

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 7 March 2017
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454512)

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

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

AGENDA

Item	Pages
1. APOLOGIES FOR ABSENCE	
2. DECLARATION OF INTERESTS	
Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
3. MINUTES	
To confirm and sign the minutes of the meeting held on 31 January 2017.	3 - 8
4. PLANNING APPLICATIONS AND OTHER MATTERS	
Report of the Head of Planning and Regeneration.	9 - 12



Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	16/00102/OUTM: Residential development of up to 30 no. dwellings and associated infrastructure (outline - access only) Talbot Place Donisthorpe Swadlincote Derby DE12 7PU	REFUSE	13 - 26
A2	17/00023/FULM: Demolition of care home and erection of 11 dwellings Greenacres Linford Crescent Coalville Leicestershire LE67 4QT	PERMIT	27 - 36
A3	16/01210/OUT: Erection of three two storey dwellings and associated access arrangements including amended parking for No's 5,7 and 9 Borough Street (outline - means of access and layout for approval) Land To The Rear Of 3-9 Borough Street Kegworth Derby DE74 2FF	PERMIT	37 - 48
A4	17/00034/FUL: Demolition of existing garage and erection of detached building to provide two self-contained flats 9 Grange Close Ashby De La Zouch Leicestershire LE65 2PQ	PERMIT Subject to a Section 106 legal agreement	49 - 60
A5	16/00888/OUT: Erection of one detached dwelling with detached garage and stable block for use in connection with horse stud and formation of new access (Outline- access and layout included) Land At Redburrow Lane Packington Ashby De La Zouch Leicestershire LE65 1UD	REFUSE	61 - 74
A6	16/01056/FUL: Erection of detached two storey dwelling with adjacent garage and new vehicular access The Manor Overton Road Ibstock Coalville Leicestershire LE67 6PD	REFUSE	75 - 84
A7	17/00024/OUT: Erection of a detached dwelling with associated access (Outline - means of access and layout for approval) 1 Zion Hill Peggs Green Coleorton Coalville Leicestershire LE67 8JP	REFUSE	85 - 98
A8	16/00835/FUL: Erection of one dwelling and formation of access Land Adjacent 16 Measham Road Ashby De La Zouch Leicestershire LE65 2PF	REFUSE	99 - 110
A9	16/01285/RET: Retention of a first floor rear window to be openable to no more than 50mm and to not be fully obscure glazed 7 Appleby Fields Close Appleby Magna Swadlincote DE12 7BF	PERMIT	111 - 118

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 31 JANUARY 2017

Present: Councillor D J Stevenson (Chairman)

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

In Attendance: Councillor T J Pendleton

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

92. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R Adams, J G Coxon, D Harrison and N Smith.

93. DECLARATION OF INTERESTS

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

Councillor J Legrys declared that he had been lobbied without influence in respect of item A1, application number 16/01408/FUL.

During the debate, Councillors J Houlton and G Jones declared a non-pecuniary interest in item A1, application number 16/01408/FUL, as members of Ashby Town Council.

Councillors J Bridges, G Jones and D J Stevenson declared that they had been lobbied without interest in respect of item A2, application number 16/01059/OUT.

Councillor D J Stevenson declared a non pecuniary interest in item A5, application number 16/01127/VCU, having called in the application.

94. MINUTES

Consideration was given to the minutes of the meeting held on 10 January 2017.

It was moved by Councillor M Specht, seconded by Councillor J Legrys and

RESOLVED THAT:

The minutes of the meeting held on 10 January 2017 be approved and signed by the Chairman as a correct record.

95. 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.

96. A1
16/01408/FUL: ERECTION OF 9 NO. DWELLINGS

Land At North Close Blackfordby DE11 8AP Derby

Officer's Recommendation: PERMIT

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

Mrs K Brady, objector, addressed the meeting. She expressed concerns in respect of access and egress, the blocking of drains, the loss of green space which is used by children although she appreciated that there was a football pitch nearby, the mix of social housing and the elderly, a perceived risk that antisocial behaviour would result from social housing being built, and the devaluing of properties. She felt that bungalows would be more appropriate and more aesthetically pleasing.

Ms Y Sharma, applicant's agent, addressed the meeting. She stated that the proposals would have no impact on highway safety, as 2 parking spaces per home provision was proposed. She added that the width of the road was sufficient for two cars to pass and there were no objections from the Highway Authority. She advised that a number of amendments had been made to the design in consultation with the Council's Urban Designer. She highlighted that there were other green spaces within walking distance of the site, and that the design included gaps between properties to enable views to the church spire to be retained, and therefore the proposals would not result in a significant detrimental impact upon the amenities of local residents. She added that the proposal was entirely comprised of affordable housing and would contribute to the social sustainability of the village. She concluded that the proposals fully accorded with local and national planning policies and she respectfully requested that members approve the application in accordance with the officer's recommendation.

Councillor M B Wyatt stated that he had listened to the concerns of local residents regarding the mix of social housing with the elderly, and his experience was that more complaints were being received from elderly residents who felt very vulnerable and did not like coming out into the local community. He stated that he would not be supporting the proposals.

Councillor R Johnson expressed concerns regarding the width of the road and the impact of construction traffic. He stated that an application for 9 bungalows would blend in with the rest of the community and therefore he would not be supporting the application.

The Head of Planning and Regeneration drew members' attention to condition 7 relating to the construction traffic management plan. He reminded members that an application for 9 bungalows was not before the committee for determination.

Councillor G Jones expressed doubts regarding the mix between social housing and the elderly occupiers, however he felt the development was needed in the village and on balance would support the application.

Councillor J Bridges stated that he was not opposed to development of the site in principle, however he felt that the dwellings should be bungalows and for that reason he would not be supporting the proposals.

Councillor J Legrys commented that more affordable housing was required, however the road was very narrow and the emergency services found it difficult if not impossible to access, adding that the coach driver had refused to reverse down the road, during the site visits. He felt that the development should fit in with the existing housing mix and he expressed deep disappointment that negotiations had not taken place to achieve that mix. He believed that a better scheme could have been put forward considering that the

Council owned the land at the time. He stated that he would not be supporting the proposals.

Councillor J Geary agreed with Cllr J Bridges, noting that many of the existing bungalows had alarm boxes on them.

Councillor M Specht reiterated the need to judge the application on its own merits. He stated that none of the statutory consultees had raised any objections, social housing was desperately needed and there was a football ground nearby providing open space. He noted that the coach driver had also hit the kerb elsewhere during the site visits. He made reference to his own experiences with antisocial behaviour and expressed incredulity at the suggestion that all social housing tenants were anti social. He reminded members that the only reason this application was before the Planning Committee was that the land was under the Council's ownership, otherwise the application would have been permitted under delegated powers.

Councillor J Clarke commented that the proposals would result in a limited increase in the number of residents and he was opposed to the grouping together of the elderly. He expressed confidence that nine homes would not be a major problem.

Councillor D J Stevenson stated that he felt ashamed at the suggestion that all youngsters in social housing were antisocial. He reminded members that the width of the road would be the same whether bungalows or houses were built.

It was moved by Councillor M Specht, seconded by Councillor J Hout and

RESOLVED THAT:

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

97.

A2

16/01059/OUT: DEMOLITION OF FARM BUILDINGS AND ERECTION OF FIVE DETACHED DWELLINGS (OUTLINE WITH ACCESS AND LAYOUT INCLUDED)

Quarry Lane Snarestone Swadlincote Derby DE12 7DD

Officer's Recommendation: REFUSE

The Planning and Development Team Manager presented the report to members, highlighting that it was considered the proposal in respect of the transfer of the land, redbrick building and the contribution of £100,000 to Snarestone Primary School would not comply with the relevant policy tests in the NPPF and the CIL regulations, and therefore did not form a material consideration and should not be taken into account when determining the application.

Mr A Large, applicant's agent, addressed the meeting. He advised that during initial discussion on the application, his clients had been made aware of the need for additional space at the Snarestone Primary School and the need for a new school room. The application had been revised accordingly and the offer of the transfer of land, the redbrick building and the financial contribution had been agreed with school governors. He made reference to the fallback position and examples where an alternative conversion had been taken as a material consideration. He added that the removal of diffuse water pollution would provide a clear benefit to the River Mease and he considered this to be a material consideration. He made reference to the level of services in the village and accepted the concerns in this respect. However he felt that the offer of a school room shifted the balance. He concluded that he believed this was one of the best applications he had put forward and asked members to support the proposals.

Councillor J Bridges felt that the application added to village life and to controlled growth in the area. He commented that villages which were not sustainable could become so by allowing controlled development. He stated that he understood and respected that the contribution to the school was not a material consideration, however expressed concerns that the education authority was not requesting a contribution. He expressed support for the application.

Councillor J Legrys felt vehemently that the officer's recommendation was wrong. He made reference to another application nearby which was outside the limits to development and had been permitted under delegated powers. He felt that this was contradictory. He said that the site would be tidied up by the development and village services would benefit from increased trade. He concluded that the application was appropriate for the village and he could not see why people should be prevented from living in the village.

Councillor J Clarke sought clarification on the position of Snarestone Parish Council. The Head of Planning and Regeneration advised that the application had been unanimously approved by the Parish Council.

Councillor V Richichi expressed concerns in respect of inconsistency. He felt that the reasons for refusal were weak and the application would have no adverse impact. He noted that the committee had been told that the village only had a two hourly bus service, but expressed his opinion that bus services were not good anywhere in the district.

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

Subject to a Section 106 Agreement, the application be permitted on the following grounds:

- a) The application constituted a sustainable form of development
- b) The application would improve the visual appearance of the site
- c) The application would improve access to housing in the village
- d) The application would support village vitality

98.

A3

16/01269/OUT: ERECTION OF ONE DETACHED DWELLING (OUTLINE - MEANS OF ACCESS AND LAYOUT APPROVAL)

78 Loughborough Road Peggs Green Coalville Leicestershire LE67 8HG

Officer's Recommendation: PERMIT

The Senior Planning Officer presented the report to members.

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

RESOLVED THAT:

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

99.

A4**16/01080/OUT: ERECTION OF ONE DETACHED DWELLING INCLUDING DEMOLITION OF EXISTING GARAGE (OUTLINE - LAYOUT AND ACCESS INCLUDED)**

Mount Pleasant Nottingham Road Peggs Green Coalville Leicestershire LE67 8HN

Officer's Recommendation: PERMIT

The Senior Planning Officer presented the report to members.

Mrs L Read, objector, addressed the meeting expressing concerns regarding the safety of the access and overlooking of her own neighbouring property.

Mr A Greenwood, applicant, addressed the meeting outlining his personal reasons for the proposals.

In response to a question from Councillor J Legrys, the Head of Planning and Regeneration advised that the issue of conflicting vehicles on a private drive could be a planning matter. He added that the Highways Authority had taken into consideration the access arrangements as a whole and had raised no objections.

Councillor J Legrys stated that he supported the application and felt the proposals were ideal for the site.

Councillor M Specht expressed concerns regarding the number of windows in the gable end of the existing property abutting the development site. It was agreed that the first floor bedroom window on the side elevation of the existing dwelling, Mount Pleasant should be changed to obscure glazing prior to any occupation of the proposed dwelling and that this be dealt with by way of a condition.

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

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Head of Planning and Regeneration, subject to an additional condition to secure obscure glazing to first floor bedroom window in the northern facing side elevation of Mount Pleasant.

100.

A5**16/01127/VCU: VARIATION OF CONDITION 2 OF 14/00925/FUL TO PROVIDE SINGLE STOREY EXTENSION DETACHED GARAGE**

5 Melbourne Lane Breedon On The Hill Derby DE73 8AT

Officer's Recommendation: PERMIT

The Senior Planning Officer presented the report to members.

Mr J Morrison, representing Breedon on the Hill Parish Council, addressed the meeting. He stated that the Parish Council supported applications which enhanced the village. He expressed concerns that the proposals represent a significant expansion in the Conservation Area and would result in a significant loss of amenity for the neighbouring property. He submitted that the officers were inconsistent in recommending approval of this larger scheme having refused the original application. He disagreed with the officer's opinion that the location within 2m of the common boundary was not a material consideration. He added that the apple tree provided screening to the neighbouring property. He urged members to refuse the application on the grounds of overdevelopment of the site, scale, massing and loss of neighbour amenity.

Mr D Dore, objector, addressed the meeting. He stated that the amenity of the neighbouring property would be adversely affected, the site was very small and narrow and the access through the pub car park could potentially cause problems. He felt that it was misleading to suggest that there was sufficient space to provide 2 parking spaces on the site and expressed concerns in respect of cars backing into the traffic flow from the pub. He asked members to refuse the application.

Members expressed concerns in respect of the proposals and sought advice from the Head of Planning and Regeneration on the reasons for refusal.

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

RESOLVED THAT:

The application be refused on the grounds that owing to the scale and mass of the proposals, which constituted overdevelopment of the site over and above that of the dwelling previously approved, the proposals were not in keeping with the conservation area or surrounding area.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 5.49 pm

APPENDIX B

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

7 March 2017

PLANNING & DEVELOPMENT REPORT



PLANNING COMMITTEE FRONT SHEET

1. Background Papers

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

2. Late Information: Updates

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

3. Expiry of Representation Periods

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

4. Reasons for Grant

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

5. Granting permission contrary to Officer Recommendation

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

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

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

6 Refusal contrary to officer recommendation

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

7 Amendments to Motion

An amendment must be relevant to the motion and may:

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

as long as the effect is not to negate the motion

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

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

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

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

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

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

8 Delegation of wording of Conditions

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

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

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

Residential development of up to 30 no. dwellings and associated infrastructure (outline - access only)

Report Item No
A1

Talbot Place Donisthorpe Swadlincote Derby DE12 7PU

Application Reference
16/00102/OUTM

Applicant:
Mr R Gray

Date Registered:
5 February 2016

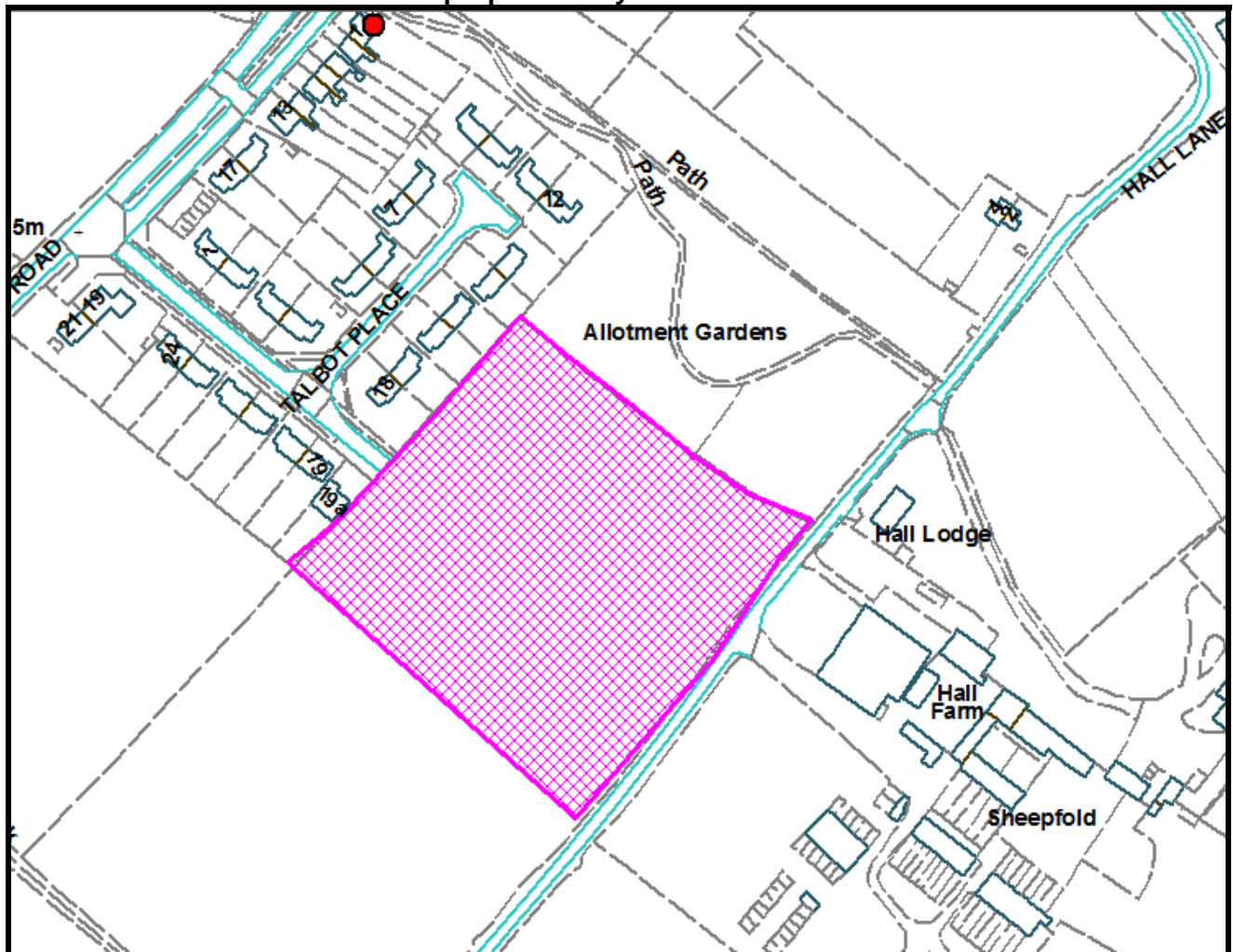
Case Officer:
James Mattley

Consultation Expiry:
9 March 2016
8 Week Date:
6 May 2016

Recommendation:
REFUSE

Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS

Outline planning permission is sought for the erection of up to 30 no. residential dwellings and associated infrastructure at land at Talbot Place, Donisthorpe.

Consultations

No objections have been raised by statutory consultees and there has been one letter of representation received.

Planning Policy

The application site is located outside the Limits to Development, as defined by the adopted North West Leicestershire Local Plan Proposals Map 2002 and submitted Publication Policies Maps June 2016.

Conclusion

In conclusion, the scheme for up to 30 dwellings and associated infrastructure, would result in the urbanisation of the site which would diminish its present open character and would be an incongruous encroachment into the rural environment. Furthermore, the limited capacity available in the adopted River Mease Developer Contribution Scheme Second Development Window (DCS2) should be directed to the most sustainable locations for new development. Therefore as the site lies outside the Limits to Development, in the context of the River Mease SAC, the proposal does not constitute a sustainable form of development.

RECOMMENDATION - REFUSE

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

MAIN REPORT

1. Proposals and Background

Outline planning permission is sought for the erection of up to 30 residential dwellings and associated infrastructure at land at Talbot Place, Donisthorpe.

The application is in outline at this stage with details of means of access included for consideration. Vehicular access into the site would be off Talbot Place.

For the avoidance of doubt, layout was originally for consideration, however was removed from the description, at the request of the applicant on 2 February 2017. Accordingly, details of an indicative layout scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application.

The site is 1.36 hectares and is currently in agricultural use. The site is bordered to the north east by allotment gardens, to the east by 'Hall Farm', to the south by agricultural land and to the west by existing residential development on Talbot Place.

The site lies within the catchment area of the River Mease Special Area and the site is located outside the Limits to Development, as defined by the adopted North West Leicestershire Local Plan Proposals Map 2002 and submitted Publication Policies Maps June 2016.

Planning History:-

None relevant to this application site.

To the south of Talbot Place, outline planning permission has been granted for up to 36 dwellings:-

14/00802/OUTM - Erection of 36 dwellings, formation of access and provision of open space (outline - all matters other than part access reserved) - Approved - 08.07.2015.

2. Publicity

40 Neighbours have been notified.

Site Notice displayed 17 February 2016.

Press Notice published Leicester Mercury 17 February 2016.

3. Summary of Consultations and Representations Received

The following summary of representations is provided.

Statutory consultees:

Donisthorpe Parish Council requests that the Section 106 funding associated with this development, be passed to the Parish Council for a much needed play area in the village of Donisthorpe and a boundary gap is also required in order to maintain the area between the site and the adjacent allotment site.

Severn Trent raise no objections, subject to the imposition of a condition.

Natural England raise no objections, subject to the imposition of conditions.

Environment Agency has no comments to make.

National Forest request 20% of the site area to be for woodland planting and landscaping.

Leicestershire County Council - Highways raise no objections, subject to the imposition of conditions.

Leicestershire County Council - Ecology raise no objections, subject to the imposition of conditions.

Leicestershire County Council - Archaeology raise no objections, subject to the imposition of conditions.

Leicestershire County Council - Lead Local Flood Authority raise no objections, subject to the imposition of conditions.

NWDL Head of Housing advises in line with the Council's Supplementary Planning Document, 30% affordable housing should be secured.

NWLDC Environmental Protection has no environmental observations.

The Council's Conservation Officer raises no objections.

Third Party Representations

One letter has been received stating that they have no specific objection to the development, but that planners fully understand the local topography and that consideration will be had to a drainage system that will have to run up hill and that water pressure will struggle to cope, without improvement.

