the inclusion of relevant conditions and obligations which include, amongst other things, detailed landscaping plans the National Forest Company raise no objection to the proposed development.

#### *Library Services*

The proposed development is within 2.1km of Coalville Library and the proposal would impact on local library services in respect of additional pressures on the availability of local library facilities. Therefore, a library contribution of £970 is requested. It is understood that the applicants are agreeable to making these contributions

#### *Civic Amenity*

The nearest Civic Amenity Site is located in Coalville. The proposal would impact on this site in respect of additional waste which would not exist but for the proposed development. Therefore, a civic amenity contribution of £2288 is requested. It is understood that the applicants are agreeable to making these contributions

#### **Other**

The County Highway Authority has confirmed that double yellow lines in the vicinity of the site access are not required.

It is understood that the site was formerly used as allotments. The land is privately owned and the allotments do not appear to have been used since at least 2000 and as such, the proposal would not result in the loss of allotment land.

The County Council Archaeologist originally requested the submission of an Archaeological



Impact Assessment prior to the determination of the application. Following the submission of this information, the County Council Archaeologist raises no objection subject to the inclusion of relevant planning conditions. Therefore, the scheme is considered to be acceptable in relation to archaeology.

### **Conclusions**

As set out in the main report above, the site is outside Limits to Development as defined in the adopted and emerging North West Leicestershire Local Plan and is greenfield land. It is also noted that the site is located within an area of separation. The District Council is able to demonstrate a five year housing land supply. Whilst it is accepted that there are some social and economic benefits associated with the development, when taking into account the impacts of the proposal upon the character and appearance of this part of the countryside, the view is taken that the proposed development would result in significant environmental harm. On balance, therefore, the proposal would not represent sustainable development, contrary to the policies and intentions of the NPPF.

It is therefore recommended that outline planning permission be refused.

### **RECOMMENDATION - REFUSE**

- 1 The site is located outside of the Limits to Development as defined in the adopted North West Leicestershire Local Plan and is located in an Area of Separation. The site is also identified as being in the countryside in the Council's Publication Draft Local Plan. The NPPF recognises the intrinsic character and beauty of the countryside. By the site's development for housing, the present open character and rural appearance of this site would be significantly and demonstrably diminished. The extent of the impact on the proposals upon the character and appearance of the landscape would be significantly harmful and the proposed development would not be in keeping with the character and appearance of the surrounding area. The scheme would result in significant harm and therefore would not represent sustainable development, contrary to the policies and intentions of the NPPF.

### **Notes to applicant**

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

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Residential development of up to 16 dwellings and associated infrastructure (outline - means of access for approval)

Report Item No  
A4

Land At Worthington Lane Newbold Coalville Leicestershire

Application Reference  
16/00542/OUTM

Applicant:  
Mr R. Aldridge

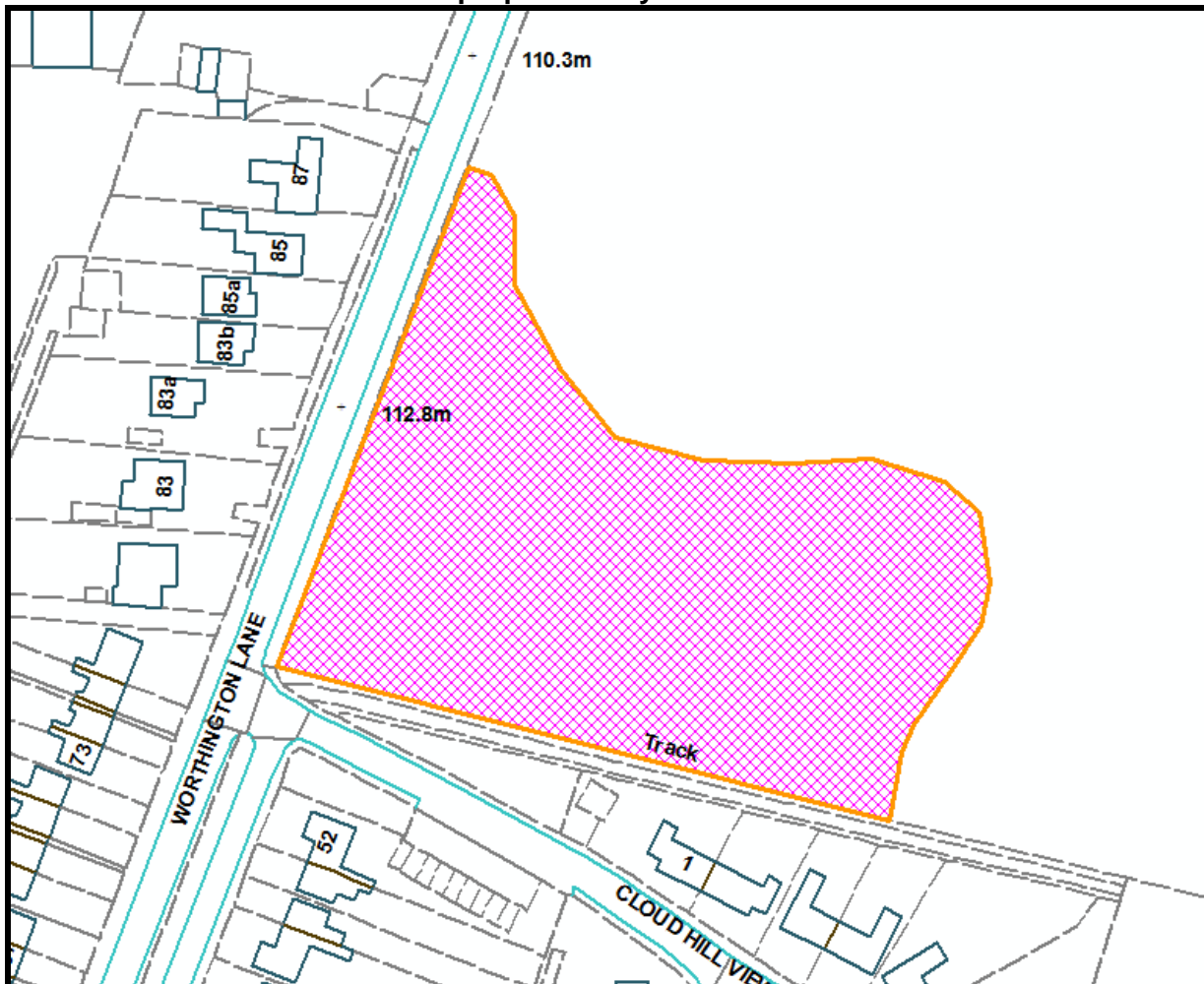
Date Registered  
29 April 2016

Case Officer:  
Adam Mellor

Target Decision Date  
29 July 2016

Recommendation:  
REFUSE

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application is brought to the Planning Committee at the request of Councillor Stevenson to allow the Committee to assess the sustainability credentials of the development.

### Proposal

Outline planning permission with part access for approval is sought for the erection of 16 dwellings and associated infrastructure on a 1.08 hectare site located on the eastern side of Worthington Lane. The application site is situated outside the defined Limits to Development and is currently utilised for agriculture.

### Consultations

A total of 45 representations have been received with 16 of those representations opposed to the development and 29 in support of the development. Consultation responses from Worthington Parish Council, County Council Highways, NHS, NWLDC Leisure and Culture, NWLDC Street Management 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

The development would conflict with the core principles of the social and environmental strands of sustainability enshrined within the National Planning Policy Framework (NPPF) as well as Paragraph 17 of the NPPF, Policy S3 of the adopted Local Plan and Policies S2 and S3 of the publication version Local Plan.

### Conclusion

The site is a greenfield site outside Limits to Development, and Newbold is not a settlement which could sustain a scale of development as that proposed, this being 16 dwellings.

The proposed development would result in the construction of dwellings, and associated infrastructure, on land outside the defined Limits to Development. The agricultural field makes a positive contribution to the character and appearance of the rural environment and landscape. Given the substantial urbanisation of the land which would occur, should the development be permitted, this would diminish its present open character and would represent an incongruous encroachment of development into the countryside. As a consequence of this the development would fail to protect or enhance the natural environment and as a result would be contrary to a fundamental principle of the NPPF. A heavy reliance on the private car by any future occupants to access basic services would also lead to an increase in vehicular fumes into the atmosphere which would not support the approach to a low carbon economy. The application site is outside the Limits to Development, residential development on a greenfield site is not a permitted form of development outside these limits, so the development is contrary to Policy S3 of the adopted Local Plan and Policy S3 of the publication version Local Plan.

In addition Newbold would not be considered a sustainable settlement to support the scale of the development proposed, given the limited service provision and the lack of facilities to meet

the 'day to day' needs of any future occupants, and as a consequence there would also be conflict with the social strand of sustainability enshrined within the NPPF.

It is therefore recommended that the application be refused.

**RECOMMENDATION - REFUSE.**

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

## MAIN REPORT

### 1. Proposals and Background

Outline planning permission (with means of part access included for determination) is sought for the erection of 16 dwellings and associated infrastructure on land at Worthington Lane, Newbold. The application site is 1.08 hectares (developable area 0.72 hectares) in size, is situated on the eastern side of Worthington Lane and currently is utilised for agricultural purposes. It is identified on the Proposals Map for the adopted Local Plan that the site is outside the defined Limits to Development with the surrounding area comprising agricultural land to the north and east, and with residential properties of varying designs and scales within the settlement of Newbold being located to the west and south.

It is highlighted on the indicative layout plan supplied that a mix of dwellings would be provided including two x 2 bedroom single storey dwellings, four x 2 bedroom semi-detached dwellings, four x 3 bedroom semi-detached dwellings, three x 4 bedroom houses and three x 5 bedroom houses. These would be arranged around a central access road with two separate private drives with the access point off Worthington Lane being created directly opposite nos. 83 and 83a Worthington Lane.

A planning statement, incorporating a design and access statement, affordable housing statement, Building for Life 12 assessment, open space assessment, community involvement statement and draft heads of term have been submitted in support of the application.

No recent relevant planning history was found.

### 2. Publicity

19 neighbours have been notified (date of last notification 10 May 2016)

Press Notice published 18 May 2016

Site notice posted 18 May 2016

### 3. Consultations

Worthington Parish Council consulted 10 May 2016

County Highway Authority

Severn Trent Water Limited

Head of Environmental Protection

County Archaeologist

LCC ecology

NWLDC Urban Designer

LCC Development Contributions

NHS Leicester, Leicestershire And Rutland Facilities Management

Head Of Leisure And Culture

Manager Of Housing North West Leicestershire District Council

Police Architectural Liaison Officer

LCC Flood Management

Head Of Street Management North West Leicestershire District Council

### 4. Summary of Representations Received

The following summary of representations is provided. Members may inspect full copies of

correspondence received on the planning file.

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

**Leicestershire County Council - Developer Contributions** requests a contribution of £104,430.33 for the education sector.

**Leicestershire County Council - Ecology** has no objections subject to conditions.

**Leicestershire County Council - Highways** no representation received to date, any response will be reported to Members on the Update Sheet.

**Leicestershire County Council - Flood Management** has no objections subject to conditions.

**NHS Leicester, Leicestershire and Rutland Facilities** no representation received to date, any response will be reported to Members on the Update Sheet.

**NWLDC - Affordable Housing Enabler** has no objections subject to the affordable housing being secured.

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

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

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

**Police Architectural Liaison Officer** no representation received to date, any response will be reported to Members on the Update Sheet.

**Severn Trent Water** no representation received to date, any response 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**

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

- Village school does not have the capacity to accept the children of the new families.
- There are an extremely limited number of jobs within the village and a lack of public transport.
- The village does not have the infrastructure (i.e. a shop, post office, village hall) to support the amount of additional housing proposed.
- Newbold is only a small village and has already provided additional small infill housing developments;
- There would be adverse impacts to the amenities of existing residents.
- The development would be on land outside the village boundary and is on agricultural land.
- The proposal would change the rural character of the village.

- There would be a significant increase in vehicular movements through the village which would compromise highway safety given the current nature of the highways.
- There would be a heavy reliance on the private car to access basic services and employment opportunities which is contrary to the NPPF.
- The vehicular access into the site would not be acceptable and would cause highway safety concerns.
- The settlement of Newbold has no gas supply and therefore there would be additional movements of vehicles associated with the delivery of goods to be used for heating.
- NWLDC has sufficient housing development up to 2031.
- Existing residents would lose their views.
- There would be an adverse impact on the visual appearance and intrinsic character of the village.
- There is a direct conflict with Local and National Planning Policy should this development proceed.
- There will be a reduction in property values.
- Houses within the village for sale are not selling therefore there is no requirement for this additional development.
- Brownfield sites should be developed before consideration is given to greenfield sites.
- Flood risk assessment does not relate to this particular site.
- Worthington Methodist Church does not have a 'village hall' as suggested within the design and access statement.

29 representations have been received supporting the development with the comments raised being summarised as follows: -

- Development would be of benefit to the village.
- Development would have a nice housing mix.
- The provision of landscaping will mitigate the visual impacts.
- The access is on a stretch of road where there is excellent visibility.
- Newbold requires new housing in order to sustain the services which it has.
- There is limited traffic through the village so the proposed increase generated by the development will not impact adversely on highway safety.
- Newbold has the available services and employment opportunities to ensure that it is a sustainable settlement for new development.
- There is a playing field and playing area which are of benefit to the future residents.
- New dwellings which are being constructed in the village are in high demand and therefore these properties would sell quickly.
- The different housing proposed will support various age groups.
- The development would fit within the landscape of Newbold particularly in the approach from Worthington.
- Lack of new housing has 'driven-up' house prices meaning that they are now unaffordable.
- Adequate off-street car parking could be provided for the dwellings.
- Landscaping provision helps protect the amenities of existing residents.
- Traffic calming provision is welcomed.

## 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 NPPF. The closer the policies in the development plan to the policies in the NPPF, 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 10 (Achieving sustainable development);  
 Paragraph 14 (Presumption in favour of sustainable development);  
 Paragraph 17 (Core planning principles);  
 Paragraphs 18 - 20 (Building a strong, competitive economy);  
 Paragraph 28 (Supporting a prosperous rural 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 53 (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 75 (Promoting healthy communities);  
 Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 109 (Conserving and enhancing the natural environment);  
 Paragraph 112 (Conserving and enhancing the natural environment);  
 Paragraph 118 (Conserving and enhancing the natural environment);  
 Paragraph 120 (Conserving and enhancing the natural environment);  
 Paragraph 121 (Conserving and enhancing the natural environment);  
 Paragraph 123 (Conserving and enhancing the natural environment);  
 Paragraph 141 (Conserving and enhancing the historic environment);  
 Paragraph 203 (Planning conditions and obligations);  
 Paragraph 204 (Planning conditions and obligations);  
 Paragraph 206 (Planning conditions and obligations);

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

The application site is outside the Limits to Development as defined in the adopted Local Plan. The following adopted 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 E8 - Crime Prevention;  
 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;  
 Policy L21 - Children's Play Areas; and  
 Policy L22 - Formal Recreation Provision.

**Publication Version North West Leicestershire Local Plan**

The publication version of the Local Plan was agreed by Council on 28th June 2016 with a view to its submission for examination in September 2016. Given the advanced stage that has now been reached it is considered that weight can be attached to the following policies: -

Policy S1 - Future Housing and Economic Development Needs;  
 Policy S2 - Settlement Hierarchy;  
 Policy S3 - Countryside;  
 Policy D1 - Design of New Development;  
 Policy D2 - Amenity;  
 Policy H4 - Affordable Housing;  
 Policy H6 - House Types and Mix;  
 Policy Ec5 - East Midlands Airport: Safeguarding;  
 Policy IF1 - Development and Infrastructure;  
 Policy IF3 - Open Space, Sport and Recreation Facilities;  
 Policy IF4 - Transport Infrastructure and New Development;  
 Policy IF7 - Parking Provision and New Development;  
 Policy En1 - Nature Conservation;  
 Policy En6 - Land and Air Quality;  
 Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;  
 Policy Cc2 - Water - Flood Risk; and  
 Policy Cc3 - 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 Affordable Housing SPD**

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

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

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

The District Council's Play Area Design Guidance SPG sets out the requirements in respect of

children's play provision in association with residential development.

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

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

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

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

## **6. Assessment Principle and Sustainability**

In accordance with the provision 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 Local Plan (2002 (as amended)).

The application site 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, or Policy S3 of the publication version Local Plan.

The NPPF requires that the District Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Local Authority is able to demonstrate a five year supply of housing (with 20% buffer) against the requirements contained in the published Local Plan.

Paragraph 17 of the NPPF highlights the need to recognise the intrinsic character and beauty of the countryside, but does not specifically preclude development within the countryside. Consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set out below.

With regards to the sustainability credentials of the site, it well related to the following services which are within an acceptable walking distance of 800 metres, or 1000 metres for a school: -

- Public House (Cross Keys, 9 Worthington Lane - 481 metres);
- School (Newbold Church of England Primary School, School Lane - 843 metres);
- Bus Stop for Two Services (Robert Coaches Air Link Service 155 one hourly between Coalville and East Midlands Airport Monday to Saturday - 134 metres on Worthington Lane and Cresswell Coaches Service 129 between Ashby and Loughborough (two hourly service between 7:30am and 5:30pm Monday to Saturday - 598 metres on the junctions of Ashby Road with School Lane and Worthington Lane);
- Small Children's Play Area (Henry Dane Way - 198 metres);

It is possible to access these services via maintained footpaths which are well lit subject to a

connection being made from the site entrance to the existing footway.

From a social perspective the development would also benefit from the provision of sixteen dwellings which would include five affordable properties with a mix of 2, 3, 4 and 5 bedroom dwellings being supported and contributing to the housing needs of different groups in the community.

However, the social role, as defined in Paragraph 7 of the NPPF, requires the supply of housing to be linked to accessible local services which meets the needs of the community and support its health, social and cultural well being. Whilst accepting that in the determination of previous applications within the settlement of Newbold a view has been taken that the development would be socially sustainable, such proposals have been for a limited number of dwellings, the most proposed being 3, and they have been concentrated to the southern part of the settlement whereby access to a post-office/shop on Lower Moor Road is achievable on foot (this being a service which would meet the 'day to day' needs of the future occupants). Also, in acknowledging that some employment opportunities do exist within the settlement it has to be recognised that these jobs would be of a specialist nature. Therefore, not easily available to all future occupants of the proposed development, with the majority of these opportunities not being within a convenient walking distance of the application site. Given the scale of the development proposed it is considered that the limited service provision available within a convenient walking distance of the site would not sustain future occupants and as a consequence they would be heavily reliant on the private car to undertake their day to day activities.

It also has to be recognised that Policy S2 of the publication version Local Plan, which can be attached some weight in the decision making process, highlights that Newbold is a 'small village' (a settlement which has limited services) where development is restricted to conversions of existing buildings or the redevelopment of previously developed land. Given that the site is on greenfield land and represents the provision of new residential development there is direct conflict with the intentions of this Policy.

Overall the scale of the development proposed would not be socially sustainable given the inability of future residents to access a basic level of service provision which would meet their 'day to day' needs.

From an environmental sustainability perspective the land is recognised as agricultural land which would be considered greenfield land.

Policy S3 of the adopted Local Plan highlights the forms of development which would be permitted outside the defined Limits to Development and whilst Policy S3 of the publication version Local Plan expands on the types of development which would be considered appropriate, both Policies exclude residential development on greenfield sites. These policies are considered to be supported by the principles of Paragraphs 17 and 109 of the NPPF and the ministerial letter from Brandon Lewis of the 27th March 2015 urging Inspectors to protect the intrinsic beauty of the countryside.

The application site currently abuts the Limits to Development on its western and southern side although, in the circumstances that the settlement is not considered sustainable in the publication version Local Plan, it would no longer have any Limits to Development with the entire settlement being within the 'countryside'. Whilst, at present, the application site abuts the Limits to Development it is an open hedged agricultural field and as a consequence makes a positive contribution to the character and appearance of the rural environment and the

landscape of which it would form a part of. A development of the site with the provision of 16 dwellings, and its associated infrastructure, would result in a substantial urbanisation of the site which would diminish its present open character, and which would be an incongruous encroachment into the rural environment which should be protected for its own sake. In this circumstance it would conflict with a fundamental principle of the NPPF by virtue of its failure to protect or enhance the natural environment. As the development site is outside the defined Limits to Development it would also conflict with Policy S3 of the adopted Local Plan and Policy S3 of the publication version Local Plan.

Whilst a determination is made that the proposed development will impact adversely on the 'openness' of the rural environment, it is considered that the dwellings would not be 'isolated' in the context of Paragraph 55 of the NPPF due to the relationship the site would have with dwellings to the west and south.

Taking into account the views of the Planning Inspectorate relating to an appeal decision at Tea Kettle Hall in Diseworth (APP/G2435/A/13/2208611), it is considered that the heavy reliance on the private car by future occupants to access basic services would involve lengthy trips in an unsustainable mode of transport for shopping, work and leisure purposes. This would also result in a conflict with the environmental aims of the NPPF which seek to use natural resources prudently and move towards a low carbon economy.

The application site falls within Grade 2 of the Agricultural Land Classification and therefore represents 'Very Good' Best and Most Versatile (BMV) land. Whilst the site falls within Grade 2 BMV 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 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 1.08 hectares of agricultural land is not considered to represent a significant loss and, therefore the scheme is considered to be acceptable in this regard and would not conflict with Paragraph 112 of the NPPF. It is also noted that the proposal would not disrupt the agricultural operations undertaken on the remaining land.

In conclusion any support warranted to the economic benefits of the scheme, which would be simply associated with the construction of the dwellings, would be significantly and demonstrably outweighed by the negative social and environmental impacts of the proposal. Accordingly the proposal cannot be considered to represent sustainable development and, therefore, the application is not considered to be acceptable in relation to the NPPF as well as relevant policies of the adopted Local Plan and publication version Local Plan.

### **Density and Housing Mix**

With a developable site area of 0.72 hectares the proposed development would have a density of 22.22 dwellings per hectare which would be below the 30 dwellings per hectare advised by Policy H6 of the adopted Local Plan in locations other than those which are 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. Given that the site would define the edge of the settlement and expands into the rural environment, good design principles would lead to the development 'feathering' out towards its edges to make the perimeter softer with landscaping also being

important in allowing the development to integrate with the natural environment. Given the dedication to soft landscaping and the 'feathering' of development, greater space would exist between dwellings and in order to meet such design principles the density proposed would be the most viable option. 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 2, 3, 4 and 5 bedroom dwellings would be provided within properties which would either be single or two storeys in height. 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 as well as Policy H6 of the publication version Local Plan.

### **Viability of the Development**

A request has been made for Section 106 contributions towards education and affordable housing. 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.

The requested developer contributions are listed below.

#### *Affordable Housing*

The Council's Affordable Housing Supplementary Planning Document (SPD) states that in Newbold schemes for 5 or more dwellings should provide 30% of the proposed units as affordable housing (i.e. five units) with the Council's preferred position for this to be provided on site. Whilst national planning policy on affordable housing has recently changed following the decision in West Berkshire District Council & Reading Borough Council v Department for Communities and Local Government [2015], this is not applicable to this development proposal given that the scheme proposes more than 10 dwellings.

The Council's Affordable Housing Enabler has advised that there has been a lack of affordable homes provided on developments in rural areas and therefore any sites which are brought forward should meet the housing needs of those with a local connection to the village as well as the needs identified from the wider district. A Strategic Housing Need Survey was conducted in 2015 and this identified a need for seven dwellings in Newbold with a mix as follows: -

- 1 x 2 bed 4 person house (affordable rented);
- 1 x 3 bed 5 person house (affordable rented);
- 1 x 3 bed 5 person house (shared ownership);
- 1 x 2 bed house (open market);
- 1 x 3 bed house (open market);
- 2 x 4 bed houses (open market);

It is acknowledged by the Affordable Housing Enabler that the tenure mix would be agreed at the reserved matters stage but the following mix would be their optimum: -

- 1 x 2 bed 4 person house (affordable rented);
- 1 x 3 bed 5 person house (affordable rented);
- 1 x 2 bed 3 person single storey house (affordable rented);
- 2 x 3 bed 5 person houses (shared ownership);

Should a single storey property be provided for rent then the Affordable Housing Enabler would be willing to reduce the affordable housing contribution to four dwellings.

In drafting the Section 106 agreement to secure the affordable housing provision it is advised that mechanisms are put in place to ensure that alternative delivery mechanisms are in place should no firm offers be made by Registered Provider's, i.e. to ensure that on-site delivery is made, or that an off-site commuted sum payment is made.

