

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

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

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

## AGENDA

Item	Pages
<b>1. APOLOGIES FOR ABSENCE</b>	
<b>2. DECLARATION OF INTERESTS</b>	
Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
<b>3. MINUTES</b>	
To confirm and sign the minutes of the meeting held on 1 November 2016.	<b>5 - 12</b>
<b>4. PLANNING APPLICATIONS AND OTHER MATTERS</b>	
Report of the Head of Planning and Regeneration.	<b>13 - 16</b>



## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	<b>16/00832/OUTM: Residential development of up to 36 dwellings, access, infrastructure and public open space (outline - details of part access from Swebstone Road included)</b>  Land North Of Swebstone Road Heather Leicestershire	<b>PERMIT Subject to a Section 106 Agreement</b>	<b>17 - 38</b>
A2	<b>16/00305/VCU: Removal of condition 2 and variation to condition 4 of planning permission 14/01090/VCI to allow the permanent use of the land as a traveller's site with six touring caravans and amend the size of the day room</b>  Aylesbury Gardens Newton Road Swebstone Leicestershire	<b>PERMIT</b>	<b>39 - 58</b>
A3	<b>16/01043/FUL: Erection of three terraced dwellings, a triple garage block and highway improvements to existing access from Private Road onto Standard Hill</b>  Land Off Private Road Standard Hill Coalville Leicestershire	<b>PERMIT</b>	<b>59 - 70</b>
A4	<b>16/00798/FUL: Construction of 8 dwellings with associated access and turning area (extension to site granted Planning Permission under 15/00032/FULM)</b>  Land Off Forest Road Coalville Leicestershire	<b>PERMIT Subject to a Section 106 Agreement</b>	<b>71 - 86</b>
A5	<b>16/00797/VCUM: Variation of Conditions 2, 3, 9, 11 and 12 of Planning Permission 15/00032/FULM in order to allow for the erection of 30 dwellings with a revised site layout</b>  Land Off Forest Road Coalville Leicestershire	<b>PERMIT Subject to a Section 106 Agreement Variation</b>	<b>87 - 100</b>
A6	<b>16/01225/VCUM: Variation of condition 2 of planning permission 13/00183/FULM to amend house and garage types in addition to landscaping, boundary treatments and levels</b>  Peveiril Homes Site Measham Road Moira Derby	<b>PERMIT Subject to a Section 106 Agreement</b>	<b>101 - 136</b>
A7	<b>16/01198/REMM: Formation of site accesses to Standard Hill and Highfield Street (reserved matters to outline planning permission ref 12/00007/OUTM)</b>  Land North Of Standard Hill And West Of Highfield Street Coalville Leicestershire	<b>PERMIT</b>	<b>137 - 144</b>

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A9	<b>16/01005/FUL: Demolition of No. 1 The Crescent and erection of two detached dwellings with associated works</b>  1 The Crescent Breedon On The Hill Derby DE73 8AY	PERMIT	161 - 178
A10	<b>16/00404/FUL: Erection of a single storey detached dwelling</b>  Land At Ashby Road Coleorton Leicestershire	PERMIT Subject to a Section 106 Agreement	179 - 194
5.	<b>PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT LAND AT RAVENSTONE ROAD, COALVILLE / COALVILLE LANE, RAVENSTONE</b>  Report of the Head of Planning and Regeneration		195 - 198
6.	<b>TO CONSIDER THE MAKING OF A TREE PRESERVATION ORDER ON FIFTEEN YEW TREES AT THE OLD PARSONAGE LONG WHATTON</b>  Report of the Planning and Development Team Manager		199 - 202

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MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 1 NOVEMBER 2016

Present: Councillor D J Stevenson (Chairman)

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

In Attendance: Councillors J Geary and T J Pendleton

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

#### **54. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors J Hoult, G Jones and M Specht.

#### **55. DECLARATION OF INTERESTS**

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

Councillor J G Coxon declared a non-pecuniary interest in items A4, application number 16/00925/FUL and item 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, as a Member of Ashby de la Zouch Town Council.

Councillor V Richichi declared a pecuniary interest in items A2, application number 15/01051/OUT and A3, application number 16/00925/FUL as an owner of a property mentioned in the report and that he would leave the meeting for the consideration of the items.

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

Item A1, application number 16/00360/OUTM

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

Item A2, application number 15/01051/OUT

Councillors R Adams, R Ashman, R Boam, R Canny, J Cotterill, J G Coxon, D Harrison, R Johnson, J Legrys, P Purver, N Smith and D J Stevenson.

Item A3, application number 16/00925/FUL

Councillors R Adams, R Ashman, R Canny, J G Coxon, D Harrison, R Johnson, J Legrys, P Purver, N Smith and D J Stevenson.

Item A4, application number 16/00275/OUTM

Councillors R Ashman, R Boam, J Clarke, J Cotterill, J G Coxon, D Everitt, J Legrys, P Purver, N Smith, D J Stevenson and M B Wyatt.

**56. MINUTES**

Consideration was given to the minutes of the previous meeting held on 4 October 2016.

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

RESOLVED THAT:

The minutes of the meeting held on 4 October 2016 be approved and signed by the Chairman as a correct record.

**57. 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.

**58. 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

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

The Senior Planning Officer presented the report to Members.

Mr R Morris, on behalf of Breedon Parish Council, addressed the Committee. He advised that the comments that he would make were unanimous from the Parish Council. He stated that the Parish Council always supported any application that would enhance the village and the application before them would not. He expressed concerns that the proposed development would increase pressure on the local water treatment works and following the flooding that Breedon had experienced in June many residents had still been unable to return to their homes. He informed Members that storm water from the proposed development would run off into the only water course in the village that was unable to cope. He highlighted that the village had a wonderful heritage asset from which the application site would be visible, asserted that harm is subjective, but opined that if there were any harm at all the presumption should be in favour of refusal. He highlighted to Members that the site was outside the village boundary, was on Greenfield land, the authority had a five year housing land supply without this site, pedestrian access was across land not owned by the developer and that the affordable homes may not be accessible to residents of the village. He suggested a legal challenge would be forthcoming, on the basis of flooding and pedestrian safety, if the Committee were minded to grant permission, and urged Members to refuse the application.

Ms S Hollis representing Mr P Spencer and Ms K Knight, in objection, addressed the Committee. She advised Members that there were several points on which the application should be refused which were that the site was outside the Limits to Development as set out in the publication Local Plan, and live flooding issues. She stated that the officer's recommendation was the opposite of what was stated in the publication Local Plan and therefore put the Council in the position of setting a dangerous precedent should they permit the application as it was outside the village boundary. She expressed concerns over the deliverability of the footpath as it was not in the ownership of the developer so should be secured by Grampian condition, and asserted that it was premature to allow the development in light of the recent flooding in the area. She urged Members to refuse the application.

Mr A Large, supporter, addressed the Committee. He highlighted to Members that it was the first time that he had known the housing officer to support an application and as an

agent he had seen first-hand that the 30% affordable housing agreed in applications was not always delivered and the housing officer knew that it would be in the application before them by way of a legal agreement. He advised Members that a landscape architect had been employed to address the concerns in relation to the visual impact and that houses on three sides of the development would not be overlooked. He informed Members that the developer was in discussions with the lead local flood authority, which agreed that the attenuation pond would mitigate and reduce the runoff from the site. . He stated that the highways authority had no objections, the village offered a range of services and urged Members to support the application.

Mr J Blunt, applicant, addressed the Committee. He informed Members that it was the family's aspiration to develop the site and provide housing in the area and that big houses in the village were desirable. He advised Members that the site was close to the village, the issue over the pedestrian access route was before the solicitor and that the site had long and deep family connections after the estate was able to provide shelter on the land to a returning World War 2 Soldier. He urged Members to permit the application to allow a development that both his family and the district could be proud of.

The motion to refuse the application on the grounds that it was outside the Limits to Development as defined in the Local Plan, the site was Greenfield, and highway concerns was moved by Councillor R Ashman and seconded by Councillor J Legrys.

Councillor J Legrys expressed concerns over the access to the site despite no objections from the highways authority. He was not satisfied with the visibility splay and that he could not see an agreed extension of the 30 mph speed limit. He added that he had concerns with the planning conditions as there were a number of conditions that related to flooding which would require agreement to implement In relation to SuDs, he expressed concerns over whom would be responsible in perpetuity, adding that the condition worded "with agreement" did not mean agreement with just the developer but with the wider community as well as it was evident that the area flooded, and in the past Members had been assured that sites would not flood and they had. He highlighted that the community were concerned over flooding and did not want the development, and that the Committee had responsibility to protect the community. He said that the site had been proven to flood, and that the so-called experts were wrong. As such he would be supporting refusal of the application.

Councillor R Canny stated that she was still undecided on the application. She felt that the application was pleasing, looked nice and would fit in nicely and benefit the village, however it was outside the Limits to Development. She stated that now the Local Plan had been submitted and if the application was permitted the authority would risk undermining the plan in the future given that the authority had its five year housing supply. She expressed concerns about flooding risks and the assurances that with the balancing pond the water would flow away however she had seen first-hand the damage that had been caused by the flooding in June. She highlighted that the application was for outline permission with various conditions and assurances attached but felt it would be better to refuse at the early stage rather than at reserved matters.

Councillor D Everitt stated that the site was like a bowl with three sides built on and that by building on the land no more water would be absorbed. He highlighted that there would be a balancing pond at the bottom which would collect all the water but questioned how it would cope with floods and rain water and where it would all go.

Councillor V Richichi stated that there were no objections from Highways and Severn Trent and therefore he was minded to vote in favour of the application.

Councillor D Harrison complimented the applicant on the reasons behind the application but expressed concern over the site and how the development would proceed. He sought

clarification from officers on how many units already had planning permission but not yet completed.

The Head of Planning and Regeneration stated that there were 10 units with permission in Breedon that had not been built and that there were other applications in the pipeline but there was no guarantee that they would be built.

Councillor D Harrison expressed concerns over the access and the large gradient of the site given the additional flood risks that could arise. He reminded Members that they had a responsibility to look after the people of the district. He stated that the development was a good proposal but that the location and time was not right. He highlighted that neither the Parish Council or villagers wanted the development and therefore he would be voting to refuse the application.

Councillor J Clarke raised concerns over the speed of traffic along the road that the site was outside the Limits to Development, the rights over the footpath and drainage issues. He supported the motion to refuse.

Councillor R Ashman sought clarification as to whether the already permitted development was inside the Limits to Development and if not were the sites more sustainable.

The Head of Planning and Regeneration stated that the already permitted development in the village was across various sites but reminded Members that they could only consider the application that was before them.

Councillor D J Stevenson stated that he had lived in the area for 70 years and that he had seen many accidents including fatal accidents on the stretch of road, that the access was very dangerous and that the site was outside the Limits to Development. He acknowledged that there were no objections from Highways, but felt that he would not want to leave the site using the access. He supported the motion to refuse

RESOLVED THAT:

The application be refused on the grounds that it is outside the Limits to Development, a Greenfield site, and highways concerns

**59. 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

Officer's Recommendation: REFUSE

Having declared a pecuniary interest in items A2 and A3 Councillor V Richichi left the meeting for the consideration of the items and took no part in the discussion or voting thereon.

The Planning and Development Team Manager presented the reports for both A2 and A3 to Members.

Mr C Miles, on behalf of Packington Parish Council, addressed the Committee on both applications. He advised Members that the Parish Council had objected to the applications due to the embargo on development within the area of the River Mease, but the Parish Council felt that further grounds for refusal were outside the development boundary currently out for approval, and that the site was Greenfield. He advised that many developments had already been permitted outside the limits for the village. He



highlighted to Members the weak flood risk assessment and the ineffective drainage proposals as soak aways were not practical. He expressed concerns over the effectiveness of the water holding tanks and whether the local water treatment works could handle the water running into the site. He reminded Members that planning permission had already been refused on the site and asked Members to refuse these applications.

Mr P Harley, objector, addressed the Committee. He stated that it appeared that the developers were attempting to drive coach and horses through the submitted Local Plan by submitting applications that lay outside the village boundary. He highlighted that plot 1 was proposed to be a large house that would overlook several properties on Spring Lane. He expressed concern that the results of the 2013 traffic survey were being considered when the figure had increased sufficiently and the new dwellings would increase the impact on the River Mease by adding 20 cars and 24 toilets. He urged Members to refuse the application.

Mr J Steadman, agent, addressed the Committee. He advised Members that the developer had worked with officers to overcome the issues from the previous applications and felt that a smaller site was far more sustainable than the previous larger site. He stated that in heritage terms the site was a distance from Packington House and that the developer would offer £200K towards affordable housing within the district. He informed Members that it appeared that officers were making up policies relating to the River Mease as the reasons for refusal without specific policy support and that Members would be in a weak position if they refused the applications on the grounds before them. He urged Members to support the application as the site would be a minor extension to the village.

The officer's recommendation to refuse the application with the additional reasons that the site is outside the Limits to Development and constitutes Greenfield land was moved by Councillor J Bridges and seconded by Councillor J Legrys

Councillor N Smith stated that even though it was a small development if it was granted there would be nothing to stop future applications being put forward, adding that the application was outside Limits to Development, on a Greenfield site and as such it would have a detrimental effect on the area and the Council could demonstrate a housing supply.

RESOLVED THAT:

The application be refused in accordance with the recommendations of the Head of Planning and Regeneration with the additional reasons that the site was outside the Limits to Development on Greenfield Land which would be harmful to the rural character and appearance of the locality and setting of the village in the landscape.

**60. A3**  
**16/00925/FUL: ERECTION OF FOUR DETACHED DWELLINGS AND GARAGING**  
 Land At Normanton Road Packington Leicestershire LE65 1WS

Officer's Recommendation: REFUSE

Mrs J Harley, objector, addressed the Committee. She stated that the Committee had just refused eight dwellings and she hoped that they would now refuse four dwellings. She advised Members that the proposal was for four very large homes outside the Limits to Development and that they would also have a detrimental impact on the River Mease. She highlighted that the new development would have three access points which would raise the risk of accidents along a road where cars were driven at speed. She urged Members to refuse the application.

Mr J Steadman, agent, addressed the Committee. He advised that the application before them was for self build dwellings and that following the introduction of the Self Build and Custom Housebuilding Act 2015 the authority had a duty to ensure sufficient permissions for self- build developments. He stated that there had been an increase in the number of applicants that had registered for self-build sites from 0 – 43. He asked Members to consider how much weight should be given to the legislation and that at a previous committee permission had been given to a development 135ms outside of the envelope, highlighting that the number of dwellings proposed had reduced from 42 to 4.

The officer's recommendation was moved by Councillor N Smith and seconded by Councillor J Cotterill.

Councillor N Smith stated that his reasons for refusing it were as before and that officers should be able to find enough sites for self build units within the structure plan.

Councillor J Bridges stated that he would be voting against the officer recommendation as but he felt that the reasons would be challenged unless the recommendation was amended to include that the site is outside the Limits to Development and constitutes Greenfield Land.

The proposer, Councillor N Smith, and the seconder, Councillor J Cotterill, agreed to amend the motion in line with Councillor J Bridges suggested amendments.

RESOLVED THAT:

The application be refused in accordance with the recommendations of the Head of Planning and Regeneration with the additional reasons that the site was outside the Limits to Development on Greenfield Land which would be harmful to the rural character and appearance of the locality and setting of the village in the landscape..

Councillor V Richichi returned to the meeting.

**61. 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

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

The Principal Planning Officer presented the report to Members.

Mr J Derbyshire, General Manager of KP Snacks, addressed the Committee. He advised Members that the company wanted to ensure noise mitigation to protect the proposed neighbouring properties from noise generated by the factory. He highlighted that the factory had been there since 1948 and employed over 400 local people. He informed Members that they had been working with the developers to reduce the risk of noise complaints, who following a noise survey, had agreed to construct and fund a sound bund with acoustic fence, and that he had been led to believe that this condition would form part of the planning application. He stated that he did not believe that acoustic glazing and garden fences would be sufficient to protect future residents from the noise that was generated. He requested that a sound bund be included in the application by way of a Grampian condition.

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

Councillor J G Coxon stated that it was a Brownfield site and formed part of the Ashby Neighbourhood Plan. He acknowledged Mr Derbyshire's request in relation to noise mitigation and asked if the sound bund could be included in the conditions, adding that he had never received any complaints in relation to noise from the site. He informed Members that the connectivity to the Money Hill site was paramount due to the potential employment opportunities on that site and to the Ashby Neighbourhood Plan.

Councillor J Bridges stated that he agreed wholeheartedly with Councillor J G Coxon.

Councillor D Harrison stated that he welcomed the application and that it was a pleasure to see development on a Brownfield site rather than trying to build on green land. He added that he supported Mr Derbyshire as often the last in were the first to shout and therefore, if possible requested that noise mitigation be put into the consent. He supported the application.

The Head of Planning and Regeneration advised Members that officers had been alive to the issue throughout the application. He drew Members' attention to condition 14 whereby the developer had to agree with officers how they would deal with the noise issue from the factory and that the update sheet had a reference to a sound bund on the KP site as mitigation to protect the factory against complaints from future residents. He stated that it was the officers' views that as there was insufficient technical evidence to suggest that a bund would be required and therefore condition 14 and the note to applicant that was included on the update sheet would be the next best thing.

Councillor J Legrys stated that he was very pleased to see the opening up of the watercourse and the removal of the culverts as it would help alleviate flood risks and protect the water voles that resided there. He also welcomed building on a Brownfield site, and requested that officers maintained contact with KP Snacks over the noise mitigation issue and that their concerns should not be dismissed. He did not want the issue to be forgotten about at the reserved matters stage.

Councillor D J Stevenson stated that finally there was forward planning on an application and that anything that could be done to prevent a noise nuisance must be welcomed and the issue would not be forgotten.

Councillor J G Coxon stated that he was happy with condition 14. It was noted that all Members of the Committee were totally in favour of keeping KP Snacks in the loop over the application.

RESOLVED THAT:

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

**62. 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

Officer's Recommendation:

The Principal Planning Officer presented the report to Members.

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

RESOLVED THAT:

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.

**63. 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

Officer's Recommendation:

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

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

RESOLVED THAT:

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.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 5.55 pm

## **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.

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### Section A – Planning Applications

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A2	16/00305/VCU	<b>Removal of condition 2 and variation to condition 4 of planning permission 14/01090/VCI to allow the permanent use of the land as a traveller's site with six touring caravans and amend the size of the day room</b> Aylesbury Gardens Newton Road Swebstone
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A5	16/00797/VCUM	<b>Variation of Conditions 2, 3, 9, 11 and 12 of Planning Permission 15/00032/FULM in order to allow for the erection of 30 dwellings with a revised site layout</b> Land Off Forest Road Coalville
A6	16/01225/VCUM	<b>Variation of condition 2 of planning permission 13/00183/FULM to amend house and garage types in addition to landscaping, boundary treatments and levels</b> Peveril Homes Site Measham Road Moira
A7	16/01198/REMM	<b>Formation of site accesses to Standard Hill and Highfield Street (reserved matters to outline planning permission ref 12/00007/OUTM)</b> Land North Of Standard Hill And West Of Highfield Street Coalville Leicestershire
A8	16/00980/FUL	<b>Erection of a detached dwelling with associated off-street parking(Revised Scheme)</b> Land To The Rear Of 1 Hollow Road Breedon On The Hill
A9	16/01005/FUL	<b>Demolition of No. 1 The Crescent and erection of two detached dwellings with associated works</b> 1 The Crescent Breedon On The Hill Derby
A10	16/00404/FUL	<b>Erection of a single storey detached dwelling</b> Land At Ashby Road Coleorton

### Section B – Other Matters



Residential development of up to 36 dwellings, access,  
infrastructure and public open space (outline - details of part  
access from Swebstone Road included)

Report Item No  
A1

Land North Of Swebstone Road Heather Leicestershire

Application Reference  
16/00832/OUTM

Applicant:  
Mr Nick Carr

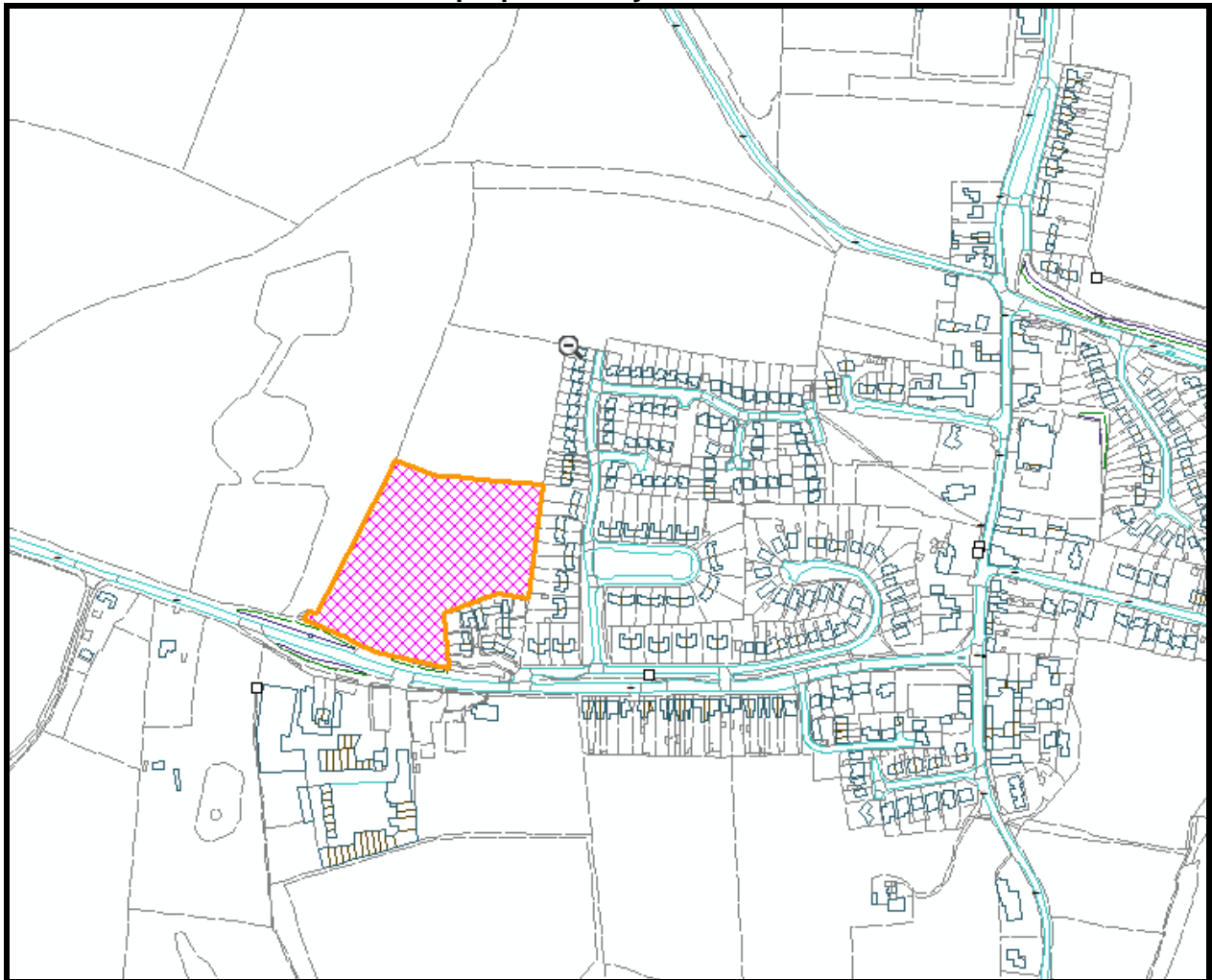
Date Registered  
12 July 2016

Case Officer:  
Robert McKillop

Target Decision Date  
11 October 2016

Recommendation:  
PERMIT Subject to a Section 106 Agreement

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



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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application has been referred to Planning Committee on the grounds of significant public interest.

### Proposal

Outline planning permission is sought for residential development of up to 36 dwellings, access, infrastructure and public open space with part access included at land north of Swepstone Road, Heather. The site measures 1.91 hectares and is located immediately west of the existing settlement. The application site is situated outside the defined Limits to Development and is currently utilised for agriculture.

### Consultations

A total of 202 representations have been received objecting to the application. Heather Parish Council also objects 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 and submitted North West Leicestershire Local Plans. The application has also been assessed against the relevant policies in the NPPF 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, the proposed development is considered to represent sustainable development. On this basis, the principle of 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 out of keeping with the character and appearance of the surrounding locality and which would not adversely impact upon residential amenities, highway safety, heritage assets, ecology, archaeology or flooding. 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 main report below.

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

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

## MAIN REPORT

### 1. Proposals and Background

Outline planning permission is sought for residential development of up to 36 dwellings, access, infrastructure and public open space with part access included at land north of Swebstone Road, Heather. The site measures 1.91 hectares and is located immediately west of the existing settlement. The application site is situated outside the defined Limits to Development and is currently utilised for agriculture.

An indicative layout plan, which has been amended from that originally submitted, shows that the proposed vehicular access point would be off Swebstone Road. Dwellings are shown to be positioned in the centre and eastern part of the site, with an attenuation pond and landscaping being provided around the northern and western boundaries.

A design and access statement, heritage statement, Building for Life 12 assessment, soils and agricultural report, flood risk assessment, ecology appraisal, tree survey, transport assessment and draft heads of terms have been submitted in support of the application. Some revisions to this information have been submitted during the course of the application.

No relevant planning history was found.

### 2. Publicity

78 no neighbours have been notified (date of last notification 13 July 2016)

Press Notice published 20 July 2016

Site Notices posted 20 July '016

### 3. Consultations

Heather Parish Council consulted 13 July 2016  
 County Highway Authority consulted 13 July 2016  
 Severn Trent Water Limited consulted 13 July 2016  
 Head of Environmental Protection consulted 13 July 2016  
 NWLDC Tree Officer consulted 13 July 2016  
 County Archaeologist consulted 13 July 2016  
 LCC ecology consulted 13 July 2016  
 NWLDC Conservation Officer consulted 13 July 2016  
 NWLDC Urban Designer consulted 13 July 2016  
 National Forest Company consulted 13 July 2016  
 LCC Development Contributions consulted 13 July 2016  
 NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 13 July 2016  
 Head Of Leisure And Culture consulted 13 July 2016  
 Manager Of Housing North West Leicestershire District Council consulted 13 July 2016  
 Police Architectural Liaison Officer consulted 13 July 2016  
 LCC/Footpaths consulted 13 July 2016  
 NWLDC Footpaths Officer consulted 13 July 2016  
 LCC Flood Management consulted 13 July 2016  
 Head Of Street Management North West Leicestershire District consulted 13 July 2016  
 County Archaeologist consulted 14 November 2016

#### 4. Summary of Representations Received

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

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

- The village school and pre-school are at capacity with a shortage of space and staff which would be detrimental to education provision;
- There is no bus service in Heather and children attending school in Ibstock have to walk or be driven to school. A bus service would allow people to access services in Ibstock more easily although these are also stretched to capacity;
- A further 99 dwellings are proposed in a second phase of development which would significantly increase vehicle movements, contrary to the submitted Highways Report;
- There would be a detrimental impact on the main roads in the village which will be made more dangerous for members of the public;
- More trees should be planted between existing houses for shading;
- The application disregards the submitted Local Plan which states Heather is a sustainable village where limited growth will take place within the limits to development - the site is outside limits and is not "limited development";
- There is concern that the sewerage system could not accommodate this development;
- Occupiers of the development would be close to an industrial estate opposite the site.

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

**Leicestershire County Council - Developer Contributions** requests a contribution of £66,078.58 towards the education sector, a contribution of £1,091.00 towards library services and a contribution of £2,354.00 towards civic amenity.

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

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

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

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

**National Forest Company** has no objections subject to adequate woodland planting and landscaping being secured by way of condition.

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

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

**NWLDC - Environmental Protection** has no objections subject to conditions.

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

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

**NWLDC - Street Management** 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**

202 letters of objection to this application have been received which are summarised as follows:

- 
- The character of the village would be overwhelmed by the proposed development and the scale of development is contrary to the local plan;
- Draft Local Plan states limited growth is appropriate for Heather;
- The site is outside the limits to development;
- The development if approved would set precedent for development of other sites in Heather;
- There is inadequate employment opportunity in the village to sustain new dwellings;
- There is enough local housing and affordable social housing available in Heather provided by the David Taylor development;
- Heather Primary School and Ibstock High School are already oversubscribed;
- The main road through Heather is already busy and is too narrow to cope with increased traffic and further traffic surveys are required;
- The development is opposite a local play area and will result in danger to road users and cause negative health impacts from pollution;
- Ibstock Doctors Surgery is struggling to accommodate new patients and service will suffer and the financial contribution is not likely to address this;
- The site is within the National Forest and is used for locals and tourists for recreation and dog walking;
- Views within the village would diminish and its character would be affected;
- The developer has marked the site Grade 3a Agricultural Land although it is Grade 2 Land which is essential for crops and according to the submitted Local Plan should be "less likely to be used for development";
- The ecological survey submitted does not accurately reflect the flora and fauna present on the site and birds, hares, insects and various other species would be affected;
- The development would affect existing residential amenity;
- Drainage is blocked;
- Noise, dust and other impacts will occur during construction;
- There are limited shops and services in the village and new residents would depend on their car contrary to the NPPF;
- The industrial site opposite and events at Cattows Farm could cause health/amenity problems to future occupiers;
- The character for users of the existing right of way across the site would be affected;
- A small part of the site is of archaeological interest.

## **5. Relevant Planning Policy**

### **National Policies**

#### *National Planning Policy Framework*

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

Save where stated otherwise, the policies of the adopted Local Plan as listed in the relevant

section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

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

Paragraph 7 (Achieving sustainable development)  
Paragraph 14 (Presumption in favour of sustainable development)  
Paragraph 17 (Core planning principles)  
Paragraph 28 (Supporting a prosperous rural economy)  
Paragraph 32 (Promoting sustainable transport)  
Paragraph 34 (Promoting sustainable transport)  
Paragraph 47 (Delivering a wide choice of high quality homes)  
Paragraph 49 (Delivering a wide choice of high quality homes)  
Paragraph 57 (Requiring good design)  
Paragraph 59 (Requiring good design)  
Paragraph 60 (Requiring good design)  
Paragraph 61 (Requiring good design)  
Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 109 (Conserving and enhancing the natural environment)  
Paragraph 112 (Conserving and enhancing the natural environment)  
Paragraph 118 (Conserving and enhancing the natural environment)  
Paragraph 123 (Conserving and enhancing the natural environment)  
Paragraph 124 (Conserving and enhancing the natural environment)  
Paragraph 131 (Conserving and enhancing the historic environment);  
Paragraph 132 (Conserving and enhancing the historic environment);  
Paragraph 134 (Conserving and enhancing the historic environment);  
Paragraph 141 (Conserving and enhancing the historic environment);  
Paragraph 203 (Planning conditions and obligations);  
Paragraph 204 (Planning conditions and obligations).

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

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

Policy S3 - Countryside  
Policy E2 - Landscaped Amenity Open Space  
Policy E3 - Residential Amenities  
Policy E4 - Design  
Policy E7 - Landscaping  
Policy F1 - National Forest General Policy  
Policy F2 - National Forest Tree Planting  
Policy F3 - National Forest Landscaping and Planting  
Policy T3 - Highway Standards  
Policy T8 - Parking  
Policy H4/1 - Housing Land Release  
Policy H6 - Housing Density  
Policy H7 - Housing Design  
Policy H8 - Affordable Housing  
Policy L21 - Children's Play Areas

## **Other Policies**

### **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.

S1 - Future housing and economic development needs

S2 - Settlement Hierarchy

S3 - Countryside

D1 - Design of new development

D2 - Amenity

H4 - Affordable Housing

IF1 - Development and Infrastructure

IF4 - Transport Infrastructure and new development

IF7 - Parking provision and new development

En1 - Nature Conservation

En3 - The National Forest

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

Cc2 - Flood risk

Cc3 - Sustainable Drainage Systems

### **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 the Heather area

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

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

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

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

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

## **6. Assessment**

### **Principle 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 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. 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 third party representations have been received which comment that Heather is not socially sustainable, however the District Council considers Heather to be a sustainable settlement for new residential development given the range of services available, including a shop, primary school and nursery, public houses, church and recreation ground as well as some limited employment uses at Dawsons Yard and along Mill Lane. 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 Heather as a 'Sustainable Village' where a limited amount of growth will be permitted. The provision of pedestrian routes into the site, as proposed, 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 proposed development would have access to services which would meet their day to day needs (e.g. a shop), with other facilities and employment opportunities being accessible on foot. In these circumstances it is considered that a development of 36 dwellings would score well against the advice concerning social sustainability contained within the NPPF, with future residents 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 provide 36 dwellings including 11 affordable properties which would contribute 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 identifies that Heather as 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 and 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.

On the basis of the Proposals Map to the submitted Local Plan the application site would abut the defined Limits to Development at its eastern boundary and there is built development on the opposite side of Swepstone Road in the form of Dawsons Yard. Given the position of the site, 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 impact on the rural environment, the site slopes upwards gently towards the



eastern boundary towards dwellings on Sparkenhoe Estate and David Taylor Close. Substantial mature screening exists to the west of the site and along the roadside boundary, which would provide screening within the wider area. It is considered that the visual impact of the proposed development would be diminished by the existing vegetation and proposed open space on the western part of the site which would provide a softer feathered edge to the settlement than the hard edge displayed by the existing built development on the Sparkenhoe Estate. In addition, the dwellings would be set against the backdrop of existing dwellings in views from the surrounding countryside. Furthermore, the layout and scale of dwellings would be agreed at reserved matters stage to ensure that any development would have a limited impact on the 'openness' of the wider rural environment. It is also noted from the indicative layout drawing that the western edge of the development site would include a landscaped area and attenuation pond which would help to reduce the visual impact of the proposed dwellings.

In conclusion, 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 some degree of harm to the rural environment by way of the loss of a greenfield site. However, such conflict would be outweighed given the weight to be afforded to Policy S2 of the submitted Local Plan at this time, and 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 physical characteristics of the site and the relationship between the wider rural environment and existing built development. On balance, therefore, the proposal represents a sustainable form of development which is acceptable in principle.

### **Density**

With a developable site area of 1.91 hectares the proposed development would have a density of 19 dwellings per hectare which is below the figure of 30 set out in Policy H6 of the adopted Local Plan for settlements such as Heather. The NPPF states that authorities should set their own approach to housing density to reflect local circumstances and it is considered that the proposed density is appropriate when having regard to the character of the area and the location of the site on the edge of the settlement. In conclusion, the degree of conflict with Policy H6, in itself, would not be considered a suitable reason to refuse the application.

### **Means of Access**

All matters are reserved for subsequent approval except for part access. The point of access shown on the submitted plans would be from the north side of Swepstone Road, to the west of David Taylor Close. Whilst the illustrative layout shows internal access roads and provision of pedestrian links to the existing public footpath running across the site, precise details would be dealt with through a subsequent reserved matters application, although their impact on potential accessibility and connectivity of the site still ought to be considered.

The County Highways Authority (CHA) has been consulted on the application and raised no objections subject to the imposition of relevant planning conditions. The suggested planning conditions include off-site highway works for speed reduction measures on Swepstone Road, provision of satisfactory visibility splays and control of surface water. A construction traffic management plan will also be a requirement to ensure that the development does not result in adverse impacts on the highway.

Although local concern has 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.

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

The impacts on neighbouring occupiers arising from the proposed development would need to be assessed at the reserved matters stage(s); notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 36 units could not be provided on the site in a manner which would not significantly adversely impact upon neighbours' amenities.

The application site is located close to the Dawsons Yard industrial estate and although some objections have been received about the potential impacts, it is noted that the application site is on the opposite side of Swepstone Road adjacent to existing residential properties. The District Council's Environmental Protection Team has reviewed the submitted information and has no objections and it is considered that a residential development could be carried out on the site without future residents suffering any significant noise disturbance. A condition requiring a construction method statement to be submitted would be imposed on any permission granted to ensure an acceptable impact on surrounding neighbours during construction phase.

Overall it is considered that the proposal would not result in significant adverse impacts on health or quality of life and the application would accord 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**

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.

The proposed scheme has been assessed by the District Council's Urban Designer, and rated in accordance with the Building for Life 12 criteria which scores on the basis of red/amber/green. The Council's Urban Designer reviewed the initial proposals for up to 36 dwellings and originally had some concerns over the proposal. These concerns included issues regarding the number of units proposed and form of development in terms of its relationship with existing dwellings and the adjacent open countryside.

The applicant's agent has now submitted an amended illustrative layout. It is accepted that the majority of these issues would need to be fully addressed by reserved matters. Suitable conditions and notes to applicant can be provided to indicate that the design concerns would need to be fully addressed as part of any future reserved matters application(s).

Therefore, whilst the scheme in outline cannot be assessed fully against Building for Life, it is considered that it has been demonstrated that, in principle, an appropriate scheme for up to 36 dwellings could be satisfactorily developed on the site.

The application site is not within a Conservation Area and is a significant distance from Heather Hall itself, which is a grade II listed building. It is noted that an area of historic parkland associated with Heather Hall (although no longer within its curtilage) projects north towards Swepstone Road. Although this area of parkland constitutes a non-designated heritage asset, the proposed development would be set significantly away and the Council's Conservation Officer has advised that the development would have a limited harmful effect on the open setting of the historic parkland and accordingly raises no objections.

Overall, it is considered that the development would accord with Paragraphs 131 and 132 of the NPPF, as well as Policy E4 of the adopted Local Plan and Policies D1 and He1 of the submitted Local Plan.

### **Agricultural Land**

The application site represents 'Very Good' Best and Most Versatile (BMV) land under Grade 2 of the Agricultural Land Classification (ALC). It is noted that the applicant has undertaken further assessment of the soil quality and identifies the site to be Grade 3a Land which represents 'Good' BMV land. Although Natural England advises that the ALC maps are not sufficiently accurate for assessment of individual fields and should only be used as general guidance, the loss of Grade 2 BMV land still needs to be considered.

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 1.91 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.

### **Archaeology**

The Leicestershire and Rutland Historic Environment Record (HER) notes that the site is located within an area of archaeological interest. The County Council Archaeologist initially responded to consultation to request systematic field-walking to identify prehistoric remains and a programme of field evaluation, comprising test-pitting and/or trial trench evaluation, subject to the results of the fieldwalking. The applicant has undertaken this further work during the course of the application with the findings submitted to the County Council Archaeologist for further consideration, and it has been confirmed that no significant archaeological deposits were encountered with no evidence for settlement or any focus of past activity within the site boundaries. As such the County Council Archaeologist has confirmed that no further archaeological work is required in relation to the proposed development and raises no objections. On this basis that development is deemed to be compliant with Paragraph 141 of the NPPF and Policy He1 of the submitted Local Plan.