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

4. Relevant Planning Policy

National Policies

The Planning (Listed Buildings and Conservation Area) Act 1990

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 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 54 (Delivering a wide choice of high quality homes)
Paragraph 57 (Requiring good design)
Paragraph 59 (Requiring good design)
Paragraph 61 (Requiring good design)
Paragraph 64 (Requiring good design)
Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)
Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)
Paragraph 109 (Conserving and enhancing the natural environment)
Paragraph 112 (Conserving and enhancing the natural environment)
Paragraph 118 (Conserving and enhancing the natural environment)
Paragraph 119 (Conserving and enhancing the natural environment)
Paragraph 129 (Conserving and enhancing the historic environment)
Paragraph 131 (Conserving and enhancing the historic environment)
Paragraph 134 (Conserving and enhancing the historic environment)
Paragraph 143 (Facilitating the sustainable use of minerals)
Paragraph 203 (Planning conditions and obligations)
Paragraph 204 (Planning conditions and obligations)

North West Leicestershire Local Plan:

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

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan.

Policy S3 - Countryside
Policy E2 - Landscaped Amenity Open Space
Policy E3 - Residential Amenities
Policy E4 - Design
Policy E7 - Landscaping
Policy E8 - Crime Prevention
Policy E30 - Floodplains
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
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.

S1 - Future Housing and Economic Development Needs

S2 - Settlement Hierarchy

S3 - Countryside

D1 - Design of New Development

D2 - Amenity

H4 - Affordable Housing

H6 - House Types and Mix

IF1 - Development and Infrastructure

IF7 - Parking Provision and New Development

EN1 - Nature Conservation

EN2 - River Mease Special Area of Conservation

EN3 - The National Forest

HE1 - Conservation and Enhancement of North West Leicestershire's Historic Environment

CC2 - Water - Flood Risk

CC3 - Water - Sustainable Drainage Systems

Other Guidance

National Planning Practice Guidance - March 2014.

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

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

River Mease Water Quality Management Plan - August 2011.

River Mease Water Quality Management Plan - Developer Contribution Scheme June 2016.

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 'All Other Settlements' such as Donisthorpe.

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within 'All Other Settlements' such as Donisthorpe.

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.

5. Assessment

This is an outline application for residential development of up to 30 dwellings with details of access only to be considered at this stage; therefore appearance, landscaping, scale and siting do not form part of the application and will be considered at the reserved matters stage(s).

As such the main considerations with regards to this application are the principle of development, access and highway considerations and other matters.

Principle of Development

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

The 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. Policy S2 of the submitted North West Leicestershire Local Plan defines Donisthorpe as a 'Sustainable Village' where a limited amount of growth will take place within the defined limits.

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.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. It was previously accepted within application ref: 14/00802/OUTM that Donisthorpe was a reasonably suitable location for new residential development at that site. As that site is in close proximity to this application site and scheme proposed up to 36 dwellings, it is therefore considered to be comparable, on that basis.

The settlement of Donisthorpe provides some day to day facilities, e.g. a primary school, church, community uses, two public houses, play area/open space and a shop. However, it is noted that these facilities are spread between the two key areas of Donisthorpe. There is also a bus service which runs near on, an hourly basis (Monday to Saturday from Burton on Trent to Ashby de la Zouch). The site is located within maximum walking distance (i.e. within 800m to 1km) of some of these services, including bus stops, although it is further to the school. On balance, it is therefore considered that occupiers of the dwellings would not necessarily be dependent on the private car. Taking all of these matters into account, it is considered that the site is socially sustainable in terms of distances to services/facilities.

In terms of the sites sustainability, in the context of the River Mease, as set out in more detail below, the limited capacity available in the adopted River Mease Developer Contribution Scheme Second Development Window (DCS2) should be directed to the most sustainable

locations for new development. Therefore as the site lies outside the Limits to Development, in the context of the River Mease SAC, the proposal does not constitute a sustainable form of development.

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

Notwithstanding the site adjoining existing residential development to the north-west, off Talbot Place, the site is closely associated with the open rural landscape to the south, east and to the north (with allotment gardens). As a consequence it contributes positively to the open and undeveloped nature of the area which would be its defining characteristic. A scheme for up to 30 dwellings and associated infrastructure, would result in the urbanisation of the site which would diminish its present open character and would be an incongruous encroachment into the rural environment. There is also no overriding need for this type of proposal to come forward on agricultural land, when the Authority has a five year supply of housing and consequently there is conflict with a fundamental principle of the NPPF by virtue of the failure of the development to protect or enhance the natural environment. As the application site is outside the defined Limits to Development it would also conflict with Policy S3 of both the adopted and submitted Local Plans and Policy S2 of the submitted Local Plan.

The provisions of the NPPF do not specifically seek to preclude development within the countryside, and 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. The 'Environmental' strand states to fulfil this role development should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change. The development would result in the loss of Greenfield land, is not considered to protect or enhance the natural environment. Therefore the development proposed is not considered to constitute sustainable development, and thus in principle, the development is not considered to be acceptable.

In conclusion, whilst the site would be socially sustainable and proposes affordable housing and there would be some limited economic benefits of the scheme, which would be simply associated with the construction of the dwellings, on balance, this would be significantly and demonstrably outweighed by the un-sustainable nature of the development in the context of the River Mease SAC and the negative environmental impacts of the proposal. Accordingly the proposal cannot be considered to represent sustainable development and, therefore, the application is not considered to be acceptable in relation to the NPPF as well as relevant policies of the adopted and submitted Local Plans.

Access and Highway Considerations

The application has been accompanied by a Transport Statement.

Access is proposed from Talbot Place. The County Highway Authority (CHA) raises no objections, subject to the imposition of planning conditions.

In summary, subject to the imposition of conditions it is considered that the scheme is acceptable in relation to Saved Policies T3 and T8 of the adopted Local Plan and Policy IF7 of the submitted Local Plan.

Other Matters

Density and Layout

The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances.

The application proposes 30 dwellings on a 1.36 hectare site equating to a net density of 22 dwellings per hectare (dph). Policy H6 requires a minimum of 40 dph in town centre locations and accessible locations and 30 dph in other locations.

Accordingly whilst this density at 22 dph is lower, it is not considered that a higher density of development could be achieved on the site, without having impacts upon the proposal. Therefore, the scheme is considered to be acceptable in relation to the advice contained in the NPPF and Policy H6 of the Local Plan.

As mentioned within the introduction, this is an outline application for access only, with all matters being reserved for approval at a later stage. Accordingly the layout, design and appearance are not for consideration within this application.

It is, however, considered that in terms of the site location plan provided, that the site is of a sufficient size to be able to accommodate up to 30 dwellings, with landscape, play space and access arrangements.

At this outline stage, the proposal is therefore considered to comply with the provisions of Policy E4 and H7 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

Impact upon the Setting of a Listed Building

The proposed development must be considered against section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that when considering a planning application for development that affects a listed building or its setting the decision maker, "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 possess".

Paragraph 131 of the NPPF states that planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. It further indicates (at paragraph 132) that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Donisthorpe Hall is Grade II Listed Building, approximately 120 metres from the east of the site. The scheme has been considered by the Council's Conservation Officer who raises no objection and is of the opinion that the proposed development would not harm the setting of Donisthorpe Hall.

The Conservation Officer has suggested that it would be preferable to locate the proposed

public open space to the east of the application site, to better conserve the countryside setting of Donisthorpe Hall and to de-crease the size of the public open space and increase the size of the proposed plots, to better reflect the density of development on Talbot Place.

As layout is not for determination at this stage, the positioning of the public open space is not for consideration. The amount of public space is dictated by the site area (20% for National Forest woodland and planting) and equipped play space is calculated in accordance with the number of dwellings. As such, these matters, including the footprint of dwellings, would be addressed at any subsequent reserved matters stage(s).

Impact upon Residential Amenity

The application is in outline, considering access only and as such scale, layout, landscaping and appearance are to be considered at the reserved matters stage(s). Accordingly the impact on neighbouring occupiers particularly in terms of privacy, loss of sunlight and daylight and overbearing form, will be a primary consideration at the reserved matters stage(s) when the scale, layout and appearance are presented for approval.

It is considered, having regard to the indicative details submitted that a suitably designed scheme could be achieved on this site that will not detrimentally impact upon surrounding residential dwellings.

At this outline stage, the proposal is therefore considered to comply with the provisions of Policy E3 of the adopted Local Plan and Policy D2 of the submitted Local Plan.

Impact on the River Mease Special Area of Conservation/SSSI

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

The River Mease Developer Contribution Scheme 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.

The River Mease DCS2 was adopted by the Council on 20 September 2016 which has limited capacity available for new development. Having regard to this limited capacity the Authority has had to decide how to deal with applications within the catchment area. In the Authority's opinion, the limited capacity should be directed to the most sustainable locations for new development within the District, as set out in Policy S2 of the submitted Local Plan. Therefore as the site lies outside the Limits to Development in the adopted Local Plan and submitted Local Plan the Authority is of the view that in the context of the SAC and the limited capacity available in DCS2 the proposal does not constitute a sustainable form of development. Development of the site would therefore be contrary to the provisions of Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.

The flows from the proposed dwellings need to be taken into account against the existing headroom at Donisthorpe Treatment Works. Where there is no existing capacity at the time of determination a condition would normally be proposed which seeks to prevent occupation of the proposed dwellings, until additional capacity has been provided at Donisthorpe Treatment

Works. Accordingly whilst there is no current capacity at Donisthorpe, in time Severn Trent will facilitate the transfer of some capacity to treatment works (Packington and Measham) to create such capacity for the dwellings. As such a reason for refusal based on limited capacity at the treatment works could not be justified.

Drainage and Flood Risk

The site is located in Floodzone 1 and has been accompanied by a Flood Risk Assessment.

The scheme has been considered by Leicestershire County Council - Lead Local Flood Authority (LLFA) who originally required additional information in relation to sustainable drainage and associated calculations.

During the course of the application, additional information has been submitted by the applicant and re-consultation has been undertaken with the LLFA.

The LLFA have confirmed that they raise no objection, subject to conditions in relation to a surface water scheme, management and maintenance and soakaway design.

Accordingly, subject to the imposition of conditions it is considered that the scheme would not result in an un-acceptable adverse impact upon flood risk.

Archaeology

During the course of the application, archaeological works have been undertaken on site, in accordance with the requests from the County Council Archaeologist.

The County Council Archaeologist has subsequently confirmed that trial trenching has been undertaken and archaeological remains have been identified and archaeological evaluation has been reviewed. The County Council Archaeologist have recommended a condition to be imposed.

Ecology

The application has been accompanied by an ecology report which has been considered by the County Council Ecologist who has raised no objection to the application, subject to the imposition of conditions.

Developer Contributions

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

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

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

Affordable Housing

The Council's Strategic Housing Team have been consulted on the application and have advised that there is a need for affordable housing and that the full 30% should be secured through the proposed development, in accordance with the Council's Affordable Housing Supplementary Planning Document (SPD).

As the scheme proposes up to 30 dwellings, based upon 30 dwellings this would equate to 9 affordable homes and the indicative details presented showing plots 5-9 and 14-17 are considered to be acceptable to the Strategic Housing Team and that a village connection criteria be attached to allocation of the affordable properties, in the first instance.

The Council's preferred position is to seek delivery on site through a Registered Provider (RP), however the Strategic Housing Team have stated that Members of Planning Committee should be aware, that in the event of no firm offers by RPs, a S106 Agreement would ensure that a cascade is in place to provide a commuted sum, to be payable at an equivalent value.

Play Area/Open Space

Under the Council's Play Area Supplementary Planning Guidance (SPG), on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that up to 30 dwellings are proposed, this would require a play area of not less than 600 square metres. The indicative layout shows that provision is proposed to be made for public open space and a Local Equipped Area of Play (LEAP) within the site. Taking into account the overall size of the recreation area, a suitable sized children's equipped play area could be provided at the reserved matters stage. Therefore, the proposal is considered to be in accordance with Local Plan Policy L21 and the SPG. In terms of the range of equipment necessary, for developments of this number of dwellings, the Council's SPG requires that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity.

National Forest

The National Forest Company require 20% of the site area to be for woodland planting and landscaping, which equates to a requirement of 0.27 hectares. The application submission indicates that the development site could accommodate 0.34 hectares, approximately half of which is shown as woodland planting. If the application were to be approved, the S106 Agreement would need to ensure the provision of 0.27 hectares (comprising woodland and landscaping).

River Mease DCS

If the application were to be approved, a contribution under the River Mease DCS would be required, but an exact figure for the contribution cannot be determined at this stage, as the number of bedrooms of the dwellings is not known at this outline stage. The S106 would be worded as such to allow flexibility based upon the number of bedrooms, however it is considered that the maximum contribution based upon 30 dwellings would be £633 per dwelling, equating to £18,990.00

Other Developer Contributions

As a result of the Developer Contributions consultation, the following contributions have been requested:-

Leicestershire County Council (Highways) request:-

- o 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).
- o Six-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
- o Improvements to the two nearest bus stops, including raised and dropped kerbs to allow level access, to support modern bus fleets with low floor capabilities. At £3263.00 per stop.
- o Information display cases at the two nearest bus stops at £120.00 per display;
- o Contribution towards equipping the nearest bus stop(s) and suitable bus route with Real Time Information (RTI) system, at total of £5,000;

At the time of writing, no requests have been received from Leicestershire County Council Education, Civic Amenity or Libraries and their requests will be reported by the update sheet.

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

Affordable Housing (30%)

Play and Open Space (on-site)

River Mease (capped at £18,990.00)

National Forest (20% on site planting and landscaping)

Transport (Travel Packs, Bus Passes, Bus Stop Improvements, Information Display Cases and Real Time Information)

Notwithstanding the above, from April 2015, no more than five obligations can be pooled by the charging authority to provide for the same item of infrastructure. Accordingly it will be necessary for the relevant consultees, in relation to the above mentioned requests to demonstrate that no issues arise in respect of pooling (insofar as the limitations on pooled contributions as set out within the CIL Regulations are concerned).

Conclusion

As set out in the main report above whilst the site would be socially sustainable and would make a contribution to affordable housing provision and there would be some limited economic benefit of the scheme, which would be simply associated with the construction of the dwellings, this would be significantly and demonstrably outweighed by the un-sustainable nature of the development in the context of the River Mease SAC and the negative environmental impacts of the proposal. Accordingly on balance, the proposal cannot be considered to represent sustainable development and, therefore, the application is not considered to be acceptable in relation to the NPPF as well as relevant policies of the adopted and submitted Local Plans. It is therefore recommended that planning permission be refused.

RECOMMENDATION:- REFUSE for the following reasons:-

- 1 Paragraph 7 of the National Planning Policy Framework (NPPF) defines sustainable development which includes that the planning system needs to perform an environmental role, including protecting and enhancing our natural environment and

using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S3 of the adopted North West Leicestershire Local Plan and Policy S3 of the submitted North West Leicestershire Local Plan provide a presumption against non-essential residential development outside the Limits to Development. Policy S3 of the submitted Local Plan states that land identified as countryside will be protected for the sake of its intrinsic character and beauty. Policy S2 of the submitted Local Plan advises that in villages such as Donisthorpe a limited amount of growth will take place within the Limits to Development. The development would adversely affect and diminish the present open character of the environment resulting in significant harm to the character and rural appearance in which it would be set and would represent an unwarranted and incongruous intrusion into the countryside. As a consequence the development would fail to protect or enhance the natural environment and would not therefore constitute sustainable development, contrary to the environmental strand of sustainability enshrined within the NPPF. In addition, the development would be contrary to Paragraph 17 of the NPPF, Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.

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

Notes to applicant

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

Demolition of care home and erection of 11 dwellings

Report Item No
A2

Greenacres Linford Crescent Coalville Leicestershire LE67
4QT

Application Reference
17/00023/FULM

Applicant:
Mr Glyn Jones - NWLDC Director Of Housing

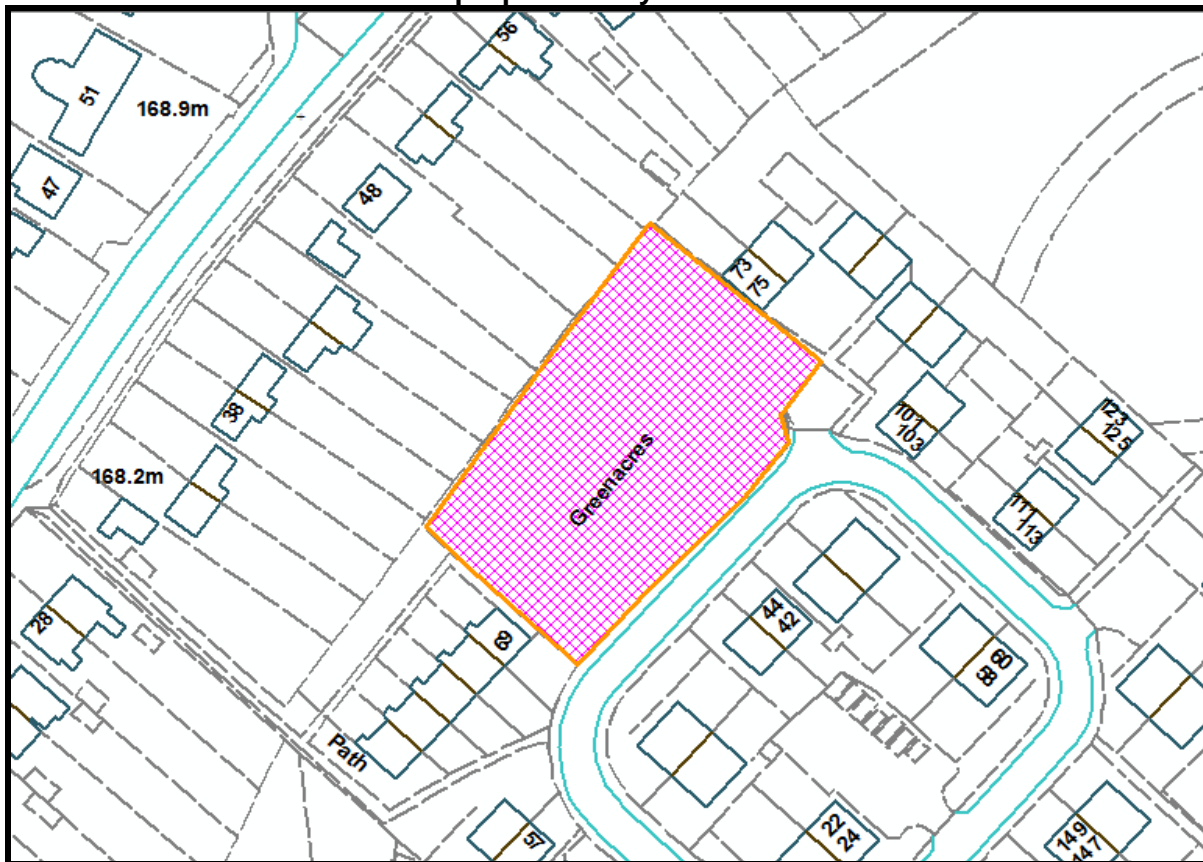
Date Registered:
10 January 2017
Consultation Expiry:
1 February 2017
8 Week Date:
11 April 2017

Case Officer:
Robert McKillop

Extension of Time:
None Agreed

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS

Reason for Call In

In accordance with the North West Leicestershire District Council Constitution, the application has been referred to Planning Committee as the application is submitted by the Council for its own development and an objection has been received.

Proposal

This application seeks full planning permission for the demolition of the existing care home and erection of 11 dwellings at Linford Crescent, Coalville. All of the properties would be provided as Affordable Dwellings and would be social rented houses.

Consultations

Members will see from the main report below that one neighbour objection letter has been received. No other objections have been raised by statutory consultees.

Planning Policy

The application site lies 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 and other relevant guidance.

Conclusion

The principle of residential development is considered to be acceptable and the application would not have any significant impacts on residential amenity, highway safety, ecology, landscaping and flooding. Amended plans are being prepared which should address the design issues which have been raised and a viability assessment is also being prepared and will need to be assessed by the District Valuer. Subject to satisfactory details being provided in respect of these issues and having regard to the assessment in the main report below, it is considered that the application would comply with relevant policies of the adopted and submitted Local Plans and the National Planning Policy Framework. It is therefore recommended that the application is permitted subject to the details below.

RECOMMENDATION - PERMIT, subject to condition(s) and subject to the completion of a Legal Agreement to secure affordable housing and/or education contributions (dependent on the DVs assessment of the viability assessment) and subject to satisfactory amended plans being received which address the design of the scheme

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

Planning permission is sought for the demolition of the existing care home and erection of 11 dwellings at Linford Crescent, Coalville. The application site is located within Limits to Development and would be accessed from the north western side of Linford Crescent. The site is surrounded by existing residential properties. The application submission is accompanied by a Design and Access Statement.

All of the properties would be provided as Affordable Dwellings and would be social rented houses. The mix proposed is for 1 x 1 bedroom detached bungalow and 10 x 2 bedroom semi-detached two-storey dwellings.

Relevant Planning History:

16/01208/FULM - Demolition of Local Authority care home and erection of 10 dwellings. Withdrawn.

2. Publicity

38 neighbours notified.

Press Notice published Leicester Mercury 18 January 2017.

Site notice posted 11 January 2017

3. Summary of Consultations and Representations Received

One neighbour letter has been received raising the following objection:

- The development will result in extra parking congestion around Linford Crescent which will make access more difficult for residents with mobility problems.

