

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

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

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

AGENDA

Item	Pages
1. APOLOGIES FOR ABSENCE	
2. DECLARATION OF INTERESTS	
Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
3. MINUTES	
To confirm and sign the minutes of the meeting held on 2 August 2016	3 - 14
4. PLANNING APPLICATIONS AND OTHER MATTERS	
Report of the Head of Planning and Regeneration.	15 - 18



Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	<p>15/00966/VCUM: Variation of condition 2 to 13/00183/FULM to amend house and garage types in addition to landscaping, boundary treatments and levels</p> <p>Land Off Measham Road Moira Swadlincote Derby DE12 6AA</p>	PERMIT Subject to a Section 106 Agreement	19 - 38
A2	<p>16/00568/FUL: Agricultural storage building and driveway</p> <p>Land East Side Of Austrey Lane Appleby Parva Derby</p>	PERMIT	39 - 50
A3	<p>16/00558/OUT: Erection of two dwellings with associated garages including the creation of a new vehicular access (Outline application access and layout for approval)</p> <p>Land Adjacent To The Cottages Stoney Lane Coleorton Leicestershire</p>	REFUSE	51 - 64
A4	<p>16/00683/FUL: Erection of one dwelling</p> <p>Ivy House Nottingham Road Peggs Green Coleorton Coalville Leicestershire LE67 8HN</p>	PERMIT	65 - 74
A5	<p>16/00612/OUT: Erection of one self-build dwelling (outline - all matters reserved)</p> <p>Land At Babelake Street Packington Ashby De La Zouch Leicestershire LE65 1WD</p>	Permit Subject to a Section 106 Agreement	75 - 86

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 2 AUGUST 2016

Present: Councillor D J Stevenson (Chairman)

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

In Attendance: Councillors G A Allman, T Gillard, S McKendrick, T J Pendleton and V Richichi

Officers: Mr C Elston, Mrs C Hammond, Mr J Knightley, Mr J Mattley, Mr J Newton and Miss S Odedra

21. APOLOGIES FOR ABSENCE

Apologies were received from Councillors R Canny, R Johnson, V Richichi and N Smith.

Councillor A C Saffell informed Members that Councillor R Canny had undergone minor surgery and requested that a get well soon card be sent from the committee.

22. DECLARATION OF INTERESTS

Before Members declared their interests the Legal Advisor stated the following:-

Before Members declare their interests in the applications being heard at this committee, I would just like to remind Members of the advice that was provided at the previous committee in respect of the Money Hill application, application A1 of the agenda. Some members were advised that they had a non-pecuniary interest in that matter due to them being members of the Labour Party and, therefore, if they came to the meeting with an open mind, were entitled to remain and take part in the decision-making on that matter. Despite this advice, some concerns were raised about their involvement in the process and they chose to leave when the item was considered having declared a pecuniary interest.

To clarify the position I can confirm that those members have again been advised that they have a non-pecuniary interest only. It is for each member to decide what interests they need to declare but should they choose to do so, my advice is that they can declare a non-pecuniary interest in item A1 providing they come to this committee and hear the application with an open mind.

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

Councillor R Adams and Councillor D Everitt declared a non-pecuniary interest in item A2, application number 14/00933/OUTM as members of Whitwick Parish Council.

Councillors R Adams, D Everitt and J Legrys stated that they had a non-pecuniary interest in item A1 due to being members of the Labour party and that they had come with an open mind and confirmed that they shall reach a decision based solely upon the information that they heard on the night and had read. They stated that they did declare a pecuniary interest in that application at the last committee although they had received advice that they only had a non-pecuniary interest. However, due to concerns that had been raised and the fact they had little time to consider their position, they felt the best option was to declare a pecuniary interest and take no part in the matter. Having received additional legal advice and had more time to consider their position, they were satisfied that their interest amounted only to a non-pecuniary interest and, therefore, they intended to remain and participate in the debate.

Councillor J G Coxon, declared a non-pecuniary interest in items A1, application number 15/00512/OUTM and A5, application number 15/00732/FULM as a member of Ashby Town Council.

Councillor J Houlton and G Jones declared a non-pecuniary interest in item A5, application number 15/00732/FULM as members of Ashby Town Council.

Councillor D Harrison declared a non-pecuniary interest in item A5, application 15/00732/FULM as the applicant was his son-in-law and stated that he would leave the meeting for the consideration of the item.

Councillor M Specht declared a pecuniary interest in item A6, application number 16/00562/OUT as a close associate of the applicant and a non-pecuniary interest in items A7, application number 16/00544/FUL and A8, application number 16/00311/OUT as a member of Coleorton Parish Council.

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

Item A1, application number 15/00512/OUTM

Councillors R Adams, R Ashman, R Boam, J Bridges, J Cotterill, J G Coxon, D Everitt, D Harrison, J Houlton, G Jones, J Legrys, P Purver, A C Saffell, M Specht, D J Stevenson and M B Wyatt

Item A2, application number 14/00933/OUTM

Councillors R Adams, R Ashman, R Boam, J Bridges, J G Coxon, D Everitt, J Legrys, D J Stevenson and M B Wyatt

Item A3, application number 15/00951/OUTM

Councillors R Adams, R Ashman, J Legrys and M Specht

Item A5, application number 15/00732/FULM

Councillors J Cotterill and D J Stevenson

Item A6, application number 16/00562/OUT

Councillor M Specht

Item A7, application number 16/00544/FUL

Councillors R Boam and M Specht

Item A8, application number 16/00311/OUT

Councillors R Boam and M Specht

23. MINUTES

Consideration was given to the minutes of the meeting held on 5 July 2016.

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

RESOLVED THAT:

The minutes of the meeting held on 5 July 2016 be approved and signed by the Chairman of as a correct record.

24. PLANNING APPLICATIONS AND OTHER MATTERS

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

The Chairman advised the Members that item number A3, application number 15/00951/OUTM had been withdrawn from this meeting and therefore would not be considered.

25. A1

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

The Head of Planning and Regeneration presented the report to Members. He reminded Members that an almost identical application, save for the access arrangements via numbers 3 and 5 Nottingham Road, was permitted at appeal and the new application sought to provide a new access, with egress for the care home, car park, and up to 100 homes only onto Nottingham Road.

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 the proposal in front of them most certainly would.

Mrs M Tuckey, representing the Town Council, addressed the committee. She advised Members that the Town Council objected to the development on the grounds that it was not sustainable, outside the Limits to Development, it would add to an already congested Nottingham Road and that the proposed access was in close proximity to the school. She acknowledged that the site was included in the draft local plan and neighbourhood plan, but stated that the Town Council had grave concerns over the safety of the pupils at the school. She urged the Members to refuse the application

Before addressing the committee, Ms L Titley sought clarification from officers on the proposal in front of Members in relation to the accesses.

The Head of Planning and Regeneration clarified that all would be able to access the site from both Nottingham Road and the A511 but only the 100 homes in phase one and visitors to the care facility and the car park would be able to exit onto Nottingham Road. All other residents would have to exit the site on to the A511.

Ms L Titley, objector, addressed the committee. She expressed concerns over the number of additional vehicles that would be using the access on to the development from Nottingham Road that was already congested. She also questioned why Ashby required another car park, which would also add to the high traffic volume in the area and asked why a Park and Ride scheme could not be considered. She highlighted that the proposed re-location of the bus stop, the nearby brow and inconsiderate driving of users of Nottingham Road could lead to many accidents. She felt that the development should be accessed off the A511 only and that it should not be permitted under pressure, but on what was right and safe.

Mr I Anderson, agent, addressed the committee. He advised Members that the consortium had an excellent working relationship with all partners and considering the scale of the development they had good duty of care. He informed Members that due to the size of the proposal the development would contribute a great deal to the Town including the provision of an additional car park. He stated that the proposed access would help to secure phase one of the development. He highlighted that there were no technical objections to the application and it was recommended approval.

Councillor M B Wyatt stated that he could not support the development and moved that the application be refused on the grounds that it was outside the Limits to Development and highways concerns. It was seconded by Councillor J Hout.

Councillor J Bridges stated that it was a difficult decision to be made by the committee, however a previous application had been granted by way of national and local policies at appeal. He highlighted to Members that he could not think of a reason to refuse the application and that there were no objections from technical experts. He added that morally he could not support the application and would prefer for the access road to be from the A511, but as there was no sound reason to refuse he would have to support the application. He stated that should the matter proceed to an appeal, the council would lose as the council would not be able to provide a reason for refusal which would stand up in front of an inspection.

Councillor G Jones stated that he was in a difficult situation as he was in favour of a new care facility for the town and car park, but could understand the concerns over safety and highways issues on Nottingham Road.

The Head of Planning and Regeneration advised Members that the Highway Authority, and the independent expert who he had approached, had each concluded that the impact of the access would not be severe, he reminded Members that the site was included in both the Publication draft Local Plan and Submission draft Neighbourhood plan, that impact on property values could not be taken into consideration, and clarified that Members were being asked to consider the access only as the principle of the development had already been established.

Councillor J Legrys stated that the committee was stuck between a rock and a hard place as the 605 homes had already been approved by the Secretary of State and the only issues to be discussed were the proposed access and traffic concerns. He stated that the site was in the previous Core Strategy and in the draft Local Plan that was moving forward. He stated that the principle of development had been the Council's will. He expressed concerns that the additional access had not been thought through well enough and that many of the residents would feel imprisoned as they would not be able to get out of the site and that he was not happy with the junction.

Councillor D Harrison shared the concerns raised and felt that it was an awful project to join Nottingham Road as even though it was only 100 homes that could exit, it could be 200 vehicles therefore more than 400 vehicle movements a day as all of the 605 homes could be accessed off Nottingham Road. He asked if the committee could just reject the

junction or would they have to refuse the whole application. He felt that there had been very little consultation in the proposed junction.

The Head of Planning and Regeneration stated that the application in front of them was for the whole site, the only difference being the access off Nottingham Road. He reminded Members that the site had permission in principle and therefore refusal on the grounds of being outside Limits of Development would not be a defensible reason for refusal, and reiterated that it was only the access arrangement via numbers 3 and 5 Nottingham Road that was for consideration.

Councillor D Harrison stated that the committee was being conned as the developer knew that the 605 homes had approval and that if the committee was to refuse the whole district would have to foot any costs awarded at appeal.

The Head of Planning and Regeneration stated that the Highways authority felt that the new access was the preferable option and that it was difficult to have restrictions if an application had been made relating solely to the access. He advised Members that refusing on highways grounds at appeal would be difficult to defend, and that when he had asked the independent consultant whether he would assist the Council in the event that the application was not approved and was subject to appeal, the response had been a resounding "no".

Councillor J Hoult asked if the Inspector had put both sites together as there had been mention of the access for 30 dwellings off Woodcock Way and then the stand alone development if 70 homes off Woodcock Way.

Councillor M Specht stated that many of the vehicles leaving the development would not drive into the town centre, but out of Ashby and that the sole access should be off the A511. He reminded Members that the Inspector had considered an application for no more than 30 dwellings could access off Woodcock Way and the rest off the A511.

In response to Members comments, the Head of Planning and Regeneration confirmed that the 70 homes scheme was separate to the application before them, and to the previous 605 application, being the Miller Homes scheme.

Councillor A C Saffell stated that he agreed with all his fellow Members and felt that it was a difficult decision to be made. He raised concerns about the increase of traffic on Nottingham Road and questioned why the developers could not start at the by-pass end as it would be easier for the construction traffic to access.

Councillor D J Stevenson stated that applicant had been debating the application for 10 years and that had they gone in from the by-pass end the development would be half built. He advised Members that the £150k at appeal would be a minimum and that as the reasons were so weak no one would represent the authority. He expressed that in his 40 years of being a Councillor the proposed development was the worst planning he had ever experienced. He questioned why the developers had not started at the top end of the site and added that he could not expect the whole district to bear the costs. He requested a recorded vote.

Councillor J G Coxon stated that permitting the development would unlock the door for others. He agreed that the development should be started from the A511 and that it was not the authority's fault that the consortium could not afford to build. He added that he had lived in Ashby for over 60 years and that local knowledge should be taken into account. He expressed concerns that there was no master plan for the site and stated that he could not support the application.

The Head of Planning and Regeneration warned Members that the applicant had indicated that they would appeal if the committee were minded to refuse, and that the appeal would be on the basis of egress from 150 homes as described in the application form, and not 100 homes as under consideration by the committee. He added that the council would bear significant costs, in that event, and clarified that he had a responsibility to protect the council by warning the committee in this manner.

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

For the motion:

Councillors J G Coxon, J Hout, G Jones, J Legrys, A C Saffell and M B Wyatt(6).

Against the motion:

Councillors R Adams, R Ashman, R Boam, J Cotterill, D Everitt, D Harrison, P Purver, M Specht and D J Stevenson(9).

Abstentions:

Councillor J Bridges(1).

The motion to refuse that application on the grounds that application was outside the Limits to Development and on highways grounds was LOST.

The officer recommendation was moved by Councillor J Legrys, seconded by Councillor J Bridges.

For the motion:

Councillors R Adams, R Ashman, J Bridges, R Boam, J Cotterill, D Everitt, D Harrison, P Purver, M Specht and D J Stevenson(10).

Against the motion:

Councillors J G Coxon, J Hout, G Jones, J Legrys, A C Saffell and M B Wyatt(6).

Abstentions:

None (0).

RESOLVED THAT:

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

26.

A2

14/00933/OUTM: RESIDENTIAL DEVELOPMENT OF UP TO 7 DWELLINGS (INCLUDING THE RETENTION OF NO.191 LOUGHBOROUGH ROAD) (OUTLINE - DETAILS OF PART ACCESS INCLUDED)

191 Loughborough Road Whitwick Coalville Leicestershire LE67 5AS

Officer's Recommendation: PERMIT

The Planning and Development Team Manager presented the report to Members and read out a letter that had been received after publication of the update sheet.

Councillor T Gillard, adjacent ward member, addressed the committee. He stated that this was the fourth time an application had been submitted on the site, previous applications having been refused. He informed Members that the site was not sustainable as there was no bus route and no amenities, with a 30 minute walk to the nearest shop and bus stop. He highlighted that the development was outside the Limits to Development and that the application across the road had been refused. He reminded Members that when the

application across the road had been considered grave concerns had been raised over traffic issues such as speeding and he also expressed concerns over the flooding a few months previous and that the development would add to the water drainage issues that already existed. He urged the Members to refuse the application.

Mr F Duncombe, objector, addressed the committee. He informed Members that the application was not sustainable as it was a mile up a steep road and the residents of the new development would need to rely heavily on cars. He reminded Members that they had refused the application opposite to the one before them on the grounds that it was unsustainable and that the application before them was further away from the village centre. He highlighted that under the emerging Local Plan the site would be outside the Limits to Development, that 191 Loughborough Road had flooded in June and the dwellings would be visible to other residents. He asked the committee to refuse the application.

Mr R Woodward, on behalf of Whitwick Parish Council, addressed the committee. He highlighted to Members that the previous applications on the site had been refused, that the land rises and there was an inaccuracy as there were no dwellings behind the proposed site. He stated that the Parish Council had listed a number of objections as the site would be outside the Limits to Development and as Members had seen photos of the recent flooding added that the area would be exacerbated. He felt that the access was not suitable and there were several protected trees on the site. He queried as to why the existing dwelling was being left to dereliction. He urged the committee to refuse the application for all the reasons that had been stated.

Mr S Clarke, agent, addressed the committee. He reminded Members that each application should be considered on their own merits. He highlighted to the committee that officers were confident that there would be no adverse impact on the area, they were happy with the design and that there had been no technical objections to the application. He informed Members that local policy stated that developments should have a density of 40 dwellings per hectare as a maximum and the application was for 7 dwellings rather than the previous application for 34. He advised Members that there were no valid reasons to refuse the application and urged the Members to support the officer's recommendation.

Councillor R Adams moved that the application be refused on the grounds that that it was outside the Limits to Development, highways concerns and unsustainable location. It was seconded by Councillor D Everitt.

Councillor R Boam sought clarification from officers in relation to the access mentioned off Swannymote Road by the speakers and would the 6 dwellings currently inside the Limits to Development still be inside under the emerging Local Plan.

The Planning and Development Team Manager stated that the only proposed access was off Loughborough Road and that there would only be an access gate off Swannymote Road, and in relation to the Limits to Development in the adopted Local Plan the 6 dwellings were currently in and in the emerging Local Plan they would be outside.

Councillor J Legrys stated that he was not in favour of the application having seen photos of nearby properties following the recent flooding. He also expressed concerns that even though the 6 dwellings were currently within Limits to Development under the emerging Local Plan they would be out and felt that there should be definable areas of separation between urban and rural Whitwick. He highlighted that the area was in the SSSI and wildlife trust land and that the authority needed to ensure that the boundary was in the right place which it was now.