The applicant is willing to meet the affordable housing requests and therefore the development is considered compliant with Policy H8 of the adopted Local Plan and Policy H5 of the publication version Local Plan.

#### *Education*

Leicestershire County Council (Education) request a primary school contribution of £46,460.20 for Newbold Church of England Primary School, a high school contribution of £28,601.87 for Ivanhoe High School and a upper school contribution of £29,368.26 for Ashby School. No request has been made for the special school sector. 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 £104,430.33 is therefore sought for education and the applicant has confirmed their intentions to meet this financial request.

#### *Other Requests*

No consultation response has been received from the NHS or Police in respect of any relevant contributions applicable to these service areas. Should any comments be received they will be reported to Members on the Update Sheet.

Overall, the development would be compliant with Paragraphs 203 and 204 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 north-western boundary would be available as public amenity space.

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 Policy IF3 of the publication version 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, as well as the fact that future occupants of the dwellings would be served by the recreation facilities available at the public open space off School Lane to the south-west of the site and the childrens play facilities at Henry Dane Way.

#### **Accessibility**

All matters are reserved for subsequent approval except for part access. The point of access shown on the submitted plans would be opposite nos. 83 and 83a Worthington Lane. Whilst the

illustrative layout shows internal access roads and the provision of a footway to connect with that to the south of the site, these would be dealt with at the reserved matters stage(s), although their impact on the overall potential accessibility and connectivity of the site still ought to be considered.

Whilst the comments of the County Highways Authority are awaited in respect of the suitability of the proposed development, they have verbally confirmed that there would be no objections in principle to the formation of a vehicular access to serve a development of this scale. This is on the basis that it would be located within the 30 mph zone and that clear visibility would be achieved in both directions given that the carriageway is relatively linear with no sharp bends. Whilst there is the potential for on-street parking opposite the site entrance, the presence of such vehicles is unlikely to hamper the use of the vehicular access given that a suitable level of visibility would be achieved in both directions to enable vehicles exiting the site to assess the movement of vehicles on Worthington Lane before moving into the highway. With regards to the adequacy of the highways network around Newbold being able to 'cope' with a potential increase in vehicular movements, it is noted that there are no controls over the movement of vehicles through the village at this time and therefore the existing highways could be subject to an increase in vehicular movements with or without the development. Given that Paragraph 32 of the NPPF states, amongst other things, that *"development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe,"* it is considered that the above conclusions outline that a residential development on the site would not have a severe impact on highway safety as to justify a refusal of the application. In these circumstances the development would also accord with Policy T3 of the adopted Local Plan and Policy IF4 of the publication version Local Plan.

The specific parking arrangements for each individual property would be assessed and addressed following the submission of any subsequent reserved matters application and as such, the particular requirements of Paragraph 39 of the NPPF as well as Policy T8 of the adopted Local Plan and Policy IF7 of the publication version Local Plan would be satisfied at that time. The plans highlight that 38 parking spaces would be created and given the mix of dwellings proposed this level of off-street parking would be sufficient and in accordance with the 6Cs Design Guide.

### **Neighbours and Future Occupants' Amenities**

An indicative layout plan has been supplied in support of the application which shows that the site does not immediately border any residential properties with those closest being on the western and eastern sides of Worthington Lane and northern side of Cloud Hill View.

The properties which exist on Worthington Lane are separated from the application site by either Worthington Lane itself or Cloud Hill View. Whilst the scale of the dwellings is not for approval at this stage, it is considered that an acceptable relationship with existing residential properties on Worthington Lane could be established which would not result in any adverse overbearing or overshadowing impacts. In respect of overlooking impacts, the position of windows would be determined and assessed under any subsequent reserved matters application and at that stage it could be ensured that no adverse overlooking implications would arise. It is, however, considered that the dissection of the application site from existing dwellings on Worthington Lane by the presence of the highway would ultimately negate any direct overlooking impact.

Properties on Cloud Hill View would also not be subjected to adverse overbearing or overshadowing impacts particularly as the development site is to the north and the separation



distances which would be achieved. As highlighted above, overlooking impacts would be assessed at the reserved matter stage but there is no reason to suggest that an adverse overlooking impact would be established.

The separation distances between the application site and the neighbouring properties would also ensure that the future amenities of any occupants on the site would be adequately protected.

Concerns have been expressed that the development will result in an increase in noise, from a rise in vehicular movements and activity on the site, however it is considered that whilst the provision of a residential scheme along Worthington Lane would increase the volume of traffic this increase would not be significantly detrimental to amenities to justify a reason for the refusal of the application. The scheme relates to the provision of 16 dwellings and in the context that a residential use would not be considered a noisy use, it would also be difficult to justify a refusal of the application on the basis that the tranquillity area would be adversely affected by the introduction of new residents.

Although dirt and noise would be associated with the construction of the scheme, it is considered that this is an inevitable temporary, manifestation of any development project, which is not the concern of the planning system unless there would be exceptional amenity harm. When this is the case, a planning condition restricting hours is often applied but in this instance as Environmental Health has raised no issues to the development in this regard, it is considered that the imposition of an hours condition would be unreasonable.

The loss of a view and the impact of a development on the value of a property are not material planning considerations which could be taken into account in an assessment of the application.

Overall the development is considered compliant with Paragraph 123 of the NPPF, Policy E3 of the adopted Local Plan and Policy D2 of the publication version Local Plan.

### **Impact on the Character and Appearance of the Area and Streetscape**

The need for good design in new residential development is outlined not only in adopted Local Plan Policies E4 and H7, as well as Policy D1 of the publication version Local Plan, but also Paragraphs 57, 60 and 61 of the NPPF.

At present the application site is an open agricultural field bordered by mature hedgerow to a height of around 1.2 metres. Residential properties lie to the west of the site, on Worthington Lane, as well as to the south of the site, on both Worthington Lane and Cloud Hill View. To the east and north are open agricultural fields. Properties within the area are predominately two-storey and are either detached or semi-detached types.

It is noted that layout, scale, appearance and landscaping are included as matters to be considered at later stage with only part access being for approval at this stage. Properties on the western side of Worthington Lane are situated at similar distances to the highway and present their principal elevations to this highway with the development pattern being linear in nature. In respect of the character on the eastern side of Worthington Lane this varies as whilst those properties which are on Worthington Lane present their principal elevations to the carriageway and are developed in a linear pattern Vicarage Close, Henry Dane Way and Cloud Hill View all provide residential estates which project off this principal highway. Given this context it is considered that the provision of a housing estate which projects off Worthington Lane in the manner proposed would not be of such detriment to the character of the eastern

side of this highway as to justify a refusal of the application. This is due to its close association with Cloud Hill View which projects further to the east than the development on the application site.

A scheme where only part access is for approval would not be sufficiently advanced to be fully assessed against Building for Life 12 (BfL 12). It would therefore be necessary at the reserved matters stage for a BfL 12 assessment to be supplied to identify how the development would accord with the principles of this guidance.

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

Public footpath M33 lies 195.0 metres to the east of the site and it is considered that the position of the dwellings would have no greater impacts on views established from this footpath given that such views currently include the dwellings on Worthington Lane and Cloud Hill View.

It is highlighted on the plans that a tree planting buffer would be planted to the northern boundary of the site in order to 'screen' the site, however, concerns would be raised that such a scheme of planting would detract from the visual amenity of the area given that it would appear 'alien' in a landscape which is predominately open fields demarcated by low level hedgerows. Whilst this is a concern, it is considered that an appropriate landscaping scheme could be agreed at the reserved matters stage and as such this indicative arrangement would not justify a reason for the refusal of the application.

Overall the development is one which would be considered compliant with Paragraphs 57, 60 and 61 of the NPPF as well as Policy E4 of the adopted Local Plan and Policy D1 of the publication version Local Plan. The specific requirements of Policy H7 of the adopted Local Plan would be achieved through any reserved matters application submitted for the detailed appearance of the dwellings.

## **Ecology**

The County Council Ecologist has commented on the application and has raised no objections with there being no requirement for mitigation or further ecological surveys to be supplied. It is specified that any buffer zone or hedge planting provided to the boundaries of the application site should be locally native species which would be secured by condition at the reserved matters stage should outline permission be granted.

Overall the development would be compliant with Paragraph 118 of the NPPF, Circular 06/05 and Policy En1 of the publication version Local Plan.

## **Landscaping**

It is considered that any development progressed on the site would require a strong landscaping scheme given that it is located within the rural environment and therefore, it will be important to ensure that existing vegetation is retained and enhanced in the context of Policy E7 of the adopted Local Plan.

The vast majority of the existing vegetation is located on the boundaries of the site, in the form of hedgerows, and it is considered that the indicative layout submitted demonstrates that the

dwellings would be situated away from the vegetation so as to ensure that it could be retained in any development progressed. Although a vehicular access would be formed through the hedgerow fronting onto Worthington Lane, the length of hedgerow to be removed has been limited to 16.0 metres and this would ensure that the access would not appear 'over-engineered'. Along with the retention of the existing vegetation it is also proposed that a tree planting buffer would be planted to the northern boundary of the site, but as outlined in the 'impact on the character and appearance of the area and streetscape' section of this report such planting would appear 'alien' in the landscape and as such a suitable landscaping scheme would need to be secured under any subsequent reserved matters application.

Overall the development would be compliant 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 and Policy He1 of the publication version Local Plan.

### **Drainage and Flood Risk**

The Lead Local Flood Authority (LLFA) initially objected to the application given that the information submitted did not provide any information on the proposed drainage system and, therefore, a determination could not be made as the location would be viable for the proposed method of surface water drainage.

Following the receipt of additional information in respect of this matter, the LLFA have confirmed that they have no objections to the proposal subject to the imposition of a condition on the planning consent to ensure that any surface water drainage scheme provided limits surface water run-off to the equivalent greenfield rate. 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 under separate legislation. In the circumstances that no representation to the development has been received from 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**

Although objections have been received in respect of the proposal impacting on the safe movement of aircraft towards East Midlands Airport, the Council's Constraints Map identifies that consultation with East Midlands Airport Safeguarding would only be undertaken in this area if a development exceeds 90.0 metres in height. Given such a height it is considered that it has not been necessary to consult with East Midlands Airport Safeguarding in this instance and, therefore, the development does not conflict with Policy T20 of the adopted Local Plan or Policy Ec5 of the publication version Local Plan.

## Conclusion

The site is a greenfield site outside Limits to Development, and Newbold is not a settlement which could sustain a scale of development as that proposed, this being 16 dwellings.

The proposed development would result in the construction of dwellings, and associated infrastructure, on land outside the defined Limits to Development. The agricultural field makes a positive contribution to the character and appearance of the rural environment and landscape. Given the substantial urbanisation of the land which would occur, should the development be permitted, this would diminish its present open character and would represent an incongruous encroachment of development into the countryside. As a consequence of this the development would fail to protect or enhance the natural environment and as a result would be contrary to a fundamental principle of the NPPF. A heavy reliance on the private car by any future occupants to access basic services would also lead to an increase in vehicular fumes into the atmosphere which would not support the approach to a low carbon economy. The application site is outside the Limits to Development, residential development on a greenfield site is not a permitted form of development outside these limits, so the development is contrary to Policy S3 of the adopted Local Plan and Policy S3 of the publication version Local Plan.

In addition Newbold would not be considered a sustainable settlement to support the scale of the development proposed, given the limited service provision and the lack of facilities to meet the 'day to day' needs of any future occupants, and as a consequence there would also be conflict with the social strand of sustainability enshrined within the NPPF.

It is therefore recommended that the application be refused.

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

- 1 Whilst Newbold is a settlement which benefits from a few services none of these services would meet the 'day to day' needs of any future occupants of the development and would not support the scale of development proposed. The application is also on unallocated Greenfield land located outside the Limits to Development of Newbold, as defined on the Proposals Map to the adopted Local Plan as well as the publication version Local Plan. Both Policy S3 of the adopted Local Plan and Policy S3 of the publication version Local Plan provide a presumption against non-essential residential development in the countryside, with Paragraph 17 of the NPPF indicating that planning should recognise the intrinsic character and beauty of the countryside. The NPPF also outlines that social development should provide the supply of housing required to meet the needs of present and future generations with accessible local services and the support of their health, social and cultural well being. Although the scheme would be considered acceptable in terms of the economic strand of sustainable development it would fail the environmental and social elements as it would adversely affect and diminish the present open character of the site, and would represent an incongruous encroachment of development into the rural environment which should be protected for its own sake. On this basis the development would fail to protect or enhance the natural environment. A heavy reliance on the private car to access the most basic of services would lead to greater vehicle emissions and not support the approach to a low carbon economy. Insufficient local services to support the scale of the development would also lead to any future occupants being socially isolated. On this basis to permit the development would be contrary to the environmental and social strands of sustainability enshrined within the NPPF, as well as Paragraph 17 of the NPPF, Policy S3 of the

adopted Local Plan and Policies S2 and S3 of the publication version Local Plan.

**Notes to applicant**

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

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Demolition of existing mill and associated buildings and erection of 19 no. dwellings and associated works.

Report Item No  
A5

Holywell Mill Burton Road Ashby De La Zouch Leicestershire  
LE65 2LL

Application Reference  
15/00732/FULM

Applicant:  
Peveril Homes Limited / Dunkton Rushton Ltd

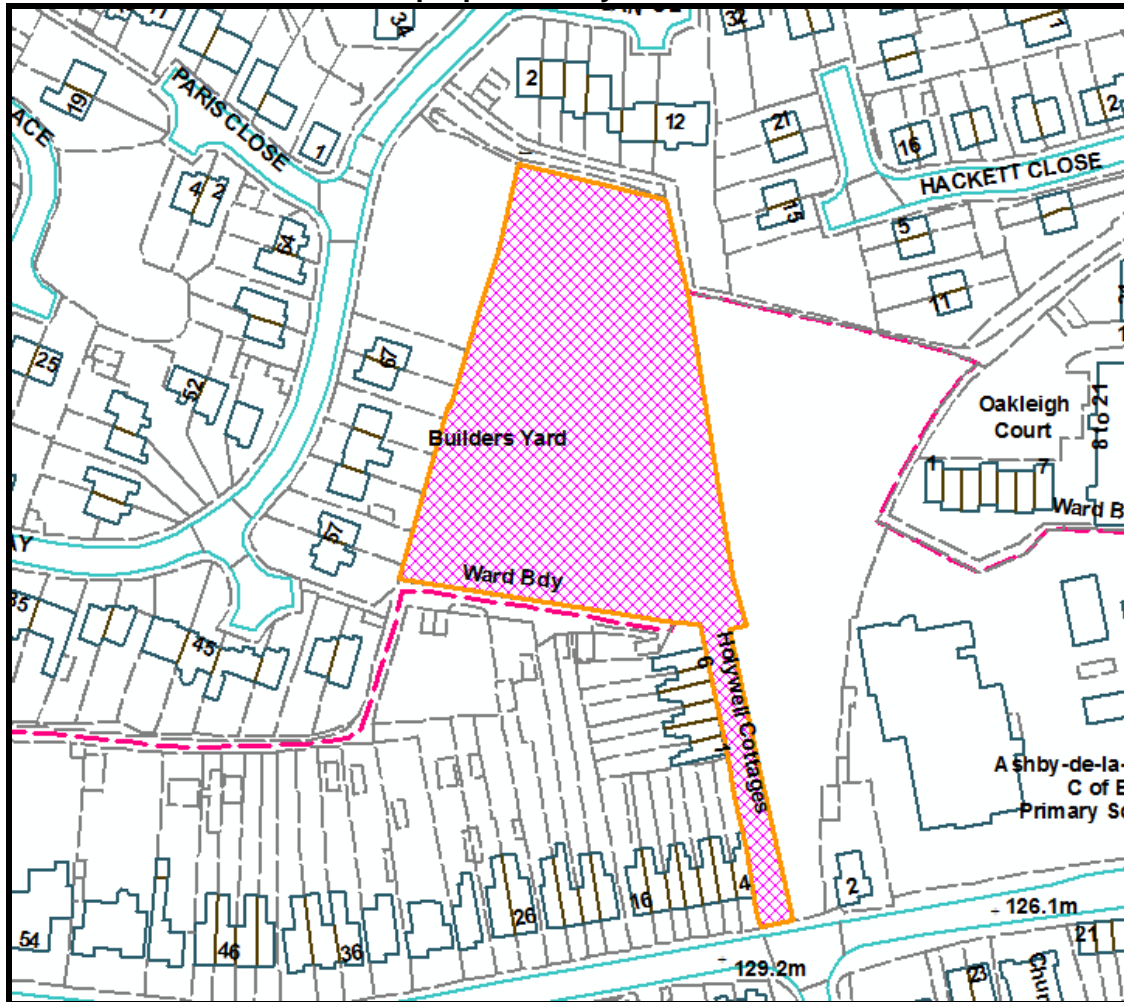
Date Registered  
26 August 2015

Case Officer:  
Ebbony Mattley

Target Decision Date  
25 November 2015

Recommendation:  
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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## **Executive Summary of Proposals and Reasons for Approval**

### **Reason for Call In**

The application is brought before Planning Committee as Councillor Nick Rushton is the applicant. Councillor Roger Bayliss also requested the application be put to Planning Committee, stating that it is a matter of local concern.

### **Proposal**

Full planning permission is sought for the demolition of Holywell Mill and its associated buildings, and following the submission of amended plans the scheme now seeks the erection of 19 no. dwellings.

### **Consultations**

Members will see from the main report below that there are objections from 16 addresses to the scheme, and objections from Ashby de-la Zouch Town Council. There are no other objections raised from statutory consultees and 2 letters of support have been received.

### **Planning Policy**

The application site is located within Limits to Development as defined in the adopted North West Leicestershire Local Plan.

### **Conclusion**

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

The principle of residential development on the site has already been established by the granting of full planning permission ref: 09/00082/FULM for the conversion of the mill building and erection of new buildings to provide a total of 44 no. dwellings on site.

Whilst there is no objection in principle to residential development on the site, this must be carefully balanced against the loss of the mill and against all other planning matters being adequately addressed.

For the reasons discussed in the main report below, whilst it is acknowledged that that the building is of some local importance/significance, on balance on the basis that Historic England did not consider the Mill worthy of listing, the fact that it could be proposed to be demolished through the prior approval procedure and given the benefits in terms of the very high quality designed scheme, and building on brownfield land in a sustainable location and the fact that appropriate historic building recording would be secured by way of a condition, it is not considered that a reason for refusal based upon on the demolition and loss of the building would sustain a reason for refusal in this case.

The proposed development, subject to the imposition of conditions, would be acceptable in



terms of density, layout, design, impact upon PROW, residential amenities, highway safety, land contamination, flood risk and drainage, ecological impacts and impact on the River Mease SAC/SSSI and no other technical issues are considered to arise.

A viability appraisal has been submitted by the applicants to demonstrate that it would not be viable to provide on-site affordable housing with all other financial contributions. This has been independently assessed by the District Valuer who is in the agreement with the findings and an off-site affordable housing contribution of £90,000 has been secured, in lieu of on site provision, which for the reasons discussed below, is considered acceptable, in this case.

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

**RECOMMENDATION - PERMIT, APPROVE SUBJECT TO SECTION 106 OBLIGATIONS AND 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

Full planning permission is sought for the demolition of Holywell Mill and its associated buildings, and the erection of 19 no. Dwellings comprising 2 and 3 bedroomed properties.

During the course of the application, following concerns raised by officers, amended plans have been received amending the layout and house designs. Re-consultation has been undertaken with all originally consulted neighbours, all those who had made comments, Ashby Town Council, the County Highway Authority, the County Archaeologist and the Council's Urban Design and Conservation Officers.

The existing access to the site from Burton Road would be utilised. Holywell Mill, along with the properties at Nos. 1-6 (inc) Holywell Cottages, are accessed off Burton Road via a private drive, which has a tarmac surface and is without a demarked pedestrian pathway. The drive also provides vehicular access to garaging and parking areas to the rear of properties fronting onto Burton Road.

The application site is adjoined to the west by an area of public open space and the rear gardens of dwellings on Rouen Way, which are situated at a higher land level than the application site. To the east the site is bound by an open grassed area; beyond which to the south-east is Ashby de la Zouch Church of England Primary School. A public footpath linking Rouen Way to Smisby Road runs along the northern boundary of the site - and in part along the eastern boundary - beyond which are properties situated on Roedean Close.

The site is situated within limits to development as defined in the adopted North West Leicestershire Local Plan and within the catchment area of the River Mease Special Area of Conservation (SAC).

#### Recent Planning History:-

In 2008, an application for full planning permission ref: 08/00726/FULM was submitted for the conversion of the mill building and erection of extensions and new buildings to provide a total of 44 No. dwellings on the site. The application was withdrawn when it came to light that the incorrect land ownership certificate had been completed on behalf of the applicants.

A revised application for full planning permission ref: 09/00082/FULM was subsequently submitted for the conversion of the mill building and erection of extensions and new buildings to provide a total of 44 No. dwellings on the site including access, bin stores and an onsite children's play area. Due to River Mease issues, the application was only determined in February 2015 by Members, following the submission of additional information.

### 2. Publicity

85 neighbours have been notified (date of last notification 18 May 2016)

Site Notice displayed 26 August 2015

Press Notice published 9 September 2015

### 3. Consultations

Ashby De La Zouch Town Council consulted 26 August 2015

Head of Environmental Protection consulted 14 July 2016  
 County Highway Authority consulted 26 August 2015  
 Severn Trent Water Limited consulted 26 August 2015  
 Natural England- Within 2k Of SSSI consulted 26 August 2015  
 NWLDC Tree Officer consulted 26 August 2015  
 County Archaeologist consulted 26 August 2015  
 LCC ecology consulted 26 August 2015  
 NWLDC Conservation Officer consulted 26 August 2015  
 NWLDC Urban Designer consulted 26 August 2015  
 National Forest Company consulted 26 August 2015  
 LCC Fire and Rescue consulted 26 August 2015  
 LCC Development Contributions consulted 26 August 2015  
 NHS Leicester, Leicestershire And Rutland Facilities Management consulted 26 August 2015  
 Head Of Leisure And Culture consulted 26 August 2015  
 Manager Of Housing North West Leicestershire District Council consulted 26 August 2015  
 Police Architectural Liaison Officer consulted 26 August 2015  
 LCC Flood Management consulted 26 August 2015  
 Building Control - NWLDC consulted 26 August 2015  
 Head Of Street Management North West Leicestershire District consulted 26 August 2015  
 Head of Environmental Protection consulted 2 September 2015  
 County Archaeologist consulted 18 May 2016  
 LCC/Footpaths consulted 24 September 2015

#### 4. Summary of Representations Received

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

Highway safety with a poor access road;  
 Loss of part of Ashby's history with the demolition of the mill which is a town landmark and a historic building; and  
 No affordable housing being provided.

**Natural England** has no objections, subject to the imposition of planning conditions.

**Severn Trent** has no objections, subject to the imposition of a planning condition.

**Lead Local Flood Authority** has no objections, subject to the imposition of planning conditions.

**The National Forest** requests an off-site contribution of £2,000.00 towards National Forest planting.

**The County Highway Authority** has no objections, subject to the imposition of planning conditions.

**The County Footpaths Officer** has no objections, subject to the imposition of notes to the applicant.

**The County Archaeologist** has no objections, subject to the imposition of planning conditions.

**The County Ecologist** has no objections, subject to the imposition of planning conditions.

**The Council's Environmental Protection Team** has no objections.

**The Council's Urban Designer** raises no objection, subject to conditions.

**The Council's Conservation Officer** states that the balance of the loss of the significance of the mill should be weighed against the public benefits of the proposal.

**The Council's Affordable Housing Enabling Officer** states that the scheme is required to provide a minimum of 30% affordable housing which equates to 6 properties.

### **Third Party Representations**

16 letters of representation have been received raising the following objections:-

The building should be protected, not demolished

It is an important, iconic, landmark local building and a part of the industrial heritage of Ashby

Loss of small businesses and loss of jobs and an existing lease until 2018

Insufficient infrastructure and impact upon the Primary School

How will drainage be provided

Will Holywell Cottages be retained and will they have car parking spaces

Will the proposed development be served by an adequate and maintained road that will provide for vehicle and pedestrian access to all properties?

Increase in traffic, in close proximity to a school, a right of way exists, visibility concerns, narrow road, lack of footpath and impact upon highway safety

What planning and highway requirements will be included in any consent?

Has a bat survey been undertaken?

1 letter of support has been received stating:-

It is a first time a developer has not tried to squash in as many dwellings on the site, as possible.