Leicestershire County Council - Developer Contributions requests a contribution of £46,913.79 towards the education sector only.

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

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

Leicestershire County Council - Lead Local Flood Authority has not responded during the course of the application.

National Forest Company has no objections subject adequate details of green roofs and landscaping being secured by way of condition.

NHS Leicester, Leicestershire and Rutland has no objections.

NWLDC Environmental Protection has no environmental observations.

NWLDC - Head of Leisure no representation received.

NWLDC - Street Management has no objections.

Severn Trent Water Ltd has no objections subject to conditions.

4. 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 32 (Promoting sustainable transport)
 Paragraph 34 (Promoting sustainable transport)
 Paragraph 49 (Delivering a wide choice of high quality homes)
 Paragraph 57 (Requiring good design)
 Paragraph 60 (Requiring good design);
 Paragraph 61 (Requiring good design);
 Paragraph 64 (Requiring good design);
 Paragraph 118 (Conserving and enhancing the natural environment);
 Paragraph 203 (Planning conditions and obligations) and;
 Paragraph 204 (Planning conditions and obligations).

Adopted North West Leicestershire Local Plan (2002)

The application site is within 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 H4/1 - Housing Land Release
 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 S2 - Settlement Hierarchy
 Policy D1 - Design of New Development
 Policy D2 - Amenity
 Policy En1 - Nature Conservation
 Policy IF4 - Transport Infrastructure and New Development
 Policy IF7 - Parking Provision and New Development

Other Guidance**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.

National Planning Practice Guidance - March 2014.**5. Assessment****Principle and Sustainability**

The application site lies within the defined Limits to Development in Coalville where the principle of residential development would accord with Policy S2 of the adopted Local Plan and Policy S2 of the submitted Local Plan.

Consideration should 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. As Coalville benefits from a range of day to day services and good public transport links to surrounding areas it is considered to be a socially sustainable location for new development. It is also noted that the development proposes all social rented houses which would boost the supply of affordable housing in the area. In terms of environmental considerations, future occupiers would not be heavily reliant on the private car to access services which would potentially reduce vehicle emissions and it is noted that the site is on previously developed land. There would be some limited economic benefits associated with the scheme by way of supporting local construction jobs and services in the area. Overall, the development is therefore considered acceptable in principle subject to other material considerations.

Design

The need for good design in new residential development is outlined not only in Local Plan Policy H7, but also paragraphs 57, 60 and 61 of the NPPF, with paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 of the adopted Local Plan and Policy D1 of the submitted North West Leicestershire Local Plan indicate 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 Council's Urban Designer has been consulted and has raised some concerns in relation to the proposed landscaping to the front of the site, the usability of the parking area and also the design characteristics and detailing of the houses. Whilst the appearance of the proposed dwellings would generally be in keeping the appearance of dwellings in the surrounding area, following discussions with the applicant, they have agreed to submit amended plans and elevations to address the above concerns as raised by the Urban Designer. On the basis that the amended plan would demonstrate an improved site layout with more usable parking spaces, better defined public and private spaces and landscaping, and improved elevations to reduce massing or roofs and brickwork, then the application would relate well to the character and appearance of dwellings in the surrounding area. Comments on the amended plans will be reported on the Update Sheet.

The proposed dwellings would reflect the characteristics of the area, with open spaces and landscaping to the front of properties and the development would generally be in keeping with the surrounding built form. The proposed dwellings would benefit from suitably sized rear amenity areas, and subject to suitably designed amended plans, the front curtilage layout would allow for sufficient parking, turning and landscaping that would reflect the open character of the area.

The overall layout and design details are considered to be generally acceptable and the application would therefore accord with Policy E4 and H7 of the adopted Local Plan, Policy D1 of the submitted Local Plan and the design advice in the NPPF.

Impact upon Residential Amenity

It is noted that the proposed dwellings would share a similar building line and built form as the existing care home building to be replaced. The existing care home is also of a two storey nature with windows in the front and rear elevation in a similar arrangement to those proposed under the current application. No windows are proposed in the side elevation of Plot 11 and it is deemed that the intervening distance away from other properties would ensure that the proposed development does not lead to any new overlooking opportunities. Given the proposed building would occupy a similar position to the existing care home, it is not likely to lead to any increased overbearing or overshadowing of neighbours. Although the built development would be closer to the boundary with No.69 Linford Crescent, Plot 1 would be occupied by a bungalow and it is considered that this low overall height would not have any significant detrimental overbearing or overshadowing impacts on this neighbour. Additionally, although the development would be built closer to the dwellings to the north east, there are no facing windows in neighbouring dwellings that would be affected and as the dwelling on Plot 11 would have a similar building line, it would not result in any significant overbearing or overshadowing.

One neighbour letter was received raising concerns that the development resulting in extra parking congestion around Linford Crescent which will make access more difficult for residents with mobility problems. It is noted from the occupiers of the flats to the north east of the site that occupiers could still be collected from relatively close by to their properties given the parking and turning area to be retained in front of the proposed dwelling on Plot 11. It is deemed that although occupiers would have to travel slightly further, this is not likely to be significantly detrimental to amenity given the access arrangement to be retained.

Overall, it is considered that the development would not have any significant detrimental impact upon the amenity of neighbouring residential properties or future occupiers and would accord with Policy E3 of the adopted Local Plan and D2 of the submitted Local Plan.

Highway Considerations

The development would lead to some loss of existing parking for flats to the north east of the site. The County Highways Authority (CHA) has been consulted on the application and has advised that this would not represent an unacceptable loss given the retention of four spaces in the existing parking area. The proposed dwellings would benefit from the required number of parking spaces. Plots 1-3 would have an access directly on to Linford Crescent, Plots 3-9 would benefit from a shared access onto Linford Crescent and Plots 10-11 would be accessed off the existing parking and turning area at the north eastern end of the site. Whilst the CHA are generally satisfied with the submitted details, they have requested that conditions are attached to any permission granted in relation to layout, access, pedestrian crossings and visibility, as well as details of the bus stop to be relocated. Given the lack of objection from CHA and subject to suitably worded conditions, the development is considered to have an acceptable

impact on highway safety. The application is deemed to accord with Policies T3 and T8 of the adopted Local Plan, Policies IF4 and IF7 of submitted Local Plan and the advice in the 6Cs Design Guide.

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.

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 Broom Leys Primary School. The School has a net capacity of 595 and 601 pupils are projected on the roll should this development proceed; a deficit of 6 pupil places. There are currently 3 pupil places at this school being funded by S106 agreements for other developments in this area which reduces the deficit at this school to 3 pupil places, taking into account the 3 pupils generated by this development.

There are two other primary schools within a two mile walking distance of the development and the overall deficit including all schools within a two mile walking distance of the development is 22 pupil places. A total of 64 pupil places have been discounted that are funded from S106 agreements for other developments in the area. The 3 deficit places created by this development cannot therefore be accommodated at nearby schools and a claim for an education contribution of 3 pupil places in the primary school sector is justified.

In order to provide the additional primary school places anticipated by the proposed development, the County Council requests a contribution for the primary school sector of £29,037.62. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Broom Leys Primary School.

High School Requirements

The site falls within the catchment area of Castle Rock High School. This School has a net capacity of 600 and 747 pupils are projected on the roll should this development proceed; a deficit of 147 pupil places. There are 90 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 to 57 (of which 56 are existing and 1 is created by the development).

There is one other high school within a three mile walking distance of the development and the overall deficit including all schools within a three mile walking distance of the development is 85 pupil places. A total of 212 pupil places have been discounted that are funded from S106 agreements for other developments in the area. The 1 deficit place created by this development cannot therefore be accommodated at nearby schools and a claim for an education contribution

of 1 pupil place in the high school sector is justified.

In order to provide the additional high school places anticipated by the proposed development, the County Council requests a contribution for the high school sector of £17,876.17. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Castle Rock High School.

The education contributions would need to be secured by way of a suitably worded agreement entered into by the Council and the County Council before the grant of planning permission. However, whilst the need for the contributions per se are not disputed, the applicants are of the view that, should the contributions requested above be sought, the scheme would become unviable. The applicants are therefore in the process of submitting a viability assessment which would need to be reviewed on the Local Planning Authority's behalf by the District Valuer. It is anticipated that the viability assessment will indicate that as the scheme is for 100% affordable housing that the developer is unable to pay for any further contributions on the site. However, it will be necessary for the District Valuer to assess the findings in the viability assessment. Further details will be provided on the Update Sheet.

It would be necessary for the applicant's to enter into an agreement to secure affordable housing on the site in perpetuity if the District Valuer concludes the scheme would not be viable with the education contribution.

Ecology

The County Council Ecologist has been consulted and has advised that the submitted ecology report is satisfactory and the recommendations should be secured by way of a planning condition. Subject to such a condition, it is considered that the development would have an acceptable impact on protected species and would accord with Paragraph 118 of the NPPF and Circular 06/05.

Landscaping

The National Forest Company (NFC) has advised that the potential for other trees to be retained and incorporated into the design should be considered and has also advised that specimen tree planting should be included within the proposed landscaping scheme. The NFC has also recommended that further details about the construction and implementation of the proposed green roofs should be required through planning condition. In terms of the impact on trees, the development would result in some loss of existing trees in the front curtilage of the site, however it is noted that one existing tree would be retained in this area. Existing trees within the rear curtilage of the site would be retained and the loss of trees to the front is considered to represent a minor overall impact. In any case, conditions would be imposed on any consent granted for appropriate landscaping to be supplied to mitigate against the loss of the boundary hedgerow. Conditions regarding the green roof details and implementation would also be attached and on this basis the development would be compliant with Policy E7 of the adopted Local Plan.

Flooding

The site is not in Flood Zones 2 or 3 and is at very low risk of surface water flooding and flooding from rivers. Severn Trent Water Ltd has no objection subject to a condition requiring details of surface water and foul sewerage to be provided prior to development commencing. The Lead Local Flood Authority (LLFA) has commented that no soakaway testing has been undertaken to confirm the viability of infiltration type drainage at the site, which is a requirement of Severn Trent Water Ltd before they accept a surface water connection to their sewers. The

LLFA has advised that the proposed development would have a minor impact and is considered to be acceptable based on the surface water management principles provided within the application and raises no objections subject to conditions. Subject to suitably worded conditions, the application is considered to have an acceptable impact on flooding.

Conclusion

The principle of residential development is considered to be acceptable and the application would not have any significant impacts on residential amenity, highway safety, ecology, landscaping and flooding. Amended plans are being prepared which should address the design issues which have been raised and a viability assessment is also being prepared and will need to be assessed by the District Valuer. Subject to satisfactory details being provided in respect of these issues and taking all of the above into account, it is considered that the application would comply with relevant policies of the adopted and submitted Local Plans and the National Planning Policy Framework. It is therefore recommended that the application is permitted subject to the details below.

RECOMMENDATION - PERMIT, subject to the following condition(s) and subject to the completion of a Legal Agreement to secure affordable housing and/or education contributions (dependent on the DVs assessment of the viability assessment) and subject to satisfactory amended plans being received which address the design of the scheme

- 1 Time limit
- 2 Approved plan
- 3 External materials
- 4 Details of vehicular access, pedestrian crossing and bus stop to be relocated
- 5 Pedestrian visibility
- 6 Construction management plan
- 7 Parking layout
- 8 Boundary treatments
- 9 Finished floor levels
- 10 Landscaping and green roof details
- 11 Landscaping maintenance
- 12 Drainage
- 13 Surface water
- 14 Ecology
- 15 Affordable housing and/or education contribution if DV indicates the scheme is viable - legal agreement

This page is intentionally left blank

Erection of three two storey dwellings and associated access arrangements including amended parking for No's 5,7 and 9 Borough Street (outline - means of access and layout for approval)

Report Item No
A3

Land To The Rear Of 3-9 Borough Street Kegworth Derby DE74 2FF

Application Reference
16/01210/OUT

Applicant:
Mr & Mrs J Marriott

Date Registered:
9 November 2016

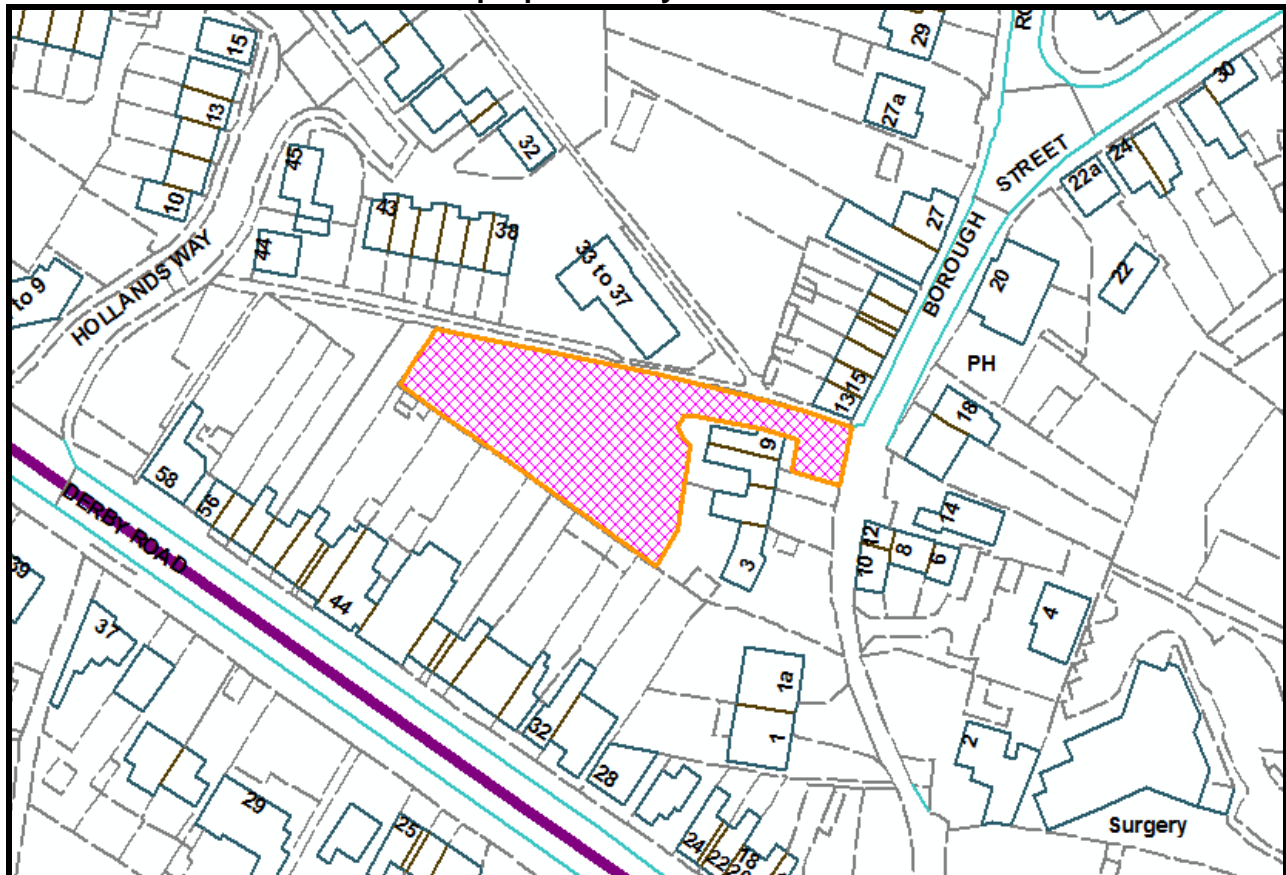
Case Officer:
Adam Mellor

Consultation Expiry:
13 March 2017

Recommendation:
PERMIT

8 Week Date:
4 January 2017
Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought to the Planning Committee at the request of Councillor Alison Smith on the basis that the development would result in an overdevelopment of the site, would lead to vehicles reversing into the highway, would impact adversely on a protected Ash tree and is of an inappropriate design.

Proposal

Outline planning permission is sought for the erection of three two-storey dwellings, as well as revised parking arrangements for nos. 5, 7 and 9 Borough Street, at land to the rear of nos. 3 - 9 Borough Street (odd numbers inclusive), Kegworth with means of access and layout for approval at this stage. The 0.13 hectare site is situated on the western side of Borough Street and is within the defined Limits to Development.

Consultations

Six individual representation have been received which object to the development proposals. Kegworth Parish Council also object to the application. All other statutory consultees, with the exception of the County Council Highways Authority, Council's Environmental Protection Team and Severn Trent Water whose comments are awaited, have raised no objections subject to the imposition of conditions on any consent granted.

Planning Policy

The application site is 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 located within the Limits to Development where the principle of this form of development would be acceptable with the application site being within an acceptable walking distance of services in order to ensure the development is socially sustainable. 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, ecology, protected trees, archaeology or airport safeguarding and which would not further exacerbate any localised flooding impact. 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 National and Local planning policies.

RECOMMENDATION - PERMIT, subject to conditions.

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

MAIN REPORT

1. Proposals and Background

Outline planning permission, with means of access and layout for approval, is sought for the erection of three two-storey dwellings and amended parking arrangements for nos. 5, 7 and 9 Borough Street at land to the rear of 3 - 9 Borough Street (odd numbers inclusive), Kegworth. The 0.13 hectare site is situated on the western side of Borough Street and is within the defined Limits to Development. The surrounding area is predominately residential with dwellings varying in their type and design.

Prior to the submission of the application the application was cleared of soft landscaping, in the form of trees, with it being proposed that a detached garage structure would also be demolished to facilitate the development. It is proposed that three dwellings, forming a semi-detached pair and detached property, would be set to the west of nos. 3 - 9 Borough Street and would cover ground areas of 72.9 square metres (detached) and 101.19 square metres (semi-detached pair combined). Whilst scale is not for approval at this stage the application description, as well as the indicative elevation information, highlight that the dwellings would be two-storey in height.

In terms of vehicular access into the site this would be via an existing access off Borough Street which serves nos. 5 - 9 Borough Street with the off-street parking arrangements for these dwellings being amended as part of the proposed development with each property being served by two dedicated spaces. Two off-street parking spaces would also be provided for each proposed dwelling along with relevant manoeuvring facilities.

A tree survey has been submitted in support of the application.

No recent or relevant planning history was found.

2. Publicity

33 neighbours have been notified.

Site notice posted 22 November 2016.

3. Summary of Consultations and Representations Received

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

East Midlands Airport Safeguarding has no objections.

Kegworth Parish Council object to the application on the following grounds: -

- The development will impact adversely on an Ash tree protected by a Tree Preservation Order (TPO).
- There will be an increase in vehicular traffic on Borough Street with more cars using the driveway and no. 9 Borough Street having to reverse into the highway.
- The proposed layout only allows one access route through the centre of the parking spaces with it not being possible to improve the access to each dwelling whilst maintaining this amount of spaces.
- The gardens of the proposed properties are too small and unusable to future residents.
- The provision of two-storey houses will result in detriment to the amenities of nos. 33 - 37 Hollands Way.

- The proposal is an overdevelopment of the site.

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

Leicestershire County Council - Ecology has no objections.

Leicestershire County Council - Highways Authority no representation received at the time of this report. Any comments will be reported to Members on the update sheet.

NWLDC - Environmental Protection no representation received at the time of this report. Any comments will be reported to Members on the update sheet.

NWLDC - Tree Officer has no objections subject to conditions.

Severn Trent Water no representation received at the time of this report. Any comments will be reported to Members on the update sheet.

Third Party Representations

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

- The plans make no reference to an Ash tree within the garden of no. 42 Derby Road which is protected by a Tree Preservation Order (TPO) with the layout having adverse impacts to the integrity of this tree.
- An alternative solution would be to develop the site for five bungalows which are needed in the area and would be financially viable.
- Light pollution from headlights would cause detriment to the amenities of residents of the dwellings on Derby Road.
- The surface water drainage solution would not be suitable due to the high water table in the area.
- Proposed increase in vehicular movements would impact adversely on pedestrian and highway safety due to the width and nature of Borough Street.

4. 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 32 (Promoting sustainable transport);
Paragraph 39 (Promoting sustainable transport);
Paragraph 47 (Delivering a wide choice of high quality homes);
Paragraph 49 (Delivering a wide choice of high quality homes);
Paragraph 56 (Requiring good design);
Paragraph 57 (Requiring good design);
Paragraph 60 (Requiring good design);
Paragraph 61 (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 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 T20 - East Midlands 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 NPPG does not change national policy but offers practical guidance as to how such policy is to be applied.

6Cs Design Guide (Leicestershire County Council)

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

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

Circular 06/2005 sets out that local planning authorities 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.

5. Assessment

Principle of Development

The site is located within the Limits to Development where the principle of residential development is considered acceptable subject to compliance with the relevant policies of the adopted and submitted North West Leicestershire Local Plans and other material considerations. Within the NPPF there is a presumption in favour of sustainable development and that proposals which accord with the development plan should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

Policy H4/1 of the adopted 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.

Kegworth is outlined as a Local Service Centre under Policy S2 of the submitted Local Plan and as such is considered a sustainable settlement for new residential development given its accessibility by public transport, transport links and range of local services. The site itself is within an acceptable walking distance of the Local Service Centre and as such a residential development on the site would score very well against the sustainability advice contained within the NPPF. A residential development of this nature would also help to sustain the services which are available in the settlement which is a key intention of the NPPF.