Councillor D Everitt expressed concerns that once again the countryside was to be blighted when there were Brownfield sites that could be developed and that should the application before them be permitted than an application would come back for the site opposite. He advised Members that vehicles came down the road into Whitwick at speed and left it until the last minute to reduce their speed. He felt that the development would destroy what was a beautiful part of the countryside and expressed concerns that the additional dwellings would make the flooding issues worse. He supported the motion to refuse the application.

Councillor R Ashman stated that as it stood the application was inside the Limits to Development, that issues or concerns that had been raised had been addressed, that the development would not be visible from the road and that it was a derelict site. He supported the officer's recommendation to permit.

Councillor D Harrison concurred with Councillor R Ashman adding that things were altering in planning constantly and that the site was semi derelict and may have become too hard to maintain. He added that the nation needed more homes, and that he supported the officer's recommendation to permit the application stating that it was lovely living in the countryside and the development would mean 6 to 7 families enjoying the countryside

The Head of Planning and Regeneration stated to Members that having considered the reasons for refusal he would advise that the application may be defensible on the basis that part of the site was outside the Limits to Development and the potential visual impact being harmful to the countryside.

The mover and seconder agreed to the reasons.

In response to comments made by Councillor A C Saffell, the Head of Planning and Regeneration stated that any new developments could not make any flooding issues worse and that they should improve the surface water runoff rate by 20%, resulting in improved water retention on the site. Therefore, by developing, it should in fact be improving the surface water flood risk profile of the land.

The motion to refuse the application on the grounds that it was outside the Limits to Development and it would have a detrimental visual impact was put to the vote and LOST.

The officer recommendation was moved by Councillor J Bridges, seconded by Councillor R Ashman and

RESOLVED THAT:

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

The Committee adjourned at 6.20pm and resumed at 6.25pm.

**27. A4
16/00542/OUTM: RESIDENTIAL DEVELOPMENT OF UP TO 16 DWELLINGS AND ASSOCIATED INFRASTRUCTURE (OUTLINE - MEANS OF ACCESS FOR APPROVAL)**

Land At Worthington Lane Newbold Coalville Leicestershire

Officer's Recommendation: REFUSE

The Principal Planning Officer presented the report to Members.

Mr A Hasler, objector addressed the committee. He advised Members that the village was only a small settlement and was unequipped to handle a development of that size. He stated that the pub was only small, the village school was oversubscribed, there was limited public transport options and there were no other day to day services. He stated that residents of the new development would have to rely on private motor vehicle which would be contrary to both national and local green policies. He added the site was Greenfield and that the development would have a detrimental visual impact on the village and intrinsic views.

Mr A Large, agent, addressed the committee. He stated that each application should be considered on its own merits, there was a presumption in favour of development and that the officer accepted that the development would enhance the village. He informed Members that he disagreed that the development fell short of the environmental strand and that the development was sustainable as the village had many services such as a bus service, a school, a pub and a large playing field, that there were jobs advertised at local businesses and that a new development at the site in front of them would help to sustain services in the surrounding villages. He further stated that the local school had been threatened with being placed in special measures and that the S106 contributions secured by the development would help to improve it. He highlighted the number of letters in support of the application and urged Members vote against refusal.

Councillor J Bridges moved that the application be permitted as the location was sustainable.

Councillor R Adams stated that the hourly bus service would become a two hourly service as of September.

Councillor J Legrys seconded Councillor J Bridges' motion to permit the application, adding that even with a two hourly bus service the village was in a better position than others and with the mix of housing that would be available it would make the village more sustainable.

Councillor M Specht stated that there were more supporters of the application than objecting and when looking at the application the layout rounded off the village. He highlighted that the proposal would meet the golden triangle of sustainability as outlined in the NPPF. The location has limited services but was supported by surrounding villages with other services. He added that the mix of dwellings on the proposed development would help to sustain the village.

Councillor D J Stevenson stated that the application was in his ward and having seen the hedge around the site the development would not overlook. He informed the committee that he had lived in the area for 70 years and the village was more sustainable than ever with many employment opportunities, adding that the Post Office at Worthington supported the application.

RESOLVED THAT:

The application be permitted as it was a sustainable location with imposition of conditions and negotiation of a Section 106 agreement delegated to the Head of Planning and Regeneration.

- 28. A5**
15/00732/FULM: DEMOLITION OF EXISTING MILL AND ASSOCIATED BUILDINGS AND ERECTION OF 19 NO. DWELLINGS AND ASSOCIATED WORKS.
 Holywell Mill Burton Road Ashby De La Zouch Leicestershire LE65 2LL

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

Having declared a non-pecuniary interest in this item, Councillor D Harrison left the meeting for the consideration of the item and took no part in the discussion or voting thereon.

The Principal Planning Officer presented the report to Members.

The officer recommendation was moved by Councillor G Jones and seconded by Councillor J G Coxon.

Councillor J Legrys stated that it was an excellent application and that the mill had become an eyesore, possibly due to the building having gone beyond repair. He hoped that all the wildlife was relocated appropriately.

Councillor J G Coxon stated that whilst the loss of the building such as the mill would be a shame he felt that the number of dwellings was sufficient for the site and that the residents of the cottages nearby suffered with the heavy traffic and dust generated from the businesses. He felt that residential units better served the site but did not want to see a further application for more residential units.

Councillor D Everitt agreed that the application was good but expressed concerns over the lack of affordable homes on the site.

RESOLVED THAT:

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

Councillor D Harrison returned to the meeting.

- 29. A6**
16/00562/OUT: RESIDENTIAL DEVELOPMENT OF THREE DWELLINGS WITH FORMATION OF NEW VEHICULAR ACCESS ONTO TOP ROAD (OUTLINE APPLICATION ACCESS AND LAYOUT FOR APPROVAL)
 Land At Top Road Griffydam Leicestershire

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

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

The Principal Planning Officer presented the report to Members.

The officer recommendation was moved by Councillor D J Stevenson, seconded by Councillor J Bridges and

RESOLVED THAT:

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

Councillor M Specht returned to the meeting

**30. A7
16/00544/FUL: ERECTION OF DETACHED DWELLING WITH ASSOCIATED
DETACHED GARAGE**

Land To The Rear Of George Inn Loughborough Road Coleorton Coalville Leicestershire
LE67 8HF

Officer's Recommendation: PERMIT Subject to Section 106 Agreement

The Principal Planning Officer presented the report to Members

The officer recommendation 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.

**31. A8
16/00311/OUT: ERECTION OF TWO DETACHED DWELLINGS AND GARAGES
(OUTLINE - ACCESS AND LAYOUT INCLUDED)**

Land Adjacent To Wilford House Loughborough Road Coleorton Coalville Leicestershire
LE67 8HH

Officer's Recommendation: REFUSE

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

Councillor D J Stevenson stated that the application had been deferred to allow the
original reason for refusal to be considered further and an amenable conclusion had now
been drawn and therefore the application should be permitted. It was seconded by
Councillor R Boam.

RESOLVED THAT:

The application be permitted with imposition of conditions delegated to the Head of
Planning and Regeneration

**32. A9
16/00743/FUL: HAY AND AGRICULTURAL MACHINERY STORE**

Land To The Rear Of 56 Main Street Swannington Coalville Leicestershire LE67 8QN

Officer's Recommendation: PERMIT

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

The officer recommendation 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.

33. TO CONSIDER CONFIRMING A TREE PRESERVATION ORDER AT WILLESLEY LANE, ASHBY DE LA ZOUCH

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

By affirmation of the meeting it was

RESOLVED THAT:

The TPO be confirmed.

Councillor M B Wyatt left the meeting at 6.20pm.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 6.57 pm

APPENDIX B

**Report of the Head of Planning and Regeneration
To
Planning Committee
6 September 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.

Variation of condition 2 to 13/00183/FULM to amend house and garage types in addition to landscaping, boundary treatments and levels

Report Item No
A1

Land Off Measham Road Moira Swadlincote Derby DE12 6AA

Application Reference
15/00966/VCUM

Applicant:

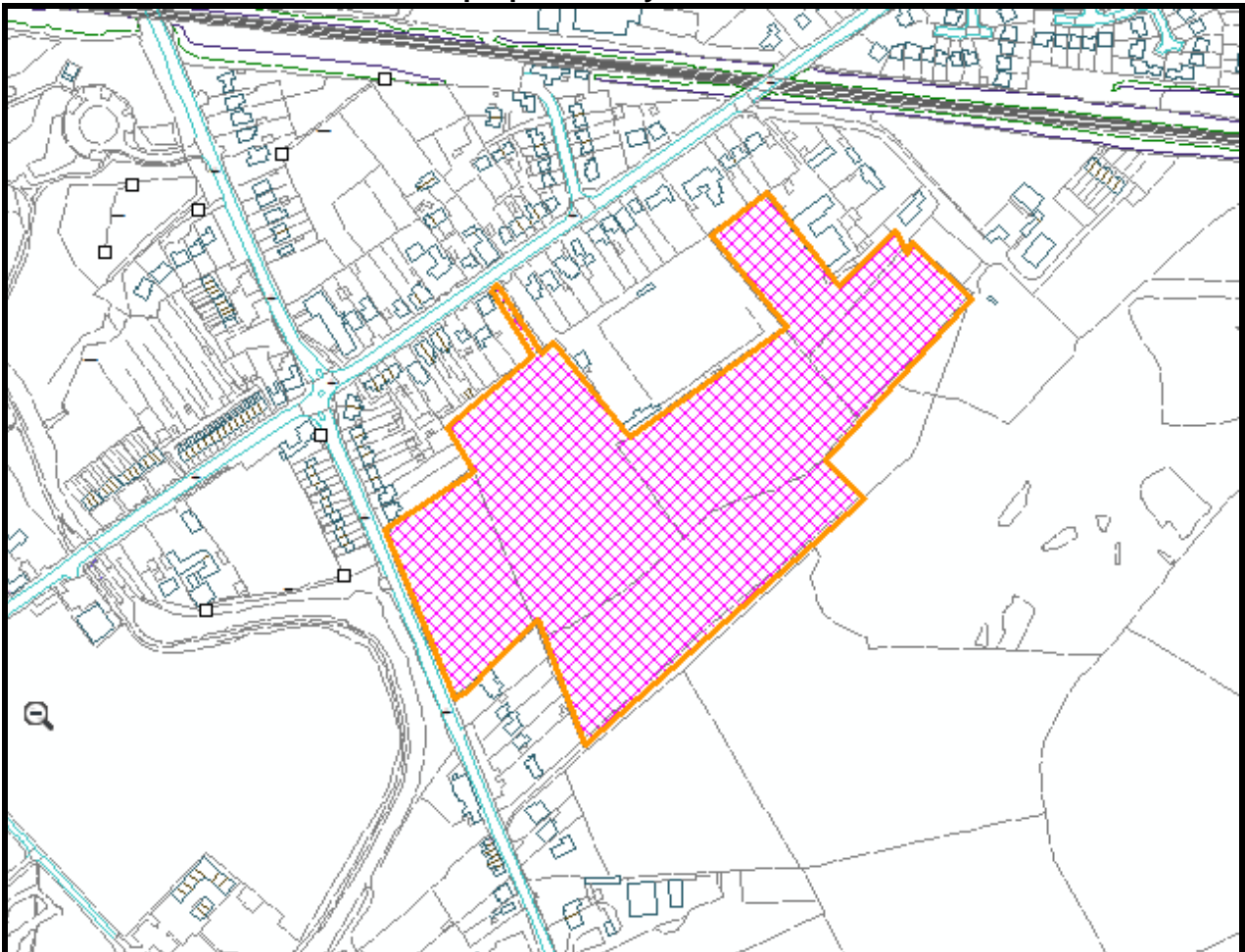
Date Registered
1 October 2015

Case Officer:
James Mattley

Target Decision Date
31 December 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

Planning permission is sought for the variation of condition 2 of planning permission 13/00183/FULM to amend house and garage types in addition to landscaping, boundary treatments and levels at land off Measham Road, Moira.

Consultations

Members will see from the report below that objections have been received from surrounding neighbours and from the Parish Council. No other objections have been received from any other statutory consultees.

Planning Policy

The sole issue in the determination of this application is whether the scheme would be acceptable when having regard to the changes that are now proposed. Relevant policies in relation to the changes proposed are set out in the NPPF, the Council's adopted Local Plan and the publication version North West Leicestershire Local Plan.

Conclusion

The principle of this development has already been established by the granting of planning permission 13/00183/FULM. The amended proposal is not considered to have any significant detrimental design impacts or result in impacts upon existing residents. In respect of flooding and drainage, the concerns of the Lead Local Flood Authority (LLFA) and the Environment Agency (EA) have now been satisfactorily addressed and both consultees raise no objection to the scheme on flooding or drainage grounds and the scheme is considered acceptable in this regard. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the adopted Local Plan, publication version North West Leicestershire Local Plan and the advice in the NPPF.

Therefore, it is recommended that the application be permitted.

RECOMMENDATION:- PERMIT

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

MAIN REPORT

1. Proposals and Background

This is a full application to vary condition 2 of planning permission 13/00183/FULM since the proposal comprises substitution house and garage types on various plots within the site as set out in the application cover letter. The house and garage type substitutions would also result in alterations to the landscaping and boundary treatment layouts considered as part of the application and associated discharge of condition process. Alternative plans have been submitted in relation to those aspects as part of this application to vary condition 2 of the original permission. The scheme also proposes that the finished floor levels of some plots would be amended. The applicants indicate that such amendments are required to tie into the existing road, detailed design levels and existing topography and to ensure that access is provided in accordance with Part M of the Building Regulations 2010.

Planning History

An application in 2012 for 99 dwellings and a small retail store (12/00631/FULM) was going to be considered by Planning Committee, with a recommendation for approval, but was withdrawn prior to the meeting. A subsequent reduced scheme for 80 dwellings and a small retail store (13/00183/FULM) was submitted and was considered by Planning Committee, with a recommendation for approval. It was agreed to approve the application subject to conditions and a S106 legal agreement which was subsequently completed and the decision issued. All pre-commencement conditions relating to the 2013 application have been discharged.

2. Publicity

85 neighbours have been notified (date of last notification 23 May 2016)

Site Notice displayed 16 October 2015

Press Notice published 14 October 2015

3. Consultations

Ashby Woulds Town Council consulted 5 October 2015

County Highway Authority

NWLDC Urban Designer

LCC Flood Management

Environment Agency

4. Summary of Representations Received

Representations

Ashby Woulds Town Council - supports residents objections to the proposal.

Natural England - no comments received.

Environment Agency - no objection.

LCC Ecology - no objection.

Lead Local Flood Authority - no objection.

National Forest Company - no objection.

Third Party Representations

Eighteen letters of representations raising concern and objection have been received and the comments can be summarised as follows:

- There are coalfield legacy issues relating to the site;
- Abandoned mines get flooded and then leak;
- There is continuous flooding and silting up at the bottom of the site;
- The site drainage will potentially impact on water levels at Moira Furnace;
- The number of surface water holding ponds would be reduced depending on the drawing interpretation and as a result the site surface water holding capacity would be significantly reduced and could be contrary to the original Flood Risk Assessment;
- Will a new flood risk assessment be required?;
- There has been negligible flow rate through the current drainage system which reasonably leads to the opinion that the fields are acting as a soakaway which will not be the case when the area is covered by roadways and houses;
- Effect on surface ground water;
- The proposed revised heights of dwellings would be intrusive, unsightly and overbearing;
- Dwellings would cause overlooking;
- The traffic flow along Measham Road is unacceptable;
- Properties should be 2 storey instead of 2.5 storey;
- Right to light issues;
- Impact upon Human Rights;
- Significant impact upon the local environment.

5. Relevant Planning Policy

The following planning policy is considered relevant to the determination of this planning application.

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 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 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 S1 - Overall Strategy;
 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 T20 - Airport Safeguarding;
 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

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
- S3 - Countryside
- D1 - Design of new development
- D2 - Amenity
- IF1 - Development and Infrastructure
- IF2 - Community and Cultural Facilities
- IF4 - Transport Infrastructure and new development
- IF7 - Parking provision and new development
- En1 - Nature Conservation
- En2 - River Mease Special Area of Conservation
- En3 - The National Forest
- Cc2 - Water - Flood risk
- Cc3 - Water - Sustainable Drainage Systems

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.

6. Assessment

Principle of Development

The principle of this development has already been established by the granting of planning permission 13/00183/FULM. The sole issue in the determination of this application is whether the scheme would be acceptable when having regard to the changes that are now proposed to the plans and detailed within the 'Proposals and Background' section of this report.

Flood Risk and Drainage

There have been continuing concerns of local residents in respect of coalfield legacy issues and, since works began on site in respect of 13/00183/FUL, pooling water on the site. These have been and continue to be dealt with under separate complaints, and negotiation, processes in conjunction with relevant statutory consultees. It should be noted that this proposal relates only to design changes and changes to levels across some parts of the site and these are the only matters which can be considered as part of this application. Clearly the alterations to the design of the dwellings would have no impact on Flood Risk and Drainage and, therefore, the key issue is whether the revised land levels on the site would result in flood risk and drainage concerns. To consider this issue fully the Local Planning Authority have consulted both the Environment Agency and the Lead Local Flood Authority (LLFA).