### **Flood Risk and Drainage**

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

The submitted FRA and drainage strategy indicates that the site is not at risk of significant flooding from surface water runoff from adjacent land or from ground water. The flood risk assessment indicates that a restricted surface water discharge to the tributary of the River Sence flowing along the western boundary of the site represents the preferred method for surface water disposal. In the event that planning permission were granted, conditions would be imposed to ensure that detailed and satisfactory surface water and foul drainage schemes are provided on the site.

Overall, in terms of issues of Flood Risk and Drainage, it is considered that the scheme is

acceptable, and it would be possible to provide for appropriate drainage solutions to accommodate the proposed development. In coming to this conclusion it is noted that the Lead Local Flood Authority raises no objections to the proposed development.

### **Ecology**

The County Council Ecologist has commented on the application and has raised no objections subject to conditions to ensure that vegetation is removed outside the bird nesting season, landscaping to the western boundary involves locally native species only and that an updated badger survey should take place if the development does not commence by May 2017. Conditions in relation to provision of buffer zones along existing hedges and sustainable urban drainage systems have also been requested by the County Council Ecologist. Details of proposed landscaping would be agreed under a subsequent reserved matters application, however subject to suitable conditions, it is considered that the proposed development would have an acceptable impact on ecology and protected species and the application would accord with Paragraph 118 of the NPPF, Circular 06/05 and Policy En1 of the submitted Local Plan.

### **Landscaping**

Given the agricultural nature of the site, there are no mature trees within the site, however there are mature hedgerows around the site boundary. An illustrative layout drawing has been submitted and it is considered that the site could be developed to incorporate a landscape buffer adjacent to retained hedgerows to ensure they are suitably protected. The precise layout, along with a scheme of planting and landscaping, represent matters that would be reserved for subsequent approval and it could be ensured at that stage that appropriate planting and protection measures are provided. A note to applicant would be attached to any permission granted in relation to native planting and buffer zones to retained hedgerows and on the basis of the aforementioned considerations, the application would have an acceptable impact on landscaping and is considered to accord with Policy E7 of the adopted Local Plan and Policy En3 of the submitted Local Plan.

### **Developer Contributions**

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

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

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

The requested developer contributions are listed below.

#### *Affordable Housing*

The Council's SPD on affordable housing indicates that for developments of this scale in the Heather area, 30% of the units should be provided as affordable housing (i.e. 11 units, assuming the construction of the maximum 36 dwellings as proposed). In terms of tenure split, the District Council's Affordable Housing Enabler advises that a tenure split of 80% affordable rented and 20% shared ownership would be sought and the District Council's Strategic Housing Team is seeking the following:

Affordable Rented - 9  
 4 x 2 bed 4 person bungalows @ 67m2  
 3 x 2 bed 4 person houses @ 67m2

2 x 3 bed 5 person houses @ 82m2

Shared ownership - 2

2 x 3 bed 5 person house @ 82m2

However, it is accepted that the current requirements are likely to change over time, and it is considered appropriate for the Section 106 agreement to secure a minimum of 30% (and including the tenure split suggested above) with the actual contribution in terms of unit types to be agreed by the District Council.

#### *Transportation Contributions*

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

- Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
- 6 month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £350.00 per pass - NOTE it is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate).

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

#### *Education*

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

##### *Primary School Requirements*

The site falls within the catchment area of Heather Primary School. The School has a net capacity of 112 and 120 pupils are projected on the roll should this development proceed; a deficit of 8 pupil places. No pupil places at this school are currently funded by S106 agreements for other developments in this area.

There are two other Primary Schools within a 2 mile walking distance of the site, Ibstock Junior and Ibstock St Deny's C of E Primary which have a surplus of 90 places and 12 places respectively (after S106 funded places have been discounted). As there is an overall surplus in this sector after including all primary schools within a two mile walking distance of the development of 94 pupil places, no education contribution has been requested for this sector.

##### *High School Requirements*

The site falls within the catchment area of Ibstock Community College. The School has a net capacity of 705 and 839 pupils are projected on the roll should this development proceed; a deficit of 134 pupil places. There are 160 pupil places at this school being funded by S106 agreements from other developments in the area to be discounted which reduces the deficit at this school and creates a surplus of 26 pupil places. There are no other high schools within a three mile walking distance of the proposed development and on this basis, an education contribution has not been requested for this sector.

*Upper School Requirements*

The site falls within the catchment area of Ashby School, which has a net capacity of 1842 and 2049 pupils are projected on roll should this development proceed; a deficit of 207 pupil places. A total of 149 pupil places are being funded at this college from S106 agreements for other developments in this area which need to be discounted and reduces the total deficit to 58 (of which 54 are existing and 4 are generated by this proposed development). There are no other upper schools within a three mile walking distance of the site and an education contribution in this sector is therefore justified. As such, £66,078.58 is requested which would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Ashby School. The applicants are agreeable to making these contributions.

*Children's Play Equipment*

There is an existing children's play area on the opposite side of Swebstone Road which would be less than 400 metres from the proposed site. As such, no on-site play area is proposed under this application although a contribution towards the maintenance and enhancement of existing recreation and children's play areas within the village will be sought. The precise contribution required would be secured through a S106 agreement and the applicants are agreeable to making these contributions.

*Library Services*

The proposed development is within a 2 mile walking distance of Ibstock Library and the proposal would impact on local library services in respect of additional pressures on the availability of local library facilities. Therefore, a library contribution of £1,090.00 is requested. The applicants are agreeable to making these contributions.

*Civic Amenity*

The nearest Civic Amenity Site is located in Coalville. The proposal would impact on this site in respect of additional waste which would not exist but for the proposed development. Therefore, a civic amenity contribution of £2,354.00 is requested. The applicants are agreeable to making these contributions.

*National Forest Planting*

The application site extends to 1.91ha and the National Forest Company's (NFC) Planting Guidelines, as set out in the Guide for Developers and Planners, expects 20% of the site area to be for woodland planting and landscaping. This would equate to 0.38ha in this instance. The illustrative masterplan submitted with the application shows approximately 0.74ha of open space including 0.28ha of woodland planting within the site. The NFC have not raised any objections subject to this provision of open space and planting, in addition to adequate sustainable drainage features, being incorporated in a subsequent reserved matters application. In the event that planning permission is granted, this would need to be secured by condition or legal obligation.

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

**Footpaths**

In respect of the footpath diversion, this is considered under separate legislation and a footpath diversion application does not need to be applied for at this time, it is only required when full planning permission is in place i.e. both outline and reserved matters, but would need to be in

place prior to the commencement of the development (if/once a Reserved Matters application is approved). This is because until a reserved matters application is submitted, the precise route of any diversion is not known and the diversion will need to be in place prior to the commencement of development to ensure that a dwelling or other associated infrastructure is not constructed on the footpath.

Section 7 of Defra Circular 01/09 (Rights of Way Circular) confirms that the effect of a development on a public right of way is a material consideration in the determination of a planning application and that given that most outline planning applications do not contain sufficient information, and are not required to do so then matters are usually dealt with during consideration of the matters reserved under the planning permission for subsequent approval.

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

The application site is 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 Sweptstone Road, details of the access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins in respect of the relevant phase.

*Reason - this permission is in outline only.*

- 3 The proposed development shall be implemented in accordance with the Site Location Plan (Drg No.205\_009), received by the Local Authority on the 12th July 2016, and the access arrangements shown on Illustrative Masterplan (Drg No.205\_001), received by the Local Authority on the 12th July 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 36 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 Prior to first use of the development hereby permitted, the vehicular access to the site shall be provided in accordance with ADC Infrastructure drawing reference: ADC1353/001 Rev -. Notwithstanding the proposed design in drawing reference: ADC1353/001 Rev -, all design matters shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained.

*Reason- 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.*

- 8 Before first use of the development hereby permitted, visibility splays of 2.4 metres by 98 metres to the east and 2.4 metres by 96 metres to the west shall be provided at the junction of the site access with Swepstone Road. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

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

- 9 Prior to first occupation of the proposed dwellings details of the design for off-site highway works being the speed reduction measures on Swepstone Road, Heather have been submitted and approved in writing by the Local Planning Authority. The approved scheme should then be implemented prior to occupation of any dwellings.

*Reason- In the interests of highway safety.*

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



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

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

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

- 12 No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by, the local planning authority. The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features. The scheme shall be fully implemented 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. Full details for the drainage proposal should be supplied, including but not limited to, headwall details, pipe protection details (e.g. trash screens), long sections, construction details and full model scenario's for the 1 in 1, 1 in 30 and 1 in 100 year + climate change. Where discharging to a sewer, this should be modelled as surcharged for all events above the 1 in 30 year, to account for the design standards of the public sewers.

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

- 13 No development approved by this planning permission shall take place until such time as a detailed construction phasing plan has been submitted to, and approved in writing by, the Local Planning Authority.

Details within the phasing plan 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.

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

- 14 No development approved by this planning permission shall take place until such time as a capacity assessment of the existing culverts beneath Swepstone Road has been

submitted to, and approved in writing by, the Local Planning Authority.

The assessment shall demonstrate that the existing culverts can accommodate run-off from the entire upstream catchment it serves as well as any additional surface water run-off resulting from development of the site. Where the culverts cannot accommodate this volume of run-off, it must be demonstrated, through the surface water drainage scheme required by Condition 12, that any flooded volume, as a result of the proposed development; can be retained on-site, in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA.

*Reason- To prevent an increase in flood risk to the site and elsewhere due to any increase in surface water runoff being conveyed through the culverts.*

- 15 No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
- a) the parking of vehicles of site operatives and visitors;
  - b) loading and unloading of plant and materials;
  - c) storage of plant and materials used in constructing the development;
  - d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - e) wheel washing facilities;
  - f) measures to control the emission of dust and dirt during construction;
  - g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
  - h) measures for the protection of the natural environment including noise mitigation
  - i) hours of construction, including deliveries;
- has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement without the prior written permission of the Local Planning Authority.

*Reason- to minimise detrimental effects to the neighbouring amenities.*

- 16 The first reserved matters application in respect of protected species shall provide for a biodiversity management plan for all retained and created habitats, including SuDs, together with a timetable for its implementation. The development shall be carried out in accordance with the biodiversity management plan, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority.

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

- 17 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.*

- 18 If no development has commenced on site, with regards to the construction of the dwellings, prior to May 2017 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.*

### Notes to applicant

- 1 Outline planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 The reserved matters scheme should take into account guidance contained within Leicestershire County Council's Development and Public Rights of Way: Guidance Notes for Designers, Developers and Planners document, produced by Rights of Way Service, Travel Choice & Access Team, Department of Environment & Transport, County Hall, Glenfield, Leicester, LE3 8RJ. For copies of this document or information please ring 0116 305 0001 or email [footpaths@leics.gov.uk](mailto:footpaths@leics.gov.uk).
- 3 Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building. For information contact Wholesale Operations Severn Trent Water Ltd, Tel: 0116 234 3834 or email: [net.dev.east@severntrent.co.uk](mailto:net.dev.east@severntrent.co.uk).
- 4
  - All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager (tel 0116 305 0001).
  - 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. For further information, including contact details, you are advised to visit the County Council website as follows:-see Part 6 of the "6Cs Design Guide" at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg)
  - C.B.R. Tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Highways Manager.
  - If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of

all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.

- If it is the developer's intention to seek either; the adoption of roads which incorporate non-standard features/materials, or the adoption of additional areas beyond that which would normally be considered necessary for the safe functioning of the highway, then commuted sums for future maintenance will be payable. The Applicant should refer to the 6C's Design Guide available at [www.leics.gov.uk/index/6csdg.htm](http://www.leics.gov.uk/index/6csdg.htm) for more information.

- You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highways works are commenced.

- Any parking spaces must be a minimum 2.4 metres x 5.5 metres with an additional 0.5m if bounded by a wall, fence, hedge, line of trees or other similar obstruction on 1 side, 1m if bounded on both sides. Any garages must have minimum internal dimensions of at least 6 metres x 3 metres if they are to be counted as a parking space. All parking spaces once provided shall thereafter permanently remain available for car parking.

- In order to provide the visibility splays/access shown on the submitted plans, it may be necessary to remove/carry out works to trees and/or vegetation within the limits of the Highway but before any works to such are commenced you must first obtain the separate consent of the Highway Authority. If approval is granted you may be required to provide appropriate replacements.

- If you intend to provide temporary directional signing to your proposed development, you must ensure that prior approval is obtained from the County Council's Highway Manager for the size, design and location of any sign in the highway. It is likely that any sign erected in the Highway without prior approval will be removed. Before you draw up a scheme, the Highway Manager's staff (tel 0116 305 0001) will be happy to give informal advice concerning the number of signs and the locations where they are likely to be acceptable. This will reduce the amount of abortive sign design work.

- Any street furniture or lining that requires relocation or alteration shall be carried out entirely at the expense of the applicant, who shall first obtain the separate consent of the Highway Authority.

- If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.

5 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.

SuDS Design and Treatment - The LLFA note that the industry best practice at the time of developing the FRA may have been CIRIA C697 in relation to the SuDS design, but that new guidance has been produced in the form of CIRIA C753. The LLFA would recommend that the SuDS designs refer to the new guidance, including where the following aspects are detailed: treatment requirements and maintenance schedules for the surface water system.

Maintenance - Please note, it is the responsibility of the LPA 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.

- 6 A reserved matters application should provide for buffer zones of 5m of natural vegetation to be maintained alongside all retained hedgerows and all landscape planting in the informal/natural open space and adjacent to the western site boundaries should be of locally native species only.

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Removal of condition 2 and variation to condition 4 of planning permission 14/01090/VCI to allow the permanent use of the land as a traveller's site with six touring caravans and amend the size of the day room

Report Item No  
A2

Aylesbury Gardens Newton Road Swebstone Leicestershire

Application Reference  
16/00305/VCU

Applicant:  
Mr A Willshire

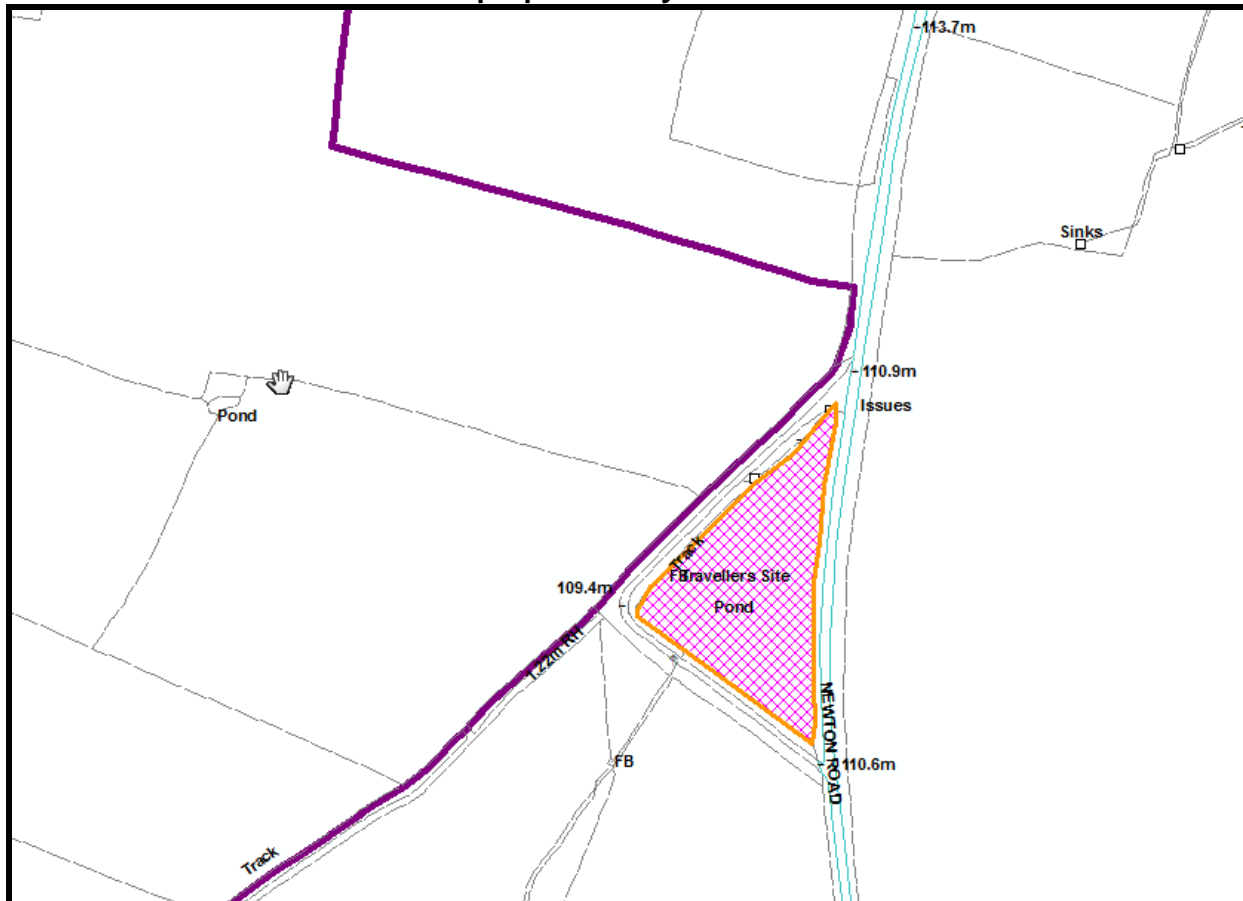
Date Registered  
8 March 2016

Case Officer:  
Jenny Davies

Target Decision Date  
3 May 2016

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

### Proposal

Temporary planning permission for four years (until 15 April 2017) was granted on appeal in April 2013 (12/00003/RET) for the continued use of land for a new travellers site with six touring caravans and erection of an amenity block on land at Newton Road, Swepstone. This application seeks to remove condition 2 on the planning permission to allow the traveller's site to remain on the land permanently and to vary condition 4 to increase the size of the day room.

### Consultations

Members will see from the main report below that 13 letters of objection from local residents have been received. Swepstone Parish Council also raises objections and Snarestone Parish Council has raised some concerns. No objections have been received from any other statutory consultees.

### Planning Policy

The application site is outside the Limits to Development as defined in the adopted and submission North West Leicestershire Local Plans. The national Planning Policy for Traveller Sites (August 2015) sets out national policy on such proposals and the National Planning Policy Framework is also relevant.

### Conclusion

Whilst the site's unsustainable location weighs against a permanent permission, the limited harm to the character and appearance of the countryside and the significant weight attached to the still largely unmet need, the site's contribution to this unmet need, the family's personal circumstances and interference with their human rights due to the lack of pitch provision in the District and the Council's lack of progress with the Gypsy and Traveller Site Allocations Development Plan Document (DPD) weighs in favour of granting a permanent permission. These matters are considered to form evidence and a material change in circumstances that a permanent permission is now acceptable in this location.

A contribution under the River Mease DSC2 is not required in this instance and there have been no significant material changes in relation to other material planning considerations, including highway safety, residential amenities, protected species, location in the countryside, undue pressure on local infrastructure and domination of the rural community, provision of a healthy and safe environment, flood risk and impact on the County Road and nearby footpaths.

### RECOMMENDATION - PERMIT subject to conditions

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



## MAIN REPORT

### 1. Proposals and Background

Temporary planning permission for four years (until 15 April 2017) was granted on appeal in April 2013 (12/00003/RET) for the continued use of land for a new travellers site with six touring caravans and erection of an amenity block on land at Newton Road, Swepstone. This application was refused at Planning Committee in July 2012 on sustainability and visual amenity grounds. A subsequent application to remove condition 2 on the appeal decision to allow the permanent use of the land as a travellers' site (13/00664/VCI) was refused in December 2013 and dismissed on appeal in September 2014. A further subsequent application to vary condition 4 of the appeal decision to amend the site layout, including the parking area and day room in new positions, and the laying of extra hardcore (14/01090/VCI) was approved in March 2015. This 2015 permission also expires on 15 April 2017.

This application seeks to remove condition 2 on planning permission 14/01090/VCI to allow the traveller's site to remain on the land permanently and to vary condition 4 to enlarge the size of the day room. Condition 2 restricts the use of the land as a traveller's site to four years and requires the caravans, buildings and other associated development to be removed from the site and the site restored to its former use in accordance with a scheme that has been agreed under another of the conditions on the permission. Condition 4 lists the approved plans for the site.

The number of caravans and proposed site layout and design remains unchanged from the 2015 planning permission and from the information agreed under the discharge of conditions.

The caravans are positioned in the south western corner of the site and hardsurfacing has been laid in the south west corner, alongside the eastern and south western boundaries, and in the centre of the site. The day room/amenity block, which is located close to the eastern boundary, is under construction. It is understood that water and electricity supplies to the site and a connection to the mains sewer that runs along the County Road have been provided.

The site lies within the catchment area for the River Mease Special Area of Conservation (SAC) and a tributary of the River Mease adjoins the site and flows through a pond located adjacent to the site.

### 2. Publicity

63 no neighbours have been notified (date of last notification 14 March 2016)

Site Notice displayed 16 March 2016

Press Notice published 23 March 2016

### 3. Consultations

Swepstone Parish Council consulted 14 March 2016

Snarestone Parish Council - Mike Allen - Clerk

County Highway Authority

Environment Agency

Severn Trent Water Limited

Head of Environmental Protection

Natural England

NWLDC Tree Officer

LCC ecology

National Forest Company  
 Development Plans  
 LCC/Footpaths  
 NWLDC Footpaths Officer  
 Planning Enforcement  
 Matt Bagley

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

**Sweptstone Parish Council** advised that it opposed the application as it went to appeal and the Parish Council did not feel that sufficient time had lapsed following the Inspector's decision to submit this application.

Subsequently the Parish Council provided further detailed comments advising that it strongly objects to the application as follows:

*'It is sufficient that we say that the grounds for the objection are the same grounds that were before the Council on the original application, on the appeal from the original application, on the second application, and on the appeal from the second application.*

*It would be fundamentally wrong, when the matter has been considered by the Council twice to be unsuitable as a permanent site and this decision has been backed up by the Inspector on two occasions. Since those decisions there has been no change in circumstances except for the fact that the Council are under an obligation to give consideration to the River Mease and the effect of the development on the River Mease and that the travellers have been very remiss in undertaking to abide by planning conditions.*

*An application was made several years ago for one house to be built on the site which was refused. The approval given to Mr Wilshere was on the basis that it was a temporary approval. If it was not suitable for one house the location has not changed then it is certainly not suitable for 6 caravans on a permanent basis.*

*Perhaps the major change which if ignored could perhaps lead to judicial review is the River Mease situation of which the Council are fully aware. Clearly it is the Parish Council's view that the application should in fact be dismissed. If however the District Council were minded to ignore its two previous decisions and the two planning inspector's decisions then the District Council are under an obligation under both UK and European legislation to consider the River Mease situation and how to remedy it which inevitably will lead at the very least to a requirement for a substantial Section 106 Agreement prior to any planning permission being granted. We emphasise however that the application should be refused but the full environmental impact of the River Mease and in particular with the accumulative effect of applications affecting the River Mease needs to be considered.*

*It is disputed entirely that the occupants are in fact travellers. They are people who are not travelling, they have a desire for a static life and are neither travellers nor gypsies and they do not therefore come within the travellers' and gypsies' policies.*

*If they did, then as the legislation says, there should be equality of treatment and that would mean that they must pay their fair share of any environmental impact alleviation including the alleviation of matters within the River Mease area.*

*For the avoidance of doubt our primary concern is that the application is rejected. We would also in addition to the previous grounds like the matter to be considered as to whether these people are in fact genuine travellers and the effect on the River Mease.'*

**Snarestone Parish Council** queried a couple of points regarding this application:-

*'(1) does this transfer from temporary to permanent site mean that it will be an official Council site?*

*(2) is the project for commercial gain?*

*(3) who will actually own the land?*

*(4) why is there an allocation for 6 caravans when the family numbers only warrant 4?*

*(5) who will be responsible for monitoring the site?'*

Following an officer response to these queries, the Parish Council advises that it doesn't have anything to add and simply wanted clarification on the various points listed, and that question 2 has been answered by the response to question 1.

**NWLDC - Environmental Protection team** has no comments to make and advises that a caravan site licence will be required.

**The National Forest Company** has no comments to make.

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

**The County Ecologist** has no objections.

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

**The Environment Agency** has no objection.

**The County Highway Authority** recommends refusal on the following grounds:

*'The Applicant has failed to demonstrate that their proposal will be in a location where services are readily and safely accessible by walking, cycling and public transport. Leicestershire County Council policies contained in the 'Local Transport Plan 3' and policy IN6 of the '6Cs Design Guide' seek to deliver new development in areas where travel distances can be minimised, and genuine, safe and high quality choices are available (or can be provided) for people to walk, cycle and use public transport facilities and services nearby. The 'LTP3' and the '6Cs Design Guide' reflect Government guidance contained in the 'National Planning Policy Framework.'*

**The County Footpaths Officer** has no objections.

**NWLDC - Footpaths Officer** has no comments to make.

**The County Gypsy/Traveller Liaison Officer** provides information in respect of the occupiers of the site and makes general observations in relation to government and local guidance for gypsies and travellers.

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

### Third Party Representations

13 letters of representation have been received by the date of this report which object on the following grounds:

#### *Appeal Decisions/Temporary Permission/Procedure*

- no new grounds to change the appeal decision;
- precedent established at appeal;
- the appeal would not have been allowed without the condition;
- application to remove the condition should be submitted at the end of the four year period;
- this application criticises an Inspector's decision and the condition should have been appealed at the time;
- application defeats principle of finality after an appeal;
- previous applications should have been refused on other grounds including visual and ecological impacts, insufficient infrastructure and impact on River Mease SAC;
- application should be judged on same criteria as previous applications;
- previous application for a house was refused and so not suitable for six caravans on a permanent basis;
- site owner is applying purely for financial gain as site was purchased with intent to make it permanent, and therefore none of the residents' personal conditions should apply;
- applicant has ignored conditions on the appeal decision and no guarantee they would be complied with in the future;
- an enforcement notice could have been issued;
- investigation required into business being run from the site;

#### *Alternative Sites*

- the Council should fulfil its obligation to identify and service a 'suitable' site for the existing residents as a matter of urgency;
- if there is a deficiency of sites then the Council should not make a decision until a plan is agreed for traveller sites in the area;
- if the applicant is relying on a shortage of sites then he should consider other sites that would have a less detrimental impact;
- residents are making no attempt to find alternative arrangements and will continue to make applications to extend planning permissions;
- there are other sites in the area that are more suitable;

#### *Unsuitable Site*

- site is remote and not close to amenities;
- no longer a shop within walking distance and bus service likely to be withdrawn;
- enlarged day room has no prospect of being built as applicant has argued that works not viable unless site is permanent;
- lack of proper amenities as site is unsuitable and caravans are already equipped with facilities needed for travelling;

#### *Residential Amenities*

- noise from the site at night in a quiet area;
- light pollution and constant noise, including from generators;
- does not feel safe to use local roads without feeling scared and intimidated;

#### *Visual Amenities*

- site is in open countryside and between the two villages in a sensitive area which provides their rural context;
- site has deteriorated significantly since appeals were held and now has an extremely untidy

appearance;

- large heaps of soil brought onto the site;
- clear views of the caravans and paraphernalia, in particular as vegetation along the roadside appears to have been removed or broken;
- Newton Road hedge provides minimal screen of the site in particular in winter;
- no additional hedgerow planting has taken place alongside amenity block;
- increased size of amenity block;
- public rights of way surrounding the site were used regularly but have become impassable;
- walkers/horse riders and the disabled must feel they can no longer access the National Forest planting;

*Other Matters*

- concerns regarding information provided in respect of rent at previous appeal hearing;
- application is for a permanent site for any travellers/gypsies and not solely for the current residents;
- approval could lead to further planning creep and set a precedent;
- serious accident could occur as vehicles pull out of the site entrance;
- travellers are living adjacent to a road with high speeds of traffic;
- the Council have an obligation to give consideration to the effect of the development on the River Mease;
- government policy relating to traveller sites in Green Belt states that permission should only be granted in special circumstances;
- police incidents;
- the land is good enough to grow food on which would show a willingness to meet the Council halfway;
- bins are left out on the side of the road in a random state and are collected weekly, with no evidence that residents recycle;
- determining the application and likely subsequent appeal is further waste of taxpayer's money.

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

**5. Relevant Planning Policy**

**National Planning Policy Framework (NPPF) - March 2012**

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

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

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

Paragraphs 69 and 75 (Promoting healthy communities)

Paragraphs 96, 99 and 100 (Meeting the challenge of climate change, flooding and coastal change)

Paragraphs 109, 111, 118, 119, 123 and 125 (Conserving and enhancing the natural environment)

Paragraphs 203, 204 and 206 (Planning conditions and obligations)

**Adopted North West Leicestershire Local Plan:**

The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

Policy S1 - Overall Strategy  
 Policy S3 - Countryside  
 Policy E2 - Landscaped Amenity Open Space  
 Policy E3 - Residential Amenities  
 Policy E4 - Design  
 Policy E7 - Landscaping  
 Policy F1 - National Forest - General Policy  
 Policy F2 - Tree Planting  
 Policy F3 - Landscaping & Planting  
 Policy T3 - Highway Standards  
 Policy T8 - Parking

**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 S2 - Settlement Hierarchy  
 Policy S3 - Countryside  
 Policy D1 - Design of New Development  
 Policy D2 - Amenity  
 Policy H7 - Provision for Gypsies and Travellers and Travelling Showpeople  
 Policy IF4 - Transport Infrastructure and New Development  
 Policy IF7 - Parking Provision and New Development  
 Policy EN1 - Nature Conservation  
 Policy EN2 - River Mease Special Area of Conservation  
 Policy EN3 - The National Forest  
 Policy CC2 - Water - Flood Risk  
 Policy CC3 - Water - Sustainable Drainage Systems

**Other Guidance**

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations')  
 Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)  
 The River Mease Water Quality Management Plan (August 2011)  
 The River Mease Developer Contributions Scheme (DCS)  
 The Community Infrastructure Levy Regulations 2010  
 National Planning Practice Guidance 2014  
 Planning Policy for Traveller Sites (PPTS) (August 2015)  
 Leicestershire, Leicester & Rutland Gypsies' & Travellers' Accommodation Needs Assessment Refresh Report (May 2013) (GTAA)  
 6Cs Design Guide - Leicestershire County Council  
 Housing Act 1985  
 European Convention of Human Rights/Human Rights Act 1998

## 6. Assessment

The main issues for consideration in the determination of this application relate to the principle of a permanent use of the land as a traveller's site, its suitability in terms of sustainability, its visual impact, impact on the River Mease Special Area of Conservation and whether there are material considerations that would justify removing condition 2 on the appeal decision and granting a permanent planning permission.

### PRINCIPLE OF DEVELOPMENT

#### Gypsy/Traveller Status

The site is and will be occupied by Mr & Mrs Smith and their five adult children, three spouses/partners to their children, and three grandchildren. The Planning Policy for Traveller Sites (PPTS) was updated in August 2015 to include a change in the definition of gypsies and travellers so that only those who lead a nomadic lifestyle, including those who have ceased to travel temporarily due to their own or their family's or dependents' educational or health needs or old age, fall within this definition.

The agent advises that Mr Lee Smith has health issues including type 1 diabetes, one of their sons has a severe disability and another son has learning disabilities, and as such are dependent on the extended family. Therefore these family members have ceased to travel temporarily due to their health needs and Mrs Smith's need to care for her husband and sons. The agent also advises that two of the adult children travel for work with their spouse/partner, and the other adult child travels for work whilst his partner remains at home to care for their three children, two of whom are at primary school in Newton Burgoland. Therefore five of the adult family members travel for work and do so for differing periods of time, and intend to continue to travel. The remaining adult and her three children have ceased to travel temporarily due to the children's educational needs. The extended family has travelled in the past, as they previously occupied roadside encampments within Leicestershire and Oxfordshire. Therefore on the basis of the information provided, it is considered that all those occupying the site fall within the revised definition of gypsies and travellers.

#### Background

##### *Original Planning Application and First Appeal Decision*

In the original appeal decision for the site, the Inspector concluded that '*...the proposal would considerably harm the character and appearance of the countryside. There would also be a negative impact in terms of the failure to achieve a sustainable form of development. In combination the total amount of harm would be significant and there would be a conflict with the development plan.*'

The Inspector also concluded that '*...on the other side of the balance is the level of general unmet need which weighs in support of the appeal proposal.*' and referred to the Authority's inability to suggest alternative sites for the Smith family. The Inspector also gave the family's personal circumstances some weight in relation to the health of one of the family but gave little weight to the need to access schooling due to the ages of the younger children.

The Inspector therefore gave significant weight, in the short term, to the scale of need and the likely consequences of the lack of pitches for the family's immediate future which would interfere with their human rights. The Inspector also noted that '*...it is reasonable to expect that over time, the planning circumstances will change with the adoption of currently emerging Local Plan documents. Taking into account the expected timetable for producing the CS and the Development Plan Document specifically relating to gypsy and traveller sites, this will not be for some considerable time.*' However she took the view that the significant harm to visual amenity

and sustainability outweighed the factors which favoured the proposal and did not justify a permanent permission. She considered that a temporary permission was justified and that four years was a realistic time frame, noting that '*...the PPTS reiterates that there is no presumption that a temporary permission should become permanent and all parties should take this into account.*' Therefore a temporary permission for four years was granted which expires in April 2017.

*First Application for Permanent Use of the Site and Second Appeal Decision*

Following determination of the appeal in April 2013, an application to remove condition 2 of the appeal decision to allow the permanent use of the land as a traveller's site was submitted in August 2013 (13/00664/VCI). This application was refused by the Council under delegated powers in December 2013 for the following reason:

*There have not been any significant material changes in circumstances at the site or in relation to its occupiers. The proposal would therefore be significantly harmful as the reliance on the car and the distance to services means it would fail to achieve a sustainable form of development and also would result in considerable harm to the character and appearance of the area contrary to Policies E4 and S3 of the adopted North West Leicestershire Local Plan and significantly harm the intrinsic character and beauty of the countryside, undermining a core planning principle of NPPF. The unmet need for further pitches would not outweigh this harm and insufficient time has lapsed since determination of the appeal to justify a permanent permission as enough time has not passed for the Authority to progress and adopt a Gypsy and Traveller Site Allocation DPD. There are no other material considerations that would justify granting a permanent permission. Therefore in this case it is considered that a permanent permission is not justified.*

A subsequent appeal was dismissed in September 2014 with the Inspector stating that '*...as there is nearly three years to go before the temporary permission time limit is reached it is premature now to argue that nothing is likely to change in the meantime.*'

**Planning Policy/Provision of Sites**

There are no saved policies in the adopted North West Leicestershire Local Plan that relate specifically to gypsy/traveller sites. Policy H7 of the submitted North West Leicestershire Local Plan sets out that provision will be made to meet the accommodation needs of gypsies/travellers for a minimum of:

- O 2012-2017: 27 pitches plus 20 transit pitches
- O 2017-2022: 11 pitches
- O 2022-2027: 14 pitches
- O 2027-2031: 16 pitches

Policy H7 reflects the need for pitches set out in the update to the Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment (GTAA) published in May 2013 as the GTAA Refresh Report. As the PPTS requires the use of a robust evidence base to establish accommodation needs, Policy H7 and the GTAA Refresh are considered appropriate for the basis of an assessment of gypsy/traveller needs within the District at this time. Whilst an update of the GTAA is currently being undertaken, primarily to take account of the changed definition of who can be considered to be a traveller as set out in the PPTS, the results of this update have yet to be published.

The provision set out within submitted Policy H7 and the GTAA Refresh takes into account all existing gypsy/traveller sites in the District apart from the temporary six pitches at the



application site. Since publication of the GTAA Refresh five additional pitches at an existing gypsy/traveller site at Shortheath Road, Moira have a resolution to permit and three pitches have been granted at 95 Ravenstone Road, Coalville. An application to retain seven pitches at Netherfields Lane, Hemington has also been refused on flood risk grounds.

Whilst the second appeal Inspector noted that '*...other Gypsy planning permissions could also have been granted by then [April 2017] which would alter the supply situation, taking into account the eight pitches with a resolution or approval referred to above, there is still a requirement for 19 pitches in the District to 2017 and for a further 41 pitches to 2031. As such there is clearly still an insufficient level of local provision and so there is still a need for this site. The Council is also unable to demonstrate a five year supply of gypsy/traveller sites as required by the PPTS and under submitted Policy H7. If the current application was approved, the six pitches would go towards meeting the current shortfall.*

There is one public site within the District at Hemington (owned and managed by Leicestershire County Council) but this is currently not taking any new families due to contamination issues. The County Council's Gypsy Traveller and Liaison Officer advises that the other four public sites in the county (Meynells Gorse, Greengate Lane, Redhill and Aston Firs) are all full with waiting lists. Potential space on private sites within this District and elsewhere cannot be taken into account as they are outside local authority control and there may be a number of reasons as to why Mr & Mrs Smith and their family cannot reside on such sites.

There is therefore still a significant unmet need for gypsy/traveller pitches in the District which is now considered to have significant weight in justifying a permanent permission. Also considered to have significant weight is that if permitted the site would immediately contribute to the unmet need for sites compared to the lengthier process involved in identifying sites via the Local Plan/DPD process.

Since the second appeal decision the timescale for progression of the new Local Plan has slipped. At that time examination was scheduled for spring 2016 and adoption for December 2016. However the examination is now scheduled for January 2017 with adoption in June 2017. However the second appeal Inspector concluded that *I agree that the local plan is unlikely to be in place by April 2017...* and therefore it is considered that this change in timescale to the new Local Plan can be afforded limited weight.

There are no known alternative sites that the Council can identify at present. Submitted Policy H7 states that the required provision, along with a five year supply of deliverable sites, will be identified through the production of a Gypsy and Traveller Site Allocations Development Plan Document (DPD), which has been the Council's intention since the first application on the site was determined. At the time of the second appeal the Authority considered a short and unrealistic time frame had passed to allow for further progression and adoption of the DPD. The first appeal Inspector stated that publication of a DPD '*...may not be for some considerable time...*' but that four years was a realistic timeframe. The second appeal Inspector considered that '*...this document [the DPD] ... could well be at an advanced stage by 2017*', that '*...the previous Inspector clearly allowed the temporary planning permission in order to allow time for the Council to progress their site allocations document...*' and that '*...there could well have been significant progress on the site allocations document [the DPD] by then.*' . He went onto conclude that '*...significant work should have taken place on identifying Gypsy sites by then by progressing the allocation document in tandem. It is therefore far too soon to argue that it is clear the policy situation will not have changed by the time the temporary time limit is reached.*'

Since the second appeal decision the Gypsy and Traveller Site Allocation Consultation

document was published in February 2016, inviting submission of information regarding potential gypsy/traveller and travelling showpeople sites, as well as how the Council might best plan to meet their needs. However, the consultation only generated a small number of comments and no site suggestions were received. As a consequence, to identify as wide a range as possible of sites and broad locations for development, officers have been considering other types of sites and sources of data. The Council's Local Development Scheme (May 2016) identifies that a draft DPD would be presented to Council in November 2016, with further public consultation and then adoption in summer 2018. However the draft DPD will now not be presented to Council until summer 2017 at the earliest which will have a consequential impact on the adoption date.