A sensible number of dwellings for the site

The mill is a shell, with little historic significance and visually cannot be seen from the main roads when you enter Ashby

The current commercial activities, dust and noise from the Mill cause a nuisance to some residents, so the demolition will result in benefits to local residents.

Following re-consultation on the amended plans, 1 further letter of support has been received stating:-

The existing mill is of no historical importance

The businesses which operate from these premises cause ongoing problems of noise and dust from taxis and building yard and music rehearsal's late into the evening

The development is of a sensible size

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

## **5. Relevant Planning Policy**

### **National Planning Policy Framework**

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 9 (Achieving sustainable development);  
Paragraph 10 (Achieving sustainable development);  
Paragraph 14 (Presumption in favour of sustainable development);  
Paragraphs 18-20 (Building a strong, competitive economy);  
Paragraph 32 (Promoting sustainable transport);  
Paragraph 34 (Promoting sustainable transport);  
Paragraph 35 (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 56 (Requiring good design);  
Paragraph 57 (Requiring good design);  
Paragraph 58 (Requiring good design);  
Paragraph 59 (Requiring good design);  
Paragraph 60 (Requiring good design);  
Paragraph 61 (Requiring good design);  
Paragraph 64 (Requiring good design);  
Paragraph 69 (Promoting healthy communities);  
Paragraph 74 (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 119 (Conserving and enhancing the natural environment);  
Paragraph 120 (Conserving and enhancing the natural environment);  
Paragraph 122 (Conserving and enhancing the natural environment);  
Paragraph 123 (Conserving and enhancing the natural environment);  
Paragraph 124 (Conserving and enhancing the natural environment);  
Paragraph 129 (Conserving and enhancing the historic environment);  
Paragraph 131 (Conserving and enhancing the historic environment);  
Paragraph 173 (Ensuring viability and delivery);  
Paragraph 203 (Planning conditions and obligations);  
Paragraph 204 (Planning conditions and obligations).

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

The application site is 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 T3 - Highway Standards;  
Policy T8 - Parking;  
Policy H4/1 - Housing Land Release;  
Policy H6 - Housing Density;  
Policy H7 - Housing Design;  
Policy H8 - Affordable Housing;  
Policy L21 - Children's Play Areas.

### **Publication Version North West Leicestershire Local Plan**

On 15 September 2015 the District Council's Full Council approved a draft Local Plan for consultation. That consultation has now ended and the publication version of the Local Plan was agreed by Council on 28th June 2016 with a view to its submission for examination in September 2016. Given the more advanced stage that has now been reached with agreement of a publication version of the Local Plan it is considered that more weight can be attached to the following policies:

S1 - Future Housing and Economic Development Needs  
S2 - Settlement Hierarchy  
D1 - Design of New Development  
D2 - Amenity  
H1 - Housing Provision: Planning Permissions  
H4 - Affordable Housing  
H6 - House Types and Mix  
IF1 - Development and Infrastructure  
IF2 - Community and Cultural Facilities  
IF3 - Open Space, Sport and Recreation Facilities  
IF4 - Transport Infrastructure and New Development  
IF7 - Parking Provision and New Development  
EN2 - River Mease Special Area of Conservation  
EN3 - The National Forest  
CC2 - Water - Flood Risk

### **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.

Policy S1 - Presumption in favour of sustainable development  
Policy S2 - Limits to Development  
Policy S3 - Development proposals outside of the Limits to Development

Policy S4 - Design  
Policy S5 - Priority to be given to brownfield sites  
Policy H4 - Housing Mix  
Policy H5 - Affordable Housing  
Policy TC4 - Residential Development  
Policy T1 - Sustainable Development  
Policy T4 - Walking and Cycling  
Policy T6 - Car Parking  
Policy ELWB 3 - Open Space, Sport and Recreation Provision in New Developments  
Policy ELWB 9 - Buildings and Structures of Local Heritage Interest

### **Other Policies/Guidance**

#### **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.

#### **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.

#### **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;

#### **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;

#### **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.

**River Mease Water Quality Management Plan - August 2011** draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

**The River Mease Developer Contributions Scheme (DCS) - November 2012** is relevant to development which results in a net increase in phosphorous load being discharged to the River Mease Special Area of Conservation (SAC). It currently applies to all development which contributes additional wastewater via the mains sewerage network to a sewage treatment works which discharges into the catchment of the River Mease SAC.

## 6. Assessment

The main considerations with regards to this application are the principle of development, design and heritage issues, impact upon residential amenity, highway considerations, impact upon the River Mease SAC/SSSI, developer contributions, viability and other matters.

### Principle of Development

The principle of residential development on the site has already been established by the granting of full planning permission ref: 09/00082/FULM for the conversion of the mill building and erection of new buildings to provide a total of 44 no. dwellings on site.

It should be noted however that this application differs in the number and layout of units proposed and most noticeably by proposing the demolition of the existing Mill.

There have been no changes to central government guidance or local development policies since the previously application was granted, although consideration will be given below to the Publication Version North West Leicestershire Local Plan which is now afforded some weight.

The site is identified (H1e) within Policy H1 of the Publication Version North West Leicestershire Local Plan as a site which benefits from planning permission for housing development. The Policy states that in the event that planning permission lapses on the site it will be renewed, subject to the policies of this Local Plan and any other material considerations.

Accordingly whilst there is no in-principle objection to residential development on the site, this must be carefully balanced against the loss of the mill and against all other planning matters, being adequately addressed.

### Non Designated Heritage Asset

Holywell Mill is a four storey brick built structure which was constructed as a flour mill in the 1870s. The Mill, which was the subject of an unsuccessful request for listing building designation, has been the subject of subsequent external alteration - particularly in the post war period - including the erection of extensions to the front and western side elevations of little or no architectural merit.

The principal Mill building, whilst not having listed status, is nevertheless considered to be an important building within the townscape of Ashby de la Zouch.



Within the previous 2009 application, the scheme proposed to demolish all existing buildings at the site, other than the principal Mill building and it was considered that the retention and refurbishment as part of the scheme was considered in principle to be to the benefit of the amenities of the locality.

For the avoidance of doubt the building and site is also not designated/listed on a 'local list'. The Council's Conservation Officer, however states that the mill can be considered to be a 'non-designated heritage asset' as it illustrates an important aspect of local economic history and appears in a recognised gazetteer of industrial archaeology.

Paragraph 135 of the NPPF states that:-

The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weight applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage assets.

The Council's Conservation Officer states that the balance of the loss of the significance of the mill should be weighed against the public benefits of the proposal, as set out in Paragraph 133 of the NPPF.

### **Public Benefits of the Proposal**

During the course of the application, discussions have been undertaken with the applicant and the Councils' Urban Design and Conservation Officers to improve the layout and design of the scheme. Subsequently amended plans have been submitted to reflect the discussions, which also led to the reduction to 19 dwellings.

The amended plans have been considered by the Council's Urban Design Officer who has assessed the scheme against Building for Life 12 (BfL12) and confirms that:-

*A BfL12 review of this scheme demonstrates that the scheme performs very well against BfL12 and is therefore considered consistent with NPPF policies relating to design, emerging Local Plan policies relating to design...I am of the view that the proposed development is of a very high standard. Subject to the imposition of planning conditions and high quality implementation it has the potential to become an exemplar scheme for the District."*

Based on the above and subject to conditions, the scheme would score 11 'greens' out of 12 and is therefore considered to be of a very high standard and potential to be an exemplar scheme in term of it's design. By way of comparison, the previous application for the retention of the Mill was scored 13 out of 20 which equated to an 'average score' and it was reported to be a missed opportunity and fell short of the standard of design with Building for Life 14+ used by the Council as the design quality indicator (at that time) for the determination of schemes.

The scheme is therefore in accordance with Saved Policies E4 and H7 of the Adopted Local Plan and Policy D1 of the Publication Version North West Leicestershire Local Plan.

The site is also brownfield and the NPPF (Paragraph 111) is supportive of re-using land that has been previous developed (brownfield land), provided that it is not of high environmental value.

In addition to the high quality scheme, the scheme also provides additional benefits by contributing to the Council's five year housing land supply position, affordable housing provision (or financial contribution, as discussed later in the report) and re-developing and building on brownfield land.

## Other Considerations

It is important to note that in the event this application was refused, based upon the demolition of the Mill, that the applicant could submit a demolition application, through the prior approval procedure, with the only considerations being the means of demolition and the proposed restoration of the site (and no historic building recording as discussed below). On this basis, should such an application be submitted, the Authority would not be in a position to refuse the prior approval application and therefore the mill could be demolished. Indeed the applicant could have, at any point during the course of this application, chosen to submit a prior approval for demolition, which as discussed above, could have been issued and the applicant could have then sought to amend the description of this proposal and removal the need to seek planning permission for the demolition element.

It is also considered whilst planning permission has previously been granted for a scheme which retained the principal Mill Building, that scheme comprised 16 no. one bedroom apartments, 17 no. two bedroom apartments, 6 no. three bedroom units (of which 3 no. were apartments) and 3 no. four bedroom dwelling units. As such 36 of the units were apartments. It is considered that within the current climate, there appears to be preference for dwellings and less of a market for apartments and flats, hence the reason for this submission and not choosing to implement the previous approval.

Paragraph 141 of the NPPF states that local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost. The scheme has been considered by the County Archaeologist who confirms that the building is, or has the potential to include a heritage asset(s) with an archaeological interest and therefore recommend a condition is imposed requiring the applicant completes an appropriate level of historic building surveying and recording, prior to demolition. Accordingly a condition is recommended to secure this.

The Council's Conservation Officer has also recommended that a condition is imposed ensured that the mill is not demolished until a contract for the re-development of the site has been entered into. For the reasons discussed above (that the mill could be demolished by an alternative procedure) and no development would have to proceed, it is not considered reasonable to impose a condition to this affect.

In summary, whilst it is acknowledged that that the building is of some local importance/significance, on balance on the basis that Historic England did not consider the Mill worthy of listing, the fact that it could be proposed to be demolished through the prior approval procedure and given the benefits in terms of the very high quality designed scheme, and building on Brownfield land in a sustainable location and appropriate historic building recording would be secured by way of a condition, it is not considered that a reason for refusal based upon on the demolition and loss of the building would sustain a reason for refusal in this case.

## Impact upon Residential Amenity

The site is adjoined to the west by No's 55, 57 ,59 ,61 ,63 ,65 and 67 Rouen Way. The closest relationship between properties on Rouen Way and the proposal would be between No. 61 Rouen Way and plot 7. There would a distance of 19.8 metres between the closest point (most easterly projection of No. 61) and the rear wall of the main two storey part of the dwelling, with a distance of 16.8 metres to the proposed single storey element of plot 7. Whilst the Council's Development Guidelines usually seeks for a distance of 22 metres, it is not considered that this

distance between, given that the closest element would be single storey in scale and non-habitable in nature, would result in the scheme leading to an un-acceptable level of impact upon the occupiers of No. 61 in terms of overlooking, overshadowing or overbearing impacts.

There is a distance of 22 metres the rear wall of No. 67 Rouen Way and the rear of plot 10, with part of the proposed garage (to serve plot 10) sited 15 metres away from the rear wall of No. 67, with the rear wall of No. 65 Rouen Way located 16 metres away from the garage proposed to serve plot 9. It is considered that the back-to-back relationship is considered to be at a sufficient distance to ensure no significant detrimental impacts and as discussed above by virtue of the single storey scale of the garages and non-habitable nature, they are not considered to give rise to any un-acceptable adverse impacts upon the occupiers of No's 65 and 67 Rouen Way.

No 63 Rouen Way would be located 22.5 metres from the two storey element of the rear wall of plot 8, although plot 8 also provides a single storey element which would reduce the distance from the rear wall of No. 63 Rouen Way to the closest part of the dwelling to 19.6 metres. These distances are considered to be acceptable, and given that the closest distances are to the single storey element, this is not considered to result in any overlooking, overshadowing or overbearing impacts.

To the north of the site are No's 2, 4, 6, 8, 10 and 12 Roedean Close. The closest relationship between properties on Roedean Close and the proposal would be between No 10 Roedean Close and plot 15, where there would be a distance of approximately 20 metres back-to-back which is considered to be an acceptable distance, with existing trees assisting in screening, in-between. Within all other relationships there would be an approximate distance between 23-25 metres which is considered to be acceptable to ensure no detrimental impacts upon the occupiers of the neighbouring, or future occupiers.

No's 1-6 Hollywell Cottages would be located to the south of the site. There is a distance of approximately 17 metres between the rear wall of plot 1 and the side wall of No. 6 Holywell Cottage, which is considered sufficient distance to ensure no significant adverse impacts, in terms of overlooking, overshadowing or overbearing impacts.

All other neighbouring properties are considered to be sited at sufficient distances away not to be adversely impacted upon as a result of the scheme.

Overall, subject to the imposition of conditions, it is considered that the development would not have any significant detrimental impact upon the amenity of neighbouring residential properties (or future neighbouring residents) and the proposal is considered to be acceptable in relation to Saved Policy E3 of the Adopted Local Plan and Policy D2 of the Publication Version North West Leicestershire Local Plan.

### **Highway Considerations**

The existing access to the site from Burton Road would be utilised. Holywell Mill, along with the properties at Nos. 1-6 (inc) Holywell Cottages, are accessed off Burton Road via a private drive, which has a tarmac surface and is without a demarked pedestrian pathway. The drive also provides vehicular access to garaging and parking areas to the rear of properties fronting onto Burton Road.

The scheme has been considered by the County Highway Authority (CHA) who raise no objection, subject to the imposition of planning conditions.

During the course of the application amended plans have been received showing revisions to the layout and house types, to provide a greater range of integral, in front and side of plot parking and detached garages. Subsequently amended plans have been received which now show all 2 bedroom properties with 2 spaces, with 3 bedroomed properties having either 3 or 4 car parking spaces (including detached garages). The car parking provision is therefore considered to be acceptable.

For the avoidance of doubt the integral garage spaces measure 3 metres in width and a minimum of 6 metres in length internally.

In summary, subject to the imposition of conditions it is considered that the scheme is acceptable in relation to Saved Policies T3 and T8 of the Adopted Local Plan and Policy IF7 of the Publication Version North West Leicestershire Local Plan.

### **Impact on the River Mease Special Area of Conservation/SSSI**

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

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

The issue of the River Mease and Packington Sewerage Treatment Works was the subject of extensive scrutiny within the previous application ref: 09/00082/FULM which was considered at Planning Committee in February 2015 where it was considered and accepted that the proposed flows to the proposed use was no more, in comparison to the flows of the existing uses, and therefore a River Mease Developer Contribution was not required.

As the previous scheme was for 44 no. dwellings and this scheme proposes 19 no. dwellings it is not considered that the proposal would lead to a different conclusion being reached. On this basis, it is not considered that the applicant is required to enter into the DCS for this application.

The flows from the new dwellings will need to be taken into account against the existing headroom capacity (recently revised) at Packington Treatment Works, which serves the site. At the time of writing sufficient capacity exists for this scheme.

Natural England has considered the scheme and raises no objections in relation to impact on the SAC/SSSI subject to conditions.

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

### **Drainage and Flood risk**

The Lead Local Flood Authority have confirmed that the proposed development will be acceptable, providing that conditions are imposed. The scheme has also been considered by Severn Trent who raise no objections subject to a condition requiring drainage plans for the disposal of surface water and foul sewage. Appropriately worded conditions are recommended to ensure that these details are secured.

### **Public Footpath**

Public Footpath 076a runs along the northern and part eastern boundaries of the site. The scheme has been considered by the Leicestershire County Council's Footpath Officer who have confirmed that they raise no objection to the application as it should not affect the public's use and enjoyment of the Right of Way, however suggest a number of 'Notes to Applicant' in relation to any potential encroachment , surfacing and enclosure.

### **Land Contamination**

The Council's Environmental Protection Team have raised no objections to the development with regards to ground contamination or land instability, subject to conditions.

### **Ecology**

The scheme has been considered by the County Ecologist, who raises no objection subject to conditions requiring site clearance to be done outside of the bird nesting season and requiring an updated bat survey, should demolition not take place before February 2017.

### **Developer Contributions**

#### *Affordable Housing*

The Council's Strategic Housing Team has advised that there is a need for affordable housing and that the full 30% should be secured through the proposed development, in accordance with the Council's Affordable Housing SPD.

The Council's Strategic Housing Team have requested the split to be 79% rented and 21% intermediate housing, with the unit types which would equate to 4 no. affordable rented and 2 no. intermediate types, with the preference being for 4 x 2 beds and 2 x 3 beds.

#### *Civic Amenity*

Leicestershire County Council (Civic Amenity) has not requested a contribution.

#### *Education*

Leicestershire County Council (Education) request a contribution of £33,964.72 for the high school sector, for Ivanhoe College and a contribution of £34,874.80 for the upper school sector, for Ashby School. For the avoidance of doubt no contribution has been requested for the Primary School Sector.

*Libraries*

Leicestershire County Council (Libraries) confirms that no request has been made.

*National Forest*

The National Forest Company requires 20% of the site area to be for woodland planting and landscaping, which equates to 0.1 hectares, but accepts that there is limited opportunity for this to be accommodated within the site, and therefore requests a financial contribution of £2,000.00 towards off site planting.

*Play Area/Open Space*

Under the Council's Play Area SPG, on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 19 dwellings are proposed, this would require a play area of not less than 380 square metres.

Whilst it is acknowledged that the distance from the site, via Burton Road to Hood Park is over the 400 metres distance, given that in Building for Life indicates that a point should be awarded for community facilities (such as play areas) being within a short distance (defined as 800 metres) the proposal would satisfy this criterion. Furthermore, given that the existing children's play area at Hood Park would not be excessively over the 400 metres suggested by Local Plan Policy L21 and taking into account the alternative distance recommended under Building for Life (which the Council has adopted as a design quality indicator), it is considered that a commuted sum towards upgrading and improving the existing play area at Hood Park would be acceptable in this instance.

The contribution requested is £23,465.00

*River Mease DCS*

As set out earlier in the report, in this case a DCS contribution is not required.

*Highways*

The CHA recommends that a requirement for the details of the routing of construction traffic should be included within the S106, but for the avoidance of doubt does not request any financial contributions.

**Viability**

A viability assessment has been submitted with the application which indicates that the scheme would not be viable with the full 100% inclusion of affordable housing and all other developer contributions, as set out in the report above.

The District Valuer has assessed the submitted viability reports and is in agreement that the scheme would not be viable, if required to provide 100% affordable housing and all the other developer contributions. However, the District Valuer has confirmed that the scheme would be viable if the applicant made an off-site commuted sum for affordable housing of £93,700 (in lieu of on-site provision) and all other developer contributions.

The applicant has advised that they are willing to make all of the requested contributions

totalling £94,304.53 with an additional £93,700.00 affordable housing contribution.

Given that the applicants have been able to demonstrate to the District Valuer's satisfaction that no affordable housing provision (on-site) could be provided from a viability point of view, and they are making the full requested contributions to other service areas including education, play space and National Forest planting (in addition to an affordable housing commuted sum), it is considered that the omission of full affordable housing provision, would not be unacceptable in this case, and when balanced against all other viability considerations and other aspects of sustainable development.

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

### Summary

On consideration of these requests received in respect of this application it is considered that the following meet the tests and should members be minded to approved this application a Section 106 Agreement would secure the following, which the applicant is agreeable to:-

- Affordable Housing (£93,700)	
- Education (£68,839.53)	
- National Forest (£2,000.00)	
- Play and Open Space (£23,465.00)	
Total	£184,304

### Other Matters

#### Letters of Representation

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

The site does not benefit from any protection for employment use and therefore it is not considered that the Council would have any basis to refuse the application on the loss of land/building for employment purposes.

### Conclusion

The principle of residential development on the site has already been established by the granting of full planning permission ref: 09/00082/FULM for the conversion of the mill building and erection of new buildings to provide a total of 44 no. dwellings on site.

Whilst there is no objection in principle, to residential development on the site, this must be carefully balanced against the loss of the mill and against all other planning matters being adequately addressed.

For the reasons discussed above, whilst it is acknowledged that that the building is of some local importance/significance, on balance on the basis that Historic England did not consider the Mill worthy of listing, the fact that it could be proposed to be demolished through the prior approval procedure and given the benefits in terms of the very high quality designed scheme,

and building on brownfield land in a sustainable location and appropriate historic building recording would be secured by way of a condition, it is not considered that a reason for refusal based upon on the demolition and loss of the building would sustain a reason for refusal in this case.

The proposed development, subject to the imposition of conditions, would be acceptable in terms of density, layout, design, impact upon PROW, residential amenities, highway safety, land contamination, flood risk and drainage, ecological impacts and impact on the River Mease SAC/SSSI and no other technical issues are considered to arise.

A viability appraisal has been submitted by the applicants to demonstrate that it would not be viable to provide on-site affordable housing with all other financial contributions. This has been independently assessed by the District Valuer who confirm with the findings, which for the reasons discussed above, is considered acceptable, in this case.

There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

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

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

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

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

- Coloured MasterPlan Drawing No. CM01 Rev H;
- House Type A Elevations Drawing No. HT-A-EL Rev. B;
- House Type A Plans Drawing No. HT-A-PL Rev.B;
- House Type B Elevations Drawing No. HT-B-EL Rev.A;
- House Type B Plans Drawing No. HT-B-PL Rev A;
- House Type C Elevations Drawing No. HT-C-EL Rev.A;
- House Type C Plans Drawing No. HT-C-PL Rev A;
- House Type D Elevations Drawing No. HT-D-EL Rev.A;
- House Type D Plans Drawing No. HT-D-PL Rev A;
- Single Garage Drawing No. GT-01;
- Twin Garage Drawing No. GT-02; and
- Bin and Cycle Store Drawing No. DT-BBS-PL

received by the Local Planning Authority on 12 May 2016.

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

- 3 No demolition/development shall commence until a programme of historic building survey defined within a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an



assessment of significance and research questions; and:

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

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

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

- 4 No development shall commence on site until such time as precise details of the finished ground levels on the site and the finished floor levels of the buildings in relation to an existing datum point have been submitted to and agreed in writing by the Local Planning Authority.

Floor levels should be set as a minimum of 300 mm above ground level. Plots 14-17 the minimum floor level should be set 300 mm above the model 1 in 100 year+ for climate change level (127.587m AOD).

External garden levels for plots 14-17 should remain below 127.45m AOD and shall not exceed the levels of the plots on the opposite bank of the brook.

The development shall be implemented in accordance with the agreed details.

*Reason - To ensure a satisfactory relationship with the adjacent dwellings and to prevent property flooding.*

- 5 No development (except any demolition permitted by this permission) shall commence on site until a Further Risk Based Land Contamination Assessment, as recommended by HSP Consulting Phase 1 Geo-Environmental Desk Study Report Holywell Mill Ashby-De-la-Zouch reference C2135 dated 11/02/2015, has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

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

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and

submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004; and
- BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings

The Verification Plan shall be prepared in accordance with the requirements of:

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

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

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

- 6 Notwithstanding the submitted details no development shall commence on site until such time as details of the means of disposal of foul drainage from the site have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details which shall thereafter be so retained.

*Reason - To ensure that the development provides a satisfactory means of drainage to reduce the risk of creating, or exacerbating any existing, flooding problem and to minimise the risk of pollution.*

- 7 No development shall commence until a surface water drainage scheme has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of any permeable paved attenuation surfaced water drainage systems. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing and phasing arrangements embodied with the scheme or within any other period as may subsequently be agreed in writing by the Local Planning Authority.

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

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

in accordance with the approved details and timetable.

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

- 9 Notwithstanding the submitted 'Materials Plan' Drawing No. MP 01 Rev A received by the Local Planning Authority on the 12 May 2016, nor Condition 2 above, no building shall be erected on site above damp proof course level until details/samples and brick bond (as appropriate) of the external surfaces of the dwellings, garages, brick walls and bicycle and bin stores have been submitted to and agreed in writing with the Local Planning Authority. The works shall be undertaken in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

*Reason - To enable the Local Planning Authority to retain control over the external appearance in the absence of details.*

- 10 Notwithstanding the submitted plan 'Landscape Plan' Drawing No. LP 01 Rev C received by the Local Planning Authority on 12 May 2016, nor Condition 2 above, no building shall be erected on site above damp proof course level until details a soft landscaping scheme has first been submitted to and approved in writing by the Local Planning Authority. These details shall include schedules of plant species, plant sizes, planting plans and proposed numbers/densities where appropriate and an implementation programme for planting. The works shall be undertaken in accordance with the approved scheme and timetable. 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- In the interests of visual amenities and to provide a reasonable period for the replacement of any shrubs or trees.*

- 11 Notwithstanding the submitted plans 'Boundary Treatment Plan' Drawing No. BTP Rev. A; '1.8M Close board Timber Fence' Drawing No. DT-BT-02 and '1.8m Brick Wall/Timber Fence' Drawing No. DT-BT-01 received by the Local Planning Authority on 12 May 2016 nor Condition 2 above, no development shall commence on the site until such time as a detailed scheme for the boundary treatments and demarcation of public and private spaces has been submitted to and agreed in writing by the Local Planning Authority. The works shall be undertaken in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

*Reason - To preserve the amenities of the locality.*

- 12 Prior to the first occupation of the dwellings hereby approved either
- 1) If no remediation was required by Condition 5 a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of development is received and approved in writing by the 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 either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

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

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

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

*Reason - To ensure that the development is not detrimental to the privacy and amenities of the neighbouring property.*

- 14 Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to September inclusive, unless otherwise agreed in writing by the Local Planning Authority that breeding birds will not be adversely affected by any works.

