

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 1 November 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 4 October 2016	3 - 12
4. PLANNING APPLICATIONS AND OTHER MATTERS	
Report of the Head of Planning and Regeneration.	13 - 16



Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	16/00360/OUTM: Erection of 27 dwellings (Outline application - all matters reserved except for part access) Land At Worthington Lane Breedon On The Hill Derby	PERMIT subject to a Section 106 Agreement	17 - 42
A2	15/01051/OUT: Erection of eight dwellings (access, landscaping and layout included) Land To The North East Of Normanton Road Packington Ashby De La Zouch Leicestershire LE65 1WS	REFUSE	43 - 62
A3	16/00925/FUL: Erection of four detached dwellings and garaging Land At Normanton Road Packington Leicestershire LE65 1WS	REFUSE	63 - 80
A4	16/00275/OUTM: Erection of up to 153 dwellings with associated car parking, landscaping, open space and access roads (Outline - all matters other than part access reserved) Arla Dairies Smisby Road Ashby De La Zouch Leicestershire LE65 2UF	PERMIT subject to a Section 106 Agreement	81 - 106
5.	PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT LAND AT ATHERSTONE ROAD, MEASHAM Report of the Head of Planning and Regeneration		107 - 112
6.	PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT LAND AT LEICESTER ROAD, ASHBY DE LA ZOUCH Report of the Head of Planning and Regeneration		113 - 118

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 4 OCTOBER 2016

Present: Councillor D J Stevenson (Chairman)

Councillors R Adams, R Boam, J Bridges, R Canny, J Cotterill, J G Coxon, D Everitt, D Harrison, R Johnson, J Legrys, V Richichi, N Smith, M Specht and M B Wyatt

In Attendance: Councillors T Eynon, J Geary and T J Pendleton

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

The Chairman thanked Members for the card he had received following his recent illness and that it was with great sadness that he had to inform Members that former District Councillor and Chairman of the Council, Walter Quelch had passed away.

44. APOLOGIES FOR ABSENCE

Apologies were received from Councillors J Houtt and G Jones.

45. DECLARATION OF INTERESTS

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

Councillor J Bridges declared a non-pecuniary interest in item A2, application number 15/00966/VCUM, as ward Member he had attended meeting with both residents and the developers but came to the meeting with an open mind.

Councillor J G Coxon declared a non-pecuniary interest in items A4, application number 16/00414/OUTM, A5, application number 16/00415/OUTM, A6, application number 16/00416/OUTM and A7, application number 16/00409/OUTM as a member of Leicestershire County Council.

Councillor R Johnson declared a non-pecuniary interest in item A3, application number 15/00951/OUTM, as a member of Hugglescote and Donington le Heath Parish Council, who had previously considered the application, but he had come to the meeting with an open mind.

Councillor J Legrys declared a non-pecuniary interest in items A4, application number 16/00414/OUTM, A5, application number 16/00415/OUTM, A6, application number 16/00416/OUTM and A7, application number 16/00409/OUTM, as he had taken part in discussions about the applications, but he had come to the meeting with an open mind.

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

Item A2, application number 15/00966/VCUM

Councillors R Adams, R Boam, R Canny, J Cotterill, J G Coxon, D Everitt, D Harrison, R Johnson, J Legrys, V Richichi, N Smith, M Specht, D J Stevenson and M B Wyatt.

Item A3, application number 15/00951/OUTM

Councillors R Adams, R Canny, J Cotterill, D Everitt, J Legrys, N Smith, M Specht, D J Stevenson and M B Wyatt.

46. MINUTES

Consideration was given to the minutes of the meeting held on 6 September 2016.

Councillor R Johnson sought clarification from officers in relation to the question asked by Councillor J Geary at the last meeting as to why Building Regulations 2010 had been ignored on an application submitted in 2012.

The Head of Planning and Regeneration advised Members that the Building Regulations had, in fact, been complied with. There are circumstances, such as where levels on site are difficult, when not every plot has to fully comply with Part M for the scheme as a whole to be regarded as in compliance. In this case, the proposed amendments to site levels will enable more plots within the overall development to meet Part M in full.

It was moved by Councillor D Harrison, seconded by Councillor J Cotterill and

RESOLVED THAT:

The minutes of the meeting held on 6 September 2016 be approved and signed by the Chairman as a correct record.

47. 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 Members that item A1, application number 16/00966/PDNATR, had been withdrawn from the agenda as it was void.

48. A2

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

Land Off Measham Road Moira Swadlincote Derby DE12 6AA

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

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

Mr E Shephard, on behalf of Ashby Woulds Town Council, addressed the Committee. He advised Members that since the last meeting there had been an email exchange with the Lead Local Flood Authority (LLFA), but there had been no discussion between the developer and the residents. He stated that there were still serious concerns over flooding and that both the LLFA and the Environment Agency felt that the fence proposed by the developer would make no difference to the risk and instead stated that the developer should create a drainage system. He highlighted that the flood risk may have reduced on site but it had not reduced elsewhere in the village adding that water had already flowed down Heritage Way and asked how soon it would enter the properties. He suggested that new drainage should be installed to link to existing drainage. He felt that the 2013 flood risk data was flawed and raised concerns over the revised heights of the dwellings that would impact on the privacy of the five existing properties. He urged Members to consider the implications.

Mr C Sharp, objector, addressed the Committee. He expressed surprise that the application had come back so soon as there had been no discussion between the developer and the residents. He advised the Committee that the increase in height of the plots would provide a grandstand view into the existing properties, contrary to Policy E3.

He highlighted to Members that the NPPF requires that no development should increase the risk of flooding and that the developer had said that the water was running off the field. He stated his view that a new independent flood risk assessment should be carried out and that the fence and gravel boards would make no difference. He urged the Members to reject the application so that an acceptable revised application could be submitted by the developer rather than defer it.

The Planning and Development Team Manager read out a letter that had been received from Andrew Bridgen MP.

The motion to refuse the application was moved by Councillor V Richichi and seconded by Councillor J Legrys.

A motion to refuse the application on the grounds of loss of privacy and flooding risk was moved by Councillor V Richichi and seconded by Councillor J Legrys.

Councillor V Richichi stated that he understood the concerns of the residents as he felt that the proposed change of height would have an adverse effect on the privacy of the neighbouring properties and that the gravel boards would not have the desired effect. He sought clarification on the height of the banking that had been mentioned.

The Planning and Development Team Manager advised Members that there was no banking but a fall away from the fences back towards Plots 10 and 11 of 1m and that all the statutory consultees were satisfied that there was no surface water run-off or flooding impacts as a result of this development..

Councillor V Richichi expressed concerns over the conflicting issues around the flood risk as the speakers had stated that there was a flood risk given the potential water run-off.

Councillor D Harrison expressed his disappointment that no communication had taken place between the developer and the residents and that he had supported the deferral at the last meeting for that reason. He stated that he was uncomfortable with the proposed height but his main concern was the flood risk. He felt that the SuDs scheme would work once the development was complete but questioned what would happen in the meantime as he felt that it is unfair to the existing residents to suffer because the developer had not grasped what the Committee had said at the last meeting. He sought clarification from officers as to whether a bond had been placed on the highways.

The Planning and Development Team Manager confirmed that the applicant was currently working with Leicestershire County Council on a Section 38 application to adopt the road and that would include a bond.

Councillor J Legrys stated that he felt that the application should be refused on the grounds of flooding as he had concerns that it would not just affect the neighbouring properties but also the rest of Moria. He advised Members that there was evidence that the water level was higher at the Furnace and that the coal seams had been disturbed. He informed that he could not support the application due to serious flood risks, the Victorian drainage had been vandalised and that he had no faith in SuDs, particularly their maintenance, adding that it was morally wrong as the developer was putting the problems onto the existing residents. He felt that the application should be refused as coming back after a month, the developer had not given any consideration to Moira and its residents.

Councillor J G Coxon stated that he was disappointed that after being deferred at the at the last meeting to allow discussions it had not happened and that the application should be voted against as the developer had missed a chance to resolve the issues.

Councillor R Canny advised that flooding was one of her concerns but also questioned why the plots had changed from bungalows to two and half storey dwellings.

The Head of Planning and Regeneration clarified that officers had met with residents, representatives of Moria Furnace and the Town Council and had discussed that the approximate 60 metre distance between the backs of the new and existing dwellings was more than required, that it was not fair for the developer to be criticised because it had not specifically invited residents to a meeting, and that the developer had provided all the relevant information over SuDs, and there were no concerns from the EA or LLFA with the scheme.

In response to the question from Councillor R Canny, the Head of Planning and Regeneration advised that in the original plans Plots 10 and 11 were two and a half storey designs and not bungalows.

Councillor N Smith queried the legal position as the development was already underway.

Councillor M Specht stated that the usual requirement was a minimum of 22 metres between dwellings however on the application before them there was a distance of 60 metres therefore the additional height would not be contrary to any policies. He felt that taking the technical information on board there was no reason to vote against the officer's recommendation.

Councillor D Everitt expressed concerns over the flooding stating that consideration needed to be given to the changing water levels over the next 10-20 years and that flood risks needed to be considered earlier.

The Head of Planning and Regeneration felt that it was an excellent point and advised Members that assumptions were built into the calculations to allow for climate change.

Councillor J Bridges stated that there had been no arguments against the development in principle but raised concerns about the flooding risks. He felt that once the development was completed there would be no issues but expressed concern that no one including the LLFA has questioned what would happen in the meantime. He stated that management was critical He also advised that he was not at the last meeting but understood that the application had been deferred to allow communication between the developer and the residents to resolve major concerns with the development as the residents had no faith that the scheme would work once finished. He asked how the issues could be resolved if the developer was not willing to meet with residents and that he would support the motion to refuse as it was unfair on residents to be at risk from flooding, adding that the developer would not be in this position if they had all sat down together.

The Legal Advisor informed Members that the Council would not be liable should any flooding happen as it would be a naturally occurring event. Should there be an issue, however where it is proved that the developer had done something to exacerbate the situation then it would be a private nuisance case between the developer and the residents.

Councillor D J Stevenson stated that he was not at the last meeting and sought clarity from officers that if the application was refused the developer would be able to continue building in line with the original permission and if they had done that the development would not have come before Committee again. He advised that it was not a retrospective application, but when the developer had started to build against the permission they were asked to stop and they did.

The Legal Advisor confirmed that Councillor D J Stevenson was correct and that the developer would be able to build in line with the original permission.

In response to a query from Councillor V Richichi, Councillor D J Stevenson stated that the developer already had permission and that they now wished to amend that permission with the application before them, but even if the Committee was minded to refuse the application in front of them the developer would be able to complete the development in line with their original application.

The Head of Planning and Regeneration warned Members that it was his opinion that it would be very difficult to mount a case in line with the reasons that had been given for refusal and that the authority would be exposed to as adverse costs award at any subsequent appeal.

Councillor M Specht requested a recorded vote.

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

For the motion:

Councillors R Adams, J Bridges, J Cotterill, J Coxon, D Everitt, D Harrison, R Johnson, J Legrys and V Richichi(9).

Against the motion:

Councillors R Boam, N Smith, M Specht and D J Stevenson(4).

Abstentions:

Councillor R Canny and M B Wyatt(2).

RESOLVED THAT:

The application be refused on the grounds of loss of privacy and flooding risk.

49.

A3

**15/00951/OUTM: RESIDENTIAL DEVELOPMENT OF UP TO 34 DWELLINGS
(OUTLINE WITH DETAILS OF PART ACCESS INCLUDED)**

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

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

The Principal Planning Officer presented the report to Members.

Mr W Jennings, on behalf of Hugglescote and Donington le Heath Parish Council, addressed the Committee. He advised Members that the Parish had asked for the original application to be rejected as they had major concerns and he was now surprised to see that a new application had been submitted with very little change. He informed the Committee that the Parish Council undertook speed watch surveys at the location and that during a twenty minute period at the proposed development site they had recorded ten percent of vehicles exceeding the speed limit. He urged the Committee to reject the application on the grounds of highways safety and insufficient visibility at the access to the site.

Mr M Miller, objector, addressed the Committee. He asked the Members to reject the application, highlighting the objections outlined in the report. He advised the Committee that the site was located on what could only be described as a single track road and was opposite business premises that large lorries and tractors struggled to turn into, that the site was an area of separation the local people regard as green belt and that from looking at Leicestershire County Council Archaeology maps there was probability that the land was a site of a medieval settlement, and that proposed condition 16 considers this. He

informed Members that the local schools were oversubscribed and that the £100,000 contribution in the proposed section 106 for education would not be enough.

Mr A Ward, agent, addressed the Committee. He urged Members to support the officer's recommendation and advised them that the proposal before them was a low density scheme that would provide family housing which would be very well landscaped, screened by the railway and provide new open space areas. He informed Members that the area of separation had been removed from the publication local plan, that there were no technical objections, all the S106 contributions would be met and it was a sustainable location adding that it would be a positive development for the village on an overgrown asset. He confirmed that there was no objection from the Highway Authority.

Councillor D J Stevenson stated that in the 45 years that he had been on the Council he had never seen an access to a development site as awful as the one before them and moved that the application be refused for that reason. It was seconded by Councillor R Johnson.

Councillor R Johnson expressed concerns that the applicant had not engaged with residents prior to submitting the application and agreed that the access to the proposed site was the worst that he had seen.

Councillor D Everitt stated that he endorsed the recommendation to refuse and expressed concerns that the LCC archaeologist had raised no concerns over the development of the site yet there appeared to be evidence of a settlement and felt that information such as that should have been included in the report.

The Head of Planning and Regeneration advised Members that the Local Highways Authority was adamant that it would not be able to support refusal on highways grounds and that the developer was not obliged to meet with residents when preparing a planning application.

RESOLVED THAT:

The application be refused on the grounds that the access to the site raised safety concerns.

The Chairman advised Members that the next two items would be presented together but voted on separately.

- 50. A4**
16/00414/OUTM: DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF UP TO 20 DWELLINGS (OUTLINE - DETAILS OF PART ACCESS INCLUDED)
 Workspace 17 Highfield Street Coalville Leicestershire LE67 3BR

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

The Principal Planning Officer presented the report to Members.

Councillor J Geary, Ward Member, addressed the Committee. He advised Members that the residents had no objection to the applications in principle but favoured the proposal that included the shop as it was a densely populated area and the nearest shops required a car journey. He raised concerns over the demolition of the existing buildings and subsequent noise and dust from the crushing and felt that it should be done off site adding that he was pleased to see the additional condition in the update sheet. He also felt that consideration should be given to the provision of bungalows on the site as it would be an advantage for the town centre.

The officer's recommendation was moved by Councillor J G Coxon and seconded by Councillor J Bridges.

Councillor M Specht expressed concerns that it appeared that the developer could not make a decision on which application to submit and had decided to let someone else make the decision. He stated that having been on site he felt that the area warranted a shop but questioned what the area would get if both applications were permitted, adding that he would support item A5 but not A4.

Councillor D J Stevenson stated that he had been minded to vote the same way but had been made aware that there was once a shop around the corner from the proposed site that had closed due to lack of custom and as such felt that both applications should be permitted so that the decision could be made properly.

Councillor J Legrys clarified that he had attended meetings with officers about the applications and felt that they should all be considered at one committee therefore that is why he had called them in.

RESOLVED THAT:

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

51. A5
16/00415/OUTM: DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF UP TO 18 DWELLINGS AND RETAIL CONVENIENCE STORE (A1) (OUTLINE - DETAILS OF PART ACCESS INCLUDED)

Workspace 17 Highfield Street Coalville Leicestershire LE6 3BR

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

The Principal Planning Officer presented the report to Members.

The officer's recommendation was moved by Councillor J G Coxon and seconded by Councillor J Bridges.

RESOLVED THAT:

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

52. A6
16/00416/OUTM: ERECTION OF BUSINESS UNITS (B1B, B1C AND B2 USE CLASS) (OUTLINE - ALL MATTERS RESERVED EXCEPT PART ACCESS)

Land At Vulcan Way Coalville Leicestershire

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

The Senior Planning Officer presented the report to Members.

Councillor T Eynon, County Councillor, addressed the Committee. She informed the Members that the application would result in the loss of fifty existing jobs in the town as the current tenant had been unable to find a suitable location to relocate to adding that with the significant building that was taking place in the district haulers were having to compete for work. She advised Members that the County Council had an abundance of land such as the former Snibston site that would better suit smaller industrial units as it would not be easy for large vehicles to access. She asked the Committee to defer the

application until the full impact of it could be independently assessed and an alternative site be found for the existing haulier.

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

Councillor J Bridges stated that he had listened to the speaker but on this occasion supported the officer's recommendation as he had reason to believe that there were four other sites in the vicinity that could accommodate the current tenant and that the site in front of them was ideal for smaller units adding that the application was not losing jobs but creating them.

Councillor J Legrys stated that as Ward Member he had been lobbied over the application and understood the problems raised. He could gauge the mood of the discussion and requested that should the application be approved, a condition was added requesting that Leicestershire County Council worked with the regeneration team to help the current tenant find another suitable location in the district to ensure that the jobs remained in the area.

In response to Councillor J Legrys, the Head of Planning and Regeneration advised Members that the Council's Business Focus Team was already working with the current tenant to help to try and relocate and that it would not be appropriate to require this by planning condition.

RESOLVED THAT:

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

53. A7
16/00409/OUT: ERECTION OF TWO INDUSTRIAL UNITS (OUTLINE APPLICATION - ALL MATTERS RESERVED EXCEPT PART ACCESS)
 Land At Samson Road Coalville Leicestershire LE67 3FP

Officer's Recommendation: PERMIT

The Senior Planning Officer presented the report to Members.

The officer's recommendation was moved by Councillor J Bridges and seconded by Councillor V Richichi.

Councillor J Bridges stated that he rarely supported applications that meant that a community resource to support individuals with learning difficulties had to move or close down but on this occasion he felt that the site before them was more suitable for commercial use and hoped that the county and other bodies looked at other more suitable locations.

Councillor J Legrys stated that as Ward Member he supported the application as it would make better use of a site that had been prone to anti- social behaviour issues and agreed with Councillor J Bridges that there were better locations for the resource centre that had better transport connections which would encourage people to use the bus. The site was located within an industrial estate which the application was better suited.

Councillor D J Stevenson stated that he did not like the location for community use and agreed that it was more suitable for commercial use.

RESOLVED THAT:

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

Councillor M B Wyatt left the meeting at 5.40pm

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 6.00 pm

This page is intentionally left blank

APPENDIX B

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

1 November 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.

Erection of 27 dwellings (Outline application - all matters reserved except for part access)

Report Item No
A1

Land At Worthington Lane Breedon On The Hill Derby

Application Reference
16/00360/OUTM

Applicant:
Mr John Blunt

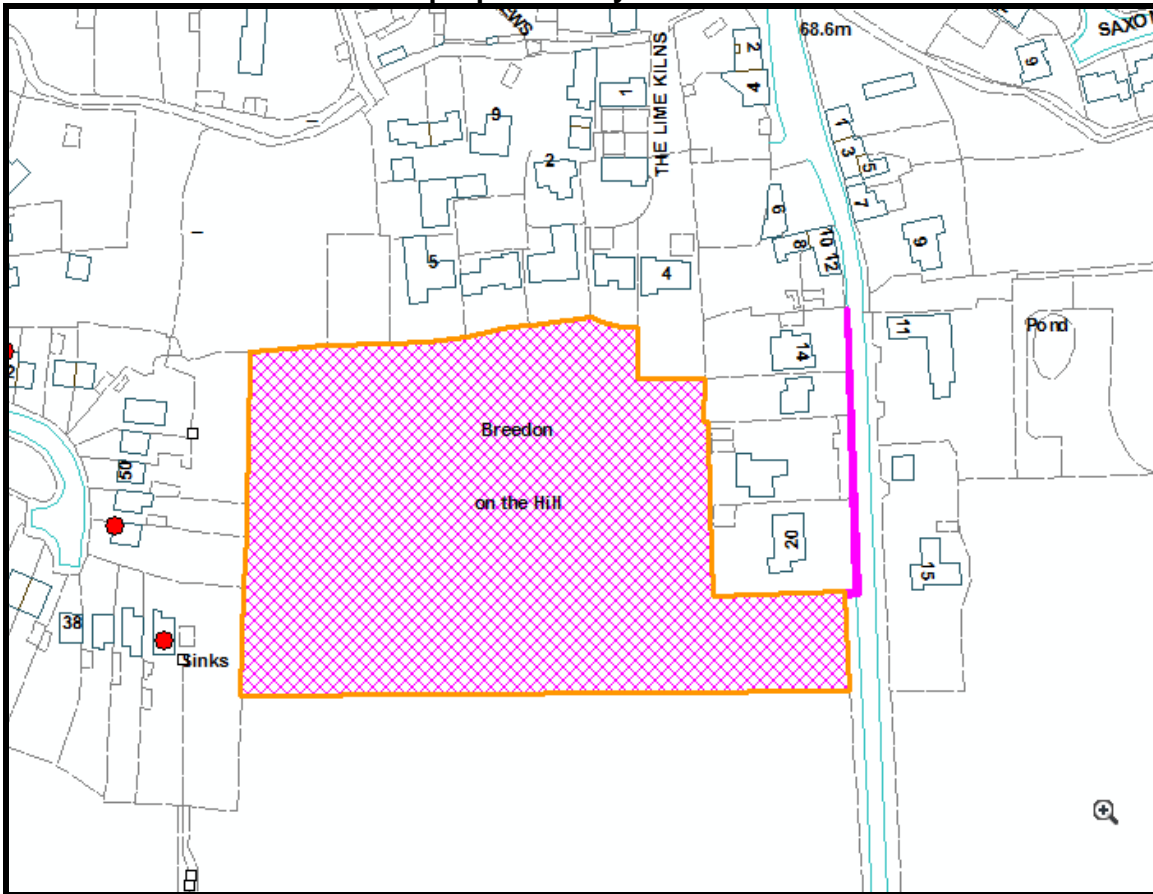
Date Registered
1 April 2016

Case Officer:
Adam Mellor

Target Decision Date
1 July 2016

Recommendation:
PERMIT, subject to a Section 106 Agreement.

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office ©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329

EXECUTIVE SUMMARY OF PROPOSALS

Call In

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

Proposal

Outline planning permission with part access for approval is sought for the erection of 27 dwellings on a 1.24 hectare site (developable area of 1.08 hectares) located on the western side of Worthington Lane to the immediate south of the settlement. The application site is situated outside the defined Limits to Development and is currently utilised for agriculture.

Consultations

A total of 111 representations, as well as signed pro-forma with 106 signatories, has been received objecting to the application with 4 representations being received supporting the development. Breedon on the Hill Parish Council also object to the development. All other statutory consultees have raised no objections subject to conditions.

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 located outside 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 proposed development is considered to represent sustainable development. On this basis the principle of the development is considered to be acceptable. It is also considered that the site could be developed, at a subsequent reserved matters stage, in a manner which would not appear of out of keeping with the character and appearance of the surrounding locality, and which would not adversely impact upon the amenities of neighbouring residents, highway safety, heritage assets, ecology, and archaeology or further exacerbate any localised flooding issues which may exist. There are no other material planning considerations that indicate planning permission should not be granted and accordingly the proposal, subject to relevant conditions and the completion of a Section 106 agreement, is considered acceptable for the purposes of the policies referred to in the paragraphs below.

RECOMMENDATION - PERMIT subject to conditions and a Section 106 Agreement.

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

MAIN REPORT

1. Proposals and Background

Outline planning permission (with means of part access included for determination) is sought for the erection of 27 dwellings at land off Worthington Lane, Breedon on the Hill. The 1.24 hectare site (developable area of 1.08 hectares) is situated to the west of dwellings on Worthington Lane, north of dwellings on Main Street, these being The Lime Kilns and Peartree Mews, and east of dwellings on Hastings Close with open agricultural land to the south that is presently used for agricultural purposes. The application site is situated outside the defined Limits to Development with the northern boundary adjoining the Breedon on the Hill Conservation Area.

An indicative layout plan, which has been amended from that originally submitted, shows that the proposed vehicular access point would be off Worthington Lane to the immediate south of no. 20 Worthington Lane. Dwellings are shown to be predominately clustered around the southern and western boundaries, with an attenuation pond and grazing land being provided around the northern and eastern boundaries.

A design and access statement, heritage statement, Building for Life 12 assessment, arboricultural survey, flood risk assessment, ecology report, travel plan and highways statement and draft heads of term have been submitted in support of the application. During the course of the application revised flood risk assessments have been submitted.

No recent planning history was found.

2. Publicity

20 no neighbours have been notified (date of last notification 26 May 2016)

Press Notice published 20 April 2016

Site notice posted 20 April 2016

3. Consultations

Breedon On The Hill PC consulted 8 April 2016
 Historic England- Grade I/II* Listed Park/garden consulted 8 April 2016
 LCC Flood Management consulted 31 August 2016
 County Highway Authority consulted 6 May 2016
 Severn Trent Water Limited consulted 8 April 2016
 Head of Environmental Protection consulted 8 April 2016
 Natural England- Within 2k Of SSSI consulted 8 April 2016
 NWLDC Tree Officer consulted 8 April 2016
 County Archaeologist consulted 8 April 2016
 LCC ecology consulted 8 April 2016
 NWLDC Conservation Officer consulted 8 April 2016
 LCC Development Contributions consulted 8 April 2016
 NHS Leicester, Leicestershire And Rutland Facilities Management consulted 8 April 2016
 Head Of Leisure And Culture consulted 8 April 2016
 Police Architectural Liaison Officer consulted 8 April 2016
 Head of Environmental Protection consulted 21 April 2016
 LCC Flood Management consulted
 Manager Of Housing North West Leicestershire District Council

4. Summary of Representations Received

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

Breedon on the Hill Parish Council object to the application, with their comments being endorsed by Councillor Rushton, on the following grounds: -

- Development would impact adversely on the setting of heritage assets and as such there should be a presumption of refusal.
- The pedestrian footway proposed cannot be provided and would be of an unsuitable width to be considered safe for usage by pedestrians.
- Breedon on the Hill has a lack of facilities to make the village sustainable and there would be pressures on the local schools and doctors.
- The public transport provision is not direct to settlements where residents visit and shop.
- Inadequate visibility splays would be provided at the vehicular access.
- The site is not allocated in the SHLAA.
- No landscape or visual assessment has been supplied.
- High grade agricultural land would be built upon.
- Flood risk and drainage would be an issue and the developer should be responsible for ensuring that an independent report is prepared for scrutiny by an independent body as well as the fact that extreme weather events should be addressed.
- Ecology and biodiversity would be adversely affected.
- No public consultation has been carried out.

Environment Agency no representation received.

Historic England has no objections.

Leicestershire County Council - Archaeology has no objections subject to conditions.

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

Leicestershire County Council - Developer Contributions requests a contribution of £97,823.36 towards the education sector.

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

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

Natural England has no objections subject to their standing advice being considered.

NHS Leicester, Leicestershire and Rutland no representation received.

NWLDC - Affordable Housing Enabler supports the development proposals.