Whilst there has been progress with the DPD since the second appeal decision, on balance it is considered that it would be difficult to demonstrate that sufficient progress has been made in identifying gypsy sites since the first appeal decision over three and a half years ago and since the second appeal decision over two years ago. Therefore the second appeal Inspector's expectations in respect of the DPD have not and will not be met. As such it is considered that it can no longer be justified to state that the Council has had insufficient time to progress the DPD. Therefore it is considered that the Council's lack of sufficient progress with the DPD and identifying suitable sites should now be given significant weight in the balance for allowing a permanent permission.

### **Personal Circumstances**

The County Council's Traveller Sites and Liaison Officer advises that stability is required in order to access health and education provision, that the family are fully aware of the difficulties experienced from lack of education which results in poor literacy skills, that permanent site provision will significantly improve access to services such as health and education and that the family are integrating well into the community by attending church and school. These comments are similar to those made in respect of the original application, which were seen by the Inspector.

As noted above the first appeal decision states that the lack of an appropriate settled base for the family would represent an interference with their home and family life. The Inspector also gave the family's personal circumstances some weight in relation to the health of one family member. At that time the Inspector gave little weight to the need to access conventional schooling given the ages of the three grandchildren (the eldest being 27 months). However two of the grandchildren are now aged five and six and attend the primary school in Newton Burgoland. Therefore there has been a material change in relating to personal circumstances that, along with the health issues of one of the family members, are now considered to justify granting a permanent permission.

### **SUSTAINABILITY OF THE SITE**

The original application was in part refused on the grounds of the site being in an unsustainable location. At paragraphs 30 and 31 the first appeal Inspector found that *'Given the limited access to public transport, the lack of a roadside footpath and its unlit nature, along with the distances to the nearest shops and health facilities, I am led to the conclusion that the car would be the predominant means of transport for the existing and future residents of the appeal site. The reliance on the car, and the distance to services do count against the proposal in terms of achieving a sustainable form of development. Although these are off-set by the positive aspects of the proposal, the overall effect is a negative one.'*

The County Highway Authority objects on the grounds that the applicant has failed to demonstrate that the proposal will be in a location where services are readily and safely

accessible by walking, cycling and public transport.

Since determination of the appeals, the shop in Newton Burgoland has closed and the bus service operates a reduced service, approximately every two hours. A limited Post Office service is available in Newton Burgoland two afternoons a week. As such it is considered that the occupiers of the site would be dependent on the car for most journeys and therefore the site is not sustainable in terms of access to services/facilities.

### **DESIGN AND VISUAL IMPACT**

The original application was refused in part on impact on the visual amenities of the locality. The first appeal Inspector found that *'The appeal proposal would represent a visual intrusion of prominently located caravans in a rural, countryside setting which would considerably harm the character and appearance of the area contrary to LP Policies E4 and S3. Further, the intrinsic character and beauty of the countryside would be significantly harmed, undermining a core planning principle of the Framework.'* The second appeal decision did not further consider the visual impact of the proposal.

Since determination of the second appeal decision, permission was granted in March 2015 (14/01090/VCI) to amend the site layout so that three caravans are sited adjacent to the site's south western boundary and three caravans and the day room/amenity block are sited adjacent to the eastern boundary, with further hardsurfacing laid on the site. The original approved layout showed two caravans adjacent to the south western boundary and four adjacent to the eastern boundary, with the day room/amenity block located in the northern corner of the site.

The amended layout was granted on the basis that it would be in place for a temporary period until April 2017. However since that time the hedgerows and trees along boundaries have matured and provide a greater level of screening than was in place both at the time of the 2013 application and in March 2015. It is acknowledged that a stretch of hedgerow appears to have been removed on the Newton Road boundary but the resulting gap is small and not completely open. Furthermore the level of development alongside the Newton Road boundary has been reduced in comparison to the original layout, with the re-siting of one of the caravans adjacent to the south western boundary and although the day room has been repositioned, this results in the development being located closer together. The extent of the increase in scale of the day room is not considered to make the building significantly prominent. Whilst the development is visible through the hedgerow alongside Newton Road in the winter months and at night time, these views are considered to be limited by the screening available and it is not considered to be overly prominent in views from the road.

At the time of the first appeal decision the hedgerow alongside the boundaries with the County Road was considered to be patchy with ready views into the site. Three caravans would now be sited alongside the south western boundary compared to two on the original layout. However the route along the County Road is now heavily overgrown along the western stretch of the north western boundary and the whole of the south western boundary, which provides further screening from the County Road. Whilst there are views into the site through the site access, the central part of the site has since been laid with top soil and seeded. The majority of trees and hedges that bound the site are still in place and their retention is secured by the approved landscaping scheme.

It is considered that the screening available and with the approved landscaping scheme would strike a balance between screening the development and not completely isolating the site's occupants, as sought by the PPTS.

The development would still be an urbanising element in the countryside and be visible to some

extent through the site boundaries, and would therefore cause some harm to the character and appearance of this countryside location. However it is considered that the development would no longer represent a visual intrusion into a rural countryside setting that would considerably harm the character and appearance of the area and cause significant harm to the intrinsic character and beauty of the countryside.

### **IMPACT ON THE RIVER MEASE SAC/SSSI**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005 and a tributary of the river runs along the site's north western boundary and through the pond on the site. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required.

The River Mease Developer Contribution Scheme 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.

Sweptstone Parish Council states that the Council is under an obligation to give consideration to the effect of the development on the SAC and how to remedy it, which inevitably will lead at the very least to a requirement for a substantial Section 106 Agreement. The Parish Council also advises that if this issue is ignored it could perhaps lead to judicial review.

The site is served by a mains water supply and has a connection to the mains sewer that runs along the adjacent County Road, which the first appeal Inspector noted overcame the Council's concerns in respect of impact on foul drainage discharge on the original application. DCS1 was adopted in the period between refusal of the original application and the issuing of the first appeal decision. However the Council advised the first appeal Inspector that as the application had been submitted before adoption of DCS1 that it would not apply in that case. As such the first appeal Inspector raised no concerns in respect of impact on the SAC and stated that *...there is no need for a S106 agreement in this regard.*

The second appeal decision made the following comments in respect of the SAC: *The impact on the River Mease Special Area of Conservation was also discussed. The Parish Council argued that because the temporary planning permission was to be made permanent the impact was inevitably going to be greater and so a developer contribution might be required and no evidence had been provided as to how this was to be dealt with. However, the previous Inspector dealt with the River Mease issue and concluded there would be no impact on the river without any mention of the temporary nature of the permission she was going to grant. The Council also withdrew any objection on the River Mease issue at the point when it was still assuming the application was for a permanent permission. Consequently, I do not think this issue needs to be revisited again.*

Given the above comments by the Inspectors and that neither Inspector applied the DCS to the development, that the site is in occupation with a mains water supply and discharges foul drainage to the mains sewer, and that the connection to the mains sewer of six caravans has been taken into account in terms of the capacity available at Severn Trent Water's Snarestone Treatment Works, in this case it is considered that there is no requirement for a contribution under DCS2.

A scheme which shows that surface water discharging to the ground and a method statement to prevent impact on the river during construction have been agreed as part of the discharge of

conditions on the appeal decision and these matters could be further secured by condition.

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

### **OTHER MATTERS**

In terms of highway safety, there would be no change in the scale and nature of the proposal. Furthermore the first appeal Inspector found that *'I do not consider that the caravan site would generate significant numbers of traffic movements so as to create a danger of vehicles emerging at this junction.'* and imposed conditions restricting the access to the site. The Highway Authority has not raised any objections in relation to highway safety matters.

In terms of residential amenities, the new dwellings constructed on the site of the Spade Tree Inn, Newton Burgloland are over 330 metres from the site. No objections have been made by the Council's Environmental Protection team. The external lighting that has been approved under the discharge of conditions is small in scale and faces into the site. A condition was imposed on the appeal decision relating to the provision of a mains electricity supply and cessation of the generator. As noted on the first appeal decision, barking dogs is not a planning matter. A separate caravan site licence would still be required.

In relation to protected species, a pond occupies the western corner of the site. A brook/ditch adjoins the site on its north western side and another stream is located on the other side of the north western stretch of the County Road. The site's boundaries are formed by mature hedgerows and trees and there are more trees, hedgerows, vegetation and areas of woodland close to the site. Two derelict buildings lie close to the site's north western boundary. Before occupation the site was covered with overgrown grass and vegetation and did not appear to have been in any use for some time. All of these are features that could be used by European Protected Species (EPS) and as such species may be affected by a planning application, 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.

An initial ecological report and Habitat Suitability Assessment were submitted with the original application, although concerns were raised by local residents in relation to impact on great crested newts (GCN). A full GCN survey of the pond was undertaken and both the County Ecologist and Natural England were satisfied that GCN would not be adversely affected.

The first appeal Inspector also found that *'...even accepting that there may be GCN in the wider countryside, I am satisfied that from the survey evidence and the expert assessments of both the main parties and English Nature (Natural England), the use of the appeal site would be unlikely to cause significant disturbance to protected species.'* There is no reference within the second appeal decision to impact on GCN or on other protected species.

Since the first appeal decision, vegetation has now largely been removed from the site, the soil has been scraped back and material laid on the site to form the base for the caravan bases, the area of hardsurfacing and the access drive, which is likely to make the site even less suitable a habitat for GCN. The County Ecologist has no objections and advises that there is no need for any ecology surveys.

The derelict buildings and boundary hedges/trees are still in place on the site (and will be retained under the agreed landscaping scheme) and the external lighting scheme has been

agreed by the County Ecologist so bats and barn owls are unlikely to be adversely affected. The works to the site are also likely to make the site less suitable for reptiles and there is still suitable habitat for them in the surrounding area. In terms of otters, water voles, spined loach and white clawed crayfish, there are no works to or direct impacts on the adjacent watercourse/ditches and pond and a method statement has been agreed to prevent impact on the watercourse during construction. There is no evidence of badger setts within 30 metres of the site. On this basis it is considered that the proposal will not adversely affect any protected species.

The nearest public right of way (Q49) does not run through or adjoin the site and therefore the conditions requested by the County Footpaths Officer cannot be imposed. The County Road adjoins the site on two sides and the County Footpaths Officer advises that access to Q49 should be maintained from both ends. The majority of the County Road appears to be very overgrown and so it may be difficult to access the network of public rights of way and open access woodland to the north east and west. However as the County Road is public highway any obstruction of the County Road would be dealt with under separate legislation.

There has not been any significant material changes in circumstances in relation to the following matters:

- the principle of the site being located in the countryside, which in itself was not raised as a significant issue by either appeal Inspector;
- as the scale of the proposal remains unchanged, the proposal would not place undue pressure on local infrastructure and services nor would it become of a scale that would dominate the wider rural community;
- a healthy and safe environment, as mains water and electricity supplies and a mains sewer connection are in place and a proper toilet has been provided;
- no further evidence has been provided in relation to flooding of the site and the surrounding area, the Environment Agency has not objected and flood risk was not raised as a significant concern in either appeal decision. The northern part of the site (which would not be occupied by caravans) is within a low risk area for surface water flooding;

It appears that some of the conditions on the current temporary planning permission have not been complied with. However this, and other concerns relating to the operation of a business and untidy land, are matters to be dealt with under the Council's enforcement powers.

In response to the concerns raised in the letters of objection that are not covered above, the proposal is not considered to set a precedent for additional caravans on the site or for the development of other sites in the locality, as 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. The right to apply to vary and/or remove conditions on planning permissions and the right to appeal are set out under the Town and Country Planning Act 1990. Although concerns have been raised by local residents about feeling unsafe in the vicinity of the site, it is considered that this does not have significant material land use consequences and as such a reason for refusal on this ground could not be justified. The Council can only consider the proposal that forms part of the planning application and has no powers to insist that the site is put to an alternative use. There is no Green Belt within the District. Whilst rent and viability issues relating to removal of the temporary permission were considered both by the Council and the Inspector under the second appeal decision, these matters have not been referenced in the supporting documentation accompanying the application. The position of bins, frequency of bin collection and level of recycling is a matter for the Council's Waste Services team.

## CONCLUSION

It is considered that the site would not be sustainable in terms of access to services/facilities. However it is considered that the development would no longer represent a visual intrusion into a rural countryside setting that would considerably harm the character and appearance of the area and cause significant harm to the intrinsic character and beauty of the countryside.

The level of general unmet need still weighs in support of the proposal, and is considered to have significant weight as this need has not been significantly reduced. Significant weight is also given to the site being able to immediately contribute to the unmet need for sites in the District. Given the family's personal circumstances, significant weight should also be attached to the likely consequence for their immediate future of living by the roadside, due to the lack of pitch provision in the District, as this would be an interference with their human rights.

Limited weight is attached to the slippage in the Local Plan timetable. However the Council's lack of sufficient progress with the DPD and identifying suitable sites should now be given significant weight to justify a permanent permission.

The first appeal Inspector considered that the significant harm identified outweighs the factors which favour the proposal and do not justify a permanent permission. The second appeal Inspector concluded that *'The appellant assumes that if a temporary permission is not acceptable then a permanent one is the only solution. However, the Inspector clearly found a permanent permission to be unacceptable. The alternative to a temporary permission would therefore have been a refusal of permission. Such a course of action is not open to me on a conditions appeal made under s73 of the Act. Nevertheless, had I agreed with the appellant I still would not have allowed the appeal as there was no evidence that a permanent planning permission was acceptable at this location. It may be that by 2017 the external situation and the appellant's circumstances might have changed sufficiently to suggest that it would be reasonable to revisit the previous Inspector's conclusions, but that is not the situation at the present time.'*

Whilst the site's unsustainable location weighs against a permanent permission, the limited harm to the character and appearance of the countryside and the significant weight attached to the still largely unmet need, the site's contribution to this unmet need, the family's personal circumstances and interference with their human rights due to the lack of pitch provision in the District and the Council's lack of sufficient progress with the DPD weighs in favour of granting a permanent permission, These matters are considered to form evidence and a material change in circumstances that justify a permanent permission now being acceptable in this location.

A contribution under DSC2 is not required in this instance and there have been no significant material changes in relation to other material planning considerations, including highway safety, residential amenities, protected species, location in the countryside, undue pressure on local infrastructure and domination of the rural community, provision of a health and safe environment, flood risk and impact on the County road and nearby footpaths.

## RECOMMENDATION- PERMIT subject to the following conditions:

- 1 The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites (DCLG, August 2015).

*Reason: the site is only considered appropriate for use by gypsies and travellers and other uses may not be appropriate.*

- 2 No more than 6 touring caravans (and no static caravans), as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time.

*Reason: for the avoidance of doubt and in the interests of the character and visual amenities of the countryside.*

- 3 The development hereby permitted within 6 months of the date of this decision shall be laid out in accordance with:

- the approved location plan at a scale of 1:2500 (received in respect of planning permission ref. no. APP/G2435/A/12/2182019 (12/00003/RET));
- the proposed site plan drawing no 11.48.04 C (Landscaping Plan) received by the Authority on 8 March 2016; and
- the drawing entitled 'Day Room for Aylesbury Gardens' received by the Authority on 8 March 2016.

This permitted layout shall be maintained as such.

*Reason: to determine the scope of this permission.*

- 5 The amenity block hereby permitted shall be constructed from with Acme Century red plain tiles and Hanson Worcester Red Multi bricks, unless alternative external materials are submitted to and agreed in writing by the Local Planning Authority before any development takes place in relation to the construction of the amenity block.

*Reason: in the interests of the character and visual amenities of the countryside.*

- 6 Development of the permitted layout shall not begin until surface water drainage works have been carried out in accordance with the details shown on Drawing No. 11.48.04 C (Landscaping Plan) received by the Authority on 19 July 2013 in respect of planning permission APP/G2435/A/12/2182019 (12/00003/RET) other than the surface water system for the day room/amenity block which shall be in accordance with the details shown on Drawing No. 11.48.04 C (Landscaping Plan) received on 8 March 2016.

*Reason: to prevent an adverse impact on the River Mease Special Area of Conservation; to ensure a sustainable drainage system is provided on the site.*

- 7 The development hereby approved shall be carried out in accordance with the Method Statement received by the Authority on 13 July 2013 and the details of site spill kits received by the Authority on 1 July 2013 in respect of planning permission ref. no. APP/G2435/A/12/2182019 (12/00003/RET).

*Reason: to prevent an adverse impact on the River Mease Special Area of Conservation.*

- 8 Both vehicular and pedestrian access to the site shall be restricted solely to that set out on Drawing No. 11.48.04 C (Landscaping Plan) received by the Authority on 19 July 2013 in respect of planning permission APP/G2435/A/12/2182019 (12/00003/RET).

*Reason: to reduce the number of vehicular accessed to the site and the number of potential conflict points and removes the need to use unsuitable sections of public highway.*



9 The development shall be carried out in accordance with the following:

(i) The soft and hard landscaping (including means of enclosure, exterior lighting, materials for areas of hard surfacing and the management of the soft landscaping) shall be maintained thereafter in accordance with the details shown on Drawing No. 11.48.04 C (Landscaping Plan) received by the Authority on 19 July 2013 in respect of planning permission APP/G2435/A/12/2182019 (12/00003/RET).

(ii) The connection to mains electricity shall be retained and there shall be no use of any stand alone generators.

*Reason: in the interests of the character and visual amenities of the countryside and residential amenities; to prevent adverse impacts on habitats that have the potential to be used for foraging bats.*

10 No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

*Reason: for the avoidance of doubt and in the interests of visual amenity.*

11 No commercial activities shall take place on the land, including the storage of materials.

*Reason: for the avoidance of doubt and in the interests of visual amenity.*

### **Notes to applicant**

1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

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](http://www.groundstability.com)

Erection of three terraced dwellings, a triple garage block and highway improvements to existing access from Private Road onto Standard Hill

Report Item No  
A3

Land Off Private Road Standard Hill Coalville Leicestershire

Application Reference  
16/01043/FUL

Applicant:  
Mr Kyle Middleton

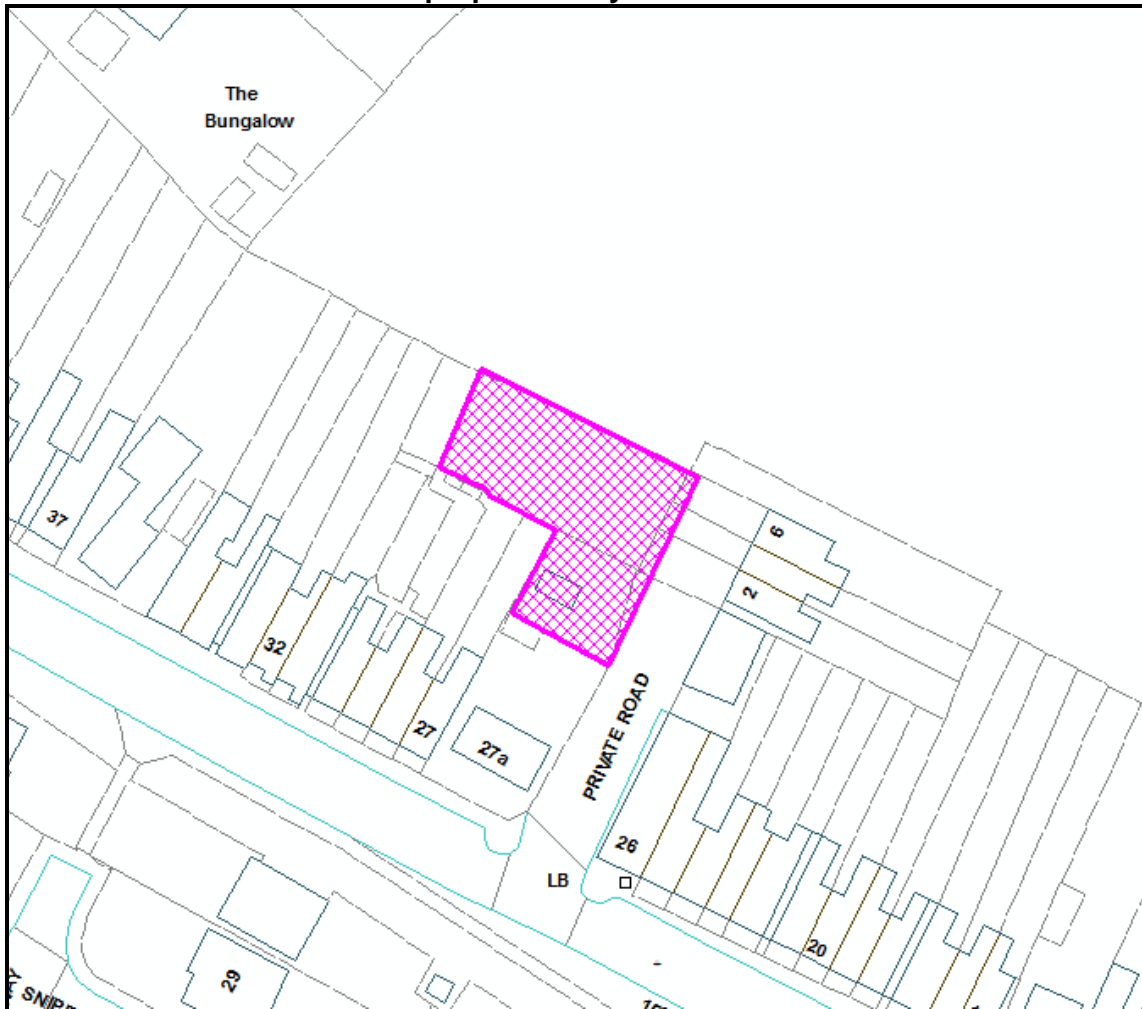
Date Registered  
24 August 2016

Case Officer:  
James Mattley

Target Decision Date  
19 October 2016

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application has been called in by Councillor Geary on the grounds of highway safety.

### Proposal

Planning permission is sought for the erection of three terraced dwellings and a triple garage block on land at Private Road, Standard Hill, Coalville. The application site which measures some 0.049 hectares is located within the Limits to Development.

### Consultations

A total of four representations have been received opposing the development. All statutory consultees have raised no objections subject to the imposition of conditions on any consent granted.

### Planning Policy

It is considered that the development would be compliant with all relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant policies of the adopted and submitted North West Leicestershire Local Plan and other guidance.

### Conclusion

The site is located within the limits to development where the principle of residential development is considered acceptable. The site is a sustainable location for new residential development. The site could be developed as proposed without appearing out of character and appearance with that of the surrounding locality, and without significant adversely affecting the amenities of neighbouring residents and highway safety. There are no other material planning considerations that indicate planning permission should not be granted. The proposal, subject to relevant conditions, is therefore considered acceptable.

It is therefore recommended that full planning permission be granted subject to conditions.

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

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of three terraced dwellings and a triple garage block on land at Private Road, Standard Hill, Coalville. The application site which measures some 0.049 hectares is located within the Limits to Development.

The submitted plans show for three terraced units which would be two storeys in height and a separate single storey garage block. Each unit would benefit from two car parking spaces and the existing access arrangements would be utilised. Private Road is not adopted highway.

A planning application for a similar development (16/00372/FUL) was refused in June 2016 for the following reasons:

*The on-street parking on Standard Hill, either side of the junction with Private Road, results in inadequate visibility to allow safe egress onto Standard Hill from the application site. As a result, the proposal would be severely detrimental to highway safety, contrary to 'saved' Policy T3 of the Local Plan and paragraph 32 of the NPPF.*

The current application proposes to extend the build-outs either side of the private drive in order to alleviate the visibility concerns raised by the previously refused application.

No relevant planning history found.

### 2. Publicity

16 Neighbours have been notified (Date of last notification 12 September 2016)

Site Notice displayed 29 September 2016

### 3. Consultations

County Highway Authority  
 Head Of Street Management North West Leicestershire District  
 Head of Environmental Protection  
 LCC ecology

### 4. Summary of Representations Received

A total of 32 representations have been received objecting to the application on the following basis:

- the existing road is unadopted;
- the highway data submitted with the application is inaccurate and cannot be relied upon;
- the junction is unsafe and there have been numerous accidents along Standard Hill;
- the existing road surface is inadequate along Private Road;
- access for emergency services;
- the private road is often used for parking in association with the shop;
- already parking issues along Standard Hill and the off-site works would further restrict the amount of car parking which would be available;
- garages unlikely to be used for parking;
- proposal could result in the loss of shop trade;
- any improvements in respect of surfacing of the unadopted road should be provided prior to any planning permission being considered;

- the behaviour of the applicant;
- maintenance of existing boundaries;
- Right to Light issues;
- ownership and right of way issues;
- overlooking, overbearing and overshadowing impacts;
- separation distances between existing and proposed properties;
- not in accordance with the District Council's Development Guidelines;
- rear gardens to the proposed dwellings are not large enough;
- overdevelopment of the site;
- trees have previously been removed on the site.

**Leicestershire County Council - Ecology** has no objections to the development.

**Leicestershire County Council - Highways** concludes that a road safety problem could not be demonstrated by restricted visibility at the junction. Therefore, no objections are raised subject to the imposition of conditions.

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

### 5. Relevant Planning Policy

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development.

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

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

- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 17 (Core planning principles)
- Paragraph 18 (Building a strong, competitive economy)
- Paragraph 19 (Building a strong, competitive economy)
- Paragraph 32 (Promoting sustainable transport)
- Paragraph 34 (Promoting sustainable transport)
- Paragraph 39 (Promoting sustainable transport)
- Paragraph 56 (Requiring good design)
- Paragraph 57 (Requiring good design)
- Paragraph 58 (Requiring good design)
- Paragraph 60 (Requiring good design)
- Paragraph 61 (Requiring good design)
- Paragraph 203 (Planning conditions and obligations)

The policies of the North West Leicestershire Local Plan as set out in more detail 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. In March 2014 the Government published National Planning Practice Guidance (NPPG) to

supplement the NPPF. The NPPG does not change National Policy but provides practical guidance as to how such policies should be applied.

The following policies of the North West Leicestershire Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

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

The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

Policy S2 - Limits to Development  
Policy H4/1 - Housing Land Release  
Policy H6 - Housing Density  
Policy H7 - Housing Design  
Policy E3 - Residential Amenities  
Policy E4 - Design  
Policy T3 - Highway Standards  
Policy T8 - Parking

#### **Other Policies**

##### **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 D1 - Design of New Development;  
Policy D2 - Amenity;  
Policy H6 - House Types and Mix;  
Policy IF4 - Transport Infrastructure and New Development;  
Policy IF7 - Parking Provision and New Development;

#### **6Cs Design Guide (Highways, Transportation and Development) - Leicestershire County Council**

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

### **6. Assessment**

#### **Principle and Sustainability**

The site is located within the limits to development within the Local Plan, where the principle of residential development is considered acceptable subject to highway, design and amenity criteria and compliance other relevant policies of the Local Plan and other material considerations.

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted. Whilst a sequential approach is outdated in the context of the NPPF, the sustainability credentials of the scheme would still need to be assessed against the NPPF.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The site is located within Greater Coalville where there is a range of day to day services and facilities that would be readily accessible via public transport to future occupiers. Taking this into account, it is considered that the application site is located within a sustainable location.

Having regard to all of the above it is considered overall that the proposed development of the site is acceptable in principle.

### **Residential Amenities**

With regard to impact on residential amenity, the dwellings most immediately affected would be the three terraced units located to the east of the application site (No's 2, 4 and 6 Private Road) as well as No.27 and No.27a Standard Hill to the south of the application site.

In terms of the impact upon No's 2, 4 and 6 Private Road the original plans submitted as part of the previous application showed a distance of 11.3 metres between first floor windows of the existing and proposed dwellings. Concern was expressed by local residents regarding this relationship and following discussions with the applicant amended plans were received as part of that application. Those amended plans now form the basis of this application and have improved this relationship and there is now a distance of 13.2 metres between the front elevations of the existing and proposed properties. Although concern is still expressed from surrounding residents, the relationship proposed is not uncommon in the surrounding area and similar relationships exist along Highfield Street and Crescent Road. It is not considered that any significant overbearing, overshadowing or overlooking issues would arise to the occupiers of these properties.

Reference has been made in letters of objection regarding the District Council's Development Guidelines. The Development Guidelines were adopted as Supplementary Planning Guidance (SPG) in North West Leicestershire when the Local Plan was originally adopted but since this time Policy H17 is no longer a 'saved' policy. As such, although the Development Guidelines can be used as a starting point, they should not be attached any weight in the determination of planning applications. It is also noted that the Development Guidelines do not offer any advice in respect of first floor distances between two front elevations. The Council will be progressing updated Development Guidelines as part of the new Local Plan.

In terms of the impact upon No.27 and No.27A Standard Hill, a single storey garage block would be located immediately adjacent to parts of the rear gardens to these properties. Whilst this would be located in close proximity to the boundary, the structure would be single storey only measuring 2.1 metres in height to the eaves and 4.2 metres in height to the ridge. The boundary is currently formed by a 2m high hedge and existing single storey garage structure which would help to screen the proposed single storey garage and the development proposes 1.8m high close boarded timber fencing to both boundaries. Having regard to the single storey nature of the proposed garage and the proposed boundary treatments, it is not considered that this element of the scheme would cause any significant overlooking, overbearing or overshadowing issues.

The closest part of the proposed two storey dwelling would be located on the rear corner boundary of the residential garden belonging to No.27 Standard Hill. As this property benefits from a rear garden of some 17 metres and having regard to the orientation on site, it is not considered that any significant overbearing or overshadowing issues would arise. In terms of overlooking there would be some views towards the bottom end of the rear garden belonging to



No.27 but most of these would be from an oblique angle and would only impact on a small section of the rear garden. Overall, the proposal is not considered to cause significant overlooking impacts upon the occupiers of the existing dwellinghouse.

The side elevation of the proposed two storey dwelling would be located around 9.7 metres away from the rear boundary of No.27A Standard Hill. Taking into account this distance and the orientation of the existing and proposed development, no significant overlooking, overbearing or overshadowing issues are considered to arise.

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

### **Design**

The need for good design in new residential development is outlined not only in adopted Local Plan policy H7 and D1 of the submitted Local Plan, but also paragraphs 57, 60 and 61 of the NPPF, with paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 indicates that in the determination of planning applications regard will be had to the wider settings of new buildings; new development should respect the character of its surrounding, in terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

The area to the north of Standard Hill is characterised predominantly by traditional terraced properties located toward the front of linear plots with boundaries well defined and with buildings that are well detailed with strong chimneys and window and brick detailing, and well-proportioned properties with a strong vertical emphasis that provides a rhythm to the streetscene. The street contains buildings that generally have strong characteristics and make a positive contribution to the locality. It is considered that surrounding properties in the locality should be used to inform the development of the application site.

The proposed dwellings have been designed to reflect the character of properties in the surrounding area. The terraced units would have a vertical emphasis and includes for stone lintels and chimneys which would ensure that the design and appearance of the properties are in keeping with the surrounding area. Planning conditions would be attached to any planning permission granted to ensure that suitable materials and boundary treatments are agreed that are in keeping with surrounding properties.

Each property would benefit from two car parking spaces, front and rear amenity areas as well as a dedicated bin storage area. Given this it is not considered that the proposal would represent an overdevelopment of the site with the development similar to that which currently exists on Private Road.

Overall, the design, appearance and scale of this proposal is considered to be acceptable and would not look out of keeping with the character and appearance of the surrounding area and is considered to be compliant with Policy E4 and H7 of the Local Plan, D1 of the submitted Local Plan and the design advice in the NPPF.

### Highway Safety

The existing access off Standard Hill would be utilised to provide access to the proposed development. This leads onto Private Road which is unadopted highway. Concern has been expressed in letters of representation regarding the suitability of the access road and the junction. It is also understood that there is an existing accident record along Standard Hill. A planning application for a similar development (16/00372/FUL) was refused in June 2016 for the following reason:

The on-street parking on Standard Hill, either side of the junction with Private Road, results in inadequate visibility to allow safe egress onto Standard Hill from the application site. As a result, the proposal would be severely detrimental to highway safety, contrary to 'saved' Policy T3 of the Local Plan and paragraph 32 of the NPPF.

The County Highway Authority (CHA) did not object to the original application but has been consulted again on the highway safety aspects of this scheme now that the applicant has proposed to extend the build-outs either side of the private drive in order to alleviate the visibility concerns raised by the previously refused application.

The CHA conclude that it would still be difficult to resist the proposals on highway safety grounds. The proposed build-outs would be acceptable in principle in order to provide additional visibility. While the build outs would remove approximately two on-street car parking spaces, the CHA consider it would be difficult to resist the application solely on this basis alone. The applicant has confirmed that he is willing to accept a planning condition requiring the build-outs to be constructed prior to construction works commencing on the site.

The response from the CHA also states that the applicant has offered to provide a single Vehicle Activated Sign in the vicinity of the site access in order to slow vehicles down in addition to the proposed build-out extensions. The CHA consider that the most appropriate location for a VAS would be on the approach to the built up area of Standard Hill, however a sign at this location is likely to be obscured by parked vehicles or vegetation, and would not be in close proximity to the site access. It is also considered that it would be excessive to request installation of a VAS in addition to the build-out improvements, particularly when CHA advised approval of the previous proposal without requiring any highways works.

In terms of car parking, each of the new dwellings would have access to two off-street car parking spaces which would be of adequate dimensions and which would be sufficient to serve the proposed two bed dwellings. Subject to a condition being imposed to secure these off-street parking spaces it is considered that the development would be compliant with Paragraph 39 of the NPPF and Policy T8 of the adopted Local Plan.

Whilst the concerns of local residents in relation to highway safety are noted, the CHA has no objections to the proposed development subject to relevant highway conditions. Therefore, it is not considered that the proposal would conflict with highway safety policies T3 and T8 in the adopted Local Plan, policies IF4 and IF7 or the advice in the NPPF or the County Council's 6Cs document.

### Other

A "right to light" is an easement that gives a landowner the right to receive light through defined apertures in buildings on his or her land. It is a legal matter and not a material planning consideration. In terms of other objections received which have not already been addressed

matters in respect of ownership, maintenance and private rights of ways are not material planning considerations.

With regard to access to emergency vehicles, the site would be located less than 45 metres from the public highway which is the distance specified in separate building control legislation. It is also noted that the proposed arrangements would be no different than those which currently exist for No.2, 4 and 6 Private Road.

**Summary Reason for Granting Planning Permission**

The site is located within the limits to development where the principle of residential development is considered acceptable. The site is a sustainable location for new residential development. The site could be developed as proposed without appearing out of character and appearance with that of the surrounding locality, and without significantly adversely affecting the amenities of neighbouring residents and highway safety. There are no other material planning considerations that indicate planning permission should not be granted. The proposal, subject to relevant conditions, is therefore considered acceptable for the purposes of the above-mentioned policies.

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

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

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

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

Drawing No. 01 deposited with the Local Planning Authority on 24 August 2016;  
 Drawing No. 02 deposited with the Local Planning Authority on 24 August 2016;  
 Drawing No. 03 deposited with the Local Planning Authority on 24 August 2016;  
 Drawing No. 04 deposited with the Local Planning Authority on 24 August 2016;  
 Drawing No. 05 deposited with the Local Planning Authority on 24 August 2016;  
 Drawing No. 06 deposited with the Local Planning Authority on 24 August 2016;  
 Drawing No. 07 deposited with the Local Planning Authority on 24 August 2016.

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

- 3 Off-street car parking shall be provided within the application site in accordance with the details shown on drawing number 05; the parking areas shall be surfaced and marked out prior to the development being brought into use, and shall thereafter be so maintained at all times.

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

- 4 Notwithstanding the submitted plans, nor Condition 2 above, no dwelling shall be

erected above damp proof course until such time as representative samples of the materials to be used in all external surfaces have been submitted to and agreed in writing with the Local Planning Authority. The works shall be undertaken in accordance with the approved details.

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

- 5 Notwithstanding the submitted plans, nor Condition 2 above, no dwelling shall be erected above damp proof course until such time as a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in the first planting and seeding season following either the first occupation or the bringing into use of the development hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority.

*Reason - To ensure satisfactory landscaping is provided within a reasonable period.*

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

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

- 7 Notwithstanding the submitted plans, nor Condition 2 above, no dwelling shall be erected above damp proof course 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 approved in writing by the Local Planning Authority. The development hereby permitted shall not be brought into use until such time as the approved scheme has been implemented in full (unless an alternative timescale is first agreed in writing by the Local Planning Authority).

*Reason - To preserve the amenities of the locality, and to ensure an appropriate form of design.*

- 8 Notwithstanding the submitted plans, nor Condition 2 above, no dwelling shall be erected above damp proof course until such time as precise details of the positioning and treatment of utility boxes to the dwelling have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure an appropriate form of design.*

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

*Reason - To ensure appropriate land levels.*

- 10 Notwithstanding the provisions of Part 1 of Schedule 2, Article 3 of the Town and

Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), the dwellings hereby approved shall not be enlarged, improved or altered, nor shall any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouses be provided unless planning permission has first been granted by the Local Planning Authority.

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

- 11 No part of the development shall commence until such a time a detailed design of the build-outs generally in accordance with 162 Properties Ltd Drawing No. 07 has been submitted to and agreed in writing by the Local Planning Authority. The build outs shall be constructed in accordance with the approved plans prior to development commencing on site.

*Reason - In the interests of Highway Safety.*

### Notes to applicant

- 1 The County Highway Authority has provided the following notes to applicant:  
 - The detailed design of the build-out should take on board the following comments:
1. Drainage proposals should be shown as appropriate, including footway drainage,
  2. Road markings will be subject to a detailed design check,
  3. Bollard type should be shown and be in accordance with the County Council's specification
  4. Details of materials and construction makeup should be shown
  5. The tapers on the carriageway parking side of the build-outs should be straight at 45 degrees as opposed to curved.
- You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
- Any street furniture or lining that requires relocation or alteration shall be carried out entirely at the expense of the applicant, who shall first obtain the separate consent of the Highway Authority.
- The highway boundary is the back of the footway crossing the private drive and not the edge of the carriageway/road.
- 2 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority on 01530 454666 for further details.
- 3 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) ) Order 2015 (as amended).