*Reason - To reduce the impact of the proposal on nesting birds, which are a protected species.*

- 15 Should the demolition not commence for three years since the last survey (February 2014) an updated bat survey will be required to be submitted to and approved by the Local Planning Authority.

*Reason - In the interests of protected species on the site.*

- 16 Before first occupation of the dwellings hereby approved, the respective car parking provision and turning shall be made within the curtilage in accordance with the Coloured MasterPlan Drawing No. CM01 Rev H received by the Local Planning Authority on 12 May 2016. The parking and turning areas shall be made available and marked out prior to the development being brought into use, and shall thereafter be so maintained at all times.

*Reason - To ensure that adequate off-street parking facilities are available.*

- 17 Before first occupation of the dwellings hereby approved, the access drive, parking spaces and any turning space shall be surfaced with tarmacadam, concrete or similar

hard bound material (not loose aggregate) for a distance of at least 5 metres behind the Highway boundary, unless alternative materials approved under condition 7 are specified and shall be so maintained this way thereafter.

*Reason - To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)*

- 18 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as not to open outwards.

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

### Notes to applicant

- 1 The applicant's attention is drawn to the attached notes from Leicestershire County Footpaths dated 23/09/15.
- 2 With regards to Condition 7 the scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of two treatment trains to help improve 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 and appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features. Full details for the drainage proposal should be supplied, including but not limited to headwall details, pipe protection details, long sections and full model 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 the design standards of the public sewers.
- 3 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.
- 4 The applicant is advised that stretcher bond for external facing brickwork will not be acceptable.
- 5 The applicant is advised to refer to the Building for Life assessment undertaken by the Council's urban designer that provides guidance and comments on detailed design issues safeguarded by Conditions 9 - 11. A copy of this assessment can be provided on request.

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Residential development of three dwellings with formation of new vehicular access onto Top Road (Outline application access and layout for approval)

Report Item No  
A6

Land At Top Road Griffydam Leicestershire

Application Reference  
16/00562/OUT

Applicant:  
Mr B and Miss J Elson

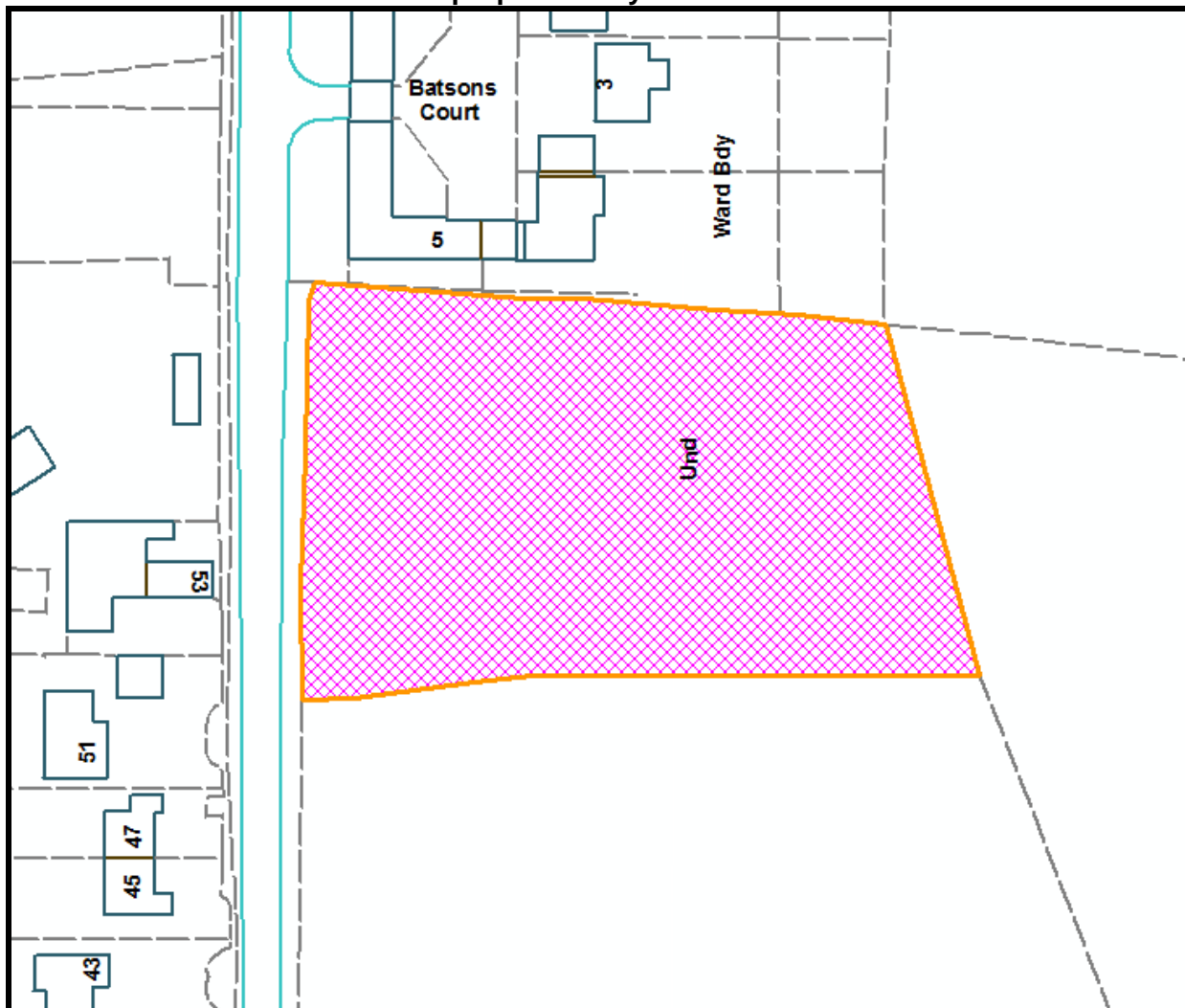
Date Registered  
16 May 2016

Case Officer:  
Adam Mellor

Target Decision Date  
11 July 2016

Recommendation:  
PERMIT Subject to a Section 106 Agreement

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 Stevenson in order for the sustainability credentials of the site location to be assessed.

### Proposal

Outline planning permission (with access and layout for approval at this stage) is sought for the construction of three dwellings on a 0.63 hectare site situated on the eastern side of Top Road, Griffydam. The application site is located to the south of Batsons Court and north of the playing field associated with Griffydam County Primary School and is outside the defined Limits to Development.

### Consultations

A total of 11 representations have been received with 4 of these representations opposed to the development and 7 in support of the proposal. Consultation responses from Worthington Parish Council, the County Council Archaeologist 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

Although there would be a conflict with the environmental strand of sustainability, given the setting of the dwellings and that the site is outside the defined Limits to Development, it is considered that such conflict is addressed by the provision of dwellings needing to meet 'local needs', by way of a s106 agreement, and this would accord with Policy H5 of the publication version Local Plan. Notwithstanding other policy conflicts, the development would be broadly compliant with the National Planning Policy Framework (NPPF) as well as the relevant policies of the adopted Local Plan, publication version Local Plan and other relevant guidance.

### Conclusion

Although there would be some conflict with the environmental strand of sustainability, given the setting of the dwellings, this conflict would not be substantial. This is due to the positioning of the dwellings which ensure that there would be no greater projection into the rural environment than existing built forms as well as the fact that the dwellings would not be isolated. The 'local need' for the dwellings, in accordance with Policy H5 of the publication version Local Plan, would also lead to the proposal being acceptable in the countryside in the context of Policy S3 of the publication version Local Plan. This conflict is considered to be outweighed by the positive economic benefits and the limited conflict with the social sustainability strand given that dwellings demonstrated to meet a 'local need' have recently been accepted in other unsustainable locations in the District. On balance, therefore, the principle of the development is accepted.

It is considered that the layout presented has demonstrated an acceptable relationship between plot 1 and nos. 4 and 5 Batsons Court in terms of overbearing or overshadowing impacts, and amenities of any future occupants, and therefore the development is considered compliant with Paragraph 123 of the NPPF, Policy E3 of the adopted Local Plan and Policy D2 of the publication version Local Plan.



The layout of the development shows that three dwellings would be in keeping with the characteristics of the surrounding area, given the varying distances that the dwellings are from Top Road, as well as the fact that the development would have no greater projection in an eastern direction than the established built forms at Batsons Court. The development would be considered compliant with Paragraphs 57, 60 and 61 of the NPPF, as well as Policy E4 of the adopted Local Plan and Policy D1 of the publication version Local Plan.

The County Highways Authority, subject to conditions has said that the development would not result in severe detriment to pedestrian or highway safety. Sufficient off-street parking could also be provided, with the precise details being secured at the reserved matters stage. The development would accord with Paragraphs 32 and 39 of the NPPF, Policies T3 and T8 of the adopted Local Plan as well as Policies IF4 and IF7 of the publication version Local Plan.

It is considered that subject to the imposition of relevant conditions, the site could be developed so it does not cause harm to ecological species, it would not lead to impacts on archaeology in the area, would result in the provision of additional landscaping whilst maintaining existing landscaping, and would have acceptable foul and surface water drainage. On this basis the development would accord with Paragraphs 103, 118, 120 and 141 of the NPPF, Circular 06/05, Policies E7, F1, F2 and F3 of the adopted Local Plan and Policies En1, En3, He1, Cc2 and Cc3 of the publication version Local Plan.

It is therefore recommended that the application be permitted.

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

Outline planning permission (with access and layout included for determination) is sought for the erection of three dwellings on land at Top Road, Griffydam. The site is 0.63 hectares in size and currently forms part of a field, located on the eastern side of Top Road. The site is currently outside the Limits to Development, with the surrounding area consisting of residential properties, Griffydam County Primary School and open fields.

The proposed dwellings would be two storeys in height. Two of the dwellings (Plots 1 and 2) would be located on the western part of the site with the third (Plot 3) set back more centrally. A new access is proposed at the southern end of the site's frontage with Top Road, with a private drive extending between Plots 1 and 2 and Top Road and then back into the site to serve Plot 3 and a detached triple garage.

All three dwellings would be proposed as 'local need' dwellings, with the dwellings also being constructed to Code 5 for Sustainable Homes. In addition to a 'local need' obligation, a reduced market value obligation of 80% has been agreed with the applicants. The dwellings would be 'self-build' properties with each occupant designing a dwelling with a bespoke internal layout and appearance.

No relevant planning history was found.

### 2. Publicity

12 neighbours have been notified (Date of last notification 21 June 2016)

Site Notice displayed 25 May 2016

Press Notice published 25 May 2016

### 3. Consultations

Worthington Parish Council consulted 19 May 2016

County Highway Authority consulted 19 May 2016

Severn Trent Water Limited consulted 19 May 2016

Head of Environmental Protection consulted 19 May 2016

County Archaeologist consulted 19 May 2016

LCC ecology consulted 19 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** no representation received to date, any response will be reported to Members on the Update Sheet.

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

**Leicestershire County Council - Highways** has no objections subject to conditions.

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

**Severn Trent Water** no representation received to date, any response 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**

Four letters of representation have been received objecting to the application with the comments raised summarised as follows: -

- The village has relatively limited provision for new development with poor transport services and restricted local services.
- The allotments do not count as open space as privately owned.
- The Beaumont Centre is located in Peggs Green.
- All the services referred to are in a different parish.
- Griffydam is unsustainable and previous developments have been prevented due to this. There is no shop, no Post Office and no pub as it has recently closed.
- Griffydam is a hamlet and not a 'larger sustainable village'.
- Development should not be granted on countryside outside the Limits to Development in an unsustainable hamlet.
- The proposal does not come under any of the exceptions listed under Local Plan Policies S3 and S4.
- The selling of the third house to fund the building of the other two houses for the two applicants does not constitute local need.
- If a pavement was installed then parking would increase on both sides of the road and create a serious safety issue.
- Speeding issues along Top Road.
- New drive will be used by school traffic to turn around.
- Informed comments cannot be given on effects of the proposal on the amenities of nearby residents as no accurate scaled diagram or measurements provided.
- Unclear what green circles are on the plan and can the one on the northern boundary be repositioned away from No. 4 Batsons Court?
- Can the houses be moved away from Batsons Court?
- Loss of privacy/overlooking.
- Overshadowing/loss of light/overbearing.
- Character of the surrounding countryside would be eroded.
- Severe impact on field patterns.
- The site is in the National Forest.
- Impact on views.
- Impact on property values.
- Inaccuracies with information submitted with the application.
- Site is in Worthington Parish and not in Coleorton Parish.
- Services (drainage and sewerage) are already experiencing problems.

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

- Housing is needed in Griffydam;
- Development would be in keeping with the existing properties;
- Off-street parking would be provided for the dwellings;

- Infill development is acceptable in smaller settlements;
- No new houses have been built in Griffydam since the Batsons Court development therefore there is a need for new dwellings;
- Proposal will retain existing vegetation and will promote the planting of further hawthorn hedges which should be supported.
- Only one access point will limit any conflicts between the vehicles exiting the site and movements already undertaken on the carriageway.
- Dwellings will be self-built properties.

## 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 NPPF. The closer the policies in the development plan to the policies in the NPPF, 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 due 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 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 112 (Conserving and enhancing the natural environment);  
 Paragraph 118 (Conserving and enhancing the natural environment);  
 Paragraph 120 (Conserving and enhancing the natural environment);  
 Paragraph 121 (Conserving and enhancing the natural environment);  
 Paragraph 123 (Conserving and enhancing the natural environment);  
 Paragraph 141 (Conserving and enhancing the historic environment);  
 Paragraph 203 (Planning conditions and obligations);  
 Paragraph 204 (Planning conditions and obligations);

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

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

Policy S3 - Countryside;  
 Policy E3 - Residential Amenities;  
 Policy E4 - Design;  
 Policy E7 - Landscaping;  
 Policy F1 - National Forest - General Policy;  
 Policy F2 - Tree Planting;  
 Policy F3 - Landscaping and Planting;  
 Policy T3 - Highway Standards;  
 Policy T8 - Parking;  
 Policy H4/1 - Housing Land Release; and  
 Policy H7 - Housing Design.

**Publication Version North West Leicestershire Local Plan**

The publication version of the Local Plan was agreed by Council on 28th June 2016 with a view to its submission for examination in September 2016. Given the advanced stage that has now been reached it is considered that weight can be attached to the following policies: -

Policy S1 - Future Housing and Economic Development Needs;  
 Policy S2 - Settlement Hierarchy;  
 Policy S3 - Countryside;  
 Policy D1 - Design of New Development;  
 Policy D2 - Amenity;  
 Policy H5 - Rural Exceptions Sites for Affordable Housing;  
 Policy H6 - House Types and Mix;  
 Policy IF4 - Transport Infrastructure and New Development;  
 Policy IF7 - Parking Provision and New Development;  
 Policy En1 - Nature Conservation;  
 Policy En3 - The National Forest;  
 Policy En6 - Land and Air Quality;  
 Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;  
 Policy Cc2 - Water - Flood Risk; and  
 Policy Cc3 - 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.

**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.

## 6. Assessment

### Principle and Sustainability

In accordance with the provision 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 Local Plan (2002 (as amended)).

The application site 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, or Policy S3 of the publication version Local Plan.

The NPPF requires that the District Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Local Authority is able to demonstrate a five year supply of housing (with 20% buffer) against the requirements contained in the published Local Plan.

Paragraph 17 of the NPPF highlights the need to recognise the intrinsic character and beauty of the countryside, but does not specifically preclude development within the countryside. Consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set out below.

With regards to the sustainability credentials of the site, it well related to the following services which are within an acceptable walking distance of 800 metres, or 1000 metres for a school: -

- School (Griffydam Primary School, Top Road - 170 metres);
- Bus Stop for One Service (Paul S Winson Coaches no. 129 - Ashby De La Zouch to Loughborough Monday to Saturday on Top Road - 232.0 metres);

It is possible to access these services via maintained footpaths which are well lit. The bus service is less than hourly.

The social role, as defined in Paragraph 7 of the NPPF, requires the supply of housing to be linked to accessible local services which meet the needs of the community and support its health, social and cultural well being. As identified above Griffydam does not benefit from many services and residents would be relatively isolated from shops, medical services and cultural or recreational facilities. Coleorton is the nearest settlement which provides a shop with the nearest centres offering significant employment opportunities being Coalville and Ashby De La Zouch. The public transport provision, being on a two hourly basis and not extending onto the evening hours, would also restrict opportunities to access services other than via the private car. As a consequence, in the terms of the social role as defined by the NPPF, the accessibility to a range of local services for residents of the proposed housing would be limited.

Whilst accepting that the application site is not within a socially sustainable location, the supporting information below highlights that the three dwellings to be created would be to meet a 'local need'. The supporting information specifies the following: -

*"Following consultation with the local planning officer it was agreed that the dwellings would be put forward as local needs with a condition in place that market value is set as 80% or less.*

*These dwellings would initially be occupied by the applicants and thereafter remain as affordable units in perpetuity.*

*The applicants would comply with this policy with both residing in the locality. Bryan Elson lives in Coleorton (18 The Moorlands) since 1990 and Jane Elson has resided in Swannington (25 Church Hill) since 1997."*

The supporting information also highlights that the proposed dwellings would be 'self build' properties which could be cheaper to construct than a market equivalent dwelling and would give the home owner the opportunity to build a bespoke dwelling.

The scheme would provide dwellings to meet a 'local need' and the resolution to secure such an obligation on the dwellings, along with an obligation outlining that the dwellings could only be sold at 80% of their market value, would make the properties more affordable to local residents in the future. The completion of a Section 106 agreement will ensure that such dwellings would be permanently available for such purposes.

Policy H5 of the publication version Local Plan indicates that this form of development would be acceptable, subject to a local need restriction, in settlements considered to be unsustainable. Taking this point into account, along with the economic benefits and the construction of the dwellings to meet Code 5 for Sustainable Homes, it is considered that the development would be compatible with the social sustainability aims of the NPPF.

The site is currently greenfield with the Limits to Development on the opposite side of Top Road to the west of the site, under the publication version Local Plan the 'Limits' to Griffydham would be removed given that the settlement is not considered sustainable, with the designation of land being countryside. In the circumstances that the land is outside the defined Limits to Development it is assessed in the context of Policy S3 of the adopted Local Plan and Policy S3 of the publication version Local Plan.

The Local Authority can demonstrate a five year housing land supply, so Policy S3 of the adopted Local Plan can be given full weight and Policy S3 of the publication version Local Plan can be given increased weight. With regards to Policy S3 of the adopted Local Plan the proposed development would conflict with the intentions of the Policy given that it is not a form of development considered appropriate outside the defined Limits to Development. However, in respect of Policy S3 of the publication version Local Plan a residential development compliant with Policy H5 is deemed appropriate. Policy H5 specifies that: -

*"The provision of affordable housing outside of the Limits to Development will be allowed as an exception where:*

- (a) The housing is demonstrated to meet an identified local need for affordable housing, and*
- (b) The development is well-related to and respects the character and scale of the settlement and its landscape setting and*
- (c) The development allows accessibility to community services and facilities within it, where appropriate."*

It is highlighted above that the dwellings are proposed to meet 'local needs' and that the cost of constructing a property would be less than the market value of a dwelling within one mile of the application site which would meet the 'needs' of the applicants. Thereby the scheme is compliant with the intentions of Policy H5 of the publication version Local Plan.

It would also need to be determined whether the proposed development would be 'isolated' or impact adversely on the 'openness' of the rural environment in the context of Paragraph 55 of the NPPF. The site is close to existing dwellings on both sides of Top Road and would be read in conjunction with these dwellings when approaching the site along nearby roads. In this context it would be difficult to conclude that the dwellings would be 'isolated'.

Ultimately there would be implications to the 'openness' of the rural environment, given that a greenfield site would be built upon. However, the dwellings have been positioned so as to ensure that they are closely associated with existing built forms and would lead to a natural gap, which exists between Batsons Court and Griffydam Primary School, being in-filled. In addition the dwellings would not have a greater projection into the rural environment in an eastern direction than the dwellings associated with Batsons Court, to the north of the site, with the established rear boundaries acting as a defensible barrier in preventing similar forms of development occurring on other sites in the area. In this circumstance the implications to the 'openness' of the rural environment would not be so adverse as to suggest the development should be resisted.

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 unlikely that the proposal would disrupt the agricultural operations undertaken on the remaining land. On this basis the development would not conflict with Paragraph 112 of the NPPF.

Constructing the dwellings to meet Code 5 for Sustainable Homes would also assist in off-setting the environmental harm caused by a heavy reliance on the private car to access basic services, thereby ensuring the proposal would support the approach of the NPPF towards a low carbon economy.

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. This is due to the positioning of the dwellings which ensure that there would be no greater projection into the rural environment than existing built forms, as well as the fact that the dwellings would not be isolated. The 'local need' for the dwellings, in accordance with Policy H5 of the publication version Local Plan, would also lead to the proposal being acceptable in the countryside in the context of Policy S3 of the publication version Local Plan. Any conflict arising in respect of environmental sustainability would also be outweighed by the positive economic benefits and the limited conflict with the social sustainability strand, given that dwellings demonstrated to meet a 'local need' have recently been accepted in other unsustainable locations in the District. On balance, therefore, the principle of the development would be accepted.

### **Accessibility**

Objections have been received in respect of additional traffic and the provision of a raised footway increasing the probability of on-street parking increasing, as well as impacting on highway safety given that vehicles often travel in excess of the speed limit.



The County Highways Authority have been consulted 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, which will secure the precise details of the vehicular access (including visibility splays), sufficient off-street parking and manoeuvring space within the site to enable vehicles to exit in a forward direction. In terms of the objections received relating to vehicle speeds, it is considered that this is a matter for the police to address should vehicles exceed an enforced speed. There are also no restrictions in place in the highway to prevent the existing on-street parking situation and, should this be considered a particular issue it would be the duty of the County Highways Authority to address such a matter by potentially providing restrictions such as double yellow lines.

Paragraph 32 of the NPPF identifies that applications should only be refused on transport grounds where the cumulative impacts of the development are severe. As no objections are raised by the County Highways Authority, subject to conditions, it is considered that the development is compliant with the aims of this Paragraph as well as Policy T3 of the adopted Local Plan and Policy IF4 of the publication version Local Plan.

The amount of off-street parking required for each dwelling would be dictated by the overall amount of bedrooms proposed and, as such, this matter would be addressed and assessed during the consideration of any subsequent reserved matters application submission. Whilst this is the case, it is considered that the proposed layout shows each dwelling could be served by an appropriate level of off-street parking and as such the scheme would be compliant with Paragraph 39 of the NPPF, Policy T8 of the adopted Local Plan and Policy IF7 of the publication version Local Plan.

### **Neighbours and Future Occupants' Amenities**

The proposed layout is for approval at this stage and it is considered that the properties most immediately affected by the proposal would be nos. 4 and 5 Batsons Court, located to the north of the application site.

It is shown on the layout plan that plot 1 would be set 8.0 metres from the southern elevation of no. 5 Batsons Court and 3.5 metres from the shared boundary, which is currently defined by mature conifer hedgerow planting which is substantial in height (around 8.0 metres). In reviewing the approved floor plans for no. 5 Batsons Court, as agreed under application reference 01/00776/OUT, it would appear that the southern elevation of this property contains a bathroom window and two roof lights serving a bedroom and en-suite. The scale of the dwelling to plot 1 would be agreed under a subsequent reserved matters application and in considering the scale of the property, due regard would be given to the relationship established with no. 5 Batsons Court. In the main, however, it is considered that the presence of the dense vegetation to the shared boundary would ensure that the position of the dwelling would not result in any adverse overbearing or overshadowing impacts. In respect of overlooking impacts, these would be considered under any under subsequent reserved matters application once the position of the windows and doors was known.