In respect of the LLFA they originally objected to the revised application as the proposed

changes to the finished floor levels did not assess the impact from a flood risk perspective. The LLFA requested additional information to demonstrate that the properties are appropriately mitigated from the flood risk including from groundwater flooding. Peveril Homes provided this additional information to the LLFA regarding groundwater flooding as this has been recorded on site and measured and the finished floor levels are set to take account of this information. On the basis of this revised information the LLFA now raise no objections to the proposed scheme.

With regards to the comments of the EA they also originally objected to the variation until such time as calculations and drainage drawings were submitted showing how all land drains and private land drainage found during construction have been accounted for as well as information on ground water flooding. Peveril Homes provided this additional information to the EA and they have now removed their objection based on the following:

1. The applicant has stated that the level of the plot of major concern (Plot 1) has been increased back to its original proposed Finished Floor Level (FFL), and there is a flood flow route to deal with any residual flood risk (down the site road and across Measham Road Moira) which protects this plot.
2. The applicant has stated that the land drains originally found on site have been dealt with by them being removed (dug out) during the ground works.
3. The applicant has stated that the Coal drainage issues have been dealt with on site with by the manholes being backfilled and culvert being removed (dug out) during the ground works.
4. The applicant has stated that the groundwater seeping into the new site road highway sub base will be dealt with by means of a drain that will connect directly to the Measham Road culvert, so not connecting into the SW drainage system.

In conclusion, the concerns of the LLFA and the EA have now been satisfactorily addressed and both consultees raise no objection to the scheme on flooding or drainage grounds. The previous conditions which required certain run-off limitations would still apply to any decision to be issued in respect of the current proposal. Therefore, the scheme is considered to be acceptable in relation to the advice in the NPPF and the Council's adopted Local Plan and Publication Version Local Plan in respect of flooding and drainage.

Design

Prior to application 12/00631/FULM being considered, substantive pre-application advice discussions took place between the agent and the Council to establish what would be required as part of a planning application for the site taking into account the countryside location and the fact that the Council did not have a five housing land supply at that time. The Council's Urban Design Officer took part in many discussions with the agent's design consultant and the proposal was presented to the Design Review Panel by the agent. The scheme included some self build units, some chalet type dwellings to the north of the site to create a strong National Forest identity at that edge of the development next to existing woodland areas, and high quality, bespoke design dwellings throughout the remainder of the site in addition to the retail unit. Whilst that scheme was withdrawn the same design ethos and details were carried through into the 13/00183/FULM application via a Design and Access statement and a Building for Life supporting document. That application was approved.

It should be noted that on both the above applications the high quality design, along with the

retail offer, local infrastructure benefits in terms of inclusion of a cycleway to assist with the link between Conkers and Hicks Lodge, and the contribution towards the five year housing land supply was a material factor in reaching the conclusion that the benefits of the scheme outweighed the fact that the proposals were contrary to the adopted Local Plan countryside policy S3. As such, at present there is an extant permission under 13/00183/FULM which includes a high quality design.

The current application would retain the self build plots and chalet style woodland feel dwellings at the northern section of the site but seeks to vary house and garage types within the remainder of the site, including 'node' dwellings at corner plots. The original submission that was put forward as part of this application was considered to result in the bespoke design detailing of the house types being 'watered' down and resulting in elevations which are more akin to standard house type appearances. These concerns were raised with the applicant's agent and discussed during a meeting with the Council's Urban Designer which has resulted in amended plans being submitted. On the basis of the amended plans, the original concerns over the application have been addressed and it is considered that the amended house types would continue to result in an acceptable design on the site. No objections have been received from the Council's Urban Designer or from any other consultee/ neighbour regarding the design quality of the amended proposal.

The proposed changes to the landscaping and boundary treatment layouts would not have any significant adverse visual impact.

Therefore, the scheme is considered to be acceptable in relation to the advice in the NPPF and the Council's adopted Local Plan and publication version Local Plan in respect of design matters.

Residential Amenity

The proposal seeks to amend finished floor levels of some plots across the site, to tie in to the existing road, detailed design levels and existing topography of the development, to ensure access is provided in accordance with Part M of the Building Regulations 2010. The finished floor levels have been reviewed across the site, with some levels being reduced and some levels being raised from the indicative finished floor levels forming part of the original planning permission. In terms of the raising of levels the smallest change is 0.05 metres (Plots 2-5) and the greatest change is 1.125 metres (Plot 8). Concern has been expressed from surrounding neighbours regarding the proposed alterations and particular concern has been expressed from residents off Measham Road in respect of the alterations to Plots 10 and 11.

With regards to Plot 10 and 11 these are 2.5 storey dwellings located in the south-western part of the site. The existing relationship is for the back gardens of the proposed plots to back onto the back gardens of the existing properties and this relationship would remain unchanged (as the scheme proposes only level changes and not layout changes). The current scheme proposes that Plot 10 would have a finished floor level of 94.45 metres and Plot 11 would have a finished floor level of 94.75 metres which would be 0.925 metres higher than that which was previously agreed, and between 1.2-1.5 metres higher than the finished floor level of properties fronting onto Measham Road. However, Plots 10 and 11 would have 20 metre long rear gardens and the existing properties off Measham Road have approximately 40 metre rear gardens. The result is that there would be a back to back distance of around 60 metres which is substantially in excess of the Council's recommended distance of 22 metres and would provide more than adequate separation distances between proposed and existing dwellings. Therefore, the proposed increase in levels to Plots 10 and 11 would not result in any significant

overlooking, overbearing or overshadowing impacts to the occupiers of these dwellings.

Plots 24-28 which are located in the northern part of the site would also be subject to level changes ranging from 0.15 metres to 0.85 metres although no objections have been received from residents along Ashby Road in the immediate vicinity of these plots. The existing relationship is for the back gardens of the proposed plots to back onto the back gardens of the existing properties and this relationship would remain unchanged. The proposed plots in this area have 20 metre long rear gardens and the existing properties off Measham Road have rear gardens ranging from 27-36 metres in length. The result is that there would be a back to back distance of between 47-56 metres which is substantially in excess of the Council's recommended distance of 22 metres and would provide more than adequate separation distances between proposed and existing dwellings. Therefore, the proposed increase in levels to these plots would not result in any significant overlooking, overbearing or overshadowing impacts to the occupiers of these dwellings.

Plot 1 would be located in close proximity to the side elevation of No.45 Measham Road. Following concerns in respect of drainage it is now proposed that no finished floor level alterations take place to this plot.

It is, therefore, deemed that the development would not have any significant detrimental impact upon neighbouring residential amenities and is considered to be acceptable in relation to Policy E3 of the adopted Local Plan and Policy D2 of the publication version Local Plan.

Other

Concerns of the Moira Furnace Trust are noted and the Leicestershire County Council Ecologist indicates there are no concerns in respect of the current proposal. The Leicestershire County Council Ecologist provides further comments in respect of the Trust's project at its site which is a separate matter to the current planning application for consideration. The proposed revisions to the scheme do not impact on the River Mease SAC which has already been considered at the original application 13/00183/FULM stage and dealt with via the associated legal agreement. As such, no further consideration in respect of the Habitats Regulations is required in relation to this current application to vary condition 2 of the original permission.

In terms of other matters raised in letters of representation which have not already been addressed, traffic flow impacts have already been dealt with as part of the original scheme. Right to light legislation is not a material planning consideration and it is not considered that the scheme would result in a breach of Human Rights legislation.

All other relevant planning conditions in respect of the previous planning permission on the site would continue to apply to the site and would need to be attached to any new planning permission on the site.

Conclusion

The principle of this development has already been established by the granting of planning permission 13/00183/FULM. The amended proposal is not considered to have any significant detrimental design impacts or result in impacts upon existing residents. In respect of flooding and drainage, the concerns of the LLFA and the EA have now been satisfactorily addressed and both consultees raise no objection to the scheme on flooding or drainage grounds, and the scheme is considered acceptable in this regard. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is

deemed to comply with the relevant policies in the adopted Local Plan, publication version Local Plan and the advice in the NPPF. It is therefore recommended that the application be permitted.

RECOMMENDATION - PERMIT, subject to the following conditions and subject to a Section 106 agreement to secure a deed of variation;

1 The development shall be begun before 30 June 2017.

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

2 The development shall be built in accordance with the following plans submitted as part of planning application 13/00183/FULM:

5820_EL (20) 10C_B Housetype Moira Grand Villa Type C elevations;
 5820_PL (20) 10C_B Housetype Moira Grand Villa Type C floorplans;
 5820_SP (90) 01_S Masterplan House Types;
 5820_SP (90) 02_1 Landscape Masterplan;
 5820_SP (90) 03_F Street hierarchy plan;
 5820_SP (90) 04_F Open space strategy;
 5820_SP (90) 05_F Planting palette;
 5820_SP (90) 06_R Site layout;
 5820_SP (90) 08_F Masterplan building heights; all received 28 June 2013, and,

5820_SP (90) 09_A Site location plan 1:1250;
 EL (20) 001_A North Elevation Retail Store;
 EL (20) 002_A South Elevation Retail Store;
 EL (20) 003_A East Elevation Retail Store;
 EL (20) 004_A West Elevation Retail Store;
 PL (20) 001_A Ground layout plan retail store;
 PL (20) 101_A Proposed floor areas plan;
 PL (20) 102_A Store internal areas;
 PL (27) 001_A Roof plan retail store;
 SE (20) 001_A Section A-A;
 SP (90) 001_A Store site plan;
 SP (90) 101_A Store landscape plan; all received 11 March 2013, and,

5820_EL (20) 01_A Moira Paired Bungalow elevations;
 5820_EL (20) 01_A-A Moira Detached Bungalow elevations;
 5820_EL (20) 02_A Moira Terraced Cottages elevations;
 5820_EL (20) 03 Moira Paired Cottage elevations;
 5820_EL (20) 04 Moira Paired House elevations;
 5820_EL (20) 05-A_A Moira Paired Villa (Gable Variant) elevations;
 5820_EL (20) 05-B_A Moira Paired Villa elevations;
 5820_EL (20) 06A Moira Detached Cottage elevations;
 5820_EL (20) 07A Moira Corner House elevations;
 5820_EL (20) 08A Moira Corner Cottage elevations;
 5820_EL (20) 09 A-A Moira Large Cottage - Dutch Gable option elevations;
 5820_EL (20) 10A-A Moira Grand Villa (Type A) elevations;
 5820_EL (20) 10B-A Moira Grand Villa (Type B) elevations;

5820_EL (20) 11A Woodland House 1 elevations;
 5820_EL (20) 12_A Woodland House 2 elevations;
 5820_EL (90) 01_A Boundary treatment palette - front boundaries;
 5820_EL (90) 02_A Boundary treatment palette - rear and side boundaries; all received
 11 March 2013, and,

5820_PL (20) 01_B Moira Paired Bungalow plans;
 5820_PL (20) 02_B Moira Terraced Cottages plans;
 5820_PL (20) 03_B Moira Paired Cottage plans;
 5820_PL (20) 04_B Moira Paired House plans;
 5820_PL (20) 05 A_B Moira Paired Villa (Type 02);
 5820_PL (20) 05 B_B Moira Paired Villa plans;
 5820_PL (20) 06_B Moira Detached Cottage plans;
 5820_PL (20) 07_A Moira Corner House plans;
 5820_PL (20) 08_B Moira Corner Cottage plans;
 5820_PL (20) 09 A_A Moira Large Cottage - Dutch Gable option plans;
 5820_PL (20) 09 B_B Moira Large Cottage (Type B) plans;
 5820_PL (20) 10 A_A Moira Grand Villa (Type A) plans;
 5820_PL (20) 10 B_A Moira Grand Villa (Type B) plans;
 5820_PL (20) 11-1-A Woodland House 1 plans;
 5820_PL (20) 11-2-A Woodland House 1 roof plan and 3D;
 5820_PL (20) 12_A Woodland House 2 plans;
 5820_PL (20) 14_A Moira Workshop House plans and elevations;
 5820_PL (20) 31 Garage Type G1 Garage and woodstore;
 5820_PL (20) 32 Garage Type G2 Garage and carport (pitched roof);
 5820_PL (20) 33 Garage Type G3 Traditional single garage;
 5820_PL (20) 34 Garage Type G4 Woodland style garage; and,
 5820_PL (20) 35 Garage Type G5 Garage and carport (sedum roof), all received on 11
 March 2013.

as amended by the following plans submitted as part of planning application 15/00966/VCUM:

SP(90)24 Rev H (Planting Plan 1 of 4) deposited with the Local Planning Authority on 18
 April 2016;
 SP(90)25 Rev H (Planting Plan 2 of 4) deposited with the Local Planning Authority on 18
 April 2016;
 SP(90)26 Rev F (Planting Plan 3 of 4) deposited with the Local Planning Authority on 18
 April 2016;
 SP(90)27 Rev I (Planting Plan 4 of 4) deposited with the Local Planning Authority on 18
 April 2016;
 External Finishing Schedule deposited with the Local Planning Authority on 1 March
 2016;
 PL(20)29 Rev C (Plans and 3D View) deposited with the Local Planning Authority on 25
 February 2016;
 EL(20)29 Rev C (Elevations) deposited with the Local Planning Authority on 25 February
 2016;
 EL(20)02 Rev G (Elevations) deposited with the Local Planning Authority on 25 February
 2016;
 PL(20)02 Rev G (Plans) deposited with the Local Planning Authority on 25 February
 2016;
 5820_SP (90)08 Rev M deposited with the Local Planning Authority on 8 August 2016;,
 EL (20)08 Rev H (Elevations) deposited with the Local Planning Authority on 22

February 2016;
 PL (20)08 Rev I (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;
 EL (20)01 Rev E (Elevations) deposited with the Local Planning Authority on 22 February 2016;
 PL (20)01 Rev E (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;
 PL (20)01A Rev D (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;
 EL (20)01A Rev E (Elevations) deposited with the Local Planning Authority on 22 February 2016;
 PL (20)03 Rev F (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;
 EL (20)03 Rev E (Elevations) deposited with the Local Planning Authority on 22 February 2016;
 EL (20)04 Rev E (Elevations) deposited with the Local Planning Authority on 22 February 2016;
 PL (20)04 Rev E (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;
 EL (20)05 Rev H (Elevations) deposited with the Local Planning Authority on 22 February 2016;
 PL (20)05 Rev H (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;
 EL (20)06 Rev I (Elevations) deposited with the Local Planning Authority on 22 February 2016;
 PL (20)06 Rev I (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;
 EL (20)08 Rev H (Elevations) deposited with the Local Planning Authority on 22 February 2016;
 PL (20)08 Rev I (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;
 EL (20)09B Rev E (Elevations) deposited with the Local Planning Authority on 22 February 2016;
 PL (20)09B Rev E (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;
 EL (20)10A Rev E (Elevations) deposited with the Local Planning Authority on 22 February 2016;
 PL (20)10A Rev E (Plans) deposited with the Local Planning Authority on 22 February 2016;
 EL (20)10B Rev E (Elevations) deposited with the Local Planning Authority on 22 February 2016;
 PL (20)10B Rev E (Plans) deposited with the Local Planning Authority on 22 February 2016;
 PL (20)14 Rev F (Plans and Elevations) deposited with the Local Planning Authority on 22 February 2016;
 SP (90)04 Rev G deposited with the Local Planning Authority on 1 October 2015;
 SP (90)05 Rev J deposited with the Local Planning Authority on 1 October 2015;
 SP (90)06 Rev T (Site Layout) deposited with the Local Planning Authority on 1 October 2015;
 SP (90)03 Rev H deposited with the Local Planning Authority on 1 October 2015;
 SP (90)02 Rev T deposited with the Local Planning Authority on 1 October 2015;
 5820_SP(90)01 Rev AA deposited with the Local Planning Authority on 1 October 2015;

EL (90)01 Rev C deposited with the Local Planning Authority on 1 October 2015;
PL (28)36 deposited with the Local Planning Authority on 1 October 2015;
PL (28)37 deposited with the Local Planning Authority on 1 October 2015;
PL (28)38 deposited with the Local Planning Authority on 1 October 2015.

Reason- To determine the scope of this permission.

- 3 Notwithstanding the other conditions of this permission, no development shall commence on site at Plots 77, 78, 79 and 80 until separate full applications for development at the Plots have been submitted to, and agreed in writing, by the Local Planning Authority.

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

- 4 The gross retail floor space of the retail unit shall not exceed 385 sq m, and the net retail sales floor space shall not exceed 300 sq m.

Reason- For the avoidance of doubt.

- 5 Notwithstanding any other conditions of this permission, no work shall commence on site until such time as a scheme for the phasing of construction works (including details of the phasing relevant to each area of the site and a timetable for the commencement of work within each area) have been submitted to and agreed in writing by the Local Planning Authority, unless details have been agreed under this condition as part of application 13/00183/FULM. The development shall be carried out in accordance with the agreed details.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, and to ensure that various elements of the proposed scheme comes forward in a logical manner, in the interests of the proper planning of the area.