Construction of 8 dwellings with associated access and turning area (extension to site granted Planning Permission under 15/00032/FULM)

Report Item No  
A4

Land Off Forest Road Coalville Leicestershire

Application Reference  
16/00798/FUL

Applicant:  
Mr Louis Masserella

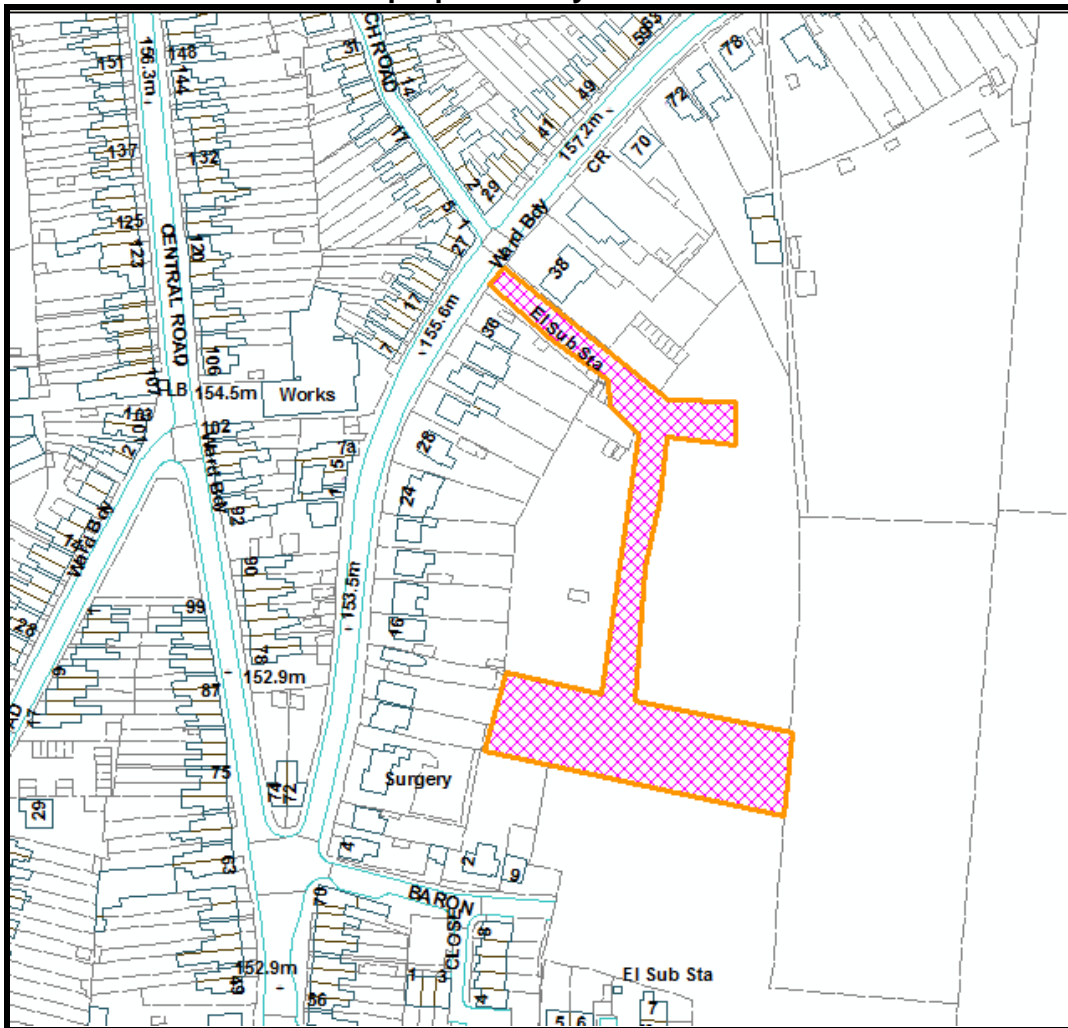
Date Registered  
12 July 2016

Case Officer:  
James Mattley

Target Decision Date  
6 September 2016

Recommendation:  
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **Call In**

The application is being considered at Planning Committee because it has been called to Planning Committee by Councillor Johnson due to a lack of affordable housing.

### **Proposal**

Planning permission is sought for the construction of 8 dwellings with associated access and turning area (extension to site granted Planning Permission under 15/00032/FULM) at Forest Road, Coalville.

### **Consultations**

Members will see from the report below that no objections have been received in relation to the application from technical consultees although the Parish Council and one neighbour has objected.

### **Planning Policy**

It is considered that the development would be compliant with all relevant paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant policies of the adopted and submitted Local Plan.

### **Conclusion**

The site lies within Limits to Development and is greenfield land. In terms of the suitability of the site's location for housing development, the proposed location would not conflict with the provisions of adopted and submitted Local Plan Policy S2 and it is considered that this part of Coalville is a sustainable location for new dwellinghouses. Taking this into account it is considered that the principle of residential development on the site is acceptable.

The proposed development would be acceptable in terms of the residential amenities of existing and future occupiers, and would provide for an appropriate form of design that would be in keeping with the locality. The proposal would be acceptable in relation to highway safety, subject to appropriate planning conditions. The scheme would not result in significant impacts upon protected species, trees and flood risk issues.

A viability appraisal has been submitted by the applicants to demonstrate that the scheme would not be viable with affordable housing requirements. This has been independently assessed by the District Valuer and they confirm that a reduced level of developer contributions would be acceptable in this instance.

It is therefore recommended that full planning permission be granted subject to conditions and relevant developer contributions.

**RECOMMENDATION:- PERMIT subject to conditions and subject to a Section 106 legal 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 recommended conditions, and Members are advised that this summary should be read in conjunction with the detailed report.**



## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the construction of 8 dwellings with associated access and turning area (extension to site granted Planning Permission under 15/00032/FULM) at Forest Road, Coalville. The site is located in a predominantly residential area with dwellings surrounding the site to the north and west. Immediately on the eastern boundary is public footpath N85 and further to the east is land that has outline planning permission for up to 2,700 dwellings and associated development under planning reference 13/00956/OUTM. A full planning application has been submitted under planning reference 13/00802/FULM by Davidsons for a residential development of 81 dwellings with associated road and service infrastructure, drainage ponds and features, landscaping and open space which is immediately adjacent to the application site. A full planning application has also been submitted under planning reference 15/00641/FULM by Davidsons and David Wilson Homes for a residential development of 190 dwellings with associated road and service infrastructure, drainage ponds and features, landscaping and open space, together with demolition of 104 Forest Road although this does not immediately border the application site. The application site is within Limits to Development as defined in the adopted and submitted Local Plans.

The application site totals 0.41 hectares. Amended plans have been submitted during the course of the application to revise the layout of the dwellings and to amend the size of the dwellings to address ecological concerns. The latest plans propose 6 x detached dwellings and a pair of semi detached dwellings. All properties would be two storeys in height. Access to the site would be gained from an existing vehicular entrance point along Forest Road that was approved as part of planning application 15/00032/FULM.

A viability report has been submitted which demonstrates that the scheme cannot afford to make the full contribution towards affordable housing.

The application is being considered at Planning Committee because it is has been called to Planning Committee by Councillor Johnson due to a lack of affordable housing.

#### Relevant Planning History:

15/00032/FULM - Construction of 30 dwellings with associated access and open space - permitted.

16/00797/VCUM - Variation of Conditions 2, 3, 9, 11 and 12 of Planning Permission 15/00032/FULM in order to allow for the erection of 30 dwellings with a revised site layout - currently under consideration and reported on this planning committee agenda.

### 2. Publicity

35 Neighbours have been notified (Date of last notification 26 July 2016)

Site Notice displayed 3 August 2016

### 3. Consultations

Hugglescote & Donington Le Heath PC consulted 26 July 2016

County Highway Authority

Environment Agency

Head of Environmental Protection

County Archaeologist

LCC ecology  
NWLDC Urban Designer  
National Forest Company  
LCC Development Contributions  
NHS Leicester, Leicestershire And Rutland Facilities Management  
Manager Of Housing North West Leicestershire District Council  
LCC Flood Management  
Head Of Street Management North West Leicestershire District Council  
Severn Trent Water Limited

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

One letter of representation has been received objecting to the proposal on the following grounds:

- overlooking and loss of privacy;
- loss of a view;
- increased noise and disturbance;
- the retention of an existing tree is critical.

**Hugglescote and Donington Le Heath Parish Council** considers that the additional properties will exacerbate the vehicular access issues on Forest Road.

**Environment Agency** has no comments to make.

**Leicestershire County Council - Archaeology** does not feel that any further archaeological work is required as part of the scheme.

**Leicestershire County Council - Ecology** has no objections to the proposed development.

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

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

**National Forest Company** requests a contribution of £1,800 towards off-site National Forest Planting.

**NWLDC Contaminated Land Officer** has no objections subject to relevant conditions.

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

**Severn Trent Water, Leicestershire County Council Developer Contribution Team and NHS** have not responded at the time of writing this report.

#### **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 57 (Requiring good design)  
Paragraph 59 (Requiring good design)  
Paragraph 60 (Requiring good design)  
Paragraph 61 (Requiring good design)  
Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 118 (Conserving and enhancing the natural environment)  
Paragraph 123 (Conserving and enhancing the natural environment)  
Paragraph 173 (Ensuring viability and delivery)  
Paragraph 203 (Planning conditions and obligations)  
Paragraph 204 (Planning conditions and obligations)

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

The following Local Plan policies are relevant to this application:

Policy S2 - Limits to Development  
Policy E3 - Residential Amenities  
Policy E4 - Design  
Policy E7 - Landscaping  
Policy E8 - Crime Prevention  
Policy F1 - National Forest General Policy  
Policy T3 - Highway Standards  
Policy T8 - Parking  
Policy H4/1 - Housing Land Release  
Policy H4g - Housing Allocations (Grange Road, Hugglescote)  
Policy H6 - Housing Density  
Policy H7 - Housing Design  
Policy H8 - Affordable Housing  
Policy L21 - Children's Play Areas

#### **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 D1 - Design of New Development;  
Policy D2 - Amenity;  
Policy H4 - Affordable Housing  
Policy H6 - House Types and Mix;  
Policy IF4 - Transport Infrastructure and New Development;  
Policy IF7 - Parking Provision and New Development;  
Policy Cc2 - Water - Flood Risk

### **Other Policies**

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

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

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

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

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

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

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

## **6. Assessment**

### **Principle and Sustainability**

The site is located within the limits to development within the adopted and submitted Local Plan, where the principle of residential development is considered acceptable subject to highway, design and amenity criteria and compliance other relevant policies of the Local Plan and other material considerations.

Whilst the site is located within the limits to development in the adopted and submitted Local Plan, it forms a small part of large housing allocation/provision policies in both plans. Policy H4g of the adopted Local Plan is concerned with the housing allocation at Grange Road, Hugglescote and requires development of that site to come forward in a comprehensive and phased manner. Policy H2c of the submitted Local Plan indicates that the Council will work with developers to ensure that legal agreements are completed and planning permission issued. The application site was originally included as part of the original site area for planning application 13/00956/OUTM and was a potential indicative access point (although it is noted that all matters were reserved as part of this outline planning permission). However, since this planning permission has been issued there has been two full planning applications submitted on the site for residential schemes (15/00641/FULM and 13/00802/FULM) and neither has relied on the application site to provide adequate access arrangements. Having regard to this and that the County Highway Authority has not raised any issues in respect of the site being developed, it is not considered that developing the application site would prejudice the housing

allocation/provision in the adopted and submitted Local Plans.

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted. Whilst a sequential approach is outdated in the context of the NPPF, the sustainability credentials of the scheme would still need to be assessed against the NPPF. The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The site is located within Greater Coalville where there is a range of day to day services and facilities that would be readily accessible via public transport to future occupiers. Taking this into account, it is considered that the application site is located within a sustainable location.

The site has greenfield status and, in this regard, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to meet this need. It is also noted that the site would form an extension to an existing residential scheme that is being built out and was deemed to be acceptable in terms of the loss of greenfield land. There would also be some economic and social benefits associated with the scheme which would include local construction jobs and helping to maintain local services in the area.

Having regard to all of the above it is considered overall that the proposed development of the site is acceptable in principle.

### **Means of Access and Traffic Issues**

Access to the site would be from Forest Road by utilising the access point which was approved as part of planning application 15/00032/FULM and to which the County Highway Authority raised no objections subject to conditions.

The County Highway Authority has been consulted on the current application and has considered, amongst other things, issues such as visibility, width of existing and proposed access, parking, accident records in the surrounding area, traffic calming and the volume of traffic. Having considered all of the relevant issues the County Highway Authority raises no objection subject to the inclusion of relevant conditions. The proposed condition is in relation to parking and turning facilities in the site.

With regard to car parking, the Local Plan includes parking standards in the Annex (based on Leicestershire County Council parking standards) that seeks to ensure that no more than an average of 1.5 off-street car parking spaces are provided per dwelling, and were based on the advice contained in PPG3. PPG3 has now been superseded by the advice in the NPPF which is less prescriptive in terms of parking standards. The advice in the NPPF is that Local Planning Authorities should, amongst other things, take account of expected levels of car ownership, the type, mix, accessibility and use of the development and the opportunities for public transport. IF7 of the submitted Local Plan requires an adequate level of parking to avoid highway safety problems.

In terms of car parking on the site, the scheme would provide two spaces per dwelling plus garage spaces. The County Highway Authority requested that amended plans were secured to ensure that the garages were of adequate dimensions and such plans have now been received by the Local Planning Authority. It is clear that the level of car parking is over and above the required level of 1.5 spaces per dwelling in the Local Plan. Whilst this level of car parking is over and above the level required by the Local Plan, it is noted the County Highway Authority

raises no objections to the level of car parking and the Council's Urban Designer raises no objection to the design of the car parking spaces across the scheme. On this basis, the level of car parking is considered to be acceptable.

In conclusion, the County Highway Authority has no objections to the proposed development subject to relevant highway conditions. Therefore, it is not considered that the proposal would conflict with highway safety policies T3 and T8 in the Local Plan, IF4 and IF7 in the submitted Local Plan or the advice in the NPPF.

### **Design**

The need for good design in new residential development is outlined not only in adopted Local Plan policy H7 and D1 of the submitted Local Plan, but also paragraphs 57, 60 and 61 of the NPPF, with paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 indicates that in the determination of planning applications regard will be had to the wider settings of new buildings; new development should respect the character of its surrounding, in terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

The previous scheme on the site was subject to extensive discussions and negotiations with the District Council's Urban Designer during the course of the application. The discussions resulted in a scheme which was considered to have a good standard of design subject to certain planning conditions in respect of landscaping and boundary treatments. The current proposal would form an extension to the existing site and would be developed with similar house types and materials that have previously deemed to be acceptable.

In terms of design issues, therefore, it is considered that the proposed dwellings are appropriate in this area, and the requirements of adopted Local Plan policies E4, H7, policy D1 of the submitted Local Plan and the design advice in the NPPF are considered to be met by the scheme subject to the inclusion of relevant design conditions.

### **Residential Amenity**

Consideration has been given to the impact of the development on surrounding residential properties. The most immediately affected dwellings would be three dwellings (10, 12 and 14 Forest Road) which are located to the west of the application site.

Plots 1-2 would have rear gardens measuring 14-16 metres in length which would result in a back-to-back distance of first floor windows of around 40 metres which is substantially in excess of the Council's current recommended distance of 22 metres and would provide more than adequate separation distances between proposed and existing dwellings.

The loss of a private view is not a material planning consideration.

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

### **Ecology**

The application is accompanied by an updated report which indicates that the grassland habitat on the site is poor. The County Ecologist has no objection in principle to the development. However, the report indicates that badger activity is still evident on site and the County Ecologist raised concerns that they could become trapped within development, which would not be acceptable in ecological terms. The County Ecologist objected to the original proposal.

The applicants have sought to address the original ecological concerns on the site by providing a 5m corridor which would be retained as natural habitat along the eastern boundary, outside back gardens, and to exclude badgers from the gardens. A similar ecological corridor was provided as part of the original planning application to the north of the site (15/00032/FUL). The amended plans have addressed the concerns of the County Ecologist and the previous objection has now been removed.

On the basis of the amended plans the proposal is not considered to have any significant impact upon protected species and, therefore, the proposal is acceptable in relation to the advice in the NPPF.

### **Flood Risk and Drainage**

The Environment Agency flood zone maps indicate that the site lies within Flood Zone 1, and on this basis the site would appear suitable for development in principle (and in flood risk sequential terms, would meet the requirements of the NPPF). Conditions would need to be attached to any planning permission to ensure that detailed and satisfactory drainage arrangements are provided on the site.

Overall, in terms of issues of Flood Risk and Drainage, it is considered that the scheme is acceptable, and would provide for appropriate drainage solutions to accommodate the proposed development. In coming to this conclusion it is noted that the LLFA and Severn Trent Water raise no objections to the proposed development subject to the inclusion of relevant planning conditions and notes to applicant.

### **Impact upon Trees**

The majority of trees and hedgerows on the site are located on the site boundaries and would be largely unaffected by the proposed development. One tree would be removed adjacent to the north-western boundary in order to facilitate the development and the Council's Tree Officer has no objection subject to replacement planting which can be secured through an appropriate landscaping scheme. It is noted that no trees are subject to tree preservation orders and none are deemed to be worthy of protection.

Having regard to these matters, and subject to conditions, it is considered that the scheme would have an acceptable impact upon existing trees and the scheme is considered to be acceptable in relation to Policy E7 of the Local Plan.

### **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.

A scheme for eight dwellings would not normally require developer contributions to be submitted. However, the Local Planning Authority is not dealing with this development as a stand-alone application and are treating it as an extension to the existing site. Therefore, additional contributions have been requested and these are listed below.

*Affordable Housing*

The Council's Affordable Housing Officer comments that the scheme should provide for 20% affordable housing within the site (which would equate to 2 dwellings). The Council's preferred approach is for this agreed provision to be made on site. Where a developer considers that there are exceptional circumstances why on site provision is not appropriate then an off site commuted sum can be paid in lieu of on site provision. Should an off-site commuted sum be paid on this site then it should be in the region of £100,000.

*Transportation Contributions*

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

- Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).

- 6 month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £325.00 per pass - NOTE it is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate).

*National Forest Planting*

The National Forest Company request a financial contribution of £1800 given that no woodland planting or landscaping is proposed on site.

*Conclusions in respect of Developer Contributions*

The following requests have been made:

National Forest Company	£1,800
County Highway Authority	£6,022.80
Affordable Housing	£100,000
<b>Total</b>	<b>£107,822.80</b>

Whilst the need for the contributions per se is not disputed, the applicants are of the view that, should all of the contributions requested above be sought, the scheme would become unviable. The applicants have therefore provided a viability assessment, which has been reviewed on the Local Planning Authority's behalf by the District Valuer. The viability assessment indicates that



the scheme could only afford to pay a total of £17,375 and the District Valuer confirms that the findings in the viability assessment are accurate. It is also noted that 30 dwellings to the north have previously been granted planning permission without any affordable housing.

The applicant's current position is that they are willing to make full contributions with the exception of affordable housing which the scheme could only afford to provide £9,552.20. Whilst it is noted that some schemes will be acceptable with a reduced level of affordable housing on site (or any off-site contribution) it is necessary to have regard to the particular circumstances of each application.

Clearly the absence of a full affordable housing contribution would fail to comply with the provisions of the District Council's Affordable Housing SPD which seeks to secure a minimum 20% contribution from new housing development in the Greater Coalville area. As set out above, the NPPF contains a presumption in favour of sustainable development, the dimensions of which include a social dimension, with the planning system's role being to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations. It is considered that, in this sense, the scheme would not perform well. On balance, however, given that the applicants have been able to demonstrate to the District Valuer's satisfaction that the full affordable housing contribution could not be provided from a viability point of view, and that 30 dwellings to the north have previously been granted planning permission without any affordable housing, it is considered that a reduced contribution towards affordable housing would not be unacceptable in this case, and when balanced against all other viability considerations and other aspects of sustainable development.

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

### **Conclusion**

The site lies within Limits to Development and is greenfield land. In terms of the suitability of the site's location for housing development, the proposed location would not conflict with the provisions of adopted and submitted Local Plan Policy S2 and it is considered that this part of Coalville is a sustainable location for new dwellinghouses. Taking this into account it is considered that the principle of residential development on the site is acceptable.

The proposed development would be acceptable in terms of the residential amenities of existing and future occupiers, and would provide for an appropriate form of design that would be in keeping with the locality. The proposal would be acceptable in relation to highway safety, subject to appropriate planning conditions. The scheme would not result in significant impacts upon protected species, trees and flood risk issues.

A viability appraisal has been submitted by the applicants to demonstrate that the scheme would not be viable with affordable housing requirements. This has been independently assessed by the District Valuer and they confirm that a reduced level of developer contributions would be acceptable in this instance.

It is therefore recommended that full planning permission be granted subject to conditions and relevant developer contributions.

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

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

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

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

Drawing No. 151F (Proposed Site Plan) deposited with the Local Planning Authority on 24 October 2016;

Drawing entitled 'Landscape Proposals' deposited with the Local Planning Authority on 4 August 2016;

Drawing No. 256B (Plot 8) deposited with the Local Planning Authority on 24 October 2016;

Drawing No. 255A (Plot 7) deposited with the Local Planning Authority on 24 October 2016;

Drawing No. 252B (Plot 3) deposited with the Local Planning Authority on 24 October 2016;

Drawing No. 250A (Plot 1) deposited with the Local Planning Authority on 29 September 2016;

Drawing No. 254A (Plot 6) deposited with the Local Planning Authority on 29 September 2016;

Drawing No. 251 (Plot 2) deposited with the Local Planning Authority on 12 July 2016;

Drawing No. 253 (Plot 4 and 5) deposited with the Local Planning Authority on 12 July 2016.

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

- 3 The landscaping on the site, as shown on drawing entitled 'Landscape Proposals' deposited with the Local Planning Authority on 4 August 2016, shall be implemented in the first planting and seeding season following either the first occupation or the bringing into use of the development hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. The scheme shall have particular regard to the treatment of the site boundaries.

*Reason- to ensure satisfactory landscaping is provided within a reasonable period.*

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

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

- 5 If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in

writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority.

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

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

The Remedial Scheme shall be prepared in accordance with the requirements of:

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

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

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

Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

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

6 Prior to occupation of any part of the completed development either

1. A statement from the developer or their approved agents is submitted stating that no previously unidentified contamination was observed during the course of development, or

2. If previously unidentified contamination was observed during the course of development and a remedial scheme and verification report were required under condition 5 a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

- Contain a full description of the works undertaken in accordance with the agreed

Remedial Scheme and Verification Plan;

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

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

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

*Reason - To ensure appropriate land levels because finished floor levels have not been supplied with the application.*

- 8 Unless first agreed in writing by the Local Planning Authority, no site clearance operations that involve the destruction or removal of vegetation on the site shall be undertaken during the months of March to August (inclusive).

*Reason - To ensure that breeding birds are not adversely affected, in the interests of nature conservation.*

- 9 The car parking and turning facilities shown on drawing No. 151 Rev. F shall be provided before any dwelling is occupied and shall thereafter permanently remain available for car parking and turning.

*Reason - To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.*

- 10 All construction details such as headwalls, manholes and pipes shall be constructed in accordance with the details agreed under condition 11 of planning application 15/00032/FULM, unless alternative details are first agreed in writing with the Local Planning Authority.

*Reason - To prevent an increase in flood risk by ensuring continuity of the drainage network.*

- 11 The external materials and hard surfacing of the site/dwellings shall be carried out in accordance with the details agreed under conditions 2, 3 and 9 of planning permission 15/00032/FULM, unless otherwise agreed in writing.

*Reason - In the interests of visual and residential amenities.*

**Notes to applicant**

- 1 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority on 01530 454666 for further details.
- 2 A Section 106 agreement would be required in order to make the development acceptable and would need to include the following:
  - National Forest Company - £1800
  - Off-site affordable housing contribution - £9,552.20
  - County Highway Authority - travel packs (£52.85 per pack) and Bus Passes (£325 per pass) for 6 properties.
  - Review of the viability of the scheme within a certain period
- 3 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.
- 4 The proposed road running roughly north to south does not conform to an acceptable standard for adoption and therefore will NOT be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all plots served by all the private roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg) or email [road.adoptions@leics.gov.uk](mailto:road.adoptions@leics.gov.uk). Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it. Details of the future maintenance of the private road should be submitted for the approval of the LPA before any dwelling is occupied.
 

The proposal is situated in excess of 45 metres from the highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
- 5 Your attention is drawn to the notes to applicant provided by the Lead Local Flood Authority in their response dated 16th September 2016.
- 6 Your attention is drawn to the comments made by the Council's Waste and Recycling Team dated 15/08/2016 12:53.

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Variation of Conditions 2, 3, 9, 11 and 12 of Planning  
Permission 15/00032/FULM in order to allow for the erection of  
30 dwellings with a revised site layout

Report Item No  
A5

Land Off Forest Road Coalville Leicestershire

Application Reference  
16/00797/VCUM

Applicant:  
Mr Louis Masserella

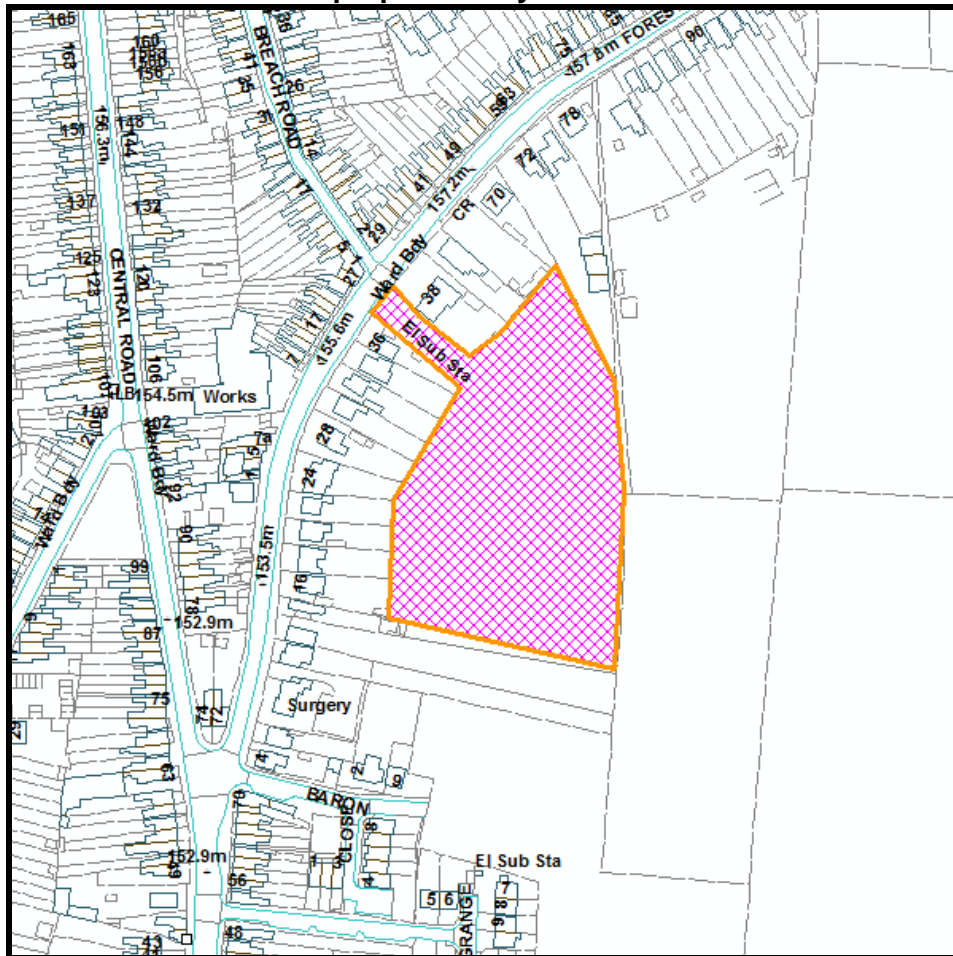
Date Registered  
12 July 2016

Case Officer:  
James Mattley

Target Decision Date  
11 October 2016

Recommendation:  
PERMIT Subject to a Section 106 Agreement Variation

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

### Proposal

Planning permission is sought for the variation of conditions 2, 3, 9, 11 and 12 of planning permission 15/00032/FULM in order to allow for the erection of 30 dwellings with a revised site layout at Forest Road, Coalville. The originally approved layout is being varied in order to provide for the necessary access arrangements in respect of planning application 16/00798/FUL which proposes a further 8 dwellings to the south of the application site.

### Consultations

Members will see from the report below that no objections have been received in relation to the application.

### Planning Policy

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

### Conclusion

The principle of 30 dwellings on the site has previously been deemed to be acceptable as part of planning application 15/00032/FULM. The main issue in respect of this application is whether the proposed scheme to erect 30 dwellings is acceptable with the amended layout now proposed.

The revised layout would still result in a development that would not appear out of character and appearance with that of the surrounding locality, and without significant adversely affecting the amenities of neighbouring residents and highway safety. There are no other material planning considerations that indicate planning permission should not be granted. The proposal, subject to relevant conditions, is therefore considered acceptable.

Therefore, it is recommended that the application be permitted.

**RECOMMENDATION:- PERMIT subject to conditions and subject to a deed of variation to the original Section 106 legal 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 recommended conditions, and Members are advised that this summary should be read in conjunction with the detailed report.**



## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the variation of conditions 2, 3, 9, 11 and 12 of planning permission 15/00032/FULM in order to allow for the erection of 30 dwellings with a revised site layout at Forest Road, Coalville. The originally approved layout is being varied in order to provide for the necessary access arrangements in respect of planning application 16/00798/FUL which proposes a further 8 dwellings to the south of the application site.

The application is being considered at Planning Committee because it is linked to planning application 16/00798/FUL which has been called to Planning Committee by Councillor Johnson due to a lack of affordable housing.

Relevant Planning History:

15/00032/FULM - Construction of 30 dwellings with associated access and open space - permitted.

16/00798/FUL - Construction of 8 dwellings with associated access and turning area (extension to site granted Planning Permission under 15/00032/FULM) - currently under consideration and reported on this planning committee agenda.

### 2. Publicity

38 neighbours have been notified (Date of last notification 20 July 2016)

Site Notice displayed 3 August 2016

Press Notice published 27 July 2016

### 3. Consultations

Hugglescote & Donington Le Heath PC consulted 19 July 2016

Environment Agency

LCC Flood Management

County Highway Authority

Environment Agency

NWLDC Urban Designer

Severn Trent Water Limited

### 4. Summary of Representations Received

No letters of representation have been received from surrounding members of the public.

**Environment Agency** has no objections to make.

**Hugglescote and Donington Le Heath Parish Council** has not responded at the time of writing this report.

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

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

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

## 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 57 (Requiring good design)  
 Paragraph 59 (Requiring good design)  
 Paragraph 60 (Requiring good design)  
 Paragraph 61 (Requiring good design)  
 Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)  
 Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)  
 Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)  
 Paragraph 118 (Conserving and enhancing the natural environment)  
 Paragraph 123 (Conserving and enhancing the natural environment)  
 Paragraph 173 (Ensuring viability and delivery)  
 Paragraph 203 (Planning conditions and obligations)  
 Paragraph 204 (Planning conditions and obligations)

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

The following Local Plan policies are relevant to this application:

Policy S2 - Limits to Development  
 Policy E3 - Residential Amenities  
 Policy E4 - Design  
 Policy E7 - Landscaping  
 Policy E8 - Crime Prevention  
 Policy F1 - National Forest General Policy  
 Policy T3 - Highway Standards  
 Policy T8 - Parking  
 Policy H4/1 - Housing Land Release  
 Policy H4g - Housing Allocations (Grange Road, Hugglescote)  
 Policy H6 - Housing Density

Policy H7 - Housing Design  
Policy H8 - Affordable Housing  
Policy L21 - Children's Play Areas

### **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 D1 - Design of New Development;  
Policy D2 - Amenity;  
Policy H4 - Affordable Housing  
Policy H6 - House Types and Mix;  
Policy IF4 - Transport Infrastructure and New Development;  
Policy IF7 - Parking Provision and New Development;  
Policy Cc2 - Water - Flood Risk

### **Other Policies**

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

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

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

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

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

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

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

### **6. Assessment**

#### **Principle**

The principle of this development has already been established by the granting of planning permission 15/00032/FUL. The sole issue in the determination of this application is whether the scheme would be acceptable when having regard to the changes that are now proposed to the plans and detailed within the 'Proposals and Background' section of this report. The main issues for determination in this application are considered to be in relation to design, residential amenity and highway safety issues.

#### **Design**

The need for good design in new residential development is outlined not only in adopted Local Plan Policy H7 and submitted Local Plan Policy D1, but also paragraphs 57, 60 and 61 of the

NPPF, with paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 indicates that in the determination of planning applications regard will be had to the wider settings of new buildings; new development should respect the character of its surrounding, in terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

The changes to the layout would result in dwellings being re-positioned along the western and southern boundaries of the site in order to allow for the access to run all the way to the site boundary. The variations would result in dwellings of differing sizes in comparison to the original approval but similar house types would be used and the proposed dwellings are still considered to be of an acceptable design. No objections have been received in respect of the proposals from the Council's Urban Design Officer. The ethos of the landscaping scheme that has been agreed as part of the original approval has been included in the variation application.

Therefore, the proposed alterations are considered to be in accordance with adopted Local Plan Policy E4 and E7 and submitted Local Plan Policy D1 as well as the advice contained in the NPPF.

### **Residential Amenity**

It is noted that no objections have been received from any surrounding neighbours as part of the consultation exercise. The varied layout would result in plots which would be sited further away from existing residential properties and, therefore, the scheme could not be considered to result in any significant overlooking, overbearing or overshadowing issues.

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

### **Highway Safety and Parking**

It has previously been established that suitable access and parking arrangements would be available at the site to accommodate 30 dwellings. The County Highway Authority have been consulted on the proposed scheme to establish whether they have any concerns with the varied road layout proposed as part of this proposal. The response from the County Highway Authority is that they raise no objections to the scheme subject to the imposition of suitable planning conditions.

It is considered that sufficient off-street parking provision along with vehicular manoeuvring facilities could be accommodated within the boundaries of the site and the County Highway Authority has provided suggested conditions in this regard should planning permission be granted.

On this basis of the above, and subject to the suggested conditions recommended by the County Highway Authority, the proposal would accord with Paragraph 32 of the NPPF and Policies T3 and T8 of the Local Plan.

**Other**

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

**Conclusion**

The principle of this development has already been established. The proposal is not considered to have any significant detrimental design impacts, highway safety issues or impact upon residential amenity. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the adopted and submitted Local Plan and the advice in the NPPF. It is therefore recommended that the application be permitted.

**RECOMMENDATION:- PERMIT subject to conditions and subject to a deed of variation to the original Section 106 legal agreement;**

- 1 The proposed development shall be carried out strictly in accordance with the following schedule of plans submitted as part of planning permission 15/00032/FULM:

Drawing number 150M (Proposed Site Plan) deposited with the Local Planning Authority on 25 August 2015;

Drawing number 270A (Proposed Plot 30) deposited with the Local Planning Authority on 3 August 2015;

Drawing number 271 (Proposed Plot 18) deposited with the Local Planning Authority on 3 August 2015;

Drawing number 251C (Proposed Plot 1, 2 and 3 - Elevations) deposited with the Local Planning Authority on 6 July 2015;

Drawing number 252B (Proposed Plot 4, 5, 6 and 7 - Floor Plans) deposited with the Local Planning Authority on 6 July 2015;

Drawing number 250B (Proposed Plot 1, 2 and 3 - Floor Plans) deposited with the Local Planning Authority on 6 July 2015;

Drawing number 253C (Proposed Plot 4, 5, 6 and 7 - Elevations) deposited with the Local Planning Authority on 6 July 2015;

Drawing number 261C (Proposed Plot 21 - Plans and Elevations) deposited with the Local Planning Authority on 29 June 2015;

Drawing number 259C (Proposed Plot 15, 19 and 28 - Plans and Elevations) deposited with the Local Planning Authority on 29 June 2015;

Drawing number 267 (Proposed Plot 20 - Plans and Elevations) deposited with the Local Planning Authority on 29 June 2015;

Drawing number 254C (Proposed Plots 8 and 9 - Plans and Elevations) deposited with the Local Planning Authority on 29 June 2015;

Drawing number 255C (Proposed Plot 10, 13 and 18 - Plans and Elevations) deposited with the Local Planning Authority on 29 June 2015;

Drawing number 258B (Proposed Plots 14 and 27 - Plans and Elevations) deposited with the Local Planning Authority on 29 June 2015;

Drawing number 256B (Proposed Plot 11 and 29 - Plans and Elevations) deposited with the Local Planning Authority on 12 June 2015;

Drawing number 260B (Proposed Plot 16 and 17 - Floor Plans and Elevations) deposited with the Local Planning Authority on 12 June 2015;

Drawing number 263B (Proposed Plots 22 and 23 - Floor Plans and Elevations) deposited with the Local Planning Authority on 12 June 2015;  
Drawing number 257B (Proposed Plot 12 - Plans and Elevations) deposited with the Local Planning Authority on 12 June 2015;  
Drawing number 264B (Proposed Plots 24 and 25 - Plans and Elevations) deposited with the Local Planning Authority on 12 June 2015;  
Drawing number 450 B (Proposed Street Scenes) deposited with the Local Planning Authority on 12 June 2015;  
Drawing number 265A (Proposed Plot 26 - Plans and Elevations) deposited with the Local Planning Authority on 12 June 2015;  
Drawing number 158A (Proposed Land to be Maintained by Management Company) deposited with the Local Planning Authority on 25 August 2015;  
Drawing number 157A (Proposed Fencing Plan) deposited with the Local Planning Authority on 25 August 2015.

as amended by the following schedule of plans submitted as part of planning permission 16/00797/VCUM:

Drawing number 257D (Proposed Plot 12) deposited with the Local Planning Authority on 25 October 2016;  
Drawing number 282 (Proposed Plot 16) deposited with the Local Planning Authority on 25 October 2016;  
Drawing number 268A (Proposed Plot 28) deposited with the Local Planning Authority on 25 October 2016;  
Drawing number 266E (Proposed Plot 18) deposited with the Local Planning Authority on 25 October 2016;  
Drawing number 258E (Proposed Plot 17) deposited with the Local Planning Authority on 25 October 2016;  
Drawing number 265D (Proposed Plot 26) deposited with the Local Planning Authority on 25 October 2016;  
Drawing number 2B (Landscape Proposals) deposited with the Local Planning Authority on 4 August 2016;  
Drawing number 180 (Proposed Site Plan) deposited with the Local Planning Authority on 12 July 2016;  
Drawing number 100A (Location Plan) deposited with the Local Planning Authority on 12 July 2016;  
Drawing number 267A (Proposed Plot 19 and 20) deposited with the Local Planning Authority on 12 July 2016;  
Drawing number 260C (Proposed Plot 14 and 15) deposited with the Local Planning Authority on 12 July 2016.

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

- 2 Notwithstanding the submitted plans, nor condition 2 above, no dwelling shall be erected above damp proof course until full details of both hard and soft landscaping works and boundary treatments have first been submitted to and approved in writing by the Local Planning Authority. These details shall include:
  - a) Means of enclosure and boundary treatments to and within the site;
  - b) Hard surfacing materials;
  - c) Details of soft landscaping including schedules of plant species, plant sizes, planting plans and proposed numbers/densities where appropriate;

d) An implementation programme for the hard and soft landscaping and boundary treatments.