Overall, therefore, the principle of the development would be acceptable.

Accessibility

No representation to the application has been received from the County Council Highways Authority.

The submitted plans specify that the private drive will be widened to 4.8 metres in width, with an additional 0.5 metres to the width on the northern boundary due to the presence of an existing

boundary wall, to enable vehicles to pass clear of the highway. It is noted that the existing access into the site is already connected with the vehicular movements associated with nos. 5 - 9 Borough Street and on the basis that the proposed width will enable vehicles to be clear of the highway whilst another vehicle exits there would be no stationary traffic on Borough Street which would prevent the free and safe flow of vehicles. In terms of vehicular and pedestrian visibility splays the plans identify that 2 metre by 2 metre pedestrian visibility splays and 2 metre by 33 metre visibility splays in a northern direction would be provided which would be satisfactory for the speed of traffic on the carriageway, the fact that Borough Street is a one-way highway (vehicles having to travel southwards) and the level of pedestrian movements undertaken in the carriageway.

Within the site vehicles would be able to manoeuvre so as to exit the site in a forward direction including those associated with no. 9 Borough Street who would be provided with adequate visibility so as to assess movements on Borough Street, as well as the private drive, before entering or exiting their dedicated spaces. On the above basis the development is considered to be compliant with Paragraph 32 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF4 of the submitted Local Plan.

Paragraph 32 of the NPPF outlines that applications should only be refused on highway safety grounds when the cumulative impacts are 'severe'. Whilst concerns have been raised by third parties about the increase of vehicular movements on Borough Street it is considered that the movements associated with three additional dwellings would not be significant and therefore would not have a 'severe' impact on highway safety in the context of Paragraph 32 of the NPPF.

In respect of off-street parking requirements nos. 5 - 9 Borough Street are two-bedroom properties and would be provided with two spaces. Each of the new dwellings, indicated to be two bedroom dwellings, would also be provided with two spaces. On the basis of the guidance in the 6Cs Design Guide the amount of spaces proposed to be provided for each unit would be an overprovision, given the total number of bedrooms, and as such this arrangement would be satisfactory in preventing on-street parking issues in the area. As a result of this the proposal would accord with Paragraph 39 of the NPPF, Policy T8 of the adopted Local Plan and Policy IF7 of the submitted Local Plan.

Neighbours and Future Occupants Amenities

Residential properties are situated around the site and in respect of those which are closest to the proposed dwellings these would be nos. 36 and 38 Hollands Way, set 12.4 metres to the north of plot 3, no. 44 Derby Road, set 23.4 metres to the south-west of plot 2, and nos. 7 - 9 Borough Street, set 11 metres to the east of plot 1. In respect of the distances to the boundaries these would be 4.4 metres plot 3 with nos. 36 and 38 Hollands Way, 1.2 metres plot 2 with no. 44 Derby Road and 8.2 metres plot 1 to nos. 7 and 9 Borough Street.

In respect of overbearing and overshadowing impacts it is considered that the distances between the elevations would be sufficient in preventing any adverse impacts in this respect. The separation distances to the boundaries is also considered to be sufficient, particularly given the length of garden associated with no. 44 Derby Road, although careful consideration would be given to the scale of the side projections proposed to plots 1 and 2 at the reserved matters stage given that these would be the closest part of these plots to the relevant boundaries and therefore may be more appropriate as single storey projections.

In respect of overlooking impacts these would be assessed at the reserved matters stage once the position of habitable room window was known but it is considered that the layout as

proposed would not result in any significantly adverse impacts in this respect.

Whilst concerns have been raised relating to car lights causing adverse impacts to residential amenities it is considered that at this present time vehicles associated with nos. 5 - 9 Borough Street could manoeuvre within the application site area with such movements not being too dissimilar to those which would be generated by future occupants of the proposed dwellings. On this basis, as well as the fact that no representation has been received from the Council's Environmental Protection Team in this respect, it is considered that such an impact would not be sufficiently detrimental as to warrant a refusal of the application.

Following revisions to the layout it is also considered that the future amenities of the inhabitants of the dwellings would be protected by virtue of their separation distances from the neighbouring built forms which would also prevent any direct overlooking impacts arising. An Ash tree exists within the garden of 42 Derby Road, which is protected by a Tree Preservation Order (TPO) 451, and whilst it is inevitable that some overshadowing impacts would occur, particularly to the garden associated with plot 1, the Council's Tree Officer is satisfied that the dwellings could be accommodated on the site which would not be subject to any excessive shading as a result of their relationship with this tree. On this basis it is considered that the extent of shadowing would not be sufficiently detrimental as to warrant a refusal of the application and, in any case, any future occupants would be aware of this relationship prior to their purchase.

Overall, therefore, the development would accord with the principles of Paragraph 123 of the NPPF, Policy E3 of the adopted Local Plan and Policy D2 of the submitted Local Plan.

Impact on the Character and Appearance of the Area and Streetscape

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

In terms of topography the application site broadly slopes upwards from east to west and north to south (south-western corner being the highest point and north-eastern corner being the lowest point) with brick walls defining the majority of the southern and northern boundaries and close boarded fencing being present to the western and parts of the northern boundaries. Residential properties surround the site with public footpath L71 abutting the northern boundary. The immediate area is characterised by a mixture of development including two-storey and single storey terraced, detached and semi-detached dwellings and three-storey flats, properties are mainly orientated to address the highways.

It is noted that scale, appearance and landscaping are all included as matters to be considered at a later stage although the layout is for approval at this stage. As submitted the layout would result in a 'backland' form of development being created but whilst this is the case it is considered that such a layout would not result in significant detriment to the character and appearance of the streetscape, as to justify a refusal of the application, given that backland forms of development already exist on Borough Street (nos. 4, 6, 8 and 22 being such examples) as well as the fact that the properties would be closely associated with nos. 33-37 and 38-43 Hollands Way set to the immediate north. It is also considered that the provision of a pair of semi-detached dwellings and a detached dwelling being orientated to face towards Borough Street (semi-detached pair) and at 90 degrees to the carriageway (detached dwelling) would also be consistent with dwellings in the immediate area and therefore would respect the established character. The floor area of the dwellings would also be consistent with those in the immediate area.

Whilst the proposed gardens to plots 2 and 3 would be relatively small their overall size is considered to be consistent with those in the immediate area, such as those associated with properties on Hollands Way and Borough Street, and as a consequence there would be no significantly adverse impacts to the character of the area in this respect. A proposed density of development of 23 dwellings per hectare would also not result in an overdevelopment of the site given that such a density is consistent with the character of the immediate area.

The appearance of the dwellings would be agreed at the reserved matters stage and it is considered that at this point an appropriate design could be achieved which would accord with the Council's current design agenda. This would be achieved by responding to the positive characteristics of dwellings within the settlement (by the inclusion of features such as brick plinths, stone cills and headers, eaves and verge detailing and canopies) with it is also being considered important that plots 1 and 3 address public footpath L71.

Overall the layout of the development is considered to be compliant with Paragraphs 57, 60 and 61 of the NPPF as well as Policy E4 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

Ecology

Given the dilapidated state of the garages which would be demolished as part of the proposal it is considered that they would not provide a suitable habitat for protected species. The clearance of vegetation prior to the submission of the application has also reduced the available habitat for nesting birds. Given the above circumstances it is considered that ecological species would not act as a constraint on the development with it being possible to impose notes to the applicant on any consent granted to make them aware of the legal requirements should protected species be discovered. In coming to this conclusion it is noted that the County Ecologist has no objections to the scheme. Overall it is considered that the proposal would accord with Paragraph 118 of the NPPF, Circular 06/05 and Policy En1 of the submitted Local Plan.

Landscaping

As identified above a protected Ash Tree, reference TPO 451, exists within the garden of no. 42 Derby Road and whose root protection area (RPA) and canopy extend into the application site. The indicative layout submitted initially had no regard to the implications to this tree but following a site meeting this layout has been amended to ensure that the dwellings are now located outside the RPA and canopy spread of the Ash tree and as a result would not impact adversely on its integrity. Whilst no built forms would be proposed within the RPA it is intended that the off-street parking area for plots 2 and 3 would encroach into this area but the Council's Tree Officer is satisfied that no adverse impacts would arise to the health and lifespan of the protected tree due to these works. It has also been advised by the Council's Tree Officer that the land levels within the RPA of the tree should not be altered and that a site specific tree protection plan should be agreed, these matters would be covered by the imposition of conditions on any consent granted.

The works proposed to form two off-street parking spaces for plot 9 would have implications to a Silver Birch tree which is shown to be retained on the proposed plans. Whilst such implications exist the Council's Tree Officer considers that the tree does not warrant protection as its long term retention is compromised by its relationship with the highway and numerous telegraph wires which penetrate through its canopy. On this basis there would be no objection should this tree be removed at a later date.

As identified in the Neighbours and Future Occupants Amenities section of this report it is noted that it is inevitable that the private amenity area associated with plot 1 will be in shade when the sun is positioned to the south and west due to its relationship with the protected Ash tree. However, BS5837 (2012) outlines that *"NOTE The presence of large specimen trees is increasingly being seen as advantageous since it contributes to climate change resilience, amongst other benefits;"* and *"NOTE 1 Shading can be desirable to reduce glare or excessive solar heating, or to provide for comfort during hot weather. The combination of shading, wind speed/turbulence reduction and evapo-transpiration effects of trees can be utilised in conjunction with the design of buildings and spaces to provide local microclimate benefits."* Whilst such a shading impact would occur the Council's Tree Officer considers that a scheme for three dwellings could be progressed on the site subject to the position of habitable room windows in plot 1 being carefully considered at the reserved matters stage. Provided this matter is satisfactorily addressed at that stage the protection placed on the tree will ensure that it is not subjected to unnecessary pressure for it to be removed.

A scheme of appropriate landscaping to mitigate against that lost from the site prior to the submission of the application could also be agreed under any subsequent reserved matters application.

Overall the proposed development is considered to be compliant with the aims of 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 medieval and post-medieval historic settlement core of Kegworth town and on the western boundary of a circular enclosure which is likely to represent the medieval and possible Anglo-Saxon origins of the settlement. The site therefore has a strong potential for the below-ground presence of significant archaeological remains relating to the historic settlement, dating from the Anglo-Saxon period onwards.

On this basis the County Council Archaeologist suggests conditions should be imposed on any consent granted for a written scheme of investigation (including intrusive and non-intrusive investigation and recording) to be approved prior to the commencement of the development in order to record and advance the understanding of historic activity undertaken in the area. Such conditions are considered reasonable given the archaeological interest in the area and their inclusion would ensure that the development is compliant with Paragraph 141 of the NPPF as well as Policy He1 of the submitted Local Plan.

Flood Risk and Drainage

The site lies within Flood Zone 1 and is not identified as a site with a critical drainage issue on the Environment Agency's Surface Water Flooding Maps. It is highlighted on the application forms that surface water run-off would be addressed by the provision of a soak-away and in the circumstances that the site is not within Flood Zones 2 or 2, nor a critical drainage area, it is anticipated that any surface water run-off solution identified would not result in any drainage or flooding issues. As a result of this the development is considered to be compliant with Paragraph 103 of the NPPF, as well as Policies Cc2 and Cc3 of the submitted Local Plan.

Insofar as foul drainage is concerned it is indicated on the application forms that this would be

discharged into the mains sewer with such drainage being agreed with Severn Trent Water under separate legislation. No representation has been received from Severn Trent Water raising any objections to this approach and as a consequence the development would be compliant with Paragraph 120 of the NPPF.

Other Matters

East Midlands Airport Safeguarding have raised no safeguarding objections to the application and as such the proposal would be compliant with Policy T20 of the adopted Local Plan and Policy Ec5 of the submitted Local Plan.

Whilst the provision of single storey dwellings may be desirable the application is required to be assessed on the basis of its own merits against National and Local Policies. On this basis the fact that the development would not provide for single storey dwellings would not be a reason, in itself, to resist the development.

Summary Reasons for Granting Outline Planning Permission

The application site is located within the Limits to Development where the principle of this form of development would be acceptable with the application site being within an acceptable walking distance of services in order to ensure the development is socially sustainable. 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, ecology, soft landscaping, archaeology or airport safeguarding and which would not further exacerbate any localised flooding impact. 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. Outline Time Limit**
- 2. Submission of Reserved Matters**
- 3. Approved Plans**
- 4. Finished Floor and Site Levels**
- 5. Boundary Treatments**
- 6. Highways**
- 7. Archaeology**
- 8. Site Specific Tree Protection Plan**

(Subject to no contrary observations by 2 March 2017)

This page is intentionally left blank

Demolition of existing garage and erection of detached building to provide two self-contained flats

**Report Item No
A4**

9 Grange Close Ashby De La Zouch Leicestershire LE65 2PQ

**Application Reference
17/00034/FUL**

**Applicant:
Mr Nitesh Patel**

**Date Registered:
17 January 2017**

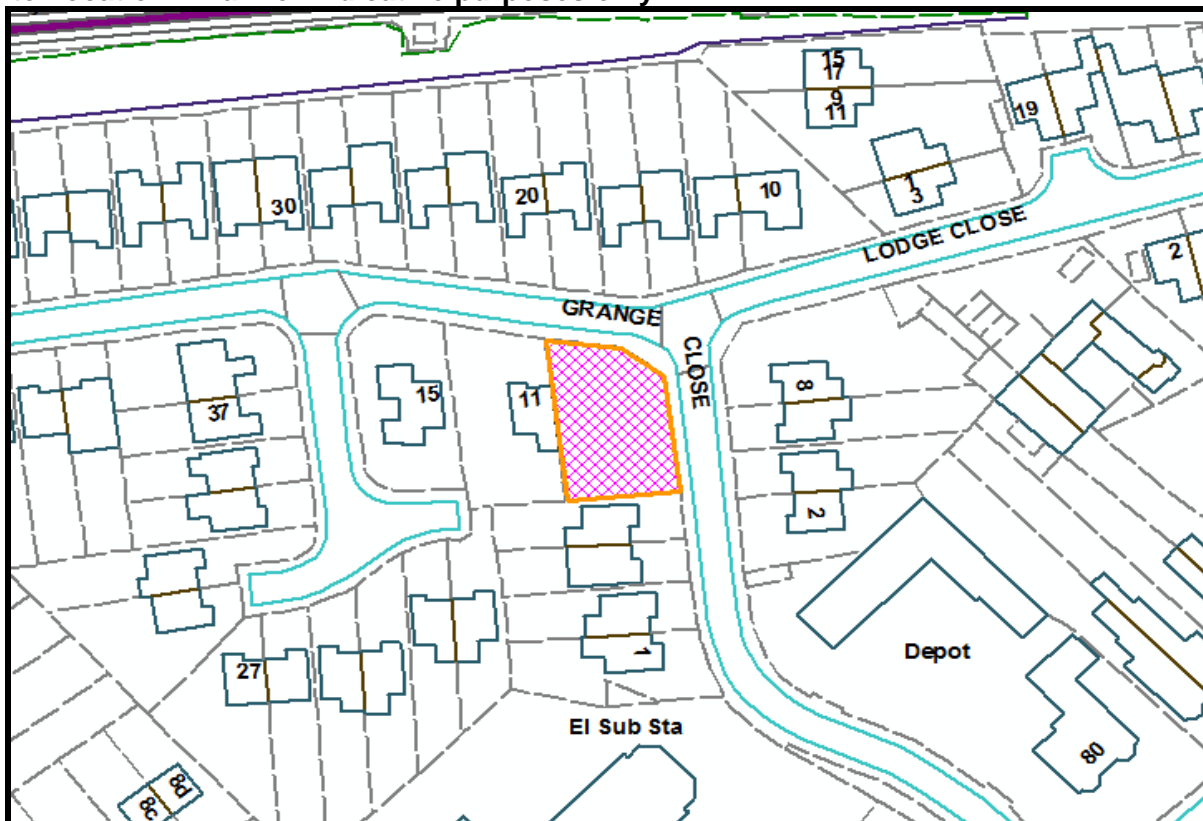
**Case Officer:
Eleanor Overton**

**Consultation Expiry:
23 February 2017**

**Recommendation:
PERMIT Subject to a Section 106 legal agreement:**

**8 Week Date:
14 March 2017
Extension of Time:
None Agreed**

Site Location - Plan for indicative purposes only



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

Executive Summary of Proposals and Reasons for Approval

Reason for Call In

In accordance with the North West Leicestershire District Council Constitution, the application has been referred to Planning Committee, at the request of Councillor Jones on grounds of overdevelopment and highway safety and parking concerns.

Proposal

This application seeks full planning permission for the demolition of an existing garage and the erection of a detached building to provide two self-contained flats.

Consultations

Members will see from the main report below that there are objections from 7 addresses to the scheme. There are no other objections raised from statutory consultees.

Planning Policy

The application site is located within Limits to Development, as defined by the adopted North West Leicestershire Local Plan Proposals Map 2002 and submitted Publication Policies Maps June 2016.

Conclusion

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

The proposed development would be acceptable in terms of layout, scale, design, impact upon residential amenities, highway safety, flood risk and drainage and impact on the River Mease SAC/SSSI and no other technical issues are considered to arise. There are no other relevant material planning considerations that indicate planning permission should not be granted.

Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION:- Permit, subject to the completion of the legal agreement and the imposition of conditions.

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

MAIN REPORT

1. Proposals and Background

Full planning permission is sought for the erection of two, 2 bed roomed flats adjacent to No.9 Grange Close, Ashby De La Zouch. The application site comprises the side garden of this property. No. 9 Grange Close comprises a semi-detached, extended dwelling of simplistic design.

The site has an area of approximately 271 square metres and comprises a corner plot. The site is currently host to a single garage, which is to be demolished to facilitate the proposal and also provides an area of hardstanding and an enclosed amenity space. There is an existing pedestrian access part way along the eastern boundary of the site. The site is enclosed by a combination of maintained hedgerow, along its northern boundary, followed by a picket fence and then a 1.8 metre high close boarded fence, which runs for the extent of its eastern boundary.

The submitted plans show a dual fronted, two storey, detached building with a pitched roof. The layout illustrates two vehicular accesses and two off road parking spaces, along with a shared amenity space to the south.

The wider area has a strongly defined and legible residential character; with dwellings being of similar design, form and scale, occupying uniform plot size and consistent front and rear building lines.

The site is within the Limits to Development as identified by Policies S2 of the adopted and submitted Local Plans and lies within the catchment area for the River Mease Special Area of Conservation.

Planning history: -

01/01365/FUL - Erection of a single storey side extension to form a garage - Approved

2. Publicity

14 neighbours notified.

Site Notice displayed 2 February 2017.

Press Notice published Leicester Mercury 1 February 2017.

3. Summary of Consultations and Representations Received

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

Leicestershire County Council Lead Local Flood Authority has no objections to the proposal.

NWLDC Environmental Protection has no environmental observations.

No comments have been received from Ashby De La Zouch Town Council and Severn Trent Water by the date of this report. Any comments received will be reported on the Update Sheet.

Third Party Representations

Severn letters of representation have been received. These raise the following issues:-

- The proposal will result in a loss of light
- Highway safety/parking concerns - the position of the proposed accesses are dangerous and would be difficult to navigate. The area already suffers from high levels of congestion due to extensive off street parking which is dangerous for parents walking their children to school; the proposal will worsen this. The position of the proposal will restrict views in all directions. The area has already been subject to a number of car accidents. The parking/highway situation is made worse by the vehicles associated with Ashby Court Nursing Home.
- Overdevelopment - the site is not large enough to accommodate the three properties proposed along with the parking, garden and refuse storage space proposed.
- Out of character - the design and type of property (flats) is not in keeping with the existing character/properties on the estate.
- Layout - the developments position on this corner plot is not in line with the existing properties and will reduce openness.
- Inaccuracies on the Plans - two properties are numbered No.9 on the submitted plan.
- If the development is granted it is requested that the developers will be instructed to leave existing residents accesses free from obstruction.

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

4. Relevant Planning Policy

National Policies

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.

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 28 (Supporting a prosperous rural economy)
- Paragraph 49 (Delivering a wide choice of high quality homes)
- Paragraph 57 (Requiring good design)
- Paragraph 64 (Requiring good design)
- Paragraph 118 (Conserving and enhancing the natural environment)
- Paragraph 203 (Planning conditions and obligations)
- Paragraph 204 (Planning conditions and obligations)

Adopted North West Leicestershire Local Plan (2002)

The application site is within 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 H4/1 - Housing Land Release
T3 - Highway Standards
Policy T8 - Parking
Policy H6 - Housing Density
Policy H7 - Housing Design

Submitted North West Leicestershire Local Plan

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

S1 - Future Housing and Economic Development Needs
S2 - Settlement Hierarchy
D1 - Design of New Development
D2 - Amenity
H6 - House Types and Mix
IF7 - Parking Provision and New Development
EN2 - River Mease Special Area of Conservation
CC2 - Water - Flood Risk
CC3 - Water - Sustainable Drainage Systems

Emerging Ashby de la Zouch Neighbourhood Plan

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

Policy S1 - Presumption in favour of sustainable development
Policy S2 - Limits to Development
Policy S4 - Design
Policy TC4 - Residential Development

Other Guidance

National Planning Practice Guidance - March 2014.
The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System.
River Mease Water Quality Management Plan - August 2011.
River Mease Water Quality Management Plan - Developer Contribution Scheme June 2016.
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.