- 6 The materials to be used in all external surfaces shall be in accordance with the details contained in the External Finishing Schedule dated 1st March 2016, unless otherwise agreed in writing with the Local Planning Authority.

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

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) no development relating to Class A of Part 1 Schedule 2 (erection of extensions) shall be undertaken without the prior written approval of the Local Planning Authority.

Reason- In the interests of residential amenities of neighbouring properties, and the visual amenities of the locality.

- 8 All planting, seeding or turfing indicated on the approved landscaping plans (SP(90)24 Rev H, SP(90)25 Rev H, SP(90)26 Rev H, SP(90)27 Rev I) shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a five year period from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written

consent to any variation.

Reason- To ensure the satisfactory overall appearance of the completed development, and to ensure an appropriate planting palette within the National Forest.

- 9 No work shall commence on the site until such time as a scheme for protecting the existing trees and hedgerow, identified as being retained, during the construction process has been submitted to and approved by the Local Planning Authority, unless details have been agreed under this condition as part of application 13/00183/FULM. The scheme shall include measures to protect the working area within Root Protection Areas. Such protection as is agreed shall be maintained during the course of development.

Reason- To ensure satisfactory protection of the existing trees and hedgerow in question during the period when construction works take place on the site.

- 10 The boundary treatments of the site shall be carried out in accordance with the details shown on drawing numbers EL(90)01 Rev C and SP(90)02 Rev T. The approved scheme shall be implemented before the dwellings and retail unit are occupied, taking into account any agreed phasing of construction works.

Reason- To preserve the amenities of the locality.

- 11 No development shall commence until details of waste/recycling storage for units within the site have been submitted to and agreed in writing by the Local Planning Authority, unless details have been agreed under this condition as part of application 13/00183/FULM. The works shall be undertaken in accordance with the approved details and maintained as such.

Reason- To enable the Local Planning Authority to retain control over the external appearance and to preserve residential amenities of nearby properties.

- 12 No development shall commence until a detailed scheme for parking courtyard and cycle path lighting has been submitted to and agreed in writing by the Local Planning Authority, unless details have been agreed under this condition as part of application 13/00183/FULM. The works shall be undertaken in accordance with the approved details and maintained as such.

Reason- To enable the Local Planning Authority to retain control over the external appearance and to preserve residential amenities of nearby properties and the amenities of the adjacent woodland.

- 13 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority, unless details have been agreed under this condition as part of application 13/00183/FULM. The scheme shall be implemented in accordance with the approved details before the development is first brought into use

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

- 14 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 4 March 2013, Ref: IPD-11-198/01 Issue C (submitted as part of 13/00183/FULM), undertaken by IPaD and the following mitigation measures detailed within the FRA:

Limiting the surface water run-off generated by the all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site (Section 4).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

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

- 15 Development shall not commence until a 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, unless details have been agreed under this condition as part of application 13/00183/FULM. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

- A CCTV condition survey of the existing culvert, and remedial measures undertaken where necessary. Reason, for the purpose of ensuring the culvert is operating as designed for the lifetime of the development.
A manhole at the location where the site surface water drainage system connects to the existing culvert. Reason, for the purpose of future inspection and maintenance of the culvert.
- 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 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.
- Detailed design (plans, cross and long sections, and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements, a drawing showing the flood extents for the residual flood volumes stated in the calculations and the flood flow route channel clearly marked on it, including it's outfall location, extent and depth of flooding during operation. Drawing No. SK002 Revision D or similar should be used at the base for the flood extents drawing.
- Details of how the scheme shall be maintained and managed after completion.

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

improve habitat and amenity.

- 16 No development shall commence on site until a full and detailed site investigation and assessment confirming the location and condition of the recorded coal mine entries has been carried out, at the developer's expense, and submitted to the Local Planning Authority, unless details have been agreed under this condition as part of application 13/00183/FULM. In the event that the site investigations confirm the need for remedial works to treat the mine entries, and/or any other mitigation measures to ensure the safety and stability of the proposed development, no development shall commence on site until details of such works have been submitted to and agreed in writing by the Local Planning Authority and implemented at the site, unless details have been agreed under this condition as part of application 13/00183/FULM.

Reason- In the interests of safeguarding the proposed development and adjacent properties.

- 17 Any garage doors shall be set back from the highway boundary a minimum distance of 5.5 metres for sliding or roller/shutter doors, 6.1 metres for up-and-over doors or 6.5 metres for doors opening outwards and thereafter shall be so maintained.

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

- 18 All existing vehicular accesses that become redundant as a result of this proposal shall be closed permanently and the existing vehicular crossings reinstated in accordance with a scheme that shall first have been submitted to and approved by the LPA in consultation with the Highway Authority within one month of the new access being brought into use, unless details have been agreed under this condition as part of application 13/00183/FULM.

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

- 19 For the period of the construction, the applicant shall take measures to ensure that the highway is kept free of mud, water, stones etc, in accordance with details that shall have first been approved in writing by the Local Planning Authority in consultation with the Highway Authority, unless details have been agreed under this condition as part of application 13/00183/FULM.

Reason- To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users.

- 20 Before the development commences, details of the routing of construction traffic shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority, unless details have been agreed under this condition as part of application 13/00183/FULM. During the period of construction, all traffic to and from the site shall use the agreed route at all times.

Reason- To ensure that construction traffic associated with the development does not use unsatisfactory roads to and from the site.

- 21 For the period of the construction of the development, vehicle parking facilities shall be

provided within the site and all vehicles associated with the development shall be parked within the site.

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

- 22 Any garages must have minimum internal dimensions of 6 metres x 3 metres if they are to be counted as a parking space and once provided, shall thereafter permanently remain available for car parking.

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

- 23 No walls, planting or fences, other than any highway trees as part of the wider landscaping scheme for the site, shall be erected or allowed to grow on the Highway boundary exceeding 0.9 metres in height above the level of the adjacent carriageway.

Reason- To afford adequate visibility at the access/junction with Measham Road and in the interests of general highway safety within the site.

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

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

- 25 Before the first occupation of any dwelling hereby permitted, off-street car parking provision shall be made in accordance with the details shown on the submitted plans, unless details have been agreed under this condition as part of application 13/00183/FULM. The parking areas shall be surfaced prior to the development being brought into use and shall be so maintained at all times.

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

- 26 Before first occupation of any dwelling hereby permitted, its access drive 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 and shall be so maintained at all times.

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

- 27 Before the development commences, details of satisfactory pedestrian visibility splays at the junction of each private access with the access roads shall be submitted to the LPA for approval in writing, unless details have been agreed under this condition as part of application 13/00183/FULM. Before the first occupation of each dwelling, the approved pedestrian visibility splays in connection with the access serving that dwelling shall be provided with nothing within those splays higher than 0.6 metres above ground level, in accordance with the current standards of the Highway Authority and shall be so

maintained in perpetuity.

Reason- In the interests of pedestrian safety.

- 28 No development shall commence on site until details of anti-motorcycle barriers on, and signage information for, the cycle/foot path hereby permitted has been submitted to and agreed in writing with the Local Planning Authority, unless details have been agreed under this condition as part of application 13/00183/FULM. These measures shall be implemented as agreed and maintained as such in perpetuity.

Reason- In the interests of pedestrian and cyclist safety, and in the interests of the flora and fauna in the adjacent woodland.

- 29 No construction works, movement of construction traffic, and deliveries to and from the premises, shall occur other than between 0800 and 1800 hours weekdays, and 0800 and 1300 hours on Saturdays, and at no time on Sundays or Public Holidays.

Reason- To safeguard the privacy and amenities of the occupiers of adjoining properties during periods of construction.

- 30 The development shall be implemented in accordance with the remedial scheme outlined in the HSP Consulting Phase II intrusive investigation reference C1525 dated 07/02/2012 and submitted as part of planning application 13/00183/FULM.

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.

The Risk Based Land Contamination Assessment shall be carried out in accordance with:

- BS10175 Year 2011 Investigation Of Potentially Contaminated Sites Code of Practice;
- BS8485 Year 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.
- 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.

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.

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.

- 31 Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan (submitted as part of planning application 13/00183/FULM) 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.

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.

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Agricultural storage building and driveway

Report Item No
A2

Land East Side Of Austrey Lane Appleby Parva Derby

Application Reference
16/00568/FUL

Applicant:
Mr G Clarke

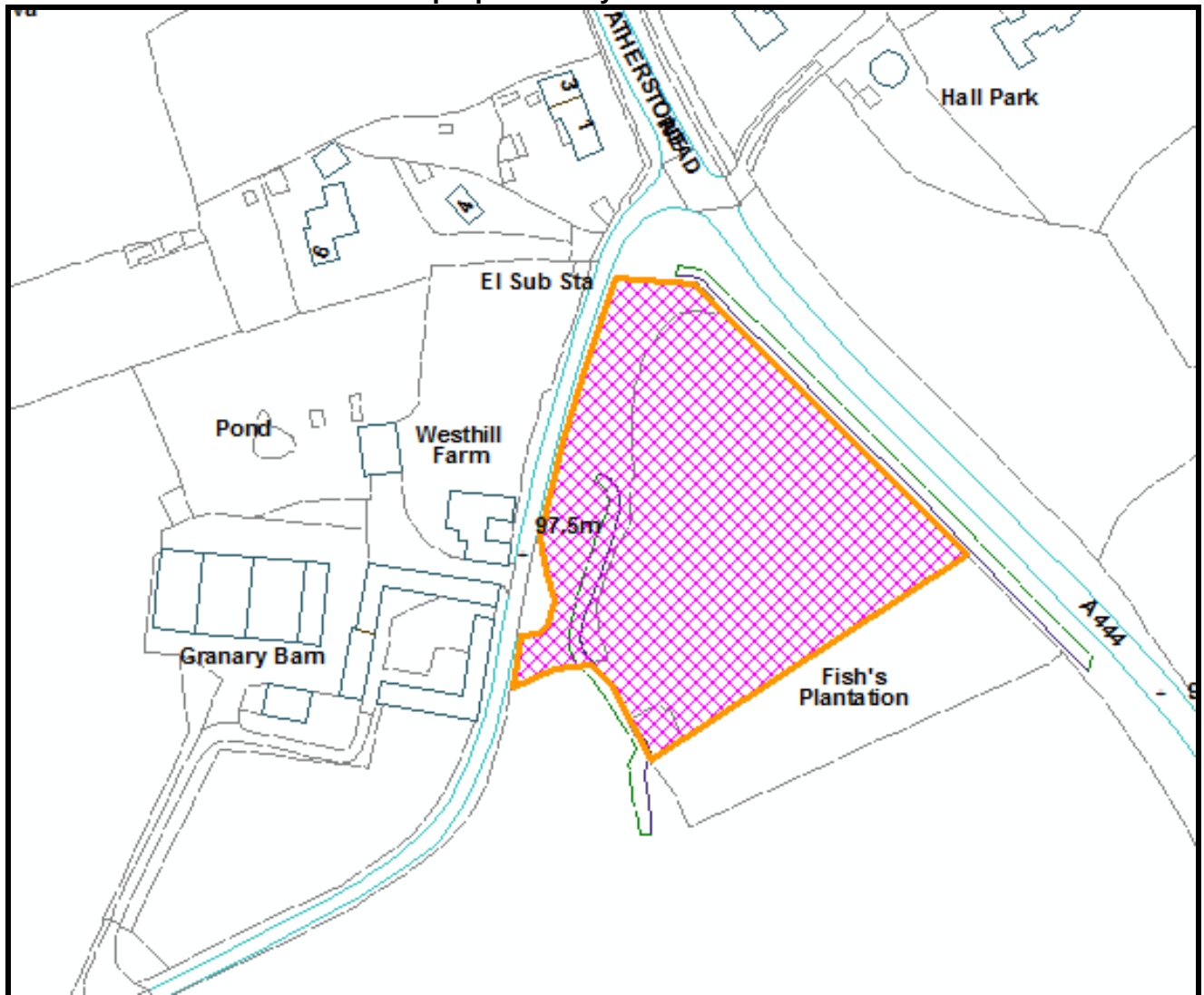
Date Registered
1 July 2016

Case Officer:
James Mattley

Target Decision Date
26 August 2016

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought to the Planning Committee at the request of Councillor Blunt due to public concern and the impact upon the countryside.

Proposal

Full planning permission is sought for the erection of an agricultural storage building and driveway on land to the east of Austrey Lane in Appleby Parva. The site is located outside the Limits to Development in 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

Neighbour objections have been received to the proposal. All 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 generally compliant with all relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant policies of the adopted and publication version Local Plans 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 is considered to be reasonably necessary for the purposes of agriculture and would therefore be partially compliant with Policy S3 of the adopted Local Plan, Policy S3 of the publication version of the Local Plan and Paragraph 28 of the NPPF.

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 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 storage building and driveway on land to the east of Austrey Lane in Appleby Parva. The applicant proposes to use the building for storage of agricultural machinery and equipment. The application site is a field measuring approximately 0.7 hectares (1.73 acres). The site is located outside Limits to Development, as defined by the adopted and publication version Local Plans.

This application is for the erection of an agricultural building and construction of an access track. A previous planning application (15/00775/FUL) had raised various concerns including its impact on trees and ecology and therefore the application was withdrawn. A subsequent planning application (15/01071/FUL) was refused for the following reason:

Paragraph 17 of the NPPF states one of the core principles of the NPPF is that the planning decisions should recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. Paragraph 28 of the Framework supports growth and expansion of all types of rural business. Saved Policy S3 of the adopted Local Plan states that development will only be permitted on land outside the Limits to Development, where it meets certain criteria. In this case the building must be shown to be essential for the efficient long-term operation of agriculture or forestry.

The application site lies in an area defined in the adopted North West Leicestershire Local Plan as Countryside (saved policy S3 of the adopted Local Plan) and as such it is protected against unwarranted development. It has been determined that the proposed building is unnecessary for the operations carried out at this site. Whilst generally agricultural buildings can help to support the rural economy, it is not considered that a building of this scale and size in this location would be essential for the efficient long-term operation of agriculture or forestry. The small size of the application site would lend itself for use of hobby farming but would not require this excessively large building for the efficient operation of a farming enterprise. It is therefore considered that this development is unacceptable in principle given that the proposed development is unjustified in a rural open countryside location. The adverse impacts of approving development in this case would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework taken as a whole. The scale and design of the building would also be to the overall detriment of the visual characteristics of the area and would not allow it to assimilate into the rural environment. The application would therefore not meet the requirements of the Council's Saved Local Plan Policies S3 or E4 or the NPPF's core planning principles of preventing development that would be harmful to the intrinsic open character of the countryside.

The current application has been amended and a smaller building is now proposed on the land. The footprint of the building now measures 4.57 metres x 6.09 metres whereas the previous application proposed a building measuring 9.15 metres x 4.57 metres.

Relevant planning history:

15/00775/FUL - Erection of agricultural building and construction of access track (Withdrawn 22 October 2015).

15/01071/FUL - Erection of agricultural building and construction of access track (Refused 28 April 2016).

2. Publicity

10 neighbours have been notified (Date of last notification 12 July 2016)

Site Notice displayed 14 July 2016

Press Notice published 20 July 2016

3. Consultations

Appleby Magna Parish Council consulted 12 July 2016
County Highway Authority
Severn Trent Water Limited
Head of Environmental Protection
NWLDC Tree Officer
LCC ecology
NWLDC Conservation Officer
Mr A Coombe

4. Summary of Representations Received

Council's Environmental Protection Section has no environmental observations.

Council's Contaminated Land Officer has no objections subject to planning conditions.

County Ecologist has no objections subject to a suitable note to applicant.

A total of five letters of representation and one letter signed by twelve residents have been received raising the following objections:

- An access was not previously formed in this location;
- The access is unsafe;
- There have been accidents along Austrey Lane;
- Application form contains misleading information;
- The building is not in keeping with the properties in the village;
- The building would be highly visible and too large for the site;
- Proposal would result in flooding and drainage issues;
- Impact upon existing services i.e water pressure;
- Increased security risk of theft for existing properties if proposal houses agricultural machinery;
- Impact upon protected species;
- Concern over the actual intention of the future;
- Some trees have been cleared on the site;
- Building should be re-sited;
- Applicants behaviour;
- Impact upon heritage assets;
- No agricultural activity has been carried out on the land.

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 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:

Section 3 - Supporting a prosperous rural economy

Section 7 - Requiring good design

Section 10 - Meeting the challenge of climate change, flooding and coastal change

Section 11 - Conserving and enhancing the natural environment

Section 12 - 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 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 T3 - Highway Standards

Policy T8 - Parking

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 S3 - Countryside

Policy D1 - Design of New Development;

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 En6 - Land and Air Quality;

Policy Cc2 - Water - Flood Risk;

Policy Cc4 - Water - Sustainable Drainage Systems;

Policy He1 - Conservation and enhancement of North West Leicestershire's 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 Guidance

National Planning Practice Guidance - March 2014.