*Reason - In the interests of visual and residential amenities.*

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

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

4 No dwelling shall be erected above damp proof course until such time as a scheme for the parking courtyards, including numbering of spaces and illumination, has been submitted to and agreed in writing with the Local Planning Authority unless details have already been agreed by the Local Planning Authority under Condition 5 of Planning Permission 15/00032/FULM. The scheme shall be carried out in accordance with the agreed details.

*Reason - To ensure the development provides for a satisfactory form of design, in the interest of amenity.*

5 The scheme shall be carried out in accordance with the Risk Based Land Contamination Assessment that has been submitted to and agreed in writing with the Local Planning Authority under Condition 6 of Planning Permission 15/00032/FULM. If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

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

6 Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority, unless a Verification Investigation has been agreed under planning condition 7 of planning permission 15/00032/FULM. The Verification Investigation Report shall:

- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- Contain Movement Permits for all materials taken to and from the site and/or a copy of

the completed site waste management plan if one was required;

- Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- Demonstrate the effectiveness of the approved Remedial Scheme; and
- Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

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

- 7 The scheme shall be carried out in accordance with the agreed tree protection plan and arboricultural method statement (including foundation designs and/or no-dig construction) which has been agreed under Condition 8 of Planning Permission 15/00032/FULM. The scheme shall be carried out in accordance with the agreed details and timescales.

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

- 8 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on site until such time as precise details of the treatment of all hard surfaces (including all access roads, footways, drives and parking / manoeuvring areas) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure the development provides for a satisfactory form of design, in the interest of amenity.*

- 9 The utility boxes on the dwellings shall be carried out in accordance with the positioning and finishes agreed under condition 10 of Planning Permission 15/00032/FULM as amended by the locations included on the approved plans submitted as part of planning application 16/00797/VCUM.

*Reason - To ensure an appropriate form of design.*

- 10 The development shall be carried out in accordance with the surface water drainage scheme for the site agreed under Condition 11 of Planning Permission 15/00032/FULM. The scheme shall be carried out in accordance with the agreed details and timescales.

*Reason - To prevent the increased risk of flooding, both on and off site.*

- 11 The development shall be carried out in accordance with the foul water drainage scheme for the site agreed under Condition 12 of Planning Permission 15/00032/FULM. The scheme shall be carried out in accordance with the agreed details and timescales.

*Reason - To protect the water environment.*

- 12 Unless first agreed in writing by the Local Planning Authority, no site clearance operations that involve the destruction or removal of vegetation on the site shall be undertaken during the months of March to August (inclusive).

*Reason - To ensure that breeding birds are not adversely affected, in the interests of nature*



*conservation.*

- 13 The development shall be carried out in accordance with the Written Scheme of Investigation for the site agreed under Condition 15 of Planning Permission 15/00032/FULM. The scheme shall be carried out in accordance with the agreed details and timescales. None of the dwellings shall be occupied until such time as the site investigation and post investigation assessment has been completed in accordance with the programme set out in the agreed Written Scheme of Investigation 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, and to comply with the NPPF.*

- 14 Before first occupation of any dwelling hereby permitted, a visibility splay of 2.4 metres by 43 metres to the left hand side (south-west) shall be provided at the junction of the access with Forest Road; this shall thereafter be so maintained in future. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splay.

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

- 15 Before first use of the development hereby permitted, 1.0 metre by 1.0 metre pedestrian visibility splays shall be provided on the highway boundary on both sides of each access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway, in accordance with the current standards of the Highway Authority and shall be so maintained in perpetuity.

*Reason - In the interests of pedestrian safety.*

- 16 Off-street car parking and turning facilities shall be provided within the application site in accordance with the details shown on the submitted plan; the parking and turning areas shall be surfaced and marked out prior to the development being brought into use, and shall thereafter be so maintained at all times.

*Reason - To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.*

- 17 The development shall be carried out in accordance with the construction traffic/site traffic management plan for the site agreed under Condition 19 of Planning Permission 15/00032/FULM. The scheme shall be carried out in accordance with the agreed details and timescales.

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

- 18 Nothing shall be set, nor allowed to grow to a height exceeding 0.6 metres above the level of the adjacent adopted carriageway.

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

- 19 Before first occupation of any dwelling, its access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and shall be so maintained at all times.

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

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

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

- 21 Unless any alternative timescale is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be brought into use until such time as a scheme for the hard surfacing of public right of way N85 has been implemented in full in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To provide for improved pedestrian access to nearby services, in the interests of ensuring the development is sustainable in transportation terms.*

- 22 Notwithstanding the submitted details, nor Condition 2 above, no work shall commence in respect of the construction of the proposed pumping station until such time as precise details of all associated above-ground works have been submitted to and agreed in writing by the Local Planning Authority unless details have already been agreed by the Local Planning Authority under Condition 24 of Planning Permission 15/00032/FULM. . The development shall be carried out in accordance with the agreed details.

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

### Notes to applicant

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



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

Report Item No  
A6

Peveril Homes Site Measham Road Moira Derby

Application Reference  
16/01225/VCUM

Applicant:  
Peveril Homes Limited

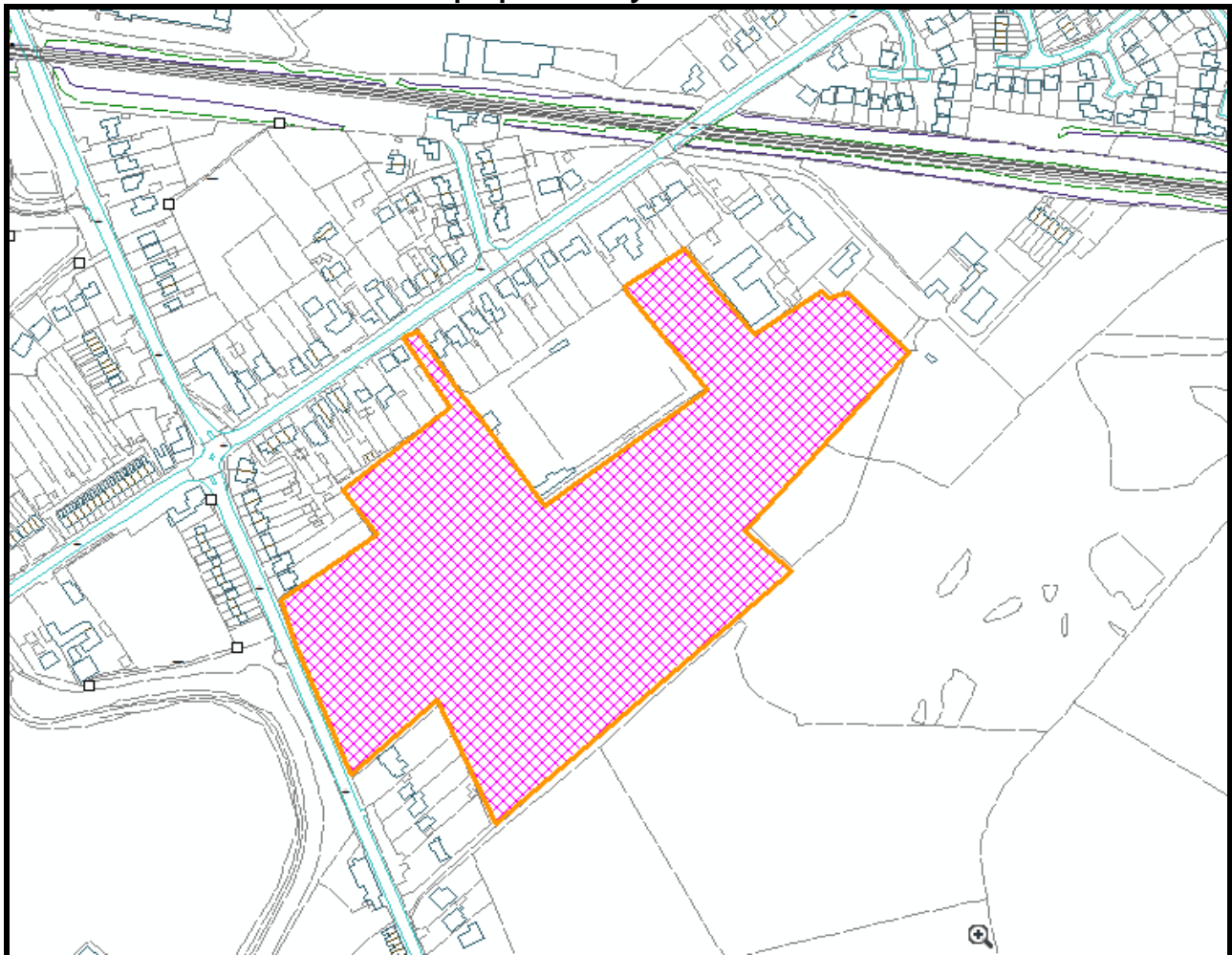
Date Registered  
21 October 2016

Case Officer:  
James Mattley

Target Decision Date  
20 January 2017

Recommendation:  
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

### Proposal and Update

Planning permission is sought for the variation of condition 2 of planning permission 13/00183/FULM to amend house and garage types in addition to landscaping, boundary treatments and levels of some plots at land off Measham Road, Moira. A previous planning application (15/00966/VCUM) was heard at the Planning Committee in October 2016 where it was resolved to refuse the application on two grounds which were in relation to surface water run off/flooding and overlooking issues in respect of plots 10 and 11. Since that refusal the applicant has met with residents, local representatives of Moira Furnace and planning officers to discuss the situation on the site.

The current application no longer seeks to make any amendments to the slab levels of Plots 10 and 11 and these would now be at the same level as was agreed under the original planning application on the site (13/00183/FULM). In terms of drainage, the land levels adjacent to the boundaries of properties on Measham Road will be equivalent to the original ground levels or below. All three balancing lagoons on the site are now functioning and plots are being connected to the relevant attenuation pond as soon as the roof is constructed.

### Consultations

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

### Planning Policy

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

### Conclusion

The principle of this development has already been established by the granting of planning permission 13/00183/FULM. The amended proposal is not considered to have any significant detrimental design impacts or result in impacts upon existing residents. In respect of flooding and drainage, since the previous refusal on the site the applicants have further amended levels and ensured that all balancing lagoons on the site are fully functional. The Lead Local Flood Authority (LLFA) and the Environment Agency (EA) have both raised no objection to the scheme and the scheme is considered acceptable in this regard. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the adopted and submitted Local Plan and the advice in the NPPF.

Therefore, it is recommended that the application be permitted subject to conditions and subject to a deed of variation.

### RECOMMENDATION:- PERMIT

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the variation of condition 2 of planning permission 13/00183/FULM to amend house and garage types in addition to landscaping, boundary treatments and levels of some plots at land off Measham Road, Moira. The house and garage type substitutions would also result in alterations to the landscaping and boundary treatment layouts considered as part of the application and associated discharge of condition process. Alternative plans have been submitted in relation to those aspects as part of this application to vary condition 2 of the original permission. The scheme also proposes that the finished floor levels of some plots would be amended. The applicants indicate that such amendments are required to tie into the existing road, detailed design levels and existing topography and to ensure that access is provided in accordance with Part M of the Building Regulations 2010.

A previous planning application (15/00966/VCUM) was heard at the Planning Committee in October 2016 where it was resolved to refuse the application on two grounds which were in relation to surface water run off/flooding and overlooking issues in respect of plots 10 and 11.

The current application no longer seeks to make any amendments to the slab levels of Plots 10 and 11 and these would now be at the same level as was agreed under the original planning application on the site (13/00183/FULM). In terms of drainage, the land levels adjacent to the boundaries of properties on Measham Road will be equivalent to the original ground levels or below. All three balancing lagoons on the site are now functioning and plots are being connected to the relevant attenuation pond as soon as the roof is constructed.

### Planning History

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

### 2. Publicity

89 no neighbours have been notified.

Site Notice displayed 25 October 2016

Press Notice published 9 November 2016

### 3. Consultations

Ashby Woulds Town Council consulted 25 October 2016

Environment Agency

LCC Flood Management

Severn Trent Water Limited

Planning Enforcement

Head of Environmental Protection

#### 4. Summary of Representations Received

Three letters of representation have been received objecting to the proposal on the following grounds:

- flooding issues due to raised ground levels;
- overlooking, overbearing and overshadowing issues due to raised heights of plots;
- contrary to Local Plan and NPPF policies in respect of flooding.

**Ashby Woulds Town Council** - no comments received.

**Environment Agency** - no objection.

**Lead Local Flood Authority** - no objection.

**NWLDC Environmental Protection Section** - no objection.

**Severn Trent Water** - no comments received.

#### 5. Relevant Planning Policy

The relevant planning policies are listed in the previous Planning Committee report in relation to application 15/00966/VCUM which is attached in Appendix 1.

#### 6. Assessment

A similar application to the one now being considered (15/00966/VCUM) was refused planning permission at the October Committee Meeting for the following reasons:

(1) Paragraphs 100 and 103 of the NPPF seek to protect people and property from flooding. Policy Cc2 of the submitted Local Plan requires all new development to address the effective management of all sources of flood risk and to ensure that development does not increase the risk of flooding elsewhere. In the opinion of the Local Planning Authority, the applicants have failed to demonstrate that the proposal would not result in surface water run-off and flooding of the surrounding area and neighbouring properties, contrary to the advice in the NPPF and Policy Cc2 of the submitted Local Plan.

(2) Policy E3 of the adopted Local Plan and Policy D2 of the submitted Local Plan seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings. The proposal, by virtue of the raising of the levels at plots 10 and 11, would result in an unacceptable impact upon the privacy of existing residents at No.s 45-53 Measham Road and, therefore, would be detrimental to the amenities of the occupiers of surrounding dwellings. The proposal would be contrary to Policy E3 of the adopted Local Plan and Policy D2 of the submitted Local Plan.

The previous report that went to the October Planning Committee is re-produced in Appendix A in its entirety but this assessment section of the report will deal solely with the two reasons for refusal outlined above.

In terms of flooding and drainage, the land levels adjacent to the boundaries of properties on Measham Road will be equivalent to the original ground levels or below. All three balancing lagoons on the site are now functioning and plots are being connected to the relevant attenuation pond as soon as the roof is constructed. The Lead Local Flood Authority and the Environment Agency both raise no objections to the proposed development. In addition (whilst



not strictly related to this planning application) the applicants have contacted representatives of Moira Furnace in order to assist with clearance of silt. In addition, although the applicants maintain that their site has not caused flooding to front gardens of properties along Measham Road they have written to the Lead Local Flood Authority regarding the 'drain' at the end of the Tramway which may be a contributory factor to flooding of some front gardens on Measham Road.

The LLFA and the EA have both raised no objection to the scheme on flooding or drainage grounds. The previous conditions which required certain run-off limitations would still apply to any decision to be issued in respect of the current proposal. Therefore, the scheme is still considered to be acceptable in relation to the advice in the NPPF and the Council's adopted and submitted Local Plans in respect of flooding and drainage.

With regards to overlooking, Planning Committee Members deemed that plots 10 and 11 (only) would cause unacceptable overlooking to existing residents at No.s 45-53 Measham Road. The applicants have now amended the proposal and no longer seek to make any amendments to the slab levels of Plots 10 and 11 and these would now be at the same level as was agreed under the original planning application on the site (13/00183/FULM). The impacts arising from plots at this level and this distance has already been found to be acceptable under the original approval. For clarity, the original approval granted planning permission for 2.5 storey dwellings and the current application does not propose any alterations in terms of the heights or finished floor levels of these plots.

The previous application was refused solely on the basis of plots 10 and 11 but letters of representation have also raised issues in respect of plots 2 to 9. Although these plots would be raised in height they would be located a sufficient distance away from the rear amenity of No.45 Measham Road to ensure that no significant overlooking, overbearing or overshadowing issues would arise. The distances between plots 2-8 and the boundary would be between 32 and 17 metres away from the side boundary of this property. Plot 8 would be 11 metres away at its closest point and views from first floor windows of this plot would principally look out towards the rear garden of this plot and not the rear garden of No.45 Measham Road.

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

In conclusion, the previous reasons for refusal have been specifically addressed by the current application. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the adopted Local Plan, submitted Local Plan and the advice in the NPPF. It is therefore recommended that the application be permitted.

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

- 1 The development shall be begun before 30 June 2017.

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

- 2 The development shall be built in accordance with the following plans submitted as part

of planning application 13/00183/FULM:

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

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

5820\_EL (20) 01\_A Moira Paired Bungalow elevations;  
 5820\_EL (20) 01\_A-A Moira Detached Bungalow elevations;  
 5820\_EL (20) 02\_A Moira Terraced Cottages elevations;  
 5820\_EL (20) 03 Moira Paired Cottage elevations;  
 5820\_EL (20) 04 Moira Paired House elevations;  
 5820\_EL (20) 05-A\_A Moira Paired Villa (Gable Variant) elevations;  
 5820\_EL (20) 05-B\_A Moira Paired Villa elevations;  
 5820\_EL (20) 06A Moira Detached Cottage elevations;  
 5820\_EL (20) 07A Moira Corner House elevations;  
 5820\_EL (20) 08A Moira Corner Cottage elevations;  
 5820\_EL (20) 09 A-A Moira Large Cottage - Dutch Gable option elevations;  
 5820\_EL (20) 10A-A Moira Grand Villa (Type A) elevations;  
 5820\_EL (20) 10B-A Moira Grand Villa (Type B) elevations;  
 5820\_EL (20) 11A Woodland House 1 elevations;  
 5820\_EL (20) 12\_A Woodland House 2 elevations;  
 5820\_EL (90) 01\_A Boundary treatment palette - front boundaries;  
 5820\_EL (90) 02\_A Boundary treatment palette - rear and side boundaries; all received  
 11 March 2013, and,

5820\_PL (20) 01\_B Moira Paired Bungalow plans;  
 5820\_PL (20) 02\_B Moira Terraced Cottages plans;  
 5820\_PL (20) 03\_B Moira Paired Cottage plans;  
 5820\_PL (20) 04\_B Moira Paired House plans;  
 5820\_PL (20) 05 A\_B Moira Paired Villa (Type 02);  
 5820\_PL (20) 05 B\_B Moira Paired Villa plans;  
 5820\_PL (20) 06\_B Moira Detached Cottage plans;  
 5820\_PL (20) 07\_A Moira Corner House plans;

5820\_PL (20) 08\_B Moira Corner Cottage plans;  
 5820\_PL (20) 09 A\_A Moira Large Cottage - Dutch Gable option plans;  
 5820\_PL (20) 09 B\_B Moira Large Cottage (Type B) plans;  
 5820\_PL (20) 10 A\_A Moira Grand Villa (Type A) plans;  
 5820\_PL (20) 10 B\_A Moira Grand Villa (Type B) plans;  
 5820\_PL (20) 11-1-A Woodland House 1 plans;  
 5820\_PL (20) 11-2-A Woodland House 1 roof plan and 3D;  
 5820\_PL (20) 12\_A Woodland House 2 plans;  
 5820\_PL (20) 14\_A Moira Workshop House plans and elevations;  
 5820\_PL (20) 31 Garage Type G1 Garage and woodstore;  
 5820\_PL (20) 32 Garage Type G2 Garage and carport (pitched roof);  
 5820\_PL (20) 33 Garage Type G3 Traditional single garage;  
 5820\_PL (20) 34 Garage Type G4 Woodland style garage; and,  
 5820\_PL (20) 35 Garage Type G5 Garage and carport (sedum roof), all received on 11 March 2013.

as amended by the following plans submitted as part of planning application 16/01225/VCUM:

MOI-SS-03 deposited with the Local Planning Authority on 10 November 2016;  
 MOI-SS-02 deposited with the Local Planning Authority on 10 November 2016;  
 MOI-SS-01 deposited with the Local Planning Authority on 10 November 2016;  
 5820\_SP (90)08 Rev O (Building Heights) deposited with the Local Planning Authority on 10 November 2016;,  
 External Finishes '1st March 2016' deposited with the Local Planning Authority on 21 October 2016;  
 5820\_SP(90)01 Rev AA deposited with the Local Planning Authority on 21 October 2016;  
 SP (90)03 Rev H (Street Hierarchy Plan) deposited with the Local Planning Authority on 21 October 2016;  
 SP (90)06 Rev T (Site Layout) deposited with the Local Planning Authority on 1 October 2016;  
 SP (90)02 Rev T (Landscape Masterplan) deposited with the Local Planning Authority on 21 October 2016;  
 SP (90)04 Rev G (Open Space Strategy) deposited with the Local Planning Authority on 21 October 2016;  
 SP (90)05 Rev J (Planting Palette) deposited with the Local Planning Authority on 21 October 2016;  
 EL (90)01 Rev C (Boundary Treatment Palette) deposited with the Local Planning Authority on 21 October 2016;  
 SP(90)24 Rev H (Planting Plan 1 of 4) deposited with the Local Planning Authority on 21 October 2016;  
 SP(90)25 Rev H (Planting Plan 2 of 4) deposited with the Local Planning Authority on 21 October 2016;  
 SP(90)26 Rev F (Planting Plan 3 of 4) deposited with the Local Planning Authority on 21 October 2016;  
 SP(90)27 Rev I (Planting Plan 4 of 4) deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)14 Rev F (Plans and Elevations) deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)10B Rev E or Rev F (Plans) deposited with the Local Planning Authority on 21 October 2016;

PL (20)05 Rev H (Plans and 3D View) deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)04 Rev E (Plans and 3D View) deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)03 Rev F (Plans and 3D View) deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)06 Rev I (Plans and 3D View) deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)08 Rev I (Plans and 3D View) deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)09B Rev E (Plans and 3D View) deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)10A Rev E or Rev F (Plans) deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)35 deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)36 deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)37 deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)38 deposited with the Local Planning Authority on 21 October 2016;  
 PL(20)29 Rev C (Plans and 3D View) deposited with the Local Planning Authority on 21 October 2016;  
 EL (20)06 Rev I (Elevations) deposited with the Local Planning Authority on 21 October 2016;  
 EL (20)05 Rev H (Elevations) deposited with the Local Planning Authority on 21 October 2016;  
 EL (20)04 Rev E (Elevations) deposited with the Local Planning Authority on 21 October 2016;  
 EL (20)03 Rev E (Elevations) deposited with the Local Planning Authority on 21 October 2016;  
 EL (20)01A Rev E (Elevations) deposited with the Local Planning Authority on 21 October 2016;  
 EL (20)01 Rev E (Elevations) deposited with the Local Planning Authority on 21 October 2016;  
 EL(20)02 Rev G (Elevations) deposited with the Local Planning Authority on 21 October 2016;  
 PL(20)02 Rev G (Plans) deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)01A Rev D (Plans and 3D View) deposited with the Local Planning Authority on 21 October 2016;  
 PL (20)01 Rev E (Plans and 3D View) deposited with the Local Planning Authority on 21 October 2016;  
 EL(20)29 Rev C (Elevations) deposited with the Local Planning Authority on 21 October 2016;  
 EL (20)10B Rev E or Rev F (Elevations) deposited with the Local Planning Authority on 21 October 2016;  
 EL (20)10A Rev E or Rev F (Elevations) deposited with the Local Planning Authority on 21 October 2016;  
 EL (20)09B Rev E (Elevations) deposited with the Local Planning Authority on 21 October 2016;  
 EL (20)08 Rev H (Elevations) deposited with the Local Planning Authority on 21 October 2016;

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

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

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

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

*Reason- For the avoidance of doubt.*

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

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

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

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

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

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

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

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

- 9 No work shall commence on the site until such time as a scheme for protecting the

existing trees and hedgerow, identified as being retained, during the construction process has been submitted to and approved by the Local Planning Authority, unless details have been agreed under this condition as part of application 13/00183/FULM. The scheme shall include measures to protect the working area within Root Protection Areas. Such protection as is agreed shall be maintained during the course of development.

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

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

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

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

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

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

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

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

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

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

Limiting the surface water run-off generated by the all rainfall events up to the 100 year

plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site (Section 4).

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

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

- 15 Development shall not commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority, unless details have been agreed under this condition as part of application 13/00183/FULM. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

- A CCTV condition survey of the existing culvert, and remedial measures undertaken where necessary. Reason, for the purpose of ensuring the culvert is operating as designed for the lifetime of the development.  
A manhole at the location where the site surface water drainage system connects to the existing culvert. Reason, for the purpose of future inspection and maintenance of the culvert.
- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.
- Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.
- Detailed design (plans, cross and long sections, and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements, a drawing showing the flood extents for the residual flood volumes stated in the calculations and the flood flow route channel clearly marked on it, including it's outfall location, extent and depth of flooding during operation. Drawing No. SK002 Revision D or similar should be used at the base for the flood extents drawing.
- Details of how the scheme shall be maintained and managed after completion.

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

- 16 No development shall commence on site until a full and detailed site investigation and assessment confirming the location and condition of the recorded coal mine entries has been carried out, at the developer's expense, and submitted to the Local Planning Authority, unless details have been agreed under this condition as part of application

13/00183/FULM. In the event that the site investigations confirm the need for remedial works to treat the mine entries, and/or any other mitigation measures to ensure the safety and stability of the proposed development, no development shall commence on site until details of such works have been submitted to and agreed in writing by the Local Planning Authority and implemented at the site, unless details have been agreed under this condition as part of application 13/00183/FULM.

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

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

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

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

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

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

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

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

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

- 21 For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.

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



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

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

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

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

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

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

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

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

- 26 Before first occupation of any dwelling hereby permitted, its access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and shall be so maintained at all times.

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

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

*Reason- In the interests of pedestrian safety.*

- 28 No development shall commence on site until details of anti-motorcycle barriers on, and

signage information for, the cycle/foot path hereby permitted has been submitted to and agreed in writing with the Local Planning Authority, unless details have been agreed under this condition as part of application 13/00183/FULM. These measures shall be implemented as agreed and maintained as such in perpetuity.

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

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

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

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

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

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

- BS10175 Year 2011 Investigation Of Potentially Contaminated Sites Code of Practice;
- BS8485 Year 2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
- The Remedial Scheme shall be prepared in accordance with the requirements of:
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

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

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

Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

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

- 31 Prior to occupation of any part of the completed development, a Verification Investigation

shall be undertaken in line with the agreed Verification Plan (submitted as part of planning application 13/00183/FULM) for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

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

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

#### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 A deed of variation to the original S106 legal agreement will be required.

APPENDIX A

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

Report Item No  
A2

Land Off Measham Road Moira Swadlincote Derby DE12 6AA

Application Reference  
15/00966/VCUM

Applicant:

Date Registered  
1 October 2015

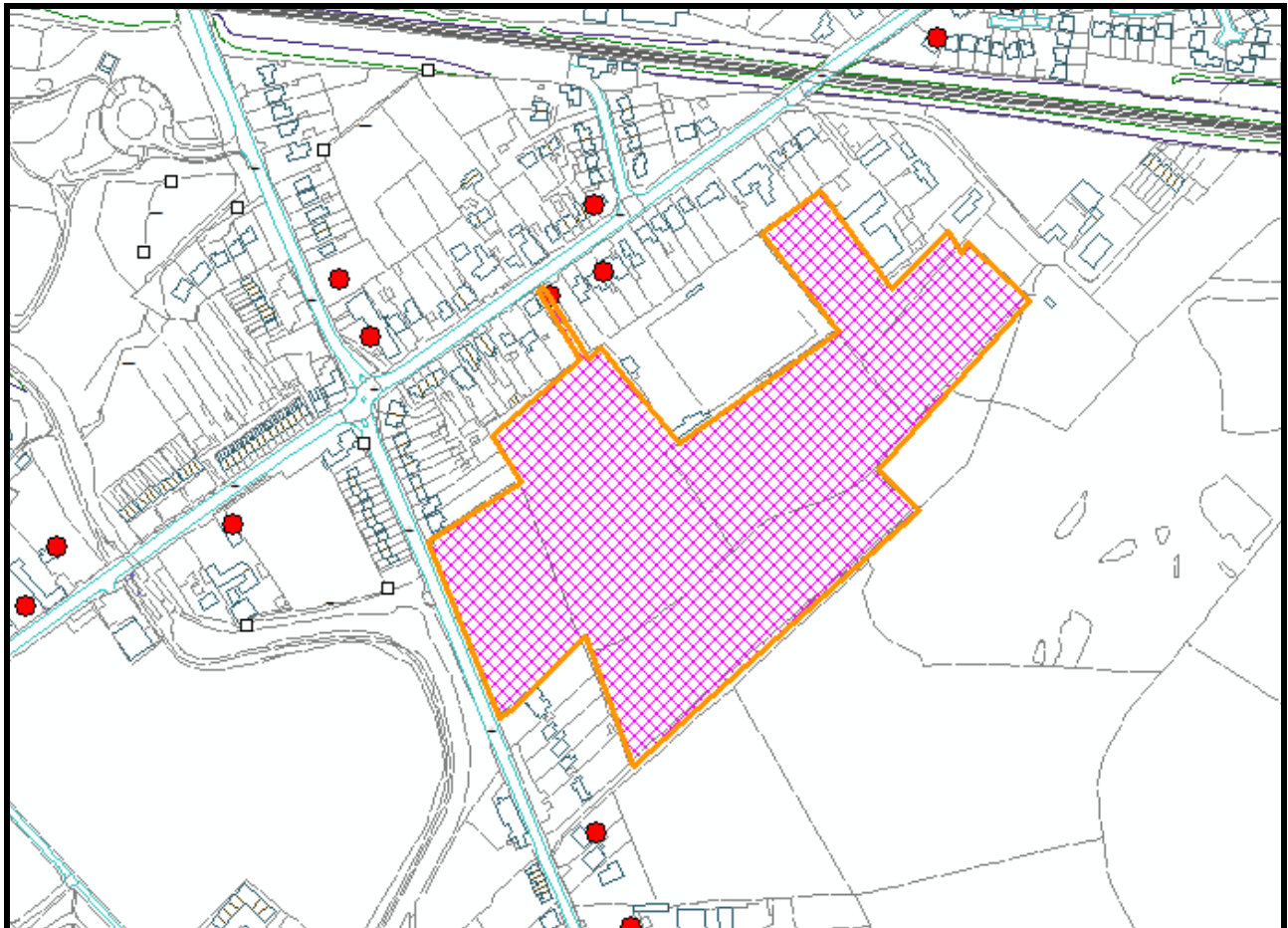
Case Officer:  
James Mattley

Target Decision Date  
31 December 2015

Recommendation:  
PERMIT Subject to a Section 106 Agreement

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Site Location - Plan for indicative purposes only



## EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

### Proposal and Update

Planning permission is sought for the variation of condition 2 of planning permission 13/00183/FULM to amend house and garage types in addition to landscaping, boundary treatments and levels at land off Measham Road, Moira. The application was heard at the Planning Committee in September 2016 where it was resolved to defer the application for the applicant to demonstrate that the development would not have an adverse impact on neighbours from flooding and that the development would not result in flooding downstream at Moira Furnace. The applicant has provided some updated information in this regard.

### Consultations

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

### Planning Policy

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

### Conclusion

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

Therefore, it is recommended that the application be permitted.

### RECOMMENDATION:- PERMIT

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

## MAIN REPORT

### 1. Proposals and Background

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

The application was heard at the Planning Committee in September 2016 where it was resolved to defer the application for the applicant to demonstrate that the development would not have an adverse impact on neighbours from flooding and that the development would not result in flooding downstream at Moira Furnace. The applicant has provided some updated information in this regard.

#### Planning History

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

### 2. Publicity

85 no neighbours have been notified (date of last notification 16 September 2016)

Site Notice displayed 16 October 2015

Press Notice published 14 October 2015

### 3. Consultations

Ashby Woulds Town Council consulted 5 October 2015

County Highway Authority

NWLDC Urban Designer

LCC Flood Management

Environment Agency

WARD MEMBER

### 4. Summary of Representations Received

Representations

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

**Natural England** - no comments received.

**Environment Agency** - no objection.

**LCC Ecology** - no objection.

**Lead Local Flood Authority** - no objection.

**National Forest Company** - no objection.

### **Third Party Representations**

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

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

### **5. Relevant Planning Policy**

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

#### **National Planning Policy Framework**

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

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

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

application:

Paragraph 9 (Achieving sustainable development);  
 Paragraph 10 (Achieving sustainable development);  
 Paragraph 14 (Presumption in favour of sustainable development);  
 Paragraphs 18-20 (Building a strong, competitive economy);  
 Paragraph 32 (Promoting sustainable transport);  
 Paragraph 34 (Promoting sustainable transport);  
 Paragraph 35 (Promoting sustainable transport);  
 Paragraph 39 (Promoting sustainable transport);  
 Paragraph 47 (Delivering a wide choice of high quality homes);  
 Paragraph 49 (Delivering a wide choice of high quality homes);  
 Paragraph 50 (Delivering a wide choice of high quality homes);  
 Paragraph 54 (Delivering a wide choice of high quality homes);  
 Paragraph 56 (Requiring good design);  
 Paragraph 57 (Requiring good design);  
 Paragraph 58 (Requiring good design);  
 Paragraph 59 (Requiring good design);  
 Paragraph 60 (Requiring good design);  
 Paragraph 61 (Requiring good design);  
 Paragraph 64 (Requiring good design);  
 Paragraph 69 (Promoting healthy communities);  
 Paragraph 74 (Promoting healthy communities);  
 Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 109 (Conserving and enhancing the natural environment);  
 Paragraph 112 (Conserving and enhancing the natural environment);  
 Paragraph 119 (Conserving and enhancing the natural environment);  
 Paragraph 120 (Conserving and enhancing the natural environment);  
 Paragraph 122 (Conserving and enhancing the natural environment);  
 Paragraph 123 (Conserving and enhancing the natural environment);  
 Paragraph 124 (Conserving and enhancing the natural environment);  
 Paragraph 141 (Conserving and enhancing the historic environment);  
 Paragraph 203 (Planning conditions and obligations);  
 Paragraph 204 (Planning conditions and obligations);

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

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

Policy S1 - Overall Strategy;  
 Policy S3 - Countryside;  
 Policy E2 - Landscaped Amenity Open Space;  
 Policy E3 - Residential Amenities;  
 Policy E4 - Design;  
 Policy E7 - Landscaping;  
 Policy E8 - Crime Prevention;  
 Policy T3 - Highway Standards;  
 Policy T8 - Parking;  
 Policy T20 - Airport Safeguarding;



Policy H4/1 - Housing Land Release;  
 Policy H6 - Housing Density;  
 Policy H7 - Housing Design;  
 Policy H8 - Affordable Housing;  
 Policy L21 - Children's Play Areas;

### **Other Policies**

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

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

S1 - Future housing and economic development needs  
 S2 - Settlement Hierarchy  
 S3 - Countryside  
 D1 - Design of new development  
 D2 - Amenity  
 IF1 - Development and Infrastructure  
 IF2 - Community and Cultural Facilities  
 IF4 - Transport Infrastructure and new development  
 IF7 - Parking provision and new development  
 En1 - Nature Conservation  
 En2 - River Mease Special Area of Conservation  
 En3 - The National Forest  
 Cc2 - Water - Flood risk  
 Cc3 - Water - Sustainable Drainage Systems

### **National Planning Practice Guidance**

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

## **6. Assessment**

### **Principle of Development**

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

### **Flood Risk and Drainage**

There have been continuing concerns of local residents in respect of coalfield legacy issues and, since works began on site in respect of 13/00183/FUL, pooling water on the site. These have been and continue to be dealt with under separate complaints, and negotiation, processes in conjunction with relevant statutory consultees. It should be noted that this proposal relates only to design changes and changes to levels across some parts of the site and these are the only matters which can be considered as part of this application. Clearly the alterations to the

design of the dwellings would have no impact on Flood Risk and Drainage and, therefore, the key issue is whether the revised land levels on the site would result in flood risk and drainage concerns. To consider this issue fully the Local Planning Authority have consulted both the Environment Agency and the Lead Local Flood Authority (LLFA).

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

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

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

The application was heard at the Planning Committee in September 2016 where it was resolved to defer the application for the applicant to demonstrate that the development would not have an adverse impact on neighbouring properties from flooding and that the development would not result in flooding downstream at Moira Furnace. While the applicants are satisfied that their proposals will not result in either flooding of neighbouring properties or Moira Furnace downstream and see no need to amend the technical surface water drainage scheme, the applicant has provided the following updated information in this regard:

(a) As a good will gesture, a new close boarded fence at the end of the garden to plots 10 and 11 together with a new gravel board will be provided. The developer, Peveril, has also allowed for 1m of land to fall away from the fence back towards plots 10 and 11 which would prevent any run-off water travelling towards the adjacent gardens of residents of Measham Road.

(b) In terms of flooding downstream, and in particular at Moira Furnace, it has been agreed by the LLFA and EA ?? that the amount of runoff from the site will be limited specifically to no more than the 'greenfield' runoff rate of 38 litres per second. Therefore, the impact of the development on flooding will be no more than the previous situation with the site undeveloped.

This information is subject to re-consultation with surrounding neighbours as well as the LLFA and the EA. In addition, Officers have met separately with (i) Ashby Wolds Town Council and a neighbouring resident, and (ii) the Chairman of the Trustees of Moira Furnace to listen to their concerns about the flooding impact of this development on neighbouring properties and Moira Furnace. As a result, the concerns of the Trustees of Moira Furnace and residents will be raised with the developer, Peveril, and the LLFA, and the outcome of this and any additional comments from consultees not already received will be reported on the Update Sheet.

Notwithstanding the revised details which have been submitted, it has previously been concluded that the concerns of the LLFA and the EA have now been satisfactorily addressed and both consultees raised no objection to the scheme on flooding or drainage grounds. The previous conditions which required certain run-off limitations would still apply to any decision to be issued in respect of the current proposal. At this stage, Officers do not consider that there is any evidence to suggest that the conclusions reached by the LLFA and EA should not now be accepted. Therefore, the scheme is still considered to be acceptable in relation to the advice in the NPPF and the Council's adopted and publication version Local Plans in respect of flooding and drainage.

### **Design**

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

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

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

the Council's Urban Designer or from any other consultee/neighbour regarding the design quality of the amended proposal.

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

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

### **Residential Amenity**

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

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

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

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

alterations take place to this plot.

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

### Other

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

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

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

### Conclusion

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

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

- 1 The development shall be begun before 30 June 2017.