With regards to no. 4 Batsons Court, plot 1 would be set 9.5 metres from the corner of the western and southern elevations and 5.0 metres from the boundary which is defined by post and wire fence and hedgerow to a height of 2.0 metres. The approved floor plans for no. 4 Batsons Court, as approved under application reference 02/00707/FUL, identify that the southern elevation contains three windows (serving a utility and study at ground floor and a bedroom at first floor level) with a first floor bedroom window also be situated in the western

elevation. As identified above, the scale of the property would be agreed under a subsequent reserved matters application but in the circumstances that plot 1 is positioned to the south-west of no. 4, and as such is not directly in front of its southern elevation, it is considered that the distances would ensure that no adverse overshadowing or overbearing impacts. Again overlooking impacts would be assessed once the position of windows was known.

Plots 2 and 3 being set 18.0 and 27.0 metres, respectively, from the boundaries with nos. 4 and 5 Batsons Court would ensure that no adverse overbearing or overshadowing impacts would arise.

In respect of the amenities of any future occupants, it is considered that the bedroom window installed in the southern elevation of no. 4 Batsons Court is not of a size which would allow prominent views to be established onto the residential garden associated with plot 1, with only an oblique angle of view provided towards the immediate rear elevation of this plot. The bedroom window in the northern elevation would also only provide an oblique angle of view towards the rear elevation of plot 1. In these circumstances the future occupants of plot 1 would not be subject to a level of overlooking which would justify a refusal of the application, particularly as they would be aware of this relationship prior to their purchase. The relationship between the plots themselves would also be considered acceptable subject to the position of windows being carefully considered, particularly in the western elevation of plot 3 and eastern elevation of plot 2, at the reserved matters stage.

Whilst the application site is situated adjacent to the playing field associated with Griffydham Primary School, the Council's Environmental Protection team have raised no objections in respect of the relationship which would be established. As such it is considered that any future occupants would not be subjected to a level of disturbance which would cause harm to their amenities.

Overall, the development proposals are considered to be compliant with Paragraph 123 of the NPPF, Policy E3 of the adopted Local Plan and Policy D2 of the publication version 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 adopted Local Plan Policies E4 and H7, as well as Policy D1 of the publication version Local Plan, but also Paragraphs 57, 60 and 61 of the NPPF.

The application site slopes downwards from north to south as well as from west to east, with a mature hedgerow to a height of 1.2 metres currently defining the roadside (western) boundary of the site. The residential development comprising Batsons Court is located to the north with residential properties being located to the west of the site on the opposite side of Top Road, and the playing field associated with Griffydham Primary School being situated to the south. Open countryside exists to the east of the site. The properties within the immediate area comprise a mix of single and two-storey dwellings which are predominately detached or semi-detached types.

It is noted that scale, appearance and landscaping are all included as matters to be considered at a later stage, although the layout is for approval under this application. Properties on the western side of Top Road largely front onto the highway, at differing distances, with the Batsons Court development on the eastern side being focused around an internal courtyard. The properties to the south of Griffydham School on the same side of the highway also front onto Top Road. The layout highlights that the proposed dwellings would front onto Top Road although

their proximity to the highway varies due to the provision of manoeuvring facilities and off-street parking being supplied to the frontage of plot 3. Whilst plot 3 would be set further back than plots 1 and 2, given the position of dwellings on the Batsons Court development (in particular no. 3 Batsons Court) as well as the layout of dwellings in the immediate area, it is considered that such a form of development would not result in detriment to the character of the streetscape or wider area.

Under the terms of the Self-build and Custom Housebuilding (Register) Regulations 2016 the Local Planning Authority has a duty to provide a self build register with such a register being in place from the 1st April 2016. To date 23 people have registered their interest in self build projects within the District. The application proposes that the three dwellings would be 'self build' plots which may therefore lead to individual design options being submitted. If individual design options are pursued by future occupants it would be important to promote local distinctiveness but Paragraph 60 of the NPPF makes it clear 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."* Although, at this stage, it is not considered necessary for the scheme to be secured as a 'self-build' project, a condition could be imposed on any consent granted requiring the submission of a design code should such an approach be taken to developing the site. This would ensure that there would be some consistency between the dwellings designs which would promote local distinctiveness as well as reinforce a National Forest identity.

Overall the development is considered to be compliant with Paragraphs 57, 60 and 61 of the NPPF as well as Policy E4 of the adopted Local Plan and Policy D1 of the publication version Local Plan. Should reserved matters be dealt with under the adopted Local Plan, the proposal would be required to meet the requirements of Policies H7 and F1. If reserved matters are dealt with after the Council has adopted a new Local Plan, reserved matters will be dealt with in accordance with its policies.

### **Landscaping**

As the application site is situated within the National Forest, a strong landscaping scheme would be a necessity for the development with Policies E7 and F2 of the adopted Local Plan seeking to ensure that existing vegetation is retained and enhanced. The vast majority of the existing vegetation on the site is located to the boundaries, in the form of hedgerows and trees, and it is considered that the proposed layout demonstrates that the dwellings would be situated a sufficient distance from this vegetation so as to ensure it can be retained. Additional landscaping to supplement the existing vegetation would be secured under any subsequent reserved matters application.

Overall the development would be compliant with the aims of Policies E7, F1, F2 and F3 of the adopted Local Plan and Policy En3 of the publication version Local Plan.

### **Ecology**

The County Ecologist has no objections and advises that there are no requirements for ecology surveys or mitigation, on the basis that the site is currently arable of low wildlife value and located between existing development plots. It is also advised that frontage hedgerow has been subject to trimming, and therefore unlikely to harbour badgers, and that there are no great crested newt ponds within 100.0 metres. On the basis of these conclusions it is considered that the proposal is unlikely to adversely affect protected species and therefore, it complies within the aims of Paragraph 118 of the NPPF, Circular 06/05 and Policy En1 of the publication

version Local Plan.

### **Archaeology**

No representation to the application has been received from the County Council Archaeologist and in this circumstance it is considered that archaeological remains would not act as a constraint on the development. This would ensure that it accords with Paragraph 141 of the NPPF as well as Policy He1 of the publication version Local Plan.

### **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, as well as Policies Cc2 and Cc3 of the publication version Local Plan.

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**

Impact on views and impact on property values are not planning matters and therefore cannot be taken into account in the determination of the application.

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

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

Although there would be some conflict with the environmental strand of sustainability, given the setting of the dwellings, this conflict would not be substantial. This is due to the positioning of the dwellings which ensure that there would be no greater projection into the rural environment than existing built forms as well as the fact that the dwellings would not be isolated. The 'local need' for the dwellings, in accordance with Policy H5 of the publication version Local Plan, would also lead to the proposal being acceptable in the countryside in the context of Policy S3 of the publication version Local Plan. This conflict is considered to be outweighed by the positive economic benefits and the limited conflict with the social sustainability strand given that dwellings demonstrated to meet a 'local need' have recently been accepted in other unsustainable locations in the District. On balance, therefore, the principle of the development is accepted.

It is considered that the layout presented has demonstrated an acceptable relationship between plot 1 and nos. 4 and 5 Batsons Court in terms of overbearing or overshadowing impacts, and

amenities of any future occupants, and therefore the development is considered compliant with Paragraph 123 of the NPPF, Policy E3 of the adopted Local Plan and Policy D2 of the publication version Local Plan.

The layout of the development shows that three dwellings would be in keeping with the characteristics of the surrounding area, given the varying distances that the dwellings are from Top Road, as well as the fact that the development would have no greater projection in an eastern direction than the established built forms at Batsons Court. The development would be considered compliant with Paragraphs 57, 60 and 61 of the NPPF, as well as Policy E4 of the adopted Local Plan and Policy D1 of the publication version Local Plan.

The County Highways Authority, subject to conditions has said that the development would not result in severe detriment to pedestrian or highway safety. Sufficient off-street parking could also be provided, with the precise details being secured at the reserved matters stage. The development would accord with Paragraphs 32 and 39 of the NPPF, Policies T3 and T8 of the adopted Local Plan as well as Policies IF4 and IF7 of the publication version Local Plan.

It is considered that subject to the imposition of relevant conditions, the site could be developed so it does not cause harm to ecological species, it would not lead to impacts on archaeology in the area, would result in the provision of additional landscaping whilst maintaining existing landscaping, and would have acceptable foul and surface water drainage. On this basis the development would accord with Paragraphs 103, 118, 120 and 141 of the NPPF, Circular 06/05, Policies E7, F1, F2 and F3 of the adopted Local Plan and Policies En1, En3, He1, Cc2 and Cc3 of the publication version Local Plan.

It is therefore recommended that the application be permitted.

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

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

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

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

- site location plan (1:1250) deposited with the Local Authority on 16th May 2016;
- drawing no. 7281 (Residential Development, Sketch Option, Top Road, Griffydham) deposited with the Local Authority on the 16th May 2016;

unless otherwise required by another condition of this permission.

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

- 3 Approval of the details of the scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before

any development is commenced.

*Reason - this permission is in outline only.*

- 4 Prior to the submission of the first reserved matters application, a Design Brief shall be submitted to and agreed in writing by the Local Planning Authority. The brief shall include details of materials and parameters of scale and form as well as the precise details and means of achieving the construction of the dwellings to Code 5 of Sustainable Homes.

*Reason - to secure the environmental sustainability benefits of the development and to influence the design approach for the individual plots.*

- 5 The reserved matters application shall include details of existing and finished ground levels and the proposed floor levels of the dwellings which shall relate to an existing fixed datum point off the site.

*Reason - to enable the Local Planning Authority to fully assess the development in light of the topography of the site.*

- 6 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, 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/use of the 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 visual amenities of the locality and in the interests of highway safety.*

- 7 Notwithstanding the details shown on the approved plans the proposed development shall comply with the design standards of the Leicestershire County Council as contained in its current design standards document. Such details must include parking and turning facilities, access widths, gradients, surfacing, signing and lining and visibility splays which will be submitted to the Local Planning Authority in consultation with the County Highways Authority before the development commences. Once agreed the proposed development shall be constructed in accordance with the approved details prior to the first occupation of any dwelling and be so permanently maintained.

*Reason - to ensure a satisfactory form of development and in the interests of highway safety.*

- 8 Notwithstanding the details shown on the approved plans no development shall commence until precise details of the vehicular access into the site are submitted to and approved in writing by the Local Planning Authority in consultation with the County

Highways Authority. The access should be designed in accordance with the 6Cs Design Guide to include width, gradient, gates setback, surfacing and drainage. Once agreed the development shall be constructed in accordance with the approved details prior to the first occupation of any dwelling and be permanently so maintained.

*Reason - to ensure a satisfactory form of development and in the interests of highway safety.*

- 9 No development shall commence until all the existing trees to be retained have been securely fenced off by the erection, to coincide with 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 landscaping is adequately protected during construction in the interests of the visual amenities of the area.*

### Notes to applicant

- 1 Outline planning permission has been granted for this proposal. The Local 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 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 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).
- 4 To accord to Highway Authority standards, car parking spaces should have minimum dimensions of 2.4 metres in width and 5.5 metres in length. Where bounded by walls, fences, vegetation or other similar obstruction, a minimum additional 0.5 metre clear margin will be required to allow full access to and from all car doors (including the boot). For a garage to count as a parking space, it must have minimum internal dimensions of 3.0 metres width and 6.0 metres length.
- 5 The proposed road(s) are unlikely to conform to an acceptable standard for adoption and therefore it (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 road(s) 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 to the Local Planning Authority before any dwelling is first occupied.

- 6 The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority). Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com).



Erection of detached dwelling with associated detached garage

Report Item No  
A7

Land To The Rear Of George Inn Loughborough Road  
Coleorton Coalville Leicestershire LE67 8HF

Application Reference  
16/00544/FUL

Applicant:  
Mr & Mrs Wilkinson

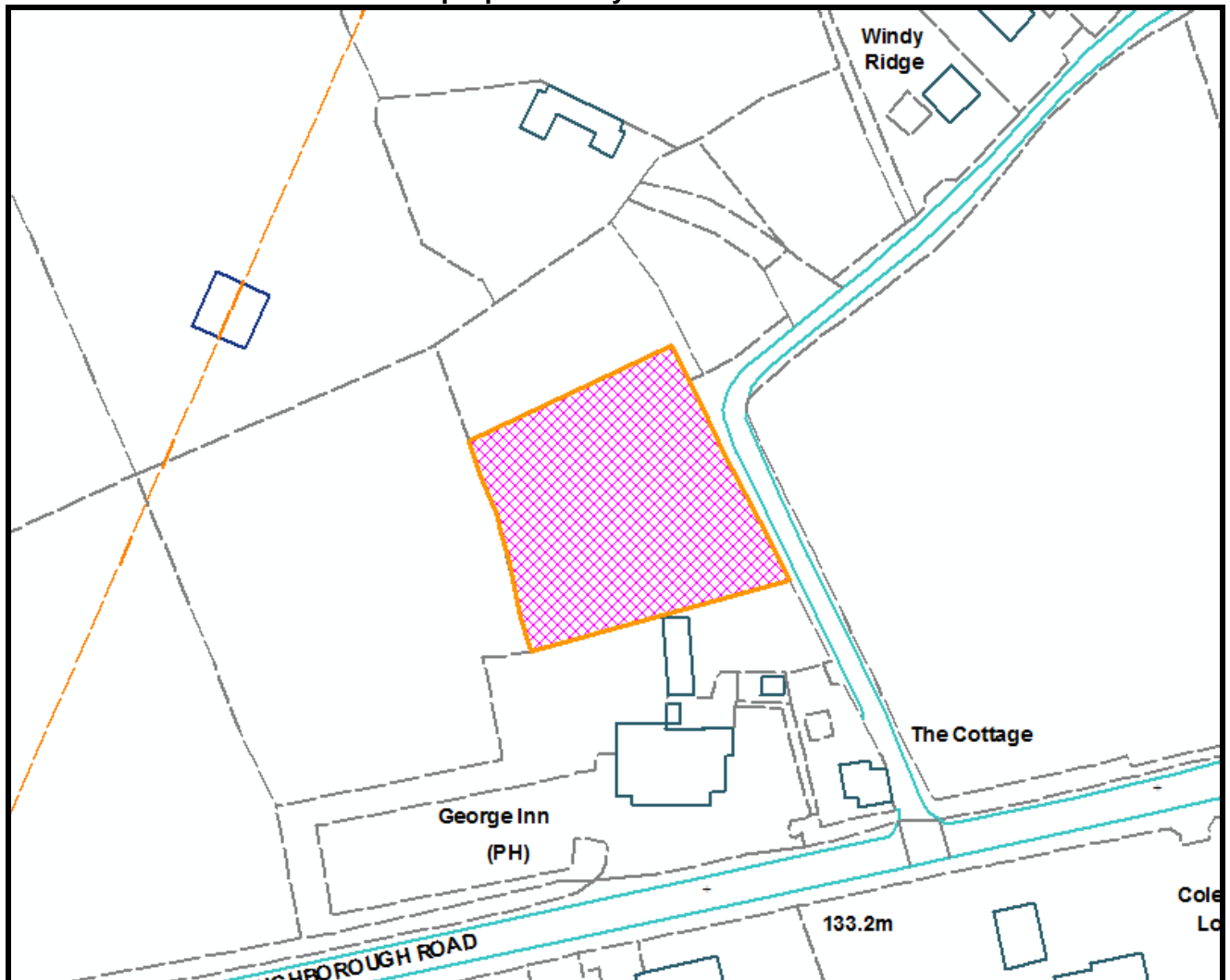
Date Registered  
12 May 2016

Case Officer:  
Adam Mellor

Target Decision Date  
7 July 2016

Recommendation:  
PERMIT Subject to Section 106 Agreement

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 detached dwelling with associated detached garage at land to the rear of the George Inn, Loughborough Road, Coleorton. The 0.15 hectare site is currently grassland associated with the public house and is accessed off Bakewells Lane. It is proposed that the dwelling would meet a 'local need' by allowing the current tenants of the public house to semi-retire and support their daughter who would take over the running of the pub. The application site is outside the defined Limits to Development.

### Consultations

A total of 17 individual representations have been received in support of the application with no third party objections. Coleorton Parish Council object to the proposal. A revised consultation response from the County Highways Authority, as well as consultation response from Severn Trent Water, are awaited 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

Although there would be a conflict with the environmental strand of sustainability, given the setting of the dwelling and that the site is outside the defined Limits to Development, it is considered that such conflict is addressed by the provision of a dwelling to meet a 'local need' which would accord with Policy H5 of the publication version Local Plan. Notwithstanding other policy conflicts, the development would be broadly compliant with all other relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant saved policies of the adopted Local Plan, publication version Local Plan and other relevant 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, given the setting of the dwelling, would not be substantial as the position of the dwelling would be well related with existing and proposed built forms, not leading to it being isolated. The 'local need' for the dwelling, in accordance with Policy H5 of the publication version Local Plan, would also mean the proposal is acceptable in the countryside in the context of Policy S3 of the publication version Local Plan. Any conflict arising in respect of environmental sustainability would also be outweighed by the positive economic and social benefits associated with the development, with there also being additional environmental benefits associated with the provision of renewable energy technologies and a reduction in travelling distances for the applicant's daughter who is employed at the George Inn. On balance, therefore, the principle of the development would be accepted.

The dwelling has been positioned so as to ensure an acceptable level of amenity is maintained

for the George Inn, as well as the new dwelling which is being created to the north of the site. Overall the development would be compliant with Paragraph 123 of the NPPF as well as Policy E3 of the adopted Local Plan, and Policy D2 of the publication version Local Plan.

From a design perspective the dwelling has been positioned and orientated so that it does not result in it impacting adversely on the openness or appearance of the wider rural environment. The design of the dwelling itself is considered to be acceptable with the detached garage being subservient to host building. Overall, the proposal would be compliant with Paragraphs 57, 60 and 61 of the NPPF, Policies E4 and H7 of the adopted Local Plan and Policy D1 of the publication version Local Plan.

It is considered that the vehicular access into the site, which would be the upgrading of an existing access, would be provided with appropriate visibility splays with other works being carried out within the highway so as to ensure that conflict between vehicles on Bakewells Lane would be limited. Relevant manoeuvring facilities and off-street parking spaces for dwellings would also be provided. On this basis the proposed scheme would accord with Paragraphs 32 and 39 of the NPPF, Policies T3 and T8 of the adopted Local Plan and Policies IF4 and IF7 of the publication version Local Plan.

In respect of landscaping, the dwelling and detached garage have been positioned outside the root protection areas of the trees on the site which are considered important and which should be retained. In these circumstances the development would be compliant with Policies E7, F1, F2 and F3 of the adopted Local Plan and Policy En3 of the publication version Local Plan.

The County Council Ecologist and County Council Archaeologist have outlined that there is no requirement for a protected species survey or archaeological investigation to be carried out and, as such, the development would be compliant with Paragraphs 118 and 141 of the NPPF, Policies En1 and He1 of the publication version Local Plan and Circular 06/05. An acceptable foul and surface water drainage scheme could also be supplied for the development in order to accord with Paragraphs 103 and 120 of the NPPF as well as Policies Cc2 and Cc3 of the publication version Local Plan.

Subject to the Coal Authority raising no objection to the revised information supplied within the Coal Mining Risk Assessment, it is considered that a development could be progressed which would accord with Paragraphs 120 and 121 of the NPPF as well as Policy En6 of the publication version Local Plan.

It is therefore recommended that the application be permitted.

**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 erection of a detached dwelling with associated detached garage at land to the rear of the George Inn, Loughborough Road, Coleorton. The 0.15 hectare site is currently grassland situated to the north of the garden associated with the public house, and is to the west of Bakewells Lane. It is identified on the Proposals Map to the adopted Local Plan that the site is outside the defined Limits to Development and the surrounding area is predominately open countryside with dwellings being sporadically placed along Loughborough Road and Bakewells Lane. To the immediate north of the site a dwelling was approved under application reference 15/00958/FUL which met a 'local need'.

The dwelling to be constructed would be a three bed two-storey (habitable accommodation in the roof slope) detached type, with a gross internal floor area of 152.0 square metres and utilising a pitched gable ended roof with an eaves height of 4.2 metres and ridge height of 7.6 metres. A detached single garage would be associated with the dwelling which would have a gross internal floor area of 18.0 square metres and utilisation of a pitched gable ended roof with an eaves height of 2.9 metres and ridge height of 4.4 metres.

Vehicular access into the site would be gained via an existing access off Bakewells Lane which would be improved to comply with the County Council's 6Cs Design Guide.

It is highlighted in the supporting design and access statement that the dwelling will be provided to meet a 'local need' with the applicant's currently running the George Inn. It is intended that the applicant's daughter and her family would occupy the public house once the dwelling was provided with the applicant's assisting in the running of the business.

In support of the application a design and access statement, coal mining risk assessment and tree survey have been submitted.

No recent relevant planning history was found.

### 2. Publicity

4 neighbours have been notified (Date of last notification 16 May 2016)

Site Notice displayed 24 May 2016

Press Notice published 25 May 2016

### 3. Consultations

Coleorton Parish Council consulted 16 May 2016

Coal Authority consulted 29 June 2016

Parish Clerk Coleorton Parish Council consulted 16 May 2016

County Highway Authority consulted 16 May 2016

Severn Trent Water Limited consulted 16 May 2016

Head of Environmental Protection consulted 16 May 2016

NWLDC Tree Officer consulted 16 May 2016

County Archaeologist consulted 16 May 2016

LCC ecology consulted 16 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.

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

**Coleorton Parish Council** object to the application as the site is outside the Limits to Development and there are concerns associated with the highway access.

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

**Leicestershire County Council - Ecology** has no objections to either the initial or revised plans.

**Leicestershire County Council - Highways Authority** provided initial advice outlining that the visibility splays for the access needed to be in accordance with those within the 6Cs Design Guide. Following receipt of a revised plan the revised comments of the County Highways Authority are awaited and will be reported to Members on the Update Sheet.

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

**NWLDC - Tree Officer** has no objections subject to the Sycamore trees being retained.

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

#### Third Party Representations

17 representations have been received from third parties which support the development proposals and whose comments are summarised as follows: -

- Proposed property will enhance the visual amenity of the area.
- Property will not impact adversely on residential amenities.
- The proposed dwelling will meet a Local Need by allowing the applicant's to semi-retire and allow their daughter to manage the public house.
- Their daughter will no longer need to travel to Burton for work which is more sustainable.
- The application site is within walking distance of numerous services.
- There is no accident record at the junction of Bakewells Lane with Loughborough Road.
- The design of the property will be sympathetic to the environment.
- The build will include environmental technologies.
- Additional residents will assist in sustaining services.
- A dwelling has recently been approved in the area under similar circumstances.
- There will be no adverse impacts to ecological species.

#### 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 NPPF. The closer the policies in the development plan to the policies in the NPPF, 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 due 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 Local Plan. The following adopted Local Plan policies are relevant to this application:

Policy S3 - Countryside;  
Policy E3 - Residential Amenities;  
Policy E4 - Design;  
Policy E7 - Landscaping;  
Policy F1 - National Forest: General Policy;  
Policy F2 - Tree Planting;  
Policy F3 - Landscaping and Planting;  
Policy T3 - Highway Standards;  
Policy T8 - Parking;  
Policy H4/1 - Housing Land Release; and  
Policy H7 - Housing Design.

#### **Publication Version North West Leicestershire Local Plan**

The publication version of the Local Plan was agreed by Council on 28th June 2016 with a view to its submission for examination in September 2016. Given the advanced stage that has now been reached it is considered that weight can be attached to the following policies: -

Policy S1 - Future Housing and Economic Development Needs;  
Policy S2 - Settlement Hierarchy;

Policy S3 - Countryside;  
 Policy D1 - Design of New Development;  
 Policy D2 - Amenity;  
 Policy H5 - Rural Exceptions Sites for Affordable Housing;  
 Policy H6 - House Types and Mix;  
 Policy IF4 - Transport Infrastructure and New Development;  
 Policy IF7 - Parking Provision and New Development;  
 Policy En1 - Nature Conservation;  
 Policy En3 - The National Forest;  
 Policy En6 - Land and Air Quality;  
 Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;  
 Policy Cc2 - Water - Flood Risk; and  
 Policy Cc3 - 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;

#### **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 and Sustainability**

In accordance with the provision 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 Local Plan (2002 (as amended)).

The application site 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, or Policy S3 of the publication version Local Plan.