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

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

River Mease Water Quality Management Plan - August 2011.

River Mease Development Contributions Scheme - November 2012.
6Cs Design Guide (Leicestershire County Council).

6. Assessment

Principle of Development

The overarching principle of the NPPF is to protect the countryside but to allow sustainable development where appropriate. The NPPF states that there are three dimensions to sustainable development. The site is located outside Limits to Development where permission for new development would not normally be granted unless it is essential for the efficient long-term operation of agriculture or forestry or other specific uses as set out in Policy S3 of the adopted and publication version Local Plans. The aims of Policy S3 are to prevent inappropriate development in the countryside.

Following advice from the Council's agricultural advisor the previous application on the site was refused. The agricultural consultant considered that there was no need for a building of the scale previously proposed. Therefore, to permit that application would have allowed for the establishment of a structure which would have been inappropriate and excessive in scale and would have represented unnecessary development in the countryside, and as such would be contrary to the fundamental aims of Policy S3 of the adopted Local Plan.

The proposed building has now been reduced in size. The proposed building now measures approximately 6.09 metres x 4.57 metres with a height to eaves of approximately 4.57 metres and to ridge 5.2 metres. Therefore, the building has a floor area of approximately 28 square metres.

The Council has again sought advice from an independent Agricultural Planning Consultant. The advice received as part of this application states the following:

Your Local Plan Policy at Policy S3 of the Adopted North West Leicestershire Local Plan states 'That the proposed development can be shown to be essential for the efficient long-term operation of agriculture and forestry.' As I stated in my previous letter dated 4th February, 2016 - agricultural buildings are also required to be on agricultural land, which means land in use for agriculture for the purposes of a trade or business. I still consider a unit with approximately 0.4 of a hectare or 1 acre of land with 3-5 sheep and approximately 10 head of poultry could not be classed as a trade or business but would effectively be a hobby or an interest.

I consider the size of the proposed building would be of a size capable of storing the tractor and miscellaneous items which the applicant proposes to use on the land.

In conclusion, I advise that the now proposed building is more in keeping with the size of the unit, and although not essential for the efficient long-term operation of agriculture and forestry may now be acceptable to the Local Planning Authority in planning terms, as it may partially comply with Policy S3 of the Adopted North West Leicestershire Local Plan, as it could now be classed as reasonably necessary for the purposes of agriculture within the unit.

Whilst the proposal would not be wholly compliant with Policy S3 in the adopted Local Plan it is also necessary to have regard to more up to date advice in the NPPF and any policies in the publication version Local Plan. Paragraph 28 of the NPPF supports growth and expansion of all types of rural business and Policy S3 in the publication version Local Plan allows for agricultural development and the expansion of all types of business and enterprise in rural areas including the erection of new buildings.

A condition is recommended to ensure that the building is used only for the purposes specified in the application and a note to applicant is also recommended advising the applicant that further agricultural buildings on the site are unlikely to be acceptable.

In conclusion, having regard to all of the above, the principle of the development is considered to be acceptable but it is still necessary to consider other material planning considerations including in respect of highway safety, design and amenity criteria.

Siting, Scale and Design and Impact upon the Countryside

Paragraph 17 of the NPPF also states that planning should recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.

In terms of material, the barn is proposed to be constructed from concrete blocks and tin sheeting roof. These materials are likely to have the appearance of a typical agricultural barn and would therefore not be out of keeping with the countryside location. Conditions could be attached to any planning permission requiring the precise materials and colours to be agreed prior to the building being erected on the site.

Policy E4 of the adopted Local Plan, adopted in 2002, expects new development to respect the character of its surroundings in terms of, amongst other things, scale, height and materials of construction. There are boundary trees and hedgerows which form a dense screen and would help to screen the barn from public vantage points. The reduced size of the building would ensure that it does not become an unduly dominant feature in the surrounding area.

Overall, the design, appearance and scale of this proposal is acceptable and would not look out of keeping with the character and appearance of the surrounding area and is considered to be compliant with the advice in the NPPF, Policy E4 of the adopted Local Plan and would also accord with the provisions of Policy D1 of the publication version of the Local Plan.

Impact upon Residential Amenity

Several objections have been received regarding this development which includes the use of the site. Residents have raised concerns that the building will not be used for agricultural uses as it may be used for residential or business purposes. This application can only consider the proposal as submitted, which is for an agricultural building. Any alternative uses proposed would require permission through a further planning application and this is therefore not considered further in this report. If the development was deemed to be acceptable it would be recommended that the building should be conditioned to be used as per that which has been applied for.

The nearest property to the development would be in excess of 50 metres away and at this distance it is not considered that the development would have an overbearing, overlooking or overshadowing impact on neighbouring residential properties.

In respect of matters raised relating to protection of neighbour's views from their properties, this is not a material planning consideration and cannot be taken into account in the determination of this application.

Many residents have objected on the grounds of the development's impact on flooding in the area. It has been stated by neighbour's that there is a culvert on site which, if affected, could lead to flooding on neighbouring sites. Whilst there may be existing problems in the area with

flooding the site is not categorised as being within a flood zone. By moving the development away from its location as proposed in the originally submitted application (15/00775/FUL), it is now further from the culvert thereby reducing the overall impact. Furthermore, a condition could be attached to ensure that the surface water runoff is diverted to a soakaway to adequately discharge any additional surface water resulting from the development. Issues regarding the culvert have previously been raised with Natural England and they advised that they have no objections to the development.

The Council's Environmental Protection team have been consulted on this application and have not raised any objections, but they have requested some land contamination conditions. One objection referred to hours of use of the building. Environmental Protection have not recommended any conditions restricting the hours of operation, this is usually considered unreasonable for an agricultural building.

A neighbour has stated that the building would be a security risk leading to an increase in crime in the area. There is no evidence to suggest that this development would lead to an increase in crime however if this were to occur it would be at the applicant's own risk.

For the reasons set out above, it is not considered that there would be any significant loss of amenities by means of overbearing, overshadowing, overlooking impacts or noise and disturbance impacts. The proposal therefore complies with the provisions of Policy E3 of the adopted Local Plan and Policy D2 of the publication version Local Plan.

Impact to Heritage Assets

The site lies to the south-west of a grade II listed building which is on the northern side of the A444 and to the north-east of Westhill Farm, a grade II listed building. As such in determining any application special attention shall be paid to the desirability of preserving listed buildings, their settings or any features of special architectural interest which it possesses as set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The conservation officer has no objection in principle to the erection of an agricultural building. It is noted that the parcel of land is somewhat separate to the adjacent buildings and is well landscaped. Although the proposal is not of traditional materials or design, the conservation officer advises that the proposed building is agricultural in character which is another prevailing character of the area. As the building is set on a separate parcel of land which is well landscaped, and is offset to the north of the farm, it is considered that the setting of the listed buildings would not be harmed. This therefore complies with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The conservation officer advises that a landscaping scheme should be secured in order to maintain the soft landscaping that separates the sites in accordance with saved Policy E7 of the adopted Local Plan. In the absence of landscaping details being provided with this application, this could be dealt with by condition.

Highway Considerations

It is noted that several neighbour objections have been raised regarding the access to the site and intensification of this road junction. The County Highways Authority has referred to their comments from the originally submitted application which did not raise any objections to the development.

Neighbours state that this access has not been used previously due to the steep incline of the access from this part of the site and the levels have been altered prior to the submission of a planning application. The neighbours also have concerns regarding the visibility at the access. The neighbours' concerns have been raised with the County Highways Authority during this application and the previous application, however Leicestershire County Council Highways have raised no concerns regarding this development.

Access for this development would be from Austrey Lane near to the junction with Atherstone Road. It is anticipated that there will be additional vehicles on site during the construction phase and in association with the agricultural use. However, this is not considered to significantly intensify the vehicular movements to the site in the long term given the agricultural nature of the site. The scheme is therefore considered to be in accordance with saved Policies T3 and T8 of the adopted Local Plan, IF4 of the publication version Local Plan, the advice in the NPPF and the County Council's 6Cs document.

Impact on the River Mease Special Area of Conservation/SSSI

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

The scheme would result in an additional area of hardstanding, which will form the base of the building and the access track. The applicant has confirmed that the surface water will drain into a soakaway. The scheme does not propose to increase any foul water discharge and is not connected to the foul water system. Accordingly a request under the DCS cannot be justified nor requested. As surface water should discharge to a soakaway, a condition would be necessary to ensure this would happen, in accordance with Natural England's advice.

It is also considered reasonable to impose a condition restricting the use of the building solely to agricultural use at the site due to the potential for other uses to impact on the River Mease SAC.

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.

Ecology

No protected species survey has been provided with this application however, the habitat would appear to be suitable for protected species. Concerns were raised with the previous application (15/00775/FUL) by Leicestershire County Council Ecology due to impact on badgers. It was recommended that the development be re-located away from the north western part of the site. The County Ecologist is now satisfied with the current application and have advised that they do not object, they have only requested that a note to applicant be included to advise about badgers.

Other

Neighbours have stated that some trees on site have already been removed. The site is not located within a Conservation Area and no trees are subject to Tree Preservation Orders and, therefore, any removal of trees prior to the submission of the application would not require planning consent.

Neighbour objections have been raised regarding a culvert which runs directly under the proposed development. The neighbours have concerns that the development will have a negative impact on flooding in the area and will exacerbate the current situation. The Environment Agency have not raised any objections to the application. Natural England have also been consulted on this application and have raised no objection subject to a condition that a soakaway is provided and maintained.

Other objections have been raised by neighbours. Those which have not been covered by the above sections are not material planning considerations and have therefore not been considered.

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 is considered to be reasonably necessary for the purposes of agriculture and would therefore be partially compliant with Policy S3 of the adopted Local Plan, Policy S3 of the publication version Local Plan and Paragraph 28 of the NPPF.

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 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.

- 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 deposited with the Local Planning Authority on 1 July 2016;
 Block Plan deposited with the Local Planning Authority on 1 July 2016;
 Elevations deposited with the Local Planning Authority on 1 July 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 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)
- 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.

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.

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.

- 5 Prior to occupation of any part of the completed development, 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.

- 6 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting these Orders) the building shall be used only for the purposes specified in your application and for no other purposes whatsoever.

Reason- other uses would be harmful to the amenities of the area.

Notes to applicant

- 1 Badger setts may be present in the woodland adjacent to the application site and along the access track. Badgers and their setts are fully protected by UK law, and the applicant must avoid any harm, damage or disturbance to setts, if present.
- 2 Given the size of the site, the Local Planning Authority are unlikely to support additional agricultural buildings on the site.
- 3 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through early engagement with the applicant at the pre-application stage which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Erection of two dwellings with associated garages including the creation of a new vehicular access (Outline application access and layout for approval)

Report Item No
A3

Land Adjacent To The Cottages Stoney Lane Coleorton
Leicestershire

Application Reference
16/00558/OUT

Applicant:
Mr Bannister and Mrs Stewart

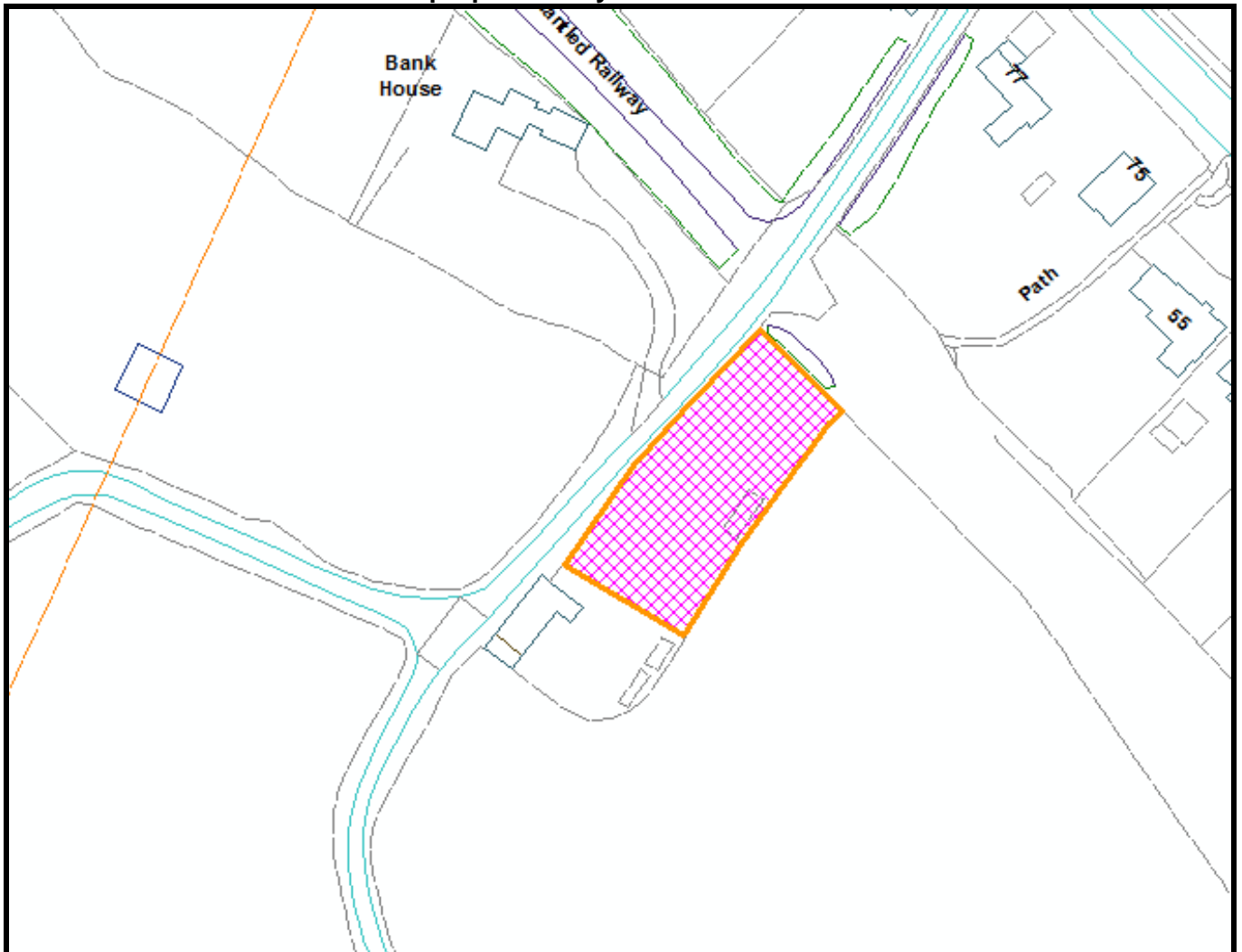
Date Registered
10 June 2016

Case Officer:
Adam Mellor

Target Decision Date
5 August 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 in order to allow the Committee to assess the sustainability credentials of the development and its impacts on the rural environment.

Proposal

Outline planning permission is sought for the erection of two detached dwellings with associated garages and the creation of a new vehicular access off Stoney Lane with the access and layout for approval at this stage. The 0.14 hectare site is currently an allotment associated with Stoney Cottages and is situated on the south-eastern side of Stoney Lane. It is proposed that one of the dwellings would meet a 'local need' with the site being outside the defined Limits to Development.

Consultations

A total of 11 individual representations have been received with 3 representations opposed to the development and 8 representations in support of the proposal. Coleorton Parish Council and the County Highways Authority also object to the development. A revised consultation response from the Coal Authority, as well as any consultation response from Leicestershire County Council Archaeology and 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

The application site lies outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan and in the publication version North West Leicestershire Local Plan. The application has also been assessed against the relevant policies in the NPPF, the adopted and publication version Local Plans and other relevant guidance.

Conclusion

The site is a greenfield site outside Limits to Development which is significantly detached from the nearest settlement boundary and would not be within a socially sustainable location due to inability to access basic services by means other than the private car. On this basis the proposal would not be environmentally or socially sustainable and as such results in fundamental conflicts with the core policies of the NPPF, as well as in particular Paragraph 17. The location of the site would also result in conflict with Policy S3 of both the adopted and publication version Local Plans and would exacerbate ribbon development.

Given the substandard width of the highway and lack of pedestrian footway provision on Stoney Lane, as well as the inadequacies in the width of the junction of Stoney Lane with Zion Hill, it is considered that the introduction of additional vehicular traffic would be to the overall detriment of pedestrian and highway safety. Furthermore, inadequate visibility splays would be provided at the access serving plot 1 which would prevent the future occupant from exiting the site in a slow and controlled manner thereby causing further detriment to pedestrian and highway safety. On this basis the development would conflict with Paragraph 32 of the NPPF, Policy T3 of the

adopted Local Plan and Policy IF4 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 (with access and layout included for determination) is sought for the erection of two dwellings on land adjacent to The Cottages, Stoney Lane, Coleorton. The site is 0.14 hectares in size and currently forms an allotment associated with The Cottages which is located on the south-eastern side of Stoney Lane. The site is identified as being outside the defined Limits to Development in both the adopted and publication version Local Plans, with the surrounding area comprising mainly open agricultural fields as well as residential properties of varying designs and scales which are sporadically placed.