NWLDC - Conservation Officer has no objections to the principle of development.

NWLDC - Environmental Protection has no objections.

NWLDC - Head of Leisure and Culture no representation received.

NWLDC - Tree Officer has no objections.

NWLDC - Urban Designer has no objections subject to conditions.

Police Architectural Liaison Officer no representation received.

Severn Trent Water has no objections subject to conditions.

Third Party Representations

111 representations have been received which object to the application, including one from Councillor Rushton, whose comments are summarised as follows: -

- The proposed use of soak-aways will not be sufficient and will result in severe flooding to properties to the lower land levels. This is particularly exacerbated by the geology of the site which reduces the potential drainage. The village has been subjected to severe flooding in recent months with water flowing off the application site.
- A connection to the mains sewer would not be possible.
- The development will result in the loss of a view for existing residents whilst gaining views for future occupants of the development.
- There is no need for a development of this nature given the recent housing developments which have occurred in Breedon.
- The proposed development will result in a loss of amenity to the neighbouring residential properties which border the site in respect of overbearing, overshadowing and overlooking impacts.
- There would be significant noise detriment associated with the construction of the development.
- There would be further pressures on the limited resources available in the village, in particular the school, as well as the doctors in Melbourne.
- The proposed development will result in adverse impacts to ecology.
- The position and scale of the development will result in adverse impacts on the historic environment in particular the views from and towards the Priory Church of St Mary and St Hardulph constructed on the site of the Bulwarks (an Iron Age hill fort). The heritage statement submitted is inadequate in addressing these impacts.
- The services available within the settlement are limited and as a consequence the development would not be socially sustainable.
- The speed of traffic on Worthington Lane and additional vehicular movements associated with the development would result in detriment to highway safety.
- The proposed design of the vehicular access is not safe and will not provide the level of visibility required.
- Proposed development will reduce the separation between settlements should greenfield land be continually built upon.
- Infrastructure such as high speed broadband is not in place to support a development of this nature.
- The applicant has not demonstrated that they own the land on which the proposed footway would be constructed and users of this facility will be at risk due to the speed of traffic on Worthington Lane as well as the relative width of the footway on the eastern side of the highway not allowing two people to pass each other.
- There are factual inaccuracies in the information supplied particularly around the services and public transport provision available within the village.
- HS2 will pass to the south of Breedon and as a consequence the future residents will be

- subjected to noise detriment.
- The application site is greenbelt land.
- The development will cause devaluation in property prices.
- Proposed development is on productive agricultural land.
- The density of the development is too high.
- The development is premature given the potential re-development of the garden centre site.
- Developer has another site which has not been completed and where no work has occurred for numerous years.
- Incorrect ownership certificates have been served and as such the application is invalid.

A signed pro-forma with 106 signatories has also been submitted outlining an objection to the application.

Four representations have been received which support the development and whose comments are summarised as follows: -

- The proposed provision of eight affordable housing units will be of benefit to the village and encourage permanent resident by people who reside in the settlement but cannot afford their own home.
- There is development on three sides of the site and as a consequence it has to be viewed as infill development.
- Provision of a footway will increase the sustainability of the site and increase the usage of the lane.

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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

- Paragraph 10 (Achieving sustainable development);
- Paragraph 14 (Presumption in favour of sustainable development);
- Paragraph 17 (Core planning principles);
- Paragraphs 18 - 20 (Building a strong, competitive economy);
- Paragraph 28 (Supporting a prosperous rural economy);
- Paragraph 32 (Promoting sustainable transport);
- Paragraph 34 (Promoting sustainable transport);
- Paragraph 39 (Promoting sustainable transport);
- Paragraph 47 (Delivering a wide choice of high quality homes);
- Paragraph 49 (Delivering a wide choice of high quality homes);
- Paragraph 50 (Delivering a wide choice of high quality homes);
- Paragraph 53 (Delivering a wide choice of high quality homes);

Paragraph 54 (Delivering a wide choice of high quality homes);
Paragraph 55 (Delivering a wide choice of high quality homes);
Paragraph 56 (Requiring good design);
Paragraph 57 (Requiring good design);
Paragraph 59 (Requiring good design);
Paragraph 60 (Requiring good design);
Paragraph 61 (Requiring good design);
Paragraph 63 (Requiring good design);
Paragraph 64 (Requiring good design);
Paragraph 75 (Promoting healthy communities);
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);
Paragraph 109 (Conserving and enhancing the natural environment);
Paragraph 112 (Conserving and enhancing the natural environment);
Paragraph 118 (Conserving and enhancing the natural environment);
Paragraph 120 (Conserving and enhancing the natural environment);
Paragraph 121 (Conserving and enhancing the natural environment);
Paragraph 123 (Conserving and enhancing the natural environment);
Paragraph 131 (Conserving and enhancing the historic environment);
Paragraph 132 (Conserving and enhancing the historic environment);
Paragraph 134 (Conserving and enhancing the historic environment);
Paragraph 137 (Conserving and enhancing the historic environment);
Paragraph 141 (Conserving and enhancing the historic environment);
Paragraph 203 (Planning conditions and obligations);
Paragraph 204 (Planning conditions and obligations); and
Paragraph 206 (Planning conditions and obligations);

Adopted North West Leicestershire Local Plan (2002)

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

Policy S3 - Countryside;
Policy E2 - Landscaped Amenity Open Space;
Policy E3 - Residential Amenities;
Policy E4 - Design;
Policy E7 - Landscaping;
Policy E8 - Crime Prevention;
Policy T3 - Highway Standards;
Policy T8 - Parking;
Policy T10 - Public Transport;
Policy T13 - Cycle Parking;
Policy H4/1 - Housing Land Release;
Policy H6 - Housing Density;
Policy H7 - Housing Design;
Policy L21 - Children's Play Areas; and
Policy L22 - Formal Recreation Provision.

Submitted North West Leicestershire Local Plan

The publication version of the Local Plan was agreed by Council on 28 June 2016 and submitted for examination on 4 October 2016. The weight to be attached by the decision maker to this submitted version should be commensurate to the stage reached towards adoption: -

Policy S1 - Future Housing and Economic Development Needs;

Policy S2 - Settlement Hierarchy;
Policy S3 - Countryside;
Policy D1 - Design of New Development;
Policy D2 - Amenity;
Policy H4 - Affordable Housing;
Policy H6 - House Types and Mix;
Policy IF1 - Development and Infrastructure;
Policy IF3 - Open Space, Sport and Recreation Facilities;
Policy IF4 - Transport Infrastructure and New Development;
Policy IF7 - Parking Provision and New Development;
Policy En1 - Nature Conservation;
Policy En6 - Land and Air Quality;
Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;
Policy Cc2 - Water - Flood Risk; and
Policy Cc3 - Water - Sustainable Drainage Systems.

Other Policies

National Planning Practice Guidance

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

North West Leicestershire District Council Affordable Housing SPD

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

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within Breedon on the Hill.

North West Leicestershire District Council Play Area Design Guidance SPG

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

6Cs Design Guide (Leicestershire County Council)

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

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

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

6. Assessment

Principle and Sustainability

In accordance with the provision of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which,

in this instance, includes the adopted Local Plan (2002 (as amended)).

The application site lies outside the defined Limits to Development with residential dwellings not being a form of development permitted by Policy S3 of the adopted Local Plan, or Policy S3 of the submitted 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 District Council 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.

In respect of social sustainability it is noted that numerous third party representations which have been received have commented that the settlement of Breedon on the Hill is not socially sustainable. Although third parties are of this view the District Council considers Breedon on the Hill to be a sustainable settlement for new residential development given the range of services which are available (including a shop (incorporating a post office), butchers, primary school, community centre, public houses, church and recreation ground) as well as the public transport provision (Robert Coaches Air Link Service 155 two hourly between Coalville and East Midlands Airport Monday to Saturday). It is also recognised that Policy S2 of the submitted Local Plan, which can be attached some weight in the decision making process, highlights that Breedon on the Hill is a 'Sustainable Village' where a limited amount of growth will be permitted. The provision of a raised footway from the site entrance in order to connect with the existing pavement, as proposed by the development, would also ensure these services are accessible on foot particularly as they would be within an acceptable walking distance.

Having regard to the location of the site it is considered that residents of the development would have access to services which would meet their day to day needs (i.e. a shop), with other facilities and employment opportunities being accessible on foot as well as by utilising public transport. In these circumstances it is considered that a development of 27 dwellings would score well against the advice concerning social sustainability contained within the NPPF, with occupants of the property also assisting in sustaining these services for the future which is a key intention of Paragraphs 28 and 55 of the NPPF.

From a social perspective the development would also benefit from the provision of 27 dwellings which would include eight affordable properties with a mix of 2, 3 and 4 bedroom dwellings being supported by, and contributing to the housing needs of different groups in the community.

In terms of environmental sustainability the land is agricultural and as such would be considered greenfield land.

The site is outside the defined Limits to Development and therefore the 'principle' of the proposal would be in direct conflict with Policies S3 of the adopted and submitted Local Plans. It is also noted that whilst Policy S2 of the submitted Local Plan highlights that Breedon on the Hill is a sustainable village, it does specify that any 'growth' should be proposed on land within the Limits to Development. Such policies are considered to be supported by the principles of the

NPPF and the ministerial letter from Brandon Lewis of the 27th March 2015 urging Inspectors to protect the intrinsic beauty of the countryside.

However, as highlighted above, given that the NPPF does not necessarily preclude development on greenfield land a determination would need to be made as to whether the proposed dwellings would be 'isolated', in the context of Paragraph 55, or impact adversely on the rural environment as specified at Paragraph 17 of the NPPF. For the avoidance of the doubt the application site is not 'greenbelt' given that no such land designation exists within the District.

On the basis of the Proposals Map to the publication version Local Plan the application site would abut the defined Limits to Development on its northern, eastern and western boundaries. The extent of the application site would also project no further south than the Limits to Development for the properties on the southern side of Hastings Close or eastern side of Worthington Lane.

Given that the extent of the application site would project no greater to the south than the built forms on Hastings Close, it can be reasonably assumed that it would be possible to align the proposed dwellings in a manner which would ensure that they would appear integrated into the built environment established to the periphery of the settlement. As a consequence of this it would be difficult to suggest that the dwellings would be 'isolated' in the context of Paragraph 55 of the NPPF.

In terms of the implications to the rural environment the land levels are at their highest in the centre of the southern boundary of the application site where a 'bulge' occurs, although beyond this point the land continues to rise until the southern field boundary where the land begins to plateau. From this plateau there are limited glimpses of the roofs associated with dwellings in the settlement which fall within a natural valley. Substantial mature screening also exists to the roadside boundary of the site, as well as to the southern and western field boundaries, which assist in screening views into the field from the wider area. Given the topography of the field, as well as the visual screening which exists, it is considered that its association with the wider rural landscape is largely diminished particularly the lower element where the development is proposed. Views out of the settlement from the properties on the southern side of Main Street would also be onto this field, rather than the wider rural environment, with the boundary treatment to those properties to the eastern and western boundaries exposing the built forms which exist, and which the proposed development would be closely associated with. Whilst the scale of the proposed dwellings in addressing the topography of the site would be a challenge at any reserved matters application, it is considered feasible that a scheme could be progressed which would have limited implications to the 'openness' of the wider rural environment, by virtue of the visual association with built forms and its location within a natural valley screening the development from the south.

In conclusion, whilst the proposal would be contrary to Policies S3 of the adopted and submitted Local Plans, as well as Policy S2 of the submitted Local Plan, and would result in a degree of harm to the rural environment due to the loss of a greenfield site, such conflict would be outweighed by the site's social sustainability credentials, the economic benefits associated with the construction of the dwellings and the fact that the degree of harm to the 'openness' of the rural environment would be extremely limited due to the disassociation the application site has with the wider undeveloped rural environment, and the relationship with built forms to three sides of the site. On balance, therefore, the proposal represents a sustainable form of development which is acceptable in principle.

The application site falls within Grade 2 of the Agricultural Land Classification and therefore represents 'Very Good' Best and Most Versatile (BMV) land. Whilst the site falls within Grade 2 BMV it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in a loss of between 20 and 50ha, and those of 50ha above respectively). It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process. A loss of 1.24 hectares of agricultural land is not considered to represent a significant loss and, therefore the scheme is considered to be acceptable in this regard and would not conflict with Paragraph 112 of the NPPF. It is also noted that the proposal would not disrupt the agricultural operations undertaken on the remaining land.

Density and Housing Mix

With a developable site area of 1.08 hectares the proposed development would have a density of 25 dwellings per hectare which would be slightly below the 30 dwellings per hectare advised by Policy H6 of the adopted Local Plan in settlements such as Breedon. Whilst this is the case, the NPPF states that authorities should set their own approach to housing density to reflect local circumstances. On this basis the density proposed is appropriate when having regard to the character of the area and the location of the site on the edge of the settlement, as well as being consistent with the density of newly constructed development in the vicinity. In concluding on this matter, the degree of conflict with Policy H6, in itself, would not be considered a suitable reason to refuse the application.

It is proposed that a mix of 2, 3 and 4 bedroom dwellings would be provided within properties which would either be single or two-storeys in height. This is considered to represent an appropriate housing mix on the site for a development of this scale. On this basis the development would be compliant with Paragraph 50 of the NPPF and Policy H6 of the submitted Local Plan.

Accessibility

All matters are reserved for subsequent approval except for part access. The point of access shown on the submitted plans would be to the immediate south of no. 20 Worthington Lane. Whilst the illustrative layout shows internal access roads and the provision of a footway to connect the site with the existing raised footway on Worthington Lane to the north, these would be dealt with at the reserved matters stage(s), although their impact on the overall potential accessibility and connectivity of the site still ought to be considered.

The County Highways Authority (CHA) has been consulted on the application and have raised no objections subject to the imposition of relevant planning conditions. The suggested planning conditions of the CHA include off-site highway works for traffic calming measures on Worthington Lane between the access and northern boundary of no. 14 Worthington Lane, provision of a raised footway, provision of satisfactory pedestrian and vehicular visibility splays and a suitable access gradient given that there are differences between land levels on the site and Worthington Lane itself. It will also be a requirement that a construction traffic management plan is agreed to ensure that this element of the development does not result in adverse impacts on the highway.

Although concerns have been expressed with regards to highway safety, Paragraph 32 of the NPPF indicates that "*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*" In the circumstances that

the CHA have raised no objections to the proposed access arrangements, it is considered that the development would not have a 'severely' detrimental impact on highway safety as to justify a refusal of the application. On this basis the development would be compliant with Paragraph 32 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF4 of the submitted Local Plan.

Representations have been received which highlighted that neither the applicant or Leicestershire County Council own the land on which the proposed public footway would be provided with the Land Registry details submitted suggesting that no. 16 Worthington Lane owns land which abuts the public highway. On this basis the applicant submitted a Certificate B with the application which did not reflect the land ownership position. Following consultation with the Council's Legal Section the anomalies with the certificate have been rectified with the applicant being asked to provide a revised Certificate B which was submitted to the District Council on the 1st September 2016. This revised Certificate B has been served on all landowners identified and as this revised certificate was served on relevant landowners on the 1st September 2016 the 21 day consultation period has now expired. Therefore it is considered that the correct formal consultation has been undertaken with the affected properties and there has been no prejudice to any residents of nearby properties.

In terms of the 'right' to construct the footway it is considered that the landowners have not explicitly stated that no agreement would be reached on such a matter at a later stage and therefore a view is taken that this should not act as a reason to resist the development. This view is taken given that a footway could still be provided to the frontage of nos. 14, 18 and 20 Worthington Lane with walking in the carriageway around the frontage of no. 16 not impeding future residents from accessing the services within the settlement.

The specific parking arrangements for each individual property would be assessed and addressed following the submission of any subsequent reserved matters application given that this would be dependent on the total amount of bedrooms within a particular dwelling. As a consequence of this the particular requirements of Paragraph 39 of the NPPF as well as Policy T8 of the adopted Local Plan and Policy IF7 of the submitted Local Plan would be satisfied at that time.

Neighbours and Future Occupants' Amenities

An indicative layout plan has been supplied in support of the application which shows that the site borders with residential properties on its northern (Pear Tree Mews, The Lime Kilns and Church View), eastern (Worthington Lane) and western boundaries (Hastings Close).

The impact on neighbouring occupiers arising from the proposed dwellings would need to be assessed at the reserved matters stage(s) once the layout, appearance and scale of the dwellings was known. Notwithstanding the details shown on the indicative layout plan there would appear to be no reason in principle why up to 27 dwellings could not be provided on the site in a manner which would not adversely impact upon neighbours' amenities.

In establishing an acceptable relationship with existing residential properties at the reserved matters stage, it could also be ensured that the amenities of future occupants are adequately protected.

Concerns have been expressed that the development will result in an increase in noise, from a rise in vehicular movements and activity on the site. However, it is considered that whilst the provision of a residential scheme along Worthington Lane would increase the volume of traffic this increase would not be significantly detrimental to amenities to justify a reason for the refusal

of the application. Whilst the provision of a vehicular access and access road to the south of no. 20 Worthington Lane would result in an increase in noise alongside the southern (side) elevation of this dwelling, this is not considered to be of such detriment as to justify a refusal given that the Council's Environmental Protection team have raised no objections to this element of the scheme, as well as the fact that the relationship would not be too dissimilar to having a development on a corner site with a road running close to the dwelling and its associated garden, which was considered in a 2008 appeal to be an acceptable yardstick for an acceptable standard (appeal ref: APP/G2435/A/08/2065885/WF).

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

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

Overall the development is considered compliant with Paragraph 123 of the NPPF, Policy E3 of the adopted Local Plan and Policy D2 of the submitted 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 submitted Local Plan, but also Paragraphs 57, 60 and 61 of the NPPF.

At present the application site is an open agricultural field with land levels which rise from north to south and which 'bulge' in the centre before falling away to the eastern and western boundaries. Residential dwellings of varying heights and types exist to the north, east and west with open agricultural land to the south.

It is noted that layout, scale, appearance and landscaping are included as matters to be considered at a later stage with only part access being approved at this stage. Properties on Worthington Lane are situated at varying distances to the highway but present their principal elevations to this carriageway with the development pattern being linear in nature. Whilst such a character exists on Worthington Lane, it is important to acknowledge the context of the wider environment in which the development would be set and it is observed that the settlement of Breedon on the Hill has expanded by the creation of residential estates off the principal highways including The Dovecote, The Lime Kilns, Pear Tree Mews, Church View, The Crescent and Hastings Close. On this basis the creation of a residential estate which projects westwards off Worthington Lane would not be of such detriment to the character of the area as to justify a refusal of the application given the integration of the development with such residential estates considered to be consistent with the character of the area.

The Council's Urban Designer has reviewed the indicative layout and considers that a scheme could be progressed on the site which could accord with the ethos of Building for Life 12 (BfL 12). At this stage, however, a scheme where only part access is for approval is not sufficiently advanced to be fully assessed against such criteria and, as a consequence, it would be necessary at the reserved matters stage for a BfL 12 assessment to be supplied to specify how the development would accord with the principles of this guidance. This could be secured by a

condition on any consent granted.

In respect of the appearance of the dwellings these would be agreed at the reserved matters stage and at this point an appropriate design could be achieved which would accord with the Council's current design agenda by providing a scheme which responds to the positive characteristics of dwellings within the area.

Both Historic England and the Council's Conservation Officer have been consulted on the application and have raised no objections with the views of the Council's Conservation Officer being that *"traditional development along the south side of Main Street has already been separated from the open countryside by a series of modern developments."* The only areas of concern which have been raised by the Council's Conservation Officer is whether the development on the site should be restricted in height, so as not to adversely impact on the setting of the conservation views and the long views of the Grade I Listed Church of St Mary and St Haldulph and hill fort from the south, and the density of the scheme.

Beyond the extent of the application site boundary to the south, the land levels rise to the southern field boundary before they plateau in the fields that then continue to the south. As a result of this the development would fall within a valley. As the scale of the dwellings is reserved for subsequent approval it is considered reasonable to impose a note to the applicant on any permission granted to advise them that the height of the dwellings would need to be carefully considered at the reserved matters stage, for the above reasons, although given the topography of the land it is reasonable to conclude that the long views of the listed church and hill fort could be protected.

At this stage, however, the principle of the development would result in less than substantial harm to the significance of the setting of heritage assets, given that built forms are already closely associated with the boundaries of the conservation area and visible in views from the listed church, with any harm also being outweighed by the public benefits of a development in a sustainable settlement which has limited harm on the rural environment and which provides a wide range of housing to meet all needs of the local community.

In respect of the density of the development it is considered that this is addressed in the *'Density and Housing Mix'* section of this report.

Public footpath M21 lies 152 metres to the south-east of the site and it is considered that the position of the dwellings would have no greater impact on views established from this footpath given the presence of dense vegetation to the roadside boundaries of the agricultural fields on Worthington Lane as well as the fact that any views would currently include the dwellings on Hastings Close.

Overall the development is one which would be considered compliant with Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the NPPF, Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act as well as Policy E4 of the adopted Local Plan and Policies D1 and He1 of the submitted Local Plan.

Ecology

The County Council Ecologist and Natural England have commented on the application and have raised no objections with there being no requirement for further surveys to be supplied. It is specified that conditions should be imposed to ensure that vegetation is removed outside the bird nesting season, that locally native species of hedgerow are planted and that an updated

protected species report would be required should development not commence in advance of March 2019. Conditions associated with vegetation removal and an updated protected species survey will be imposed on any outline planning permission, should permission be granted, with the proposed landscaping to be supplied being agreed under any subsequent reserved matters application should the principle of development be established.

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

Landscaping

The Council's Tree Officer has been consulted on the application and has raised no objections subject to reconsideration being given to any landscape buffer supplied to the southern boundary of the site given that a buffer screen of dense tree planting, as suggested by the indicative layout, would heavily shade properties presented to this aspect. As such a hedgerow with feathered trees would be a more appropriate and would impose less on future residents. Given that landscaping is reserved for subsequent approval it could be ensured at that stage that appropriate planting is supplied.

Whilst concerns has been expressed by third parties about the potential loss of an Ash tree to the western boundary in order to provide the vehicular access, the Council's Tree Officer has carried out a Tree Evaluation Method for Preservation Orders (TEMPO) assessment of this tree which does not merit protection via a Tree Preservation Order (TPO) nor should it be considered a constraint to development. As such its removal would be accepted. All other vegetation on the site is largely confined to the boundaries and as a consequence would not be duly impacted on by the proposed development.

Overall the proposal is considered compliant with Policy E7 of the adopted Local Plan.

Archaeology

The County Council Archaeologist has indicated that an appraisal of the Leicestershire and Rutland Historic Environment Record (HER) notes that the site is located within an area of archaeological interest at the edge of the medieval and post-medieval settlement core of Breedon village as well as to the south of the Iron Age Hill Fort, which has evidence for earlier activity ranging from the Mesolithic through to the late Bronze Age periods. There is also good evidence for other prehistoric activity in the vicinity of the site including cropmark enclosures to the south-west and Neolithic deposits identified through trial trenching to the north-east. Items recorded at such sites included a Neolithic hand-axe and Roman copper alloy Polden Hill-type brooch. In the circumstances that the application site is relatively undisturbed there is a reasonable likelihood that archaeological remains are present.

Given the opportunities which exist for archaeological remains to be present on the site, the County Council Archaeologist considers it necessary for conditions to be imposed on any consent for a programme of archaeological work (including intrusive and non-intrusive investigations where necessary) in advance of the development commencing, in order to record and advance the understanding of the significance of any heritage assets. Such conditions are considered reasonable given the high possibility of archaeological remains being present on the site and their inclusion therefore ensures the development complies with Paragraph 141 of the NPPF and Policy He1 of the submitted Local Plan.

Drainage and Flood Risk

The Lead Local Flood Authority (LLFA) initially objected to the application given that the information submitted did not assess greenfield run-off rates and did not provide a sufficient assessment and utilisation of sustainable drainage systems. Given the absence of such information it was not demonstrated that the development could accommodate matching greenfield run-off rates.

Following the receipt of additional information in respect of this matter, the LLFA have confirmed that they have no objections to the proposal subject to the imposition of a condition on the planning consent to ensure that any surface water drainage scheme provided limits surface water run-off to the equivalent greenfield rate plus 40% for climate change as well as the provision of a surface water storage system which will allow sufficient storage on the site up to the 1 in 100 year storm. In the circumstances that a condition is imposed on any consent granted to secure such a scheme, the proposal would be considered compliant with Paragraph 103 of the NPPF, as well as Policies Cc2 and Cc3 of the submitted Local Plan, and would not exacerbate localised surface water flooding issues.

The above comments have been supplied by the LLFA following their consideration of a flood report (Breedon on the Hill Flood Report) produced by the County Council after their investigations into the summer flooding events within Breedon on the Hill. On the basis that the findings of this report have been factored into the assessment undertaken by the LLFA they are satisfied that the proposed dwellings would not exacerbate flooding within the settlement.

Insofar as foul drainage is concerned, it is indicated on the application forms that this would be discharged to the mains sewer with such discharge being agreed with Severn Trent Water under separate legislation. In the circumstances that Severn Trent Water have raised no objections, subject to the foul drainage discharge details being secured by condition, it is considered that the additional demands for foul drainage could be met by the existing sewerage system in place and therefore the proposed development would accord with Paragraph 120 of the NPPF.

Viability of the Development

A request has been made for Section 106 contributions towards education and affordable housing. This has been assessed against the equivalent legislative tests contained within the Community Infrastructure Levy (CIL) Regulations 2010 (CIL Regulations) as well as Paragraphs 203 and 204 of the NPPF.

The requested developer contributions are listed below.

Affordable Housing

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

The Council's Affordable Housing Enabler has advised that there has been a lack of affordable

homes provided on developments in rural areas due to the ability of registered providers to purchase such houses being severely diminished. As a consequence of this alternative delivery mechanisms should be explored and any sites which are brought forward should meet the housing needs of those with a local connection to the village, as well as the needs identified from the wider district. It is proposed that the following properties would be supplied: -

- 3 x 2 bedroom bungalows;
- 3 x 2 bedroom houses;
- 2 x 3 bedroom houses;

The applicant also suggests that within the Section 106 agreement, as well as covenants on the sale of the land, that the following is established: -

- 8 rented homes at no more than 80% over market value, provided as Intermediate Rented homes
- Rented at this level in perpetuity
- Local Needs criteria applied (as used on rural exception sites)
- The allocation of these properties would be determined by the applicant, initially offered to agricultural/estate workers on the Staunton Harold Estate

Whilst such an approach does not follow the Council's preferred policy stance, the Affordable Housing Enabler advises that they are supportive of this approach given that it does accord with guidance within the NPPF and would secure affordable housing on the site and in perpetuity at a time when there is no registered provider capacity to purchase such properties.

In the circumstances that the above mechanisms could be secured in the Section 106 agreement and the applicant is willing to meet these affordable housing requests, the development would be compliant with Policy H8 of the adopted Local Plan and Policy H5 of the submitted Local Plan.