5. Assessment

The main issues for consideration in the determination of this application relate to the principle

of the development, impacts on character and appearance, residential amenities, highway safety, drainage and floodrisk and on the River Mease Special Area of Conservation/SSSI.

Principle

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

There are three core strands underpinning the presumption in favour of sustainable development promoted within the NPPF. These are economic, social and environmental. So long as a development is consistent with these criteria, in principle the development should be considered acceptable.

The NPPF also 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.

The site is located within Limits to Development, within Policy S2 of the adopted Local Plan where there is a presumption in favour of sustainable development and would also fall within Limits to Development within Policy S2 of the submitted Local Plan and would fall to be considered against Policy S2, which supports significant growth in Ashby and therefore is supportive of infill residential development.

Furthermore, in respect of sustainability, in the context of the River Mease, in the Authority's opinion, the limited capacity available in DCS2 should be directed to the most sustainable locations for new development within the District. Therefore as the site lies within the Limits to Development, the Authority is of the view that this application is acceptable under DCS2.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The settlement of Ashby benefits from a wide range of local services and is readily accessible via public transport. On this basis future residents would not be heavily reliant on the private car to access the most basic of services.

In conclusion, it is considered that the site would be socially sustainable, given that the scheme would provide small, starter type homes which are in high demand and there would be some limited economic benefits associated with the construction of the dwellings. These benefits would not be significantly or demonstrably outweighed by any potential negative environmental impacts of the proposal.

Overall the proposal is considered to represent sustainable development and, therefore, the application is considered acceptable in relation to the NPPF. Furthermore, as the site falls within Limits to Development, the site is considered to be sustainable in the context of the River Mease.

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

Character and Appearance

The residential characteristics of the surrounding area are strongly defined. Dwellings are semi-detached, two storey, gabled properties of simplistic design. They share a common pallet of materials and occupy regimented building lines and plot size. The dwellings are set back from highway edge resulting in a sense of openness.

The host dwelling, No.9 comprises one in a row of three properties (9 - 15) Grange Close. The characteristics of this group varies slightly from the other dwellings on Grange Close. These dwellings occupy larger than average plot size and No. 15 comprises an extended detached dwelling.

The proposed building would be situated on the same front and rear building lines as the host dwelling (No.9) and would be similar in terms of its scale and footprint. The materials proposed are also considered in keeping with those of existing dwellings and would therefore be secured by way of condition.

Notwithstanding this, the design proposed does differ from the simplistic style of surrounding properties, and the building's siting would breach the established front building line along Grange Close to the east, resulting in a loss of openness from this approach.

In terms of openness, such is already compromised by the existing 1.8 metre high close boarded fence which runs along the extent of the eastern boundary. As such, in this regard, impacts over and above those existing are not considered to be materially harmful.

On consideration of the design proposed, which includes well detailed and portioned elevations, resulting in active frontages to both road facing elevations, and incorporates some common features of the locality; on balance, the inconsistencies identified above are not considered to result in a level of harm that would sustain a reason for refusal.

Concerns have been raised on grounds of overdevelopment. Whilst the existing plot would be sub-divided, adequate amenity and parking space would be retained for the host dwelling. Four parking spaces and a shared amenity area is to be provided for the flats. Queries have been raised by residents in regards to the usability of the parking spaces, however although the County Highway Authority has acknowledged these concerns, they do not consider that the development could be refused on the basis of inadequate parking provision. Although the scheme would result in smaller than average plots sizes (on the basis of surrounding characteristics) for both the host and proposed dwellings, which would not be consistent with the surrounding character, given that the site could provide the necessary ancillary facilities, the development is not considered to constitute overdevelopment.

In summary, although there are inconsistencies between the existing dwellings and the elevational detail and siting of the proposal; given that the scale and overall form of the development is reflective of existing dwellings and some common features of the locality have been incorporated within the design, on balance a refusal on design grounds could not be sustained. The scheme is therefore considered to be in accordance with Saved Policy E4 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

Impact upon Residential Amenity

Windows serving principle rooms are proposed on all elevations of the building, at both ground and first floor.

There would be a distance of 23 metres between the northern elevation of the proposal and the facing dwelling on the opposite side of Grange Close. Given that the elevations would be staggered, there would be no direct overlooking into principle rooms. Furthermore as a result of the separation distance and the presence of the highway between, this relationship is considered acceptable.

There would be a distance of approximately 20 metres between the eastern elevation of the proposal and the principle elevations of numbers 6 and 8 Grange Close. Given the position of the windows within the facing elevations, there would be no direct overlooking and the presence of the highway and the considerable separation distance would render this relationship acceptable.

The distance between the rear elevation of the proposal and the side gable of the dwelling at 7 Grange Close to the south would be just under 13 metres. There is a first floor window within this facing elevation, however this appears to be a secondary window. Although the first floor facing window within the proposed development would serve a bedroom, given that it would have views towards a secondary window and would not be positioned directly in line with this, impacts in terms of privacy are, on balance are considered acceptable.

Two obscurely glazed windows are proposed at ground and first floor of the western elevation of the development. These would face the side gable of No.9. There would be a separation distance of 1 metre between these elevations. Given that these windows would serve bathrooms and would be obscurely glazed, there are considered to be no arising impacts in terms of privacy.

Although there would only be a distance of 1 metre between the gables of the host property and the proposed building, such a relationship is commonplace on residential developments and thus is considered acceptable. Given that the proposal would occupy a similar footprint and would reflect the scale of the adjacent property, No.9, there will be no material harm in terms of loss of light, overshadowing or overbearing impacts.

Overall, it is considered that the development would not have any significant detrimental impact upon the amenity of neighbouring residential properties (or future neighbouring residents) and the proposal is considered to be acceptable in relation to Saved Policy E3 of the adopted Local Plan and D2 of the submitted Local Plan.

Highway Considerations

A number of objections have been raised on highway safety and parking grounds within the letters of representation. It is stated that the area is heavily congested with parked vehicles, which is augmented at school drop-off and collection times and has also been worsened by the nearby Lychgate Homes development.

Two accesses are proposed; access 1 is identified adjacent to the northern boundary (and existing access for No.9) of the site, and access 2 would be adjacent to the southern boundary of the site (and the access serving the dwelling to the south).

Grange Close is an unclassified road and therefore planning permission would not be required for the creation of a new access. In this regard therefore, no objections have been received from the County Highway Authority in terms of highway safety.

Two parking spaces are proposed for each flat. This conforms with advice contained within the County Highway Authority's 6Cs Design Guide. Notwithstanding this, concerns have been raised both within the letters of representation and by the County Highway Authority in relation to the usability of the spaces. Despite their concerns however, on the basis that the site is situated within a sustainable location, in close proximity to a range of public transport and services, they do not consider that the potential under provision of off road parking would in this case result in a severe impact on the highway and could not support a refusal on such grounds. Consequently, the County Highway Authority (CHA) raises no objections, subject to the imposition of planning conditions.

In regards to the concerns raised in relation to the existing level of congestion, this is not a matter that can be addressed through the planning process. If vehicles are parked illegally, it is a matter for the police, if not, no action can be taken against them.

Whilst it is accepted the proposed development would result in a further increase in vehicles within the area, when considered in relation to the existing situation (in terms of congestion and on street parking) the impacts directly associated with this development would be negligible and could not sustain a reason for refusal.

A number of concerns have also been raised in regards to the unsuitable siting of the proposed accesses. Similarly, whilst this is noted, and their positioning may not be ideal, given that they are onto an unclassified road, they are not subject to County Highway Authority control.

In summary, subject to the imposition of conditions it is considered that the scheme is acceptable in relation to Saved Policies T3 and T8 of the adopted Local Plan and Policy IF7 of the submitted Local Plan.

Impact on the River Mease Special Area of Conservation/SSSI

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

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

The River Mease Developer Contribution Scheme Second Development Window (DCS2) was adopted by the Council on 20 September 2016. This has limited capacity available for new development. Having regard to this limited capacity the Authority has had to decide how to deal with applications within the catchment area. In the Authority's opinion, the limited capacity should be directed to the most sustainable locations for new development within the District. Therefore as the lies within the Limits to Development, the Authority is of the view that this application is acceptable under DCS2.

As the scheme proposes 2 x 2 bed units the contribution would be £670.00. To secure this a legal agreement is being pursued with the Councils legal department.

The flows from the new dwellings will need to be taken into account against the existing headroom at Packington Works. At the time of writing there is sufficient available capacity.

Foul water is to be discharged to the mains sewer and therefore the scheme should be implemented in accordance with the River Mease Developer Contribution scheme.

With regards to the surface water drainage, the Authority seeks that surface water should be discharged to a soakaway(s) or other sustainable drainage features which do not discharge to the mains. This development is proposing to discharge all surface water to a precast concrete soakaway within the rear garden of the proposal or to an attenuation tank beneath the southern parking area. As no specific details have been provided for these features, it is considered necessary to impose a planning condition to secure such.

Therefore it can be ascertained, subject to the legal agreement and recommended planning conditions, that the proposal on the site 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.

Drainage and Floodrisk

The site is located in Flood Zone 1 and is 'low risk' for surface water flooding.

The scheme would result in an improvement in terms of surface water drainage, for existing impermeable surfaces are to be removed and replaced with permeable ones. Strip drains would also be provided along the north and eastern boundaries, which will help prevent run off onto the highway.

Leicestershire County Council Flood Management have raised no objections to the development.

Other Matters

Letters of Representation

In response to neighbouring letters of objection which have not been addressed within the report above:-

It has been raised that there are inaccuracies on the submitted plan, as two properties have been numbered No.9. A site inspection has been undertaken and the surrounding dwellings have been accurately illustrated on the submitted plans. As such, this inaccuracy would not have a material impact the determination of the application and would not result in prejudice. This said, for consistency, an amended plan will be requested from the agent.

A request has been made that if permitted, the developers should be instructed to leave existing residents accesses free from obstruction. This is not a matter which can be controlled by the planning system and consequently it would not be reasonable to impose a planning condition to secure such.

Conclusion

The NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. Based on the above discussions, the proposed scheme is considered to comply with the core principles of the NPPF,

and thus in principle, the development is considered acceptable.

The proposed development would be acceptable in terms of layout, scale, design, impact upon residential amenities, highway safety, flood risk and drainage and impact on the River Mease SAC/SSSI and no other technical issues are considered to arise. There are no other relevant material planning considerations that indicate planning permission should not be granted.

Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions and the completion of a S106 Legal Agreement.

RECOMMENDATION - PERMIT, subject to conditions in relation to the following: and the completion of a Section 106 legal agreement:

- 1. Time limit**
- 2. Approved plans**
- 3. External materials**
- 4. Flooding and drainage**
- 5. Highway safety**
- 6. Finished floor levels**
- 7. River Mease**

This page is intentionally left blank

Erection of one detached dwelling with detached garage and stable block for use in connection with horse stud and formation of new access (Outline- access and layout included)

Report Item No
A5

Land At Redburrow Lane Packington Ashby De La Zouch
Leicestershire LE65 1UD

Application Reference
16/00888/OUT

Applicant:
Mr & Mrs K Goodwin

Date Registered:
29 July 2016

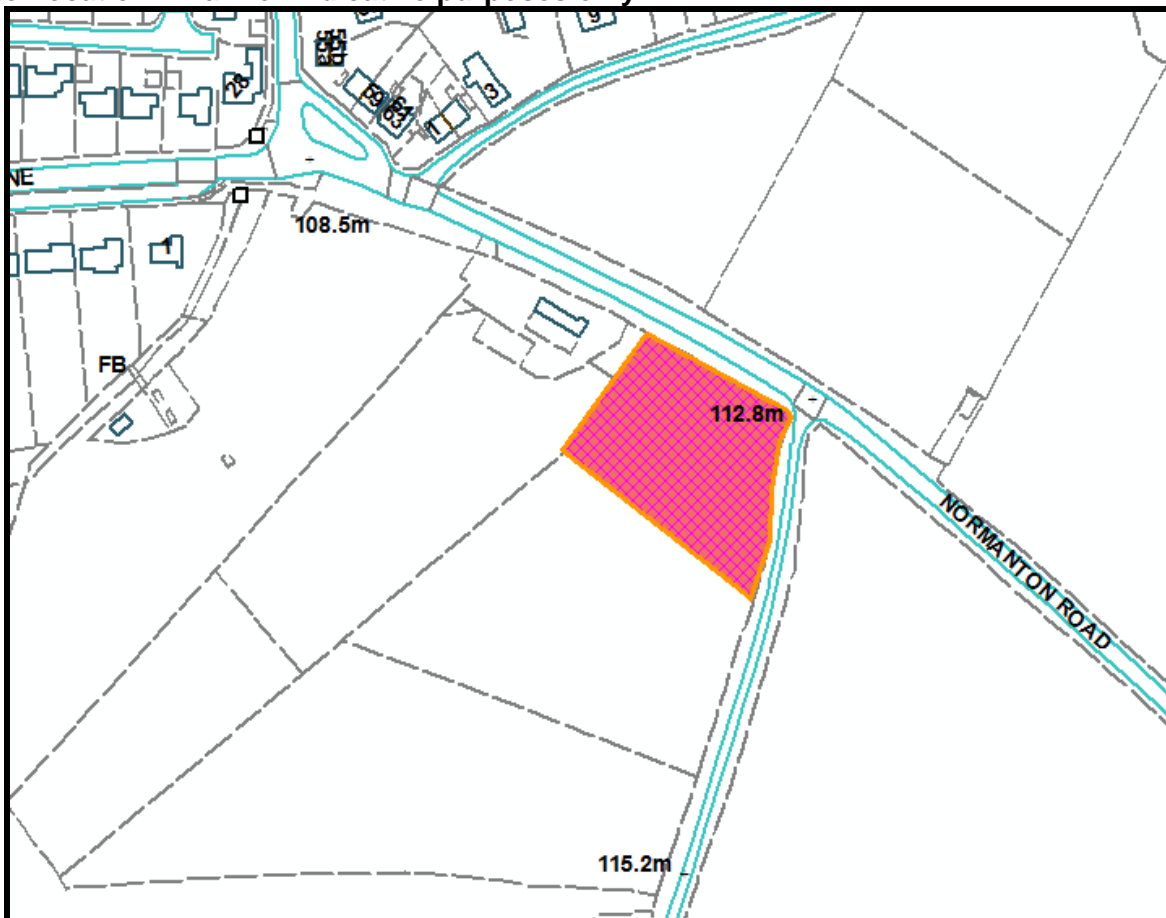
Case Officer:
Jenny Davies

Consultation Expiry:
9 November 2016

Recommendation:
REFUSE

8 Week Date:
23 September 2016
Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought before Planning Committee as the planning agent is related to a former councillor who has served within the last five years.

Proposal

Outline planning permission (with access and layout included for determination) is sought for the erection of one detached dwelling with detached garage and stable block for use in connection with horse stud and formation of new access on land at Redburrow Lane, Packington. The site forms part of a paddock located at the junction of Redburrow Lane and Normanton Road. A new access would be formed onto Redburrow Lane.

Consultations

Four letters of support have been received. Packington Parish Council objects to the proposal. There are no objections raised by other statutory consultees.

Planning Policy

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

Conclusion

In conclusion, a reason for refusal on the basis of the proposal not being socially sustainable could not be justified, the proposal would not result in any unacceptable impacts on the built or historic environment and would have limited economic benefits. However the site lies outside the Limits to Development and therefore conflicts with Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan. Significant harm would also arise from impact on the rural character and visual amenities of the countryside. Therefore it is considered that the proposal does not constitute sustainable development, which on balance would not be outweighed by any other material considerations. It is therefore recommended that planning permission be refused.

RECOMMENDATION - THAT PLANNING PERMISSION BE REFUSED

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

MAIN REPORT

1. Proposals and Background

Outline planning permission (with access and layout included for determination) is sought for the erection of one detached dwelling with detached garage and stable block for use in connection with horse stud and formation of new access on land at Redburrow Lane, Packington. The site is 0.3 hectares in size and forms part of a paddock located at the junction of Redburrow Lane (to the east) and Normanton Road (to the north). The site is adjoined by paddocks (in the applicants' ownership) to the south, open countryside to the north and east and by the Peveril Homes development for 30 dwellings to the west, which is currently under construction.

The dwelling would be located close to the eastern boundary with Redburrow Lane. The detached triple garage and stable block would be located close to the western boundary, with the garage in the northern corner and the stable block close to the western corner. A new access from Redburrow Lane would be formed, which would necessitate the removal of hedgerow, with a driveway laid through the site to provide turning space and access to the garage and stables. The access would extend beyond the stables to the southern boundary to provide a field access to the adjacent paddock. Scale, appearance and landscaping have been reserved for future determination, although two indicative elevation drawings have been submitted.

The applicants currently operate a stud farm from the site and adjacent paddocks to the south and north off Normanton Road. Information has been provided relating to the stud use as follows:

- the Tame Valley Stud is a private stud breeding Welsh Mountain ponies;
- the land has been used for the grazing of horses since 1999, which is an agricultural use and does not need planning permission;
- the grazing use will continue and the stables would be ancillary to the grazing land;
- no permanent staff are employed;
- the applicants currently visit the site daily to inspect the animals;
- currently there are 15 animals within the stud;
- the animals are currently walked between the applicants' land and horse boxes are not used;
- the applicants would use their own horse box to transport animals to and from the site;
- the stud is private and not open to the public and so visiting mares are not brought to the site;
- those animals suitable for breeding are retained by the stud and others sold at the Welsh Pony and Cob breed sales held once a year in Wales;
- it is likely that eight stables would be required although they would not always all be in use as it is the intention to graze the animals;
- the stables are required for foaling, visits by the vet, periods of inclement weather, weaning foals, stabling sick/injured animals, emergency stabling at Bonfire Night, Christmas and New Year and other activities associated with the stud, and would only be used by animals owned by the applicants;
- the adjacent Peveril Homes site has been broken into which has frightened the horses.

The site lies outside the Limits to Development as identified in the adopted and submitted North West Leicestershire Local Plans and lies within the catchment area for the River Mease Special Area of Conservation. A tributary to the River Mease lies approximately 124 metres to the west/north west. Packington House, which is a Grade 2 listed building, lies 262 metres to the north east.

Planning history:

- change of use of land to tennis club involving the erection of a pavilion, formation of three hard surfaced courts and car parking area and access onto Normanton Road (99/0174) refused in June 1999 on grounds of impact on character of countryside, not adjoining the existing settlement and weakening of the Authority's ability to resist development between the site and Packington.

2. Publicity

4 neighbours notified.

Site Notice displayed 19 August 2016.

Press Notice published Leicester Mercury 24 August 2016. Press Notice published Leicester Mercury 24 August 2016.

3. Summary of Consultations and Representations Received Statutory Consultees

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

The Parish Council has taken a consistent view when it comes to applications made outside the limits to development and this matter is no exception. If granted, it would mean spreading the development of Packington village further and such development is detrimental to the countryside. If granted, it would also mean that a precedent is being set in relation to further similar applications. Councillors also have concerns about very poor access from Redburrow Lane onto Normanton Road, particularly as slow horse boxes will be entering a narrow highway with a 60mph speed limit.

The Environment Agency has no objections.

Leicestershire County Council Ecologist has no objections subject to conditions.

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

Natural England has no objections subject to conditions.

NWLDC Environmental Protection team has no environmental observations.

No comments have been received from Severn Trent Water by the date of this report. Any comments received will be reported on the Update Sheet.

Third Party Representations

Four letters of support have been received which make the following comments:

- no reason for the application to be refused;
- the dwelling would contribute to the Council's five year housing land supply and the need for family homes in the village;
- Packington needs more single dwellings;
- a village needs to grow organically and homes from small to large need to be part of the village;
- more than 40 dwellings have been approved on the adjacent site;
- precedent for new housing outside the Limits to Development set by the adjacent site;
- as the site is located adjacent to existing development, it would appear logical to infill up to Redburrow Lane;
- it would be logical to have a dwelling present close to the ponies to protect them from animals

or residents of the adjacent dwellings;

- the land would still be used for keeping ponies;
- the site is well screened by a high hedgerow;
- the dwelling would complement this exposed corner;
- the dwelling would be of a sympathetic design and in keeping with the local vernacular;
- the dwelling would screen the adjacent new dwellings and retain a rural view when entering the village;
- the garage and stables would provide a screen to the adjacent new dwellings;
- the site is secluded and would not affect anyone;
- access would not be a problem as there are already dwellings on Redburrow Lane and no known accidents at the junction; and
- would not exacerbate traffic whilst the adjacent housing development does.