The submitted drawings indicate that the dwellings would be two-storey in height, with the first floor to plot 1 being within its roof space, but this is indicative only. In terms of layout the proposed dwellings would be situated to the north-east of The Cottages, in close proximity to the highway, and orientated so as to be parallel with Stoney Lane. Both dwellings would be served by separate vehicular accesses which would allow for off-street parking as well as for vehicular manoeuvres to be undertaken clear of the highway.

A planning statement, incorporating a design and access statement, coal mining risk assessment, ecological statement and arboricultural statement have been submitted in support of the application. A revised Coal Mining Risk Assessment has been submitted following the initial objection of the Coal Authority.

During the course of the application additional information has been supplied to outline that one of the dwellings (plot 1) would be provided as a 'local need' dwelling for the applicants who wish to reside in a one and a half storey property. It is also stated that both properties would be constructed to Code for Sustainable Homes Level 4.

No recent relevant planning history was found.

2. Publicity

5 neighbours have been notified (date of last notification 13 July 2016)

Site Notice displayed 1 July 2016

Press Notice published 22 June 2016

3. Consultations

Coleorton Parish Council consulted 15 June 2016

LCC Flood Management

County Highway Authority

LCC ecology

County Highway Authority

Severn Trent Water Limited

Head of Environmental Protection

County Archaeologist

Coal Authority

4. Summary of Representations Received

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

correspondence received on the planning file.

Coal Authority have initially objected to the application given it has not been demonstrated that the proposed dwellings would not be subject to risk from shallow coal mine workings.

Coleorton Parish Council object to the application given that the application site is outside the defined Limits to Development and that Stoney Lane is not a suitable to accommodate additional vehicular movements.

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

Leicestershire County Council - Ecology has no objections.

Leicestershire County Council - Highway Authority object to the application given that the site is in an unsustainable location, inadequate visibility splays would be provided and that the carriageway is not of an appropriate width to accommodate additional vehicular movements.

NWLDC - Environmental Protection has no objections.

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

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

Third Party Representations

Three representations have been received from third parties which object to the development proposals and whose comments are summarised as follows: -

- The application site is in an unsustainable area and would also be isolated with there being no benefits which would outweigh this harm.
- The proposed access position for plot 2 would result in detriment to highway safety due to its proximity to a sub-standard access at Bank House and there is no evidence to suggest that the widening of Stoney Lane is possible.
- The proposed development would be out of keeping with the prevalent form of development in the area where dwellings are varied in their form and orientation with irregular plot shapes.
- The width of Stoney Lane is not suitable to cater for additional traffic which would be associated with the development.
- Inadequate visibility will be achieved at the site access given the proximity to a blind summit leading to the junction of Stoney Lane with Zion Hill.
- Proposed dwellings will not accord with the streetscape given that they would be higher than the existing dwellings.

Eight representations have been received from third parties which support the development proposals and whose comments are summarised as follows: -

- The development will be more sympathetic than the residential scheme being progressed at the site associated with the former doctors surgery at the opposite end of Stoney Lane.
- The applicant has a desire to reside and retire at this site given his longstanding

- affiliation with the area.
- The application site is currently scrubland which is difficult to maintain and as such this sympathetic development would be of benefit to the visual amenity of the area.
- There should be no questions over the sustainability of the site's location given approval for a dwelling on Zion Hill.
- The dwelling would have a 'low carbon footprint.
- Occupants of the dwelling would help to support local businesses.

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 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, nor 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 version 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 (inclusive of 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, the following services are within an acceptable walking distance of 800 metres, or 1000 metres for a school: -

- Public Houses (New Inn, Zion Hill - 474 metres and George Inn, Loughborough Road - 728 metres);
- Recreation Ground (Zion Hill - 474.0 metres);
- Bus Stops for Two Services (Paul S Winson Coaches no. 129 - Ashby De La Zouch to Loughborough Monday to Saturday on Zion Hill - 523 metres 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) - 730 metres on Loughborough Road);

The social role, as defined in Paragraph 7 of the NPPF, requires the supply of housing to be linked to accessible local services which meet the needs of the community and support its health, social and cultural wellbeing. Whilst the above services exist within a reasonable walking distance of the application site, no footway or substantial street lighting is provided on either Stoney Lane or Bakewells Lane, which is used to access Loughborough Road, and as a consequence walking to such services would not be a desirable option for any future residents particularly in the hours of darkness or during inclement weather. In these circumstances future residents would be isolated from services which would provide for their 'day to day' needs with the nearest public transport provision on Zion Hill offering a service which is two hourly and which does not extend into the evening hours, consequently access to services is likely to be limited to the private car. Such a reliance on the private car would conflict with the social role of sustainability, as defined by the NPPF, given that accessibility to a range of local services for future residents would be severely limited.

The site would be classed as greenfield and is detached from the Limits to Development on both the Proposals Maps to the adopted and publication version Local Plans. On this basis the proposal would be assessed in the context of Policy S3 of the adopted Local Plan and Policy S3 of the publication version Local Plan, particularly as the Local Authority is able to demonstrate a five year supply of housing.

Although at present the application site is an unmanaged allotment associated with nos. 1 and 2

Stoney Cottages, it is closely associated with the open rural landscape to the east and west. As a consequence it contributes positively to the open and undeveloped nature of the area which would be its defining characteristic. In addition the application site is not well related to the nearest settlement boundary where new residential development would usually be provided. A residential development of two dwellings and the associated infrastructure would result in the urbanisation of the site. This would diminish its present open character and would be an incongruous encroachment into the rural environment which should be protected for its own sake. There is also no overriding need for this type of proposal to come forward on the land. There would be conflict with a fundamental principle of the NPPF by virtue of the failure of the development to protect or enhance the natural environment. As the application 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 it is considered that the proposed development will impact adversely on the 'openness' of the rural environment, the dwellings would not be 'isolated' due to the relationship they would have with nos. 1 and 2 Stoney Cottage to the immediate south-west. However, a development of this nature would exacerbate ribbon development which would result in further conflict with Policy S3 of the publication version Local Plan.

Although it is proposed that the dwellings would be constructed to meet Code 4 for Sustainable Homes, as well as including renewable energy technologies which could assist in off-setting the environmental harm caused by a heavy reliance on the private car to access basic services, such construction is considered to not overcome the fundamental harm caused to the environment by the urbanisation of a rural greenfield site detached from the nearest settlement boundary. It also not been adequately demonstrated that the proposed development would be necessary to meet a 'local need' and as such this matter would not weigh in favour of the development being appropriate in the rural environment.

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.

Accessibility

The County Highways Authority has raised concerns with regards to the suitability of the provision of new dwellings on Stoney Lane given the substandard nature of its width and pedestrian footway provision. Whilst amended plans have been submitted to identify that a section of the carriageway (50 metres) outside the application site would be widened to 4.8 metres in order to allow two vehicles to pass each other, this 'highway gain' is not considered sufficient to address the inadequacies associated with the carriageway in general and the lack of width at the junction of Stoney Lane with Zion Hill. On the basis that Stoney Lane is unsuitable to accommodate an increase in vehicular movements, as well as the fact that no pedestrian footway exists, it is considered that the proposal would result in a severe detriment to pedestrian and highway safety and therefore is contrary to Paragraph 32 of the NPPF as well as Policy T3 of the adopted Local Plan and Policy IF4 of the publication version Local Plan.

Further to this, the identified visibility splays for plot 1 are incorrectly positioned given that they would not be set at the required distance from the edge of the carriageway should the highway be widened as suggested by the amended plan. As a consequence of this it has not been

adequately demonstrated that plot 1 would be provided with satisfactory visibility splays so as to enable the future occupant to exit the site in a slow and controlled manner. On this basis there would be further conflict with the aforementioned policies identified above.

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 adopted 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 no. 2 The Cottages, Stoney Lane, to the south-west, and Bank House to the north-west.

In respect of Bank House a distance of 49.0 metres would exist between the elevations of this property and plot 2, with plot 2 also being set 8.0 metres from the south-eastern boundary to Bank House. Whilst the scale of plot 2 is not to be determined at this stage the indicative street elevation highlights plot 2 as a two-storey, with habitable accommodation in the roof slope, detached dwelling with a ridge height of 6.9 metres. Given the distance between elevations it is considered that no adverse overbearing or overshadowing impacts would arise. Whilst plot 2 would be located close to the south-eastern (front) boundary of Bank House, no direct views would be established into this property nor would there be any direct views onto the private amenity associated with the dwelling. In this context, therefore, no adverse overlooking impacts would arise with the final position of the windows to plot 2 being agreed at the reserved matters stage.

The north-eastern (side) elevation of no. 2 The Cottages, Stoney Lane contains windows which serve habitable rooms. In order to alleviate any overbearing or overshadowing impacts, plot 1 has been set 15.5 metres from this elevation. Such a distance is considered satisfactory in protecting the amenities of no. 2 The Cottages. In respect of overlooking impacts the position and glazing of the windows to plot 1 would be finalised at the reserved matters stage and subject to careful consideration being given to their positions, an acceptable relationship with no. 2 The Cottages could be established.

An adequate separation distance between plots 1 and 2 would be created so that future amenities would be protected with any direct views from the habitable windows in the north-eastern (side) elevation of no. 2 The Cottages being towards the vehicular manoeuvring area for plot 1.

Overall, the development proposals are considered to be compliant with, 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.

In terms of topography the application site slopes upwards from south-west to north-east with a mature hedgerow to a height of 1.2 metres currently defining the boundaries. Bank House is set to the north-west with other properties on Stoney Lane being due west of the site. Dwellings on Zion Hill are to the north-east although these are not visible on Stoney Lane due to the presence of the embankment associated with the former railway. Open countryside exists to the immediate west and east of the site as well to the south beyond nos. 1 and 2 The Cottages. Properties within the immediate area are a mix of single and two-storey dwellings which are predominately 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 this part of Stoney Lane are generally orientated to face onto the highway and are at differing distances to this carriageway, Bank House having the most significant detachment. The character of the lane is also defined by clusters of dwellings at irregular intervals. The layout highlights that the proposed dwellings would front onto Stoney Lane and would be in close proximity to the roadside to try and maintain a consistent building line with nos. 1 and 2 The Cottages, albeit it is acknowledged that nos. 1 and 2 The Cottages do abut Stoney Lane. Whilst representations which have been received consider the maintenance of a building line to be at odds with the character of the area, it is considered that the application site lacks the required depth to have any significant difference in the proximity of dwellings to Stoney Lane and in any event such consistency is found in development elsewhere on Stoney Lane, in close proximity to Lower Moor Road, as well as Bakewells Lane to the immediate south. The provision of the dwellings would also create a 'cluster' of dwellings consistent with the character of Stoney Lane. On this basis the layout of the development proposed would not result in detriment to the character of the streetscape or appearance of the wider area.

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. This is by responding to the positive characteristics of the dwellings within the immediate area as well as having a National Forest identity. A scheme progressed along the details and appearance shown on the street elevation would be considered acceptable

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.

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, as well as Policy En1 of the publication version Local Plan, seeking to ensure existing vegetation is retained and enhanced. The landscaping on the site is confined to the boundaries which mainly consist of hedgerows. Whilst a new vehicular access would be created to serve plot 1, this would not impact adversely on the integrity of this hedgerow given the length which would be retained and would also not lead to an 'over-engineered' access being created. In respect of the position of the dwellings, it is considered that they would be set outside the root protection areas of the hedges which would therefore ensure that they could be retained on any scheme progressed at the reserved matters stage.

Additional landscaping to supplement the existing vegetation would also 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 as well as 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 to be undertaken. 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 and Policy He1 of the publication version Local Plan. Should a representation be received following the publication of the Committee agenda the precise comments, and any suggested conditions, will be reported to Members via the Update Sheet.

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 Council's Environmental Protection team have raised no objections with regards to ground contamination subject to the imposition of conditions on any consent granted. The imposition of such conditions would ensure that future occupants would not be at risk from contamination. Therefore this would ensure compliance with Paragraphs 120 and 121 of the NPPF and Policy En6 of the publication version Local Plan.

Whilst the Coal Authority have initially objected to the application, and a revised consultation response is awaited, it is considered that on several applications within the area which are associated with the legacy of coal mining activity no objections have been raised subject to conditions on any consent. On this basis it can be reasonably assumed that no objections will be raised to the revised Coal Mining Risk Assessment although any comments which are received, along with suggested conditions, will be reported to Members on the Update Sheet.

Subject to the objection being removed the scheme would be compliant with Paragraphs 120 and 121 of the NPPF as well as Policy En6 of the publication version Local Plan.

Conclusion

The site is a greenfield site outside Limits to Development which is significantly detached from the nearest settlement boundary and would not be within a socially sustainable location due to inability to access basic services by means other than the private car. On this basis the proposal would not be environmentally or socially sustainable and as such results in fundamental conflicts with the core policies of the NPPF, as well as in particular Paragraph 17. The location of the site would also result in conflict with Policy S3 of both the adopted and publication version Local Plans and would exacerbate ribbon development.

Given the substandard width of the highway and lack of pedestrian footway provision on Stoney Lane, as well as the inadequacies in the width of the junction of Stoney Lane with Zion Hill, it is considered that the introduction of additional vehicular traffic would be to the overall detriment of pedestrian and highway safety. Furthermore, inadequate visibility splays would be provided at the access serving plot 1 which would prevent the future occupant from exiting the site in a slow and controlled manner thereby causing further detriment to pedestrian and highway safety. On this basis the development would conflict with Paragraph 32 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF4 of the publication version Local Plan.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reasons;

- 1 Policy S3 of the adopted Local Plan and Policy S3 of the adopted Local Plan provide a presumption against non-essential residential development outside the Limits to Development with Paragraph 17 of the NPPF indicating that planning should recognise the intrinsic character and beauty of the countryside. The NPPF also outlines that socially development should provide the supply of housing required to meet the needs of present and future generations with accessible local services and the support of their health, social and cultural well being. The proposed development being on a greenfield site would adversely affect and diminish the present open character of the environment in which it would be set and would represent an incongruous encroachment of development into the rural environment 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 would represent inappropriate ribbon development. Stoney Lane also does not benefit from a raised footway or substantial street lighting and as a consequence future occupants would be socially isolated and heavily reliant on the private car to access basic services. 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.
- 2 Paragraph 32 of the NPPF outlines, amongst other things, that development should only be prevented or refused on transport grounds where the residual cumulative impact of development are severe. Policy T3 of the adopted Local Plan identifies that development will be permitted only where its highway design and layout make adequate provision for vehicular access and circulation, and servicing arrangements. This guidance is further reflected in Policy IF4 of the publication version Local Plan. Given the substandard width

and lack of pedestrian footway provision on Stoney Lane, as well as the inadequacies in the width of the junction of Stoney Lane with Zion Hill, it is considered that the introduction of additional vehicular movements onto the highway would be to the overall detriment of pedestrian and highway safety. Furthermore, inadequate visibility splays would be provided at the access serving plot 1 which would prevent the future occupant from exiting the site in a slow and controlled manner thereby causing further detriment to pedestrian and highway safety. On this basis to permit the proposal would be contrary to Paragraph 32 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF4 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.