Education

Leicestershire County Council (Education) request a secondary school contribution of £80,621.53 for Castle Donington College and post-16 sector request of £17,201.83 for Ashby School. No request is made for the primary or special school sectors. The reasoning for the request outlines that no more than five obligations (including this proposed) have been sought for the scheme project and as such no issues arise in respect of pooling (insofar as the limitations on pooled contributions as set out within the CIL Regulations are concerned).

A total contribution of £97,823.36 is therefore sought for education and the applicant has confirmed their intentions to meet this financial request.

Although third party representations have commented that Breedon Church of England Primary School has capacity issues, the response from the County Council Education Authority highlights that the school would have four surplus places when factoring into account pupils from the development.

Other Requests

The County Council Highways Authority have requested that the Section 106 agreement should secure Travel Packs (£52.85 per pack), provision of new or enhancements to the two nearest bus stops (£3263.00 per stop), provision of information display cases at the two nearest bus

stops (£120.00 per display) and provision of Real Time Information (RTI) displays at the two nearest bus stops (£5000.00 per stop). The applicant has agreed to meet these requests.

No consultation has been received from the NHS or Police in respect of any relevant contributions applicable to these service areas. Should any comments be received they will be reported to Members on the Update Sheet. Whilst the doctors surgery within Melbourne may come under pressure due to an increase in residents this is at a time when population numbers are increasing throughout the District, with the same being true in many areas, and ultimately the task of adapting to meet future needs is one for the providers of this service. In the present case, this would not be a proper reason to refuse planning permission.

Overall, the development could be progressed in accordance with Paragraphs 203 and 204 of the NPPF.

Play Area/Open Space

No representation has been received from the Council's Leisure Section in respect of whether any on-site play provision should be made or whether an off-site contribution would be sufficient in this instance. The indicative layout plan submitted highlights that both a play area and public open space would be provided on the site with the precise details of any play equipment installed being secured under the Section 106 agreement.

It is considered that the provision of such facilities on the site will ensure compliance with Paragraph 73 of the NPPF as well as Policy L21 of the adopted Local Plan and Policy IF3 of the submitted Local Plan.

Other Matters

It is a fundamental tenet of the planning system that applications be assessed on their own merits. The fact that the applicant has permission for another development within the settlement which has not been completed or that residential development may come forward on the Breedon Priory Nursery site, which may be more favourable to residents, is not a reason to refuse this particular application.

In respect of the concerns raised regarding inaccuracies in the application submission and lack of detail within the supporting documentation, the submitted information together with all of the information gathered when undertaking the site visit and assessing the application have allowed for the application to be fully and adequately assessed in accordance with relevant planning policies.

The lack of broadband speed within the existing village is a matter which would be addressed by the relevant telecommunication companies responsible for the provision of such a service with the Government being committed to increasing broadband speeds within rural areas. Such companies would also be responsible for the provision of broadband to the new properties, should they request such a connection, and at this time they would have to ensure that their advertised estimated speeds are adhered to or carry out improvements to the network. Therefore, the provision of new dwellings would not impact on broadband speeds experienced within the settlement with this matter, in any event, not being a material planning consideration.

Whilst no public consultation has been undertaken as part of the development proposal prior to its submission, it is not a necessary requirement that such consultation is carried out and, in any event, a public consultation exercise has been carried out during the determination period.

The national and local validation requirement for applications do not require applications to be accompanied by a landscape and visual impact assessment in order to be validated. If the Local Authority was of the view such a report was necessary to assess the application this could have been requested during the determination process.

Whilst the site has not been subject to a Strategic Housing Land Availability Assessment (SHLAA) this is not a reason to resist the development proposal which has been accordingly assessed against all relevant national and local planning policies.

Summary Reasons for Granting Outline Planning Permission

The site is located outside 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 development is considered to be acceptable. It is also considered that the site could be developed, at the reserved matters stage, in a manner which would not appear out of keeping with the character and appearance of the surrounding locality, and which would not adversely impact on the amenities of neighbouring residents, highway safety, heritage assets, ecology, and archaeology or further exacerbate any localised flooding issues. There are no other material planning considerations that indicate planning permission should not be granted and accordingly the proposal, subject to relevant conditions and the completion of a Section 106 agreement, is considered acceptable for the purposes of the above-mentioned policies.

RECOMMENDATION - PERMIT, subject to the following conditions and completion of a Section 106 agreement.

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

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

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

Reason - this permission is in outline only.

- 3 The proposed development shall be implemented in accordance with the site location plan (ref: 1506058), received by the Local Authority on the 1st April 2016, and the access arrangements shown on drawing number 7268 (Illustrative Masterplan), received by the Local Authority on the 24th May 2016, unless otherwise required by another condition of this permission.

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

- 4 A total of no more than 27 dwellings shall be erected.

Reason - to determine the scope of the permission.

- 5 The first reserved matters application shall include the further submission of a Building for Life 12 Assessment in order to ensure the development is designed and built to a good standard.

Reason - to enhance the sustainability credentials of the scheme and to ensure the design approach reflects the aspirations of the Local Authority.

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

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

- 7 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on the site until such time as a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railings and other means of enclosure) has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be provided in full prior to the first occupation of any dwelling, hereby approved, unless an alternative timescale is first agreed in writing by the Local Planning Authority.

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

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

- 8 The gradient of the access drive shall not exceed 1:12 for the first 5.0 metres behind the highway boundary.

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

- 9 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected at the access they shall be set back a minimum distance of 7 metres behind the highway boundary and shall be hung so as to open inwards only.

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

highway.

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

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

- 11 No development shall commence on site until details of the design for off-site highway works being traffic calming measures to deliver speeds of 30 mph or lower at the site frontage and a footway on Worthington Lane between the proposed access and the northern boundary of no. 14 Worthington Lane have first been submitted to and approved in writing by the Local Planning Authority in consultation with the County Highways Authority. Once agreed the scheme shall be provided in accordance with the approved details prior to the first occupation of the 10th dwelling.

Reason - the proposal will lead to an increase in pedestrian and cycle movements on Worthington Lane and the improvements are therefore required in the interests of the safety of these most vulnerable road users.

- 12 Notwithstanding the details shown on the approved plans, nor condition 3 above, no development shall commence on site until details of satisfactory access arrangements have first been submitted to and approved in writing by the Local Planning Authority in consultation with the County Highways Authority. Once agreed the access shall be provided in accordance with the approved details prior to the first occupation of any dwelling.

Reason - to enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety and to ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

- 13 Before first use of the development, hereby permitted, the following shall be provided: -
- Drainage shall be provided within the site such that surface water does not drain into the public highway and thereafter shall be so maintained;
 - The access shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 7 metres behind the highway boundary;

Once provided the above shall thereafter be so maintained.

Reason - to reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users; to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.).

- 14 No development shall commence until a detailed surface water drainage scheme has

been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority (LLFA).

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

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing and phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the LLFA.

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

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

- 15 No development shall commence until details in relation to the management of surface water on the site during construction of the development has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority (LLFA).

The submitted details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided.

Once agreed the development shall then be carried out in accordance with the approved details.

Reason - to prevent an increase in flood risk, maintain the existing surface water runoff quality and to prevent damage to the final surface water management systems through the entire development construction phase.

- 16 No development shall commence until details in relation to the long term maintenance of the sustainable surface water drainage system on the development have been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority (LLFA).

Details of the SuDS Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the system, and should include

procedures that must be implemented in the event of pollution incidents within the development site.

Once agreed the development shall then be carried out in accordance with the approved details and thereafter so maintained.

Reason - to establish a suitable maintenance regime, that may be monitored over time, which will ensure the long term performance, both in terms of flood risk and water quality, of the sustainable drainage system within the proposed development.

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

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

- 18 No development shall commence on site until all the existing trees to be retained have been securely fenced off by the erection, to coincide with the canopy of the tree where possible, of a 1.4 metre high protective barrier in accordance with BS 5837:2012. In addition all hedgerows that are to be retained shall be protected by a 1.2 metre high protective barrier which shall be erected at least 1.0 metre from the hedgerow. Within the fenced off areas there shall be no alteration to the ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand.

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

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

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

- 20 If no development has commenced on site, with regards to the construction of the dwellings, prior to March 2019 then no development shall commence until an updated Badger survey (which shall include any mitigation measures and licenses which would be obtained) has been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist. Once agreed the development shall thereafter be carried out in accordance with the recommendations of the Badger Survey and any mitigation measures once provided shall thereafter be so retained.

Reason - to ensure that protected species are adequately protected and their habitat enhanced.

- 21 No demolition/development shall take place until a programme of archaeological work,

commencing with an initial phase of geophysical survey and/or trial trenching, has been detailed within a Written Scheme of Investigation, first submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Archaeologist. The scheme shall include an assessment of significance and research questions; and: -

- The programme and methodology of site investigation and recording (including the initial trial trenching assessment of results and preparation of an appropriate mitigation scheme).
- The programme for post-investigation assessment.
- Provision to be made for analysis of the site investigation and recording.
- Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- Provision to be made for archive deposition of the analysis and records of the site investigation.
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Reason - to ensure satisfactory archaeological investigation and recording.

- 22 No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 19.

Reason - to ensure satisfactory archaeological investigation and recording.

- 23 No dwelling shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 19 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason - to ensure satisfactory archaeological investigation and recording.

Notes to applicant

- 1 Outline planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 This decision is subject to a Section 106 Obligation regarding the following matters: -
 - a. On-site affordable housing contribution;
 - b. On-site play area;
 - c. On-site open space;
 - d. Contribution towards education;
 - e. Contribution towards improvements to two nearest bus stops;
 - f. Contribution towards display boards at the two nearest bus stops;
 - g. Contribution towards Real Time Information (RTI) displays at the two nearest bus

- stops;
- h. Travel Packs.
- 4 The applicant is advised that the Council's Conservation Officer has specified that the proposed dwellings should be a maximum of one and a half storeys in height in order to reduce the impact on the setting of the conservation area and the long views of the church and hill fort from the south. In submitting a reserved matters application it would need to be adequately demonstrated that adverse impacts would not arise (i.e. with the provision of site sections) particularly if two-storey dwellings are proposed.
- 5 You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted to and approved in writing by the Local Planning Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
- 6 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from the Developer Improvements team. For further information, including contact details, you are advised to visit the County Council website: - see Part 6 of the '6Cs Design Guide' at www.leics.gov.uk/6csdg.
- 7 C.B.R. Tests shall be taken and submitted to the County Council's Highways Manager prior to the development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Highways Manager.
- 8 The highway boundary is the hedge fronting onto Worthington Lane and not the edge of the carriageway/road.
- 9 The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in prosecution any anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both, as it is an offence to disturb nesting/breeding birds.
- 10 The applicant is advised that the County Ecologist has requested that all tree, shrub and landscape planting provided should be of a locally native species only.
- 11 Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you obtaining a solution which protects both the public sewer and the building.
- 12 The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. The WSI must be submitted to the planning authority and Historic and Natural Environment Team (HNET), as archaeological advisors to the District Council, for approval before the start of development. The WSI should comply with HNET's "Guidelines and Procedures for Archaeological Work in Leicestershire and Rutland" and with relevant Institute for Archaeologists "Standards" and "Code of Practice". It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development. HNET, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

- 13 Leicestershire County Council, as the Lead Local Flood Authority (LLFA), is currently in the process of producing a report in relation to the recent flooding incidents in Breedon On The Hill and subsequent investigations carried out. The comments made within this development advice to the Local Planning Authority are on the basis of the information in relation to flooding incident available at the time of writing and therefore do not consider any details provided to the LLFA at a later stage.
The LLFA advise that as the development proposals are progressed, the applicant enter in to discussions with the LLFA to ensure the most appropriate surface water drainage scheme can be achieved and any flood risk is adequately mitigated. The LLFA can be contacted at the following email address, flooding@leics.gov.uk.
- 14 Although the application is for outline planning permission considering access only, and with a further assessment of SuDS required, in its current layout the proposed balancing pond would need to be online to afford the development site with sufficient surface water treatment elements. On submission of reserved matters and/or discharge of conditions applications, the LLFA would expect to see further assessment of SuDS as indicated within the submitted outline Flood Risk Assessment (ref. ALS010778FR1).
- 15 For the watercourse assessment (condition 16), the climate change allowances used should be based on those for the Humber basin district contained within Table 1 at the following website:
<http://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>
When developing the surface water drainage proposals for the site, the climate change allowances used should be based on those contained within Table 2 at the above website.
- 16 If there are any works proposed as part of an application which are likely to affect flows in a watercourse or ditch, then the applicant may require consent under s.23 Land Drainage Act 1991. This legislation is separate from the planning process.
Guidance on this process and a sample application form can be found via the following website: -
<http://www.leicestershire.gov.uk/Flood-risk-management>.
No development should take place within 5 metres of any watercourse or ditch without first contacting the County Council for advice.
- 17 The LLFA note that the industry best practice at the time of developing the FRA may have been CIRIA C697 in relation to SuDS design, but that new guidance has been produced in the form of CIRIA C753. The LLFA would recommend that SuDS designs refer to the new guidance, including where the following aspects are detailed: treatment requirements and maintenance schedules for the surface water system.
- 18 Please note it is the responsibility of the Local Planning Authority under the DEFRA/DCLG legislation (April 2015) that the adoption and future maintenance of SuDS features should be discussed with the developer and a suitable maintenance schedule agreed before commencement of the works.

Erection of eight dwellings (access, landscaping and layout included)

Report Item No
A2

Land To The North East Of Normanton Road Packington
Ashby De La Zouch Leicestershire LE65 1WS

Application Reference
15/01051/OUT

Applicant:
Mr & Mrs B T Moseley

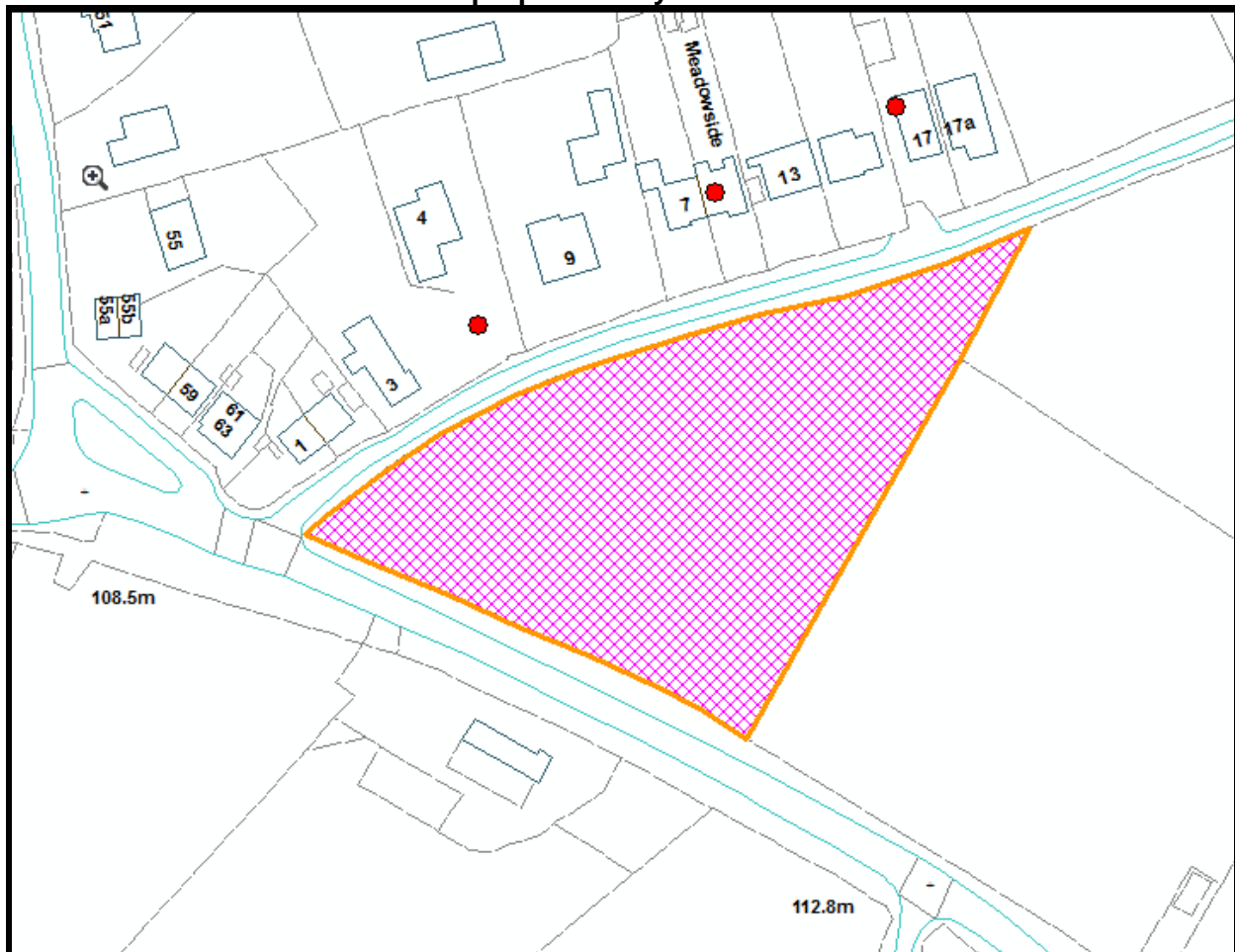
Date Registered
5 November 2015

Case Officer:
Jenny Davies

Target Decision Date
31 December 2015

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329)

EXECUTIVE SUMMARY OF PROPOSALS AND REASON FOR REFUSAL

This application has been called to Planning Committee by Councillor Nigel Smith on the grounds that the site is outside the Limits to Development, the land is agricultural and greenfield, the Council's housing quota has been met, an application for housing on the site has previously been refused and there are strong objections from Packington Parish Council and local residents.

Proposal

Outline planning permission (with access, landscaping and layout included for determination) is sought for the erection of eight detached dwellings on land at Normanton Road/Spring Lane, Packington. Four of the dwellings would front onto Normanton Road with the remaining four dwellings located on the rear of the site, three of which would back onto Spring Lane. Three accesses would be provided onto Normanton Road.

This site forms part of a larger site that was subject to an outline planning application for 42 dwellings (13/00959/OUTM), which was approved. Subsequently the planning permission was challenged by a Judicial Review in December 2014 and quashed. The application was reported back to Planning Committee in June 2015 and refused on two grounds.

Consultations

26 letters of objection have been received from members of the public and Packington Parish Council has raised objections. Three letters of support have been received. No other objections have been received from statutory consultees.

Planning Policy

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

Conclusion

Whilst the site is outside the Limits to Development and constitutes greenfield land, the site would be socially sustainable in relation to distance to services and facilities and appropriate contributions to infrastructure and affordable housing. The development would be acceptable in terms of impacts on highway safety, the character of the area, design/layout and impacts on the historic environment, residential amenities, highway safety, trees/hedgerows, drainage and flood risk and protected species/ecology. However as the site lies outside the Limits to Development, in the context of the River Mease Special Area of Conservation (SAC) the proposal does not constitute a sustainable form of development, which on balance would not be outweighed by the benefits of the proposal or any other material considerations. It is therefore recommended that planning permission be refused.

RECOMMENDATION:- THAT PLANNING PERMISSION BE REFUSED

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

MAIN REPORT

1. Proposals and Background

Outline planning permission (with access, landscaping and layout included for determination) is sought for the erection of eight detached dwellings on land at Normanton Road/Spring Lane, Packington. The site is a 0.65 hectares area of pasture land located to the north of Normanton Road and south east of Spring Lane. Open fields lie to the north, south and east with residential development to the north west. Land levels across the site rise by just over two metres from the south western corner of the site in a north easterly/easterly direction.

Four of the dwellings would front onto Normanton Road with the remaining four dwellings on the rear of the site, three of which would back onto Spring Lane. Three accesses are proposed onto Normanton Road. A multi-stemmed ash tree on the front boundary is shown to be removed, along with four stretches of hedgerow. The remaining boundary hedgerows and trees are shown to be retained. A new footway is proposed along the northern side of Normanton Road and an existing access onto Spring Lane would be closed. Amended plans have been submitted to address officer concerns regarding the design/layout and impact on the frontage trees/hedgerow and residential amenities.

The site lies within the catchment area of the River Mease SAC. A tributary to the River Mease lies approximately 60 metres to the west of the site. The Packington Conservation Area lies approximately 200 metres to the north west of the site and the nearest listed building is the Grade 2 listed Packington House lying approximately 157 metres to the north east.

A full application for four self-build dwellings on the site (16/00925/FUL) was submitted in August 2016 and is also brought before this Planning Committee.

This site forms part of a larger site that was subject to an outline planning application for 42 dwellings (13/00959/OUTM), which was approved at Planning Committee in June 2014 and the decision notice issued in November 2014. Subsequently the planning permission was challenged by way of a Judicial Review in December 2014 and quashed by an Order of the Court. The Judicial Review raised six grounds of challenge; the Council conceded one of those grounds, which was that it had raised a legitimate expectation that the matter would be reported back to the Planning Committee prior to the issue of the decision notice. For this reason, the Court Order quashing the planning permission was made with the consent of both parties. The application was reported back to Planning Committee in June 2015 and refused on the following two grounds:

1. Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in respect of protecting and enhancing our natural environment and using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S3 of the adopted North West Leicestershire Local Plan sets out the circumstances in which development outside limits to development would be acceptable. The site is a greenfield site located outside of the limits to development as defined in the adopted Local Plan, and would result in significant harm to the character and rural appearance of the locality and setting of the village in the landscape and any development on this site would appear as an unwarranted and incongruous intrusion into the countryside. Approval of the application would result in the unnecessary development of land located outside limits to development, not constituting sustainable

development, and contrary to the policies and intentions of the NPPF and Policy S3 of the North West Leicestershire Local Plan.

2. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard should be had to the desirability of preserving the building or its setting. Paragraph 132 of the NPPF states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 133 of the NPPF states that where a development will lead to substantial harm or total loss of significance of a designated heritage asset, local planning authorities should refuse permission. The proposed residential development of this site will have a significant adverse impact upon the setting of the nearby Grade II Listed Packington House, a designated heritage asset, which should be given special regard and weight, and the development would therefore be contrary to the intentions of Paragraphs 132 and 133 of the NPPF.

2. Publicity

121 neighbours have been notified (Date of last notification 6 October 2016)

Press Notice published 18 November 2015

Site Notice published 13 November 2015

3. Consultations

Packington Parish Council
NWLDC Tree Officer
County Highway Authority
National Forest Company
NWLDC Urban Designer
LCC Flood Management
NWLDC Tree Officer
LCC Flood Management
Severn Trent Water Limited
Head of Environmental Protection
County Archaeologist
LCC ecology
NWLDC Conservation Officer
Historic England-
Development Plans
Manager Of Housing North West Leicestershire District Council
Highways Agency-

4. Summary of Representations Received

Statutory Consultees

Packington Parish Council objects on the following grounds:

- that a precedent has been set by the Council when they turned down a small development on Ashby Road, stating that Ashby Road was refused based on the fact that it was development in the open countryside;
- the site is outside the proposed Limits to Development currently being consulted on by the District Council;

- a development on this land was already refused on 10th June 2015;
- there are three proposed accesses on to Normanton Road which will be opposite a thirty house development. Further highway matters therefore need to be considered;
- there is a highways issue in that there are too many accesses onto Normanton Road;
- the development is detrimental to the occupier of 1 Spring Lane in that the size of the property to be built opposite No. 1 will affect their enjoyment of their own property. The size of the proposed property opposite will also have a considerable affect on the natural daylight afforded to No. 1;
- Councillors are also concerned about the sewerage capacity;
- Councillors advise that the sewage works are at capacity;
- Parish Councillors feel that they have received more than their fair share of housing.

The County Archaeologist recommends the imposition of conditions.

The Conservation Officer has no objections.

Historic England does not consider it necessary for it to have been notified of the application.

The Council's Environmental Protection team has no environmental observations.

The Lead Local Flood Authority recommends the imposition of conditions.

Severn Trent Water has no objection subject to a condition.

The County Ecologist has no objections subject to conditions.

The National Forest Company initially raised concerns regarding the number of access points proposed in the hedgerow along Normanton Road which has been addressed by the submission of amended plans. A request is also made for the securing of National Forest planting.

The Council's Tree Officer initially objected on the basis of a detrimental impact on the trees and hedgerow to Normanton Road and advised that the tree survey was not accurate. Following submission of amended plans and a revised tree survey, the Tree Officer has no objections.

The County Highway Authority has no objections subject to conditions.

Highways England has no objections.

The Council's Strategic Housing team advises that it would accept an off-site commuted sum for affordable housing.

The Council's Urban Designer has raised concerns regarding the design of the scheme but following some amendments considers that a reason for refusal could not be justified.

Third Party Representations

26 letters of objection have been received which object to the application on the following grounds:

- refusal of previous application for housing on the site;
- site is located outside the Limits to Development, including within the draft Local Plan, and therefore reason for refusal of previous application still applies;

- approval of the proposal would be inconsistent with the Planning Committee's previous decision and would encourage developers to continually submit revised applications;
- there should be a limit on the number of houses allowed outside formally agreed boundaries;
- incorporation of the site into the Limits to Development is a hope and not an argument for the development;
- proposed access drive could be extended into the adjacent field to allow its development for housing in the future;
- the five year housing land supply requirement for future housing has been met;
- limited impact on five year housing land supply;
- no need for further building on greenfield land;
- approval would set a precedent for more applications outside the Limits to Development and on the remainder of the larger site;
- no need for any more housing in the village as the 30 dwelling site is a reasonable number to allow and should satisfy the requirement for the village;
- although there is a national housing shortage, there is not a shortage of large executive homes;
- no need for anymore larger homes in the village;
- smaller properties and bungalows for the elderly and starter homes are needed within the village and so there should be more diversity in terms of size and number of bedrooms;
- the draft Local Plan states that development in Sustainable Villages should be infilling or physical extensions;
- new residents would rely on the car for most of their journeys and use of the bus service would be impractical;
- Section 106 Agreement should include payments of direct benefit to the village, e.g. to the primary school;
- existing services, e.g. doctors, schools are already under pressure;
- previous reason for refusal states that any development on the site would be an unwarranted and incongruous intrusion into the countryside;
- development of a green field site should not be acceptable in the context of the 'environmental' thread of sustainability;
- no over-riding need to develop the site when balanced against need to protect the countryside;
- harmful to the countryside;
- severe impact on appearance of entrance to the village in particular from Normanton Road;
- loss of attractive countryside and impact on rural setting around the village;
- impact on semi-rural character of Spring Lane;
- rural open spaces need to be protected;
- two schemes in South Derbyshire have been dismissed on appeal due to harmful impact on the countryside;
- use of self-build could result in a wild variety of styles of dwellings out of keeping with the village's appearance;
- lack of style guide and common materials;
- impact on setting of Packington House which is a listed building;
- four driveways and an access road onto Normanton Road pose increased traffic risks;
- accesses located opposite access to housing site on southern side of Normanton Road and close to a bend;
- some of the driveways would be outside the 30mph speed limit;
- this approach to the village already has a number of exit/entry points that are difficult to manoeuvre safely which would be exacerbated;
- additional dangers would occur to refuse collections and delivery vehicles stopping on Normanton Road at the new accesses;
- speeding traffic along Normanton Road already is a problem and would create a dangerous hazard due to the number of accesses along this stretch of road;

- additional on-street parking would create a hazard;
- traffic impact would be worse than the previous application due to number of accesses;
- development should be required to fund traffic calming measures and an adjustment to the 30mph zone;
- traffic impact needs to be re-considered;
- increase in traffic levels and congestion within the village;
- more houses will increase congestion and lack of parking in Ashby de la Zouch;
- impact on Spring Lane from extra traffic due to its narrow width;
- Spring Lane is used by walkers, cyclists, horse riders and residents and existing dangers already in place;
- lack of information regarding responsibility for landscaping at junction of Spring Lane/Normanton Road could result in impact on visibility;
- lack of room for a footway at the junction with Spring Lane;
- lack of footway along Normanton Road is dangerous for pedestrians;
- loss of light/overshadowing;
- loss of privacy/overlooking;
- lack of information regarding scale of new dwellings which is required given higher land level of the site;
- surface water flooding and heavy saturation of the site in particular during the winter;
- surface water runs off the site onto Spring Lane which can be hazardous and causes flooding;
- significant risk of increased flooding from run off if the site is developed;
- additional water being added to a combined 150mm pipe could create a capacity issue at the southern end of Spring Lane if it backs up under storm conditions and doubtless the Environment Agency and Severn Trent Water will be commenting;
- it is assumed the developer will want Severn Trent Water to adopt the drainage system and by taking the foul drainage to MH4501 would probably not allow for Severn Trent Water's requirement for an easement;
- maintenance of the hydrobrake chamber may be needed which would be under private driveways and close to a garage;
- there is not enough information within the Drainage Scheme to satisfy that planning permission may not inadvertently be granted on an insufficiently detailed future proof drainage/flood scheme;
- hedgerow and trees along Spring Lane should be retained to provide habitat for bats and screening;
- loss of hedgerows along Spring Lane;
- concerns regarding future ownership/maintenance of hedgerows and trees;
- significant level of landscaping would not be provided within the site;
- lack of landscaping detail;
- erroneous information contained within the application.