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

4. 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 18 and 19 (Economic growth)

Paragraph 28 (Supporting a prosperous rural economy)

Paragraphs 32 and 35 (Promoting sustainable transport)

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

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

Paragraph 69 (Promoting healthy communities)

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

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

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

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

Adopted North West Leicestershire Local Plan (2002):

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

Policy S1 - Overall Strategy

Policy S3 - Countryside

Policy E2 - Landscaped Amenity Open Space

Policy E3 - Residential Amenities

Policy E4 - Design

Policy E7 - Landscaping
Policy F1 - National Forest - General Policy
Policy F2 - Tree Planting
Policy F3 - Landscaping & Planting
Policy T3 - Highway Standards
Policy T8 - Parking
Policy H4/1 - Housing Land Release
Policy H6 - Housing Density
Policy H7 - Housing Design

Submitted North West Leicestershire Local Plan

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

Policy S1 - Future Housing and Economic Development Needs
Policy S2 - Settlement Hierarchy
Policy S3 - Countryside
Policy D1 - Design of New Development
Policy D2 - Amenity
Policy IF1 - Development and Infrastructure
Policy IF4 - Transport Infrastructure and New Development
Policy IF7 - Parking Provision and New Development
Policy EN1 - Nature Conservation
Policy EN2 - River Mease Special Area of Conservation
Policy EN3 - The National Forest
Policy HE1 - Conservation and Enhancement of North West Leicestershire's Historic Environment
Policy CC2 - Water - Flood Risk
Policy CC3 - Water - Sustainable Drainage Systems

Other Guidance

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
National Planning Practice Guidance 2014
The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations')
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)
River Mease Water Quality Management Plan - August 2011
The River Mease Developer Contributions Scheme (DCS)
The Community Infrastructure Levy Regulations 2010
6Cs Design Guide - Leicestershire County Council

5. Assessment

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

Principle of the Development

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

amended)).

The application site lies outside the defined Limits to Development within the adopted Local Plan and the submitted North West Leicestershire Local Plan with dwellings not being a form of development permitted in the countryside by Policy S3 of both Plans. Policy S2 of the submitted Local Plan also advises that in villages such as Packington a limited amount of growth will take place within the Limits to Development. Paragraph 17 of the NPPF highlights the need to recognise the intrinsic character and beauty of the countryside, but does not specifically preclude development within the countryside.

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

Consideration must also be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

The dwelling is proposed to be used in connection with an existing horse stud that is operated by the applicants from the site and nearby fields. The stud use primarily involves the grazing of horses, and therefore is considered to be an agricultural use for which planning permission is not required. The addition of stables could remove the stud use from the definition of agriculture, as the animals would no longer be completely dependent on grazing from the land. However having regard to the information provided by the agent in relation to the use of the stables and the intention to primarily graze the animals, in this case, and on the basis of the submitted information regarding operation of the stud, it is considered that the stud use of the adjacent land would not result in a material change of use from the current grazing/agricultural use.

The application does not appear to have been submitted on the basis that the dwelling is essential for the applicants to live adjacent to the stud use. Limited information has been submitted to demonstrate why the dwelling is proposed in this location, namely that the animals require a daily inspection, the adjacent Peveril Homes site has been broken into which frightened the animals and the application has been made so that the applicants can consolidate their holding on one site.

If a dwelling is proposed to support a farm or rural business, whilst PPG7 has been cancelled, its Annex is still considered to provide a reasonable basis for an assessment in respect of the issues to be considered for such new dwellings. In such a scenario it would be expected that an application for such a dwelling would be accompanied by information setting out the financial and functional case for the need for a dwelling on the site. As no such information has been submitted, and the application does not appear to have been made on this basis, limited weight is attached to the dwelling being essential in connection with the existing stud use.

In terms of social sustainability Packington provides a range of day to day facilities, e.g. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites, and there is a limited hourly public transport service. These services/facilities are within 800-1000m (preferred maximum walking distance) of the site. Ashby-de-la-Zouch is also located approximately 1.5km from the site, where a wider range of services can be found. To walk to these facilities from the site would involve a route along Redburrow Lane and Normanton Road, including using the junction of both roads. Neither road

has a footway or street lighting along the site boundaries although verges are available along both roads. A footway is required to be provided along part of the frontage to the adjacent Peveril Homes site, although this would not extend to the site boundary. Both roads are subject to a 60mph speed limit adjacent to the site, although the 30mph speed limit on Normanton Road is required to be moved closer to the site under the permission for the adjacent Peveril Homes site. An alternative route to the village is also available via a public footpath (located around 330 metres from the site) running from Redburrow Lane to Heather Lane. Whilst Redburrow Lane is single track it has a relatively low traffic flow and a verge is available. Furthermore, there are several public footpaths leading off the road, and the road is used by cyclists/walkers and horse riders from nearby stables.

As such there are some opportunities to walk to the village from the site along a route which is already in use by pedestrians and other non-car users. Therefore in this case, on balance it is considered that occupiers of the dwelling would not necessarily be dependent on the private car. Taking all of these matters into account it is considered that a reason for refusal on the basis of the site not being socially sustainable in terms of access to services/facilities could not be justified in this case.

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

Whilst the NPPF does not suggest that the release of smaller BMV site is acceptable, the magnitude of loss of agricultural land is considered to be low where less than 20 hectares of BMV would be lost. Therefore given the relatively limited extent of the potential loss of the site (0.3 hectares), it is considered that this is not sufficient to sustain a reason for refusal in this case.

As set out in more detail below, the proposal would not result in an 'isolated' dwelling or any unacceptable impacts on the built or historic environment. There would also be limited economic benefits which would include local construction jobs, helping to maintain local services in the area and connection to the existing horse stud. However as the development site is also outside the defined Limits to Development it would conflict with Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan. Significant harm would arise from impact on the rural character and visual amenities of the countryside and the unwarranted development of the countryside.

In conclusion, a reason for refusal on the basis of the proposal not being socially sustainable could not be justified, the proposal would not result in any unacceptable impacts on the built or historic environment and would have limited economic benefits. However the site lies outside the Limits to Development and therefore conflicts with with Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan. Significant harm would also arise from impact on the rural character and visual amenities of the countryside. Therefore it is considered that the proposal does not constitute sustainable development, which on balance would not be outweighed by any other material considerations.

Character and Visual Impact

The site is outside the Limits to Development under the adopted and submitted Local Plans. On this basis the proposal would be assessed against the context of Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan, particularly as the Council is able to

demonstrate a five year supply of housing. 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. It is, however, recognised that the NPPF does not necessarily preclude development on greenfield land and therefore a determination is also made as to whether the dwelling would be 'isolated' in the context of Paragraph 55, or impact adversely on the rural environment.

The area is characterised by open fields with trees and hedgerows forming the boundaries, including the site, although it is acknowledged that residential development has been approved on the adjacent site to the west. The proposal would result in the loss of greenfield land within the countryside. It is acknowledged that the site is adjoined by the Limits to Development under the submitted Local Plan, which run along the site's western boundary, and that residential development is under construction on the adjacent site.

However the site is closely associated with the rural landscape to the north, east and south. As a consequence it contributes positively to the undeveloped nature of the area, which would be its defining characteristic, in particular along Redburrow Lane and on the approach to the village along Normanton Road. A mature hedgerow forms the boundary to the site alongside both roads, which provides screening. Whilst the indicative plans show a two storey dwelling it is noted that a single storey dwelling could be proposed at reserved matters. However it is considered that regardless of the scale of the dwelling, some parts would be visible above the boundary hedgerows, and along with the garage would be visible through the hedgerows in the winter months. Currently the site is well screened from Redburrow Lane. However a new access would be formed, and hedgerow removed to provide the access and visibility splays. Whilst it is acknowledged that new hedgerow could be planted behind the splays, this would take some time to mature, and a view would be provided through the new access of the development on the site. The dwelling itself would also be detached from the adjacent new dwellings and would extend development into the open countryside, with the stables generally being appropriate in a rural location. A new dwelling, and its associated infrastructure, such as the garage and extent of hardsurfacing, would result in the urbanisation of the site which would diminish its present character and contribution to the character and visual amenities of the area, and would be an incongruous encroachment into the rural environment.

Whilst it is considered that the proposed development will impact adversely on the character and visual amenities of the rural environment, it would be difficult to determine that the dwelling would be isolated.

There is also no overriding need for a new dwelling on this site due to the Council having a five year housing land supply, and consequently there is conflict with a fundamental principle of the NPPF by virtue of the failure of the development to protect or enhance the natural environment.

Siting and Design

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

There is variety in the scale and design of the dwellings on the adjacent site and in this part of the village and the footprint of the dwelling would give an opportunity to reflect local character and distinctiveness. The site could accommodate all of the necessary requirements (private garden, parking/turning space) without being too cramped or resulting in over-development.

Whilst the orientation of the dwelling and garage appear to face into the site, as details of appearance are not included, the dwelling's and garage's detailed design, including opportunities to provide active elevations facing towards the roads, would be considered at the reserved matters stage. The scale and footprint of the stables is not unusual for such buildings and its detailed design would also be dealt with at reserved matters.

Historic Environment

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess. Paragraph 131 of the NPPF requires, amongst other things, new development to make a positive contribution to local character and distinctiveness. Paragraph 132 of the NPPF stipulates that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Packington House on Spring Lane lies around 262 metres to the north east of the site, which is a Grade 2 listed building. Therefore the impact of the development on the setting of the listed building should be given special regard as required by the 1990 Act. Packington House is a substantial three storey property that is still isolated from the village and largely retains its rural setting. Therefore significant weight is given to preserving the setting of the Grade 2 listed building.

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

Residential Amenities

The nearest new dwellings on the adjacent Peveril Homes site to the west would be Plots 7 and 8. The dwelling would be at least 33 metres from Plots 7 and 8, and the garage would be at least 12 metres from Plot 7 and over 25 metres from Plot 8, and their gardens. The stables would be 13.5 metres from Plot 7 and 11 metres from its garden and 15 metres from Plot 8. Plot 8's garden is located to the north and west of the dwelling. The hedgerow along the western boundary is understood to be within the applicants' ownership. As such a garage and stables are unlikely to adversely impact on the occupiers of Plots 7 and 8 from overlooking, overshadowing or oppressive outlook. It is not clear whether the stables would be higher than single storey; however any impacts from a two storey garage and stables could be considered at reserved matters stage as this would be dependent on their detailed design.

The use of the stable block could result in smells and noise affecting occupiers of Plots 7 and 8.

However, no objections have been raised in respect of this matter by the Council's Environmental Protection team and the stables are not located immediately adjacent to the boundary with these dwellings. A condition could be imposed relating to manure storage. Use of the access drive/turning space may also result in an impact from noise and disturbance. However given the submitted information regarding the operation of the stud and the distance from Plots 7 and 8, it is considered unlikely that any impacts would be significant.

Trees and Ecology

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

A survey found no evidence of badger setts or of badgers using the site. The majority of trees and hedgerows would be retained and the loss of hedgerow to form the new access would not significantly impact on the hedgerow wildlife corridor as conditions could be imposed requiring new hedgerow planting behind the proposed visibility splays. Whilst some grassland would be lost, there is other similar habitat adjacent to the site. As such it is considered that protected species would not be adversely affected

A survey of the northern and eastern boundary hedgerows found that whilst both hedgerows are species rich, neither can be identified as 'important' under the Hedgerow Regulations. The County Ecologist requests the imposition of planning conditions requiring the hedgerows to be retained and protected during construction. Whilst the County Ecologist also requests imposition of a condition relating to new hedgerows, given that landscaping matters are reserved for future consideration, such a condition cannot be imposed at this stage. An amended plan addresses the Council's Tree Officer's request that the dwelling be sited further away from the northern hedgerow to prevent impact and future incompatibility issues with the hedge and trees.

Highway Safety

The new site access would exit onto a 60mph zone on Redburrow Lane and the stretch of Normanton Road fronting the site is also within a 60mph zone. The Parish Council has raised concerns regarding the very poor access from Redburrow Lane onto Normanton Road, particularly as slow horse boxes will be entering a narrow highway with a 60mph speed limit. The Highway Authority advises that in respect of a proposal of this nature it can only consider the impact of the new access, rather than the additional traffic using this junction. Furthermore the Highway Authority is aware of the stud use of the land and has recommended a condition preventing the dwelling/stables from being open to the public or being used for any other business/commercial use, including livery stables.

Amended plans have been submitted following the Highway Authority's request for further details of the access, along with a speed survey of the lane. The Highway Authority advises that the northern splay would meet the 6Cs Design Guide requirement for splays of 33 metres in areas where speeds are between 21-25mph (as in this case), although the splay to the south falls slightly short (1.92 metres) of this requirement. However the Highway Authority states that the vehicle speeds are evidenced to be low, and use of the access is expected to be similar to that associated with a single dwelling. As such, and in accordance with the Manual for Streets (MfS) guidance, it advises that it would be reasonable for visibility splays to be measured from a two metre set back behind the highway where it is likely visibility achieved could be in excess of

33 metres. The visibility proposed would not therefore be considered unacceptable by the Highway Authority and not to a level where it would be considered that the residual cumulative impact of development was demonstrably severe in accordance with paragraph 32 of the NPPF. Given the above it is considered that a reason for refusal in respect of severe impact on highway safety could not be justified in this case.

River Mease Special Area of Conservation

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC) and a tributary lies approximately 124 metres to the west. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore, an assessment of whether the proposal would have a significant effect on the SAC is required.

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

The application initially suggested connection to the mains sewer. However due to issues relating to capacity within DCS2, the application has been amended to propose a cesspool (sealed tank that does not discharge into the ground and needs to be emptied of waste) with a capacity of 70,000 litres.

Natural England advises that the Council should ensure that there would be no harmful discharges of foul or surface water from the site into the River Mease or its tributaries. The Environment Agency has no objections and makes no comments in respect of impact on the SAC. None of the Severn Trent Water (STW) treatment works in the SAC catchment area accept foul waste from licensed waste collectors, which STW has confirmed, and advises that this arrangement will continue in perpetuity. As the foul waste from the site would not be emptied within the SAC catchment area or discharge into the watercourse, there is not a requirement for a contribution under DCS2. A condition could be imposed requiring discharge of surface water to a sustainable drainage system. Therefore in this case, given the lack of objection from the Environment Agency and Natural England, the distance from the SAC tributary and intervening development, that the cesspool is a sealed tank, that waste would not be disposed of in the SAC catchment and that a condition could be imposed requiring submission of a management/maintenance scheme for the cesspool, it is considered that use of a cesspool, along with surface water discharge from the site, would not adversely impact on the SAC/SSSI.

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

As noted above, the Environment Agency has no objections, although it comments that it does not accept the promotion or proliferation of cesspools as a viable long term sewerage option other than in exceptional circumstances. Whilst these comments are noted, the Environment Agency has not objected on this basis. The National Planning Practice Guidance (NPPG) sets out a hierarchy of preferred non-mains drainage solutions; firstly mains sewer, then a package

treatment plant and lastly septic tanks, with no reference made to cesspools.

The NPPG also advises that non-mains proposals should clearly set out the responsibility and means of operation and management of non-mains drainage systems, and the effects on amenity and traffic should be considered, due to the need for sludge to be removed by tankers, matters which also applicable to cesspools. Withdrawn Circular 03/99 also set out guidance for assessments of non-mains drainage proposals, which provides a useful tool.

It is considered that it would be difficult to connect to the mains sewer given the distance away (120 metres). As the tank would be constructed alongside the dwelling it would not result in significant additional construction work. Furthermore journeys made to and from the property by tanker are unlikely to be no more significant in terms of fuel consumption and CO2 emissions than journeys made by refuse collection lorries, in particular in remote locations, and by lorries/tankers providing gas/oil to dwellings in parts of the District which do not have mains gas. Given the distance from Plots 7 and 8 on the adjacent site, and that the Council's Environmental Protection team has not raised any objections, it is considered that the cesspool would not result in significant impact on the amenity of nearby residents. It is also considered that suitable access could be provided to the site for a tanker. It is also considered that use of a cesspool on this site would not set a precedent for non-mains drainage on other sites as all such proposals would be assessed on their own merits.

It is acknowledged that cesspools are generally not considered to be a suitable non-mains drainage alternative. However in this case given the lack of objection from the Environment Agency and the matters set out above it is considered that a reason for refusal in respect of use of a cesspool could not be justified in this case.

Conclusion

In conclusion, a reason for refusal on the basis of the proposal not being socially sustainable could not be justified, the proposal would not result in any unacceptable impacts on the built or historic environment and would have limited economic benefits. However the site lies outside the Limits to Development and therefore conflicts with Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan. Significant harm would also arise from impact on the rural character and visual amenities of the countryside. Therefore it is considered that the proposal does not constitute sustainable development, which on balance would not be outweighed by any other material considerations. It is therefore recommended that planning permission be refused.

RECOMMENDATION, REFUSE for the following reason:

- 1 Paragraph 7 of the National Planning Policy Framework (NPPF) defines sustainable development which includes that the planning system needs to perform an environmental role, including protecting and enhancing our natural environment and using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S3 of the adopted North West Leicestershire Local Plan and Policy S3 of the submitted North West Leicestershire Local Plan provide a presumption against non-essential residential development outside the Limits to Development. Policy S3 of the submitted Local Plan states that land identified as countryside will be protected for the sake of its intrinsic character and beauty. Policy S2 of the submitted Local Plan advises that in villages such as Packington a limited amount of growth will take place within the Limits to Development. The proposal would result in significant harm to the character and rural appearance of the locality and the proposal would appear as an unwarranted and

incongruous intrusion into the countryside. As a consequence the development would fail to protect or enhance the natural environment and would not therefore constitute sustainable development, contrary to the environmental strand of sustainability enshrined within the NPPF. In addition, the development would be contrary to Paragraph 17 of the NPPF, Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.

Notes to applicant

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

Erection of detached two storey dwelling with adjacent garage
and new vehicular access

Report Item No
A6

The Manor Overton Road Ibstock Coalville Leicestershire
LE67 6PD

Application Reference
16/01056/FUL

Applicant:
Mr E Jones

Date Registered:
15 September 2016

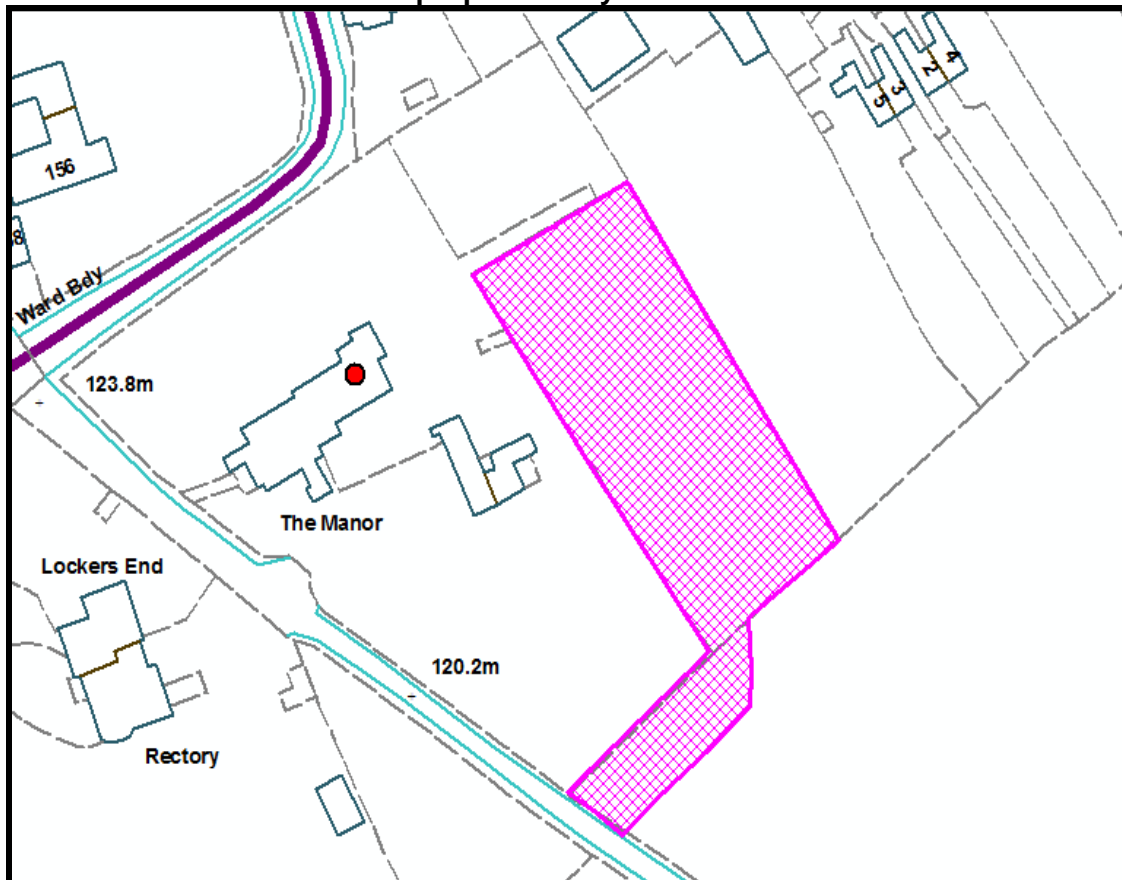
Case Officer:
Robert McKillop

Consultation Expiry:
26 October 2016

Recommendation:
REFUSE

8 Week Date:
10 November 2016
Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought before Planning Committee as the planning agent is related to a former councillor who has served within the last five years.

Proposal

Planning permission is sought for the erection of detached two storey dwelling with adjacent garage and new vehicular access at The Manor, Overton Road, Ibstock. The site is on the eastern side of Overton Road on land currently forming part of the residential curtilage of The Manor, which is a Grade II Listed Building. It is outside the defined Limits to Development and situated within the Ibstock Conservation Area. A new access would be created from Overton Road with a driveway running across agricultural land to the south of The Manor.