Erection of one dwelling

Report Item No
A4

Ivy House Nottingham Road Peggs Green Coleorton Coalville
Leicestershire LE67 8HN

Application Reference
16/00683/FUL

Applicant:
Mrs J Hall

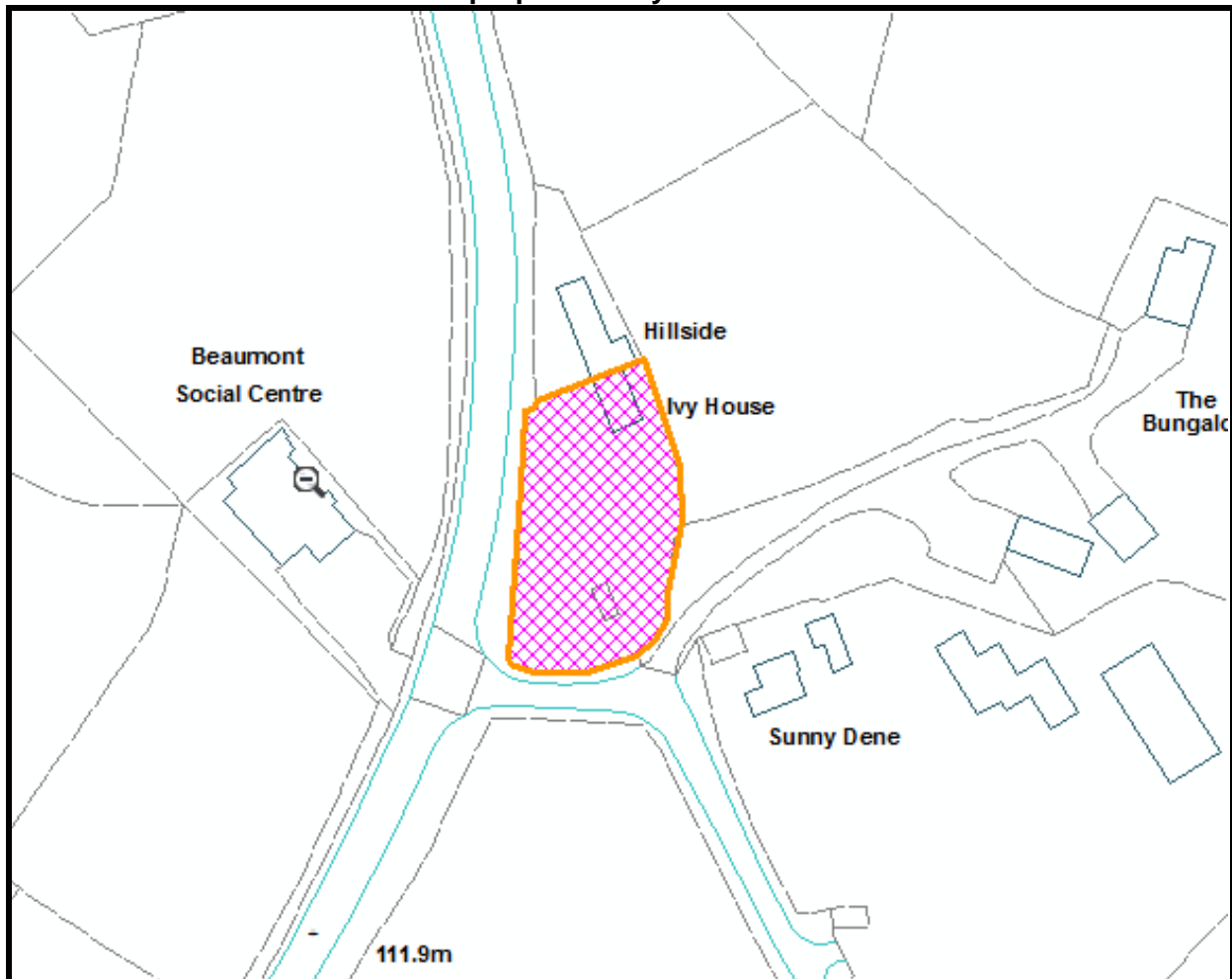
Date Registered
13 June 2016

Case Officer:
James Mattley

Target Decision Date
8 August 2016

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

Proposal

Planning permission is sought for the erection of one dwelling at Ivy House, Nottingham Road, Peggs Green.

Consultations

Members will see from the report below that no objections have been received from surrounding neighbours and that two letters of support have been received. Coloerton Parish Council object to the application but no other objections have been received from any other statutory consultees.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted Local Plan and in the publication version Local Plan. The application has also been assessed against the relevant policies in the NPPF and the adopted and publication version Local Plans.

Conclusion

The site is located outside of the limits to development where the principle of residential development is not normally considered acceptable. However, in this instance, when having regard to the social, economic and environmental impacts of the proposal it is considered to represent sustainable development. On this basis the principle of the proposal is considered to be acceptable. The site could be developed as proposed without appearing out of character and appearance with that of the surrounding locality, and without significant adverse effect on the amenities of neighbouring residents and highway safety. There are no other material planning considerations that indicate planning permission should not be granted. The proposal, subject to relevant conditions, is therefore considered acceptable for the purposes of relevant planning policies.

Therefore, it is recommended that the application be permitted.

RECOMMENDATION:- PERMIT

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

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the erection of one dwelling at Ivy House, Nottingham Road, Peggs Green. The site is located to the east of Nottingham Road and to the north of Anchor Lane. The application site is located outside of the Limits to Development as defined by the adopted Local Plan.

The scheme proposes a two storey detached dwelling that would be positioned toward the front of the site with a single storey garage structure located to the rear. The access into the site would come off Anchor Lane.

Pre-application advice has been carried out prior to the submission of this application.

2. Publicity

3 neighbours have been notified (Date of last notification 20 June 2016)

Site Notice displayed 27 June 2016

3. Consultations

Coleorton Parish Council consulted 20 June 2016

County Highway Authority

Severn Trent Water Limited

Head of Environmental Protection

LCC ecology

Head Of Street Management North West Leicestershire District

4. Summary of Representations Received

Coloerton Parish Council objects to the proposal on the basis that the site is outside the Limits to Development.

Environmental Protection Section has no environmental observations

County Ecologist has no objections.

County Highway Authority has provided standing advice.

Two letters of support have been received raising the following issues:

- * new dwellings are required to support local services;
- * the plot has been run down for years; and
- * it will improve the street scene.

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 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 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 En6 - Land and Air Quality;
 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.

6. Assessment

Principle

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 publication version 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 as to whether the proposals constitute sustainable development (inclusive of 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 social sustainability credentials of the site, it is considered that whilst the Peggs Green area would not generally be socially sustainable due regard is given to the fact that a recent appeal decision concerning residential development at 85 Loughborough Road (ref: APP/2435/W/15/3133687) highlighted that convenience goods could be obtained from a garage situated along Loughborough Road (Redhall Garage) which aided the sustainability of the site location. It is noted that this site would be 681.07 metres from this service. Taking this into account, as well as its proximity to other services, public transport and Griffydham County Primary School, and that walking to such services could be undertaken on maintained footpaths which are well lit, it is concluded that the site would be in a socially sustainable location. On this basis future residents would not be heavily reliant on the private car to access the most basic of services.

In respect of the implications to the environment, it is considered that the development would be on residential garden land which would be classed as 'greenfield' land. Whilst this is the case

the dwelling would be closely associated with existing built forms (including the existing dwellings on the site and along Anchor Lane) and therefore the proposal would not impact adversely on the 'openness' of the rural environment or result in the provision of an 'isolated' dwelling.

There would be some limited economic benefits associated with the scheme which would include local construction jobs and helping to maintain local services in the area.

In conclusion, it is considered that the site would be socially sustainable and there would be some limited economic benefits associated with the construction of the dwellings and these benefits would not be significantly or demonstrably outweighed by negative environmental impacts of the proposal. Whilst 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 proposal is considered to represent sustainable development and, therefore, the application is considered acceptable in relation to the NPPF.

Residential Amenities

Consideration has been given to the impact of the development on surrounding residential properties despite not receiving any letters of representation during the course of the application. The most immediately affected dwelling would be Ivy House which is located within the application site and who are the applicants of this proposal.

Ivy House is a two storey detached dwelling located to the north. There would be a distance of 18 metres between the two storey side elevation of the existing property and the two storey side elevation of the new property. There would be a distance of 15 metres between the single storey side elevation of the existing property and the two storey side elevation of the new property. Having regard to the nature of this relationship, it is not considered that any significant overbearing or overshadowing issues would arise. In terms of overlooking, some windows are proposed at first floor level on the northern side elevation and these would look directly towards Ivy House to the north. However, the area to the north which would be overlooked does not represent private residential amenity space and is more akin to scrubland and, therefore, significant overlooking impacts would not be established.

It is not considered that any other residential property would be significantly affected by the proposed development.

For the reasons set out above, it is not considered that there would be any significant loss of amenities by means of overbearing, overshadowing or overlooking impacts. The proposal therefore complies with the provisions of Policy E3 of the adopted Local Plan and Policy D2 of the publication version Local Plan.

Design and Visual Amenity

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

had to the wider settings of new buildings; new development should respect the character of its surrounding, in terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

The wider area is characterised by sporadic and loose knit development. However, in the immediate area there are existing residential dwellings to the north and to the east of the site. The Beaumont Social Centre is located over the road from the application site. The existing site has the appearance of scrubland and development of the site offers an opportunity to enhance the appearance of the current site. Given the clustering of dwellings in close proximity to the application site, and the presence of two roads along the western and southern boundary, it is not considered that the proposal would result in wider harm to the countryside or the character and appearance of the immediate area.

There is no set design character prevalent in the area with all dwellings exhibiting differing features. Given this context it is considered that the design of dwellings proposed would be acceptable and would include features which the Local Authority consider desirable (chimneys, eaves and verge detailing, dentil courses and timber framed canopies). Such features would be consistent and in keeping with properties in the immediate area which make a positive contribution to the visual amenity of the area. The size of the dwelling is considered to be commensurate with the size of the site and the design put forward shows for an adequate level of amenity space and for car parking and turning.

Overall, the design, appearance and scale of this proposal is acceptable and would not look out of keeping with the character and appearance of the surrounding area, and is considered to be compliant with the advice in the NPPF, Policy E4 of the adopted Local Plan and would also accord with the provisions of Policy D1 of the publication version Local Plan.

Highway Safety

The existing access off Anchor Lane would be utilised to provide access to the proposed development. The County Highway Authority has been consulted specifically regarding the proposed access arrangements and has raised no objections subject to consideration of standing advice. Such matters including visibility splays, car parking, turning and surfacing could be dealt with through suitable planning conditions.

In terms of car parking, the proposed dwelling would benefit from at least three off-street car parking spaces which is considered to be an acceptable amount given that the dwelling would have four bedrooms. Subject to a condition being imposed to secure these off-street parking spaces, it is considered that the development 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.

The County Highway Authority has no objections to the proposed development subject to relevant highway conditions. Therefore, it is not considered that the proposal would conflict with highway safety policies T3 and T8 in the adopted Local Plan, policies IF4 and IF7 of the publication version Local Plan, the advice in the NPPF or the County Council's 6Cs document.

Summary Reason for Granting Planning Permission

The site is located outside of the Limits to Development where the principle of residential development is not normally considered acceptable. However, in this instance, when having regard to the social, economic and environmental impacts of the proposal the scheme is considered to represent sustainable development. On this basis the principle of the proposal is

considered to be acceptable. The site could be developed as proposed without appearing out of character and appearance with that of the surrounding locality, and without significant adverse effect on the amenities of neighbouring residents and highway safety. There are no other material planning considerations that indicate planning permission should not be granted. The proposal, subject to relevant conditions, is therefore considered acceptable for the purposes of the above-mentioned policies.

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 deposited with the Local Planning Authority on 13 June 2016;
 Block Plan deposited with the Local Planning Authority on 13 June 2016;
 Topographical survey deposited with the Local Planning Authority on 13 June 2016;
 Drawing No. IVY.PFP.005 deposited with the Local Planning Authority on 13 June 2016;
 Drawing No. IVY.SBR.001 deposited with the Local Planning Authority on 13 June 2016;
 Drawing No. IVY.PFP.003 deposited with the Local Planning Authority on 13 June 2016;
 Drawing No. IVY.PFP.004 deposited with the Local Planning Authority on 13 June 2016;
 Drawing No. IVY.SEC.006 deposited with the Local Planning Authority on 13 June 2016.

Reason - To determine the scope of this permission.

- 3 Off-street car parking shall be provided within the application site in accordance with the details shown on drawing number IVY.SBR.001; the parking areas shall be surfaced 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 provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area, in the interests of the safety of road users.

- 4 Notwithstanding the submitted plans, nor Condition 2 above, no dwelling shall be erected above damp proof course until such time as representative samples of the materials to be used in all external surfaces have been submitted to and agreed in writing with the Local Planning Authority. The works shall be undertaken in accordance with the approved details.

Reason - To enable the Local Planning Authority to retain control over the external appearance as no details have been submitted.

- 5 Notwithstanding the submitted plans, nor condition 2 above, the dwelling shall not be erected above damp proof course until full details of both hard and soft landscaping works and boundary treatments have first been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- a) Means of enclosure and boundary treatments to and within the site;
- b) Hard surfacing materials;
- c) Details of soft landscaping including schedules of plant species, plant sizes, planting plans and proposed numbers/densities where appropriate;
- d) An implementation programme for the hard and soft landscaping and boundary treatments.

Reason - In the interests of visual and residential amenities.

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

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

- 7 No development shall commence on site until such time as detailed finished floor levels and site levels (in relation to a fixed datum point) have been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be carried out in accordance with the agreed details.

Reason - To ensure appropriate land levels.

- 8 Before the first occupation of the dwelling hereby approved, details of visibility splays shall be submitted to and agreed in writing with the Local Planning Authority. These shall be in accordance with the standards contained in the current County Council design guide and shall be so maintained in perpetuity. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

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

- 9 Before first occupation of the dwelling hereby approved, its access drive 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 and shall be so maintained at all times.

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

- 10 Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway including private access drives, and thereafter shall be so maintained.

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

- 11 The gradient(s) of the access drive(s) shall not exceed 1:12 for the first 5 metres behind the highway boundary.

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

Notes to applicant

- 1 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority on 01530 454666 for further details.
- 2 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England)) Order 2015 (as amended).
- 3 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001)

Erection of one self-build dwelling (outline - all matters reserved)

Report Item No
A5

Land At Babelake Street Packington Ashby De La Zouch
Leicestershire LE65 1WD

Application Reference
16/00612/OUT

Applicant:
Mr John Mattley

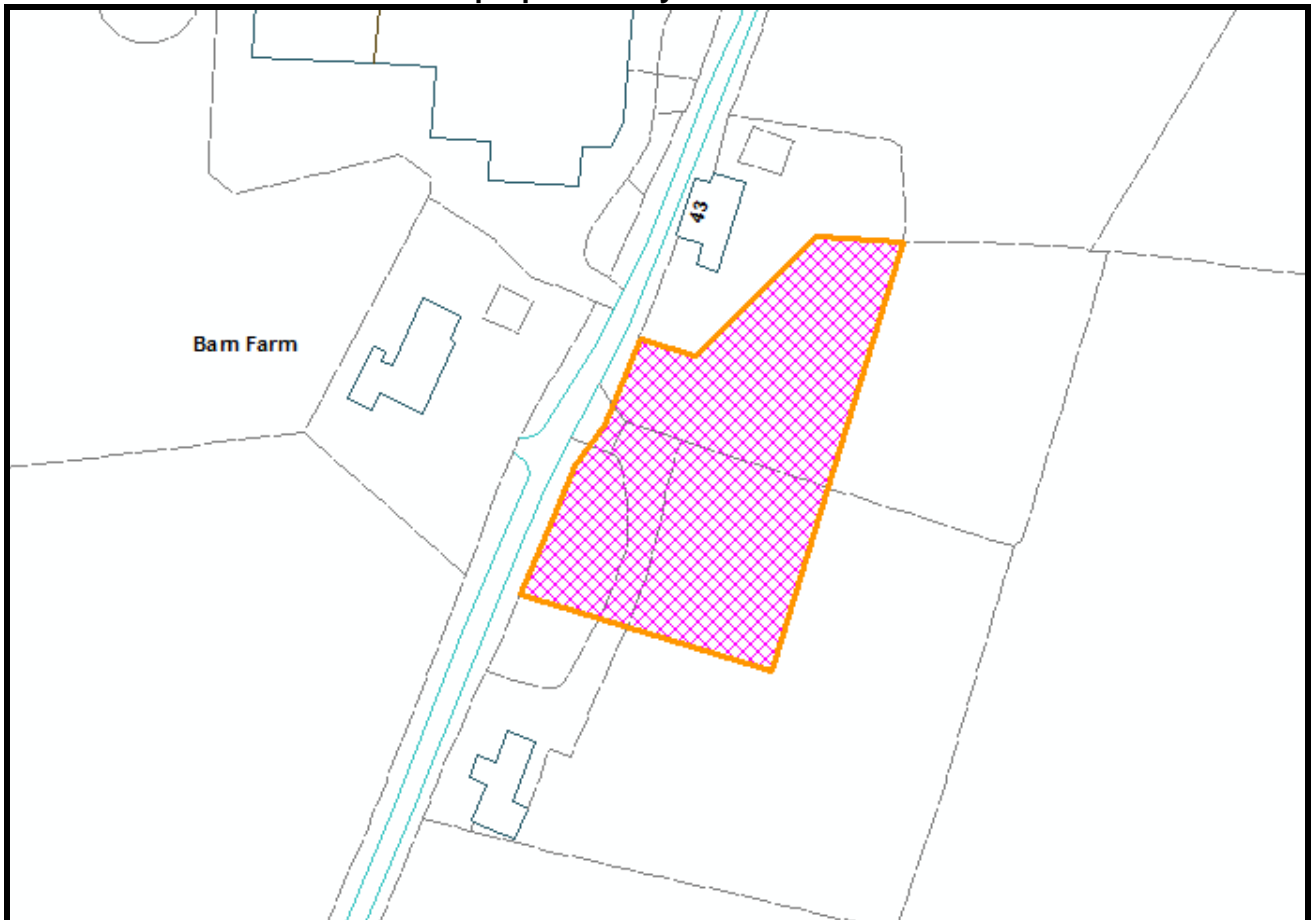
Date Registered
23 May 2016

Case Officer:
Christopher Elston

Target Decision Date
18 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 is brought before Planning Committee as two of the applicant's children are employed as Planning Officers within the Development Management team at the Council.