Three letters of support have been received which support the application on the following grounds:

- the village has excellent facilities that can absorb eight dwellings;
- the new dwellings can support existing facilities;
- good road links available to Ashby and major towns and cities;
- the government's thrust is for more housing;
- the proposal would not affect the village's rural feel;
- enhancement to the village;
- a balance with the scheme on the opposite side of Normanton Road on the approach to the village;
- no problems with additional traffic;
- no impact on Packington House;

- financial contributions to community projects;
- developer has listened to the views of the village with a much smaller proposal;

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

5. Relevant Planning Policy National Planning Policy Framework (NPPF) - March 2012

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the NPPF. The closer the policies in the development plan to the policies in the NPPF, 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, 34 and 35 (Promoting sustainable transport)
- Paragraphs 47, 49, 54 and 55 (Delivering a wide choice of high quality homes)
- Paragraphs 57, 58, 59, 60, 61 and 64 (Requiring good design)
- Paragraph 69 (Promoting healthy communities)
- Paragraphs 96, 99 and 100 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraphs 109, 112, 118, 119, 123 and 125 (Conserving and enhancing the natural environment)
- Paragraphs 129, 131, 132, 133, 134, 137, 138 and 141 (Conserving and enhancing the historic environment)
- Paragraphs 203, 204 and 206 (Planning conditions and obligations)

Adopted North West Leicestershire Local Plan:

Save where stated otherwise, the policies of the adopted North West Leicestershire Local Plan as listed in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded 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 E8 - Crime Prevention
- 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
 Policy H8 - Affordable Housing

Submitted North West Leicestershire Local Plan

The publication version of the Local Plan was agreed by Council on 28 June 2016 and submitted for examination on 4 October 2016. The weight to be attached by the decision maker to the submitted Local Plan should be commensurate to the stage reached towards adoption.

Policy S1 - Future Housing and Economic Development Needs
 Policy S2 - Settlement Hierarchy
 Policy S3 - Countryside
 Policy D1 - Design of New Development
 Policy D2 - Amenity
 Policy H4 - Affordable Housing
 Policy H6 - House Types and Mix
 Policy IF1 - Development and Infrastructure
 Policy 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(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
 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
 The River Mease Developer Contributions Scheme Second Development Window (DCS2) - September 2016
 The Community Infrastructure Levy Regulations 2010
 6Cs Design Guide (Leicestershire County Council)
 Packington Conservation Area Study and Appraisal - 2001
 NWLDC SPD for Affordable Housing - January 2011

6. Assessment

The main considerations in the determination of this application relate to the principle of development and its sustainability, impact on the character of the area, design/layout and impacts on the historic environment, residential amenities, highway safety, trees/hedgerows, drainage and flood risk, the River Mease SAC/SSSI and protected species/ecology and developer contributions.

Principle of Development

Development Outside the Limits to Development

This site forms part of a larger site that was subject to an outline planning application for 42

dwellings (13/00959/OUTM), which was initially approved, and then following a Judicial Review was refused on two grounds in June 2015, as set out earlier in the report.

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 of Packington, with residential dwellings not being a form of development permitted by Policy S3 of the adopted Local Plan, or Policy S3 of the submitted 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 submitted 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. Although another scheme for development of the site for 42 dwellings was refused in part on the basis of being located outside the Limits to Development, some of the material considerations to be taken into account in relation to the principle of the development have changed. Also the proposal is for a much smaller development on part of the larger site. 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.

Sustainability Credentials

The concept of new development being directed to locations that minimise reliance on the private car is contained within the NPPF. Packington provides a range of day to day facilities, i.e. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites, and there is also a limited hourly public transport service to Ashby, Measham, Swadlincote and Burton (Monday to Saturday).

Below are the approximate distances from the centre of the site to local facilities and services:

Bus Stop (outside the Bull and Lion public house) - 370 metres
 Primary School - 540 metres
 Shop - 630 metres
 Open Space (Measham Road playing field/play area) - 620 metres
 Village Hall - 660 metres
 Public House - 370 metres

The application site is well related to the services/facilities within the village, being within 800 metres (preferred maximum walking distance) of all of the services listed above. The existing highway network within Packington comprises of quiet residential streets and on this basis, it is considered that the quality of the walking experience would be high, which is likely to encourage walking in this location. Furthermore, in order to provide continuous and improved connections to and from the site, it is proposed to construct a footway on the northern side of Normanton Road to link the site with the existing footway network.

Ashby de la Zouch is located approximately 2.2km walking distance from the centre of the site,

where amongst other services, retail, secondary education, a library and GP surgeries can be found. There would be continuous footways available to facilitate pedestrian access to this nearby market town. Furthermore, it is considered that the short distance involved and the relatively low traffic flow along the routes available and local gradients would encourage cycling. Indeed, the distance between the site and Ashby de la Zouch would also be within the average trip length for cycling.

Given the scale of the development, and when taking into account other sites that have recently been granted planning permission or are currently proposed in the village (totalling 60 dwellings), it is considered that the proposal would not result in unsustainable demands on local services and facilities. Additional residents could also support and sustain these services/facilities.

On balance it is therefore considered that occupiers of the dwellings would not necessarily be dependent on the private car. Taking all of these matters into account, it is considered that the site is socially sustainable in terms of distances to services/facilities.

In terms of environmental sustainability the proposal would result in the loss of agricultural land. Best and Most Versatile (BMV) agricultural land is defined as that falling within Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The ALC maps indicate that the site falls within Class 3 but do not specify whether the land would fall within a 3a (BMV) or 3b (not BMV) classification. The supporting information indicates that the site would not be classified as BMV.

Whilst the NPPF does not suggest that the release of smaller BMV site is acceptable, the magnitude of loss of agricultural land is considered to be low where less than 20 hectares of BMV would be lost. Therefore given the relatively limited extent of the potential loss of the site (0.65 hectares), it is considered that this is not sufficient to sustain a reason for refusal in this case.

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 'isolated' dwellings or any unacceptable impacts on the natural, built or historic environment. There would also be limited economic benefits which would include local construction jobs and helping to maintain local services in the area. The securing of an affordable housing contribution and National Forest planting would also contribute to social sustainability.

However in the context of the River Mease SAC, as set out in more detail below, the limited capacity available in the adopted River Mease Developer Contribution Scheme Second Development Window (DCS2) should be directed to the most sustainable locations for new development. Therefore as the site lies outside the Limits to Development, in the context of the River Mease SAC, the proposal does not constitute a sustainable form of development.

In conclusion, whilst the site is outside the Limits to Development and constitutes greenfield land, the site would be socially sustainable, would not have unacceptable impacts on the natural, built or historic environment and would have limited economic benefits. However as the site lies outside the Limits to Development, in the context of the River Mease SAC, the proposal does not constitute a sustainable form of development, which on balance would not be outweighed by the benefits of the proposal or any other material considerations.

Highway Safety

Access to and within the site is included for determination at this stage. The Highways Agency has no objection in relation to impact on the strategic highway network (M42/A42). Concerns

have been raised by the Parish Council and local residents, including dangers from the number of proposed accesses and to vehicles stopping on Normanton Road, the speed of traffic, impacts on Spring Lane at its junction and from extra traffic and proximity to a bend, to other road junctions/accesses, to the access to the proposed housing site on the southern side of Normanton Road and to the 60mph zone.

The County Highway Authority has not raised any objections to the original (with five accesses onto Normanton Road) or to the amended scheme (with three accesses). The Highway Authority advises that consideration was given to the speed of vehicles along Normanton Road when assessing the previous scheme for 42 dwellings and it was felt that the provision of street lighting to Normanton Road, the re-location of the 30mph speed limit and appropriate signage would be sufficient to deliver appropriate speeds in the vicinity of the site access. Conditions are proposed to secure these matters, along with a footway to Normanton Road and visibility splays to the new accesses.

The Highway Authority advises that as there would not be any direct accesses onto Spring Lane from the site there is no requirement to improve visibility at its junction. The Highway Authority also advises that the owner of the hedge would be required to prevent the hedgerow from encroaching onto the footway as it would lie within the public highway, and as part of this hedgerow would need to be removed to provide the footway, visibility would be provided at the junction. Furthermore given the lack of a direct access onto Spring Lane it is considered unlikely there would be a significant increase in traffic using this road.

The Highway Authority advises that the residual cumulative impacts of the development can be mitigated and are not considered severe. On this basis it is considered that the proposal would not result in a severe impact on highway safety and safe and suitable access for all could be provided.

Residential Amenities

Given the scale of development and the location of the new accesses, it is considered that the increase in traffic would not be so significant to lead to an adverse impact from noise and disturbance. It is also noted that the Council's Environmental Protection Team raise no objections.

The new dwellings would be at least 29 metres from Nos. 4, 7, 9, 11, 13, 15, 17 and 17A Spring Lane and 16.5 metres from their front garden boundaries.

Plot 1 would be 22.5 metres from No. 1 Spring Lane, 20 metres from No. 2 Spring Lane, and 17 metres from No. 3 Spring Lane, and would be 19 metres, 14 metres and 13 metres respectively from their front boundaries. The garage to Plot 1 would be at least 18 metres from existing dwellings. It is acknowledged that existing dwellings are sited around one metre lower than the site. However it would be the side elevation of Plot 1 facing towards existing dwellings, and the existing hedgerow along the boundary with Spring Lane and the potential for new planting would provide additional screening. The position of Plot 1 has also been amended so that it is angled away from No. 3 to prevent direct overlooking from its likely closest first floor rear window. The impact from the scale, height, design and windows of Plot 1 and its garage on these three dwellings would need to be carefully considered at the reserved matters stage. However it is considered that a dwelling could be accommodated on Plot 1 that would not adversely impact on the occupiers of these three dwellings. As such it is considered that the proposal would not result in significant detriment to the amenities of nearby residents from overlooking, loss of light or creation of an oppressive outlook.

Design

Based on the proposed footprints, the proposal would provide large detached dwellings. Whilst a more varied housing mix would be preferable these footprints reflect many existing dwellings along Spring Lane. Due to the size of the dwellings and plots, the proposal results in a density of 12 dwellings per hectare, which is well 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 location of the site on the edge of a village and the character of the area.

The Council's Urban Designer has raised some concerns regarding the proposed layout and design of the dwellings. Some minor improvements have been made to the layout, although the layout remains largely unchanged. However the footprint and scale of the dwellings would give opportunities to reflect local character and distinctiveness. A vista would be created in the view along the access road drive towards Plots 3 and 5 and opportunities for surveillance are available. The site can accommodate all of the necessary requirements (private gardens, parking/turning space) without being too cramped. The Council's Urban Designer therefore considers that a reason for refusal could not be justified.

Concerns have been raised in respect of the proposal for the scheme to be 'self-build' which would result in plots being developed individually, resulting in a mix of designs. However agent has confirmed that none of the dwellings on this scheme would be self-build.

Whilst the scheme could be further improved, it is considered that the proposal would be acceptable in terms of its design and layout and a reason for refusal on this ground could not be justified.

Character of the Area and Visual Impact

As noted earlier in this report, the previous application for 42 dwellings was refused in part in respect of impact on the countryside.

The site lies outside the Limits to Development and is within the countryside. Paragraph 17 of the NPPF sets out the key principles that should underpin planning policy and, amongst other things, requires local planning authorities to take account of the different roles and character of different areas, promoting the vitality of our main urban areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.

The application has been accompanied by limited information regarding the existing landscape and character and how the development would assimilate into its environs. Packington is located within an undulating agricultural landscape and the site, along with the adjoining arable fields, provide the rural setting for the village when travelling along Normanton Road. The site is located within a natural hollow within the landscape as land rises towards the east/north-east away from the settlement. The site is bordered on all sides by mature hedgerows interspersed with trees and, therefore, is afforded some existing natural screening and appears as a self-contained field.

Development on the site would be most immediately visible from Normanton Road and Spring Lane (including public vantage points and private dwellings) which abut the site. Longer distance views of the site are available from public footpaths to the south of the village where land levels rise. However, the application site abuts the settlement boundary and development on the site would be viewed against the backdrop of existing development along Spring Lane and alongside the approved 30 dwelling scheme on the southern side of Normanton Road

which is under construction. It is acknowledged that the previous reason for refusal of the 42 dwellings scheme states that '*... any development on this site would appear as an unwarranted and incongruous intrusion into the countryside.*'. However the current proposal would be significantly smaller and would occupy much less land than the previous scheme, occupying one field rather than four and would be of a low density. As such it would not extend any further into the countryside than existing development on Spring Lane or as under construction on the opposite side of Normanton Road and would not appear as an isolated development in the countryside. Furthermore, the site is nestled within a hollow in the landscape which, along with existing landscaping, would help mitigate against the visual impact of built development on this site.

The hedgerows and trees along the roadsides form strong features on the approach to the village on Normanton Road and along Spring Lane. The retention of the Spring Lane hedgerow and the hedgerow bordering the fields to the south east would help to retain this character and screen the development. Additional planting is proposed adjacent to these hedgerows which would separate the hedgerows from garden areas and reinforce the boundaries. Views into the site would be opened up by the removal of stretches of hedgerow. However a replacement hedgerow could be planted and additional landscaping secured at the junction. The most important trees within the frontage hedgerow are shown to be retained and some screening would be provided by the remaining hedgerow. The provision of the footway and visibility splays may require some trimming back of the frontage hedgerow and trees but would not necessitate their removal. The dwellings would largely be set back from the boundaries so they would not create a harsh edge or form a solid block of development adjacent to the countryside. Given the low density of the scheme opportunities exist within the site to secure new landscaping and a more detailed landscaping scheme could be secured by condition. The future maintenance/retention of the Spring Lane and Normanton Road hedgerows/trees and the new landscaping on a more permanent basis could be secured via a Section 106 Agreement.

Whilst reference has also been made to two appeal decisions in South Derbyshire which were dismissed on appeal due to their significant harm to the countryside, it should be noted that each site will be affected by a different set of circumstances and it is a fundamental tenet of the planning system that every application is determined on its own merits.

Therefore, having regard to the above circumstances, it is considered that the visual impacts of the proposal would be reasonable and that, notwithstanding the site's location in the countryside, unacceptable impact on the character and amenities of the surrounding area would not be likely to arise. Overall, the proposal is considered to comply with the provisions of Policy E4 and H7 of the adopted Local Plan and Policy D1 of the submitted Local Plan and the provisions of the NPPF (which would include paragraph 17).

Historic Environment

As noted earlier in the report, the previous application for 42 dwellings was in part refused in relation to impact on a nearby Grade 2 listed building.

Sections 66 and 72 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 or a Conservation Area, 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 and to the desirability of preserving or enhancing the character or appearance of that area. 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.

In terms of designated heritage assets, Packington House, which is a Grade 2 listed building, lies around 157 metres to the north east of the site on Spring Lane. The Packington Conservation Area lies approximately 200 metres to the north west of the site. Therefore the impact of the development on the listed building, its features and setting and the character and appearance of the Conservation Area should be given special regard as required by the Listed Buildings and Conservation Areas Act 1990.

Packington House is a substantial three storey property that is still isolated from the village and largely retains its rural setting. Its listing description states:

House of late C18 and early C19. Red brick with brick dentilled eaves and plain tile roof with end stacks. Twin span, one of each date. The present entrance front, the earlier, is of 3 storeys, Flemish bond, stone coped gables, and 3 sashes: 3/3 2nd floor and 6/6 below. Stucco lintels and stone sill bands. Early C20 bay to left of central simple doorcase and canopy with part glazed 6-panelled door and overlight. 3 storey 1 window extension to right: attic 4/8 sash with casements below. 1 storey extension to left. The rear front is of 3 storeys of 4 windows grouped vertically in projecting brick sections. 3/6 sashes, flat lintels, to 2nd floor, and 6/6 cambered lintels, below. Stone sills. Centre right section has round arched doorcase: tripartite with narrow 3-pane light either side of 4-panelled door. Right end rendered; on left end extension with casements.

Part of Packington House's significance is its age, dating from the late 18th and early 19th centuries, that its scale, design and original features have retained its country house appearance and that it still retains its historic relationship with the village as an outlying dwelling within the rural landscape. The significance of the nearest part of the Conservation Area comes from it forming the core of the village along High Street along which many of medieval buildings and historic non-residential uses (blacksmiths, shops, Post Office, pub) were concentrated.

Significant weight is given to preserving the Grade 2 listed building and its setting, and the character and appearance of the Conservation Area. The site is well separated from the Conservation Area by intervening residential development. The site would not be highly visible within views of or from the Conservation Area, although it is acknowledged that some glimpses of the site would be available within views along Heather Lane/Normanton Road. When having regard to the distances involved and the modern nature of the intervening twentieth century development, it is considered that the development of the site for housing would not adversely affect the setting of the Packington Conservation Area.

The built fabric of Packington House and any of its special features would not be affected by the proposed development which lies beyond its curtilage. However consideration needs to be given to the impact of the proposed development on the setting of Packington House. The setting of Packington House is somewhat compromised to the immediate north by the presence of a modern two-storey dwelling but its rural setting survives predominantly to the south and south east, but also to some extent to the west and south west due to the buffer of fields between the listed building and existing development on the edge of the village. There are views towards Packington House from Normanton Road on the approach to the site. However in these views the site would be seen set apart from Packington House against a backdrop of existing development on Spring Lane. In views adjacent to the site the listed building is screened by intervening topography and vegetation. The Conservation Officer raises no objections. Given its distance from Packington House, the intervening screening from

vegetation and topography and the additional landscaping proposed within the site, it is considered that the proposal would not result in significant detriment to the special architectural or historic interest, character or setting of the nearby listed building and would therefore result in less than substantial harm to the significance of the listed building.

Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal. The less than substantial harm to the heritage assets would in this case be considered on balance to be outweighed by the public benefit of the provision of new dwellings and the provisions of contributions towards affordable housing and National Forest planting.

Archaeology

The Leicestershire and Rutland Historic Environment Record (HER) indicates that the development area lies in an area of archaeological interest, immediately adjacent to the medieval and post-medieval historic settlement core of Packington. Appraisal of the HER indicates that little or no previous archaeological investigation has been undertaken within the development area or in its vicinity. Therefore in the absence of site specific information, the County Archaeologist advises that it is difficult to evaluate the archaeological potential of the development site.

An appraisal of available aerial photographs suggests the presence or former presence of ridge and furrow earthworks within the site, indicating the site lies within the former extent of the openfield system that would have surrounded Packington through much of the medieval and post-medieval periods. The County Archaeologist advises that this indicates that the area has a low potential for significant medieval or later archaeological remains.

Buried archaeological evidence spanning the period from the prehistoric to the earliest evolution of the village (potential yet unidentified heritage assets) could be present within the development area. Paragraph 141 of the NPPF states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development.

Therefore, the County Archaeologist has no objections to the proposal subject to the imposition of conditions for an appropriate programme of archaeological mitigation in order to safeguard any important archaeological remains potentially present on the site. Subject to conditions, it is considered that the proposal would comply with the provisions of the NPPF.

Trees/Hedgerows

The Council's Tree Officer and the National Forest Company initially raised concerns regarding the impact of five new accesses on the hedgerow and trees fronting onto Normanton Road. The proposal has subsequently been amended to show three accesses onto Normanton Road. An ash tree would be removed, along with stretches of hedgerow to provide the footway at the junction with Spring Lane and the three accesses, to which the Tree Officer and National Forest Company has no objection. A replacement hedgerow and additional landscaping would be provided at the junction. The provision of the footway and visibility splays may require some trimming back of the frontage hedgerow and trees but would not necessitate their removal. The most important trees within the frontage hedgerow (field maple, ash and two oak trees) are shown to be retained and the dwellings, driveways and turning/parking areas would be outside the Root Protection Areas to these trees. The hedgerows along Spring Lane and bordering the fields to the south east are shown to be retained, with additional landscaping shown alongside to separate the hedgerows from garden areas. The future maintenance/retention of the Spring Lane and Normanton Road hedgerows/trees and the new landscaping on a more permanent

basis could be secured in a Section 106 Agreement. As such it is considered that the proposal is acceptable in terms of impact on trees and hedgerows.

Drainage and Flood Risk

Concerns have been raised by the Parish Council and residents regarding the capacity of the sewage network and the increased risk of flooding from surface water runoff. The site lies within Flood Zone 1 which is the lowest risk area for flooding from watercourses. The site is identified by the Environment Agency to be at predominantly low risk from surface water flooding although a small area is at medium risk and parts of Spring Lane adjacent to the site are identified as medium to high risk. The submitted Flood Risk and Drainage Statement sets out flood risk management measures including a positive surface water drainage scheme to intercept run-off generated by the development and reduce the incidence of overland flows (through provision of a piped system draining to underground storage units (with restrictive outflows), then into an existing ditch and finally being piped into the nearby watercourse) and provision of a new ditch to intercept overland flows. Surface water discharge into the watercourse would be restricted to greenfield runoff rates (i.e. the rate at which surface water currently discharges from the site when undeveloped). The Lead Local Flood Authority does not consider that the site will be at significant flood risk or the development will increase flood risk elsewhere subject to conditions relating to a surface water management scheme and mitigation measures. Severn Trent Water has no objections subject to a condition requiring submission of the details of foul and surface water drainage. The development does not fall within a category under which the Environment Agency is required to be consulted.

Given the lack of objection from Severn Trent Water and the Lead Local Flood Authority it is considered that a reason for refusal relating to flood risk and capacity of the drainage system could be not justified.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease SAC. A tributary to the River Mease lies approximately 60 metres to the west of the site and a ditch that runs along the southern boundary the site appears to discharge into this tributary. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. 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.

Surface water would discharge into a sustainable urban drainage scheme to ensure that it does not discharge to a Severn Trent Water treatment works. The surface water drainage system would have to incorporate pollution prevention measures to prevent substances such as petrol or oil from entering the watercourse. The site is 60 metres from the nearest tributary to the River Mease and although the ditch along the site's southern boundary appears to flow into this tributary, a condition could be imposed requiring submission of a construction method statement for any works to the ditch and formation of the new ditch.

The flows from the eight dwellings need to be taken into account against the existing headroom at Packington Treatment Works, which serves this area. At March 2016 capacity was available for 3368 dwellings but this is reduced by the number of dwellings that already have consent or are under construction at March 2016 (1036) giving capacity for 2332 dwellings. As such it is considered that capacity is available at the relevant treatment works for the foul drainage from the site.

The River Mease Developer Contribution Scheme First and Second Development Windows (DCS1 and 2) have been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). Both DCS1 and DCS2 are considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

Members will be aware that DCS2 was adopted by the Council on 20 September 2016. However there is only limited capacity available for new development until pumping out of foul drainage discharge from the SAC catchment area takes place. It is considered that this limited capacity should be directed to the most sustainable locations for new development within the District as set out in Policy S2 of the submitted Local Plan. Therefore as the site lies outside the Limits to Development in the adopted Local Plan and submitted Local Plan the Authority is of the view that in the context of the SAC and the limited capacity available in DCS2 the proposal does not constitute a sustainable form of development. Development of the site would therefore be contrary to the provisions of Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.

Protected Species/Ecology

There are trees, hedgerows, grassland, a building to be removed and a ditch on or close to the site along with large gardens and a watercourse in close proximity, all of which are features that could be used by European Protected Species (EPS) or national protected species. Therefore the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions and to the requirements of the Wildlife and Countryside Act 1981 (as amended).

The submitted Ecological Survey Report found no evidence of protected species on or currently using the site, although there is potential for the hedgerows and trees to be used by bats and breeding birds. The ecology report concludes that the proposal would have no adverse effect on protected species within the immediate and wider area.

There would not be a significant loss of hedgerow, trees or areas of grassland, and other similar vegetation is available on the site and within the locality that could be used by bats and breeding birds, along with additional landscaping. The building to be removed relates to a small timber open fronted stable. The site is approximately 60 metres from the nearest watercourse with hardsurfacing in-between and the existing ditch is shown to be retained.

The County Ecologist advises that the proposal is not significantly different in ecological terms from the application for 42 dwellings, to which she had no objections subject to conditions. The hedgerow along Spring Lane is identified as being species-rich and is shown to be retained. The County Ecologist recommends the imposition of similar conditions, including the provision of a five metre buffer zone adjacent to the hedgerows, a management plan for existing and new habitats (which can be included in the legal agreement to address retention and future management of existing hedgerows and new landscaping), the use of locally native species for landscaping and the timing of vegetation removal. The County Ecologist also requests the imposition of a condition to conserve a rare plant (Deadly Nightshade) (which was also requested in respect of the previous application). However this plant is found on land that is outside the boundary of the current application and therefore such a condition cannot be imposed in this case. On this basis it is considered that the proposal would not adversely impact on protected species or ecological features.