Consultations

Three letters of support have been received from local residents. The Council's Conservation Officer has raised some concerns in relation to the appearance of the proposed development and impact on the character of the Ibstock Conservation Area and setting of the Listed Building. No objections have been raised by other statutory consultees, subject to the imposition of conditions.

Planning Policy

The application site is outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan and the submitted 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 outside the Limits to Development where the principle of residential development is not supported under Policies S3 as defined in the adopted North West Leicestershire Local Plan and the submitted Local Plan. The proposed development by way of its design and layout, is considered to have a harmful impact on the setting of the listed building and some detrimental impact on the character of the Ibstock Conservation Area. The application is considered contrary to Paragraphs 61, 64, 131, 132 and 134 of the National Planning Policy Framework (NPPF), Policies E4, H6 and H7 of the adopted North West Leicestershire Local Plan, Policies D1 and He1 of the submitted Local Plan and Sections 66 and 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE;

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

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the erection of detached two storey dwelling with adjacent garage and new vehicular access at The Manor, Overton Road, Ibstock. The site is on the eastern side of Overton Road on land currently forming part of the residential curtilage of The Manor, which is a Grade II Listed Building. The site is outside the defined Limits to Development and within the Ibstock Conservation Area.

The Grade II listed Manor, which is mainly of a mid-eighteenth century date, is of brick with a roughcast finish and has Welsh and Swithland slate roofs. The house comprises of two principal elements; an eastern two storey wing with 16 light sash-windows and a western two and half storey block with segmental arched heads to casement windows. To the rear elevation are various nineteenth century gables and wings.

The proposed two storey dwelling would be to the west of the main dwelling. It would have a dual pitched roof with side facing gable ends with a large detached garage set to the north. A new access is proposed from the east side of Overton Road across part of an agricultural field to the south of the application site.

The application is accompanied by a Design and Access Statement and Heritage Statement. Amendments have been received during the application.

Relevant Planning History:

13/00922/FUL - Erection of a two storey detached dwelling. Refused.

2. Publicity

9 neighbours have been notified.

Press Notice published Leicester Mercury 12 October 2016. Press Notice published Leicester Mercury 12 October 2016.

3. Summary of Consultations and Representations Received

Three letters have been received stating support as follows:

- The development would complement the surrounding area and would not detract from the historic setting;
- The access would not cause disruption as it is an existing access.

Ibstock Parish Council has not responded during the application process.

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

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

Leicestershire County Council - Highways has no objections.

NWLDC Environmental Protection has no objections.

NWLDC Street Management has no objections.

Severn Trent Water has not responded during the course of this application.

4. 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 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 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 131 (Conserving and enhancing the historic environment);
 Paragraph 132 (Conserving and enhancing the historic environment);
 Paragraph 133 (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);

Adopted North West Leicestershire Local Plan (2002)

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

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

Submitted North West Leicestershire Local Plan

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

Policy S1 - Future Housing and Economic Development Needs;
Policy S2 - Settlement Hierarchy;
Policy S3 - Countryside;
Policy D1 - Design of New Development;
Policy D2 - Amenity;
Policy H6 - House Types and Mix;
Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;
Policy IF4 - Transport Infrastructure and New Development;
Policy IF7 - Parking Provision and New Development;

Other Policies

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.

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.

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

Local planning authorities should follow the procedures in Circular 06/2005 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.

5. 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.

Policy S2 of the submitted Local Plan specifies that Ibstock is a 'Local Service Centre' where a "reasonable amount" of new residential development will be permitted. Ibstock benefits from a range of local services and although there is no footway adjacent to the proposed access on Overton Road, the site is readily accessible via walking, cycling and public transport and would have good accessibility. A new residential development is considered to be socially sustainable.

From an environmental sustainability perspective it is noted that the application site is currently residential garden associated with The Manor and as such is classed as greenfield land. The site is also outside the defined Limits to Development on both the Proposals Map to the adopted and submitted Local Plans and would therefore be assessed against the context of Policy S3 of the adopted Local Plan and Policy S3 of the submitted Local Plan, particularly as the Local Authority is able to demonstrate a five year supply of housing. 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.

Whilst the application site comprises garden associated with The Manor, it is relatively open and only separated from the wider open countryside to the south and east by mature shrubs and hedgerows. The application site also lies outside what appears to be the main extent of residential curtilage associated with The Manor as defined by an existing hedgerow across part of the site. Although the northern part of the application site is used for growing vegetables, the rest of the application site is more detached from the main residential curtilage and constitutes a large grassed area without any built development

The proposed dwelling would not be isolated given the relative proximity of other residential dwellings. However, given its context, it is considered that the application site makes a positive contribution to the character and appearance of the rural environment and wider landscape. A residential development on the site, as well as its associated infrastructure, would diminish this present open character and represent unwarranted development within the rural environment given that there is no overriding need for this type of proposal to come forward on the land. On this basis the proposal would conflict with a fundamental principle of the NPPF by virtue of its failure to protect or enhance the natural environment. As the development site is also outside the defined Limits to Development it would conflict with Policy S3 of the adopted Local Plan and Policy S3 of the submitted Local Plan.

To conclude, any support warranted to the economic benefits, which would be simply limited to the construction of the dwelling, and limited social benefits, given that only one property would be created, would be significantly and demonstrably outweighed by the negative environmental impacts of the proposal. Accordingly the development cannot be considered to represent sustainable development and, therefore, the application would not be acceptable in relation to the NPPF as well as relevant policies of the adopted and submitted Local Plans.

Residential Amenity

Given the semi-rural nature of the site and distance from other neighbours, the only likely affected dwelling would be the host property, The Manor. Although the proposed dwelling would be set within the residential curtilage of The Manor, a distance of approximately 35

metres would remain between these dwellings and no significant overshadowing or overbearing impacts would arise. Furthermore, given the orientation of windows, no significant overlooking opportunities would be created. Although the plans show that a large garage would be positioned adjacent to the shared boundary, the low height and dual pitched roof would not lead to any significant impacts.

Overall, the position of the two storey dwelling would have an acceptable impact on residential amenity and the application would accord with Policy E3 of the adopted Local Plan and Policy D2 of the submitted Local Plan.

Design and Impact on Heritage Assets

Section 72 (1) 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. Section 66(1) states that when considering whether to grant planning permission for development which affects a listed building or its setting, the 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.

Paragraph 131 of the NPPF requires amongst other things new development to make a positive contribution to local character and distinctiveness. Paragraph 132 stipulates that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 134 requires harm to be weighed against the public benefits of the proposal.

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

The application site is set within the curtilage of the host property which is a Grade II Listed Building within the Ibstock Conservation Area. The local planning authority has previously advised that a new vehicular access through the boundary walls on to High Street or Overton Road is not likely to be supported and consideration should be given to a shared access with The Manor. Despite this advice, the current application proposes a new access on to Overton Road through the existing wall and the driveway would run through part of the agricultural field to the south of the application site.

Despite amended plans being submitted to show a straighter southern boundary, the Council's Conservation Officer has raised the following concerns:

"The existing site has a straight field boundary along the south-eastern boundary of the site; this would be amended to facilitate the proposed access which would result in a more convoluted boundary which would not respect the rectilinear pattern of the surrounding field boundaries. This boundary is adjacent to the Conservation Area and would therefore have a detrimental impact on the character and appearance of the designation. In support of this Historic England advise that field patterns make an important contribution to the landscape character and any subdivision should respect the local characteristics and field sizes and shapes.

This access would result in a new opening through the existing wall which is a strong feature within the Conservation Area. This provides a strong sense of enclosure and conservation

comments have been consistent in seeking the proposed dwelling to be served using the existing access rather than through the creation of a new access through the boundary wall. The access is shown with splays and piers which would result in a somewhat cluttered and engineered access, at odds with the simple existing boundary wall. This site is characterised by the strong boundary treatment that runs along the front and side boundaries and the creation of a new opening would erode this characteristic. No convincing justification has been provided to explain why the harm caused by this opening would be outweighed by any public benefit."

In respect of the design and appearance of the proposed dwelling it is noted that the scheme has been improved by the removal of the horizontal timber cladding although other concerns have not been sufficiently addressed. The Conservation Officer has advised that:

"The proposed dwelling is not considered to respect the local characteristics. The wide gables to each side elevation and the substantial roof planes to the front and rear do not respond to traditional dimensions where a gable would usually not be more than 6 metres in width. It is therefore considered the dwelling would not preserve the appearance of the Conservation Area. As the proposal does not respond to the local characteristics a case could be made that the setting of the adjacent listed buildings would also be adversely affected by the proposal through the introduction of a dwelling that incorporates a number of elements that are not traditional such as the wide gables and dominant roof form. The design, scale and massing of the proposed dwelling would not be sympathetic to the prevailing architectural elements of the adjacent buildings."

Given the above consideration, the proposal is deemed to be harmful to the heritage assets, namely The Manor which is a Grade II Listed Building and the Ibstock Conservation Area. It is considered that the degree of 'harm' caused to the significance of the heritage assets is less than substantial and as such Paragraph 134 of the NPPF would be of relevance. This particular Paragraph highlights that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable re-use." In this case, although the degree of harm would be less than substantial, there is no public benefit associated with the development to outweigh the harm and as a consequence the development would be contrary to Sections 66 and 72 of the 1990 Act as well as the above Paragraphs of the NPPF.

Given the particular requirements of this Paragraph 134 of the NPPF, as well as those of Sections 66 and 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that the development would have a harmful impact on the character and appearance of the surrounding Conservation Area and would neither sustain nor enhance the significance of the setting of the listed building. As there are no public benefits associated with the development which would outweigh the harm caused it is considered that to permit the development would be contrary to the core aims of the NPPF and in particular Paragraphs 61, 131, 132, 133, 134 and 137 as well as Policies E4 and H7 of the adopted Local Plan, Policy D1 and He1 of the submitted Local Plan and Sections 66 and 72 of the 1990 Act.

Highway Safety

The County Highway Authority (CHA) has no objections to the development although advised that the scheme should be assessed against current standing advice. A new access would be formed on to Overton Road although it is noted that this is in a similar position to an existing gated field access. There is no footway along this part of Overton Road although it is noted that pedestrian visibility splays would be provided. Given this part of Overton Road is a narrow country lane with vehicles likely to be doing low speeds, it is considered the visibility splays

provided would be sufficient and would not lead to any significant detrimental impact on highway safety. There would be adequate parking and turning within the site and given no objections have been raised by the CHA, it is considered that the scheme would be acceptable in relation to highway safety and, therefore, would comply with Policies T3 and T8 of the adopted Local Plan, Policies IF4 and IF7 of the submitted Local Plan and the advice in the 6Cs Design Guide.

Ecology

The County Council Ecologist has been consulted and has identified that there is no requirement for ecological surveys to be carried out given that the development site is within an existing garden. Although the application would result in some loss of species rich grassland, the County Council Ecologist has no objections subject to conditions. In the circumstances that no objection has been raised, and subject to suitably worded conditions, it is considered that the development would have an acceptable impact on protected species and would accord with Paragraph 118 of the NPPF and Circular 06/05.

Archaeology

The County Council Archaeologist has indicated that an appraisal of the Leicestershire and Rutland Historic Environment Record (HER) notes that the site of the proposed dwelling is within the medieval and post-medieval historic settlement core of Ibstock and immediately adjacent to the Grade II Listed Building, The Manor. Given the opportunities which exist for archaeological remains to be present on the site the County Council Archaeologist considers it necessary for conditions to be imposed on any consent for a programme of archaeological work, including trial trenching, written scheme of investigation and programme of archaeological mitigation to be provided, in advance of the development commencing, in order to record and advance the understanding of the significance of any heritage assets. Such conditions are considered reasonable given the possibility of archaeological remains being present on the site and their inclusion therefore ensures the development complies with Paragraph 141 of the NPPF.

Landscaping

The development would result in some loss of existing shrubs and hedgerows although this is considered to represent a minor overall impact. In any case, conditions would be imposed on any consent granted for appropriate landscaping to be supplied to mitigate against the partial loss of the boundary hedgerow and on this basis the development would be compliant with Policy E7 of the adopted Local Plan.

Conclusion

As set out in the main report above, the proposal would be contrary to Policies S3 of the adopted and submitted Local Plans. Furthermore, the proposed development would have a harmful impact upon the character and appearance of the rural landscape. The resulting environmental harm would significantly outweigh the social and economic benefits. Accordingly the development cannot be considered to represent sustainable development and, therefore, the application would not be acceptable in relation to the NPPF as well as relevant policies of the adopted and submitted Local Plans.

Furthermore, the proposed dwelling, by virtue of its design, scale and layout, would have a harmful impact on the character and appearance of the surrounding Conservation Area and the setting of the listed building. It is considered that the degree of 'harm' caused to the heritage assets is less than substantial and as such Paragraph 134 of the NPPF would be of relevance. As there are no public benefits associated with the development which would outweigh the harm caused, the development would be contrary to the core aims of the NPPF and in particular Paragraphs 61, 131, 132, 134 and 137 as well as Policies E4 and H7 of the adopted Local Plan,

Policies D1 and He1 of the submitted Local Plan and Section 72 of the Planning (Conservation Areas and Listed Buildings) Act 1990. It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reasons;

- 1 Paragraph 7 of the National Planning Policy Framework (NPPF) defines sustainable development which includes that the planning system needs to perform an environmental role, including protecting and enhancing our natural environment and using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S3 of the adopted North West Leicestershire Local Plan and Policy S3 of the submitted North West Leicestershire Local Plan provide a presumption against non-essential residential development outside the Limits to Development. Policy S3 of the submitted Local Plan states that land identified as countryside will be protected for the sake of its intrinsic character and beauty. Policy S2 of the submitted Local Plan advises that Ibstock is a Local Service Centre where a reasonable amount of new development will take place within the Limits to Development. The proposed development would adversely affect and diminish the present open character of the environment resulting in significant harm to the character and rural appearance in which it would be set and would represent an unwarranted and incongruous intrusion into the countryside. As a consequence the development would fail to protect or enhance the natural environment and would not therefore constitute sustainable development, contrary to the environmental strand of sustainability enshrined within the NPPF. In addition, the development would be contrary to Paragraph 17 of the NPPF, Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.

- 2 The development would result in a convoluted southern boundary that does not respect the local characteristics and field patterns which contribute to the landscape character and would have a detrimental impact on the character and appearance of the Ibstock Conservation Area. Furthermore, the design of the proposed dwelling does not respond to the local characteristics through the introduction of non-traditional elements that are unsympathetic to the architectural elements of adjacent buildings and, therefore, would have a detrimental impact on the setting of the Grade II Listed Building, The Manor House. It is considered that the degree of 'harm' caused to the significance of the heritage asset is less than substantial and as such Paragraph 134 of the NPPF would be of relevance. It is considered that the development would have a detrimental impact on the character and appearance of the surrounding Conservation Area and the setting of the listed building. As there are no public benefits associated with the development which would outweigh the harm caused it is considered that to permit the development would be contrary to the core aims of the NPPF and in particular Paragraphs 61, 131, 132, 133, 134 and 137 as well as Policies E4 and H7 of the adopted Local Plan, Policy D1 and He1 of the submitted Local Plan and Sections 66 and 72 of the 1990 Act.

Notes to applicant

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

Erection of a detached dwelling with associated access
(Outline - means of access and layout for approval)

Report Item No
A7

1 Zion Hill Peggs Green Coleorton Coalville Leicestershire
LE67 8JP

Application Reference
17/00024/OUT

Applicant:
Mrs M Barham

Date Registered:
13 January 2017

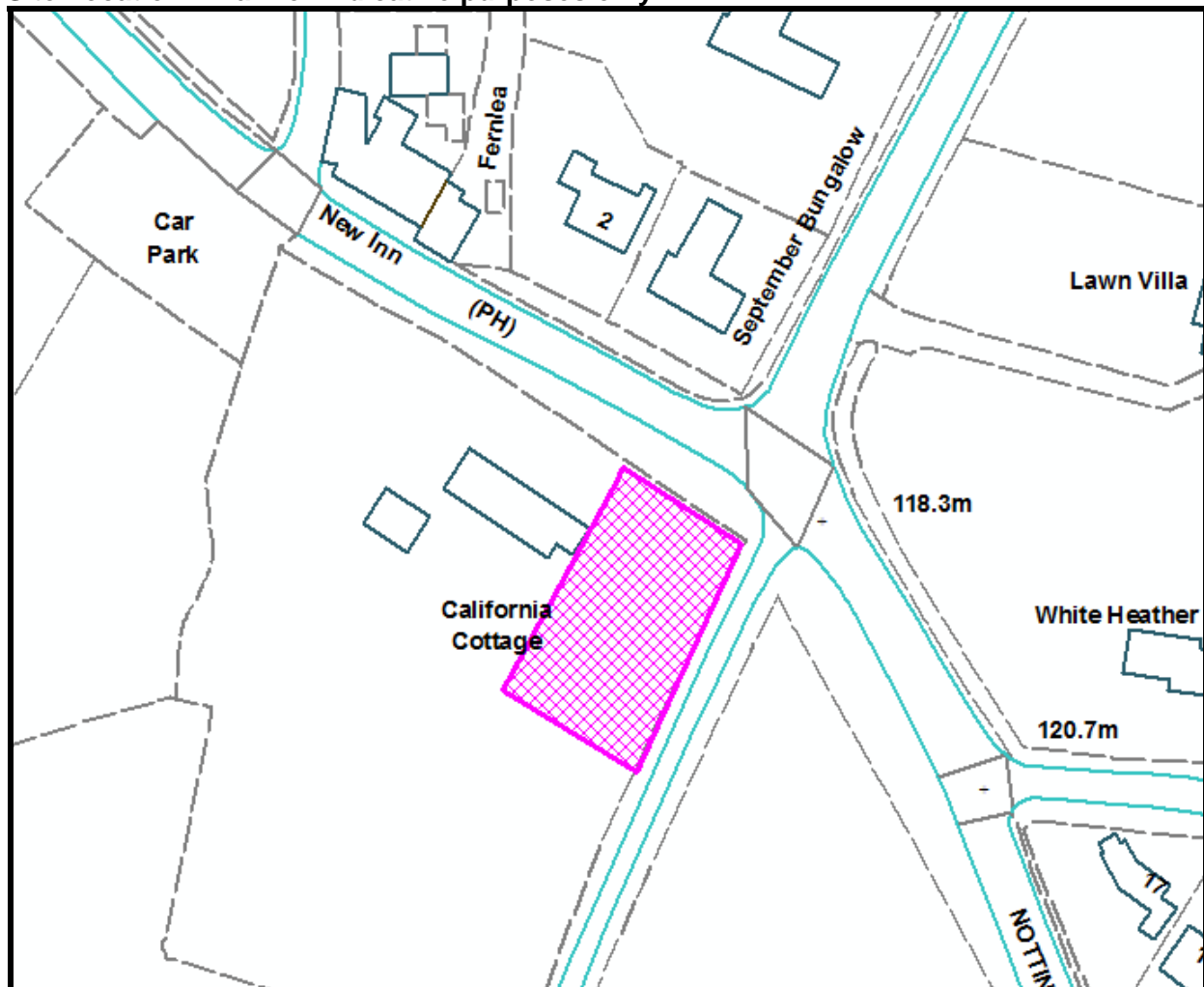
Case Officer:
Adam Mellor

Consultation Expiry:
14 February 2017

Recommendation:
REFUSE

8 Week Date:
10 March 2017
Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought before Planning Committee as the planning agent is related to a former councillor who has served within the last five years.

Proposal

Outline planning permission is sought for the erection of a detached dwelling at land adjacent to no. 1 Zion Hill, Peggs Green, Coleorton. The 0.1 hectare site is situated on the south-western side of Zion Hill and is outside the defined Limits to Development.

Consultations

One individual representation has been received which supports the development proposals. No representation has been received from Coleorton Parish Council. All other statutory consultees, with the exception of Severn Trent Water whose comments are awaited, have raised no objections subject to the imposition of conditions on any consent granted.

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 application site is a greenfield site situated outside the defined Limits to Development with the proposed development adversely affecting and diminishing the present open character of the environment in which it would be set and would represent an incongruous encroachment of development into the rural environment. As a result of this the development would fail to protect or enhance the natural environment contrary to the environmental strand of sustainability enshrined within the NPPF, as well as Paragraph 17 of the NPPF, Policy S3 of the adopted Local Plan and Policy S3 of the submitted Local Plan. As the development would be on residential garden and would result in harm to the visual amenities of the rural environment it is also considered that the development would conflict with Paragraph 53 of the NPPF. Policy S2 of the submitted Local Plan also identifies that in Peggs Green developments will be restricted to conversions of existing buildings and the redevelopment of previously developed land, criteria which is not met by this proposal.

The layout of the proposal as submitted would result in the provision of a dwelling with a projecting front gable and contracted principal elevation facing the highway which would be discordant and incongruous with the pattern of development in the area particularly given that no. 1 Zion Hill, and the dwelling permitted under application reference 16/00706/FUL, have wide frontages and dwellings in the immediate area have relatively flat frontages. As a result of this there would be significant harm to the character and appearance of the streetscape with the development also being on residential garden land. On this basis the development would fail to

integrate into the environment in which it is set contrary to the environmental strand of sustainability, as well as the particular aims of Paragraphs 57, 61 and 64 of the NPPF, Policies E4 and H7 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

RECOMMENDATION - REFUSE.