The NPPF requires that the District Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Local Authority is able to demonstrate a five year supply of housing (with 20% buffer) against the requirements contained in the published Local Plan.

Paragraph 17 of the NPPF highlights the need to recognise the intrinsic character and beauty of the countryside, but does not specifically preclude development within the countryside.

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

With regards to the sustainability credentials of the site, it well related to the following services which are within an acceptable walking distance of 800 metres, or 1000 metres for a school: -

- Shop/Post Office (Lower Moor Road - 784 metres);
- Public House (George Inn, Loughborough Road - 53 metres);
- Bus Stop for Two Services (Robert Coaches Air Link Service 155 1 hourly between Coalville and East Midlands Airport Monday to Saturday - 620 metres on The Moor and Arriva Service 9 1 hourly between Burton on Trent to Loughborough via Ashby De La Zouch Monday to Sunday (limited service on a Sunday) - 147 metres on Loughborough Road);

It is possible to access these services via maintained footpaths which are well lit. The 60 metre walk along the Bakewells Lane carriageway to reach the pavement on Loughborough Road is not considered prohibitive in allowing any future resident to access these services given the speed of traffic, and frequency of vehicular movements, on this highway. Amendments on the plans also provide a direct access between the dwelling and the George Inn and therefore, it may be expected that this would be used as the route to reach Loughborough Road rather than Bakewells Lane.

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 options albeit, it is acknowledged that the occupants would remain employed at the George Inn. In this circumstance it is considered that a scheme for one dwelling would score well against the social sustainability advice contained within the NPPF with occupants of the property assisting in sustaining these services for the future which is a key intention of Paragraphs 28 and 55 of the NPPF.

The site is outside the defined Limits to Development and therefore assessed in the context of Policy S3 in both the adopted and publication version Local Plans with it being accepted that the site is now significantly detached from the nearest Limits to Development on the Proposals Map to the publication version Local Plan (the Limits to Development around the three properties to the north-east now being removed). In terms of the sites topography, it slopes gently downwards from the north to south.

The Local Authority can demonstrate a five year housing land supply, so Policy S3 of the adopted Local Plan can be given full weight and Policy S3 of the publication version Local Plan can be given increased weight. With regards to Policy S3 of the adopted Local Plan the proposed development would conflict with the intentions of this Policy given that it is not a form of development considered appropriate outside the defined Limits to Development. In respect of Policy S3 of the publication version Local Plan a residential development compliant with Policy H5 is deemed appropriate. Policy H5 specifies that: -

*"The provision of affordable housing outside of the Limits to Development will be allowed as an exception where:*

- (a) *The housing is demonstrated to meet an identified local need for affordable housing, and*



- (b) *The development is well-related to and respects the character and scale of the settlement and its landscape setting and*
- (c) *The development allows accessibility to community services and facilities within it, where appropriate."*

It is highlighted that the dwelling is to meet a 'local need' which is outlined in the Proposals and Background section of this report, and which is further elaborated on as follows: -

*"the applicants for this proposal have run and lived at the George Inn for the past 13 years and now looking to semi retire passing over the day to day running to their daughter who already works at the pub. The pub would be occupied by their daughter and her husband together with their 4 year old son, who would be schooled locally (Mr and Mrs Sean Hart currently residing in Burton on Trent). They are happy that a condition is placed on the house restricting its occupancy to those with a local connection either through family or employment and the application can therefore be viewed as an exception site."*

The supporting information specifies that the 'need' for a dwelling of a similar scale cannot be met from the existing housing stock. From the evidence available, it would appear that the costs associated with building a new dwelling would be substantially less than any of the properties within the immediate area which would meet the 'needs' of the applicant.

It would also need to be determined whether the proposed development would be 'isolated' or impact adversely on the 'openness' of the rural environment in the context of Paragraph 55 of the NPPF. The site is closely associated with the George Inn public house as well as The Cottage on Loughborough Road, both to the south, with planning permission also recently being granted for a dwelling to the immediate north of the site. Given the association with these built forms it is considered that it would be difficult to justify that the dwelling is 'isolated'.

Whilst having some impact on the openness of the rural environment, it is proposed that the dwelling is positioned so as to respect the defining characteristic of properties on Bakewells Lane and would be clustered with existing properties, particularly when factoring into account the new dwelling to the north. Therefore, in both close and far views the dwelling would be viewed in connection with built forms. On this basis, the impact on the 'openness' of the rural environment would not be so adverse to suggest the development should be resisted.

It is also acknowledged that the daughter of the applicants would no longer need to travel from Burton on Trent to her place of employment at The George which would reduce their reliance on the private car, thereby decreasing carbon emissions, with the provision of renewable energy technologies also helping to off-set private vehicular manoeuvres.

In order to comply with the aims of Policy H5 of the publication version Local Plan it will be necessary for the occupants to enter into a s106 agreement whereby the property would remain permanently available to meet a 'local need'.

In conclusion whilst there would be some conflict with the environmental strand of sustainability, given the setting of the dwelling, this conflict would not be substantial. This is due to the property being well related with existing and proposed built forms, not leading to it being isolated. The 'local need' for the dwelling, in accordance with Policy H5 of the publication version Local Plan, would also mean the proposal is acceptable in the countryside in the context of Policy S3 of the publication version Local Plan. Any conflict arising in respect of environmental sustainability would also be outweighed by the positive economic and social benefits associated with the development, with there also being additional environmental

benefits associated with the provision of renewable energy technologies and a reduction in travelling distances for the applicant's daughter who is employed at the George Inn. On balance, therefore, the principle of the development would be accepted.

### **Residential Amenities**

It is considered that the properties most immediately affected by the proposed development would be the residential areas within the George Inn, to the south, as well as the dwelling granted planning permission under application reference 15/00958/FUL to the north.

The proposed dwelling would be set 16.0 metres from what would become the shared boundary between the site and the George Inn, and 39.0 metres from the closest part of the elevation. Given the scale of the dwelling, as well as its positioning to the north of the site, it is considered that such distances would ensure that no adverse overbearing or overshadowing impacts would arise. No windows are proposed in the southern (side) elevation of the dwelling and as such no adverse overlooking impacts would arise.

It is proposed that the dwelling would be set 10.0 metres from the shared boundary and 15.5 metres from the south-eastern (side) elevation of the new dwelling to the north. Given the orientation of the new dwelling on the land to the north, it is considered that no adverse overbearing or overshadowing impacts would arise due to the separation distances and presence of mature vegetation to the shared boundary. In terms of overlooking impacts it is proposed that a first floor window serving a bedroom would be installed in the northern (side) elevation of the application dwelling, but given the orientation of this dwelling any direct view would be towards the front amenity area of the new dwelling to the north and as such, no adverse overlooking impact would arise which would justify a refusal of the application.

In respect of future amenities it is considered that the relationship with surrounding built forms would ensure that no adverse overbearing or overshadowing impacts would arise, with any overlooking from the pub garden of the George Inn being mitigated by the provision of relevant boundary treatments and/or the reinforcement of existing vegetation. In respect of noise generated by the use of the public house, it is noted that the Council's Environmental Protection team have raised no objections and, in any event, the initial occupants of the proposed dwelling are the landlords of the George Inn and as such are fully aware of the relationship which would be established.

Overall, therefore, the proposed development is considered to be compliant with Paragraph 123 of the NPPF, Policy E3 of the adopted Local Plan and Policy D2 of the publication version Local Plan.

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

The need for good design in new residential development is outlined not only in adopted Local Plan Policies E4 and H7, as well as Policy D1 of the publication version Local Plan, but also Paragraphs 57, 60 and 61 of the NPPF.

The land on which the dwelling would be situated slopes modestly downwards from north and south and is currently bordered by mature hedgerows which range in height from 1.5 to 2.0 metres, although the hedge to the northern boundary is between 3.0 - 6.0 metres in height. Existing properties on Bakewells Lane are two-storey in height, although Corrie to the north-east is a one and a half storey dwelling, and are set back from the highway with well defined boundaries and off-street parking provided to the frontage, along with manoeuvring facilities.

Principal elevations are presented to the highway. It is considered that the proposed dwelling has been positioned away from Bakewells Lane and orientated to face it and, as such, respects the defining characteristic of properties on this highway. Therefore, the proposal would not detract from the character and appearance of the streetscape. The dwelling would also be viewed in association with built forms at the George Inn, as well as The Cottage, Loughborough Road and a new dwelling to the north and, as such, would not have a sufficiently detrimental impact on the appearance or openness of the rural environment as to justify a refusal of the application.

In terms of the design of the dwelling itself it is considered that it would be acceptable and would include design features which the District Council deems desirable (i.e. chimneys, stone cills, timber supporting canopy, eaves and verge detailing and a mid course brick detail) with the overall footprint also being consistent with development in the locality, including the recently approved dwelling to the north.

With regards to the detached garage, it is considered that this would be subservient in relation to the main dwelling, particularly as it is a single garage, and would follow a design approach which is consistent with that of the dwelling. On this basis this element of the development would be acceptable in preserving the character and appearance of the streetscape and wider area.

In order to facilitate the visibility splays for the vehicular access it would be necessary for a 35.0 metre section of the hedgerow to the eastern boundary to be repositioned to the rear of the visibility splays. In the circumstances that the hedgerow is repositioned and soft landscaped verges are provided, it is considered that such a design of access would not appear over-engineered and therefore would not impact adversely on the rural character of the streetscape. Relevant conditions imposed on any planning permission granted could secure such details.

It is proposed that the dwelling would be constructed from bricks with the use of plain clay tiles, dark oak door and white uPVC doors. The surrounding area is characterised by a mixture of materials, including brick and render, and as such the use of such materials would be acceptable in principle and would preserve the character and appearance of the surrounding area and streetscape. As no precise details concerning the type of materials to be used have been supplied, it is considered reasonable to impose a condition on any permission granted for the materials to be agreed.

Public footpath M81 runs to west of the site with public footpath M82 running to the north-east. In views from these footpaths it is considered that the development would be viewed in the context of its relationship with not only the George Inn but also the new property to the north. Given the visual assimilation of the development with existing and proposed built forms, it is considered that the dwelling would not appear isolated and would not impact adversely on people's enjoyment of the public right of way.

Overall it is considered that the layout, design and scale of the proposal is considered to be appropriate and would ensure that the development accords with Paragraphs 57, 60 and 61 of the NPPF, Policies E4 and H7 of the adopted Local Plan and Policy D1 of the publication version Local Plan.

### **Highway Safety**

Whilst the detailed comments of the County Highways Authority are awaited following the receipt of an amended plan, highlighting that visibility splays of 2.4m by 43.0m in a south-

eastern direction and visibility splays of 2.4m by 29.0m in a north-western direction could be achieved, it is noted that their initial comments raised no objections to the development on highway safety grounds.

Given that the required visibility splays suggested by the County Highways Authority can be achieved by virtue of the existing hedgerows being re-positioned to the back edge of these splays, it is considered that the vehicles exiting the site will be able to do so in a safe and controlled manner, particularly as clear visibility will be achieved to the junction of Bakewells Lane with Loughborough Road (A512) where most vehicle movements are likely to occur. The proposed width of the vehicular access and provision of a lay-by would also enable any vehicle entering the site to be clear of Bakewells Lane should another vehicle wish to exit at the same time thereby, limiting any conflict between vehicles in the carriageway. Sufficient space would also be accommodated in the site to enable vehicles to manoeuvre so that they exit the site in a forward direction. In the circumstances that the proposal would not be 'severely' detrimental to highway safety, it is considered that it would accord with Paragraph 32 of the NPPF as well as Policy T3 of the adopted Local Plan and Policy IF4 of the publication version Local Plan. Any comments, as well as any suggested conditions, from the County Highways Authority will be reported to Members on the Update Sheet.

The detached single garage would have internal dimensions which would be sufficient to ensure it can accommodate one vehicle with additional off street parking, for at least two vehicles, being supplied to the frontage of the proposed dwelling. Subject to such off-street parking being conditioned on any consent granted, it is considered that the proposal would accord with Paragraph 39 of the NPPF, Policy T8 of the adopted Local Plan and Policy IF7 of the publication version Local Plan.

### **Ecology**

The County Council Ecologist has commented on the application and has raised no objections with there being no requirement for an ecological survey to be undertaken given that the significant trees on the site would be retained. A condition requiring the submission of a landscaping scheme, including retention of trees, would be imposed on any consent granted. Subject to such a condition being included on the decision notice it is considered that the development would accord with the aims of Paragraph 118 of the NPPF, Circular 06/05 and Policy En1 of the publication version Local Plan.

### **Landscaping**

Hedgerows define the boundaries of the site with three mature trees (three Sycamores) being situated within the site itself, albeit they are located towards the south-western corner. Given the maturity of these trees and their visibility from the public domain it is considered that they contribute positively to the visual amenity of the wider area and should therefore be retained in any development progressed. The dwelling and detached garage have taken into account the relationship with these trees with the structures being positioned outside the root protection areas. Relevant management of the hedgerows could also be undertaken to improve their appearance and the repositioning of the hedgerow to accommodate the visibility splay would be acceptable subject to the creation of 'soft' verges. The imposition of a landscaping condition on any consent granted could agree the works which would be undertaken to retained vegetation, as well as securing any additional landscaping which may be required. In the circumstances that such a condition is imposed the development would accord with Policies E7, F1, F2 and F3 of the adopted Local Plan as well as Policy En3 of the publication version 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 and Policy He1 of the publication version Local Plan.

## 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 as well as Policies Cc2 and Cc3 of the publication version Local Plan.

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 Coal Authority initially raised an objection to the application given that the submitted Coal Mining Risk Assessment not addressing the issues associated with the coal mining legacy on the site. Following the receipt of a revised Coal Mining Risk Assessment the Coal Authority have highlighted concerns that it has still failed to assess the risks to the development from past coal mining activity and has failed to make appropriate recommendations for intrusive site investigation works. Whilst such concerns have been highlighted the Coal Authority have stated that these issues could be addressed by the imposition of a condition on any consent granted for specific site investigation works to be undertaken in order to treat the shallow mine workings and therefore ensure the safety and stability of the development. On this basis, and subject to the imposition of the relevant conditions, it is considered that the development would accord with Paragraphs 120 and 121 of the NPPF as well as Policy En6 of the publication version Local Plan.

## 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, given the setting of the dwelling, would not be substantial as the position of the dwelling would be well related with existing and proposed built forms, not leading to it being isolated. The 'local need' for the dwelling, in accordance with Policy H5 of the publication version Local Plan, would also mean the proposal is acceptable in the countryside in the context of Policy S3 of the publication version Local Plan. Any conflict arising in respect of environmental sustainability would also be outweighed by the positive economic and social benefits associated with the development, with there also being additional environmental benefits associated with the provision of renewable energy technologies and a reduction in travelling distances for the applicant's daughter who is employed at the George Inn. On balance, therefore, the principle of the development would be

accepted.

The dwelling has been positioned so as to ensure an acceptable level of amenity is maintained for the George Inn, as well as the new dwelling which is being created to the north of the site. Overall the development would be compliant with Paragraph 123 of the NPPF as well as Policy E3 of the adopted Local Plan, and Policy D2 of the publication version Local Plan.

From a design perspective the dwelling has been positioned and orientated so that it does not result in it impacting adversely on the openness or appearance of the wider rural environment. The design of the dwelling itself is considered to be acceptable with the detached garage being subservient to host building. Overall, the proposal would be compliant with Paragraphs 57, 60 and 61 of the NPPF, Policies E4 and H7 of the adopted Local Plan and Policy D1 of the publication version Local Plan.

It is considered that the vehicular access into the site, which would be the upgrading of an existing access, would be provided with appropriate visibility splays with other works being carried out within the highway so as to ensure that conflict between vehicles on Bakewells Lane would be limited. Relevant manoeuvring facilities and off-street parking spaces for dwellings would also be provided. On this basis the proposed scheme would accord with Paragraphs 32 and 39 of the NPPF, Policies T3 and T8 of the adopted Local Plan and Policies IF4 and IF7 of the publication version Local Plan.

In respect of landscaping, the dwelling and detached garage have been positioned outside the root protection areas of the trees on the site which are considered important and which should be retained. In these circumstances the development would be compliant with Policies E7, F1, F2 and F3 of the adopted Local Plan and Policy En3 of the publication version Local Plan.

The County Council Ecologist and County Council Archaeologist have outlined that there is no requirement for a protected species survey or archaeological investigation to be carried out and, as such, the development would be compliant with Paragraphs 118 and 141 of the NPPF, Policies En1 and He1 of the publication version Local Plan and Circular 06/05. An acceptable foul and surface water drainage scheme could also be supplied for the development in order to accord with Paragraphs 103 and 120 of the NPPF as well as Policies Cc2 and Cc3 of the publication version Local Plan.

Subject to the Coal Authority raising no objection to the revised information supplied within the Coal Mining Risk Assessment, it is considered that a development could be progressed which would accord with Paragraphs 120 and 121 of the NPPF as well as Policy En6 of the publication version Local Plan.

It is therefore recommended that the application be permitted.

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

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

*Reason - to comply with the requirements of Section 91 of the Town and County Planning Act 1990 (as amended) and as the dwelling is required in relation to a local housing need.*

- 2 The development shall be implemented in accordance with the site location plan (1:1250) and drawing numbers WIL.SBR.002 Revision A (Proposed Floor Plans/Section), WIL.SBR.003 Revision A (Proposed Elevations), WIL.SBR.004 (Proposed Site Sections), WIL.GAR.005 (Proposed Garage) and Topographical Survey, received by the Local Authority on the 12th May 2016, and drawing number WIL.SBR.001 Revision C (Proposed Site-Block-Roof Plan), received by the Local Authority on the 22nd June 2016, unless otherwise required by another condition of this permission.

*Reason - for the avoidance of doubt and to determine the scope of the permission.*

- 3 Notwithstanding the details shown on the approved plans, the dwelling shall not be built above damp proof course level until the following have been submitted to and agreed in writing by the Local Planning Authority: -
- Samples of the materials to be utilised in all external surfaces (including the construction material of windows and doors);
  - The proposed colour/stain finish for all joinery;
  - 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 dwelling;

The development shall then be carried out in accordance with the approved details.

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

- 4 The dwelling, hereby permitted, shall not be built above damp proof course level until the precise details and appearance of the solar hot water panels, air source heat pump and grey water harvesting system has first been submitted to and agreed in writing by the Local Planning Authority. The dwelling shall then be constructed in accordance with the approved details which shall thereafter be retained.

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

- 5 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 dwelling, hereby permitted, shall not be enlarged, improved or altered nor shall any building, enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse be provided within the curtilage of the dwelling, unless planning permission has been granted by the Local Planning Authority.

*Reason - to enable the Local Planning Authority to retain control over future development in view of the form of the development proposed and its location within a rural environment as well as maintain the affordability of the dwelling in the future given that it is to meet a local housing need.*

- 6 Notwithstanding the details showed on the approved plans before first occupation of the dwelling, hereby permitted, a scheme of soft and hard landscaping (including for the

retention of and any works to existing trees and hedgerows) shall be submitted to and agreed in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the first occupation of the dwelling 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 first occupation of the dwelling, unless otherwise agreed in writing by the Local Planning Authority, and shall thereafter be so retained.

*Reason - to ensure a satisfactory landscaping scheme is provided within a reasonable period and in the interests of visual amenity as well as to maintain suitable habitat for protected species.*

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

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

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

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

- 9 Notwithstanding the submitted plans, nor the requirements of Condition 2 above, before first occupation of the dwelling 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 dwelling hereby approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.

*Reason - to preserve the amenities of the locality, in the interests of highway safety and because insufficient information has been submitted as part of the application.*

- 10 Notwithstanding the submitted plans, nor the requirements of Condition 1 above, no development shall commence on site until such time as details of the proposed finished floor levels of the dwelling 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 given the absence of any precise information.*



- 11 Operations that involve the destruction/removal/management of vegetation 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.*

- 12 The gradient of the access drive shall not exceed 1:12 for the first 5.0 metres behind the highway boundary.

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

- 13 Before first occupation of the dwelling, hereby permitted, the following shall be provided:

- 
- The access drive and turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary;
- The car parking and turning facilities as shown on drawing number WIL.SBR.001 Revision C, received by the Local Authority on the 22nd June 2016, and drawing number WIL.GAR.005, received by the Local Authority on the 12th May 2016, shall be provided and surfaced in accordance with the details agreed under Condition 6 of this permission.
- Drainage shall be provided within the site such that surface water does not drain into the Public Highway;

Once provided the above shall thereafter be so maintained.

*Reasons - to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.); 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 highway users.*

- 14 No development shall commence on site until a scheme of intrusive site investigation works have been submitted to and agreed in writing by the Local Planning Authority, in consultation with the Coal Authority, in order to establish the exact situation regarding coal mining legacy on the site. The intrusive site investigations shall then be carried out in accordance with the approved details and a report shall then be subsequently submitted to outline the findings of the intrusive site investigations.

If the intrusive site investigations identify the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, details of these remedial works and a verification plan must be submitted to and agreed in writing by the Local Planning Authority in consultation with the Coal Authority. The agreed remedial works and verification must be carried out in full before any development commences in respect of any part of the development hereby approved.

*Reason - to ensure that the land is, or can be made, safe and stable for the proposed development due to the risk from its coal mining history.*

**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 consideration of the application which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 The highway boundary is the hedge fronting the premises and not the edge of the carriageway/road.
- 4 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 a 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.
- 5 Under to Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: <https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>.

Erection of two detached dwellings and garages (Outline -  
access and layout included)

Report Item No  
A8

Land Adjacent To Wilford House Loughborough Road  
Coleorton Coalville Leicestershire LE67 8HH

Application Reference  
16/00311/OUT

Applicant:  
Lychgate Homes Ltd

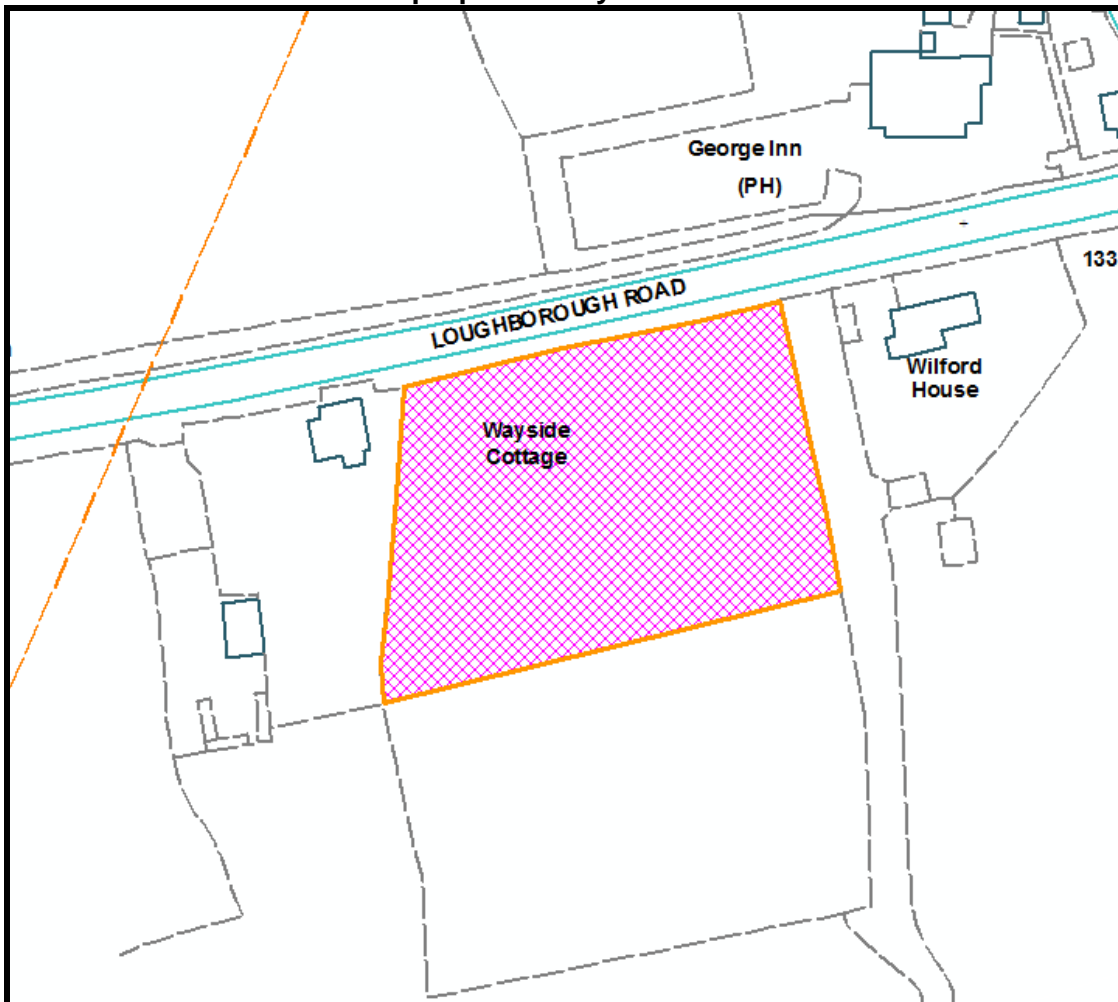
Date Registered  
16 March 2016

Case Officer:  
Adam Mellor

Target Decision Date  
11 May 2016

Recommendation:  
REFUSE

Site Location - Plan for indicative purposes only



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## **UPDATE OF EXECUTIVE SUMMARY**

This application was previously reported to Members of the Planning Committee on 10 May 2016, with a recommendation to refuse on highway safety grounds. The application was deferred at this meeting to allow further discussions between the County Highways Authority and the applicant's highway consultant to see if a favourable position could be reached. Following discussions the County Council Highways Authority have removed their objection subject to the imposition of conditions on any consent granted.