Developer Contributions

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

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

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

Affordable Housing

Under the Council's Affordable Housing SPD, 30% affordable housing is required on sites of 5 dwellings or more, which equates to 2.4 (three if rounded up) dwellings for the current proposal. The applicant is proposing to provide an offsite commuted sum in lieu of onsite provision. The Council's Strategic Housing Team advises that whilst the planning application asserts that 2.4 affordable homes "is of insufficient scale to attract the interest of a Registered Provider" this is not the case in the Council's rural areas nor is it sufficient reason in itself to move away from on-site provision. However the Strategic Housing Team also advises that local Registered Providers have indicated that reduced capacity in their business plans will result in them seeking units from S106 negotiated sites over the next two years. On this basis the Strategic Housing Team advised it would accept an off-site commuted sum for the equivalent of 2.4 dwellings using the calculation in the SPD.

The agent has suggested an off-site commuted sum of £200,000 using the SPD methodology and the Strategic Housing Team has advised that this is acceptable.

National Forest Planting

The National Forest Company advises that 0.13 hectares of on-site planting (20% of the site area) should be provided or planting be provided off-site on land within the applicant's control. As it is cannot be guaranteed that such land is or would be available for off-site planting, an off-site contribution towards Normandy Wood and Packington Wood is considered reasonable, which would equate to £2600.00.

Other Matters

As noted earlier in this report clauses could be included in a Section 106 Agreement to secure the future maintenance/retention of the Spring Lane and Normanton Road hedgerows/trees and the new landscaping. The Highway Authority has requested agreement of a construction traffic route which is considered to be necessary in this case given the site's proximity to residential areas and the village centre. The site is below the 10 dwelling threshold for contributions to be sought for education, libraries, civic amenity sites, healthcare, leisure facilities and police contributions. No requests for contributions have been received from the County Highway Authority for travel packs, bus passes or off-site bus stop improvements.

Summary

Overall, it is considered that the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development. The applicant has agreed to all of the above obligations in principle and the Council's solicitors have been instructed to prepare and negotiate the legal agreement. The Council would continue negotiations with consultees and the applicants to ensure the appropriate level of contributions that have been sought could be secured through a S106 agreement.

Other Matters

In respect of the concerns raised in the letters of representation that have not been addressed

above, other sites will be affected by a different set of circumstances and it is a fundamental tenet of the planning system that every application is determined on its own merits. If any further applications are submitted for the adjacent land then they will also be considered on their own merits. In respect of the concerns raised regarding erroneous information in the application submission, the submitted information together with all of the information gathered when undertaking the site visit and assessing the application have allowed for the application to be fully and adequately assessed.

Conclusions

As set out in the main report above, whilst the site is outside the Limits to Development and constitutes greenfield land, the site would be socially sustainable in relation to distance to services and facilities and appropriate contributions to infrastructure and affordable housing. The development would be acceptable in terms of impacts on highway safety, the character of the area, design/layout and impacts on the historic environment, residential amenities, highway safety, trees/hedgerows, drainage and flood risk and protected species/ecology. However as the site lies outside the Limits to Development, in the context of the River Mease SAC the proposal does not constitute a sustainable form of development, which on balance would not be outweighed by the benefits of the proposal or any other material considerations. It is therefore recommended that planning permission be refused.

RECOMMENDATION, REFUSE for the following reason:

- 1 The River Mease Developer Contribution Scheme Second Development Window (DCS2) was adopted by the Council on 20 September 2016 and allows for a limited amount of capacity for new development in the catchment area of the River Mease Special Area of Conservation (SAC). In the opinion of the Local Planning Authority, the limited capacity should be directed to the most sustainable locations for new development within the District as set out in Policy S2 of the submitted North West Leicestershire Local Plan. The site lies outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan and submitted North West Leicestershire Local Plan. Therefore, in the context of the River Mease SAC and the limited capacity available in the adopted DCS2, the proposal does not constitute a sustainable form of development and would therefore be contrary to the provisions of Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.

Erection of four detached dwellings and garaging

Report Item No
A3

Land At Normanton Road Packington Leicestershire LE65
1WS

Application Reference
16/00925/FUL

Applicant:
Mr & Mrs B T Moseley

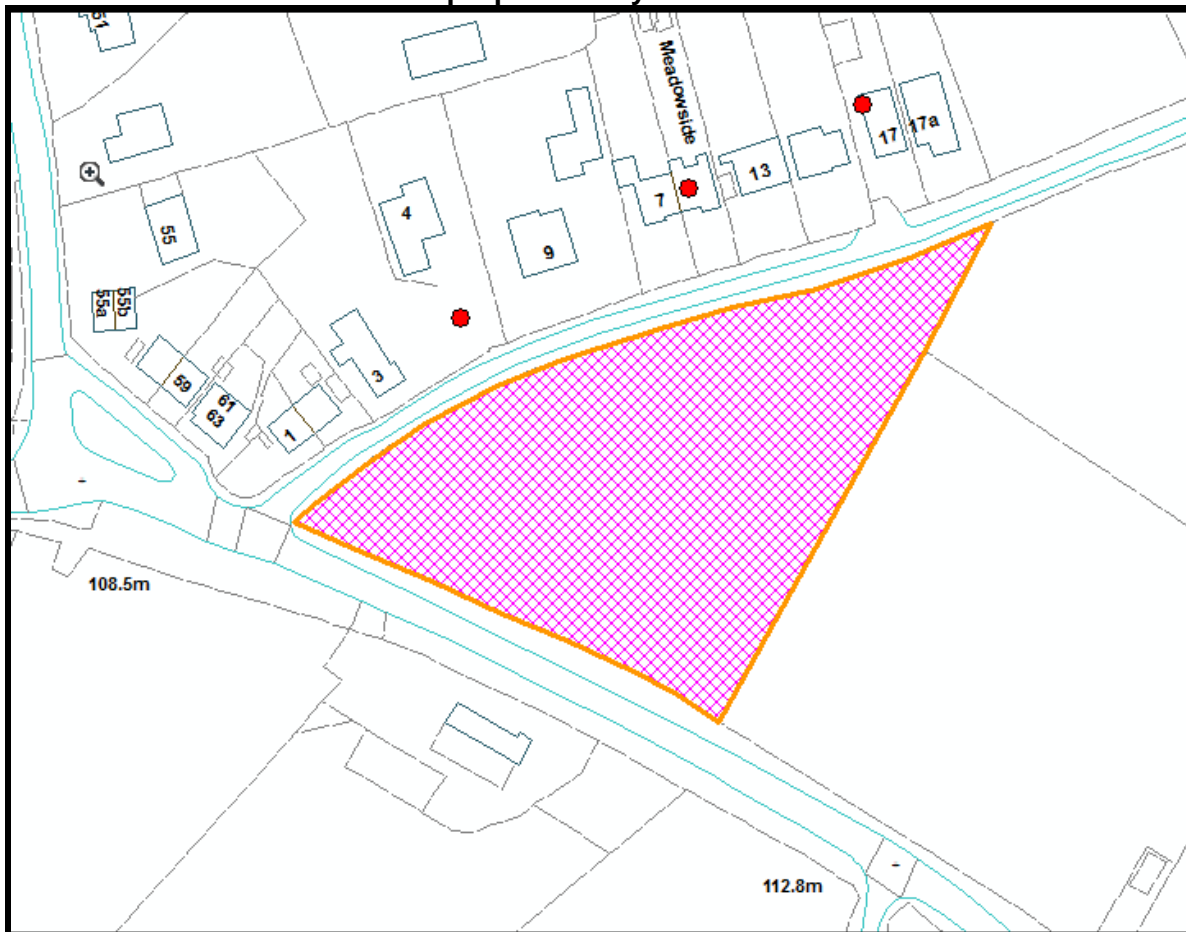
Date Registered
9 August 2016

Case Officer:
Jenny Davies

Target Decision Date
4 October 2016

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329)

EXECUTIVE SUMMARY OF PROPOSALS AND REASON FOR REFUSAL

This application is brought before Planning Committee as it relates to the same site as the outline application for eight dwellings (15/01051/OUT) which is also reported on the Agenda.

Proposal

Full planning permission) is sought for the erection of four detached dwellings on land at Normanton Road/Spring Lane, Packington. Three of the dwellings would front onto Normanton Road with the remaining dwelling located on the rear of the site, facing towards Spring Lane. All four dwellings are proposed to be self-build. Three accesses would be provided onto Normanton Road.

This site forms part of a larger site that was subject to an outline planning application for 42 dwellings (13/00959/OUTM), which was approved. Subsequently the planning permission was challenged by a Judicial Review in December 2014 and quashed. The application was reported back to Planning Committee in June 2015 and refused on two grounds.

Consultations

11 letters of objection have been received from members of the public and Packington Parish Council has raised objections. No other objections have been received from statutory consultees.

Planning Policy

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

Conclusion

Whilst the site is outside the Limits to Development and constitutes greenfield land, the site would be socially sustainable in relation to distance to services and facilities and appropriate contributions to infrastructure and affordable housing. The development includes self-build dwellings and would be acceptable in terms of impacts on highway safety, the character of the area, design/layout and impacts on the historic environment, residential amenities, highway safety, trees/hedgerows, drainage and flood risk and protected species/ecology. However as the site lies outside the Limits to Development, in the context of the River Mease Special Area of Conservation (SAC) the proposal does not constitute a sustainable form of development, which on balance would not be outweighed by the benefits of the proposal or any other material considerations. It is therefore recommended that planning permission be refused.

RECOMMENDATION:- THAT PLANNING PERMISSION BE REFUSED

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

Full planning permission is sought for the erection of four detached dwellings on land at Normanton Road/Spring Lane, Packington. The site is a 0.65 hectares area of pasture land located to the north of Normanton Road and south east of Spring Lane. Open fields lie to the north, south and east with residential development to the north west. Land levels across the site rise by just over two metres from the south western corner of the site in a north easterly/easterly direction.

Three of the dwellings would front onto Normanton Road with the fourth dwelling on the rear of the site facing towards Spring Lane. All four dwellings are proposed to be self build. Three accesses are proposed onto Normanton Road. A multi-stemmed ash tree on the front boundary is shown to be removed, along with four stretches of hedgerow. The remaining boundary hedgerows and trees are shown to be retained. A new footway is proposed along the northern side of Normanton Road and an existing access onto Spring Lane would be closed.

The site lies within the catchment area of the River Mease SAC. A tributary to the River Mease lies approximately 60 metres to the west of the site. The Packington Conservation Area lies approximately 200 metres to the north west of the site and the nearest listed building is the Grade 2 listed Packington House lying approximately 157 metres to the north east.

An outline application for eight dwellings on the site (15/01051/OUT) was submitted in November 2015 and is also brought before this Planning Committee.

This site forms part of a larger site that was subject to an outline planning application for 42 dwellings (13/00959/OUTM), which was approved at Planning Committee in June 2014 and the decision notice issued in November 2014. Subsequently the planning permission was challenged by way of a Judicial Review in December 2014 and quashed by an Order of the Court. The Judicial Review raised six grounds of challenge; the Council conceded one of those grounds, which was that it had raised a legitimate expectation that the matter would be reported back to the Planning Committee prior to the issue of the decision notice. For this reason, the Court Order quashing the planning permission was made with the consent of both parties. The application was reported back to Planning Committee in June 2015 and refused on the following two grounds:

1. Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in respect of protecting and enhancing our natural environment and using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S3 of the adopted North West Leicestershire Local Plan sets out the circumstances in which development outside limits to development would be acceptable. The site is a greenfield site located outside of the limits to development as defined in the adopted Local Plan, and would result in significant harm to the character and rural appearance of the locality and setting of the village in the landscape and any development on this site would appear as an unwarranted and incongruous intrusion into the countryside. Approval of the application would result in the unnecessary development of land located outside limits to development, not constituting sustainable development, and contrary to the policies and intentions of the NPPF and Policy S3 of the North West Leicestershire Local Plan.

2. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard should be had to the desirability of preserving the building or its setting. Paragraph 132 of the NPPF states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 133 of the NPPF states that where a development will lead to substantial harm or total loss of significance of a designated heritage asset, local planning authorities should refuse permission. The proposed residential development of this site will have a significant adverse impact upon the setting of the nearby Grade II Listed Packington House, a designated heritage asset, which should be given special regard and weight, and the development would therefore be contrary to the intentions of Paragraphs 132 and 133 of the NPPF.

2. Publicity

123 Neighbours have been notified (Date of last notification 6 October 2016)

Site Notice displayed 9 September 2016

Press Notice published 24 August 2016

3. Consultations

Packington Parish Council consulted 16 August 2016

County Highway Authority consulted 16 August 2016

Severn Trent Water Limited consulted 16 August 2016

Head of Environmental Protection consulted 16 August 2016

NWLDC Tree Officer consulted 16 August 2016

County Archaeologist consulted 16 August 2016

LCC ecology consulted 16 August 2016

NWLDC Conservation Officer consulted 16 August 2016

NWLDC Urban Designer consulted 16 August 2016

National Forest Company consulted 16 August 2016

Historic England- Ancient Monument consulted 16 August 2016

Manager Of Housing North West Leicestershire District Council consulted 16 August 2016

Highways Agency- Article 15 development consulted 16 August 2016

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

Transco south consulted 18 August 2016

LCC Flood Management consulted 16 September 2016

4. Summary of Representations Received

Statutory Consultees

Packington Parish Council objects on the following grounds:

- this is ribbon development contrary to what is in the Local Plan. It is outside the limit to development into open countryside and as stated is outside of the emerging Local Plan as well as the existing one;
- Councillors have concerns in relation to the highway. There will be seven junctions within around 150 yards. The development is on the very edge of the 30mph limit;
- This land suffers from persistent flooding and is therefore unsuitable for development;
- Planning may have been refused at one larger site on Spring Lane in recent months but with all that is being permitted in smaller developments in various locations around the village, it is adding up to the number of properties that would have been built at the one big project which

was refused.

The County Archaeologist recommends the imposition of conditions.

Historic England does not consider it necessary for it to have been notified of the application.

The Lead Local Flood Authority recommends the imposition of conditions.

The County Ecologist has no objections subject to conditions.

The National Forest Company requests the imposition of a condition or an off-site contribution of £2600.

The Council's Tree Officer has no objections.

Highways England has no objections.

The County Highway Authority has requested that additional information be submitted in respect of the details of the proposal. Any further comments from the Highway Authority will be reported on the Update Sheet.

The Council's Strategic Housing team raises concerns regarding the potential for the gross developable area of the proposed dwellings to exceed 1000 square metres.

The Council's Urban Designer has raised concerns regarding the design of the scheme.

No comments have been received from the Council's Environmental Protection team and Severn Trent Water by the date of this report. Any comments received will be reported on the Update Sheet.

Third Party Representations

11 letters of objection have been received which object to the application on the following grounds:

- greenfield site outside the village boundary in the current and proposed Local Plan and has already been refused for development;
- reducing the number of dwellings does not alter this situation;
- approvals for new development are way beyond the village's allocation and there are still infill plots remaining;
- the 30 dwellings approved on the opposite side of Normanton Road renders it more important that a stop be placed on any further development outside the village boundary;
- these 30 dwellings should satisfy the number of houses outside the village boundary that a small village should be expected to absorb;
- the development is not necessary;
- the draft Local Plan sets out that there are already sufficient houses planned within the District to meet the level of development required up to 2031 and the draft Local Plan contains proposals for additional development to cover any shortfall;
- size and style of the development will not address the current housing shortage;
- if more houses are to be built the predominant need is for smaller properties, suitable for young people or the elderly;
- more effort should be made to protect the countryside rather than using greenfield sites for housing;
- Spring Lane has always been considered the edge of the countryside and its amenities would

be impaired;

- loss of attractive countryside and impact on the rural setting of the village;
- intrusion into the countryside;
- self build does not guarantee that the proposed dwellings would be built and therefore conditions need to be imposed to prevent overbearing dwellings being constructed close to existing houses on Spring Lane;
- the proposal would detract from the enjoyment of residents, walkers, cyclists and horse riders along Spring Lane;
- a landscape plan needs to be produced to address the hedge on Normanton Road/Spring Lane as currently it is an unkempt mess and of an uncontrollable height and to avoid possible eventual private landowner negotiations;
- no details of new planting have been provided and nothing to prevent occupiers of the new dwellings planting leylandii or similar trees close to existing dwellings and Spring Lane;
- on other nearby developments hedges have been laid or replaced with a new hedge and railings, which in this case would provide an attractive approach to the village rather than the current overgrown and messy hedgerow;
- new planting can impact on Spring Lane as it is very narrow;
- multiple accesses near to Spring Lane, the nearby 'T' junction, bend on Normanton Road and the new housing development opposite the site will add considerably to dangers on Normanton Road;
- one access onto Normanton Road would be safer;
- there are no pavements along Normanton Road to serve these houses;
- adequate provision is not made for water to run off into the brook/culvert at the rear of properties on Heather Lane;
- great risk of flooding from the culvert that runs under the junction of Heather Lane and Normanton Road, which flows at near capacity or floods during periods of persistent rain;
- flooding of the culvert causes a traffic hazard and floods the gardens of nearby dwellings as well as putting these dwellings at risk;
- the potential run off from the development will only increase the risk of the culvert flooding;
- the new housing development on the opposite side of Normanton Road will also feed directly into the brook;
- flooding is a longstanding problem in Packington;
- if approved, applications could subsequently be made for smaller developments over a period of time, which incrementally would result in permission being granted for a much greater number of houses than the 42 dwellings previously refused.

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

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the NPPF. The closer the policies in the development plan to the policies in the NPPF, 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, 34 and 35 (Promoting sustainable transport)
Paragraphs 47, 49 and 55 (Delivering a wide choice of high quality homes)
Paragraphs 57, 58, 59, 60, 61 and 64 (Requiring good design)
Paragraph 69 (Promoting healthy communities)
Paragraphs 96, 99 and 100 (Meeting the challenge of climate change, flooding and coastal change)
Paragraphs 109, 111, 112, 118, 119, 123 and 125 (Conserving and enhancing the natural environment)
Paragraphs 129, 131, 132, 133, 134, 137, 138 and 141 (Conserving and enhancing the historic environment)
Paragraphs 203, 204 and 206 (Planning conditions and obligations)

Adopted North West Leicestershire Local Plan:

Save where stated otherwise, the policies of the adopted North West Leicestershire Local Plan as listed in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded 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 E8 - Crime Prevention
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

Submitted North West Leicestershire Local Plan

The publication version of the Local Plan was agreed by Council on 28 June 2016 and submitted for examination on 4 October 2016. The weight to be attached by the decision maker to the submitted Local Plan should be commensurate to the stage reached towards adoption.

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 IF1 - Development and Infrastructure
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(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
 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
 The River Mease Developer Contributions Scheme (DCS) - November 2012
 The Community Infrastructure Levy Regulations 2010
 6Cs Design Guide (Leicestershire County Council)
 Packington Conservation Area Study and Appraisal - 2001

6. Assessment

The main considerations in the determination of this application relate to the principle of development and its sustainability, impact on the character of the area, design/layout and impacts on the historic environment, residential amenities, highway safety, trees/hedgerows, drainage and flood risk, the River Mease SAC/SSSI and protected species/ecology and developer contributions.

Principle of Development

Development Outside the Limits to Development

This site forms part of a larger site that was subject to an outline planning application for 42 dwellings (13/00959/OUTM), which was initially approved, and then following a Judicial Review was refused on two grounds in June 2015, as set out earlier in the report.

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 of Packington, with residential dwellings not being a form of development permitted by Policy S3 of the adopted Local Plan, or Policy S3 of the submitted 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 submitted 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. Although another scheme for development of the site for 42 dwellings was refused in part on the basis of being located outside the Limits to Development, some of the material considerations to be taken into account in relation to the principle of the development have changed. Also the proposal is for a much smaller development on part of the larger site. 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.

Sustainability Credentials

The concept of new development being directed to locations that minimise reliance on the private car is contained within the NPPF. Packington provides a range of day to day facilities, i.e. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites, and there is also a limited hourly public transport service to Ashby, Measham, Swadlincote and Burton (Monday to Saturday).

Below are the approximate distances from the centre of the site to local facilities and services:

- Bus Stop (outside the Bull and Lion public house) - 370 metres
- Primary School - 540 metres
- Shop - 630 metres
- Open Space (Measham Road playing field/play area) - 620 metres
- Village Hall - 660 metres
- Public House - 370 metres

The application site is well related to the services/facilities within the village, being within 800 metres (preferred maximum walking distance) of all of the services listed above. The existing highway network within Packington comprises of quiet residential streets and on this basis, it is considered that the quality of the walking experience would be high, which is likely to encourage walking in this location. Furthermore, in order to provide continuous and improved connections to and from the site, it is proposed to construct a footway on the northern side of Normanton Road to link the site with the existing footway network.

Ashby de la Zouch is located approximately 2.2km walking distance from the centre of the site, where amongst other services, retail, secondary education, a library and GP surgeries can be found. There would be continuous footways available to facilitate pedestrian access to this nearby market town. Furthermore, it is considered that the short distance involved and the relatively low traffic flow along the routes available and local gradients would encourage cycling. Indeed, the distance between the site and Ashby de la Zouch would also be within the average trip length for cycling.

Given the scale of the development, and when taking into account other sites that have recently been granted planning permission or are currently proposed in the village (totalling 60 dwellings), it is considered that the proposal would not result in unsustainable demands on local services and facilities. Additional residents could also support and sustain these services/facilities.

On balance it is therefore considered that occupiers of the dwellings would not necessarily be dependent on the private car. Taking all of these matters into account, it is considered that the site is socially sustainable in terms of distances to services/facilities.

In terms of environmental sustainability the proposal would result in the loss of agricultural land. Best and Most Versatile (BMV) agricultural land is defined as that falling within Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The ALC maps indicate that the site falls within Class 3 but do not specify whether the land would fall within a 3a (BMV) or 3b (not BMV) classification. The supporting information indicates that the site would not be classified as BMV.

Whilst the NPPF does not suggest that the release of smaller BMV site is acceptable, the magnitude of loss of agricultural land is considered to be low where less than 20 hectares of BMV would be lost. Therefore given the relatively limited extent of the potential loss of the site (0.65 hectares), it is considered that this is not sufficient to sustain a reason for refusal in this case.

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 'isolated' dwellings or any unacceptable impacts on the natural, built or historic environment. There would also be limited economic benefits which would include local construction jobs and helping to maintain local services in the area. Furthermore all four dwellings 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 Council to provide a self-build/custom build register. To date 43 people, have registered their interest in such projects within the District of North West Leicestershire. In order to secure the dwellings as self-build properties, a Section 106 Agreement would be required to control the commissioning and construction process of the dwellings and their initial occupation, to which the applicant is agreeable.

However in the context of the River Mease SAC, as set out in more detail below, the limited capacity available in the adopted River Mease Developer Contribution Scheme Second Development Window (DCS2) should be directed to the most sustainable locations for new development. Therefore as the site lies outside the Limits to Development, in the context of the River Mease SAC, the proposal does not constitute a sustainable form of development.

In conclusion, whilst the site is outside the Limits to Development and constitutes greenfield land, the site would be socially sustainable, proposes self-build dwellings that would not have unacceptable impacts on the natural, built or historic environment and would have limited economic benefits. However as the site lies outside the Limits to Development, in the context of the River Mease SAC, the proposal does not constitute a sustainable form of development, which on balance would not be outweighed by the benefits of the proposal or any other material considerations.

Highway Safety

The Highways Agency has no objection in relation to impact on the strategic highway network (M42/A42). Concerns have been raised by the Parish Council and local residents, including dangers from the number of proposed accesses, proximity to Spring Lane, the nearby T-junction, a bend and to the access to the proposed housing site on the southern side of Normanton Road.

The County Highway Authority has requested that details are submitted in relation to off-site highway works, including a footway and relocation of the 30mph speed limit, in relation to details of the proposed accesses and a Stage 1 Road Safety Audit of the scheme, and advises that if this further information is submitted, it will be able to provide detailed formal advice on the proposal. The Highway Authority has been advised of the agent's response, which is that all of the requested information could be dealt with by planning conditions. Any further comments from the Highway Authority will be reported on the Update Sheet.

Residential Amenities

Given the scale of development and the location of the new accesses, it is considered that the increase in traffic would not be so significant to lead to an adverse impact from noise and disturbance. Whilst the Council's Environmental Protection team has not commented on this

application, it is noted that the Council's Environmental Protection Team raise no objections in respect of the eight dwelling scheme.

The new dwellings would be at least 33 metres from Nos. 7, 9, 11, 13, 15, 17 and 17A Spring Lane and at least 20 metres from their front garden boundaries.

Plot 1 would be 29 metres from No. 1 Spring Lane, 26.5 metres from No. 2 Spring Lane, 20.5 metres from No. 3 Spring Lane and 38 metres from No. 4 Spring Lane, and would be 26 metres, 20 metres, 16 metres and 15.5 metres respectively from their front boundaries. The garage to Plot 1 would be 19.5 metres from Nos. 1 and 2 and 16.5 metres from No. 3. It is acknowledged that existing dwellings are sited around one metre lower than the site. However it would be the side elevation of Plot 1 (which does not contain any windows) facing towards existing dwellings, and the existing hedgerow along the boundary with Spring Lane and the potential for new planting would provide additional screening. The rear windows to Plot 1 and front windows to Plot 2 would face towards No. 9, which is over 35 metres away. As such it is considered that the proposal would not result in significant detriment to the amenities of nearby residents from overlooking, loss of light or creation of an oppressive outlook.

Design

Based on the proposed footprints, the proposal would provide large detached dwellings. Whilst a more varied housing mix would be preferable these footprints reflect many existing dwellings along Spring Lane. Due to the size of the dwellings and plots, the proposal results in a density of 6 dwellings per hectare, which is well 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 location of the site on the edge of a village and the character of the area.

The Council's Urban Designer has raised some concerns regarding the proposed layout and design of the dwellings. However their scale and footprints would be similar to those on the eight dwelling scheme and the area is characterised by a mix of property designs along Spring Lane with no over-riding style characterising this part of the village. The dwellings would be well screened by vegetation and set back within the site so would not be overly prominent within the streetscene. The site can accommodate all of the necessary requirements (private gardens, parking/turning space) without being too cramped. As the dwellings would be self-build there will be some variation in their designs. On this basis it is considered that a reason for refusal on the basis of the layout and design could not be justified in this case.

Character of the Area and Visual Impact

As noted earlier in this report, the previous application for 42 dwellings was refused in part in respect of impact on the countryside.

The site lies outside the Limits to Development and is within the countryside. Paragraph 17 of the NPPF sets out the key principles that should underpin planning policy and, amongst other things, requires local planning authorities to take account of the different roles and character of different areas, promoting the vitality of our main urban areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.

The application has been accompanied by limited information regarding the existing landscape and character and how the development would assimilate into its environs. Packington is located within an undulating agricultural landscape and the site, along with the adjoining arable fields, provide the rural setting for the village when travelling along Normanton Road. The site is

located within a natural hollow within the landscape as land rises towards the east/north-east away from the settlement. The site is bordered on all sides by mature hedgerows interspersed with trees and, therefore, is afforded some existing natural screening and appears as a self-contained field.