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

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

5820\_EL (20) 10C\_B Housetype Moira Grand Villa Type C elevations;

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

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

5820\_EL (20) 01\_A Moira Paired Bungalow elevations;  
 5820\_EL (20) 01\_A-A Moira Detached Bungalow elevations;  
 5820\_EL (20) 02\_A Moira Terraced Cottages elevations;  
 5820\_EL (20) 03 Moira Paired Cottage elevations;  
 5820\_EL (20) 04 Moira Paired House elevations;  
 5820\_EL (20) 05-A\_A Moira Paired Villa (Gable Variant) elevations;  
 5820\_EL (20) 05-B\_A Moira Paired Villa elevations;  
 5820\_EL (20) 06A Moira Detached Cottage elevations;  
 5820\_EL (20) 07A Moira Corner House elevations;  
 5820\_EL (20) 08A Moira Corner Cottage elevations;  
 5820\_EL (20) 09 A-A Moira Large Cottage - Dutch Gable option elevations;  
 5820\_EL (20) 10A-A Moira Grand Villa (Type A) elevations;  
 5820\_EL (20) 10B-A Moira Grand Villa (Type B) elevations;  
 5820\_EL (20) 11A Woodland House 1 elevations;  
 5820\_EL (20) 12\_A Woodland House 2 elevations;  
 5820\_EL (90) 01\_A Boundary treatment palette - front boundaries;  
 5820\_EL (90) 02\_A Boundary treatment palette - rear and side boundaries; all received  
 11 March 2013, and,

5820\_PL (20) 01\_B Moira Paired Bungalow plans;  
 5820\_PL (20) 02\_B Moira Terraced Cottages plans;  
 5820\_PL (20) 03\_B Moira Paired Cottage plans;  
 5820\_PL (20) 04\_B Moira Paired House plans;  
 5820\_PL (20) 05 A\_B Moira Paired Villa (Type 02);  
 5820\_PL (20) 05 B\_B Moira Paired Villa plans;  
 5820\_PL (20) 06\_B Moira Detached Cottage plans;  
 5820\_PL (20) 07\_A Moira Corner House plans;  
 5820\_PL (20) 08\_B Moira Corner Cottage plans;  
 5820\_PL (20) 09 A\_A Moira Large Cottage - Dutch Gable option plans;  
 5820\_PL (20) 09 B\_B Moira Large Cottage (Type B) plans;

5820\_PL (20) 10 A\_A Moira Grand Villa (Type A) plans;  
 5820\_PL (20) 10 B\_A Moira Grand Villa (Type B) plans;  
 5820\_PL (20) 11-1-A Woodland House 1 plans;  
 5820\_PL (20) 11-2-A Woodland House 1 roof plan and 3D;  
 5820\_PL (20) 12\_A Woodland House 2 plans;  
 5820\_PL (20) 14\_A Moira Workshop House plans and elevations;  
 5820\_PL (20) 31 Garage Type G1 Garage and woodstore;  
 5820\_PL (20) 32 Garage Type G2 Garage and carport (pitched roof);  
 5820\_PL (20) 33 Garage Type G3 Traditional single garage;  
 5820\_PL (20) 34 Garage Type G4 Woodland style garage; and,  
 5820\_PL (20) 35 Garage Type G5 Garage and carport (sedum roof), all received on 11 March 2013.

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

SP(90)24 Rev H (Planting Plan 1 of 4) deposited with the Local Planning Authority on 18 April 2016;  
 SP(90)25 Rev H (Planting Plan 2 of 4) deposited with the Local Planning Authority on 18 April 2016;  
 SP(90)26 Rev F (Planting Plan 3 of 4) deposited with the Local Planning Authority on 18 April 2016;  
 SP(90)27 Rev I (Planting Plan 4 of 4) deposited with the Local Planning Authority on 18 April 2016;  
 External Finishing Schedule deposited with the Local Planning Authority on 1 March 2016;  
 PL(20)29 Rev C (Plans and 3D View) deposited with the Local Planning Authority on 25 February 2016;  
 EL(20)29 Rev C (Elevations) deposited with the Local Planning Authority on 25 February 2016;  
 EL(20)02 Rev G (Elevations) deposited with the Local Planning Authority on 25 February 2016;  
 PL(20)02 Rev G (Plans) deposited with the Local Planning Authority on 25 February 2016;  
 5820\_SP (90)08 Rev M deposited with the Local Planning Authority on 8 August 2016;,  
 EL (20)08 Rev H (Elevations) deposited with the Local Planning Authority on 22 February 2016;  
 PL (20)08 Rev I (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;  
 EL (20)01 Rev E (Elevations) deposited with the Local Planning Authority on 22 February 2016;  
 PL (20)01 Rev E (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;  
 PL (20)01A Rev D (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;  
 EL (20)01A Rev E (Elevations) deposited with the Local Planning Authority on 22 February 2016;  
 PL (20)03 Rev F (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;  
 EL (20)03 Rev E (Elevations) deposited with the Local Planning Authority on 22 February 2016;  
 EL (20)04 Rev E (Elevations) deposited with the Local Planning Authority on 22

February 2016;  
 PL (20)04 Rev E (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;  
 EL (20)05 Rev H (Elevations) deposited with the Local Planning Authority on 22 February 2016;  
 PL (20)05 Rev H (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;  
 EL (20)06 Rev I (Elevations) deposited with the Local Planning Authority on 22 February 2016;  
 PL (20)06 Rev I (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;  
 EL (20)08 Rev H (Elevations) deposited with the Local Planning Authority on 22 February 2016;  
 PL (20)08 Rev I (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;  
 EL (20)09B Rev E (Elevations) deposited with the Local Planning Authority on 22 February 2016;  
 PL (20)09B Rev E (Plans and 3D View) deposited with the Local Planning Authority on 22 February 2016;  
 EL (20)10A Rev E (Elevations) deposited with the Local Planning Authority on 22 February 2016;  
 PL (20)10A Rev E (Plans) deposited with the Local Planning Authority on 22 February 2016;  
 EL (20)10B Rev E (Elevations) deposited with the Local Planning Authority on 22 February 2016;  
 PL (20)10B Rev E (Plans) deposited with the Local Planning Authority on 22 February 2016;  
 PL (20)14 Rev F (Plans and Elevations) deposited with the Local Planning Authority on 22 February 2016;  
 SP (90)04 Rev G deposited with the Local Planning Authority on 1 October 2015;  
 SP (90)05 Rev J deposited with the Local Planning Authority on 1 October 2015;  
 SP (90)06 Rev T (Site Layout) deposited with the Local Planning Authority on 1 October 2015;  
 SP (90)03 Rev H deposited with the Local Planning Authority on 1 October 2015;  
 SP (90)02 Rev T deposited with the Local Planning Authority on 1 October 2015;  
 5820\_SP(90)01 Rev AA deposited with the Local Planning Authority on 1 October 2015;  
 EL (90)01 Rev C deposited with the Local Planning Authority on 1 October 2015;  
 PL (28)36 deposited with the Local Planning Authority on 1 October 2015;  
 PL (28)37 deposited with the Local Planning Authority on 1 October 2015;  
 PL (28)38 deposited with the Local Planning Authority on 1 October 2015.

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

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

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

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



*Reason- For the avoidance of doubt.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 15 Development shall not commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority, unless details have been agreed under this condition as part of application 13/00183/FULM. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

- A CCTV condition survey of the existing culvert, and remedial measures undertaken where necessary. Reason, for the purpose of ensuring the culvert is operating as designed for the lifetime of the development.  
A manhole at the location where the site surface water drainage system connects to the existing culvert. Reason, for the purpose of future inspection and maintenance of the culvert.
- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.
- Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.
- Detailed design (plans, cross and long sections, and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements, a drawing showing the flood extents for the residual flood volumes stated in the calculations and the flood flow route channel clearly marked on it, including it's outfall location, extent and depth of flooding during operation. Drawing No. SK002 Revision D or similar should be used at the base for the flood extents drawing.
- Details of how the scheme shall be maintained and managed after completion.

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

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

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

- 17 Any garage doors shall be set back from the highway boundary a minimum distance of

5.5 metres for sliding or roller/shutter doors, 6.1 metres for up-and-over doors or 6.5 metres for doors opening outwards and thereafter shall be so maintained.

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

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

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

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

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

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

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

21 For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.

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

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

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

23 No walls, planting or fences, other than any highway trees as part of the wider

landscaping scheme for the site, shall be erected or allowed to grow on the Highway boundary exceeding 0.9 metres in height above the level of the adjacent carriageway.

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

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

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

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

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

- 26 Before first occupation of any dwelling hereby permitted, its access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and shall be so maintained at all times.

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

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

*Reason- In the interests of pedestrian safety.*

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

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

- 29 No construction works, movement of construction traffic, and deliveries to and from the premises, shall occur other than between 0800 and 1800 hours weekdays, and 0800

and 1300 hours on Saturdays, and at no time on Sundays or Public Holidays.

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

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

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

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

- BS10175 Year 2011 Investigation Of Potentially Contaminated Sites Code of Practice;
- BS8485 Year 2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
- The Remedial Scheme shall be prepared in accordance with the requirements of:
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

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

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

Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

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

- 31 Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan (submitted as part of planning application 13/00183/FULM) for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;

- Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
- Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- Demonstrate the effectiveness of the approved Remedial Scheme; and
- Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

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

- 32 Notwithstanding the approved plans and Conditions 8 and 10, no further development shall commence on Plots 10 and 11 until a scheme of boundary treatments, land levels and landscaping is provided for Plots 10 and 11. The scheme shall be carried out in accordance with the agreed details prior to Plots 10 and 11 being occupied.

*Reason - To address flooding and drainage concerns.*

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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**Formation of site accesses to Standard Hill and Highfield Street (reserved matters to outline planning permission ref 12/00007/OUTM)**

**Report Item No  
A7**

**Land North Of Standard Hill And West Of Highfield Street  
Coalville Leicestershire**

**Application Reference  
16/01198/REMM**

**Applicant:  
Miller Homes Ltd**

**Date Registered  
18 October 2016**

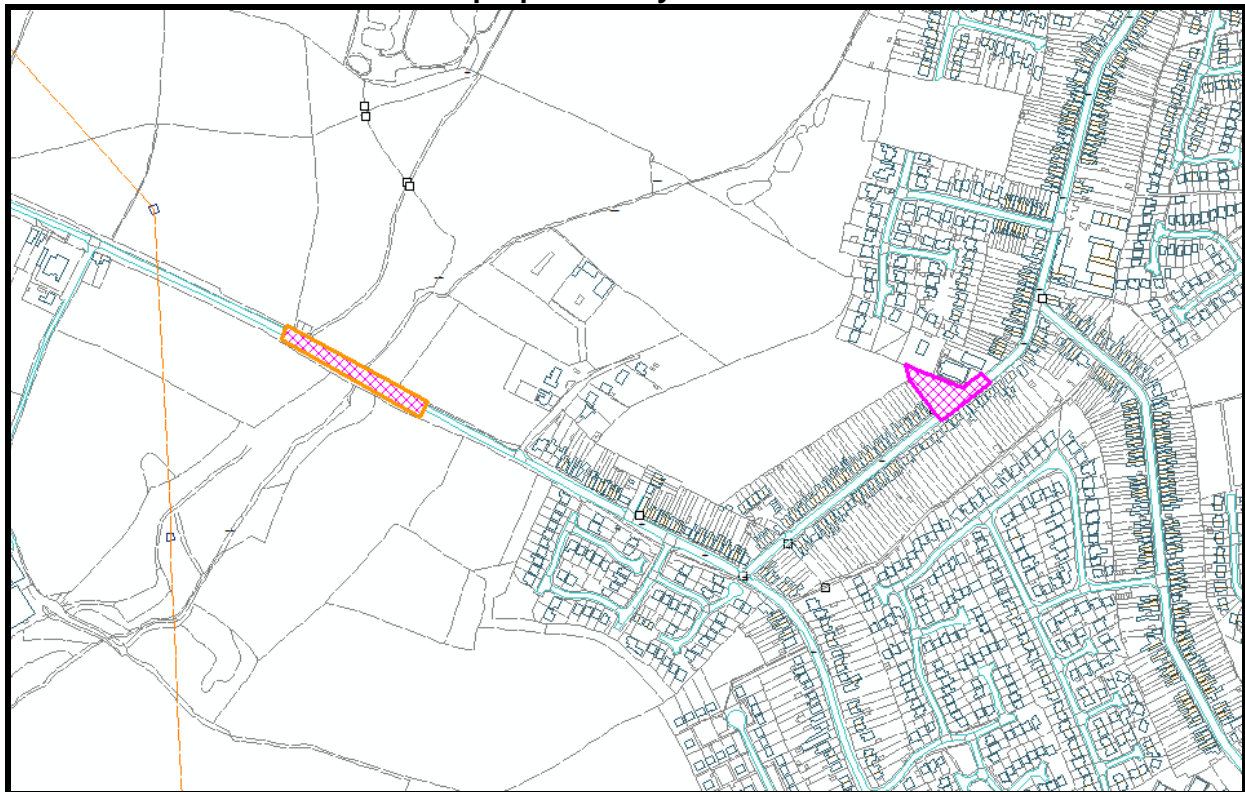
**Case Officer:  
James Knightley**

**Target Decision Date  
17 January 2017**

**Recommendation:  
PERMIT**

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



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

### **Proposal**

This application seeks reserved matters approval for the sections of the site relating to two site accesses serving a residential development of up to 400 dwellings (outline planning permission 12/00007/OUTM).

### **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 relates to two sections of the wider site the subject of the outline planning permission. The majority of the area surrounding the proposed Highfield Street access lies within Limits to Development as defined in the adopted North West Leicestershire Local Plan; the area surrounding the proposed Standard Hill access lies outside Limits to Development. Both sections lie within Limits to Development as defined in the submitted North West Leicestershire Local Plan, as well as being within a site identified as having planning permission for housing.

### **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.

## **RECOMMENDATION:-**

### **PERMIT SUBJECT TO THE IMPOSITION OF CONDITIONS**

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

## MAIN REPORT

### 1. Proposals and Background

This is a reserved matters application relating to an outline planning permission for up to 400 dwellings on land adjacent to Standard Hill and Highfield Street, Coalville.

The outline planning permission (ref. 12/00007/OUTM) was issued on 17 April 2015 in accordance with the resolution to permit by the Planning Committee on 6 August 2013.

The outline permission included details of the proposed vehicular accesses from Standard Hill and Highfield Street. The approved schemes show the provision of priority junctions to both access points, and with a ghost island included on the Standard Hill access. The Highfield Street access is limited to serving a maximum of 100 dwellings.

Whilst the means of access itself has been approved at the outline stage, the current application essentially seeks reserved matters approval for the other reserved matters (i.e. appearance, landscaping, layout and scale) for the sections of the site as a whole in the vicinity of the approved Standard Hill and Highfield Street junctions.

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

### 2. Publicity

31 neighbours have been notified.

Press Notice published 16 November 2016

Site notice posted 11 November 2016

### 3. Consultations

Hugglescote And Donington Le Heath Parish Council  
 County Highway Authority  
 Severn Trent Water Limited  
 NWLDC Tree Officer  
 LCC ecology  
 LCC Flood Management  
 Kay Greenbank

### 4. Summary of Representations Received

#### Third Party Representations

Two representations have been received, making the following points:

- Supports the provision of an access to Highfield Street due to existing parking of vehicles making use of drive difficult
- Double yellow lines should be provided and enforced for 200 yards in either direction of the Highfield Street access
- Rear parking should be provided for Highfield Street residents
- Road needs to be kept clean during construction works
- Traffic lights should be used to discourage drivers cutting through Highfield Street

- Developers need to consider structural impact on neighbouring property when undertaking the development
- Existing brick wall to the boundary with the adjacent property should be retained or replaced with another brick wall

## 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 57 (Requiring good design)
- Paragraph 61 (Requiring good design)
- Paragraph 203 (Planning conditions and obligations)

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

The application relates to two sections of the wider site the subject of the outline planning permission. The majority of the area surrounding the proposed Highfield Street access lies within Limits to Development as defined in the adopted North West Leicestershire Local Plan; the area surrounding the proposed Standard Hill access lies outside Limits to Development.

The following adopted Local Plan policies are considered relevant to the determination of this reserved matters application:

- Policy E2 - Landscaped Amenity Open Space
- Policy E3 - Residential Amenities
- Policy E4 - Design
- Policy E7 - Landscaping
- Policy F1 - National Forest general policy
- 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 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 having planning permission for housing under Policy H1 (site H1n).

The following draft Local Plan policies are considered relevant to this reserved matters application:

Policy D1 - Design of new development

Policy D2 - Amenity

Policy En3 - The National Forest

## **6. Assessment**

### **Principle of Development**

The principle of development on this site for residential purposes was established by the grant of the original outline planning permission in April 2015 and, as a submission for reserved matters approval, therefore, the present application essentially seeks agreement of details in respect of the appearance, landscaping, layout and scale of the identified sections of the site. Assessment of this application should therefore relate to the implications of the particular scheme proposed under this reserved matters application; issues relating to the principle of the development and associated issues (e.g. the suitability of the site accesses from a highway safety point of view and impacts on the wider highway network), are not relevant to this application.

### **Relevant Reserved Matters Issues**

Given the particular nature of the sections of the wider site the subject of this application (i.e. only those areas associated with the Standard Hill and Highfield Street accesses, and not involving the erection of any buildings), the extent of issues to be considered under the relevant reserved matters is limited. Having regard to the four identified reserved matters (i.e. appearance, landscaping, layout and scale), it is considered that the principal matters in this case are likely to be the landscape and layout.

Insofar as layout is concerned, this is in effect dictated by the form of the approved access roads. The submission includes a detailed landscaping scheme for both areas of the site the subject of this application, and the details shown in this regard are considered appropriate at these key site entrance locations. There are existing trees in the vicinity of the proposed Highfield Street access, but there are not considered to be any increased impacts on those trees beyond those already considered when the matter of access was determined at the outline stage.

### **Other Matters**

Representations have been received requesting provision of double yellow lines to Highfield Street and provision of rear parking for existing residents. Whilst not matters for this reserved matters application, it is noted that the outline planning permission was subject to a Section 106 obligation requiring the developer to make an application for a Traffic Regulation Order to restrict on street parking on Highfield Street. It is also noted that, at the time that the outline application was under consideration, the developer confirmed that it would be willing to provide rear access parking to as many properties as possible on the north western side of Highfield Street; this would matter would, however, be more properly considered at the relevant reserved matters stage(s) for the section(s) of the wider site within which this rear access / parking provision would be situated. It is nevertheless noted that a request has also been received to provide direct access from the proposed Highfield Street access; the applicant's response to

this request has been requested and any comments received will be reported on the Update Sheet.

### Conclusions

As set out above, the principle of the development has already been established by way of the outline planning permission, and assessment is therefore limited to those issues relevant to the submitted reserved matters.

The submitted scheme is considered acceptable in this regard, and approval is recommended.

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

- 1 The development shall be carried out strictly in accordance with the conditions set out in the outline planning permission 12/00007/OUTM except as may be modified herein.

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

- 2 The proposed development shall be carried out strictly in accordance with the following plans deposited with the Local Planning Authority on 18 October 2016 unless otherwise required by a condition of this approval:
  - Site location plan (20078\_00\_010\_01)
  - Landscape proposals (P16-0601\_01)

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

- 3 The vehicular accesses to Standard Hill and Highfield Street shall not be brought into use until such time as a scheme for the implementation of the landscaping scheme shown on drawing no. P16-0601\_01 (and including a timetable for implementation and details of measures to secure its long-term maintenance) has been submitted to and agreed in writing by the Local Planning Authority. The landscaping scheme shall thereafter be implemented and maintained in accordance with the agreed scheme.

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

- 4 Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

*Reason - To provide for the replacement of any trees, and to comply with Policy E7 of the adopted North West Leicestershire Local Plan.*

- 5 Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, fences, walls or other means of enclosure shall be erected unless in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

*Reason - In the interests of highway safety, to ensure an appropriate form of design, and to*

*comply with Policies T3, E4 and H7 of the adopted North West Leicestershire Local Plan.*

- 6 No site works of any description shall take place on the site at any time unless the existing trees and hedgerows shown as retained on drawing no. P16-0601\_01 are securely fenced off in accordance with measures first submitted to and agreed in writing by the Local Planning Authority. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand, unless any alteration is first agreed in writing by the Local Planning Authority.

*Reason - To ensure that existing trees and hedgerows are adequately protected during construction, in the interests of the visual amenities of the area, and to comply with Policy E7 of the adopted North West Leicestershire Local Plan.*

- 7 Notwithstanding the submitted plans, nor Condition 2 above, no retaining walls / structures shall be erected unless in accordance with precise details of their external materials of construction first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority, to ensure an appropriate form of design, in the interests of the amenities of the area, and to comply with Policies E4 and H7 of the adopted North West Leicestershire Local Plan.*

#### **Notes to applicant**

- 1 Reserved matters approval has been granted for this proposal. The Local Planning Authority engaged with the applicant at the pre-application stage, and 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](http://www.groundstability.com)

- 3 The applicant's attention is drawn to the list of approved drawings set out under Condition 2 above. Whilst the Local Planning Authority acknowledges the receipt of other plans with the application (refs. 20078\_02\_012, 20078\_03\_100 Rev B, 20078\_03\_106 and 20078\_03\_200 Rev B), it is of the view that these more properly relate to the details approved under the outline planning permission, and any approval for amended plans in respect of these items should be addressed as part of the current Section 73 application (ref. 16/01200/VCUM) relating to the outline permission.
- 4 The applicant is advised that any alternative boundary treatment proposed to be erected pursuant to Condition 5 above should have regard to the need to provide for appropriate treatment to any public realm-facing boundaries, and including, for example, provision (or retention) of brick walls to the garden boundaries of existing properties on Highfield Street.



Erection of a detached dwelling with associated off-street parking(Revised Scheme)

Report Item No  
A8

Land To The Rear Of 1 Hollow Road Breedon On The Hill  
Derby DE73 8AU

Application Reference  
16/00980/FUL

Applicant:  
Mr James Burton

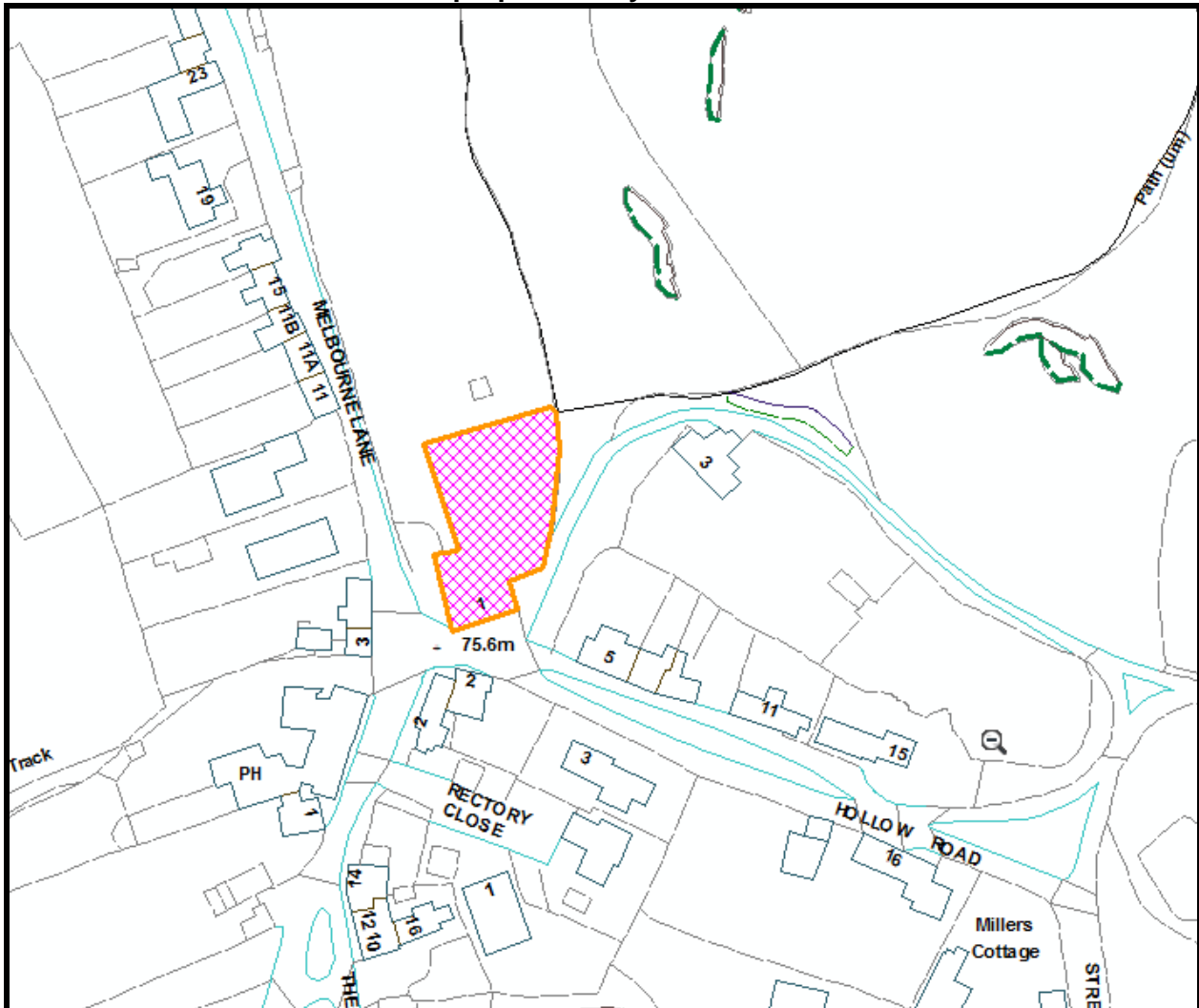
Date Registered  
31 August 2016

Case Officer:  
Adam Mellor

Target Decision Date  
26 October 2016

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application is brought to the Planning Committee at the request of Councillor Stevenson in order for Members to assess the impacts of the development on heritage assets and residential amenity.

### Proposal

Planning permission is sought for the erection of a detached dwelling at land to the rear of no. 1 Hollow Road, Breedon on the Hill which is situated to the north of Hollow Road and east of Melbourne Lane. The site is largely within the Limits to Development, as well as the Breedon on the Hill Conservation Area, with the Grade I Listed Church of St Mary & St Hardulph being located to the north east of the site.

### Consultations

Two representations have been received objecting to the application with Breedon on the Hill Parish Council also objecting to the scheme. All other statutory consultees have raised no objections subject to conditions.

### Planning Policy

The application site is largely within the Limits to Development as defined in the adopted and submitted North West Leicestershire Local Plans. The application has also been assessed against the relevant policies in the NPPF, the adopted and submitted Local Plans and other relevant guidance.

### Conclusion

The application site is largely located within the Limits to Development where the principle of the form of development would be acceptable with Breedon on the Hill being considered a sustainable settlement. It is also considered that the site could be developed 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, landscaping, archaeology or airport safeguarding. There are no other material planning considerations that indicate planning permission should not be granted and accordingly the proposal, subject to relevant conditions, is considered acceptable for the purposes of the policies referred to in the main report below.

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

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the construction of a detached dwelling with associated off-street parking (revised scheme) at land to the rear of 1 Hollow Road, Breedon on the Hill. The application site is to the north-east of no. 1 and currently forms part of the residential garden associated with this property. The site in question is within the defined Limits to Development and is also within the Breedon on the Hill Conservation Area. To the north-east lies the Breedon Hill Site of Special Scientific Interest (SSSI) as well as the Grade I Listed Church of St Mary & St Hardulph.

As part of the proposed development an existing studio and storage building would be removed from the garden. The proposed dwelling would be a 3 bedroom two-storey detached type which would be rectangular in shape and cover a ground area of 109.2 square metres. A curved gable ended roof would be utilised which would have a ridge height of 5.4 metres.

Originally a detached garage was proposed as part of the development but this element has now been removed following concerns being raised by Historic England and the Council's Conservation Officer. In terms of vehicular access to the site this would be achieved via an existing access off Hollow Road, at the junction with Melbourne Road, with external off-street parking being provided.

A design and access statement, heritage statement, tree survey and protected species survey have been submitted in support of the application.

The relevant planning history of the site is as follows: -

- 89/1523/P - Erection of one dwelling - Refused 4th April 1990.
- 90/0817/P - Erection of one dwelling and car port (resubmission) - Approved 29th August 1990.
- 15/00204/FUL - Construction of a detached two-storey dwelling involving the formation of a new vehicular access off Melbourne Lane - Withdrawn 5th January 2016.

### 2. Publicity

20 Neighbours have been notified (Date of last notification 19 October 2016)

Site Notice displayed 16 September 2016

Press Notice published 21 September 2016

### 3. Consultations

Breedon On The Hill PC consulted 13 September 2016

Historic England

NWLDC Conservation Officer

County Highway Authority

County Highway Authority

Severn Trent Water Limited

Head of Environmental Protection

NWLDC Tree Officer

County Archaeologist

LCC ecology  
 Airport Safeguarding  
 NWLDC Conservation Officer

#### 4. Summary of Representations Received

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

**Breedon the Hill Parish Council** object to the application on the following summarised grounds: -

- No ridge or floor levels are shown so a decision on the overbearing impacts caused to neighbouring properties cannot be undertaken.
- There is a building shown on the plans which has no details.
- The archaeological assessment and design and access statement identify that there would be harm to heritage assets and as such the application should be refused.
- The materials of construction are not appropriate in a conservation area.
- This proposal is strongly objected to by the Parish Council.

**East Midlands Airport - Safeguarding** has no objections.

**Historic England** has no objections following the removal of the detached garage subject to the views of the Council's Conservation Officer being taken into account.

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

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

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

**NWLDC - Conservation Officer** has no objections following the removal of the detached garage.

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

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

**Severn Trent Water** no representation received.

#### Third Party Representation

Two representations to the application has been received objecting to the proposed development with the comments raised summarised as follows: -

- The development is out of character with the conservation area and will harm the setting of the Grade I Listed Church and impact adversely on heritage assets in the village.
- The materials of construction will have harmful impact on the charm of Melbourne Lane.
- It is considered that the proposal would have an adverse overbearing and dominating impact on properties on Melbourne Lane given that the ridge height is not specified and the ground levels are higher.
- Supporting documents are inadequate and do not allow for a proper assessment to be

- undertaken.
- Plans and details are missing for a building which is proposed on the site which is assumed to be a garage.
- The development will impact on the views of the hillside when using public footpaths and the highway.

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

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

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

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

Paragraph 10 (Achieving sustainable development);  
 Paragraph 14 (Presumption in favour of sustainable development);  
 Paragraph 17 (Achieving sustainable development);  
 Paragraph 28 (Supporting a prosperous rural economy);  
 Paragraph 32 (Promoting sustainable transport);  
 Paragraph 39 (Promoting sustainable transport);  
 Paragraph 49 (Delivering a wide choice of high quality homes);  
 Paragraph 53 (Delivering a wide choice of high quality homes);  
 Paragraph 55 (Delivering a wide choice of high quality homes);  
 Paragraph 57 (Requiring good design);  
 Paragraph 60 (Requiring good design);  
 Paragraph 61 (Requiring good design);  
 Paragraph 118 (Conserving and enhancing the natural environment);  
 Paragraph 128 (Conserving and enhancing the historic environment);  
 Paragraph 129 (Conserving and enhancing the historic environment);  
 Paragraph 131 (Conserving and enhancing the historic environment);  
 Paragraph 132 (Conserving and enhancing the historic environment);  
 Paragraph 134 (Conserving and enhancing the historic environment);  
 Paragraph 137 (Conserving and enhancing the historic environment);  
 Paragraph 141 (Conserving and enhancing the historic environment);  
 Paragraph 203 (Planning conditions and obligations);  
 Paragraph 204 (Planning conditions and obligations);

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

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

Policy S2 - Limits to Development;  
 Policy E3 - Residential Amenities;

Policy E4 - Design;  
 Policy E7 - Landscaping;  
 Policy T3 - Highway Standards;  
 Policy T8 - Parking;  
 Policy T20 - Airport Safeguarding;  
 Policy H4/1 - Housing Land Release; and  
 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 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 D1 - Design of New Development;  
 Policy D2 - Amenity;  
 Policy H6 - House Types and Mix;  
 Policy Ec5 - East Midlands Airport: Safeguarding;  
 Policy IF4 - Transport Infrastructure and New Development;  
 Policy IF7 - Parking Provision and New Development;  
 Policy En1 - Nature Conservation;  
 Policy En6 - Land and Air Quality;  
 Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;  
 Policy Cc2 - Water - Flood Risk; and  
 Policy Cc3 - Water - Sustainable Drainage Systems.

**Other Policies**

**National Planning Practice Guidance**

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

**Breedon on the Hill Conservation Area Appraisal and Study - April 2001**

This document outlines that buildings in the settlement are largely two-storey in height with some more dominant three-storey properties interspersed. For the most part buildings constructed in the settlement are located up to back edge of the pavement or road, the principal exception to this being Breedon Hall. Modern buildings in the settlement are typically set back from the highway with front garden areas. The development of Rectory Close, Hillside Court and Stud Farm Close has also introduced cul-de-sacs into the established street pattern.

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

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

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

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

Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites;

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

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

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

## **6. Assessment**

### **Principle of Development and Sustainability**

On the basis of the Proposals Map to the adopted Local Plan the site is wholly within the Limits to Development, however, on the Proposals Map to the submitted Local Plan the site is mainly within the Limits but part of it would be outside these Limits due to amendments to the boundaries. Within the Limits to Development the principle of residential development is considered acceptable, subject to compliance with the relevant policies of the adopted and submitted Local Plans and other material considerations, but outside these Limits this principle is not accepted.

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 a sequential test is outdated in the context of the NPPF, the sustainability credentials of the scheme would still need to be assessed against the NPPF. Policy S2 of the submitted Local Plan highlights that Breedon on the Hill is a 'sustainable village' where a limited amount of growth will be permitted within the defined Limits to Development.

Breedon on the Hill benefits from a range of local services including a shop (incorporating a post office), butchers, primary school, community centre, public houses, church and recreation ground. Public transport is also available via the Robert Coaches Air Link Service 155 which runs two hourly between Coalville and East Midlands Airport from Monday to Saturday. Given the location of the site all these services would be accessible on foot due to the presence of a maintained raised footway which is well lit. In this circumstance it is considered that a scheme for one dwelling would score well against the social sustainability advice contained within the NPPF, with any future occupants of the development also helping to sustain these services in the future which is a key intention of Paragraphs 28 and 55 of the NPPF. As the site is mainly within the defined Limits the development is also considered to be compliant with Policy S2 of the submitted Local Plan.

On the basis that the site is within the defined Limits to Development, as outlined on the Proposals Map to the adopted Local Plan, the principle of the development would be acceptable and it would constitute a sustainable form of development in accordance with the NPPF.

The site is partially outside the defined Limits to Development on the basis of the Proposals Map to the submitted Local Plan and this is afforded some weight. As such, an assessment has also been made against the environmental strand of sustainability. Residential dwellings exist to

the south and west of the site, along Melbourne Lane and The Hollow, with a substantial tree screen existing to the north and eastern boundaries which are shared with the Breedon Hill Site of Special Scientific Interest (SSSI). In the context of the site's location it is considered that it would not be significantly detached from the defined Limits and as a consequence the proposal would not impact adversely on the 'openness' of the rural environment given its containment within an enclosed residential garden and paddock. The development would also not result in the provision of an 'isolated' dwelling in the countryside given the relationship with built forms with any views established from the public domain assessing the site in the context of its relationship with neighbouring buildings. Such a limited impact would therefore not make the development environmentally unsustainable.

The site is currently used as garden land, which is excluded from the definition of previously developed land set out in the NPPF, and therefore effectively constitutes a greenfield site. It is highlighted within the NPPF that decisions should encourage the effective use of land by re-using land that has been previously developed and that Local Planning Authorities should consider the use of policies to resist inappropriate development of residential gardens (Paragraph 53). Neither the adopted or submitted Local Plans contain a specific policy which restricts development on garden land and in the circumstances that the proposal would not impact adversely on the character and appearance of the wider area and streetscape, as assessed in more detail below, it is considered that there is no conflict with the intentions of Paragraph 53 of the NPPF.

### **Residential Amenity**

The proposed dwelling would be set 26.0 metres from no. 11 Melbourne Lane, being the closest dwelling on this highway to the proposal, and this distance would be considered sufficient in ensuring no adverse overbearing or overshadowing impacts would arise even though the proposed dwelling would be on a higher land level. No. 3 Hollow Road would also not be adversely impacted on by the proposed development given the extent of screening afforded by the planting which exists to the boundary with the SSSI.

In these circumstances the property most immediately affected by the proposed dwelling would be the applicant's own property (no. 1 Hollow Road) which is set 12.0 metres to the south-west of the proposed dwelling. The land level of the garden to no. 1 is roughly consistent with the lintel height of the ground floor windows and as a consequence it is proposed that the topography of the land is altered to enable the new property to have a finished floor level which would not be significantly higher than that of no. 1. It is also proposed that the ridge level of the proposed dwelling would be lower than that of no. 1. A reduction in the land levels will ensure that the expanse of built form which would be presented to what would become the shared boundary with no. 1 would not be significant and in any event would only directly impact on the latter parts of the rear amenity area associated with no. 1. Given the overall extent of garden retained to no. 1, as well as the orientation of the proposed dwelling to no. 1, it is considered that any overbearing or overshadowing impacts would not be significantly detrimental as to warrant a refusal of the application.

With regards to overlooking impacts it is considered that views from windows at ground floor level in the western elevation of the proposed dwelling would be restricted due to the proposed difference in land levels with the glazing at first floor level not serving a habitable room and in any event only providing a view onto the latter parts of the rear amenity area associated with no. 1. Following amendments to the plans views from first floor windows in the southern elevation would only provide an oblique angle of view towards the immediate rear amenity area associated with no. 1 with no direct view into the property. On this basis the amenities of no. 1



would not be adversely impacted on in respect of overlooking impacts.

Subject to the provision of suitable boundary treatments between the site of the new dwelling and no. 1 it is considered that the future occupant's amenities would not be adversely impacted on by the relationship with this property. Whilst trees of a mature stature exist to the eastern boundary of the site, which would result in an inevitable overshadowing impact in the early parts of the day, it is considered that the dwelling has been positioned so as to minimise this impact with the orientation ensuring this effect is strictly limited to the morning hours. On this basis it is considered that the extent of shadowing would not be sufficiently detrimental as to warrant a refusal of the application with any future occupant being aware of this relationship, as well as the relationship with no. 1, prior to their purchase or occupation.

Overall the proposed development would accord with Policy E3 of the adopted Local Plan and Policy D2 of the submitted Local Plan.

### **Impact on the Character and Appearance of the Area, Streetscape and Historic Environment**

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

The land adjacent to the western boundary of the site is 1.02 metres higher than that of Melbourne Lane with the land increasing by 4.26 metres from west to east and by 1.50 metres south to north. It is proposed that the dwelling would be closely associated with no. 1 and would not be readily visible from outside the site given the presence of no. 1 to the south, dense vegetation to the eastern boundary and the topography of the adjoining paddock land and presence of mature hedgerow limiting views from the north. As a result of this the dwelling would only be duly prominent when stood to the frontage of nos. 7 and 9 Melbourne Lane (to the west) and as a consequence would have a limited impact on the overall appearance of the streetscape. Although the proposed dwelling would exist as a backland form of development it is considered that the relationship between the proposal and no. 1 Hollow Road would not be substantially different to that between no. 3 Hollow Road and nos. 5 - 9 Hollow Road, to the immediate east, and as a consequence the implications to the character of the streetscape or wider area would not be sufficiently detrimental as to warrant a refusal of the application.