Whilst the highway reason for refusal has now been overcome it has been necessary to reassess the impact of the development to the rural environment on the basis that the Council can now demonstrate a five year housing land supply following the decision of Full Council on the 28 June 2016 to approve the publication version North West Leicestershire Local Plan.

As a five year housing supply could not be demonstrated when the application was previously considered it was determined that those policies concerning the supply of housing were out of date and therefore, that the development could not be resisted on the basis of Policy S3 of the adopted Local Plan or the environmental strand of sustainability. In reassessing this position, in light of the policy change referred to, the proposed development would now be contrary to Policy S3 of the adopted Local Plan, as well as Policy S3 of the publication version Local Plan, and would represent unwarranted development on a greenfield site which would harm the openness of the landscape in which the site would be integrated. As a consequence of this it would fail to protect or enhance the rural environment contrary to the environmental aim of sustainability.

## **UPDATED RECOMMENDATION - REFUSE.**

## **EXECUTIVE SUMMARY OF PROPOSALS**

### **Call In**

The application is brought to the Planning Committee at the request of Councillor Boam in order for the Committee to review the layout, vehicular access and sustainability of the proposal.

### **Proposal**

The application is in outline form and seeks approval for the erection of two detached dwellings on a greenfield site located on the south-eastern side of Loughborough Road between Wilford House and Wayside. The 0.35 hectare site is on land outside the defined Limits to Development and at this stage the access point into the site off Loughborough Road as well as the proposed layout is for approval. The supporting information indicates that the proposed dwellings are to be single storey.

### **Consultations**

A total of eight individual representations have been received with two of those representations opposed to the development and six in support of the development. Coleorton Parish Council have also raised concerns about the proposal. All other statutory consultees have no objections subject to conditions.

### **Planning Policy**

It is considered that the development would conflict with the aims of Paragraph 32 of the National Planning Policy Framework (NPPF) and Policy T3 of the adopted North West Leicestershire Local Plan.

### **Conclusion**

The report below indicates that the site is a greenfield site outside Limits to Development.

It is considered that the proposed development would result in the construction of dwellings, and associated infrastructure, on land outside the defined Limits to Development on a site which currently makes a positive contribution to the character and appearance of the rural environment in which it is set. Given the substantial urbanisation of the land which would occur as a result of the development it is considered that this would diminish its present open character and would represent unwarranted development in the countryside which should be protected for its own sake. As a consequence of this the development would fail to protect or enhance the natural environment and as a result the proposal would be contrary to a fundamental principle of the NPPF. By virtue of the application site being outside the Limits to Development, and that residential development on a greenfield site is not a permitted form of development outside these Limits, it is also considered that the development is contrary to Policy S3 of the adopted Local Plan and Policy S3 of the publication version Local Plan.

It is therefore recommended that the application be refused.

### **RECOMMENDATION - REFUSE;**

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

## MAIN REPORT

### 1. Proposals and Background

Outline planning permission is sought for the erection of two detached dwellings and garages with access and layout included for approval at this stage at land adjacent to Wilford House, Loughborough Road, Coleorton. The 0.35 hectare site is located on the south-eastern side of Loughborough Road and is outside the defined Limits to Development, as identified on the Proposals Map to the North West Leicestershire Local Plan. The surrounding area is predominately open countryside with a sporadic scattering of residential properties being located in close proximity to Loughborough Road, the George Inn Public House is also located to immediate north of the site.

This application is a resubmission of application reference 15/00822/OUT (erection of 4 no. dwellings (outline only - matters of access and layout included) which was refused on the 30th October 2015 on environmental sustainability, density, design and highway safety grounds.

The land in question is currently paddock land and horses were evidenced grazing on the land during the site visit. This revised application now proposes only two dwellings with the submitted layout identifying that these dwellings would be positioned parallel to Loughborough Road (A512) with distances of 19.2 metres to plot 1 and 16.8 metres to plot 2 from this highway. The design and access statement, and illustrative street scene, indicates that the dwellings would be single storey detached types. Vehicular access into the site would be achieved from a newly created access off Loughborough Road centralised within the north-western boundary of the site.

A Planning Statement, incorporating a Design and Access Statement, Highways Technical Note, Speed Survey and Coal Mining Risk Assessment have been submitted in support of the application.

No additional planning history was found.

### 2. Publicity

6 neighbours have been notified. (Date of last notification 21 March 2016)

Press Notice published 30 March 2016

Site Notice posted 31 March 2016

### 3. Consultations

Coleorton Parish Council consulted 21 March 2016  
 County Highway Authority consulted 22 March 2016  
 Severn Trent Water Limited consulted 22 March 2016  
 Head of Environmental Protection consulted 22 March 2016  
 NWLDC Tree Officer consulted 22 March 2016  
 County Archaeologist consulted 22 March 2016  
 LCC ecology consulted 22 March 2016  
 NWLDC Urban Designer consulted 22 March 2016  
 National Forest Company consulted 22 March 2016  
 LCC/Footpaths consulted 22 March 2016  
 NWLDC Footpaths Officer consulted 22 March 2016

Coal Authority consulted 22 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.

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

**Coleorton Parish Council** highlights that concerns have been raised that 'luxury' housing would be created rather than affordable units and that the access would be on to fast and busy road.

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

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

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

**Leicestershire County Council - Highways** has no objections subject to conditions.

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

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

**Severn Trent Water** has no objections.

#### Third Party Representations

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

- Land is not allocated in the Local Plan and as such should be protected to maintain the rural character of the area;
- New access point into the site would add further danger to the main road whilst offering no benefit to the development;
- The proposal would represent undesirable ribbon development and extra traffic would only add to highway safety issues;
- An approval of this development would set an undesirable precedent for similar forms of unsustainable development which would be to the further detriment of the area;
- Development would ruin the perceived separation and open undeveloped character between the two settlements;
- Development would be isolated on a major link road with poor connections to either village;
- Loughborough Road is noisy and as such residents would be affected by noisy and CO2 pollution issues;
- Proposal would destroy the appearance of the open countryside;

Six representations have been received supporting the application with the comments raised being summarised as follows: -

- There is a need within the district as a whole for single storey development;
- Single storey nature of development will reduce any impact from a visual perspective;

- The residential accommodation is needed within the area;
- There are economic benefits associated with future residents sustaining the services in the settlement as well as businesses in the nearby towns;

## 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 NPPF. The closer the policies in the development plan to the policies in the NPPF, the greater weight they may be given.

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

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

Paragraph 10 (Achieving sustainable development);  
 Paragraph 14 (Presumption in favour of sustainable development);  
 Paragraph 17 (Core Planning Principles);  
 Paragraph 28 (Supporting a prosperous rural economy);  
 Paragraph 32 (Promoting sustainable transport);  
 Paragraph 39 (Promoting sustainable transport);  
 Paragraph 49 (Delivering a wide choice of high quality homes);  
 Paragraph 53 (Delivering a wide choice of high quality homes);  
 Paragraph 55 (Delivering a wide choice of high quality homes);  
 Paragraph 57 (Requiring good design);  
 Paragraph 60 (Requiring good design);  
 Paragraph 61 (Requiring good design);  
 Paragraph 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 121 (Conserving and enhancing the natural environment);  
 Paragraph 203 (Planning conditions and obligations);  
 Paragraph 204 (Planning conditions and obligations);

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

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

Policy S3 - Countryside;  
 Policy E3 - Residential Amenities;  
 Policy E4 - Design;  
 Policy E7 - Landscaping;  
 Policy F1 - General Policy;  
 Policy F2 - Tree Planting;  
 Policy F3 - Landscaping and Planting;  
 Policy T3 - Highway Standards;



Policy T8 - Parking;  
 Policy H4/1 - Housing Land Release;  
 Policy H6 - Housing Density;  
 Policy H7 - Housing Design;

**Publication Version North West Leicestershire Local Plan**

The publication version of the Local Plan was agreed by Council on 28th June 2016 with a view to its submission for examination in September 2016. Given the advanced stage that has now been reached it is considered that weight can be attached to the following policies: -

Policy S1 - Future Housing and Economic Development Needs;  
 Policy S2 - Settlement Hierarchy;  
 Policy S3 - Countryside;  
 Policy D1 - Design of New Development;  
 Policy D2 - Amenity;  
 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 En3 - The National Forest;  
 Policy En6 - Land and Air Quality;  
 Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;  
 Policy Cc2 - Water - Flood Risk; and  
 Policy Cc3 - 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**

In accordance with the provision 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 Local Plan (2002 (as amended)).

The application site 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, or Policy S3 of the publication version Local Plan.

The NPPF requires that the District Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Local Authority is able to demonstrate a five year supply of housing (with 20% buffer) against the requirements contained in the published Local Plan.

Paragraph 17 of the NPPF highlights the need to recognise the intrinsic character and beauty of the countryside, but does not specifically preclude development within the countryside. Consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set out below.

With regards to the sustainability credentials of the site, it well related to the following services which are within an acceptable walking distance of 800 metres, or 1000 metres for a school: -

- Shop/Post Office (Lower Moor Road - 800 metres);
- Public House (George Inn, Loughborough Road - 89 metres);
- Bus Stop for Two Services (Robert Coaches Air Link Service 155 1 hourly between Coalville and East Midlands Airport Monday to Saturday - 600 metres on The Moor and Arriva Service 9 1 hourly between Burton on Trent to Loughborough via Ashby De La Zouch Monday to Sunday (limited service on a Sunday) - 64 metres on Loughborough Road);

It is possible to access these services via 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 options. In this circumstance it is considered that a scheme for two dwellings would score well against the social sustainability advice contained within the NPPF with occupants of the properties also assisting in sustaining these services for the future which is a key intention of Paragraphs 28 and 55 of the NPPF.

The site is currently greenfield outside the defined Limits to Development and therefore assessed in the context of Policy S3 in both the adopted and publication version Local Plans with it being accepted that the site is significantly detached from the nearest Limits to Development on the Proposals Map to the publication version Local Plan. In terms of the sites topography, it slopes gently downwards from the north to south.

The Local Authority can demonstrate a five year housing land supply, so Policy S3 of the adopted Local Plan can be given full weight and Policy S3 of the publication version Local Plan can be given increased weight. With regards to Policy S3 of the adopted Local Plan and Policy S3 of the publication version Local Plan the proposed development would conflict with the intentions of these policies given that it is not a form of development considered appropriate outside the defined Limits to Development.

In respect of the location of the dwellings it is noted that they would be situated on a greenfield

site which comprises an open paddock defined by well defined hedgerows and links with the wider open fields to the immediate south therefore making a positive contribution to the character and appearance of the rural environment and wider landscape. A development of the site for the provision of the two dwellings, as well as the associated infrastructure, would result in an urbanisation of the of the site which would diminish its present open character and represent unwarranted development within the rural environment given that there is no overriding need for this type of proposal to come forward on the land. In this circumstance it would conflict with a fundamental principle of the NPPF by virtue of its failure to protect or enhance the natural environment. As the development site is also outside the defined Limits to Development it would conflict with Policy S3 of the adopted Local Plan and Policy S3 of the publication version Local Plan.

While the view is taken that the proposed development will impact adversely on the 'openness' of the rural environment, it is considered that the dwellings would not be 'isolated', in the context of Paragraph 55 of the NPPF, due to the relationship the dwellings would have with properties to the immediate east and west.

In conclusion whilst the application site would be considered socially sustainable and there would be some limited economic benefits associated with the construction of the dwellings, these would be significantly and demonstrably outweighed by the negative environmental impacts of the proposal. Accordingly the proposal cannot be considered to represent sustainable development and, therefore, the application is not considered acceptable in relation to the NPPF as well as relevant policies of the adopted Local Plan and Publication Version Local Plan.

### **Density**

The application site area is 0.35 hectares and the provision of two dwellings on the site would result in a density of 5.71 dwellings per hectare which would be well below the minimum threshold of 30 dwellings per hectare advised by Policy H6 of the adopted Local Plan in other locations (other than the main settlements and those well served by public transport and accessibility to services and facilities).

When assessing the density, however, it would also be important to factor into the assessment the proximity and accessibility to centres, the provision of a mix of housing types to establish socially mixed communities, good principle of design and layout which make the most economical use of land and respect the local context as well as green space and landscaping requirements.

In the circumstances that the previous application on the site (ref: 15/00822/OUT) was refused on the basis of the density being too high (11.43 dwellings per hectare) it is considered the density now proposed would be the most efficient use of the land in achieving a development which complied with the characteristics of the area which is defined by sporadic forms of individual dwellings situated on large plots. On this basis the low density proposed would not result in significant conflict with the aims of Policy H6 of the adopted Local Plan as to justify a refusal of the application.

### **Neighbours and Future Occupants Amenities**

It is noted that details of the layout have been submitted for approval at this stage with the nearest residential properties being Wayside, a two-storey (with habitable accommodation in the roof slope) detached dwelling, situated to the south-west and Wilford House, a two-storey

detached dwelling, situated to north-east.

In respect of Wilford House it is considered that the south-western (side) elevation of this dwelling would be set 26.0 metres from the north-eastern corner of plot 1. Given this distance it is considered that the proposed position of plot 1 would not result in any significantly adverse impacts on the occupants amenities.

Wayside is located to the north-west and it is proposed that the south-eastern corner of this dwelling would be set 15.5 metres from plot 2. A ground and first floor window (serving a bedroom) exist on the north-eastern (side) elevation of Wayside with two ground floor windows (serving a kitchen and lounge) and a first floor window (serving a bedroom) being located in the south-eastern (rear) elevation. Wayside is angled so that its front elevation is further from the shared boundary than its rear elevation with 12.0 metres of the proposed dwelling to plot 1 extending beyond the south-eastern (rear) elevation. Given the proposed position of plot 2, as well as its orientation to Wayside, it is considered that it would not have a significantly adverse impact on the occupants' amenities.

The scale and appearance of the dwellings would be subsequently agreed under any reserved matters submission and at that stage it could be ensured that the overall height, and position of windows, would not result in a development form which would result in detriment to the amenities of Wilford House and Wayside. It is highlighted in the supporting information that the dwellings are proposed to be single storey types and if such a development was progressed this would lessen the implications to existing residential amenities.

With regards to the amenities of any future occupants it is considered that views from the windows on the south-eastern (rear) elevation of Wayside would be at an oblique angle towards the rear amenity area of plot 2 with views from the windows on the north-eastern (side) elevation being towards the front amenity/parking area for plot 1. On this basis it is considered that the future amenities of the occupants of plot 2 would be adequately protected from overlooking impacts particularly given the overall size of the plot this dwelling would be situated on. The relationship between the two plots would also be acceptable on the layout submitted subject to the position of windows being carefully considered at the reserved matters stage.

As part of the consideration of the application the Council's Environmental Protection team have been consulted and raised no objections to the application on the basis of noise from the movements of vehicles associated with the development, or from the A512 itself, causing adverse impacts on existing and future amenities.

Overall, therefore, the development is considered to accord with Paragraph 123 of the NPPF, Policy E3 of the adopted Local Plan and Policy D2 of the publication version Local Plan.

### **Impact on the Character and Appearance of the Area and Streetscape**

The need for good design in new residential development is outlined not only in adopted Local Plan Policies E4 and H7 and Policy D1 of the publication version Local Plan but also Paragraphs 57, 60 and 61 of the NPPF.

It is noted that scale, appearance and landscaping are all included as matters to be considered at a later stage although the layout is for approval at this stage. Properties on the south-eastern (side) of Loughborough Road (A512) vary in relation to their proximity to the highway with the immediate dwellings adjacent to the site (Wayside and Wilford House) being in close proximity to the highway and other properties (Colewood Lodge and Haymeads (No. 115 Loughborough

Road)) being detached from the highway by around 21.0 metres. It is proposed that the dwellings would be located 16.8 metres (plot 2) and 19.2 metres (plot 1) from the highway and this is considered to be acceptable in maintaining the character of the immediate area.

The previous application on the site (ref: 15/00822/OUT) was refused in the circumstances that the development of four dwellings on the site would not respect the sporadic manner of detached dwellings in large plots which is a characteristic of the area. As part of this proposal the total number of units has been reduced to two which therefore allows the dwellings to be located in plots of land which would be commensurate with those of neighbouring properties (in particular Wilford House and Wayside) thereby making it acceptable. Whilst the 'sporadic' character of development on the southern side of Loughborough Road (A512) would be affected it is noted that development becomes more concentrated in this area (taking into account Wayside, Wilford House, The George Inn and Colewood Lodge) and as a consequence the proposed layout would not significantly detract from this characteristic as to warrant a refusal of the application. This view is taken due to the separation distances which would be provided between the plots themselves as well as their proximity to neighbouring dwellings. It is also considered that the proposed floorspace of the dwellings would be acceptable and not out of keeping with the ground area covered by built forms in the immediate area particularly in the circumstances that the dwellings are proposed to be single storey.

In respect of other design matters the plans show that a large copse of trees would be planted to the north-western (front) boundary to act as a natural screen and it is considered that such planting is consistent with that found at Colewood Lodge and Haymeads, which are dwellings set back from the highway, and as such is considered to be in keeping with the characteristics of the area. Appropriate planting to be incorporated into such a landscaping scheme would be agreed at the reserved matters stage.

Public footpath N18 runs past the south-eastern boundary of the site, which is substantially planted with mature trees, and it is considered that the proposed development would not impact significantly on any view enjoyed from this footpath given that views are obscured by the vegetation to the boundaries of the site as well as the fact that built forms are already present in any views established.

The appearance of the dwellings would be agreed at the reserved matters stage and it is considered that at this point an appropriate design could be achieved which would accord with the Council's current design agenda by responding to the positive characteristics of dwellings within the area as well as having a National Forest identity. The indicative streetscape drawing submitted shows dwellings with design characteristics which the Local Authority would be supportive of.

Overall the development is considered to be compliant with Paragraphs 57, 60 and 61 of the NPPF, Policy E4 of the adopted Local Plan and Policy D1 of the publication version Local Plan. Should reserved matters be dealt with under the adopted Local Plan, the proposal would be required to meet the requirements of Policies H7 and F1. If reserved matters are dealt with after the Council has adopted a new Local Plan, reserved matters will be dealt with in accordance with its policies.

### **Accessibility**

The County Highways Authority initially objected to the application on sustainability grounds and highway safety due to a significant increase in turning traffic using an access on a restricted (50 mph) Class I road (Loughborough Road - A512). Following the submission of a technical

highway note the sustainability objection was removed but the adverse impacts to highway safety was not overcome and as a consequence the application was deferred at the May Planning Committee meeting to allow further discussions to occur.

Following the submission of additional highways information the concerns of the County Highways Authority have been addressed in respect of highway safety with the following being stated: -

*"The Highway Authority (HA) would normally seek to resist a proposal for the creation of an access onto a Class I or Class II road where speeds are in excess of 40 mph. However, taking into consideration the facts that there are other existing accesses in the immediate vicinity where there are existing turning manoeuvres and there is no accident record and that provision of a crossing facility (dropped kerb) and a safe refuge will be provided on Loughborough Road which will benefit pedestrians between public footpaths M81 and N18, leading to a highway gain, the proposals will be acceptable to the HA."*

On the basis of relevant planning conditions being imposed on any consent granted, which would include the off-site highway works, it is considered that the proposed developments implications to highway safety would not be 'severe' and as a consequence it would accord with Paragraph 32 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF4 of the publication version Local Plan.

It is considered that sufficient off-street parking could be accommodated within the site to serve the proposed number of dwellings which would ensure that the development would not result in any on-street parking issues within the vicinity of the site and as such the development would not conflict with the aims of Paragraph 39 of the NPPF, Policy T8 of the adopted Local Plan and Policy IF7 of the publication version Local Plan.

Public footpath N18 would not be affected, or be requested to be diverted, as part of any development and on this basis the County and District Council Footpaths Officers have no objections. In these circumstances there would be no conflict with the intentions of Paragraph 75 of the NPPF.

## **Ecology**

The County Council Ecologist has raised no objections to the development and as such it is considered that protected species would not be a constraint on the proposal which would ensure its compliance with Paragraph 118 of the NPPF, Circular 06/05 and Policy En1 of the publication version Local Plan.

## **Landscaping**

As the application site is situated within the National Forest a strong landscaping scheme would be a necessity for the development with Policies E7 and F2 of the adopted Local Plan seeking to ensure that existing vegetation is retained and enhanced. The vast majority of the existing vegetation is located to the boundaries of the site, in the form of hedgerows and trees, and it is considered that the proposed layout submitted demonstrates that the dwellings would be situated a sufficient distance from this vegetation so as to ensure its longevity is not compromised. Whilst the formation of a new vehicular access will require the partial removal of the roadside hedgerow this would not compromise the visual amenities of the streetscape, as a whole, given that the gap would be limited to 5.6 metres.

It is also highlighted on the plans that a large copse of trees would be planted to the north-western boundary of the site, with vegetation also being accommodated to the south-eastern and south-western boundaries, and the species of trees to be provided as part of such a landscaping scheme would be secured under any subsequent reserved matters application.

Overall the development would accord with the aims of Policies E7, F1, F2 and F3 of the adopted Local Plan and Policy En3 of the publication version Local Plan.

### **Archaeology**

The County Council Archaeologist has raised no objections to the application and considers that no archaeological mitigation works will be required in connection with the proposal. In these circumstances the development would be compliant with Paragraph 141 of the NPPF and Policy He1 of the publication version Local Plan.

### **Other Matters**

The Coal Authority has raised no objections to the application in respect of land instability issues subject to the imposition of conditions on any consent granted. In these circumstances it is considered that the proposal would not result in stability issues to neighbouring properties which would ensure compliance with Paragraphs 120 and 121 of the NPPF and Policy En6 of the publication version Local Plan.

### **Conclusion**

The report above indicates that the site is a greenfield site outside Limits to Development.

It is considered that the proposed development would result in the construction of dwellings, and associated infrastructure, on land outside the defined Limits to Development on a site which currently makes a positive contribution to the character and appearance of the rural environment in which it is set. Given the substantial urbanisation of the land which would occur as a result of the development it is considered that this would diminish its present open character and would represent unwarranted development in the countryside which should be protected for its own sake. As a consequence of this the development would fail to protect or enhance the natural environment and as a result the proposal would be contrary to a fundamental principle of the NPPF. By virtue of the application site being outside the Limits to Development, and that residential development on a greenfield site is not a permitted form of development outside these Limits, it is also considered that the development is contrary to Policy S3 of the adopted Local Plan and Policy S3 of the publication version Local Plan.

It is therefore recommended that the application be refused.

### **RECOMMENDATION - REFUSE, for the following reason;**

- 1 The application site is on unallocated greenfield land located outside the limits to development of Coleorton, Swannington and Peggs Green, as defined on the Proposals Map to the adopted North West Leicestershire Local Plan. Policy S3 of the adopted Local Plan and Policy S3 of the publication version Local Plan provide a presumption against non-essential residential development in the countryside with Paragraph 17 of the National Planning Policy Framework (NPPF) indicating that planning should recognise the intrinsic character and beauty of the countryside. Although the scheme

would be considered acceptable in terms of the social and economic strands of sustainable development it would fail the environmental strand as it would adversely affect and diminish the present open character of the site and represent unwarranted development in the rural environment which should be protected for its own sake. On this basis the development would fail to protect or enhance the natural environment. As a consequence to permit the development would be contrary to the environmental strand of sustainability enshrined within the NPPF, as well as Paragraph 17 of the NPPF, Policy S3 of the adopted Local Plan and Policy S3 of the publication version Local Plan.