Proposal

Outline planning permission (with all matters reserved for future determination) is sought for the erection of one self-build dwelling on land at Babelake Street, Packington. The site is 0.19 hectares in size and lies outside the Limits to Development as identified in the adopted North West Leicestershire Local Plan and in the publication version North West Leicestershire Local Plan.

Consultations

No third party representations have been received. Packington Parish Council objects to the proposal. There are no objections raised by other statutory consultees.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and in the publication version North West Leicestershire Local Plan. The application has also been assessed against the relevant policies in the NPPF and the adopted and publication version Local Plans and other relevant guidance.

Conclusion

In the overall balance it is considered that the proposal would be a sustainable form of development and is acceptable in principle. The proposal is unlikely to result in a severe impact on highway safety or adversely impact on the River Mease SAC/SSSI and a dwelling could be accommodated on the site without significant detriment to the character of the area, setting of a listed building, residential amenities and trees/hedgerows. There are no other relevant material planning considerations that indicate planning permission should not be granted.

Therefore, it is recommended that the application be granted planning permission.

RECOMMENDATION - PERMIT subject to a Section 106 obligation 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, 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 all matters reserved for future determination) is sought for the erection of one self-build dwelling on land at Babelake Street, Packington. The site is 0.19 hectares in size and forms part of a paddock located on the eastern side of Babelake Street. A stable block owned by the applicant lies to the south of the site and the site is adjoined by the remainder of the paddock and two dwellings. The submitted plan indicates that an existing access into the site from Babelake Street (which serves the existing stables and paddock) would be used. As all detailed matters are reserved for future determination, no details of the siting, size or design of the dwelling have been submitted. The supporting information states that the dwelling would be a self-build home.

The site lies outside the Limits to Development as identified in the adopted and publication version Local Plans and lies within the catchment area for the River Mease Special Area of Conservation and the Gilwiskaw Brook (which is a tributary of the River Mease and part of the SSSI) lies approximately 110 metres to the east of the site. Blake Farmhouse (No. 33 Babelake Street) lies approximately 110 metres to the north of the site and is a Grade 2 listed building. The hedgerow fronting the site has been designated as a Local Wildlife Site.

Planning history:

- erection of one single storey storage building for purposes ancillary to equestrian use (13/00670/FUL) approved October 2013;
- change of use of fields to paddock and the erection of stables (02/01462/FUL) approved December 2002;

2. Publicity

2 Neighbours have been notified (Date of last notification 26 May 2016)

Press Notice published 1 June 2016

Site Notice published 30 May 2016

3. Consultations

Packington Parish Council consulted 26 May 2016

County Highway Authority consulted 26 May 2016

Environment Agency consulted 26 May 2016

Severn Trent Water Limited consulted 26 May 2016

Head of Environmental Protection consulted 26 May 2016

Natural England- Within 2k Of SSSI consulted 26 May 2016

NWLDC Tree Officer consulted 26 May 2016

LCC ecology consulted 26 May 2016

NWLDC Conservation Officer consulted 26 May 2016

Head Of Street Management North West Leicestershire District consulted 26 May 2016

4. Summary of Representations Received

Statutory Consultees

Packington Parish Council objects to the application on the following grounds:

This application is outside the Limits to Development and in an area which is in open countryside. If allowed to proceed, councillors are concerned that this will set a dangerous precedent in that other owners of stables will wish to consider the same type of development. There are many of these types of owner and land along Babelake Street and if this application is permitted, how could others be refused? There will also be a loss of amenity if this development takes place. The lane is currently used for horse riding, cycling, walking and dog walking and development will spoil this. The road is not suitable for increased traffic and would require extensive works.

The Environment Agency has no objections.

Leicestershire County Council Ecologist has no objections subject to conditions.

Leicestershire County Council Highway Authority has no objections subject to conditions.

Natural England has no objections subject to conditions.

NWLDC Environmental Protection team has no environmental observations.

NWLDC Waste Services team sets out matters for the developer to take into account in respect of waste collection.

No comments have been received from Severn Trent Water and the NWLDC Tree Officer by the date of this report.

Third Party Representations

No letters of representation have been received.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

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

Paragraph 10 (Achieving sustainable development)

Paragraph 14 (Presumption in favour of sustainable development)

Paragraph 17 (Core planning principles)

Paragraphs 32 and 35 (Promoting sustainable transport)

Paragraphs 47, 49 and 55 (Delivering a wide choice of high quality homes)

Paragraphs 57, 58, 60, 61 and 64 (Requiring good design)

Paragraphs 69 and 70 (Promoting healthy communities)

Paragraphs 99 and 100 (Meeting the challenge of climate change, flooding and coastal change)

Paragraphs 109, 111, 112, 113, 118, 119 and 123 (Conserving and enhancing the natural environment)

Paragraphs 129, 131, 132, 133 and 134 (Conserving and enhancing the historic environment)

Paragraphs 203 and 206 (Planning conditions and obligations)

Adopted North West Leicestershire Local Plan (2002):

The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan 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:

Policy S1 - Overall Strategy
 Policy S3 - Countryside
 Policy E2 - Landscaped Amenity Open Space
 Policy E3 - Residential Amenities
 Policy E4 - Design
 Policy E7 - Landscaping
 Policy F1 - National Forest - General Policy
 Policy F2 - Tree Planting
 Policy F3 - Landscaping & 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

On 15 September 2015 the 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:

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 EN2 - River Mease Special Area of Conservation
 Policy EN3 - The National Forest
 Policy HE1 - Conservation and Enhancement of North West Leicestershire's Historic Environment
 Policy CC2 - Water - Flood Risk
 Policy CC3 - Water - Sustainable Drainage Systems

Other Guidance

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
 National Planning Practice Guidance 2014
 The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations')
 Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)
 River Mease Water Quality Management Plan - August 2011

The River Mease Developer Contributions Scheme (DCS)
 The Community Infrastructure Levy Regulations 2010
 6Cs Design Guide - Leicestershire County Council

6. Assessment

The main issues for consideration in the determination of this application relate to the principle of the development, its visual impact and its impact on the historic environment, residential amenities, ecology and trees, highway safety and on the River Mease Special Area of Conservation.

Principle of the 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 within the adopted Local Plan and the publication version Local Plan with 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. 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.

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 Council is able to demonstrate a five year supply of housing (with 20% buffer) against the housing requirement contained in the publication version Local Plan.

Consideration must also 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.

In terms of social sustainability Packington provides a range of day to day facilities, e.g. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites, and there is a limited hourly public transport service. These services/facilities are within one km (preferred maximum walking distance) of the site. Ashby-de-la-Zouch is also located approximately 1.7km from the site, where a wider range of services can be found. Whilst there is no footway along this part of Babelake Street, it has a relatively low traffic flow and verges and footways are available further along the road. Furthermore, there are several public footpaths leading off the road linking to the village and National Forest plantations, and the road is used by cyclists/walkers and horse riders from the nearby Champneys spa and stables. As such there are opportunities to walk to the village from the site along a route which is already in use by pedestrians and other non-car users. Therefore, it is considered that occupiers of the dwelling would not necessarily be dependent on the private car.

In terms of environmental sustainability some harm would arise from the loss of greenfield land located within the countryside. However as set out in more detail below, the proposal would not result in an 'isolated' dwelling or any unacceptable impacts on the natural, built or historic environment. Furthermore the dwelling would be self-build, for which there is support at national level with the introduction of new legislation by way of the Self Build and Custom Housebuilding Act 2015 and guidance published the Department for Communities and Local

Government, including the need for the for the Council to provide a self-build/custom build register. To date 37 people, including the applicants, have registered their interest in such projects within the District of North West Leicestershire. There would also be limited economic benefits which would include local construction jobs and helping to maintain local services in the area.

Packington Parish Council's objection includes concerns that the proposal will set a precedent for other dwellings located near to stables, in particular along Babelake Street where there are many stables and areas of land used in connection with horses. The application has not been submitted on the basis of the dwelling being required in connection with use of the stables. Furthermore, any applications for dwellings in the surrounding area would be considered on their own merits.

In conclusion, whilst the proposal would be contrary to Policies S3 of the adopted and publication version Local Plans and would result in some visual harm from loss of greenfield land in the countryside, this would be outweighed by the site's social sustainability credentials, development of a self-build property that would not have unacceptable impacts on the natural, built or historic environment, and the limited economic benefits. Therefore in the overall balance it is considered that the proposal represents a sustainable form of development and is acceptable in principle. In order to ensure that the dwelling is a self-build property, it is considered necessary for the applicant to enter into a Section 106 obligation which would control the commissioning and construction process of the property and its initial occupation.

Visual Impact

The proposal would result in a density of 5.2 dwellings per hectare, which is significantly below that sought under Policy H6 of the adopted Local Plan (a minimum of 30 dwellings per hectare). However the NPPF states that authorities should set their own approach to housing density to reflect local circumstances. This density is considered appropriate having regard to the character of the area and the location of the site within the countryside.

This part of Babelake Street is characterised by sporadic and loose knit development and the proposal would result in the loss of greenfield land within the countryside. However, adjoining the development in three directions are two existing dwellings, the existing stable block and access road (which runs through the site) and a farm complex made up of several buildings and associated hardstanding. As such it is considered that harm to the character and visual amenities of the countryside would be limited as the development would not appear prominent within the rural landscape and would be well screened by the existing frontage hedgerow and seen within existing development.

There is variety in the scale and design of the dwellings along Babelake Street and a self-build dwelling would give an opportunity to reflect local character and distinctiveness. The site could accommodate all of the necessary requirements (private garden, parking/turning space) without being too cramped or resulting in over-development. As such it is considered that the proposal would not be contrary to the provisions of adopted Policy E4 and publication version Policy D1.

Historic Environment

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess. Paragraph 131 of the NPPF requires, amongst other things, new development to make a positive contribution to local character and

distinctiveness. Paragraph 132 of the NPPF stipulates that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Blake Farmhouse (No. 33 Babelake Street) lies approximately 110 metres to the north of the site and is a Grade 2 listed building. Therefore the impact of the development on the setting of the listed building should be given special regard as required by the 1990 Act. No. 33 dates from the 18th century and part of its significance comes from its traditional design and many original details and design features and its prominence within the streetscene (due to its scale and design). Its significance is also due to the farm forming the historic edge to the settlement with countryside beyond.

Significant weight is given to preserving the setting of the Grade 2 listed building. There is some distance between the site and the listed building with intervening screening from No. 43 Babelake Street, No. 33's outbuildings and mature vegetation. Any views of a dwelling in the setting of the listed building from public footpaths and in longer views would be alongside existing development along Babelake Street. There is no evidence to suggest there is any direct functional/historic relationship between the site and the listed building. Therefore it is considered that a dwelling on the site would not adversely impact on the setting of the listed building and would not be harmful to its significance.

Residential Amenities

No. 43 Babelake Street is six metres from the site at its closest point with its private garden adjacent to the site, and has side and rear windows serving habitable rooms. However, given the size of the site it is considered that a dwelling could be accommodated without significant detriment to residential amenities of occupiers of No. 43.

The site is located close to a farm and stables which could result in smells and noise affecting occupiers of the new dwelling. However, no objections have been raised in respect of this matter by the Council's Environmental Protection team and it is not unusual for dwellings to be located close to such uses.

Trees and Ecology

The hedgerow that forms the site's front boundary is identified as a Local Wildlife Site. The application states that there is no intention to remove the hedgerow and the existing access would be utilised. There would be space on the site to accommodate a dwelling without the need to remove or impact on the hedgerow. The County Ecologist has no objections although requests the imposition of a planning condition requiring the hedgerow to be retained. Whilst the County Ecologist also requests imposition of a condition relating to landscaping, given that all detailed matters are reserved for future consideration, such a condition cannot be imposed at this stage.

Highway Safety

The site is located on a straight stretch of Babelake Street within a 30mph zone. The County Highway Authority advises that due to the site's existing use as a pony paddock it does not consider that the proposed dwelling will result in a significant increase in trips and it could be argued that it will reduce the number of vehicles using this access on a daily basis. While the application has not been submitted on the basis of the dwelling being required in connection with the use of the stables, given that the dwelling would be located adjacent to stables and land owned and used by the applicant for the keeping of horses, it is likely that trips to and from the site would decrease. On this basis it is considered reasonable to impose a condition requiring the dwelling to only be occupied by owners/users of the adjacent land and stables in order to

prevent a severing from the dwelling and a potential subsequent increase in vehicles using the access. The Highway Authority has not requested any works are undertaken to Babelake Street. Whilst the Highway Authority has requested the imposition of conditions, given that all detailed matters are reserved for future consideration, such conditions cannot be imposed at this stage. The Highway Authority's advice is that the residual cumulative impacts of development are not considered severe and given the above it is considered that the proposal is unlikely to result in a severe impact on highway safety.

River Mease Special Area of Conservation

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC) and the Gilwiskaw Brook (which is a tributary of the River Mease and part of the SSSI) lies approximately 110 metres to the east of the site. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore, an assessment of whether the proposal would have a significant effect on the SAC is required.

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

As the site is over 30 metres from the nearest public sewer and the applicant does not have permission to connect to a nearby private sewer, two non-mains foul drainage schemes are proposed; a septic tank which would discharge into soakaways and is emptied approximately once a year or a cesspool which is a sealed tank that does not discharge into the ground and needs to be emptied of waste.

Natural England advises that the Council should satisfy itself that there would be no harmful discharges of foul or surface water from the site into the River Mease or its tributaries (which includes the Gilwiskaw Brook). The Environment Agency has no objections. The management of septic tanks is dealt with by the Environment Agency as 'competent authority' under the Environmental Permit system. Furthermore, none of the Severn Trent Water (STW) treatment works in the SAC catchment area accept foul waste from licensed waste collectors, which STW has confirmed and advised that this arrangement will continue in perpetuity. Given the distance from the site to the Gilwiskaw Brook (approx. 110 metres) it is considered that a septic tank or cesspool and a surface water scheme would not adversely impact on the SAC/SSSI. A condition could be imposed requiring discharge of surface water to a sustainable drainage system. On this basis as the foul waste from the site would not be emptied within the SAC catchment area or discharge into the watercourse, there is not a requirement for a contribution under the DCS.

Therefore it can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Other Matters

Packington Parish Council has raised concerns regarding impact on the enjoyment of users of Babelake Street. However as there is existing development in the vicinity of the site, including two other dwellings, it is considered that it is unlikely that users of Babelake Street would be

adversely affected. Furthermore, it would be difficult to quantify that the proposal would reduce the number of people using the road as this is very much down to people's preference.

Conclusion

In the overall balance it is considered that the proposal would be a sustainable form of development and is acceptable in principle. The proposal is unlikely to result in a severe impact on highway safety or adversely impact on the River Mease SAC/SSSI and a dwelling could be accommodated on the site without significant detriment to the character of the area, setting of a listed building, residential amenities and trees/hedgerows. 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 a Section 106 obligation and subject to the following condition(s):

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

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

- 2 Approval of the details of the access, layout, 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.

- 3 The development shall be carried out strictly in accordance with the plan entitled 'Land at Babelake Street, Packington' (1:1250) received by the Authority on 23 May 2016, unless otherwise required by a condition of this permission:

Reason- To determine the scope of this permission.

- 4 The development hereby approved shall only be occupied by the owners/users of the stable block and land lying within the blue-edged land on the plan entitled 'Land at Babelake Street, Packington' (1:1250).

Reason - in the interests of highway safety as the severance of the dwelling from the stables is likely to result in an increase in traffic using Babelake Street and the access.

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

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

- 6 The development hereby approved shall only use a septic tank or cesspool for its foul drainage discharge and the foul waste from a septic tank or cesspool shall not be

emptied within the catchment of the River Mease Special Area of Conservation.

Reason- to prevent an adverse impact on the River Mease Special Area of Conservation/SSSI.

7 Before the external materials to the roof are installed to the dwelling hereby approved:

- (i) the means of disposal of surface water from the dwelling to soakaways or other sustainable drainage system shall be installed on site; or
- (ii) evidence to demonstrate that these means of drainage are not suitable for the dwelling and alternative details of surface water discharge to mains sewer;

have been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be provided before the external materials to the roof of the dwelling are installed and shall thereafter be so retained.

Reason- to prevent an adverse impact on the River Mease Special Area of Conservation/SSSI.

8 The existing hedgerow that forms the boundary of the site with Babelake Street shall not be removed and shall be retained in perpetuity at a minimum height of 1.5 metres.

Reason - in the interests of ecology and biodiversity as the hedgerow is identified as a Local Wildlife Site.

Notes to applicant

1 Outline planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

2 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority on 01530 454666 for further details.

3 You are advised that an Environmental Permit or exemption from such a Permit will be required from the Environment Agency for installation of a septic tank - <https://www.gov.uk/topic/environmental-management/environmental-permits>

4 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at www.defra.gov.uk

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

- Collapse of shallow coal mine workings.
- Collapse of, or risk of entry into, mine entries (shafts and adits).
- Gas emissions from coal mines including methane and carbon dioxide.

- Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

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

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

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

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

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

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