With regards to the Conservation Area, which includes an area identified as open space in the Breedon on the Hill Conservation Area Appraisal, as well as the setting of the Grade I Listed Building and Scheduled Monument, the Church of St Mary and St Hardulph, the Council's Conservation Officer considers that the repositioning of the dwelling (to that assessed under 15/00204/FUL) now reduces the implications to the settings of the Grade I Listed Building and Scheduled Monument given that it would now not encroach upon the view established from the village towards these heritage assets. Historic England have also not objected to the position of the dwelling particularly as it now contained within the existing garden to no. 1 and would occupy an area where existing outbuildings are positioned.

Historically the land in question has been used in connection with agriculture and as such an approach has been taken to designing a dwelling which is influenced by 'agriculture' with the use of timber cladding and metal roofing. It is considered that this approach allows for the development to respond better to the topography of the site and is considered to be more appropriate than a design reflecting a 'standard' detached dwelling so that it can differentiate itself from no. 1. Although a more 'modern' design to that generally associated with an

'agricultural barn' this is considered to be acceptable in a new build particularly when assessed in the context of Paragraph 60 of the NPPF which indicates that *"decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles."* As the eastern side of Melbourne Lane has a more rural character when travelling northwards it is considered that the 'agricultural' design approach adopted acts as a natural transition between the built and rural environment and as such would not result in sufficient harm to the character and appearance of the streetscape. There would also be no harm to the setting of heritage assets which would require a further assessment against Paragraph 134 of the NPPF. In respect of the scale of the dwelling it is considered that this would be consistent with dwellings in the immediate area, including nos. 7 and 9 Melbourne Lane, and therefore would respect the environment in which it would be set.

Within the application it is specified that timber cladding to the elevations and zinc roof cladding would be utilised, however it is noted that the Parish Council has raised concerns over the suitability of the use of such a roofing material. It is observed that the Council's Conservation Officer, or Historic England, have raised no objection to the potential use of a 'metal' roofing element but in the absence of any precise information on its appearance and finish it is considered reasonable to impose a condition on any permission granted for the proposed materials to be agreed.

Overall the layout, design and scale of the dwelling is considered to be appropriate and would ensure that the development accords with Paragraphs 57, 60, 61, 131, 132 and 137 of the NPPF, Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies E4 and H7 of the adopted Local Plan and Policies D1 and He1 of the submitted Local Plan.

### **Highway Safety**

The County Highways Authority have raised no objections to the proposal subject to their standing advice being considered.

It is proposed that an existing vehicular access into the site at the junction of Melbourne Lane and Hollow Road would be utilised to access the proposed dwelling as well as provide an area for separate parking associated with no. 1 Hollow Road. The shared access would have a width of 4.5 metres and this would be sufficient in ensuring that the conflict between vehicles would be limited. Any vehicle exiting the site could also see clearly down the access drive to the highway to ascertain if a vehicle was entering the site before they progressed. Within the site a sufficient sized area would be provided to enable vehicles to manoeuvre so that they can exit in a forward direction. In the circumstances that the movement of vehicles into and out of the site would not 'severely' impact on pedestrian or highway safety it is considered that the proposal would accord with Paragraph 32 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF4 of the submitted Local Plan.

As a three bedroom dwelling a minimum of two off-street parking spaces would be required and it is considered that sufficient space would exist on the site for this level of off-street parking to be provided to serve the new dwelling. Whilst the dimensions for the parking spaces proposed to be associated with no. 1 would be slightly below those outlined in the 6Cs Design Guide in the circumstances that no. 1 does not currently have off-street parking the provision of any form of parking would represent a highway gain and therefore the inadequacies would not warrant a refusal of the application. Overall the development would accord with Paragraph 39 of the NPPF, Policy T8 of the adopted Local Plan and Policy IF7 of the submitted Local Plan.

## Ecology

The County Council Ecologist has raised no objections to the application given that the buildings to be removed would not be appropriate for housing bats and that protected species on the wider site would not be impacted on due to the repositioning of the dwelling. Whilst Natural England have not been consulted on the proposal it is noted that they raised no objections to the scheme proposed under application reference 15/00204/FUL subject to the imposition of a condition to prevent direct access from the site into the Breedon Hill SSSI. Subject to the suggested condition of Natural England being imposed on any consent granted it is considered that ecological species would not be duly impacted on and therefore the scheme is 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 undertaken a site visit and considers that the only tree of merit within the garden of the application site is an Ash tree. As submitted the layout plan shows that the dwelling is positioned outside the root protection area (RPA) of this tree and could accommodate any spread of its crown, as a consequence of this it would not be duly impacted on by the development. Trees to the eastern boundary of the site, shared with the Breedon Hill SSSI, would also not be impacted on by virtue of the position of the dwelling.

As specified in the Residential Amenity section of this report it is noted that it is inevitable that part of the amenity area associated with the dwelling, as well as its eastern (side) elevation, would be subjected to shading when the sun is positioned to the east and south-east due to the maturity and height of the trees to the eastern boundary. However BS5837:2012 outlines that *"NOTE The presence of large species trees is increasingly being seen as advantageous, since it contributes to climate change resilience, amongst other benefits;"* and *"NOTE 1 Shading can be desirable to reduce glare or excessive solar heating, or to provide for comfort during hot weather. The combination of shading, wind speed/turbulence reduction and evapo-transpiration effects of trees can be utilised in conjunction with the design of buildings and spaces to provide local microclimate benefits."* Given that the property would only be subject to excessive shading in the early parts of the day, and that the dwelling has been designed to propose habitable room windows in the western (side) elevation as well as glazing within a 'valley' on the roof, it is considered that such a relationship would be acceptable. It is also considered that the trees would not be subjected to unnecessary pressure for removal given that they would be afforded protection due to the site being within the conservation area.

Given this conclusion it is considered that an approval of the development would not result in significant conflict 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 the historic settlement core of medieval and post-medieval Breedon and is to the base of Breedon Hill which is a site of considerable archaeological complexity and significance, incorporating the scheduled site of an Iron Age hillfort, Saxon minister and associated Augustinian Priory of which the only surviving structure is the Grade I church of St Mary and St Hardulph. Fieldworking and excavations in the vicinity of Breedon Hill have identified evidence from the Mesolithic and Neolithic periods as well as heavy activity during the Iron Age. Given the topography of the land, and associated groundworks to facilitate the development, there is a possibility that any remains

present will be damaged.

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 investigation to be undertaken (including intrusive and non-intrusive investigations and recordings) in advance of the development commencing in order to record and progress 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 as well as Policy He1 of the submitted Local Plan.

### **Other Matters**

East Midlands Airport Safeguarding have raised no safeguarding objections to the development and as such it would be considered compliant with Policy T20 of the adopted Local Plan and Policy Ec5 of the submitted Local Plan.

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

The application site is largely located within the Limits to Development where the principle of the form of development would be acceptable with Breedon on the Hill being considered a sustainable settlement. It is also considered that the site could be developed 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, landscaping, archaeology or airport safeguarding. There are no other material planning considerations that indicate planning permission should not be granted and accordingly the proposal, subject to relevant conditions, is considered acceptable for the purposes of the above mentioned policies.

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

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

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

- 2 The proposed development shall be carried out strictly in accordance with the following drawing numbers: -
  - 14016 (08) 01 Revision I (Location and Context Plan), received by the Local Authority on the 23rd November 2016;
  - 14016 (08) 02 Revision H (Site Plan), received by the Local Authority on the 23rd November 2016;
  - 14016 (08) 04 Revision F (Plans Ground Floor, First Floor & Roof), received by the Local Authority on the 23rd November 2016;
  - 14016 (08) 07 Revision F (Elevations 1 of 2), received by the Local Authority on the 23rd November 2016;
  - 14016 (08) 08 Revision F (Elevations 2 of 2), received by the Local Authority on the 23rd November 2016;
  - 14016 (08) 12 Revision B (Street Elevation), received by the Local Authority on the 23rd

November 2016;

unless otherwise required by another condition of this permission.

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

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

- Samples of the materials to be utilised in all external surfaces (including the construction material of windows and doors);
- The proposed colour/stain finish for all joinery and timber cladding;
- Details of the rainwater goods;

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

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

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

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

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

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

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

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

- 7 No development shall commence until trees on and adjacent to the site have been securely fenced off with protective vertical barriers and ground protection to form a construction exclusion zone in accordance with BS5837:2012 Trees in relation to design, demolition and construction. 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 protected areas there shall be no alteration to the ground levels, no compaction of the soil, no stacking or storing of any materials and no service trenches shall be dug.

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

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

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

- 9 Prior to the first occupation of the dwelling, hereby permitted, the following shall be provided: -

- The off-street parking and turning areas shall be provided in strict accordance with those shown on drawing number 14016 (08) 02 Revision H, received by the Local Authority on the 23rd November 2016, which shall be surfaced in accordance with the hard landscaping scheme agreed under Condition 5 of this permission;
- An access gradient in accordance with that shown on drawing number 14016 (08) 02 Revision H, received by the Local Authority on the 23rd November 2016;
- The access drive shall be surfaced in accordance with the hard landscaping scheme agreed under Condition 5 of this permission;
- Drainage shall be provided with the site such that surface water does not drain into the Public Highway, including private access drives;

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

*Reasons - to ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area; to ensure that vehicles can exit the site in a safe manner; to ensure that vehicles enter and exit the site in a slow and controlled manner; to reduce the possibilities of deleterious material being deposited in the highway (loose stones etc) and to reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users.*

- 10 The proposed site levels and finished floor level of the dwelling shall be provided in strict accordance with those shown on drawing numbers 14016 (08) 02 Revision H, received by the Local Authority on the 23rd November 2016, when read in conjunction with those shown on the same drawing. The above applies unless alternative site levels and/or finished floor levels are first submitted to and agreed in writing by the Local Planning Authority.

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

- 11 The residential curtilage of the property shall be restricted to the area outlined in red on the attached plan number LPA/16/00980/FUL.

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

- 12 No development shall commence until a programme of archaeological work (Strip, Plan and Record excavation) including a Written Scheme of Investigation has been submitted to and approved 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;
- 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 achieve 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.*

- 13 No development shall take place other than in accordance with the Written Scheme of Investigation approved under Condition 12.

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

- 14 The dwelling, hereby permitted, shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 12 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.*

- 15 Operations that involve the destruction/removal/management of vegetation shall not be undertaken during the months of March to August inclusive unless otherwise agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist.

*Reason - to ensure that nesting birds (a protected species) are adequately protected and their*

*habitat enhanced.*

### Notes to applicant

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



Demolition of No. 1 The Crescent and erection of two detached dwellings with associated works

Report Item No  
A9

1 The Crescent Breedon On The Hill Derby DE73 8AY

Application Reference  
16/01005/FUL

Applicant:  
Mr C Shaw

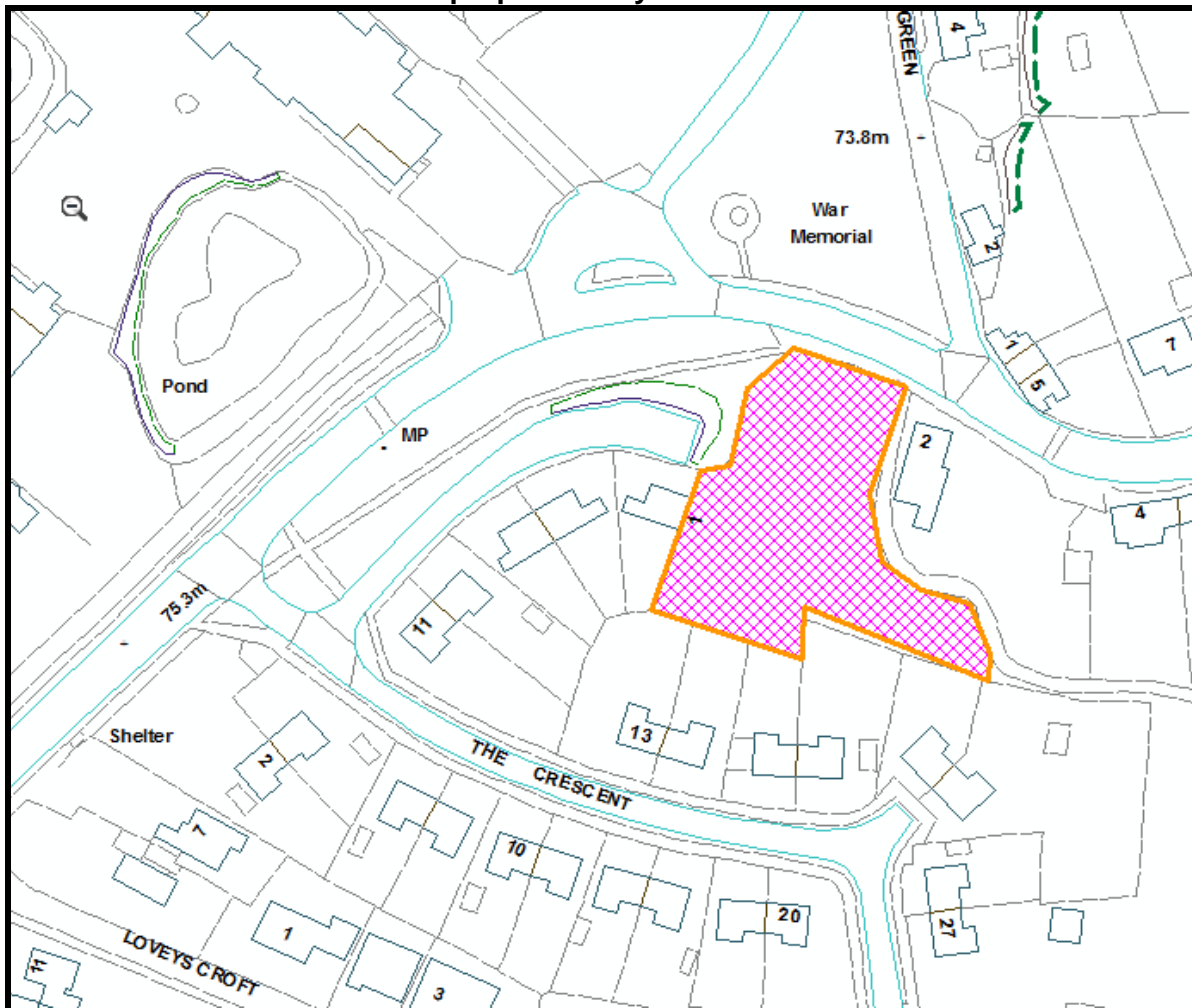
Date Registered  
7 September 2016

Case Officer:  
Adam Mellor

Target Decision Date  
2 November 2016

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

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

### Proposal

Planning permission is sought for the erection of two detached dwellings following the demolition of no. 1 The Crescent which is situated on the south-western side of The Crescent. The site is within the Limits to Development as well as the Breedon on the Hill Conservation Area.

### Consultations

A total of two representations have been received objecting to the development with a further two representations raising concerns that surface water drainage should be fully considered. Breedon on the Hill Parish Council have no objections with all other statutory consultees raising no objections subject to conditions.

### Planning Policy

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

### Conclusion

The application site is located within the Limits to Development where the principle of the form of development would be acceptable with Breedon on the Hill being considered a sustainable settlement. It is also considered that the site could be developed 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, landscaping 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, is considered acceptable for the purposes of the policies referred to in the main report below.

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

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the demolition of no. 1 The Crescent and the erection of two detached dwellings, along with associated works, at no. 1 The Crescent, Breedon on the Hill. No. 1 is a two-storey (habitable accommodation in the roof slope) semi-detached unit situated on the south-western side of the road at a higher land level to Main Street which The Crescent runs parallel to. The application site is situated within the Limits to Development, as well as the Breedon on the Hill Conservation Area, with the surrounding area consisting predominately of dwellings which vary in their type and design.

The proposed dwellings would be two-storey (habitable accommodation in the roof slope) four bedroom detached types. In respect of vehicular access to the properties plot one would be served by the existing access off The Crescent with plot two being served off an existing access onto Main Street. Both dwellings would also be served by a detached single garage.

A design and access statement, heritage statement and ecological report have been submitted in support of the planning application.

No recent or relevant planning history was found.

### 2. Publicity

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

Site Notice displayed 29 September 2016

Press Notice published 28 September 2016

### 3. Consultations

Breedon On The Hill PC consulted 21 September 2016

County Highway Authority

Severn Trent Water Limited

Head of Environmental Protection

County Archaeologist

LCC ecology

NWLDC Conservation Officer

LCC Flood Management

### 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** has no objections but would like to see the existing green front area preserved as much as possible with existing trees being subject to a Tree Preservation Order (TPO).

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

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

**Leicestershire County Council - Highways Authority** have verbally confirmed that there are no objections.

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

**NWLDC - Conservation Officer** has raised concerns over the demolition of no. 1 The Crescent and the design of the dwellings not being positive to the heritage asset.

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

**Severn Trent Water** has no objections subject to notes to the applicant.

### **Third Party Representations**

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

- Proposed development will result in overlooking of my property due to the position of plot 2 to the boundary.
- The outlook from my house and garden will be of plot 2.
- Is the development necessary given that no. 3 has recently been renovated.
- Provision of further hard standing will increase the probability of surface water flooding.
- Proposal results in an infill development with a cramped form of development.
- There are inaccuracies and errors in the ecological report.
- The application forms state that there are no trees or hedges on the site whereas it is clear that numerous trees and hedges exist.
- The dwellings will not have sufficient gardens given that the land to the rear of no. 1 The Crescent is limited.
- Services within the settlement are limited.
- The development would not be sustainable.
- The proposed access arrangements are not suitable.
- Development is not in keeping with the character of the area and would be incongruous.

Two representations commenting on the application have been received with the views raised summarised as follows: -

- The garden is subject to flooding and therefore surface water drainage needs to be carefully considered.
- Several trees on the site constitute an amenity in the conservation area and as such should be protected.
- The application site is within the flood zone and a soak-away test should be provided.
- The bus service serving the settlement is now two hourly rather than hourly.

## **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 103 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 118 (Conserving and enhancing the natural environment);  
 Paragraph 120 (Conserving and enhancing the natural environment);  
 Paragraph 121 (Conserving and enhancing the natural environment);  
 Paragraph 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 within the Limits to Development as defined in the adopted Local Plan. The following adopted Local Plan policies are relevant to this application:

Policy S2 - Limits to Development;  
 Policy E3 - Residential Amenities;  
 Policy E4 - Design;  
 Policy E7 - Landscaping;  
 Policy T3 - Highway Standards;  
 Policy T8 - Parking;

Policy H4/1 - Housing Land Release; and  
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 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 D1 - Design of New Development;  
Policy D2 - Amenity;  
Policy H6 - House Types and Mix;  
Policy IF4 - Transport Infrastructure and New Development;  
Policy IF7 - Parking Provision and New Development;  
Policy En1 - Nature Conservation;  
Policy En6 - Land and Air Quality;  
Policy 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.

#### **Breedon on the Hill Conservation Area Appraisal and Study - April 2001**

This document outlines that buildings in the settlement are largely two-storey in height with some more dominant three-storey properties interspersed. For the most part buildings constructed in the settlement are located up to back edge of the pavement or road, the principal exception to this being Breedon Hall. Modern buildings in the settlement are typically set back from the highway with front garden areas. The development of Rectory Close, Hillside Court and Stud Farm Close has also introduced cul-de-sacs into the established street pattern.

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

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

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

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

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

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

character or appearance of a Conservation Area.

## **6. Assessment**

### **Principle of Development and Sustainability**

The application site is located within the Limits to Development where the principle of residential development is considered acceptable subject to compliance with the relevant policies of the adopted and submitted Local Plans and other material considerations. Within the NPPF there is a presumption in favour of sustainable development and proposals which accord with the development plan should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

Policy H4/1 of the adopted Local Plan relating to the release of land for housing states that a sequential approach should be adopted. Whilst a sequential test is outdated in the context of the NPPF, the sustainability credentials of the scheme would still need to be assessed against the NPPF. Policy S2 of the submitted Local Plan highlights that Breedon on the Hill is a 'sustainable village' where a limited amount of growth will be permitted within the defined Limits to Development.

Breedon on the Hill benefits from a range of local services including a shop (incorporating a post office), butchers, primary school, community centre, public houses, church and recreation ground. Limited public transport is also available via the Robert Coaches Air Link Service 155 which runs two-hourly between Coalville and East Midlands Airport from Monday to Saturday. Given the location of the site all these services would be accessible on foot due to the presence of maintained raised footways which are well lit. In this circumstance it is considered that a scheme for two dwellings would score well against the sustainability advice contained within the NPPF, with any future occupants of the development also helping to sustain these services in the future which is a key intention of Paragraphs 28 and 55 of the NPPF. As the site is within the defined Limits the development is also compliant with Policy S2 of the submitted Local Plan.

The site is currently used as garden land, which is excluded from the definition of previously developed land set out in the NPPF, and therefore effectively constitutes a greenfield site. It is highlighted within the NPPF that decisions should encourage the effective use of land by re-using land that has been previously developed and that Local Planning Authorities should consider the use of policies to resist inappropriate development of residential gardens (Paragraph 53). Neither the adopted or submitted Local Plans contain a specific policy which restricts development on garden land and in the circumstances that the proposal would not impact adversely on the character and appearance of the wider area and streetscape, as assessed in more detail below, it is considered that there is no conflict with the intentions of Paragraph 53 of the NPPF.

Overall the principle of development would be considered sustainable in accordance with the core principles of the NPPF.

### **Residential Amenity**

The properties most immediately affected by the proposed development would be no. 3 The Crescent, located to the west, The Old Chapel, Main Street, located to the north-east, and nos. 13, 15, 17 and 19 The Crescent, located to the south.

No. 3 The Crescent is a two-storey (habitable accommodation in the roof space) semi-detached property which is currently attached to no. 1 which is to be demolished. At present the shared boundary is defined by a 2 metre high close boarded fence. The amended layout highlights that the detached garage to plot 1 would adjoin the shared boundary with no. 3 and whilst it would be beyond the south-western (rear) elevation of this property, being set 3.5 metres from this elevation, it has been designed so that the ridge height is limited to 4.5 metres and that the roof would slope away from the shared boundary. On this basis it is considered that no sufficiently adverse overbearing or overshadowing impacts would arise from the element of the proposal which would warrant a refusal of the application. The position of plot 1 itself would also not impact adversely on the amenities of no. 3 given its proximity to the boundary (5 metres) and its projection beyond the south-western (rear) elevation of no. 3 being limited to 3 metres. No windows are proposed in the north-western (side) elevation of plot 1 with windows in the south-western (rear) elevation only providing views towards the latter parts of the garden associated with no. 3 at an oblique angle. On this basis no adverse overlooking impacts would arise.

With regards to the impacts on The Old Chapel it is proposed that plot 2 would be set 3.25 metres, at its closest point, from the shared boundary with the detached garage being set 2.25 metres from the same boundary. Whilst situated on a higher land level to that of The Old Chapel it is proposed that the dwelling would be set 9.0 metres from the corner of the south-western (rear) elevation of this property and on this basis it would not have a sufficiently adverse overbearing or overshadowing impact on the occupant's amenities particularly given its oblique position. It is also considered that the position of the dwelling would not have a significantly adverse overbearing or overshadowing impact on the garden associated with The Old Chapel given the extent of the garden which exists. With regards to the detached garage to plot 2 it is considered that this would be provided on a lower land level to that of the dwelling and taking into accounts its overall scale and height it is considered that this element of the development would not impact significantly on the amenities of The Old Chapel. In respect of overlooking implications no windows are proposed in the eastern (side) elevation of plot 2 which would allow a direct view to be established with views out of the northern (front) windows being at an oblique angle towards the rear elevation of The Old Chapel, on this basis no adverse overlooking impacts would arise.

A distance in excess of 30 metres would be provided between the rear elevations of the plots to those dwellings to the south of the site on The Crescent, with a minimum of 10 metres to the shared boundaries (plot 2 with no. 19), and these distances would ensure that no adverse impacts would arise to the occupants' amenities.

In respect of the future amenities of the occupants of plots 1 and 2 it is considered that on the basis of the orientation of the proposed dwellings to neighbouring properties an acceptable relationship would be established with the position of windows on neighbouring properties also ensuring no adverse overlooking impacts would arise, particularly as the windows on the north-western (side) elevation of The Old Chapel would only provide views onto the front amenity area of plot 2. The relationship between plots 1 and 2 would also be acceptable.

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

To conclude it is considered that the proposed development would be compliant with Policy E3 of the adopted Local Plan and Policy D2 of the submitted Local Plan.



## Impact on the Character and Appearance of the Area, Streetscape and Historic Environment

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

Properties on the cul-de-sac which projects from The Crescent are at a higher land level to those on Main Street and are predominately two-storey (habitable accommodation in the roof slope) semi-detached types. Properties to the south of the site, also on The Crescent, are two-storey semi-detached types with properties on Main Street and The Green being a mix of two-storey detached, semi-detached and terraced units. Dwellings in the area largely present their principal elevation to the carriageway and generally either abut, or are located in close proximity to, the highway.

The application site is within the Breedon on the Hill Conservation Area and the Council's Conservation Officer has commented that the demolition of no. 1 The Crescent will lead to no. 3 The Crescent appearing asymmetrical and truncated with the presence of nos. 5 and 7 (originally of the same design as no. 1) emphasising the incongruous appearance of no. 3. Therefore, the Council's Conservation Officer considers that no. 1 should be retained as part of the development.

Whilst acknowledging the view given by the Council's Conservation Officer it is recognised that the building is not an 'unlisted building' of interest in the Breedon on the Hill Conservation Area Appraisal and from a practical point of view is deemed to be un-mortgagable due to its standard of construction (being a pre-fabricated building with an original life expectancy of 15 years). It is also considered that the cladding of bricks to nos. 5 and 7 The Crescent, and timber to no. 3, have significantly altered the character of these buildings and consequently diminished the contribution they make to the historic significance of the heritage asset. Nos. 1 and 3 The Crescent are also no longer symmetrical, given the alterations undertaken to no. 3, with the differing cladding materials to nos. 5 and 7 and as such, it is not considered that no. 3 would be so incongruous as to warrant refusal of the application.

Concerns have also been raised in respect of the treatment of no. 3, following the demolition of no. 1, and that dormer 'bungalows' are not a characteristic of traditional development within Breedon on the Hill. With regards to these matters a scheme of works proposed to the south-eastern (side) elevation of no. 3 has been submitted by the planning agent, which has been agreed with the occupant, and these works will result in this elevation having an external appearance consistent with the other elevations. There are also numerous examples of properties in the settlement which utilise gables on the front elevation, particularly on Melbourne Lane, which would not differ significantly in appearance to the design approach proposed where dormers would be installed.

To conclude, in respect of the implications to the heritage asset, it is considered that there would be some harm to the significance of the heritage asset (being the Breedon Conservation Area). This harm, however, is considered to be less than substantial and as such would be assessed in the context of Paragraph 134 of the NPPF. As identified above there is no value in retaining a building which is not suitable for habitation in its current guise and therefore the optimum viable use of the site would be for residential redevelopment with their also being public benefits associated with the provision of additional housing stock in the settlement on a site within the Limits to Development and which results in the removal of several dilapidated outbuildings within the curtilage of no. 1 which do not impact positively on the significance of the

heritage asset. Therefore, the character and appearance of the heritage asset would, at the very least, be preserved.

With regards to the general implications to character and appearance of the streetscape it is considered that the dwellings are orientated to address the carriageway and are positioned so as not to deviate significantly from the building line established by nos. 1 and 3. It is also considered that the units being detached would not result in detriment to the appearance of the streetscape given they would be associated with no. 3, which would become detached, and The Old Chapel. It is also proposed that plot 2 would be set with a lower floor level than that of plot 1 so as to ensure there is a 'step down' from plot 1 to plot 2 and from plot 2 to The Old Chapel.

In respect of the design of the dwellings themselves it is considered that the footprint and overall scale would be consistent with that of detached dwellings in the area with it also exhibiting design features consistent with properties in the area which have a positive impact on the appearance of the streetscape including chimneys, eaves and verge detailing, stone cills and brick headers and projecting timber canopy. On this basis this individual scale and designs of the dwellings would respect the character and appearance of the area and would not result in an overdevelopment of the site particularly when the overall size of the plots would be consistent with those of dwellings in the immediate vicinity.

Plot 1 would be rendered with plot 2 being constructed from red brick with both dwellings utilising natural slate tiles. The predominant building materials in the immediate area are red bricks and render and as such the use of the suggested materials would be acceptable although given that no precise information has been submitted it is considered reasonable to impose a condition on any permission granted for the precise materials to be agreed.

Overall it is considered that the layout, design and scale of the dwellings would be acceptable and as such the proposal complies with Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the NPPF, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies E4 and H7 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

### **Highway Safety**

The County Highways Authority have verbally confirmed that they have no objections subject to conditions.

It is proposed that plot 1 would be served via an existing access off The Crescent and in the circumstances that this access is already utilised in connection with one dwelling there would be no detrimental implications to highway safety. Plot 2 would also be served via an existing access off Main Street and whilst not recently used in connection with vehicular movements at no. 1 it has to be recognised that planning permission would not be required to reintroduce vehicular movements via this access. In this circumstance it is considered that the proposed vehicular movements associated with plot 2 would not have a severely detrimental impact on pedestrian or vehicular safety. Within the curtilages of plots 1 and 2 it would also be possible to provide suitable manoeuvring facilities so as to ensure vehicles exit their respective sites in a forward direction. Overall the development would not impact adversely on pedestrian and highway safety and as such the proposal accords with Paragraph 32 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF4 of the submitted Local Plan.

With regards to off-street parking it is considered that the internal dimensions of the detached garage would be sufficient for the parking of a vehicle with there also being additional space to the frontage of the dwellings for a further two vehicles to park. In the circumstances that three

off-street parking spaces would be sufficient for a four bed property the proposal is considered compliant with Paragraph 39 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF7 of the submitted Local Plan.

### **Ecology**

The County Council Ecologist has raised no objections to the proposal on the basis of the information contained within the protected species survey subject to the imposition of conditions to secure the mitigation measures proposed and for any vegetation to be removed outside the bird nesting season. On the basis these conditions are imposed on any consent granted the development would be considered compliant with Paragraph 118 of the NPPF, Circular 06/05 and Policy En1 of the submitted Local Plan.

### **Landscaping**

At present a soft landscaped area exists to the frontage of the site which provides an open green space onto Main Street which is considered to have a positive impact on the appearance of the streetscape and which has been identified as an important area by both the Parish Council and third parties.

It is proposed that the dwellings would largely be constructed on land vacated by the numerous outbuildings, as well as no. 1 itself, so as to avoid impacting on this area of greenery with the only physical intrusion being the provision of hard surfacing for an access road and turning facilities and a detached single garage. As part of the assessment of the application the Council's Tree Officer has visited the site and considers that trees deemed to be important are towards its frontage and would not be duly impacted on by the proposed development given the limited extent of hard surfacing proposed. On this basis the visual aesthetics of this green space would not be duly impacted on with the imposition of a landscaping condition on any consent granted ensuring that this area would be enhanced. Subject to the imposition of such a condition the development would be compliant with Policy E7 of the adopted Local Plan.

Although the Parish Council consider that the trees should be protected by a tree preservation order (TPO) the fact that the site is within the conservation area leads to these trees being afforded protection and therefore permission would be required for their subsequent removal or any works to them.

### **Development and Flood Risk**

Whilst the site lies within Flood Zone 1, and therefore in an area at the lowest risk of flooding, the Environment Agency's Surface Water Flood Maps identify that the lower areas of the site are at a medium risk of being flooded by surface water. As a result of this the Lead Local Flood Authority (LLFA) have been consulted on the application and following an assessment of the information submitted they have raised no objections subject to the imposition of a condition on any permission granted. The proposed condition will seek to ensure that surface water run-off from the site does not increase and that areas of surfacing to the lower land area are permeable so as to ensure water is not displaced off the site during a surface water flooding incident. The dwellings themselves would not be impacted on by surface water flooding given that they would be at a higher land level. In conclusion the development would be considered compliant with Paragraph 103 of the NPPF and Policies Cc2 and Cc3 of the submitted Local Plan.

Insofar as foul drainage is concerned, it is indicated on the application forms that this would be discharged to the mains sewer with such discharge being agreed with Severn Trent Water

under separate legislation. Severn Trent Water have raised no objections to the development and as such the additional demands for foul drainage can be met by the existing sewerage system in place. On this basis the proposed development would accord with Paragraph 120 of the NPPF.

### **Archaeology**

The County Council Archaeologist has outlined that no. 1 The Crescent is a late 1940s post-war prefab, constructed as part of Churchill's Temporary Housing Programme, which passed into law as the Housing Act of 1944. Around 5000 of these structures were exported to England from Sweden between 1945 and 1946 and were largely placed in rural areas to support farm workers' families. Such properties were designed and constructed as a temporary measure, with a limited life-span of 15 years, with nos. 1 and 3 The Crescent representing a rare survival of this type of structure which were provided in Breedon for quarry worker's families during an industrial expansion following the Second World War.

Given that it is proposed that no. 1 The Crescent would be demolished the value the structure would make to the understanding of social history and post-war expansion, within the setting of the Breedon conservation area, would be lost. On this basis the County Council Archaeologist suggests conditions should be imposed on any consent granted for a building recording (photographic survey) and written scheme of investigation to be approved prior to the demolition of the structure in order to record and advance the understanding of the significance of the heritage asset. Such conditions are considered reasonable given the historic significance of the structure and their inclusion would ensure the development complies with Paragraph 141 of the NPPF as well as Policy He1 of the submitted Local Plan.

### **Other Matters**

With regards to the comments of third parties which have not been assessed above it is considered, following a site visit, that the street elevation drawing is misleading due to the ridge lines of properties to the south of the site on The Crescent not being visible in a view taken from Main Street should the dwellings be built. Although this drawing is misleading the assessment of the application is not based on an interpretation of this plan and therefore it has had no bearing on the conclusion reached. In order to ensure the finished floor and ground levels are carefully considered, given the potential inaccuracies with the drawing, a condition would be imposed on any permission granted for these details to be agreed which is considered reasonable in this circumstance.

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

The application site is located within the Limits to Development where the principle of the form of development would be acceptable with Breedon on the Hill being considered a sustainable settlement. It is also considered that the site could be developed 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, landscaping 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, is considered acceptable for the purposes of the above mentioned policies.

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

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

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

- 2 The development shall be implemented in accordance with the site location plan (1:1250) and drawing numbers SHA.PRE.005 (Proposed Elevations - Plot 1), SHA.PRE.006 (Proposed Elevations - Plot 2), SHA.PRP.007 (Proposed Plans - Plots 1 and 2), SHA.GAR.009 (Proposed Garage - Plot 1) and SHA.GAR.010 (Proposed Garage - Plot 2), received by the Local Authority on the 7th September 2016, as well as drawing number SHA.PSL.004 Revision C (Proposed Site Layout), received by the Local Authority on the 10th October 2016, unless otherwise required by another condition of this permission.

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

- 3 Notwithstanding the details shown on the approved plans, the dwellings shall not be built above damp proof course level until the following have been submitted to and agreed in writing by the Local Planning Authority: -

- Details of the materials to be utilised in all external surfaces (including the construction material of windows and doors);
- The proposed colour finish for the render on plot 1;
- The proposed colour/stain finish for all joinery;
- Details of the brick bond for plot 2;
- Details of the rainwater goods;
- Position and finish of the meter boxes (if external);
- Construction material of the cills and lintels;
- Precise details of the dentilation, corbelling and verge finish to the dwellings;

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

*Reason - to enable the Local Planning Authority to retain control over the external appearance in the interests of the amenities of the area and given the setting of the dwelling within the Breedon on the Hill Conservation Area.*

- 4 The proposed development shall be carried out in strict accordance with the conditions and recommendations outlined in the email from Samantha Howell to Andrew Large of the 27th September 2016, directed to the Local Planning Authority by Andrew Large on the 27th September 2016, which relate to the proposed works to the shared boundary and south-eastern (side) elevation of no. 3 The Crescent following the demolition of no. 1 The Crescent.

*Reason - in the interests of the preservation of the amenities of no. 3 The Crescent and to ensure that the exposed side elevation of no. 3 is adequately restored in the interests of visual amenity and the significance of the heritage asset.*

- 5 Notwithstanding the details showed on the approved plans before first occupation of the

dwellings, hereby permitted, a scheme of soft and hard landscaping (including for the retention of and any works to existing trees and hedgerows) shall be submitted to and agreed in writing by the Local Planning Authority. The hard landscaping scheme will have due regard to the requirements of the Lead Local Flood Authority (LLFA) highlighted in Condition 16. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the first occupation of any dwelling unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. The approved hard landscaping scheme shall be provided in full prior to the first occupation of any dwelling, unless otherwise agreed in writing by the Local Planning Authority, and shall thereafter be so retained.

*Reason - to ensure a satisfactory landscaping scheme is provided within a reasonable period, in the interests of visual amenity, to maintain suitable habitat for protected species and to reduce the possibility of a flooding incident occurring.*

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

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

- 7 No development shall commence until trees on and adjacent to the site have been securely fenced off with protective vertical barriers and ground protection to form a construction exclusion zone in accordance with BS 5837:2012 (Trees in relation to design, demolition and construction). 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 protected areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and no service trenches shall be dug.

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

- 8 Notwithstanding the submitted plans, nor the requirements of Condition 2 above, before first occupation of the dwellings a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railings and other means of enclosure) shall be submitted to and agreed in writing by the Local Planning Authority. The submitted boundary treatment scheme will have due regard to the requirements of the LLFA highlighted within Condition 16. 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) or which bounds the watercourse other than any that are agreed under this Condition or other than 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 in consultation with the LLFA.

*Reason - to preserve the amenities of the locality, in the interests of highway safety, to reduce the possibility of a flooding incident occurring and because insufficient information has been submitted as part of the application.*

- 9 Notwithstanding the submitted plans, nor the requirements of Condition 2 above, no development shall commence on site until such time as details of the proposed finished floor levels of the dwellings and finished ground levels of the development, which shall be related to a fixed datum point off the site, have first been submitted to and agreed in writing by the Local Planning Authority. The submitted finished floor and ground levels will have due regard to the requirements of the LLFA highlighted within Condition 16. Once agreed the development shall then be carried out in accordance with the approved details.

*Reason - to determine the scope of the permission and in the interests of residential amenity and to reduce the possibility of a flooding incident occurring given the absence of any precise information.*

- 10 The development shall be carried out in strict accordance with the proposed ecological mitigation measures highlighted within Section 4 (Mitigation) of the Bat Mitigation Strategy by Rothen Ecology (dated August 2016), received by the Local Authority on the 7th September 2016, with the permanent mitigation measures highlighted within this report being provided in full prior to the first occupation of any of the dwellings and once provided shall thereafter be so maintained.