**Notes to applicant**

- 1 Outline planning permission has been refused for this 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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Hay and agricultural machinery store

Report Item No  
A9

Land To The Rear Of 56 Main Street Swannington Coalville  
Leicestershire LE67 8QN

Application Reference  
16/00743/FUL

Applicant:  
Mr Ray May

Date Registered  
10 June 2016

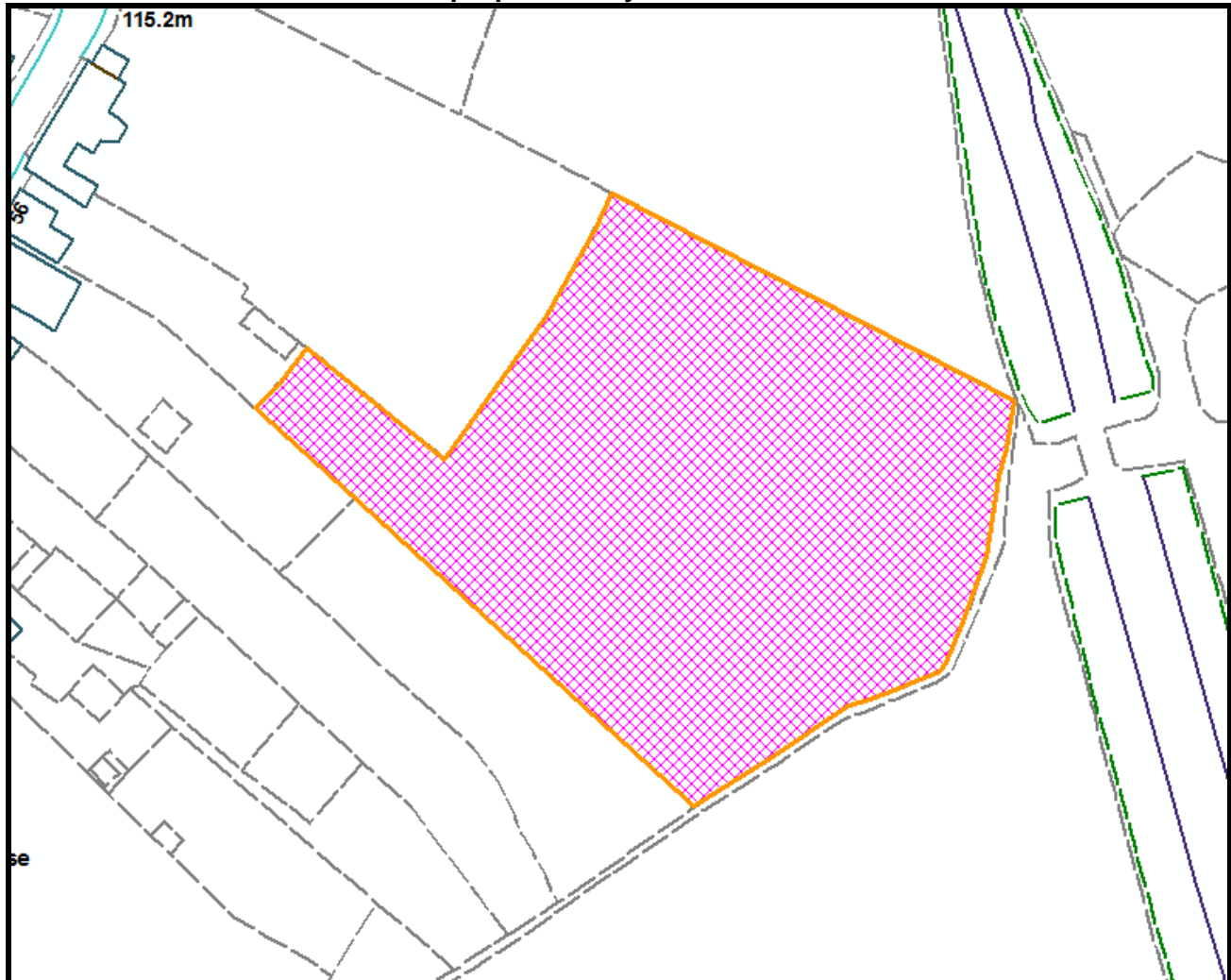
Case Officer:  
Hannah Exley

Target Decision Date  
5 August 2016

Recommendation:  
PERMIT

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**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

Full planning permission is sought for the erection of an agricultural building to be used for the storage of hay on land to the rear of 56 Main Street, Swannington.

The site is located outside the Limits to Development and within land defined as Green Wedge on the North West Leicestershire Local Plan Proposals Map 2002 and is outside the Limits to Development on the Policy Maps to the Publication Version Local Plan.

### Consultations

No letters of neighbour representation have been received but Swannington Parish Council raises concern about the use of the small access for the proposed and existing developments. All other statutory consultees have raised no objections subject to the imposition of conditions on any permission 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 Publication Version of the North West Leicestershire Local Plan and other guidance.

### Conclusion

In conclusion, the NPPF supports the development and diversification of agricultural and other land-based businesses. The site is situated outside the Limits to Development, however the building proposed has been justified to be reasonably necessary for the long term operation of the agricultural holding and would therefore be in accordance with Saved Policy S3 of the Adopted Local Plan, Policy S3 of the Publication Version of the Local Plan and Paragraph 28 of the NPPF. The proposal would not adversely affect or diminish the present open and undeveloped character of the Green Wedge and would accord with Policy E20 of the Adopted Local Plan.

The scheme is not likely to give rise to any significant material impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, heritage assets, highway safety or trees. The proposal would thereby accord with saved Policies S3, E3, E4, E7 and T3 of the adopted Local Plan and Policies D1, D2, IF4 or He1 of the Publication Version of the Local Plan. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

### **RECOMMENDATION - PERMIT, subject to 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

Full planning permission is sought for the erection of an agricultural building to be used for the storage of hay on land to the rear of 56 Main Street, Swannington. Precise measurements of the proposal are available to view on the submitted plans.

The site is located outside the Limits to Development and within land defined as Green Wedge on the North West Leicestershire Local Plan Proposals Map 2002 and is outside the Limits to Development on the Policy Maps to the Publication Version Local Plan.

#### Recent Planning History:

None found.

### 2. Publicity

2 neighbours have been notified (Date of last notification 24 June 2016)

Site Notice displayed 4 July 2016

Press Notice published 29 June 2016

### 3. Consultations

Swannington Parish Council consulted 24 June 2016

County Highway Authority consulted 24 June 2016

Head of Environmental Protection consulted 24 June 2016

NWLDC Conservation Officer consulted 24 June 2016

### 4. Summary of Representations Received

The following summary of representations is provided:

**Swannington Parish Council** raises concern about the use of the small access to the site for both the proposal and the existing dwelling on the site and ask whether the County Highways Authority has been consulted. Otherwise the Parish Council has no objection.

**County Highways Authority** refers the District Council to current standing advice, recommending the imposition of conditions.

**NWLDC Environmental Protection team** raises no objections.

#### Third Party Representations

No third party letters of representation had been received at the time of writing this report.

### 5. Relevant Planning Policy

#### National Planning Policy Framework (NPPF)

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 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 due weight in the determination of this application.

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

Paragraph 14 (Presumption in favour of sustainable development)  
Paragraph 28 (Supporting a prosperous rural economy)  
Paragraph 57 (Requiring good design)  
Paragraph 64 (Requiring good design)  
Paragraph 118 (Conserving and enhancing the natural environment)  
Paragraph 131 (Conserving and enhancing the historic environment)

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

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

Policy S3 (Countryside);  
Policy E3 (Residential Amenity);  
Policy E4 (Design);  
Policy E7 (Landscaping);  
Policy E20 (Green Wedge)  
Policy T3 (Highway Standards)

### **Publication Version North West Leicestershire Local Plan**

On 15 September 2015 the District Council's Full Council approved a draft Local Plan for consultation. That consultation has now ended and the publication version of the Local Plan was agreed by Council on 28th June 2016 with a view to its submission for examination in September 2016. Given the more advanced stage that has now been reached by way of agreement of a Publication Version of the Local Plan, it is considered that more weight can be attached to the following policies:

Policy S3 - (Countryside)  
Policy D1 - (Design of new development)  
Policy D2 - (Amenity)  
Policy IF4 (Transport infrastructure and new development)  
Policy He1 (Conservation and enhancement of North West Leicestershire Historic Environment)

### **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.

### **Other Policy/Guidance**

National Planning Practice Guidance - March 2014.

## 6Cs Design Guide (Leicestershire County Council)

**6. Assessment****Principle of Development**

The overarching principle of the NPPF is to protect the countryside but also to allow sustainable development where appropriate. Paragraph 28 within the NPPF states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should promote the development and diversification of agricultural and other land-based rural business.

Policy S3 of the Adopted Local Plan outlines that development is permitted if it can be demonstrated that the building is essential for the efficient long term operation of agriculture with Paragraph 28 of the NPPF emphasising that planning policies should support economic growth in rural areas which includes, amongst other things, promoting "the development and diversification of agricultural and other land-based rural businesses." Policy S3 of the Publication Version Local Plan also supports small scale employment generating development or farm diversification .

The building would be used in connection with an agricultural holding comprising 31 acres of grassland both owned and let on a long term lease by the applicant in Swannington and Griffydam. The building is required to store hay which currently has to be sold upon harvesting as the applicant does not have a facility to store hay bales. Therefore, the applicant has to sell at harvest time when the hay market is at its lowest price and cannot take advantage of fluctuations through the winter months to attain a better price and make the farming enterprise more profitable. The building would also be used to store a range of agricultural machinery. From the information provided in support of the application, it is clear that the proposed agricultural building would be required for the efficient long-term operation of agriculture, and as such the development is considered compliant with Policy S3 of the adopted Local Plan and Policy S3 of the Publication Version of the Local Plan, as well as Paragraph 28 of the NPPF.

The site also falls within land designated as Green Wedge within the Adopted Local Plan and Policy E20 provides that development that would adversely affect or diminish the present open and undeveloped character of the Green Wedge will not be permitted. The policy identifies agriculture as an appropriate land use and requires built development to be limited to minor structures and facilities which are strictly ancillary to the use of land for this purpose.

The proposed building would be located on land to the rear of No.56 Main Street and would be sited adjacent to an existing building of similar height, and there are other existing developments sited at similar distances from properties fronting Main Street. The proposal would be well related to and would be viewed against the backdrop of the existing development and, therefore, would not appear out of keeping in this location in the context of the wider settlement. Overall, it is not considered that the proposed rural building would adversely affect the present open and undeveloped character of the Green Wedge and therefore, would comply with the provisions of Policy E20 of the Adopted Local Plan.

In summary, there is no in principle objection to the erection of an agricultural building on this agricultural land, subject to all other matters being adequately addressed. These are discussed in turn below:

**Impact on Historic Environment**

Consideration has been given to the design of the development and whether it would have an

acceptable impact upon the setting of a listed building. In determining any planning application, special attention shall be paid to the desirability of preserving listed buildings as set out in sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Paragraph 131 of the NPPF states that planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, that significance can be harmed or lost through alteration or destruction of the heritage assets or development within its setting and any harm or loss should require clear and convincing justification.

No.58 Main Street is a Grade II listed building fronting the public highway with a large garden to the rear. The proposed development would be approximately 45m from the listed building and would be sited on land to the rear of the neighbouring garden. There are existing buildings on intervening land between the site and the listed building and land levels drop gradually from Main Street, such that the proposed building would be lower than the neighbouring listed building. The Conservation Officer has been consulted on the application and has no observations to make with respect to the impact of the proposed development on the setting of the listed building. Overall, it is not considered that the proposed development would adversely affect the setting of this listed building and

On balance, in the wider context of the site, this application would not have any significant impacts on the designated heritage assets owing to its size, scale, design, setting and location within the site. This would therefore accord with Paragraphs 131 & 132 of the NPPF, section 66 of the Listed Buildings and Conservation Areas Act 1990 and Policy He1 (Conservation and Enhancement of the Historic Environment) of the Publication Version of the Local Plan.

**Design:**

Paragraph 17 of the NPPF also states that planning should recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it, and paragraph 109 states that the planning system should protect and enhance valued landscapes.

It is considered that wherever possible, new buildings should be located close to existing buildings or landscape features. The building is to be positioned adjacent to an existing building ensuring that it is viewed in association with and against the backdrop of the existing development within the settlement.

The function of the proposed building has influenced the scale and type of the building and it is considered that it is required for the long term agricultural requirements of the site. The building design will be an open fronted, single span steel portal framed building; the roof proposed to be constructed of plastic coated box profile sheets and the walls proposed to be clad in Yorkshire boarding, which are considered to be common materials in the construction of modern farm buildings.

In summary, the design, appearance and materials of the proposed building reflect the use and functional requirements of the applicant and would not appear out of keeping within this rural setting. It is therefore considered that the proposals do not significantly impact upon the appearance and amenity of the surrounding countryside. As such, the application would accord with Paragraph 61 of the NPPF which states 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, Saved Policy E4 of the Adopted Local Plan and Policy D1 (Design) of the Publication Version of the Local Plan.

### **Impact upon Residential Amenity**

The nearest residential properties that could be affected by the proposals are No.s 54 and 58 Main Street, which both front the public highway with long rear gardens which extend down to the site of the proposed development. The neighbouring dwellings are located over 35 and 45 metres from the proposed building and therefore, the physical building would not give rise to any overlooking, overbearing or overshadowing impacts upon the dwellinghouses. The gardens to these neighbouring properties straddle the application site and the proposal would be sited adjacent to the south-western boundary which is shared with No.54 and is currently occupied by a post and rail fence. The proposed development would extend 18 metres along this boundary and would clearly be visible from the rear garden of No.54. However, when having regard to the length of the garden and the position of the building towards the bottom end of the neighbouring garden, it is not considered that the proposal would result in any significant overbearing impacts that would be detrimental to the amenities of the occupiers of this neighbouring dwelling. Furthermore, the south-westerly position of the garden in relation to the building is such that there would be no significant overshadowing of the neighbouring garden and there would be no additional overlooking as a result of the proposal as the building would restrict views into the neighbouring garden.

The garden to No.58 Main Street is occupied by a 2m high brick wall and the building would be sited away from the boundary. Therefore, glimpses of the proposal building would be visible from the garden above the wall and overshadowing would be limited. As a result, it is not considered that any significant overbearing, overshadowing or overlooking impacts upon this neighbouring property would ensue as a result of the proposal.

Access to the application site would be via an existing domestic access to No.56 Main Street which is owned and occupied by the applicant. Vehicles would pass through the rear garden to this property and therefore, in order to protect the amenities of the occupiers of this dwelling, the proposal would need to be ancillary to the occupation of this dwelling. The side elevation of No.58 abuts the access drive to No.56 and contains two side windows, one at first floor level and one at ground floor which serves an outbuilding connected to the development with external access via the application site. The applicant's agent has provided additional information during the course of the application about vehicular movements to the proposal, and advises that it is expected that there will be 8 movements to and from the site during June-July when hay is brought onto the site and a further 8 during August-February when hay is sold and transported off the site. Outside the haymaking period, a further 4 movements per month can be expected for general grassland maintenance including fertiliser spreading, topping etc. When having regard to the low-key nature of the vehicular movements associated with the proposed development, it is not considered that the noise and disturbance as a result of comings and goings would be significantly detrimental to the amenities of the occupiers of the neighbouring dwellings. Should the proposed building be separated from No.56 Main Street, it is likely that there would be an unacceptable level of disturbance and loss of amenities to the occupiers of this dwelling and therefore, a condition tying the building to the dwelling would be required in the interests of protecting residential amenities.

All other properties along and off Main Street are located further away and the District Council's Environmental Health team have raised no objections.

Overall, it is considered that the development would not have any significant detrimental impact upon the amenity of neighbouring residential properties and the proposal is considered to be

acceptable in relation to Saved Policy E3 of the Adopted Local Plan and Policy D2 (Amenity) of the Publication Version of the Local Plan.

### Highway Considerations

As referred to above, access to the site would be via the existing domestic access to No.56 Main Street and the level of activity, in terms of comings and goings, would be low-key. The application and neighbouring dwellings which front Main Street abut the access drive and the width between these properties varies between 2.9m at the front (due to the presence of a gate post) and 3.2m at the rear in front of the access gates. The development would not impinge on the facilities available within the site for the manoeuvring of vehicles and, as such, any vehicle exiting the site would do so in a forward direction. The Parish Council has been consulted on the application and has raised concern about the small size of the access to the site.

The scheme has been considered by the County Highways Authority who has referred the District Council to 'Standing Advice' and recommends that conditions be imposed relating to the building remaining ancillary and not sold, leased, or otherwise disposed of separately from the agricultural use of the dwelling and the building not being used for any other commercial or business use.

When having regard to the low-key nature of the business that would be operating from the site, and the fact that no highway safety objection has been raised by the County Highways Authority, it is not considered that a highway objection on the ground of the existing access being unsuitable could be warranted in this case.

In terms of the particular stipulations of the County Highways Standing Advice, it is considered that the condition preventing the building being used for commercial purposes would be unreasonable from a highway safety viewpoint in the context of that whilst the Town and Country Planning (General Permitted Development) Order 1995 (as amended) has introduced measures which allow agricultural buildings to be converted to alternative uses, subject to a prior notification process, these rights only apply if the building was built prior to the 3rd July 2012. If the building was constructed after this time then it would need to be used continuously for a period of 10 years before these rights would apply and, in any case, as part of the prior notification procedure highway safety impacts have to be taken into account. The same protocol would also be applicable should the applicant wish to convert the building to a residential dwelling using permitted development rights.

A condition preventing the sale or leasing of the building from the wider agricultural use of the site would also be considered unenforceable given that it would be difficult to demonstrate the difference between different agricultural operations undertaken by tenants, and given the fact that planning permission would be required to utilise the building for any other purpose than agriculture. Currently there is only access to the site through the garden of No.56 Main Street and therefore, in order to prevent loss of amenities to the occupiers of this dwelling, a condition requiring the proposed development to remain ancillary to the occupation of this dwelling would be required. Should ownership change in the future, it would be necessary for an alternative means of access to the site to be found.

For the reasons discussed above, and subject to a condition requiring the building to remain ancillary to the occupation of the existing dwelling, it is not considered that the proposals would have any significant detrimental impact on highway safety accord with Saved Policy T3 of the Adopted Local Plan or Policy IF4 (Transport infrastructure and new development) of the Publication Version of the Local Plan.



**Impact on Trees:**

There are no trees on the site of the proposed development but there is a large Sycamore within the neighbouring garden to the north-east of the site which overhangs the site and could be affected by the proposal. Although a mature specimen, the tree is not protected and therefore, could be removed at any point. There are a number of trees in the rear garden of the neighbouring property and to the rear of the proposed site and therefore, against the backdrop of these trees, should the tree be adversely affected by the proposal, it would not be detrimental to the visual amenities of the locality.

**Conclusion**

In conclusion, the NPPF supports the development and diversification of agricultural and other land-based businesses. The site is situated outside the Limits to Development, however the building proposed has been justified to be reasonably necessary for the long term operation of the agricultural holding and would therefore be in accordance with Saved Policy S3 of the Adopted Local Plan, Policy S3 of the Publication Version of the Local Plan and Paragraph 28 of the NPPF. The proposal would not adversely affect or diminish the present open and undeveloped character of the Green Wedge and would accord with Policy E20 of the Adopted Local Plan.

The scheme is not likely to give rise to any significant material impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, heritage assets, highway safety or trees. The proposal would thereby accord with saved Policies E3, E4, E7 and T3 of the adopted Local Plan and Policies D1, D2, IF4 or He1 of the Publication Version of the Local Plan. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

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

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

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

- 2 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
  - Site Location Plan (Scale 1:1250) received by the Local Planning Authority on 10 June 2016;
  - Drawing ref: FFBMAY-01 (Plan) received by the Local Planning Authority on 10 June 2016;
  - Drawing ref: FFBMAY-02 (Side Elevations) received by the Local Planning Authority on 10 June 2016;
  - Drawing ref: FFBMAY-03 (Typical Gable Elevation) received by the Local Planning Authority on 10 June 2016.

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

- 3 The external materials to be used in the development hereby permitted shall be in strict accordance with those specified in the application unless alternative materials are first

agreed in writing with the Local Planning Authority.

*Reason- To ensure a satisfactory standard of external appearance.*

- 4 The proposed development shall be used in connection with the occupation of No.56 Main Street only.

*Reason- In the interests of protecting residential amenities due to the requirement for access through the curtilage of the existing dwelling.*

**Notes to applicant**

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

## PLANNING COMMITTEE - 2 AUGUST 2016

Title of report	<b>TO CONSIDER CONFIRMING A TREE PRESERVATION ORDER AT WILLESLEY LANE, ASHBY DE LA ZOUCH</b>
Contacts	<p>Cllr Trevor Pendleton 01509 569746 <a href="mailto:trevor.pendleton@nwleicestershire.gov.uk">trevor.pendleton@nwleicestershire.gov.uk</a></p> <p>Planning and Development Team Manager 01530 454668 <a href="mailto:chris.elston@nwleicestershire.gov.uk">chris.elston@nwleicestershire.gov.uk</a></p> <p>Tree Officer 01530 454683 <a href="mailto:julian.simpson@nwleicestershire.gov.uk">julian.simpson@nwleicestershire.gov.uk</a></p>
Purpose of report	To consider the objections lodged by the Trustees of the J.C. Wheatley Will Trust in respect of the provisional Tree Preservation Order made on 26 February 2016.
Reason for decision	The TPO needs to be confirmed within six months. Trees will lose their protection if not confirmed within six months.
Council Priorities	Green Footprints
Implications	None
Financial/Staff	None
Link to relevant CAT	None
Risk Management	None
Equalities Impact Screening	Equality Impact Screening already undertaken, issues identified actioned.
Human Rights	Under the Human Rights Act, Article 8, there is a right to respect for private and family life, the home and correspondence. The making of a Tree Preservation Order potentially impacts on that right. However, in this case it is considered that the making of the Order is justified in the public interest.

Transformational Government	None
Comments of Head of Paid Service	The report is satisfactory
Comments of Deputy Section 151 Officer	The report is satisfactory
Comments of Deputy Monitoring Officer	The report is satisfactory
Consultees	People with a legal interest in the land affected by the Order have been consulted and members of the public were consulted by the placing of site notices.
Background papers	On file
Recommendations	<b>THAT THE TPO BE CONFIRMED</b>

## 1.0 INTRODUCTION AND BACKGROUND

The Council has received a request to make a Tree Preservation Order in respect of two mature Lime trees located in a hedgerow at Willesley Lane to the west of 28 Wells Road. The trees are located at the entrance to Ashby de la Zouch, they are in fair condition with a life expectancy of 40-100 years. They are large, of good form and prominent but with no other special factors.

A TEMPO (Tree evaluation method for preservation orders) assessment has been carried out and it is considered that the two trees meet the criteria to merit protection by a Tree Preservation Order.

TEMPO assessments are carried out to show a consistency of approach by the Local Planning Authority. Both trees scored sufficiently and were assessed for condition, life expectancy, visibility, impact, rarity, form, age, historic importance, cohesion and expediency.

A provisional TPO was made on 26 February 2016.

To provide continued protection the TPO needs to be confirmed before 26 August 2016.

Other trees on the site were assessed but found not to merit protection by TPO.

## **2.0 OBJECTIONS AND OFFICER COMMENTS**

### **2.1 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.

One letter of objection has been received from the Trustees' agent. Trustees are of the opinion that the trees in question are not of sufficient importance to be worthy of protection.

### **2.2 Officer Observations**

The TEMPO appraisal carried out is consistent with the method used for all other TPO requests and the TPO was made in accordance with planning requirements.

The TEMPO assessment takes into account public visibility, individual impact and wider impact.

The trees are located in the roadside hedgerow at the entrance to Ashby de la Zouch, they are prominent, large and of good form, with a life expectancy that should make a significant contribution to local amenity and character in years to come. The trees would benefit from some remedial tree surgery but removal would have a significant impact on the local environment and its enjoyment by the public.

The poor condition and limited safe life expectancy of other trees assessed at this site, increases the importance of the two Lime trees.

The trees were previously proposed to have been felled in connection with a scheme for residential development on the site (planning application ref. 14/00520/FULM); that application was refused a subsequent appeal dismissed. The applicant's own arboricultural survey submitted at that time considered that both trees were worthy of retention and therefore it is considered that the two trees do merit protection by Tree Preservation Order.

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