Development on the site would be most immediately visible from Normanton Road and Spring Lane (including public vantage points and private dwellings) which abut the site. Longer distance views of the site are available from public footpaths to the south of the village where land levels rise. However, the application site abuts the settlement boundary and development on the site would be viewed against the backdrop of existing development along Spring Lane and alongside the approved 30 dwelling scheme on the southern side of Normanton Road which is under construction. It is acknowledged that the previous reason for refusal for the 42 dwellings scheme states that '*... any development on this site would appear as an unwarranted and incongruous intrusion into the countryside.*'. However the current proposal would be significantly smaller, would occupy much less land than the previous scheme, occupying one field rather than four and would be of a very low density. As such it would not extend any further into the countryside than existing development on Spring Lane or as under construction on the opposite side of Normanton Road and would not appear as an isolated development in the countryside. Furthermore, the site is nestled within a hollow in the landscape which, along with existing landscaping, would help mitigate against the visual impact of built development on this site.

The hedgerows and trees along the roadsides form strong features on the approach to the village on Normanton Road and along Spring Lane. The retention of the Spring Lane hedgerow and the hedgerow bordering the fields to the south east would help to retain this character and screen the development from view. Therefore it is considered that the enjoyment of users of Spring Lane would not be adversely affected. Additional planting is proposed adjacent to these hedgerows which would separate the hedgerows from garden areas and reinforce the boundaries. Views into the site would be opened up by the removal of stretches of hedgerow. However a replacement hedgerow could be planted and additional landscaping secured at the junction. The most important trees within the frontage hedgerow are shown to be retained and some screening would be provided by the remaining hedgerow. The provision of the footway and visibility splays may require some trimming back of the frontage hedgerow and trees but would not necessitate their removal. The dwellings would be set back from the boundaries so they would not create a harsh edge to or form a solid block of development adjacent to the countryside. Given the low density of the scheme opportunities exist within the site to secure new landscaping and a more detailed landscaping scheme could be secured by condition. The future maintenance/retention of the Spring Lane and Normanton Road hedgerows/trees and the new landscaping on a more permanent basis could be secured via a Section 106 Agreement.

Whilst reference has also been made to two appeal decisions in South Derbyshire which were dismissed on appeal due to their significant harm to the countryside, it should be noted that each site will be affected by a different set of circumstances and it is a fundamental tenet of the planning system that every application is determined on its own merits.

Therefore, having regard to the above circumstances, it is considered that the visual impacts of the proposal would be reasonable and that, notwithstanding the site's location in the countryside, unacceptable impact on the character and amenities of the surrounding area would not be likely to arise. Overall, the proposal is considered to comply with the provisions of Policy E4 and H7 of the adopted Local Plan and Policy D1 of the submitted Local Plan and the provisions of the NPPF (which would include paragraph 17).

Historic Environment

As noted earlier in the report, the previous application for 42 dwellings was in part refused in relation to impact on a nearby Grade 2 listed building.

Sections 66 and 72 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 or a Conservation Area, 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 and to the desirability of preserving or enhancing the character or appearance of that area. 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.

In terms of designated heritage assets, Packington House, which is a Grade 2 listed building, lies around 157 metres to the north east of the site on Spring Lane. The Packington Conservation Area lies approximately 200 metres to the north west of the site. Therefore the impact of the development on the listed building, its features and setting and the character and appearance of the Conservation Area should be given special regard as required by the Listed Buildings and Conservation Areas Act 1990.

Packington House is a substantial three storey property that is still isolated from the village and largely retains its rural setting. Its listing description states:

House of late C18 and early C19. Red brick with brick dentilled eaves and plain tile roof with end stacks. Twin span, one of each date. The present entrance front, the earlier, is of 3 storeys, Flemish bond, stone coped gables, and 3 sashes: 3/3 2nd floor and 6/6 below. Stucco lintels and stone sill bands. Early C20 bay to left of central simple doorcase and canopy with part glazed 6-panelled door and overlight. 3 storey 1 window extension to right: attic 4/8 sash with casements below. 1 storey extension to left. The rear front is of 3 storeys of 4 windows grouped vertically in projecting brick sections. 3/6 sashes, flat lintels, to 2nd floor, and 6/6 cambered lintels, below. Stone sills. Centre right section has round arched doorcase: tripartite with narrow 3-pane light either side of 4-panelled door. Right end rendered; on left end extension with casements.

Part of Packington House's significance is its age, dating from the late 18th and early 19th centuries, that its scale, design and original features have retained its country house appearance and that it still retains its historic relationship with the village as an outlying dwelling within the rural landscape. The significance of the nearest part of the Conservation Area comes from it forming the core of the village along High Street along which many of medieval buildings and historic non-residential uses (blacksmiths, shops, Post Office, pub) were concentrated.

Significant weight is given to preserving the Grade 2 listed building and its setting, and the character and appearance of the Conservation Area. The site is well separated from the Conservation Area by intervening residential development. The site would not be highly visible within views of or from the Conservation Area, although it is acknowledged that some glimpses of the site would be available within views along Heather Lane/Normanton Road. When having regard to the distances involved and the modern nature of the intervening twentieth century development, it is considered that the development of the site for housing would not adversely affect the setting of the Packington Conservation Area.

The built fabric of Packington House and any of its special features would not be affected by the proposed development which lies beyond its curtilage. However consideration needs to be given to the impact of the proposed development on the setting of Packington House. The setting of Packington House is somewhat compromised to the immediate north by the presence of a modern two-storey dwelling but its rural setting survives predominantly to the south and south east, but also to some extent to the west and south west due to the buffer of fields between the listed building and existing development on the edge of the village. There are views towards Packington House from Normanton Road on the approach to the site. However in these views the site would be seen set apart from Packington House against a backdrop of existing development on Spring Lane. In views adjacent to the site the listed building is screened by intervening topography and vegetation. The Conservation Officer raises no objections. Given its distance from Packington House, the intervening screening from vegetation and topography and the additional landscaping proposed within the site, it is considered that the proposal would not result in significant detriment to the special architectural or historic interest, character or setting of the nearby listed building and would therefore result in less than substantial harm to the significance of the listed building.

Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal. The less than substantial harm to the heritage assets would in this case be considered on balance to be outweighed by the public benefit of the provision of self-build dwellings.

Archaeology

The Leicestershire and Rutland Historic Environment Record (HER) indicates that the development area lies in an area of archaeological interest, immediately adjacent to the medieval and post-medieval historic settlement core of Packington. Appraisal of the HER indicates that little or no previous archaeological investigation has been undertaken within the development area or in its vicinity. Therefore in the absence of site specific information, the County Archaeologist advises that it is difficult to evaluate the archaeological potential of the development site.

An appraisal of available aerial photographs suggests the presence or former presence of ridge and furrow earthworks within the site, indicating the site lies within the former extent of the openfield system that would have surrounded Packington through much of the medieval and post-medieval periods. The County Archaeologist advises that this indicates that the area has a low potential for significant medieval or later archaeological remains.

Buried archaeological evidence spanning the period from the prehistoric to the earliest evolution of the village (potential yet unidentified heritage assets) could be present within the development area. Paragraph 141 of the NPPF states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development.

Therefore, the County Archaeologist has no objections to the proposal subject to the imposition of conditions for an appropriate programme of archaeological mitigation in order to safeguard any important archaeological remains potentially present on the site. Subject to conditions, it is considered that the proposal would comply with the provisions of the NPPF.

Trees/Hedgerows

An ash tree would be removed, along with stretches of hedgerow to provide the footway at the junction with Spring Lane and the three accesses, to which the Tree Officer has no objection. A replacement hedgerow and additional landscaping would be provided at the junction. The

provision of the footway and visibility splays may require some trimming back of the frontage hedgerow and trees but would not necessitate their removal. The most important trees within the frontage hedgerow (field maple, ash and two oak trees) are shown to be retained and the dwellings, driveways and turning/parking areas would be outside the Root Protection Areas to these trees. The hedgerows along Spring Lane and bordering the fields to the south east are shown to be retained, with additional landscaping shown alongside to separate the hedgerows from garden areas. Landscaping details would be secured by conditions. The future maintenance/retention of the Spring Lane and Normanton Road hedgerows/trees and the new landscaping on a more permanent basis could be secured in a Section 106 Agreement. As such it is considered that the proposal is acceptable in terms of impact on trees and hedgerows.

Drainage and Flood Risk

Concerns have been raised by the Parish Council and residents regarding the capacity of the sewage network and the increased risk of flooding from surface water runoff. The site lies within Flood Zone 1 which is the lowest risk area for flooding from watercourses. The site is identified by the Environment Agency to be at predominantly low risk from surface water flooding although a small area is at medium risk and parts of Spring Lane adjacent to the site are identified as medium to high risk. The submitted Flood Risk and Drainage Statement sets out flood risk management measures including a positive surface water drainage scheme to intercept run-off generated by the development and reduce the incidence of overland flows (through provision of a piped system draining to underground storage units (with restrictive outflows), then into an existing ditch and finally being piped into the nearby watercourse) and provision of a new ditch to intercept overland flows. Surface water discharge into the watercourse would be restricted to greenfield runoff rates (i.e. the rate at which surface water currently discharges from the site when undeveloped). The Lead Local Flood Authority does not consider that the site will be at significant flood risk or the development will increase flood risk elsewhere subject to conditions relating to a surface water management scheme and mitigation measures. Severn Trent Water has no objections subject to a condition requiring submission of the details of foul and surface water drainage. The development does not fall within a category under which the Environment Agency is required to be consulted.

Given the lack of objection from Severn Trent Water and the Lead Local Flood Authority it is considered that a reason for refusal relating to flood risk and capacity of the drainage system could be not justified.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease SAC. A tributary to the River Mease lies approximately 60 metres to the west of the site and a ditch that runs along the southern boundary the site appears to discharge into this tributary. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. 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.

Surface water would discharge into a sustainable urban drainage scheme to ensure that it does not discharge to a Severn Trent Water treatment works. The surface water drainage system would have to incorporate pollution prevention measures to prevent substances such as petrol or oil from entering the watercourse. The site is 60 metres from the nearest tributary to the River Mease and although the ditch along the site's southern boundary appears to flow into this tributary, a condition could be imposed requiring submission of a construction method statement for any works to the ditch and formation of the new ditch.

The flows from the four dwellings need to be taken into account against the existing headroom at Packington Treatment Works, which serves this area. At March 2016 capacity was available for 3368 dwellings but this is reduced by the number of dwellings that already have consent or are under construction at March 2016 (1036) giving capacity for 2332 dwellings. As such it is considered that capacity is available at the relevant treatment works for the foul drainage from the site.

The River Mease Developer Contribution Scheme First and Second Development Windows (DCS1 and 2) have been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). Both DCS1 and DCS2 are considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

Members will be aware that DCS2 was adopted by the Council on 20 September 2016. However there is only limited capacity available for new development until pumping out of foul drainage discharge from the SAC catchment area takes place. It is considered that this limited capacity should be directed to the most sustainable locations for new development within the District as set out in Policy S2 of the submitted Local Plan. Therefore as the site lies outside the Limits to Development in the adopted Local Plan and submitted Local Plan the Authority is of the view that in the context of the SAC and the limited capacity available in DCS2 the proposal does not constitute a sustainable form of development. Development of the site would therefore be contrary to the provisions of Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.

Protected Species/Ecology

There are trees, hedgerows, grassland, a building to be removed and a ditch on or close to the site along with large gardens and a watercourse in close proximity, all of which are features that could be used by European Protected Species (EPS) or national protected species. Therefore the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions and to the requirements of the Wildlife and Countryside Act 1981 (as amended).

The submitted Ecological Survey Report found no evidence of protected species on or currently using the site, although there is potential for the hedgerows and trees to be used by bats and breeding birds. The report concludes that the proposal would have no adverse effect on protected species within the immediate and wider area.

There would not be a significant loss of hedgerow, trees or areas of grassland, and other similar vegetation is available on the site and within the locality that could be used by bats and breeding birds, along with additional landscaping. The building to be removed relates to a small timber open fronted stable. The site is approximately 60 metres from the nearest watercourse with hardsurfacing in-between and the existing ditch is shown to be retained.

The County Ecologist advises that the submitted ecology report has been accepted in respect of the two previous applications for the site (for eight and 42 dwellings) and she has no objections. The County Ecologist recommends the imposition of similar conditions in respect of the current proposal, including the provision of a five metre buffer zone adjacent to hedgerows, the use of locally native species for landscaping and the timing of vegetation removal. The hedgerow along Spring Lane is identified as being species-rich and is shown to be retained. On this basis it is considered that the proposal would not adversely impact on protected species or ecological features.

Other Matters

The proposal is below the threshold (more than 11 dwellings or 1000 square metres of floorspace) under which developer contributions can be sought. The Council's Strategic Housing Team has raised concerns that the level of floorspace is only just below (by one square metre) the 1000 square metres threshold and queries whether a Section 106 Agreement could be worded to seek an affordable housing contribution if the scheme exceeded 1000 square metres during construction. The dwellings and garages have been measured and they do not exceed 1000 square metres in total. Furthermore if the dwellings were not built in accordance with the approved plans then this could be dealt with under the Council's enforcement powers.

As noted earlier in this report, the dwellings could be secured as self-build properties in a Section 106 Agreement, along with the future maintenance/retention of the Spring Lane and Normanton Road hedgerows/trees and the new landscaping, to which the applicant is agreeable. The site is below the 10 dwelling threshold for contributions to be sought for education, libraries, civic amenity sites, healthcare, leisure facilities and police contributions.

In respect of the concerns raised in the letters of representation that have not been addressed above, other sites will be affected by a different set of circumstances and it is a fundamental tenet of the planning system that every application is determined on its own merits. If any further applications are submitted for the adjacent land then they will also be considered on their own merits. The Council does not have any powers in relation to the current state of the hedgerow along Spring Lane or in respect of the planting of trees/hedgerows other than under the High Hedges legislation.

Conclusions

As set out in the main report above, whilst the site is outside the Limits to Development and constitutes greenfield land, the site would be socially sustainable in relation to distance to services and facilities and appropriate contributions to infrastructure and affordable housing. The development would include self-build dwellings and would be acceptable in terms of impacts on highway safety, the character of the area, design/layout and impacts on the historic environment, residential amenities, highway safety, trees/hedgerows, drainage and flood risk and protected species/ecology. However as the site lies outside the Limits to Development, in the context of the River Mease SAC the proposal does not constitute a sustainable form of development, which on balance would not be outweighed by the benefits of the proposal or any other material considerations. It is therefore recommended that planning permission be refused.

RECOMMENDATION, REFUSE for the following reason:

- 1 The River Mease Developer Contribution Scheme Second Development Window (DCS2) was adopted by the Council on 20 September 2016 and allows for a limited amount of capacity for new development in the catchment area of the River Mease Special Area of Conservation (SAC). In the opinion of the Local Planning Authority, the limited capacity should be directed to the most sustainable locations for new development within the District as set out in Policy S2 of the submitted North West Leicestershire Local Plan. The site lies outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan and submitted North West Leicestershire Local Plan. Therefore, in the context of the River Mease SAC and the limited capacity available in the adopted DCS2, the proposal does not constitute a sustainable form of development and would therefore be contrary to the provisions of Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.

This page is intentionally left blank

Erection of up to 153 dwellings with associated car parking,
landscaping, open space and access roads (Outline - all
matters other than part access reserved)

Report Item No
A4

Arla Dairies Smisby Road Ashby De La Zouch Leicestershire
LE65 2UF

Application Reference
16/00275/OUTM

Applicant:
Arla Foods UK

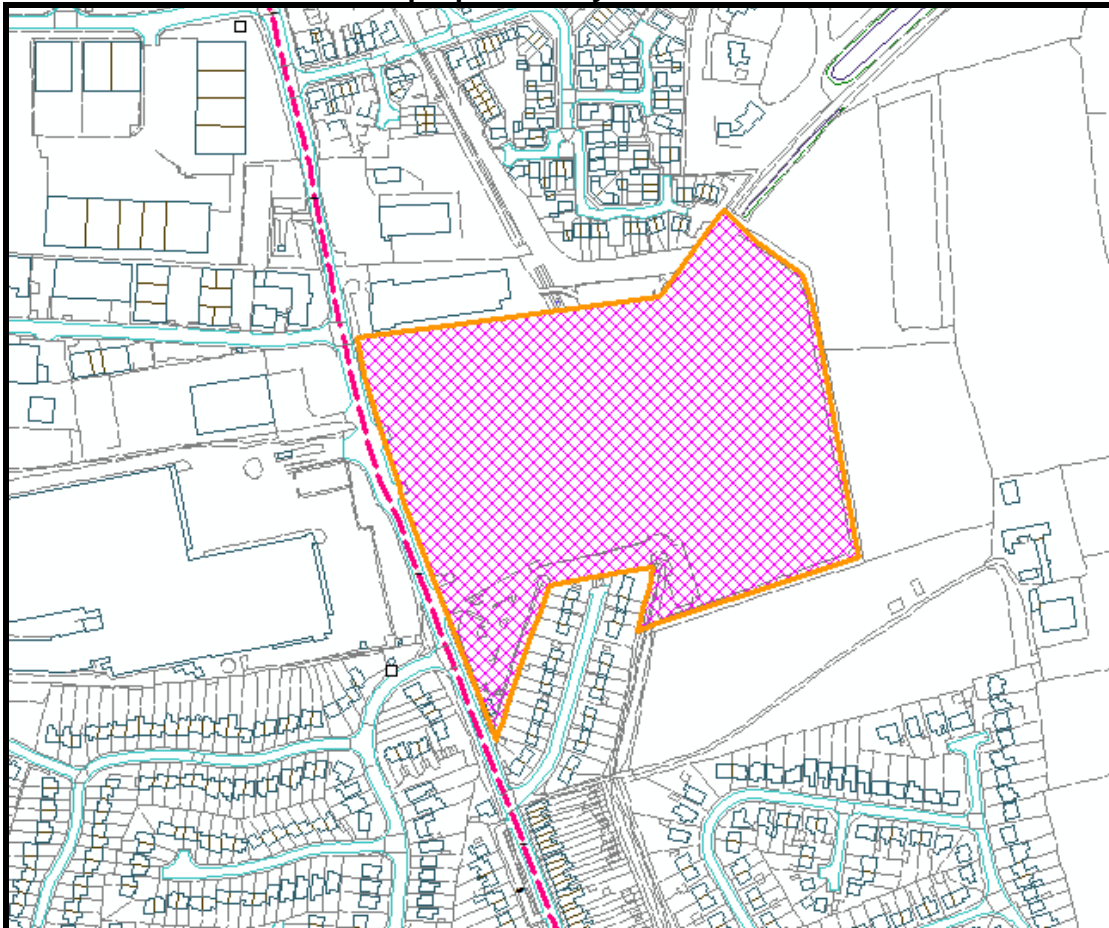
Date Registered
1 March 2016

Case Officer:
James Knightley

Target Decision Date
31 May 2016

Recommendation:
PERMIT subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329)

Executive Summary of Proposals and Recommendation

Proposal

This application seeks outline planning permission for residential development of up to 153 dwellings.

Consultations

Members will see from the main report below that no objections have been received from statutory consultees in respect of the proposals.

Planning Policy

The application site lies within Limits to Development as defined in the adopted North West Leicestershire Local Plan and is within Limits to Development and allocated for housing within the submitted North West Leicestershire Local Plan.

Conclusion

The report below indicates that the development is acceptable in principle, that there are no other technical issues that would indicate that planning permission should not be granted, and that appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities.

RECOMMENDATION:-

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

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

MAIN REPORT

1. Proposals and Background

This is an outline planning application for the erection of up to 153 dwellings on a site of approximately 5.4 hectares formerly used as a dairy processing plant; the site buildings have now been demolished and the site is vacant. Whilst some matters are reserved for subsequent approval, an illustrative masterplan has been submitted which shows residential development arranged to either side of the Gilwiskaw Brook. The watercourse is currently culverted, but would be reinstated as an open watercourse as part of the development.

All matters are reserved save for the access insofar as it relates to the proposed means of vehicular access into the site which would be gained from Smisby Road. The remainder of the "access" matters (i.e. including the pedestrian and cycle links to adjacent land and circulation routes through the site itself as shown on the illustrative masterplan) are reserved for subsequent approval.

The application is referred to the Planning Committee for a decision at the request of Councillor Allman.

2. Publicity

55 no neighbours have been notified (date of last notification 03 March 2016)

Press Notice published 16 March 2016

Site Notice published 17 March 2016

3. Consultations

Ashby De La Zouch Town Council
 County Highway Authority
 Environment Agency
 Severn Trent Water Limited
 Head of Environmental Protection
 Natural England- Within 2k Of SSSI
 County Archaeologist
 LCC ecology
 Airport Safeguarding
 NWLDC Urban Designer
 National Forest Company
 County Planning Authority
 LCC Development Contributions
 NHS Leicester, Leicestershire And Rutland Facilities Management
 Head Of Leisure And Culture
 Manager Of Housing North West Leicestershire District Council
 Police Architectural Liaison Officer
 LCC/Footpaths
 NWLDC Footpaths Officer
 Highways Agency
 Head Of Street Management North West Leicestershire District

4. Summary of Representations Received

Environment Agency has no objections subject to conditions

Highways England has no objections

Leicestershire County Council Archaeologist has no objections

Leicestershire County Council Education Authority requests provision of a primary school or a financial contribution in respect of the primary sector of £444,275.65, a financial contribution in respect of the high school sector of £273,505.40, and a financial contribution in respect of the upper school sector of £280,833.95.

Leicestershire County Council Highway Transportation & Waste Management Authority advises that no developer contributions are required

Leicestershire County Council Library Services Development Manager requests a developer contribution of £4,620

Leicestershire County Council Ecologist has no objections subject to conditions

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

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

Leicestershire County Council Rights of Way Officer has no objections subject to conditions securing the upgrading and diversion of an adjacent right of way

National Forest Company has no objections subject to conditions

Natural England has no objections subject to conditions

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

Severn Trent Water has no objections subject to conditions

West Leicestershire Clinical Commissioning Group requests a healthcare contribution of £60,728.96

Third Party representations

Two representations have been received, raising the following issues:

- Increased traffic on Smisby Road
- Noise mitigation should be provided to protect future residents from noise from nearby employment use
- Existing drainage problems within Smisby Road and the culvert
- Proposals should ensure continuity of use by residents of existing rear access to properties on Northfields

In addition, the agents for the Money Hill Consortium note as follows:

- Loss of former employment land would be compensated for by new employment land proposed as part of the emerging Local Plan proposals for the wider Money Hill area
- Pedestrian and vehicular permeability to the wider Money Hill site should be secured
- Emerging Neighbourhood Plan requires provision of a masterplan

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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

- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 17 (Core planning principles)
- Paragraph 32 (Promoting sustainable transport)
- Paragraph 34 (Promoting sustainable transport)
- Paragraph 47 (Delivering a wide choice of high quality homes)
- Paragraph 49 (Delivering a wide choice of high quality homes)
- Paragraph 56 (Requiring good design)
- Paragraph 57 (Requiring good design)
- Paragraph 59 (Requiring good design)
- Paragraph 61 (Requiring good design)
- Paragraph 64 (Requiring good design)
- Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraph 102 (Meeting the challenge of climate change, flooding and coastal change)
- 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 131 (Conserving and enhancing the historic environment)
- Paragraph 135 (Conserving and enhancing the historic environment)
- Paragraph 173 (Using a proportionate evidence base)
- Paragraph 203 (Planning conditions and obligations)
- Paragraph 204 (Planning conditions and obligations)

Adopted North West Leicestershire Local Plan (2002)

The site was formerly protected for employment use under Policy J10 of the adopted North West Leicestershire Local Plan; this policy has not been saved, however, and the site therefore

lies within Limits to Development as defined on the Local Plan Proposals Map. No other site-specific policies apply.

The following adopted Local Plan policies are considered relevant:

- Policy S2 - Limits to Development
- Policy H4/1 - Housing Land Release
- Policy H6 - Housing Density
- Policy H7 - Housing Design
- Policy H8 - Affordable Housing
- Policy E2 - Landscaped Amenity Open Space
- Policy E3 - Residential Amenities
- Policy E4 - Design
- Policy E6 - Comprehensive Development
- Policy E7 - Landscaping
- Policy E8 - Crime Prevention
- Policy E30 - Floodplains
- Policy F1 - National Forest General Policy
- Policy F2 - National Forest Tree Planting
- Policy F3 - National Forest Landscape and Planting
- Policy T3 - Highway Standards
- Policy T8 - Parking
- Policy L21 - Children's Play Areas
- Policy L22 - Formal Recreation Provision

Other Policies

North West Leicestershire District Council Affordable Housing SPD

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

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

North West Leicestershire District Council Play Area Design Guidance SPG

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

Submitted North West Leicestershire Local Plan

The publication version of the Local Plan was agreed by Council on 28 June 2016 and submitted for examination on 4 October 2016. The weight to be attached by the decision maker to this submitted version should be commensurate to the stage reached towards adoption.

The site is located within Limits to Development as defined in the submitted Local Plan and within an area identified as a new housing allocation.

The following draft Local Plan policies are considered relevant:

- Policy D1 - Design of new development
- Policy D2 - Amenity
- Policy H3 - Housing provision: new allocations (site H3a)

Policy H4 - Affordable housing
Policy H6 - House types and mix
Policy IF1 - Development and infrastructure
Policy IF3 - Open space, sport and recreation facilities
Policy IF4 - Transport infrastructure and new development
Policy IF7 - Parking provision and new development
Policy En1 - Nature conservation
Policy En2 - River Mease Special Area of Conservation
Policy En3 - The National Forest
Policy En6 - Land and air quality
Policy He1 - Conservation and enhancement of North West Leicestershire's historic environment
Policy Cc2 - Flood risk
Policy Cc3 - Water: sustainable drainage systems

Emerging Ashby de la Zouch Neighbourhood Plan

On 2 May 2016 Ashby de la Zouch Town Council commenced public consultation on a pre-submission Neighbourhood Plan.

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

Policy S1 - Presumption in Favour of Sustainable Development
Policy S2 - Limits to Development
Policy S4 - Design
Policy S5 - Priority to be given to Brownfield Sites
Policy H1 - Sustainable Housing Growth
Policy H2 - Requirement for Masterplan
Policy H4 - Housing Mix
Policy H5 - Affordable Housing
Policy T1 - Sustainable Development
Policy T2 - Travel Plans
Policy ELWB 3 - Open Space, Sport and Recreation Provision in New Housing Development
Policy ELWB 4 - Allotment Provision in New Developments
Policy ELWB 5 - Biodiversity
Policy ELWB 6 - Trees and Hedges
Policy ELWB 10 - Areas of Archaeological Interest
Policy ELWB 15 - Education
Policy DC1 - Community Infrastructure

6. Assessment

Principle of Development

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

As set out under Relevant Planning Policy above, the site is within Limits to Development as defined in the adopted North West Leicestershire Local Plan. It is also identified as part of a

wider site for residential development under Policy H3 of the submitted Local Plan.