*Reason - to ensure that bats (a protected species) are adequately protected and their habitat enhanced.*

- 11 Operations that involve the destruction/removal/management of vegetation shall not be undertaken during the months of March to August inclusive unless otherwise agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist.

*Reason - to ensure that nesting birds (a protected species) are adequately protected and their habitat enhanced.*

- 12 Before first occupation of the dwellings, hereby permitted, the following shall be provided: -

- The car parking and turning facilities as shown on drawing numbers SHA.GAR.009 (Proposed Garage - Plot 1) and SHA.GAR.010 (Proposed Garage - Plot 2) received by the Local Authority on the 7th September 2016, and drawing number SHA.PSL.004 Revision C (Proposed Site Layout), received by the Local Authority on the 10th October 2016, which shall be surfaced in accordance with the details agreed under Condition 5 of this permission.

Once provided the above shall thereafter be so maintained.

*Reasons - to ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.*

- 13 No. 1 The Crescent shall not be demolished, with no development commencing, until a programme of archaeological work, including a Written Scheme of Investigation and Historic Photographic Survey has been 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;
  - 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.*

- 14 No.1 The Crescent shall not be demolished, and no development shall commence, other than in accordance with the Written Scheme of Investigation approved under Condition 13.

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

- 15 None of the dwellings, hereby permitted, 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 13 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.*

- 16 No development approved by this planning permission shall take place until such time as a surface water drainage scheme utilising flood preventative, resistance and resilience measures has first 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 (but is not limited to): -

- A surface water drainage strategy that restricts discharge rates to those no greater than currently generated by the existing dwelling unless it can be evidenced that existing dwelling, outbuildings and other impermeable areas are positively drained to a single outfall, where the proposed discharge rate shall be no greater than the combined discharge rate of any contributing positively drained areas.
- The use of permeable construction methods to all external surfaces. Attenuation storage should be considered and utilised where appropriate to assist in providing betterment over the existing discharge rate from the site.
- Further details in relation to the location and the construction of the garage on plot 2 must be provided, including an assessment of the flood risk.
- There shall be no raising of land levels within the development without a detailed assessment of the impact on surface water flow routes and appropriate compensation provided.



- No erection of walls, close boarded fencing or any other such obstructive barriers along the sites' frontage or boundary adjacent to the watercourse which could act as a channel for off-site flood routes.
- Details regarding the safe access and egress for both plots should be provided.

The development shall then be carried out in accordance with the approved scheme with any preventative measures once provided thereafter being so retained.

*Reason - to prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site, and to provide suitable levels of flood protection.*

### Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the consideration of the application which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in a prosecution anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both, as it is an offence to disturb nesting/breeding birds.
- 4 Bats are a rare and declining group of species. Hence, all British species of bat and bat roosts are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection or disturb bat roosts. If bat or bat roosts are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0115 929 1191) should be notified and further advice sought. Failure to comply with this advice may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both.
- 5 Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website ([www.stwater.co.uk](http://www.stwater.co.uk)) or by contacting our New Connections Team (Tel: 0800 707 6600).
- 6 Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.
- 7 The Written Scheme of Investigation (WSI) must be prepared by an archaeological

- contractor acceptable to the Local Planning Authority. To demonstrate that the implementation of the WSI has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.
- 8 The applicant should contact the Historic and Natural Environment Team (HNET) to request the preparation of a formal Brief for the work. In response to the Brief the applicant should obtain a suitable WSI for the survey from an archaeological organisation acceptable to the planning authority. This should be submitted to HNET, as archaeological advisors to the District Council, for approval before the start of development.
- 9 The WSI should comply with the above mentioned Brief, with the Archaeologists "*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.
- 10 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.
- 11 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.
- 12 The LLFA would recommend that the SuDS designs refer to the new guidance (CIRIA C753), including where following aspects are detailed: treatment requirements and maintenance schedules for the surface water system.
- 13 Please note it is the responsibility of the LPA 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.

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Erection of a single storey detached dwelling

Report Item No  
A10

Land At Ashby Road Coleorton Leicestershire

Application Reference  
16/00404/FUL

Applicant:  
Ms Rachel Walker

Date Registered  
8 April 2016

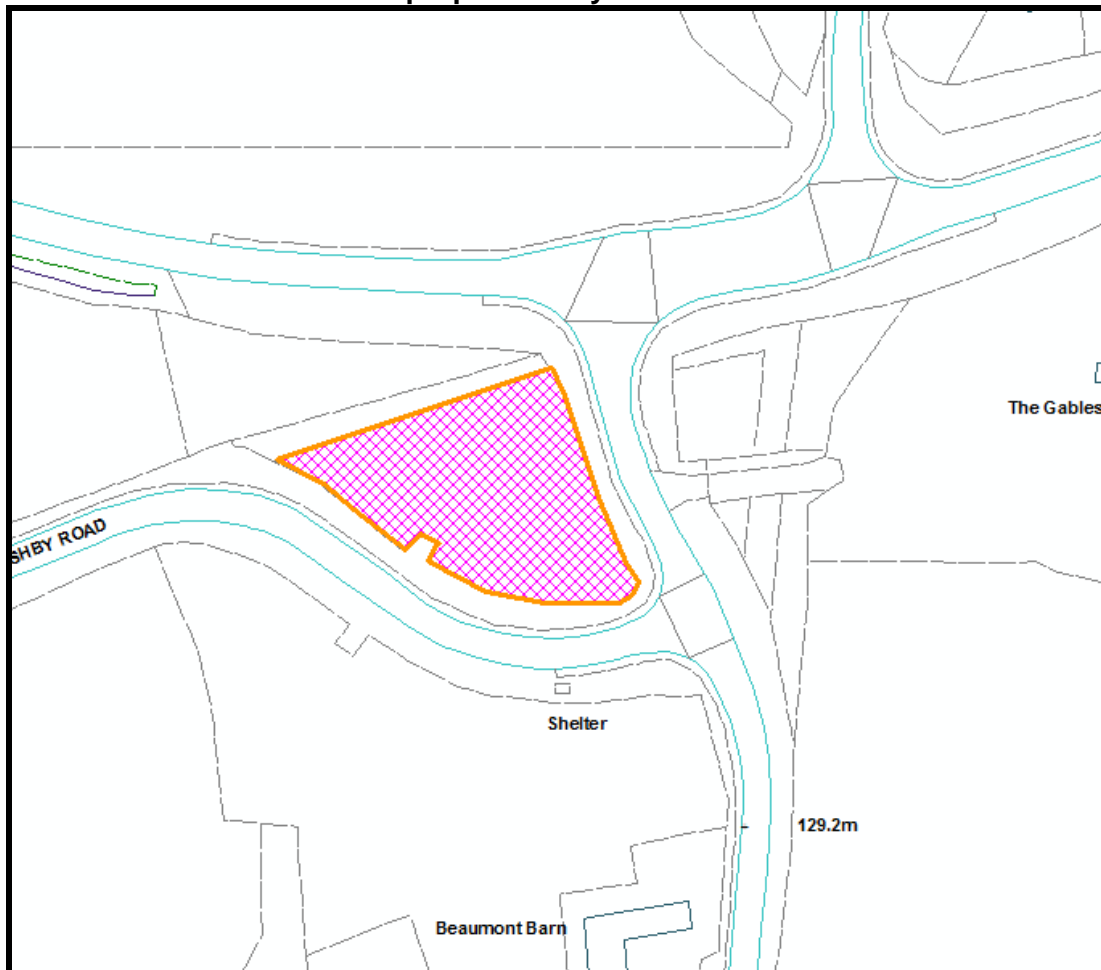
Case Officer:  
Adam Mellor

Target Decision Date  
3 June 2016

Recommendation:  
PERMIT Subject to a Section 106 Agreement

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Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

The application is brought to the Planning Committee in order to allow Members to assess the sustainability credentials of the dwelling to be provided on the site and its impacts on the rural environment.

### Proposal

Planning permission is sought for the erection of a single storey detached dwelling on land at Ashby Road, Coleorton. The 0.18 hectare site is situated on the northern and eastern side of Ashby Road, given a bend in the road, and is outside the defined Limits to Development.

### Consultations

A total of three representations have been received objecting to the development with four representations being received which support the development. Coleorton Parish Council also objects to the development. All other statutory consultees have no objections subject to conditions.

### Planning Policy

The application site is outside the Limits to Development as defined in the adopted and submitted North West Leicestershire Local Plans. The application has also been assessed against the relevant policies in the NPPF, the adopted and submitted 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 limited environmental impacts, the proposal 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 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, heritage assets, highway safety, archaeology, ecology or the coal mining legacy on the site. There are no other material planning considerations that indicate planning permission should not be granted and accordingly the proposal, subject to relevant conditions, is considered acceptable for the purposes of the policies referred to in the main report below.

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

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of a single storey detached dwelling on land at Ashby Road, Coleorton. The 0.18 hectare site is situated on the northern and eastern side of Ashby Road, given a bend in the road, and is currently scrubland/grassland which is outside the defined Limits to Development. To the north of the site lies the A512 with the Parish Council Millennium Garden adjoining the site to the south east, the surrounding area consists of woodland areas, residential properties which vary in their type and design and open fields.

Following amendments to the plans it is proposed that a single storey dwelling with a flat roof would be provided on the site which would be a modular type structure with a floor area of 100 square metres. It would be constructed from insulated panels clad in timber with the use of a 'living' roof and would be erected in one day. An existing vehicular access off Ashby Road would serve the site.

A design and access statement accompanies the application which highlights that the dwelling would be provided to meet a 'local need'. It is specified that: -

*"The applicant has lived and worked in the local area for over 20 years and now owns and runs the village taxi firm KTS Taxis, which provides an important service to local residents. She also voluntarily cares, on a daily basis, for the elderly occupant of 36 Colliery Farm (on the opposite side of The Moor) who sold Ms Walker the plot in the hope that she might gain permission to build a house there and live within the community.*

*Ms Walker's partner suffers from a condition that may require her to use a wheel chair in the future. The layout of their current house is not wheelchair compatible. The design of the home takes this into account. The flexible structure allows for further adaptations as time demands."*

No previous planning history was found.

### 2. Publicity

2 neighbours have been notified.

Site Notice displayed 18 April 2016

Press Notice published 20 April 2016

### 3. Consultations

Parish Clerk Coleorton Parish Council  
 County Highway Authority  
 Severn Trent Water Limited  
 County Archaeologist  
 Head of Environmental Protection  
 LCC ecology  
 Coal Authority

### 4. Summary of Representations Received

The following summary of representations is provided.

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

**Coleorton Parish Council** objects to the application on highway safety grounds due to the access arrangements as well as that the dwelling would be outside the Limits to Development in a sensitive area near the Parish Millennium Garden. The Parish Council is also of the view that there is no justification for the dwelling on 'local need' grounds.

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

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

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

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

**Severn Trent Water** no representation received.

### **Third Party Representations**

Three representations have been received which object to the application with the comments raised summarised as follows: -

- No architectural quality and design is not modern or inspirational.
- Poor quality of design and materials.
- An important gateway into the village which is visually significant would be irreparably damaged.
- Inclusion of a package treatment plan adds to the inappropriate nature of the proposal.
- Applicant runs a taxi business from their current address and has at least four mini-bus/people carrier type vehicles.
- The site is inappropriate for the running of a taxi business.
- The proposal is contrary to the criteria within the Local Plan.
- The rationale provided in support of the application is risible.

Four representations have been received which support the application with the comments raised summarised as follows: -

- The applicant and her partner have worked very hard to improve the site which was previously an overgrown eyesore.
- The site is a well-cared for field with hedges.
- The addition of the dwelling would enhance the visual amenity of the area.
- Recent permissions have been granted in the area for permanent dwellings in isolated locations.
- The ecological and environmental sustainability credentials of the scheme should be recognised and attached weight in the decision.
- Dwelling would help sustain local services.
- Dwelling would have a limited visual impact given its scale and height.
- Area is characterised by dwellings in spacious plots so dwelling is not 'isolated' in that context.
- Provision of a dwelling will allow the applicants to remain in the area and could be easily adapted to meet the needs of the applicant's partner who suffers with disabilities.

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

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

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

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

Paragraph 10 (Achieving sustainable development);  
 Paragraph 14 (Presumption in favour of sustainable development);  
 Paragraph 17 (Core planning principles);  
 Paragraph 28 (Supporting a prosperous rural economy);  
 Paragraph 32 (Promoting sustainable transport);  
 Paragraph 39 (Promoting sustainable transport);  
 Paragraph 49 (Delivering a wide choice of high quality homes);  
 Paragraph 53 (Delivering a wide choice of high quality homes);  
 Paragraph 55 (Delivering a wide choice of high quality homes);  
 Paragraph 57 (Requiring good design);  
 Paragraph 60 (Requiring good design);  
 Paragraph 61 (Requiring good design);  
 Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraph 118 (Conserving and enhancing the natural environment);  
 Paragraph 120 (Conserving and enhancing the natural environment);  
 Paragraph 123 (Conserving and enhancing the natural environment);  
 Paragraph 141 (Conserving and enhancing the historic environment);  
 Paragraph 203 (Planning conditions and obligations);  
 Paragraph 206 (Planning conditions and obligations);

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

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

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

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

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

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

### **Other Policies**

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

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

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

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

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

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

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

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

## **6. Assessment**

### **Principle of Development 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 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. Consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set out below.

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

- Shop/Post Office (Lower Moor Road - 533 metres);
- Public Houses (Angel Inn, The Moor - 390 metres and The George Inn, Loughborough Road - 668 metres);
- School (Viscount Beaumont's Church of England School, Ashby Road - 540 metres);
- Church (St Johns Chapel, Ashby Road - 419 metres);
- Bus Stop for Two Services (Robert Coaches Air Link Service 155 1 hourly between Coalville and East Midlands Airport Monday to Saturday - 411 metres on The Moor and Arriva Service 9 1 hourly between Burton on Trent to Loughborough via Ashby De La Zouch Monday to Sunday (limited service on a Sunday) - 668 metres on Loughborough Road);

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 and school) with other facilities and employment opportunities being accessible by utilising the public transport options. In this circumstance it is considered that a scheme for one dwelling would score well against the social sustainability advice contained within the NPPF with occupants of the property assisting in sustaining these services for the future which is a key intention of Paragraphs 28 and 55 of the NPPF. It would also be possible for the future occupants to access these services on raised footways which are well lit.

From an environmentally sustainability perspective it is noted that the application site is currently an enclosed paddock and as such is classed as greenfield land. The site is also 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. 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 dwelling would be 'isolated' in the context of Paragraph 55 of the NPPF, or impact adversely on the rural environment as specified at Paragraph 17 of the NPPF.

In the circumstances that a greenfield site would be built upon there would be some harm to the environment, including its openness, and therefore conflict with this strand of sustainability.

Whilst this is the case the degree of harm needs to be assessed on the basis of the contribution such land makes to the undeveloped and nature of the rural environment. In this context the application site is an enclosed area of grassland/scrubland which has been dissected from the wider open rural environment by the formation of The Moor, Ashby Road and the A512 which all border the site. As a result of this the grassland/scrubland has no direct connection or visual/physical relationship with neighbouring greenfield land which would contribute towards the visual openness and undeveloped nature of the surrounding rural environment. In these circumstances the degree of harm to the 'openness' of the rural environment would be extremely limited particularly when factoring into account the scale and height of the property.

Although not impacting adversely on the 'openness' of the rural environment it is considered that the dwelling would be viewed in 'isolation', given its dissociation with nearby neighbouring built forms, but would not be 'isolated' from the linear settlement of Coleorton as a whole given that the site lies in the centre of the village between the main built up areas of The Moor (91 metres to the south-east) and Lower Moor Road (86 metres to the north-east). In any event, if it were considered isolated, Paragraph 55 of the NPPF emphasises that 'isolated' homes in the countryside should be avoided unless special circumstances exist. The special circumstances include: -

*"Be truly outstanding or innovative, helping to raise the standards of design more generally in rural areas;  
Reflect the highest standards in architecture;  
Significantly enhance its immediate setting; and  
Be sensitive to the defining characteristics of the local area."*

Although the dwelling would not be 'truly outstanding' it would be innovative given the following circumstances: -

- It could be constructed in one day thereby reducing traffic to and from the site and negating noise, mess and dust associated with traditional build techniques;
- It would have limited impact on the ground given that it would be laid on concrete pads thereby reducing its permanence on the site;
- The dwelling will be constructed to achieve the highest levels of thermal performance and reduce energy use;
- The dwelling will be enabled to generate sufficient solar power to be zero energy rated;
- It would be constructed from materials which would help the development assimilate into the natural environment;
- The inclusion of a 'living roof' would promote and encourage biodiversity on the site;

In respect of the other criteria emphasised within Paragraph 55 it is considered that although it would be difficult to make a case that the provision of the dwelling would significantly enhance the immediate setting it would create a property which would not be dominant in views from the public domain and which would assimilate into its natural setting due to the materials of construction. As a consequence of this it would be sensitive to the defining characteristics of the local area as assessed in more detail in the relevant section below.

Whilst a view is taken that the property would not 'reflect the highest standard in architecture' it is considered that as a bespoke and modern style of property there is no direct comparison which could be made to existing architecture in the area. However, the form and appearance of the dwelling is of interest and is considered to represent an acceptable standard of architecture.

On the basis of the above it is recognised that the proposal would be contrary to Policies S3 of

the adopted and submitted Local Plans, would result in a degree of harm to the rural environment due to the loss of a greenfield site and would not be wholly compliant with Paragraph 55 of the NPPF. Although conflict with these policies arises it is considered that such conflicts would be outweighed by the site's social sustainability credentials, the innovative design features and lack of physical intrusion into the ground being positive to the environment and encouraging biodiversity 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 open countryside beyond. On balance, therefore, the proposal represents a sustainable form of development which is acceptable in principle.

Whilst coming to such a conclusion on this particular application it is considered that this would not set an undesirable precedent for similar forms of development elsewhere in the settlement given the particular circumstances of this site as well as the fact that any future development would need to achieve a higher level of innovation than that set by this proposed in order to be considered 'innovative' under the terms of Paragraph 55 of the NPPF. As a result of this no two dwellings deemed to be 'isolated' would ever be of the same design or exhibit similar environmental benefits.

### **Residential Amenity**

The nearest dwellings are The Gables, at least 105 metres to the east of the site, and Beaumont Barn, some 65 metres to the south. Given these distances, as well as the scale of the dwelling, it is considered that no adverse overbearing, overshadowing or overlooking impacts would arise and therefore the development would be compliant with Policy E3 of the adopted Local Plan and Policy D2 of the submitted Local Plan.

### **Impact on the Character and Appearance of the Area, Streetscape and Heritage Assets**

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.

In terms of topography the application site is relatively flat with low level post and rail fencing defining the majority of the boundaries of the site (1.8 metre high close boarded fencing defines part of the south-eastern boundary) with mature hedgerows adjacent to this fencing. The main settlement of Coleorton (Lower Moor Road) is situated to the north-east on the opposite side of the A512 with The Gables being set to the east and Beaumont Barn being set to the south. Mature tree planting is to the immediate north-west. Properties within the area are single storey and two-storey in height which are either detached or semi-detached.

The majority of development on The Moor and Lower Moor Road follows a relatively linear pattern with dwellings fronting onto, and being closely associated with, the highway. However, between the junction of Prestons Lane with The Moor and the junction of The Moor with the A512 the pattern of development becomes more sporadic with dwellings being positioned within relatively large plots and detached from the highway, The Gables and properties on Ashby Road being consistent with this pattern of development. In such a context it is considered that the construction of a dwelling on the site would not significantly detract from the character of the area as to justify a refusal of the application. It is also considered that as the dwelling would be single storey, with a maximum height of 3.26 metres, it would have limited implications to the appearance of the streetscape given the mature planting which exists to the site boundaries and the use of Larch cladding and 'living roof' assisting in assimilating the development into the existing natural environment.

From a design perspective it is acknowledged that the modern and individualistic style of the property would not be consistent with the traditional design of properties in the area. Whilst this is the case Paragraph 60 of the NPPF indicates that "*decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.*" Within the immediate area it is noted that a more modern style dwelling has been constructed at Octogonos on Lower Moor Road and that traditional properties exhibit differing designs and styles. In such a context, as well as the fact that no other dwelling would be of a similar design or construction build as that proposed, it is considered that it would be 'innovative' and would provide a bespoke and individual styled property which would not have a significantly adverse impact on the appearance of the streetscape or wider area. The materials of construction whilst different to the predominant materials in the area of render and brick would also not have a significantly adverse impact on the appearance of the streetscape and would be supported under Policy F1 of the adopted Local Plan by being National Forest inspired.

The south eastern boundary of the Coleorton Hall Grade 2\* Historic Park and Garden, a designated heritage asset, lies approximately 20 metres to the west of the site and covers the entire parkland, gardens and pleasure grounds formally associated with Coleorton Hall. The historic garden listing predominately refers to the garden and parkland areas associated with Coleorton Hall north of the A512. The nearest part of the Historic Park and Garden appears to relate to The Paddock area which is referred to in the Listing and includes a lake and areas of Woodland. Whilst the Council's Conservation Officer and Historic England have not been consulted on the application it is considered that the level of screening provided by existing mature woodland within the Historic Park and Garden, as well as adjacent to the site, the presence of the A512 and overall scale and positioning of the dwelling would ensure that no harm to the historic setting of the heritage asset would arise.

Overall it is considered that the development would be compliant with Paragraphs 57, 60, 61, 131, 132 and 134 of the NPPF, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies E4, H7 and F1 of the adopted Local Plan and Policies D1 and He1 of the submitted Local Plan.

### **Highway Safety**

The County Council Highways Authority have raised no objections subject to their standing advice being considered.

It is considered that the existing access has the required visibility in both directions to ensure that vehicles could exit in a slow and controlled manner with the overall number of movements associated with a 2 bedroom dwelling being relatively low. Within the site it would also be possible to provide manoeuvring facilities to ensure vehicles exit the site in a forward direction. In these circumstances the proposal would not impact 'severely' on highway safety and as such would be compliant with Paragraph 32 of the NPPF as well as Policy T3 of the adopted Local Plan and Policy IF4 of the submitted Local Plan.

Within the site an adequate level of off-street parking to serve the property would be provided and this would ensure compliance with Paragraph 39 of the NPPF, Policy T8 of the adopted Local Plan and IF7 of the submitted Local Plan.

## **Ecology**

The County Council Ecologist does not object to the application subject to the imposition of conditions to secure a scheme of planting on the roof of the dwelling which would be of native species as well as ecological management and enhancement of an area of the site given that it was once species-rich wet/neutral grassland. Subject to the imposition of such conditions the development would accord with Paragraph 118 of the NPPF, Circular 06/05 and Policy En1 of the submitted Local Plan.

## **Landscaping**

It is proposed that the dwelling would be set to the south of a mature tree and the remnants of a hedge both of which are identified as being retained on the submitted plans. Given that the dwelling would be pre-fabricated and stood on concrete pads there would be minimum ground disturbance with the dwelling being set away from the root protection areas (RPAs) of retained vegetation which would ensure their integrity would be preserved. Given the National Forest setting of the site it would be a requirement that the landscaping is enhanced and the imposition of a condition on any permission granted could secure the submission of a landscaping scheme. On this basis the development would accord with Policies E7, F1, F2 and F3 of the adopted Local Plan as well as Policy En3 of the submitted Local Plan.

## **Drainage**

It is proposed that the dwelling would be served by a package sewerage treatment plant and the provision of such a drainage solution on the site will require separate permission from the Environment Agency (EA) who would issue a permit for the installation of such a system. In agreeing any permit application the EA will be responsible for ensuring that the installed system has sufficient capacity to deal with drainage from the dwelling and as a consequence it would not be considered an inappropriate system for dealing with drainage at the site as raised in the third party representations. On this basis the development would be considered acceptable in accordance with Paragraph 120 of the NPPF.

## **Coal Mining**

The Coal Authority have no objections to the proposal subject to the imposition of conditions on any consent granted. It is considered that the imposition of such conditions will ensure the land is 'stable' and fit for purpose in conjunction with Paragraphs 120 and 121 of the NPPF and Policy En6 of the submitted Local Plan.

## **Archaeology**

The County Council Archaeologist has raised no objections to the application and as such archaeology would not act as a constraint on the development which would ensure compliance with Paragraph 141 of the NPPF and Policy He1 of the submitted Local Plan.

## **Other Matters**

Concerns have been raised that the applicant is intending to run a taxi business from the site. The application is solely for a new dwelling and not for any other use. If complaints were received regarding the operation of a taxi business from the site then the Council has separate powers to investigate.

It is also considered that the proposal would not impact adversely on the setting of the Parish Millennium Garden given that only limited views into the site would be established when utilising this area due to the presence of the boundary treatments.

### Summary Reasons for Granting 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 limited environmental impacts the proposal 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 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, heritage assets, highway safety, archaeology, ecology or the coal mining legacy on the site. There are no other material planning considerations that indicate planning permission should not be granted and accordingly the proposal, subject to relevant conditions, 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 The development shall be begun before the expiration of one year from the date of this permission.

*Reason - to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended) and given the 'local need' for the dwelling.*

- 2 The proposed development shall be carried out strictly in accordance with drawing number BMashby0316.vwx (Location Plan), received by the Local Authority on the 8th April 2016, drawing numbers 01 (Proposed Elevations), 02 (Proposed Elevations) and 03 (Proposed Floor Plans), received by the Local Authority on the 10th August 2016, and drawing number BMashby0316.vwx (Site/Block Plan), received by the Local Authority on the 15th September 2016, unless otherwise required by another condition of this permission.

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

- 3 The proposed external materials to be used in the development will be in strict accordance with those specified in the application, including the use of a 'living roof', and as shown on the drawing referenced 'Proposed New Design for a House at Ashby Road', received by the Local Authority on the 10th August 2016. The above applies unless alternative external materials are first submitted to and agreed in writing by the Local Planning Authority.

*Reason - to ensure a satisfactory standard of external appearance in the interests of preserving the visual amenities of the area and streetscape.*

- 4 Notwithstanding the details shown on the approved plans before first occupation of the dwelling, hereby permitted, a scheme of soft and hard landscaping (which shall include the soft landscaping utilised on the 'living roof' of the dwelling) shall be submitted to and

agreed in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the first occupation of the dwelling with the hard landscaping scheme being provided in full prior to the first occupation of the dwelling unless alternative implementation programmes are first agreed in writing with the Local Planning Authority.

*Reason - to ensure a satisfactory landscaping scheme is provided within a reasonable period, in the interests of visual amenity and to enhance the ecological value of the land.*

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

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

- 6 Notwithstanding the details shown on the approved plans before first occupation of the dwelling, hereby approved, a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railings and other means of enclosure) shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be provided in full prior to the first occupation of the dwelling hereby approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.

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

- 7 Before first occupation of the development hereby permitted the following shall be provided: -
- The access drive and turning space shall be surfaced in accordance with details agreed under Condition 4 of this permission;
  - The car parking and turning facilities as shown on drawing number BMashby0316.vwx (Site/Block Plan), received by the Local Authority on the 15th September 2016;
  - Drainage within the site such that surface water does not drain into the Public Highway;

Once provided the above shall thereafter be so maintained.

*Reasons - to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.); to ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users; to reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users.*

- 8 Operations that involve the destruction/removal/management of vegetation shall not be undertaken during the months of March to August inclusive unless otherwise agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist.

*Reason - to ensure that nesting birds (a protected species) are adequately protected and their habitat enhanced.*

- 9 The dwelling shall not be occupied until a landscape/ecological management plan for the land cross hatched on the attached drawing number LPA/16/00404/FUL has first been submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist. The submitted scheme shall include a timetable for implementation, management responsibilities and maintenance schedules. Once approved the landscape/ecological management plan shall be implemented in accordance with the approved details and timetable, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority in consultation with the County Council Ecologist.

*Reason - to secure opportunities for the enhancement of nature conservation in the area and to ensure the protection of wildlife.*

- 10 No development shall commence on site until a scheme of intrusive site investigation works have been submitted to and agreed in writing by the Local Planning Authority, in consultation with the Coal Authority, in order to establish the exact situation regarding coal mining legacy on the site. The intrusive site investigations shall then be carried out in accordance with the approved details and a report shall then be subsequently submitted to outline the findings of the intrusive site investigations.

If the intrusive site investigations identify the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, details of these remedial works and a verification plan must be submitted to and agreed in writing by the Local Planning Authority in consultation with the Coal Authority. The agreed remedial works and verification must be carried out in full before any development commences in respect of any part of the development hereby approved.

*Reason - to ensure that the land is, or can be made, safe and stable for the proposed development due to the risk from its coal mining history.*

### Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination phase which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager (telephone 0116 3050001).
- 4 The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.
- 5 The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in



prosecution; 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.

- 6 Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of the Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: <https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>.

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**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**PLANNING COMMITTEE – 6 DECEMBER 2016**

<p>Title of report</p>	<p><b>PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT LAND AT RAVENSTONE ROAD, COALVILLE / COALVILLE LANE, RAVENSTONE</b></p>
<p>Contacts</p>	<p>Councillor Trevor Pendleton 01509 569746 <a href="mailto:trevor.pendleton@nwleicestershire.gov.uk">trevor.pendleton@nwleicestershire.gov.uk</a></p> <p>Head of Planning and Regeneration 01530 454782 <a href="mailto:jim.newton@nwleicestershire.gov.uk">jim.newton@nwleicestershire.gov.uk</a></p> <p>Principal Planning Officer 01530 454675 <a href="mailto:james.knightley@nwleicestershire.gov.uk">james.knightley@nwleicestershire.gov.uk</a></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 Assessment</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>As set out in the report below</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p>
<p>Comments of Deputy Chief Executive</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	Ravenstone with Snibston Parish Council North West Leicestershire District Council Snibston North and Snibston South Ward Members North West Leicestershire District Council Strategic Housing Team
Background papers	Application documents in respect of application refs. 12/00325/OUTM, 13/00055/REMM and 16/00546/FULM
Recommendations	<b>TO AGREE TO THE SUBSTITUTION OF THE EXISTING AFFORDABLE HOUSING OBLIGATIONS BY THE PROVISION OF 26 UNITS AND IN ACCORDANCE WITH THE HOUSE TYPE AND TENURE MIX AS SET OUT IN THIS REPORT</b>

## 1.0 INTRODUCTION AND BACKGROUND

- 1.1 On 3 July 2012, the District Council's Planning Committee resolved to grant outline planning permission subject to Section 106 obligations for residential development of up to 190 dwellings and associated works on a site at Ravenstone Road, Coalville and Coalville Lane, Ravenstone (planning permission ref. 12/00325/OUTM).
- 1.2 The Section 106 agreement was completed on 24 July 2012, and the planning permission subsequently issued on 25 July 2012. The Section 106 agreements include obligations in respect of, amongst others, affordable housing. The existing affordable housing obligations require that 18% of the proposed dwellings be provided as affordable housing units, and comprising the following mix:
- 32% 1 bed apartments
  - 14% 2 bed houses
  - 22% 2 bed bungalows
  - 27% 3 bed houses
  - 5% 4 bed houses
- 1.3 Reserved matters approval ref. 13/00055/REMM for the erection of 190 dwellings was issued on 26 March 2014, with subsequent Section 73 approvals in respect of that reserved matters approval being issued on 5 September 2013 and 17 March 2015 (refs. 13/00520/VCIM and 14/01046/VCIM respectively).
- 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.
- 1.5 The residential development is currently under construction.

## **2.0 PROPOSED AMENDED AFFORDABLE HOUSING OBLIGATIONS**

2.1 The developer advises that, as a result of changes in housing benefit rules for the under-35s, Registered Providers are limiting the amount of one bed units within their stock, and the partner Registered Provider in this instance is therefore seeking an amended range of units (but, as a result, would require a reduction in the overall number of units to a total of 26 units (i.e. 14%), of which 14 would be available as affordable rent, and 12 as shared ownership). The proposed amended mix would be as follows:

- 6 no. 1 bed apartments (all rented)
- 2 no. 2 bed houses (all rented)
- 6 no. 2 bed bungalows (4 rented, 2 shared ownership)
- 12 no. 3 bed houses (2 rented, 10 shared ownership)

2.2 Given the range of units approved under reserved matters approval 13/00055/REMM (and the subsequent Section 73 approvals), the existing form of development would need to be amended to enable the affordable units listed under 2.1 above to be erected on site. The developer has addressed this by way of a separate full planning application for a revised layout for 10 of the dwellings in the north eastern part of the site (ref. 16/00546/FULM). This application has been resolved to be permitted under delegated powers subject to Section 106 obligations. Therefore, as and when a Section 106 agreement relating to that application has been entered into, the developer would, in effect, be in a position to implement either that scheme or the previously approved reserved matters scheme. Implementation of the revised scheme would enable the developer to deliver (physically) the revised affordable housing units to which agreement is now sought.

## **3.0 CONSULTATION**

3.1 Ravenstone with Snibston Parish Council has no comments.

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 20% should be provided on developments of 15 or more dwellings in the Coalville Urban 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 The developer's rationale for seeking the proposed changes is as set out under Section 2.1 above, and it is noted that the proposed revised obligations would result in a smaller number of units being delivered as affordable housing.
- 5.2 The proposed change to the affordable housing contribution has been considered by the District Council's Strategic Housing Team which advises that it has been in regular contact with the developer and the Registered Provider in order to find ways to secure the delivery of affordable homes on this development. The Strategic Housing Team confirms that the changes sought are in reaction to changing economic conditions affecting the activity of Registered Providers and their ability to offer on Section 106 negotiated developments. It notes that older sites where the affordable mix was negotiated prior to 2015 are particularly vulnerable as developer expectations were higher, having been based on a stronger Registered Provider bidding platform.
- 5.3 The Strategic Housing Team confirms that the applicant's assertion that Registered Provider offer levels are lower, with fewer Registered Providers being in a position to offer, (particularly on one bed properties) is correct (and as set out under 2.1 above). With no guarantee that the limitations on Registered Provider capacity will improve in the foreseeable future, and with the introduction of Starter Homes as an affordable tenure, the Strategic Housing Team considers that the proposed changes present the best opportunity to secure rented affordable housing (as well as maintaining market homes delivery) on this development.
- 5.4 On this basis, therefore, and having regard to the range of house types that would be secured, it is accepted that the provision of the amended affordable housing contribution would be an acceptable alternative, and would represent the most appropriate contribution likely to be available in the circumstances. As such, it is recommended that the proposed amended affordable housing obligations be accepted.

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

## PLANNING COMMITTEE - 6 DECEMBER 2016

Title of report	<b>TO CONSIDER THE MAKING OF A TREE PRESERVATION ORDER ON FIFTEEN YEW TREES AT THE OLD PARSONAGE LONG WHATTON</b>
Contacts	<p>Cllr Trevor Pendleton 01509 569746 <a href="mailto:trevor.pendleton@nwleicestershire.gov.uk">trevor.pendleton@nwleicestershire.gov.uk</a></p> <p>Planning and Development Team Manager 01530 454668 <a href="mailto:chris.elston@nwleicestershire.gov.uk">chris.elston@nwleicestershire.gov.uk</a></p> <p>Tree Officer 01530 454683 <a href="mailto:julian.simpson@nwleicestershire.gov.uk">julian.simpson@nwleicestershire.gov.uk</a></p>
Purpose of report	To consider the objection lodged by Mr Barnaby Shaw.
Reason for decision	A provisional Tree Preservation Order was made on 24 June 2016. The Tree Preservation Order needs to be confirmed within six months. Trees will lose their Tree Preservation Order protection if not confirmed within six months.
Council Priorities	Homes and Communities
Implications	
Financial/Staff	None
Link to relevant CAT	None
Risk management	None
Equalities Impact Screening	Equality Impact Screening already undertaken, issues identified actioned.
Human Rights	Under the Human Rights Act, Article 8, there is a right to respect for private and family life, the home and correspondence. The making of a Tree Preservation Order potentially impacts on that right. However, in this case it is considered that the making of the Tree Preservation Order is justified in the public interest.

Transformational Government	None
Comments of Deputy Chief Executive	Report is satisfactory
Comments of Deputy Section 151 Officer	Report is satisfactory
Comments of Deputy Monitoring Officer	Report is satisfactory
Consultees	People with a legal interest in the land affected by the Tree Preservation Order have been consulted and members of the public were consulted by the placing of site notices in the vicinity of the land which shall be subject to the Tree Preservation Order.
Background papers	None
Recommendations	<b>THAT THE TPO BE CONFIRMED</b>

## 1.0 INTRODUCTION AND BACKGROUND

- 1.1 A notification of intention to carry out works to trees in a conservation area was received on 26 April 2016 following pre-application advice which had outlined that a detailed tree pruning specification was needed.
- 1.2 Work proposed by the applicant to the group of fifteen mature yews near the churchyard boundary of The Old Parsonage, was to “reduce the crowns and reshape as appropriate”.
- 1.3 The Local Planning Authority can deal with such an application in three ways. Either make a Tree Preservation Order if it is justified in the interests of amenity, decide not to make a Tree Preservation Order and allow the six week period to expire, at which point the proposed work may go ahead or decide not to make a Tree Preservation Order and inform the applicant that the work can go ahead.
- 1.4 It was considered by the Council’s Tree Officer that the work proposed by the applicant could be both harmful to tree health, amenity value and the setting of the churchyard.
- 1.5 Without a Tree Preservation Order, the standard and degree of work carried out cannot be controlled by planning condition.



## **2.0 OBJECTIONS: Summary of Representations Received**

- 2.1 The following summary of representations is provided. Members will note that full copies of correspondence received are available on the planning file.
- 2.2 Mr Shaw's objection provides background to his notification. The proposed work is part of a restoration programme and because the trees are considered to significantly shade his property he wishes to reduce their height to increase light levels. Mr Shaw estimates that the trees are 20m. high but they are in fact much less at 10-12m. high. Branches of one tree are within 4m. of the conservatory of Mr Shaw's property.
- 2.3 The basis of the objection is that responsible and proper tree surgery would be carried out and that a height reduction would not affect visual amenity.
- 2.4 The objection seeks to clarify the extent of height reduction, now estimated to be by 25%, but this in itself confirms that it would be harmful to both tree condition and appearance. No finished dimensions have been provided.

## **3.0 OFFICER COMMENTS**

- 3.1 The trees form an important and historical back-drop to the church to the south of The Old Parsonage.
- 3.2 The proposed work would not be in accordance with best practice as outlined in British Standard 3998:2010, resulting in an unattractive appearance.
- 3.3 The Trees are 10-12m. high and located 10-20m. from the house with branches of one tree spreading over the paved area to within 4m. of the conservatory, and branches of other trees to within 7-15m. of the house. They do shade this area of the property and lesser works could be agreed to help address the issue in a more sympathetic manner appropriate to the tree species, their age, characteristics and form.
- 3.4 A Tree Preservation Order is justified in respect of the trees condition, life expectancy, impact, public amenity and landscape cohesion.

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