Housing Land Supply

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

In addition, consideration must be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set out in more detail in this report.

Site Accessibility and Policy H4/1

Policy H4/1 of the adopted Local Plan relating to the release of land for housing states that a sequential approach should be adopted. Whilst this policy is considered to be out of date (because a sequential approach to residential development is outdated in the context of the NPPF), the sustainability credentials of the scheme (in terms of accessibility to services) would still need to be assessed.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. Insofar as the site's location is concerned, it is within the existing built up area of the settlement. In terms of accessibility generally, the view is taken that, as a site within the built up area of Ashby de la Zouch and the range of services available therein, it performs relatively well in this regard. The site is located approximately 900m from the town centre (as defined on the adopted Local Plan Proposals Map) via right of way O80, and close to bus stops served by buses connecting the site with the town centre and other settlements (including Burton on Trent and Coalville) at regular intervals during the daytime (on weekdays).

Other Matters

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to the economic growth associated with the proposed development, coupled with the role played in contributing to housing land supply and the inclusion of appropriate contributions to local services as detailed below, would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment and, by virtue of its location, within the existing built up area and close to services, has the potential to perform well in terms of need to travel and the movement towards a low carbon economy.

Whilst the site's redevelopment for housing would entail its permanent loss as employment land, it is noted that the District's employment land requirements as set out in the submitted Local Plan have been calculated taking into account the site's anticipated release for residential development and, as such, it is accepted that the proposals would not lead to a shortage of employment land within the District.

In terms of the scheme's compliance with other elements of emerging planning policy, it is noted that both the emerging Local and Neighbourhood Plans envisage this site being developed for

housing as part of a wider Money Hill allocation.

Whilst full weight cannot be attributed to their policies at this stage, it is accepted that the proposals would (or would have the potential to) meet the majority of the various emerging Local and Neighbourhood Plan requirements. Whilst the application is not supported by a masterplan for the wider proposed allocation as required under Neighbourhood Plan Policy H2, it is not considered that this could reasonably be required at this stage in view of the early stage the Neighbourhood Plan has reached, and given that there appears to be no reason why the scheme proposed would necessarily prejudice the appropriate development of the wider site. The form of the development as indicated on the illustrative masterplan would appear to allow for future extension to the east if needs be (and if considered acceptable in planning terms), and potentially connected via a vehicular link. The application supporting documents indicate that the proposed carriageway width has been designed to allow for potential future bus penetration of the site as part of a vehicular link between the proposed redevelopment site and the proposed Money Hill residential development site to the east, and that a 3 metre wide shared footway / cycleway would be provided on either side of the access road. As such, whilst the submitted illustrative masterplan does not show the principal access route connecting right up to the site boundary, it is accepted that, in principle, there is no reason why the reserved matters proposals could not be compatible with an appropriate delivery of the wider Money Hill site and the requirements of adopted Local Plan Policy E8 would appear to be capable of being met.

In their comments on the application, the agents for the promoters of the adjacent Money Hill Consortium site state that the final approved parameter plans would need to identify the link to the site boundary, for the road to be built to adoptable standards up to the boundary of the site with the Money Hill Consortium's site, and for it to be offered for adoption. They consider that this is necessary to avoid any future "ransom" scenario and to deliver the wider aspirations of the District Council, and also consider that the access and link should be provided to an 85%ile design speed of 30mph as this will become the strategic link to the A511.

The submitted Local Plan does not require the provision of a vehicular connection between Smisby Road and the A511, but draft Policy H3 provides that any highway link between allocation H3a's principal vehicular access route from the A511 and its secondary vehicular access route from Smisby Road should be designed in such a way that it would not provide an attractive through route. Whilst not a policy requirement, however, the view is taken that, in the interests of the proper planning of the area, and to ensure that any development of the Money Hill allocation maximises opportunities for connectivity (and including for public transport), it would be appropriate to ensure that the potential to provide a vehicular link is secured. Whilst this is considered to represent a legitimate planning aim (and, therefore, would meet the tests for conditions set out in Paragraph 206 of the NPPF), the issue as to whether the developer of either site ought to be able to secure a "ransom" at the expense of another would not be material to the planning assessment. Recommended Condition 16 below relates to this matter.

Detailed Issues

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

Means of Access, Highways and Transportation Issues

As set out in the introduction above, the application is in outline with all matters reserved save for the access insofar as it relates to the vehicular access point into the site from Smisby Road;

in terms of illustrative material, the indicative masterplan shows the provision of a principal avenue leading from the proposed Smisby Road access. As discussed above in respect of connectivity to the wider Money Hill site, the submitted masterplan does not show this route connecting to the site boundary, but it is accepted that this is illustrative only, and there is no reason why an appropriate scheme could not be secured subject to the imposition of appropriate conditions and / or subject to the content of the reserved matters submission(s) (and their proposals in respect of access which, save for the Smisby Road junction, is a reserved matter).

Wider Highway Network

The County Highway Authority notes that the Addendum Transport Assessment reflects the fact that the former use of the site has now ceased (i.e. that there are now no existing flows in connection with the development site).

The County Council advises that the double mini roundabout junction of Derby Road, Burton Road and Elford Street has recently been assessed as being over capacity (and, in particular, the link between the two mini roundabouts). However, on the basis of the submitted information, the County Highway Authority accepts that the proposals would not lead to more than 30 additional trips through this junction in either the am or pm peak, and no further assessment of this junction is therefore required. In terms of the A511 / Smisby Road roundabout junction, the County Highway Authority considers that this would continue to operate with spare capacity during the weekday peak hours. The development would not, therefore, result in a severe, unacceptable impact on queuing and delays at any junctions within the extent of the Transport Assessment (nor indeed at the proposed site access).

Smisby Road Access

The proposed vehicular access would be in the form of a priority access from Smisby Road and with the proposed estate road comprising a 6.75m wide carriageway with 3m wide footways / cycleways. Associated off-site works to the Smisby Road frontage are also proposed. The County Highway Authority confirms that it would welcome the proposed closure of existing redundant accesses onto Smisby Road and would expect any future reserved matters scheme to continue at this width to the eastern site boundary. In terms of vehicle speeds along Smisby Road (and their relationship to the proposed site access), the County Highway Authority advises that, notwithstanding the existing traffic calming scheme along Smisby Road, speeds not exceeding 30mph should be delivered in the vicinity of the access as part of the off-site highway works. Whilst a scheme of works is indicated on the submitted plan, the County Council considers that amendments to that scheme would be likely to be required, and a Grampian condition is therefore recommended to secure any necessary works on Smisby Road.

Public Rights of Way

The route of public right of way O80 circumvents the site, and connects it to the town centre. The County Highway Authority is satisfied that, providing a suitable crossing facility of any new access road was provided, this footpath (and related right of way legislation) would not prevent access by an access road from the development site into the wider Money Hill site in future.

The County Council's Rights of Way Officer suggests that, in order to enhance the site's connectivity, an unsurfaced stretch of approximately 100m in length between the site and the surfaced section of O80 be improved. He also suggests that the developer consider diverting O80 through the site to provide a more direct route.

Whilst it is not accepted that there is a need to divert the existing route, provision of a suitable (additional) route through the site could be secured at the reserved matters stage if necessary. It is, however, agreed that improved surfacing of the existing route would be appropriate in terms of maximising new residents' opportunities to access the town centre by foot. The applicant's agent confirms that his client would be agreeable to improving the footpath in this regard, and is content for an appropriate condition to be attached securing this.

Transportation Contributions

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

- (i) A contribution of £6,000 towards Travel Plan monitoring so as to enable Leicestershire County Council to provide support to the developer's Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure that Travel Plan outcomes are being achieved, and to take responsibility for any necessitated enforcement
- (ii) Submission / approval of a construction traffic routing agreement so as to ensure that all construction traffic associated with the development does not use unsatisfactory roads to and from the site
- (iii) One Travel Pack per dwelling to inform new residents from first occupation what sustainable travel choices are available in the surrounding area (these can be provided by the County Council at a cost of £52.85 per pack)
- (iv) Two six-month bus passes per dwelling to encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour (these can be provided by the County Council at a cost of £350 per pass); and
- (v) Improvements to local bus services including:
 - Improvements to the nearest bus stop(s) (including raised and dropped kerbs to allow level access and to support modern bus fleets with low floor capabilities) (£3,263);
 - Information display case at nearest bus stop to inform new residents of the nearest bus services in the area (£120)
 - Provision of a bus shelter at the nearest bus stop(s) to provide high quality and attractive public transport facilities to encourage modal shift (£4,908); and
 - Contribution towards equipping the nearest bus stop with Real Time Information (RTI) system to assist in improving the nearest bus service with this facility, in order to provide a high quality and attractive public transport choice to encourage modal shift (£6,000)

The applicant is agreeable to making the contributions sought by the County Highway Authority.

Landscape and Visual Impact

Given the site's location within Limits to Development, and abutting existing built development on three sides, wider landscape or visual impacts would seem unlikely. Whilst the site is located adjacent to existing agricultural land to the east (and which lies outside Limits to Development as defined in the adopted Local Plan), significant impacts on the character of the nearby countryside would, it is considered, not arise. It is also noted that the agricultural land to the east also falls within the proposed housing allocation as set out in the submitted Local Plan.

Drainage, Ecology and the River Mease SAC

The application is accompanied by supporting information in respect of the flood risk, drainage and ecological implications of the proposed development and, having regard to the site's location within the catchment of the River Mease Special Area of Conservation (SAC), the

impacts on water quality of the Mease. These issues are considered in more detail below.

Flood Risk and Drainage

A Flood Risk Assessment and Drainage Strategy has been submitted in support of the application. The Environment Agency flood zone maps indicate that the majority of the site lies within Flood Zone 1, although the central part of the site lies within Flood Zone 3. However, the Environment Agency's consultation response advises that, as a result of a reduction in the flood risk to the site and to the town centre arising from benefits associated with the recent David Wilson Homes development to the north, more precise assessment of flood risk indicates that the affected part of the site now lies within Flood Zone 2, and recommends that it is the site's location within this zone that is used to inform the sequential test.

Insofar as the sequential test is concerned, no alternative (sequentially preferable) sites (i.e. within Zone 1) have been considered by the applicant. However, the applicant's consultants also draw attention to the fact that, whilst some of the site currently lies within Zone 2, its status would change further as a result of the removal of the culvert. This, they advise, would have the effect of placing the whole of the site (save for the area immediately adjacent to the watercourse) within Zone 1. As such, all proposed dwellings would be within Zone 1 and, on this basis, it is considered reasonable to accept that this in itself should not prevent the sequential test being passed, particularly when having regard to the likely availability of alternative sites, and the need to release land for housing. It is also noted that the broader aims of the policies set out in the Planning Practice Guidance would be met in that the development would not be considered to result in any unacceptable risk of flooding to the proposed dwellings, nor other property elsewhere.

Insofar as other sources of flooding are concerned, the FRA considers, in particular, the potential impacts from surface water. To mitigate the risk of surface water flooding, the FRA confirms that the design of the new development would adopt measures to reduce the surface water discharge to greenfield run-off rates through the use of SUDS. It indicates that surface water runoff would be attenuated within the site drainage system to mitigate off-site flooding and to protect vulnerable areas within it, and that additional storage would be provided within the new drainage system to allow for the anticipated increase in rainfall intensities over the life of the development due to climate change. The FRA states that an allowance of 10% increase in current impermeable area has also been considered in the design to allow for future urban expansion.

Insofar as foul sewage is concerned, given its location within Ashby de la Zouch, the site's foul drainage would discharge to the Packington sewage treatment works. The issues relating to the River Mease SAC are addressed in more detail below; Severn Trent Water raises no objections to the application subject to conditions.

Ecological Issues

The application is supported by an Extended Phase 1 Habitat Report.

Insofar as protected species are concerned, the Report identifies that the site is unlikely to support great crested newts or reptiles. In terms of bats, the Report notes the potential for the buildings (now demolished) and trees on the site, but considers that this is limited to the scrub belt along the site boundaries (which could have some potential for foraging and commuting bats).

Leicestershire County Council's Ecologist has been consulted on the proposals, and supports

the application for the opportunity it brings to reinstate the Gilwiskaw Brook, reuniting the severed wildlife corridor along the brook. She confirms that she considers the ecology survey is satisfactory; she notes that there are no habitats of significance currently on site, and no evidence of protected species. She advises that no further surveys are required, and no mitigation is needed. The County Ecologist therefore raises no objections subject to conditions.

River Mease Special Area of Conservation (SAC)

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

The flows from the new dwellings will need to be taken into account against the existing headroom at Packington Treatment Works, which serves the site. At March 2016 capacity was available for 3,368 dwellings but this is reduced by the number of dwellings that already have consent or are under construction at March 2016 (1,036), giving capacity for 2,332 dwellings. As such it is considered that capacity is available at the relevant treatment works for the foul drainage from the site.

In terms of mitigation (and whilst the capacity above reflects the additional capacity arising from former dairy's closure), the applicant's submitted River Mease Impact Assessment notes that the flows from the site would not increase foul discharge beyond those associated with the site's former use and, as such, it would not be necessary to make a contribution under the Developer Contribution Scheme (DCS) (which has been set up in accordance with the Water Quality Management Plan). It is accepted that the development represents betterment in this regard, and it is agreed that, in this instance, a contribution would not be necessary.

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.

Historic Environment

The site does not contain, nor is in close to proximity of any listed buildings or Conservation Areas. In terms of non-designated heritage assets, the application is supported by an Archaeology and Heritage Assessment; this concludes that, given the significant depths of made ground on the site and the previous development of the site, extensive truncation or complete removal of any archaeological potential is likely to have resulted. The County Archaeologist considers that no further archaeological work is required, and raises no objections.

Neighbours' and Future Occupiers' Amenities

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

the proposed development. These are considered in turn below. The application is accompanied by a Noise Survey, together with supplementary noise information received in response to queries raised by the District Council's Environmental Protection team.

In terms of future residents' amenities, the submitted noise information identifies, in particular, the noise impacts areas of nearby employment uses, and including the existing KP facility to the opposite side of Smisby Road. In terms of mitigation for the effects of nearby uses, the submitted information indicates that the appropriate orientation of buildings (i.e. as proposed at the reserved matters stage) and inclusion of appropriate measures within the dwellings themselves (e.g. acoustic glazing) would mitigate any effects satisfactorily.

Concern has been raised by the operators of the nearby KP facility regarding the presence of dwellings on the site, given noise generated by the existing operations, and it is understood that KP and the applicant have reached agreement that the applicant will fund the construction of a noise bund to the frontage of KP, and that they are content for the Local Planning Authority to impose a condition requiring this. The submitted noise information does not however specify that such a measure would be necessary and, therefore, it is not considered that a Grampian condition specifically requiring this would meet the relevant NPPF tests. Nevertheless, it seems clear that some form of mitigation is required (a position concurred with by the District Council's Environmental Protection team) and, therefore, the conditions recommended below reflect this position. Given the outline nature of the application, the final noise impacts are likely to depend on factors such as where exactly dwellings were positioned, and their orientation, and it may remain the case therefore that additional measures are necessary and, depending on the range of measures proposed at that time by the applicant, could potentially include a bund (amongst other solutions), and subject to any such off-site measures securing planning permission if required. As such, the view is taken that, in principle, there is no reason why the development could not be undertaken in a manner that would ensure that future residents are subject to satisfactory levels of amenity.

In terms of other residential amenity issues, whilst an illustrative masterplan has been submitted, all matters (other than the proposed Smisby Road access) are reserved for subsequent approval. Any reserved matters scheme would need to be appropriately devised at the edges of the site adjacent to other dwellings (primarily to the northern and southern parts of the site) so as to ensure that occupiers of both existing and proposed dwellings were afforded an appropriate level of amenity but there is no reason to suggest that the eventual form of development proposed under the reserved matters would necessarily result in undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, acceptable in this regard.

Geotechnical Issues and Land Contamination

The applicants have undertaken a Phase 1 Geo-Environmental Desk Study assessing the potential hazards / contamination risks, and recommending further, intrusive site investigations in due course. The District Council's Environmental Protection team raises no objections in this regards subject to conditions in respect of further investigations / remediation as necessary.

Design

The application is supported by a Design and Access Statement and a Building for Life assessment setting out the applicants' proposals, and explaining the approach taken in terms of design. Having reviewed these documents and the illustrative proposals, the District Council's Urban Designer had raised concerns regarding the illustrative scheme, and updated supporting

information has been submitted. On the basis of the updated proposals, whilst the Urban Designer raises no objections per se, he identifies a number of areas where further work is required to demonstrate compliance with Building for Life 12; his Building for Life assessment identifies 9 of the 12 Building for Life criteria as "ambers" (with the remainder as "greens"). He is however satisfied that the current "ambers" have the potential to be upgraded to "greens" with the inclusion of appropriate measures at the reserved matters stage(s).

It is noted that representations have been received from a resident on Northfields regarding the existing unmade access serving the rear of dwellings on the western side of that road. It would appear that the track lies within the ownership of the applicant. Nevertheless, the applicant's agent has confirmed that his client would be agreeable to ensuring that the layout proposed at the reserved matters stage enabled continued access to the rear of those properties if preferred by existing residents.

In terms of accessibility of the site from Northfields, the illustrative layout does not include for any pedestrian or cycle linkages between the site and Northfields which, it is considered, would be a logical and useful link for residents of both existing and proposed development. The applicant's agent has however confirmed that his client would be content for a condition to be attached to secure this; whilst a separate condition is not recommended, recommended Condition 5 below would, it is considered, allow for appropriate consideration to be given to the provision of such linkages.

Other Matters

Developer Contributions

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

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

Equivalent legislative tests are contained within Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.

Affordable Housing

In accordance with the District Council's adopted Affordable Housing SPD, an affordable housing contribution of 30% is proposed. Whilst the submitted Affordable Housing Statement refers to the potential for some of this contribution to be made off-site, it is considered that it should be provided on-site unless there are any specific reasons why this cannot be the case. For its part, the District Council's Strategic Housing team advises that it would be seeking a tenure mix of 79% affordable rented and 21% intermediate housing in accordance with the District Council's adopted SPD. The applicant confirms it would be agreeable to providing the tenure mix sought by the Council's Strategic Housing team, and it is considered that these requirements can be satisfactorily secured through the Section 106 drafting process.

Transportation and Accessibility Contributions

As set out under Means of Access, Highways and Transportation Issues above, the applicant is agreeable to making the contributions as set out under that section.

Education

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

Primary School Requirements:

The site falls within the catchment area of Woodcote Primary School. The school has a net capacity of 237 and 277 pupils are projected on the roll should this development proceed, a deficit of 40 pupil places. A total of 51 pupil places are included in the forecast for this school from Section 106 agreements for other developments in this area and are therefore discounted. This, the Local Education Authority advises, reduces the total deficit for this school to 11 pupil places.

The County Council also refers to three other primary schools within a two mile walking distance of the development, namely Willesley Primary School, Hill Top Primary School and Ashby C of E Primary School. Having regard to capacity at these schools and other pupil places funded from Section 106 agreements for other developments in the area, the overall deficit within the two mile walking distance is 69 pupil places. The 37 deficit places created by this development can therefore not be accommodated at nearby schools and a request for an education contribution in respect of 37 pupil places in the primary sector is made (£444,275.65), and would be used for improving, remodelling or enhancing existing facilities at Woodcote Primary School.

High School Requirements:

The site falls within the catchment area of Ivanhoe High School. The School has a net capacity of 949 and 1,121 pupils are projected on roll should this development proceed, a deficit of 172 pupil places. A total of 62 pupil places are included in the forecast for this school from Section 106 agreements for other developments in this area and are therefore discounted. This, the Local Education Authority advises, reduces the total deficit for this school to 110 pupil places (of which 94 are existing and 16 would be created by this development). There are no other high schools within a three mile walking distance, and a request for an education contribution in respect of the high school sector is made (£273,505.40), and would be used for improving, remodelling or enhancing existing facilities at Ivanhoe High School.

Upper School Requirements:

The site falls within the catchment area of Ashby School. The school has a net capacity of 1,841 and 2,039 pupils are projected on roll should this development proceed, a deficit of 198 pupil places. A total of 131 pupil places are included in the forecast for this school from Section 106 agreements for other developments in this area and are therefore discounted. This, the Local Education Authority advises, reduces the total deficit for this school to 67 pupil places (of which 51 are existing and 16 would be created by this development). There are no other upper schools within a three mile walking distance, and a request for an education contribution in respect of the upper school sector is made (£280,833.95), and would be used for improving, remodelling or enhancing existing facilities at Ashby School.

The applicant is agreeable to making the education contributions sought.

Library Services

Leicestershire County Council advises that an additional 221 plus users of Ashby de la Zouch Library are anticipated to be generated by the proposed development, requiring an additional 531 items of lending stock (plus reference, audio visual and homework support material), and a

contribution of £4,620 towards library services is therefore requested by the County Council. The applicant is agreeable to making the library contributions sought.

Children's Play, Public Open Space and National Forest planting

The illustrative masterplan shows a significant proportion of the site given over to landscaping, retained and proposed tree / hedgerow planting and other open space, with the open space including a new "Brook Park" of approximately 8,000 square metres following the route of the re-opened Gilwiskaw Brook.

Under the Local Planning Authority's Play Area Design Guidance SPG, children's play areas should be provided at a rate of 20 square metres per dwelling. Therefore, for a development of 153 dwellings, an area for children's play of 3,060 square metres would normally be required (and, having regard to the extent of the open space proposed indicatively which, in addition to the Brook Park also includes open space adjacent to Smisby Road, could comfortably be accommodated). Following discussions with Ashby de la Zouch Town Council, however, the intention is to make an off-site contribution of £90,000 to the Town Council, with the intention being to contribute towards improving the existing children's play and / or recreational open space facilities at Hood Park. Whilst that would be beyond the maximum walking distance allowed for off-site play contributions as set out in the adopted SPG, it would seem that there would in any event be other opportunities to which it could contribute if considered appropriate (e.g. the new play area provided on the David Wilson Homes development to the north, or any potential public open space provided as part of the wider Money Hill scheme). For its part, the Town Council has confirmed that the sum offered is acceptable.

Insofar as National Forest planting is concerned, the National Forest Company accepts that an appropriate green infrastructure contribution would be provided, meeting the National Forest Company's minimum 20% requirements. The National Forest Company therefore raises no objections, subject to this quantum of green infrastructure being secured as part of the reserved matters scheme, and subject to various other measures including protection of trees to the site boundary during construction works, securing of footpath connections, and the surfacing of the existing right of way abutting the site (as referred to above). Any required tree protection measures would, it is considered be matters for assessment at the reserved matters stage(s).

Healthcare

West Leicestershire Clinical Commissioning Group (CCG) requests a developer contribution of £60,728.96 in respect of healthcare as set out in the consultation response above. This request has been supported by detailed information setting out the projected impacts on capacity arising from the proposed development (with the principal impacts being on both the North Street and the new Burton Road surgeries) together with commensurate costs of mitigation. The applicant is agreeable to making the healthcare contributions sought.

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

Conclusions

As set out in the main report above, the site lies within Limits to Development as defined in the adopted Local Plan and, furthermore, is allocated for residential development in the submitted Local Plan. Having regard to the existing position in respect of employment land supply, and the

strategy for the provision of such within the submitted Local Plan, it is accepted that the site's cessation of use for employment purposes would not be unacceptable. There are no unresolved technical objections to the application from statutory consultees, and appropriate contributions towards infrastructure and affordable housing would be provided. Approval is therefore recommended subject to Section 106 obligations and conditions.

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

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

Reason - This permission is in outline only.

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

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

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

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

- 4 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
 - Site location plan (unnumbered) deposited with the Local Planning Authority on 1 March 2016
 - Proposed site access junction (004 Rev B) deposited with the Local Planning Authority on 19 October 2016

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

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

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

- 6 No reserved matters applications shall be submitted until such time as a Design Code for the whole of the site has been submitted to and agreed in writing by the Local Planning Authority. The Design Code shall demonstrate compliance with Building for Life 12 (or any subsequent replacement standard issued by the Design Council / CABE or any successor organisation). The development shall thereafter be carried out in accordance with the agreed Design Code.

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

- 7 A total of no more than 153 dwellings shall be erected.

Reason - To define the scope of this permission.

- 8 No reserved matters application in respect of the layout shall be submitted until such time as suitable hydrological and hydraulic modelling analysis of the proposed reinstated watercourse to confirm the channel size and shape, flood extents and safe developable limits and to inform the site layout and design of any other mitigation measures has been submitted to and agreed in writing by the Local Planning Authority. The hydraulic analysis shall include (but not be exclusive of) the following:
- Suitable hydraulic calculations/modelling to confirm actual Flood Zone/Flood plain outlines at the site, including but not exclusive of proposed channel capacity, 20 year, 100 year, 100 year plus 20% (for climate change) and 1,000 year (5%, 1%, 1% plus 20% increase in flow, and 0.1%) flood event levels;
 - Testing of the results in accordance with current climate change predictions;
 - A comparison of the watercourse, hydraulic and existing and proposed topographic information for the above flood levels to confirm the likely extent and depth of flooding and proposed Flood Zone classification at the site;
 - Assessment of any watercourse crossings on flood flows and flood risk; and
 - Detailed design information for the reinstated watercourse, and any crossings within the site, including the provision of appropriate plans, cross and long section(s) extending from the site, through the watercourse and beyond, detailing the site layout and levels and the predicted flood levels, with the above flood event outlines marked on the plan/s as contour lines.

Reason - To prevent flooding on site by ensuring the reinstated channel is constructed to the required flow capacity, that safe developable constraints are used and to inform the design of any other mitigation measures are applied to the proposed site layout; to prevent the increased risk of flooding, both on and off site, to improve and protect water quality and ensure future maintenance of the existing surface water drainage system; and to ensure the permanent retention of a continuous unobstructed area is included as an essential requirement for the preservation of the water course corridor, wildlife habitat and amenity.

- 9 The development permitted by this planning permission shall not be carried out other than in strict accordance with the Flood Risk Assessment dated January 2016, ref. A087443 undertaken by WYG and the following mitigation measures detailed within the FRA:

- Confirmation of the opening up of any culverts across the site, by the provision of reinstated open watercourse (Gilwiskaw Brook) channel within the site - Section 4.1.6;
- Provision of a green corridor along both sides of the open watercourse channel within the site - Section 4.3.5;
- Finished floor levels set no lower than 600mm above the 1% chance (plus an allowance for climate change) flood level and / or 150mm above proposed external finished ground levels, whichever is the higher, to Ordnance Datum (AOD) - Sections 4.3.6 and 6.4.2;
- Proposed new road crossing to include a restriction with the same conveyance capacity (not size) as the existing culvert - Section 6.4.3.

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

Reason - To reduce the risk of flooding from failure of or blockages to the existing culvert(s); to reduce the risk of flooding to the proposed development and future occupants.

- 10 No development shall commence on the site until such time as a surface and foul water drainage scheme for the site, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and timetable. The scheme shall include:
- The utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality;
 - The limitation of surface water run-off to equivalent greenfield rates;
 - The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations;
 - The responsibility for the future maintenance of drainage features;
 - Headwall details, pipe protection details, long sections and full model scenarios for the 1 in 1, 1 in 30 and 1 in 100 year + climate change
- The scheme shall be fully implemented and subsequently maintained, in accordance with the timing and phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed in writing by the Local Planning Authority.

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

- 11 No development shall commence on the site until such time as a Remedial Scheme and a Verification Plan has been prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004) and BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings; the Verification Plan shall be prepared in accordance with the requirements of:
- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1 (Environment Agency 2010);
 - CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004)
 - BS 8485:2015 Code of practice for the design of protective measures for methane and

- carbon dioxide ground gases for new buildings; and
 - CIRIA C735, "Good practice on the testing and verification of protection systems for buildings against hazardous ground gases" CIRIA, 2014.
- If, during the course of development, previously unidentified contamination is discovered, development shall cease on that part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. No work shall recommence on that part of the site until such time as a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) has been submitted to and agreed in writing by the Local Planning Authority. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
- BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
 - BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs); and
 - CLR 11 Model Procedures for the Management of Land Contamination (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, to ensure protection of controlled water receptors and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.

- 12 None of the dwellings shall be occupied until such time as either (i) a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of development, or part thereof, has been submitted to and agreed in writing by the Local Planning Authority; or (ii) a verification investigation has been undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme relevant to either the whole development or that part of the development, and the report showing the findings of the verification investigation has been submitted to and agreed in writing by the Local Planning Authority. The verification investigation report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
 - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
 - Contain Movement permits of all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
 - Contain test certificates of imported material to show that it is suitable for its proposed use;
 - Demonstrate the effectiveness of the approved remedial scheme; and
 - Include a statement signed by the developer or the approved agent, confirming that all the works specified in the Remediation Scheme have been completed

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

- 13 No development shall commence on the site until such time as precise details of all mitigation measures set out under Section 6 of the submitted Extended Phase 1 Habitat Survey (WYG, November 2014), together with a timetable for their implementation, have been submitted to and agreed in writing by the Local Planning Authority. Unless any

alternative measures are first agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in strict accordance with the agreed measures and timetable.

Reason - In the interests of nature conservation.

- 14 No work shall commence in respect of the erection of any individual dwelling until such time as precise details of all measures proposed in respect of protection of occupiers of the relevant dwelling from noise (and including a timetable for their implementation) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in full in accordance with the agreed details, and any relevant agreed measures implemented in accordance with the agreed timetable.

Reason - To ensure that future occupiers of the development are protected from excessive noise, in the interests of amenity, and to comply with Policy E3 of the adopted North West Leicestershire Local Plan.

- 15 The first reserved matters application in respect of the matter of layout shall include a strategy setting out finished floor levels of all dwellings in relation to the 1 in 100 and 1 in 1,000 year flood levels. Unless the development is undertaken in accordance with any subsequently proposed alternative strategy first submitted to and agreed in writing, all subsequent reserved matters applications shall be in accordance with the agreed strategy.

Reason - To ensure that no properties are placed at risk from pluvial or fluvial flooding.

- 16 The first reserved matters application in respect of the matters of access or layout shall include a scheme of vehicular, cycle and pedestrian access connecting the application site to land to the east of the site, together with a timetable for its provision. The development shall be carried out in accordance with the approved details and timetable and the relevant route(s) shall thereafter be so maintained such that unfettered vehicular, cycle and pedestrian access on the route(s) through and up to the edge of the site is available at all times.

Reason - To ensure the opportunities for appropriate vehicular, cycle and pedestrian access (including for public transport vehicles) are maximised, and to ensure the proper planning of the site in conjunction with adjacent land.

- 17 Notwithstanding the submitted details, nor Condition 4 above, none of the dwellings hereby permitted shall be occupied until such time as the proposed Smisby Road access shown on drawing no. 004 Rev B has been provided with an effective minimum width of 6.75 metres for at least the first 20 metres behind the highway boundary, has 9 metres kerbed radii at its junction with the carriageway of Smisby Road, and has been surfaced in a hard bound material first submitted to and agreed in writing by the Local Planning Authority for a distance of at least 10 metres behind the highway boundary. Once provided, the access road shall thereafter be so maintained at all times.

Reason - To ensure that all vehicle turning movements at the junction can be safely accommodated and will not cause problems or dangers within the highway, to provide appropriate vehicular access to the site, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 18 Notwithstanding the submitted details, nor Condition 4 above, none of the dwellings hereby permitted shall be occupied until such time as a scheme of off-site highway works to Smisby Road (including a ghost island right turn lane, carriageway widening, the provision of a 3 metre wide footway across the site frontage and traffic calming measures) has been implemented in full in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure a satisfactory form of development, in the interests of highway (including pedestrian) safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 19 No more than 75 dwellings shall be occupied within the site until such time as a scheme of improvements to the route of public footpath O80 (and including provision for pedestrian and cycle facilities as appropriate) has been implemented in full in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

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

- 20 Notwithstanding the submitted details, none of the dwellings hereby permitted shall be occupied until such time as an updated Residential Travel Plan has been submitted to and agreed in writing by the Local Planning Authority. The submitted Travel Plan shall address the travel implications of the use of the whole site as if the development approved were to have been fully completed and occupied.

The Plan shall specify facilities and measures with measurable output and outcome targets designed to:

- Reduce single occupancy vehicle use, reduce vehicular travel at peak traffic times and reduce vehicle emissions for journeys made for all purposes to and from the developed site;
 - Increase the choice and use of alternative transport modes for any journeys likely to be made to and from the developed site and, in particular, to secure increases in the proportion of travel by car sharing, public transport use, cycling and walking modes and the use of IT substitutes for real travel; and
 - Manage the demand by all users of the developed site for vehicle parking within and in the vicinity of the developed site.
- The Plan shall also specify:
- The on-site Plan implementation and management responsibilities, including the identification of a Travel Plan Co-ordinator;
 - The arrangements for regular travel behaviour and impact monitoring surveys and Plan reviews covering a period extending to at least one year after the last unit of development is occupied or a minimum of 5 years from first occupation, whichever will be the longer;
 - The timescales or phasing programmes for delivery of the Plan's proposals and for the achievement of the specified output and outcome targets;
 - Additional facilities and measures to be implemented if monitoring shows that the Plan's targets are not likely to be met, together with clear trigger dates, events or threshold levels for invoking these measures; and
 - Procedures / timetables for regular monitoring and review and, where applicable, additional mitigation measures

The development shall thereafter be implemented and occupied in accordance with the agreed Travel Plan and timetables / measures.

Reason - To ensure that adequate steps are taken to achieve and maintain reduced travel, traffic and parking impacts and to provide and promote use of more sustainable transport choices to and from the site in order to relieve traffic and parking congestion, promote safety, improve air quality or increase accessibility.

- 21 The Smisby Road vehicular access shown on drawing no. 004 Rev B shall not be brought into use until such time as drainage has been provided within the site such that surface water does not drain into the public highway.

Reason - To reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 22 None of the dwellings hereby permitted shall be occupied until such time as the redundant existing vehicular crossings and the footway to Smisby Road have been reinstated in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason - In the interests of highway (including pedestrian) safety.

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

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

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through early engagement with the applicant both at the pre-application stage and during the application determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:
- Collapse of shallow coal mine workings.
 - Collapse of, or risk of entry into, mine entries (shafts and adits).

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

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

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

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

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

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

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

- 3 Your attention is drawn to the attached report of Severn Trent Water.
- 4 Your attention is drawn to the attached report of the Environment Agency.
- 5 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of the County Council's role as Lead Local Flood Authority.
- 6 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highway matters.
- 7 Your attention is drawn to the attached report of Leicestershire County Council's Rights

- of Way Officer. The applicant is advised to have regard to the issues raised when preparing any reserved matters scheme.
- 8 Your attention is drawn to the attached report of the National Forest Company. The applicant is advised to have regard to the issues raised when preparing any reserved matters scheme.
- 9 Your attention is drawn to the attached report of Natural England.
- 10 Your attention is drawn to the attached report of the District Council's Urban Designer. The applicant is advised to have regard to the issues raised when preparing any reserved matters scheme.
- 11 In terms of the details required to be agreed pursuant to Condition 5 above, the Local Planning Authority would encourage the applicant to maximise the opportunities for pedestrian and cycle linkages to adjacent residential development.

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – 1 NOVEMBER 2016

Title of report	PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT LAND AT ATHERSTONE ROAD, MEASHAM
Contacts	<p>Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Head of Planning and Regeneration 01530 454782 jim.newton@nwleicestershire.gov.uk</p> <p>Principal Planning Officer 01530 454675 james.knightley@nwleicestershire.gov.uk</p>
Purpose of report	To consider a request from the developer of the above site to amend its affordable housing obligations
Council Priorities	Homes and Communities
Implications:	
Financial/Staff	As set out in the report below
Link to relevant CAT	Not applicable
Risk Management	Not applicable
Equalities Impact Screening	Not applicable
Human Rights	Not applicable
Transformational Government	Not applicable
Comments of Head of Paid Service	Report is satisfactory
Comments of Deputy Section 151 Officer	Report is satisfactory

Comments of Deputy Monitoring Officer	Report is satisfactory
Consultees	Measham Parish Council North West Leicestershire District Council Measham South Ward Member North West Leicestershire District Council Strategic Housing Team
Background papers	Application documents in respect of planning application refs. 14/00273/FULM and 15/00994/FUL
Recommendations	TO AGREE TO THE SUBSTITUTION OF THE EXISTING AFFORDABLE HOUSING OBLIGATIONS BY THE PROVISION OF 10 NO. GIFTED UNITS IN ACCORDANCE WITH DETAILS TO BE AGREED WITH THE DISTRICT COUNCIL

1.0 INTRODUCTION AND BACKGROUND

- 1.1 On 10 March 2015, the District Council's Planning Committee resolved to grant planning permission subject to Section 106 obligations for residential development of 77 dwellings and associated works on a site at Atherstone Road, Measham (planning permission ref. 14/00273/FULM).
- 1.2 The Section 106 agreement was completed on 5 June 2015, and the planning permission subsequently issued on 8 June 2015. A subsequent permission for an amended scheme relating to four of these dwellings was granted on 1 February 2016 (ref. 15/00994/FUL), and was the subject of a supplemental agreement under Section 106.
- 1.3 The Section 106 agreements include obligations in respect of, amongst others, affordable housing. The affordable housing obligations are as follows:
- 23 of the proposed dwellings (i.e. 29.9%) to be provided as affordable housing units, comprising 16 affordable rented dwellings and 7 intermediate dwellings
 - Transfer of the affordable units to Registered Provider prior to occupation of 75% of the open market dwellings
- The house types indicated at the application stage as the affordable housing contribution comprised 2 no. 1 bed units, 15 no. 2 bed units and 6 no. 3 bed units.
- 1.4 The developer has however now approached the Local Planning Authority with a view to entering into an amended scheme of obligations in respect of affordable housing, and has undertaken a viability appraisal in order to demonstrate the need to enter into alternative obligations. The Local Planning Authority has commissioned the District Valuer to assess the developer's calculations on its behalf.
- 1.5 The residential development is currently under construction.

2.0 PROPOSED AMENDED AFFORDABLE HOUSING OBLIGATIONS

- 2.1 The developer is of the view that, given anticipated costs and receipts, the provision of the on-site contribution set out under 1.3 above would not be viable having regard to the level of the single offer received from an interested Registered Provider; no other Registered Providers chose to bid. In response, the developer has been engaged in discussions with the District Council's Strategic Housing Team, and has offered an alternative contribution of gifting 10 dwellings (comprising 2 no. 1 bed flats and 8 no. 2 bed houses (along with their associated shared private drive)) to the District Council's Housing department (freehold) for use as rented accommodation.

3.0 CONSULTATION

- 3.1 Following consultation, Measham Parish Council advises that, in principle, it is fully in favour of the provision of the affordable homes on the development. However, the Parish Council requests that provision is increased on the site using the commuted sum secured in lieu of the affordable housing contribution for the former Pickering's Nursery site on Bosworth Road. The Parish Council has also requested that the proposed affordable dwellings are only allocated to potential tenants who are either Measham residents or can prove a strong connection to Measham.
- 3.2 The District Council's Strategic Housing Team supports the proposed alternative obligations for the reasons set out in Section 5.0 below.

4.0 RELEVANT PLANNING POLICY

4.1 National Policies

National Planning Policy Framework (NPPF)
Planning Practice Guidance

4.2 Adopted North West Leicestershire Local Plan

Policy H8 of the adopted North West Leicestershire Local Plan provides that, where there is a demonstrable need for affordable housing, the District Council will seek the provision of an element of affordable housing as part of any development proposal.

4.3 Submitted North West Leicestershire Local Plan

Policy H4 of the submitted North West Leicestershire Local Plan provides that a minimum affordable housing contribution of 30% should be provided on developments of 11 or more dwellings in the Measham area, and that the Council's preference is for on-site provision.

4.4 Other Local Policies

North West Leicestershire District Council Affordable Housing Supplementary Planning Document – January 2011

5.0 ASSESSMENT

- 5.1 Having regard to the requirements of the NPPF and the Community Infrastructure Levy Regulations 2010, the view is taken that the current obligations are appropriate, and meet the legislative and policy tests. However, in view of the request to amend the terms of the existing Section 106 obligations, it is considered appropriate to assess:
- (i) Whether the current affordable housing requirements are unduly onerous when having regard to the viability / deliverability of the scheme, or are otherwise unachievable;
 - (ii) If so, whether the alternative affordable housing obligations proposed by the developer are appropriate to the level of development viability (i.e. they are the maximum achievable whilst ensuring the development remains viable); and
 - (iii) Whether the alternative proposals under (ii) above are appropriate in terms of helping to meet the affordable housing needs of the area.

5.2 Deliverability of Existing Affordable Housing Obligations

- 5.2.1 Having reviewed the developer's viability assessment on behalf of the District Council, the District Valuer concludes that, financially, the existing obligation to deliver 30% affordable housing would still be viable.
- 5.2.2 However, this also needs to be considered in the context of the ability of the developer to comply with the existing affordable housing obligations having regard to other factors. The District Council's Strategic Housing Team advises that the developer had indicated to the Strategic Housing Team its willingness to provide the originally agreed affordable housing and approached seven Registered Providers to gauge interest with a view to entering into a contract to secure delivery. Of these, five indicated that they would not be offering on the properties; of the two offers received, one was subsequently withdrawn. The remaining offer was, the Strategic Housing Team advises, significantly below the figure factored in for these properties.
- 5.2.3 On this basis, therefore, it is accepted that, in practice, the developer is unable to deliver the on-site affordable housing in accordance with its existing obligations.

5.3 Appropriateness of Proposed Alternative Affordable Housing Obligations

- 5.3.1 In addition to reviewing the developer's viability assessment relating to the current obligations, the District Valuer has also assessed the alternative scheme of gifting 10 units to the District Council and again finds this viable (in effect, "breaking even" when allowing for a reasonable level of developer profit, although the District Valuer does also nevertheless suggest that the proposed alternative option would, in fact, be likely to entail a slightly greater cost to the developer than the existing obligations).
- 5.3.2 For its part, the District Council's Strategic Housing Team is of the view that, whilst its preferred position would be to secure the policy compliant 30% on-site contribution by way of a Registered Provider, it nevertheless accepts the reasons why this level of provision could not be achieved. It advises that the ability of Registered Providers to purchase affordable homes on housing sites is currently severely diminished.
- 5.3.3 The existing Section 106 agreement includes a "cascade" arrangement to be employed in the event that there is no Registered Provider interest in the affordable homes; the

cascade protocol set out in the Section 106 agreement provides the following hierarchy of alternative options to the developer:

- (i) Sale of the identified units as discounted open market properties at 65% of their open market value; and
- (ii) Payment of an off-site commuted sum should the properties not sell within a set timescale.

Whilst the discounted open market homes option would still enable properties to be secured on site, the provision of these units would not assist in meeting the District's greatest identified needs (which are for rented accommodation).

5.3.4 Whilst the proposed alternative scheme is not the Strategic Housing Team's preferred policy position, it accepts that the offer would nevertheless secure 10 rented units in a high demand settlement. It also advises that the properties would meet an identified need and their acquisition would support the District Council's Housing Revenue Account, ensuring that existing Council properties are maintained, and supporting the Council's own new house building programme. It therefore favours the approach now suggested over the cascade arrangements that would otherwise apply in this case.

5.3.5 It is noted that, whilst Measham Parish Council has no objections to the proposed changes per se, it has requested that provision is increased on the site using the commuted sum secured in lieu of the affordable housing contribution for the former Pickering's Nursery site on Bosworth Road, and that the proposed affordable dwellings are only allocated to Measham residents or potential tenants with a strong connection to Measham. In response to these requests, the District Council's Strategic Housing Team comments that the monies received in lieu of an on-site affordable housing contribution are ring-fenced for the provision of additional affordable homes anywhere in the District where an affordable housing need has been identified, and considers that this flexibility ensures that any monies can be used to deliver strategically important, wholly affordable, schemes in areas where there is housing demand and suitable sites but a shortfall in funding. The Strategic Housing Team is of the view that all affordable housing delivered in the District (excluding Rural Exception Sites) should meet the housing needs of all those households on the Council's District-wide housing register, and not just those within the particular locality where any new housing supply happens to be located. It also advises that the affordable housing contribution from the Pickering Nurseries development would be unlikely to be used to purchase properties on the Atherstone Road development as the Council would have to pay full market value for any additional properties. By contrast, the Strategic Housing Team advises, through using these monies to support Registered Provider or Council-led developments, the Council can ensure schemes go ahead with much lower contributions from the authority, and which deliver more affordable housing.

5.3.6 Having regard to the advice of the District Council's Strategic Housing Team in respect of the difficulties in securing a Registered Provider to purchase the agreed on-site contribution, therefore, it is accepted that the provision of a smaller gifted contribution would be an appropriate alternative, and would be preferable to the cascade arrangements applicable under the existing obligations. As such, it is recommended that the proposed amended affordable housing obligations be accepted.

This page is intentionally left blank

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – 1 NOVEMBER 2016

<p>Title of report</p>	<p>PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT LAND AT LEICESTER ROAD, ASHBY DE-LA ZOUCH</p>
<p>Contacts</p>	<p>Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Head of Planning and Regeneration 01530 454782 jim.newton@nwleicestershire.gov.uk</p> <p>Senior Planning Officer 01530 454768 ebony.mattley@nwleicestershire.gov.uk</p>
<p>Purpose of report</p>	<p>To consider a request from the developer of the above site to amend its affordable housing obligations</p>
<p>Council Priorities</p>	<p>Homes and Communities</p>
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>As set out in the report below</p> <p>N/A</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p>
<p>Comments of Head of Paid Service</p>	<p>Report is satisfactory</p>
<p>Comments of Deputy Section 151 Officer</p>	<p>Report is satisfactory</p>

Comments of Deputy Monitoring Officer	Report is satisfactory
Consultees	Ashby de-la Zouch Town Council North West Leicestershire District Council Ashby Castle Ward Member North West Leicestershire District Council Strategic Housing Team
Background papers	Application documents in respect of planning application refs. 13/00857/OUTM and 15/01197/FULM
Recommendations	TO AGREE TO THE SUBSTITUTION OF THE EXISTING AFFORDABLE HOUSING OBLIGATIONS BY THE PROVISION OF 16 NO. GIFTED UNITS IN ACCORDANCE WITH DETAILS TO BE AGREED WITH THE DISTRICT COUNCIL

1.0 INTRODUCTION AND BACKGROUND

- 1.1 On 2 September 2014, the District Council's Planning Committee resolved to grant outline planning permission subject to Section 106 obligations for residential development of 101 dwellings and associated works on a site at Leicester Road, Ashby de-la Zouch (planning permission ref: 13/00857/OUTM).
- 1.2 The Section 106 agreement was completed on 13 February 2015, and the outline planning permission subsequently issued on 17 February 2015.
- 1.3 The Section 106 agreements include obligations in respect of, amongst others, affordable housing. The affordable housing obligations are as follows:
- 32 of the proposed dwellings (i.e. 31.68%) to be provided as affordable housing
 - Transfer of the affordable units to Registered Provider prior to occupation of 75% of the open market dwellings
 - The proposed mix was for 1 x 1 bed 2 person coachhouse; 10 x 1 bed 2 person houses; 4 x 2 bed 4 person houses; 1 x 2 bed 3 person flat over garage; 6 x 2 bed 3 person flats and 10 x 3 bed 5 person houses.
 - Whilst the tenure mix had not been finalised, it was anticipated that 70% of the properties (22 units) would be rented units.
- 1.4 A subsequent permission for an amended scheme relating to 56 no. of the originally approved 101 no. dwellings was granted on 29 June 2016 (ref: 15/01197/FULM), and was the subject of a supplemental agreement under Section 106. This application amended the housing mix but did not make any changes to the overall contribution requirement of 30% affordable units.
- 1.5 The developer has, however, now approached the Local Planning Authority with a view to entering into an amended scheme of obligations in respect of affordable housing, and has

undertaken a viability appraisal in order to demonstrate the need to enter into alternative obligations. The Local Planning Authority has commissioned the District Valuer to assess the developer's calculations on its behalf. For the avoidance of doubt, it is only affordable housing that is subject to viability, with the developer confirming that no other contributions would be impacted upon.

- 1.6 The wider residential development is currently under construction, however none of the 16 units, proposed to be gifted, are yet constructed.

2.0 PROPOSED AMENDED AFFORDABLE HOUSING OBLIGATIONS

- 2.1 The developer is of the view that, given anticipated costs and receipts, the provision of the on-site contribution set out under 1.3 above would not be viable having regard to the absence of any bids from Registered Providers. In response, the developer has been engaged in discussions with the District Council's Strategic Housing team, and has offered an alternative contribution of gifting 16 units (15.84%) to the District Council's Housing department (freehold) for use as rented accommodation comprising 10 x 1 bed 2 person houses; 1 x 2 bed 3 person flat over garage; 2 x 2 bed 4 person houses and 3 x 3 bed 5 person houses.

3.0 CONSULTATION

- 3.1 Ashby Town Council have confirmed that they have no concerns about the proposal, which is seen as a pragmatic response to the situation.
- 3.2 The District Council's Strategic Housing Team supports the proposed alternative obligations for the reasons set out in Section 5.0 below.
- 3.3 At the time of writing comments are awaited from the Ward Member.

4.0 RELEVANT PLANNING POLICY

4.1 National Policies

National Planning Policy Framework (NPPF)
Planning Practice Guidance

4.2 Adopted North West Leicestershire Local Plan

Policy H8 of the adopted North West Leicestershire Local Plan provides that, where there is a demonstrable need for affordable housing, the District Council will seek the provision of an element of affordable housing as part of any development proposal.

4.3 Submitted North West Leicestershire Local Plan

Policy H4 of the publication version North West Leicestershire Local Plan provides that a minimum affordable housing contribution of 30% should be provided on developments of 15 or more dwellings in Ashby, and that the Council's preference is for on-site provision.

4.4 Other Local Policies

North West Leicestershire District Council Affordable Housing Supplementary Planning Document – January 2011.

5.0 ASSESSMENT

5.1 Having regard to the requirements of the NPPF and the Community Infrastructure Levy Regulations 2010, the view is taken that the current obligations are appropriate, and meet the legislative and policy tests. However, in view of the request to amend the terms of the existing Section 106 obligations, it is considered appropriate to assess:

- (i) Whether the current affordable housing requirements are unduly onerous when having regard to the viability / deliverability of the scheme, or are otherwise unachievable;
- (ii) If so, whether the alternative affordable housing obligations proposed by the developer are appropriate to the level of development viability (i.e. they are the maximum achievable whilst ensuring the development remains viable); and
- (iii) Whether the alternative proposals under (ii) above are appropriate in terms of helping to meet the affordable housing needs of the area.

5.2 Deliverability of Existing Affordable Housing Obligations

5.2.1 Having reviewed the developer's viability assessment on behalf of the District Council, the District Valuer concludes that, financially, the existing obligation to deliver 30% affordable housing would still be viable.

5.2.2 However, this also needs to be considered in the context of the ability of the developer to comply with the existing affordable housing obligations having regard to other factors. The District Council's Strategic Housing Team advises that the developer had indicated to the Strategic Housing Team its willingness to provide the originally agreed affordable housing and approached Registered Providers to gauge interest with a view to entering into a contract to secure delivery. Initially two Registered Providers were interested, however both offers were significantly lower than has been factored into the developers financial appraisal. In July 2015, following the budget announcements regarding Registered Providers' reducing rents by 1%, one of the offers fell away and the other Registered Provider re-evaluated their offer, reducing it further still. The remaining offer was, as the Strategic Housing Team advises, significantly below the figure factored in for these properties.

5.2.3 On this basis, therefore, it is accepted that, in practice, the developer is unable to deliver the on-site affordable housing in accordance with its existing obligations.

5.3 Appropriateness of Proposed Alternative Affordable Housing Obligations

5.3.1 In addition to reviewing the developer's viability assessment relating to the current obligations, the District Valuer has also assessed the alternative scheme of gifting 16 units to the District Council and again finds this viable (although the District Valuer does also

nevertheless suggest that the proposed alternative option would, in fact, be likely to entail a greater cost to the developer and therefore less profit, than the existing obligations.)

- 5.3.2 For its part, the District Council's Strategic Housing Team is of the view that, whilst its preferred position would be to secure the policy compliant 30% on-site contribution by way of a Registered Provider, it nevertheless accepts the reasons why this level of provision could not be achieved. It advises that the ability of Registered Providers to purchase affordable homes on housing sites is currently severely diminished.
- 5.3.3 The existing Section 106 agreement includes a "cascade" arrangement at paragraph 15.1.10 to be employed in the event that there is no Registered Provider interest in the affordable homes which is for a Housing Commuted Sum in lieu of the provisions of some or all of the Affordable Dwellings.
- 5.3.4 The District Council's Strategic Housing Team has confirmed that this would inevitably lead to a time delay in between receipt of the commuted sum payment and affordable homes being provided which delays the Council's ability to rehouse households in housing need. Accordingly the option for a commuted sum would not therefore assist in meeting the District's identified needs.
- 5.3.5 Whilst the proposed alternative scheme is not the Strategic Housing Team's preferred policy position, it accepts that the offer would nevertheless secure 16 rented units in a high demand settlement. It also advises that the properties would meet an identified need and their acquisition would support the District Council's Housing Revenue Account, ensuring that existing Council properties are maintained, and supporting the Council's own new house building programme. It therefore favours the approach now suggested over the cascade arrangements that would otherwise apply in this case.
- 5.3.6 Having regard to the advice of the District Council's Strategic Housing Team in respect of the difficulties in securing a Registered Provider, it is accepted that the provision of a smaller gifted contribution would be an appropriate alternative, and would be preferable to the cascade arrangement applicable under the existing obligations. As such, it is recommended that the proposed amended affordable housing obligations be accepted.

This page is intentionally left blank