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

MAIN REPORT

1. Proposals and Background

Outline planning permission, with means of access and layout for approval, is sought for the erection of a detached dwelling at land adjacent to 1 Zion Hill, Peggs Green, Coleorton. The 0.1 hectare site is situated on the south-western side of Zion Hill and is currently residential garden associated with no. 1 Zion Hill, it is situated outside the defined Limits to Development. Residential dwellings of varying designs and scales exist in the immediate area along with open agricultural fields.

It is proposed that the dwelling would be provided to the immediate south-east of no. 1 Zion Hill and cover a ground area of 108.75 square metres. Whilst the scale is not for approval at this stage it is anticipated that the dwelling would be two-storey (with habitable accommodation in the roof space).

In terms of vehicular access this would be achieved via a newly created access off Tugbys Lane with off-street parking and manoeuvring facilities being provided within the site. A detached single garage, covering a ground area of 22.75 square metres, would also be provided.

A design and access statement, protected species survey and arboricultural survey have been submitted in support of the application.

The recent and relevant planning history of the site is as follows: -

- 14/00703/FUL - Erection of two-storey (with habitable accommodation in the roof space) detached dwelling and associated garage - Refused 8th September 2014; Dismissed at Appeal 10th February 2015.
- 16/00706/FUL - Erection of a detached dwelling and garage - Approved 15th August 2016.

2. Publicity

5 neighbours notified.

Press Notice published Leicester Mercury 1 February 2017.

Site notice posted 24 January 2017

3. Summary of Consultations and Representations Received

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

Coleorton Parish Council no representation received.

Leicestershire County Council - Archaeology has no objections.

Leicestershire County Council - Ecology has no objections subject to the imposition of notes to the applicant on any consent granted.

Leicestershire County Council - Highways Authority has no objections subject to their standing advice being considered.

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

NWLDC - Environmental Protection has no objections.

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

NWLDC - Tree Officer has no objections.

Severn Trent Water no representation received at the time of this report. Any comments will be reported to Members on the update sheet.

Third Party Representations

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

- The house is attractive and within a nice plot.
- It has good links to neighbouring facilities.
- The pub is under threat of closure and therefore additional residents could support this.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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

- Paragraph 10 (Achieving sustainable development);
- Paragraph 14 (Presumption in favour of sustainable development);
- Paragraph 17 (Core planning principles);
- Paragraph 28 (Supporting a prosperous rural economy);
- Paragraph 32 (Promoting sustainable transport);
- Paragraph 39 (Promoting sustainable transport);
- Paragraph 49 (Delivering a wide choice of high quality homes);
- Paragraph 53 (Delivering a wide choice of high quality homes);
- Paragraph 55 (Delivering a wide choice of high quality homes);
- Paragraph 57 (Requiring good design);
- Paragraph 60 (Requiring good design);
- Paragraph 61 (Requiring good design);
- Paragraph 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.

Submitted North West Leicestershire Local Plan

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

Policy S1 - Future Housing and Economic Development Needs;
Policy S2 - Settlement Hierarchy;
Policy S3 - Countryside;
Policy D1 - Design of New Development;
Policy D2 - Amenity;
Policy 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 Cc2 - Water - Flood Risk; and
Policy Cc3 - Water - Sustainable Drainage Systems.

Other Policies

National Planning Practice Guidance

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

6Cs Design Guide (Leicestershire County Council)

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

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

Circular 06/2005 sets out that local planning authorities 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.

5. Assessment

Principle of the 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. Policy S2 of the submitted Local Plan also advises that development in Peggs Green will be restricted to conversions of existing buildings or the redevelopment of previously developed land.

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.

In assessing the social sustainability aspects of the site location consideration is given to a recent appeal decision at 85 Loughborough Road (ref: APP/G2435/W/15/3133687) which concluded that convenience goods could be purchased from a shop at Redhall Garage and that a recreation ground, village hall, public houses and a restaurant were also within walking distance of no. 85 with these services being accessed via lit pavements. It was also concluded that an hourly bus service to Coalville and Ashby De La Zouch, as well as a dedicated bus service to a secondary school, were available from a bus stop directly outside no. 85.

With regards to the application site it would be located the following distances from relevant services, some of which are highlighted in the above appeal decision:-

- Shop (Redhall Garage, Loughborough Road) - 377 metres;
- Church (St Georges Church, Church Hill) - 346 metres;
- Public House (New Inn, Zion Hill) - 116 metres;
- Recreation Ground (Zion Hill) - 170 metres; and
- Social Centre (Beaumont Centre, Nottingham Road) - 362 metres.

A bus stop served by the service referred to in the appeal decision at 85 Loughborough Road would also be 253 metres from the site. In terms of the closest school this would be Griffydham County Primary School, Top Road) which would be 1078 metres from the site. It is considered that the distance to the school is only just in excess of the threshold deemed to be an acceptable walking distance to a school in a rural environment (1000 metres) and therefore there is a reasonable likelihood that future occupants would walk to utilise this service. Access to the above services could also be undertaken on raised footways which are well lit.

In conclusion on the social sustainability credentials of the development it is considered that residents of the development would have access to services which would meet their day to day needs (i.e. a convenience store) 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 also assisting in sustaining these services for the future which is a key intention of Paragraphs 28 and 55 of the NPPF.

From an environmental sustainability perspective it is noted that the application site is currently residential garden associated with no. 1 Zion Hill and as such is classed as greenfield land. The site is also outside the defined Limits to Development on the both the Proposals Map to the adopted and submitted Local Plans and would therefore be assessed against the context of Policy S3 of the adopted Local Plan and Policy S3 of the submitted Local Plan particularly as the Local Authority is able to demonstrate a five year supply of housing. 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.

It is, however, recognised that the NPPF does not necessarily preclude development on greenfield land and therefore a determination is also made as to whether the dwelling would be 'isolated' in the context of Paragraph 55, or impact adversely on the rural environment as specified at Paragraph 17 of the NPPF.

Whilst the application site comprises garden associated with no. 1 Zion Hill it is considered that the dwelling permitted under application reference 16/00706/FUL was positioned so as not to be prominent in the streetscape, due to it being screened by mature vegetation present to the boundaries of the site, and had a building line and scale consistent with no. 1 so as to allow the existing dwelling to act as a visual screen. On this basis its implications to the wider landscape were relatively limited. By contrast the position of the dwelling proposed under this application would lead to it being a prominent form of development, particularly when viewed from the south-east, and detached from the established building line of no.1 and the dwelling permitted by application reference 16/00706/FUL. It is also considered that the openness of the garden to the south-east of no. 1 and presence of soft landscaping to this boundary makes a positive contribution to the character and appearance of the semi-rural environment and immediate landscape. On this basis the provision of the residential dwelling, as well as its associated infrastructure, would diminish this present open character of the garden and represent unwarranted development within the rural environment given that there is no overriding need for this type of proposal to come forward on the land. As a result of this the proposal would conflict with a fundamental principle of the NPPF by virtue of its failure to protect or enhance the natural environment. As the development site is also outside the defined Limits to Development it would also conflict with Policy S3 of the adopted Local Plan and Policy S3 of the submitted Local Plan.

Whilst it is considered that the proposed development will impact adversely on the 'openness' of the rural environment, it would be difficult to determine that the dwelling would be isolated given that its detachment from existing built forms would not be significant.

To conclude, any support warranted to the economic benefits, which would be simply limited to the construction of the dwelling, and limited social benefits, given that only one property would be created, would be significantly and demonstrably outweighed by the negative environmental impacts of the proposal. Accordingly the development cannot be considered to represent sustainable development and, therefore, the application would not be acceptable in relation to the NPPF as well as relevant policies of the adopted and submitted Local Plans.

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 but in the circumstances that the development is detrimental to the character and appearance of the rural landscape, as assessed above, it is considered that there would be conflict with Paragraph 53 of the NPPF.

Accessibility

The County Highways Authority have raised no objections subject to their standing advice being considered in respect of the access width, visibility splays, surfacing and off-street parking.

A new vehicular access would be formed onto Tugbys Lane in order to serve the dwelling which would have a width of 3 metres and be provided with visibility splays of 2.4 metres by 54 metres in a southern direction and 2.4 metres by 24 metres in a northern direction. The proposed visibility splays and access width would be considered acceptable from a highway safety perspective and would be in accordance with the 6Cs Design Guide.

It is acknowledged that the relative width and geometry of Tugbys Lane is not adequate to cater for additional vehicular movements but in order to address this matter the applicant is prepared to cover the highway costs involved in widening the highway in order to provide a passing bay at the site frontage, so as to accommodate the additional vehicular movements on the carriageway. The design and provision of this passing bay would be agreed with the County Highways Authority under a separate application process and they have raised no objections to such works being undertaken.

Within the site itself a suitable sized area would be provided for vehicles to manoeuvre and exit the site in a forward direction.

On the basis of the above the proposal would be considered compliant with Paragraph 32 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF4 of the submitted Local Plan.

In respect of off-street parking requirements the new dwelling, indicated to have a minimum of four bedrooms, would be provided with around three spaces with there being sufficient space to accommodate further spaces if necessary. On the basis of the guidance in the 6Cs Design Guide such a level of off-street parking would be sufficient and would assist in preventing on-street parking problems in the area. As a result of this the proposal would accord with Paragraph 39 of the NPPF, Policy T8 of the adopted Local Plan and Policy IF7 of the submitted Local Plan.

Neighbours and Future Occupants' Amenities

The nearest residential property which would be impacted on by the dwelling would be no. 1 Zion Hill (California Cottage) set to the north-west which is within the ownership of the applicant.

At this stage the proposed layout is for approval and it is intended that the north-eastern (front) elevation of the dwelling would be set 5 metres from the south-eastern corner of no. 1 Zion Hill and 1 metre from what would become a shared boundary. The area of the site on which the proposed dwelling is situated is raised above that associated with no. 1 Zion Hill and therefore careful consideration would need to be given to the scale and finished floor level of the proposed dwelling at the reserved matters stage. In the circumstances that the height of the proposed dwelling, as well as its finished floor level, is made consistent with no. 1 it is considered that no adverse overbearing or overshadowing impacts would arise particularly as

no. 1 is orientated away from the site, the proposed dwelling would not dominate the shared boundary and no. 1 benefits from a substantially sized garden.

The proposed dwelling would be set 33.5 metres from the boundary of the dwelling permitted under application reference 16/00706/FUL and as a consequence would not impact adversely on the future amenities of the occupants of this particular dwelling.

An assessment in respect of overlooking impacts to neighbouring properties would need to be undertaken once the scale and appearance of the dwelling was known at the reserved matters stage but, on the basis of the proposed layout, it is considered that a dwelling could be provided which would not result in any adverse overlooking impacts to neighbouring properties.

In terms of future amenities it is considered that the orientation of no. 1 Zion Hill to the application site as well as the position of the proposed dwelling would ensure that no substantially adverse overbearing or overshadowing impacts would arise. The position of no. 1 in relation to the private amenity area associated with the proposal would also ensure that no adverse overlooking impact would arise. It is noted that trees of a mature stature exist to the south-eastern boundary of the site which will create an inevitable overshadowing impact in the early parts of the day. On the basis that the extent of this shadowing is limited to the early parts of the day, due to the orientation, it is considered that the impact would not be sufficiently detrimental as to warrant a refusal of the application. In any case any future occupants would be aware of this relationship prior to their purchase.

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 Streetscape

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

In terms of topography the application site is currently higher than the majority of land associated with no. 1 Zion Hill due to the presence of mounds with mature trees and a hedgerow defining the south-eastern boundary, a tree screen being present to the south-western boundary a stone wall and trees being present to the north-eastern boundary and no. 1 being set to the north-west. Properties on Zion Hill are generally orientated to address the highway with their separation distances from this carriageway not being significant.

Scale, appearance and landscaping are all included as matters to be considered at a later stage although the layout is for approval under this application. It is proposed that the dwelling would be orientated to address Zion Hill but its detachment from this highway would be greater than that of no. 1 Zion Hill as well as the dwelling permitted under application reference 16/00706/FUL. Whilst this is the case the proximity of dwellings to the carriageway in the immediate area varies and as a consequence this detachment would not be significantly adverse to the character of the streetscape.

Although the position of the dwelling in relation to the highway would not be significantly adverse it is considered that both no. 1, and the dwelling approved under application reference 16/00706/FUL, have wide frontages and have principal elevations which are relatively flat, a characteristic which is common on this part of Zion Hill. By contrast the proposed dwelling would have a projecting front gable and contracted principal elevation facing the highway, due to the width of the application site, and as such would result in a form of development which would be

discordant and incongruous with the pattern of development in the area. As a result of this there would be significant harm to the character and appearance of the streetscape with this harm being further compounded by the position of the application site which would be prominent when travelling southwards on Nottingham Road.

As the land is residential garden it is also considered that a development of this nature would conflict with Paragraph 53 of the NPPF given the harm which would be caused to the visual amenities of the streetscape.

With regards to the detached garage it is considered that this would be of a scale that would be subservient to the property and would be positioned in close proximity to the proposed dwelling so as to reduce its visual implications to the streetscape.

The appearance of the dwelling would be agreed at the reserved matters stage and it is considered that at this point an appropriate design could be achieved which would accord with the Council's current design agenda. This is by responding to the positive characteristics of the dwellings within the immediate area as well as having a National Forest identity.

Overall, the residential development proposed on the site would fail to integrate into the environment in which it would be set and as a consequence would be contrary to the environmental strand of sustainability as well as Paragraphs 53, 57, 61 and 64 of the NPPF, Policies E4, H6 and H7 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

Ecology

The County Council Ecologist has raised no objections to the application subject to the recommendations outlined in the submitted ecological report being provided as notes to the applicant on any permission granted. On this basis it is considered that ecological species would not act as a constraint on the proposal and therefore it accords with Paragraph 118 of the NPPF, Circular 06/05 and Policy En1 of the submitted Local Plan.

Landscaping

Existing trees of a mature stature exist to the south-eastern boundary of the site with the development also proposing the formation of an ecological/tree buffer screen to the south-west of the site. An arboricultural assessment submitted in support of the application indicates that the majority of the trees on the site could be retained as part of the development proposals it is, however, proposed that two Silver Birch trees be removed (located to the north-east of the proposal) due to their health being in decline.

The layout, as proposed, results in the dwelling being outside the root protection area (RPA) and canopy spread of the trees to the south-eastern boundary and as such they can be retained as part of the development proposals. Whilst it is considered that the Silver Birch trees currently contribute to the visual amenity of the area the conclusions made on their health lead to them likely failing in the imminent future and as such they could be a risk to any future occupants. On this basis their loss would be accepted in the circumstances that the majority of the trees to the south-eastern boundary would be retained and replacement planting could be sought as part of a landscaping scheme submitted under any subsequent reserved matters application.

In order to form the vehicular access to serve the dwelling a new gap would be formed in the hedgerow to the south-eastern boundary along with the provision of relevant visibility splays. Given that the access gap has been kept to the minimum necessary to serve one dwelling the implications to the hedgerow would not be significant and as such these works would be considered acceptable.

As identified in the Neighbours and Future Occupants' Amenities section of this report it is inevitable that private amenity area associated with the dwelling would be in shade when the sun is positioned to the east and south-east due to its relationship with the trees to the south-eastern boundary. Whilst this is the case BS5837 (2012) outlines that *"NOTE The presence of large specimen trees is increasingly being seen as advantageous since it contributes to climate change resilience, amongst other benefits;"* and *"NOTE 1 Shading can be desirable to reduce glare or excessive solar heating, or to provide for comfort during hot weather. The combination of shading, wind speed/turbulence reduction and evapo-transpiration effects of trees can be utilised in conjunction with the design of buildings and spaces to provide local microclimate benefits."* Whilst such a shading impact would occur it is considered that this would only be apparent in the early part of the day and as such this relationship would be acceptable and would protect the trees from any unnecessary pressure for removal.

Overall the proposed development would be considered compliant with the principles of Policies E7, F1, F2 and F3 of the adopted Local Plan and Policy En3 of the submitted Local Plan.

Archaeology

The County Council Archaeologist has raised no objections to the application and considers that the site does not have any archaeological potential. On this basis the proposed development would accord with Paragraph 141 of the NPPF and Policy He1 of the submitted Local Plan.

Drainage 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 parts of the site, namely an area of land to the immediate south-east of no. 1 Zion Hill, are at a high 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 specified that consideration should be given to the finished floor level of the dwelling so as to ensure that it is not put at risk from surface water flooding. It is considered that this could be addressed by the imposition of a condition on any consent granted for the finished floor level of the dwelling to be agreed. Consideration would also be given to the provision of permeable surfacing to any hard standing areas as part of any submitted landscaping scheme under a subsequent reserved matters submission. In the circumstances that no adverse comments have been received from the LLFA it is considered that the development would be compliant with Paragraph 103 of the NPPF as well as 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. No representation has been received from Severn Trent Water raising an objection to this approach 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.

Other Matters

The Council's Environmental Protection Officer (Contaminated Land) has raised no objections to the application subject to the imposition of conditions on any consent granted associated with the previous use of adjacent land as a landfill site. It is considered that such conditions are reasonable in order to protect the amenities of any future occupants and ensure the land is acceptable for the proposed development and their inclusion would ensure compliance with Paragraphs 120 and 121 of the NPPF as well as Policy En6 of the submitted Local Plan.

Conclusion

The application site is a greenfield site situated outside the defined Limits to Development with the proposed development adversely affecting and diminishing the present open character of the environment in which it would be set and would represent an incongruous encroachment of development into the rural environment. As a result of this the development would fail to protect or enhance the natural environment contrary to the environmental strand of sustainability enshrined within the NPPF, as well as Paragraph 17 of the NPPF, Policy S3 of the adopted Local Plan and Policy S3 of the submitted Local Plan. As the development would be on residential garden and would result in harm to the visual amenities of the rural environment it is also considered that the development would conflict with Paragraph 53 of the NPPF. Policy S2 of the submitted Local Plan also identifies that in Peggs Green developments will be restricted to conversions of existing buildings and the redevelopment of previously developed land, criteria which is not met by this proposal.

The layout of the proposal as submitted would result in the provision of a dwelling with a projecting front gable and contracted principal elevation facing the highway which would be discordant and incongruous with the pattern of development in the area particularly given that no. 1 Zion Hill, and the dwelling permitted under application reference 16/00706/FUL, have wide frontages and dwellings in the immediate area have relatively flat frontages. As a result of this there would be significant harm to the character and appearance of the streetscape with the development also being on residential garden land. On this basis the development would fail to integrate into the environment in which it is set contrary to the environmental strand of sustainability, as well as the particular aims of Paragraphs 57, 61 and 64 of the NPPF, Policies E4 and H7 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reasons;

- 1 Paragraph 7 of the National Planning Policy Framework (NPPF) defines sustainable development which includes that the planning system needs to perform an environmental role, including protecting and enhancing our natural environment and using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S3 of the adopted North West Leicestershire Local Plan and Policy S3 of the submitted North West Leicestershire Local Plan provide a presumption against non-essential residential development outside Limits to Development. Policy S3 of the submitted Local Plan states that land identified as countryside will be protected for the sake of its intrinsic character and beauty. Policy S2 of the submitted Local Plan advises that in villages such as Peggs Green development will be restricted to the conversions of existing buildings or the redevelopment of previously developed land. Paragraph 53 advises that inappropriate development on residential gardens should be resisted. The proposed development being on a greenfield site would adversely affect and diminish the present open character of the environment resulting in significant harm to the character and rural appearance in which it would be set and would represent an unwarranted and incongruous intrusion into the countryside. As a consequence the development would fail to protect or enhance the natural environment and would not therefore constitute sustainable development, contrary to the environmental strand of sustainability enshrined within the NPPF. In addition, the development would be contrary to Paragraphs 17 and 53 of the NPPF, Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.

- 2 Paragraph 7 of the NPPF defines sustainable development and provides that the planning system needs to perform an environmental role, including contributing to protecting and enhancing our built environment. Policy H7 of the adopted Local Plan seeks good design in all new housing developments with Policy E4 of the adopted Local Plan, and Policy D1 of the submitted Local Plan, requiring new developments to respect the character of its surroundings. The layout of the proposal as submitted would result in the provision of a dwelling with a projecting front gable and contracted principal elevation facing the highway which would be discordant and incongruous with the pattern of development in the area particularly given that no. 1 Zion Hill, and the dwelling permitted under application reference 16/00706/FUL, have wide frontages and dwellings in the immediate area have relatively flat frontages. As a result of this there would be significant harm to the character and appearance of the streetscape with the development also being on residential garden land. On this basis the development would fail to integrate into the environment in which it is set contrary to the above core Paragraph of the NPPF, as well as more specifically Paragraphs 53, 57, 61 and 64 of the NPPF, Policies E4 and H7 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

Notes to applicant

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

Erection of one dwelling and formation of access

Report Item No
A8

Land Adjacent 16 Measham Road Ashby De La Zouch
Leicestershire LE65 2PF

Application Reference
16/00835/FUL

Applicant:
Mr A Keller

Date Registered:
19 July 2016

Case Officer:
Jenny Davies

Consultation Expiry:
26 January 2017

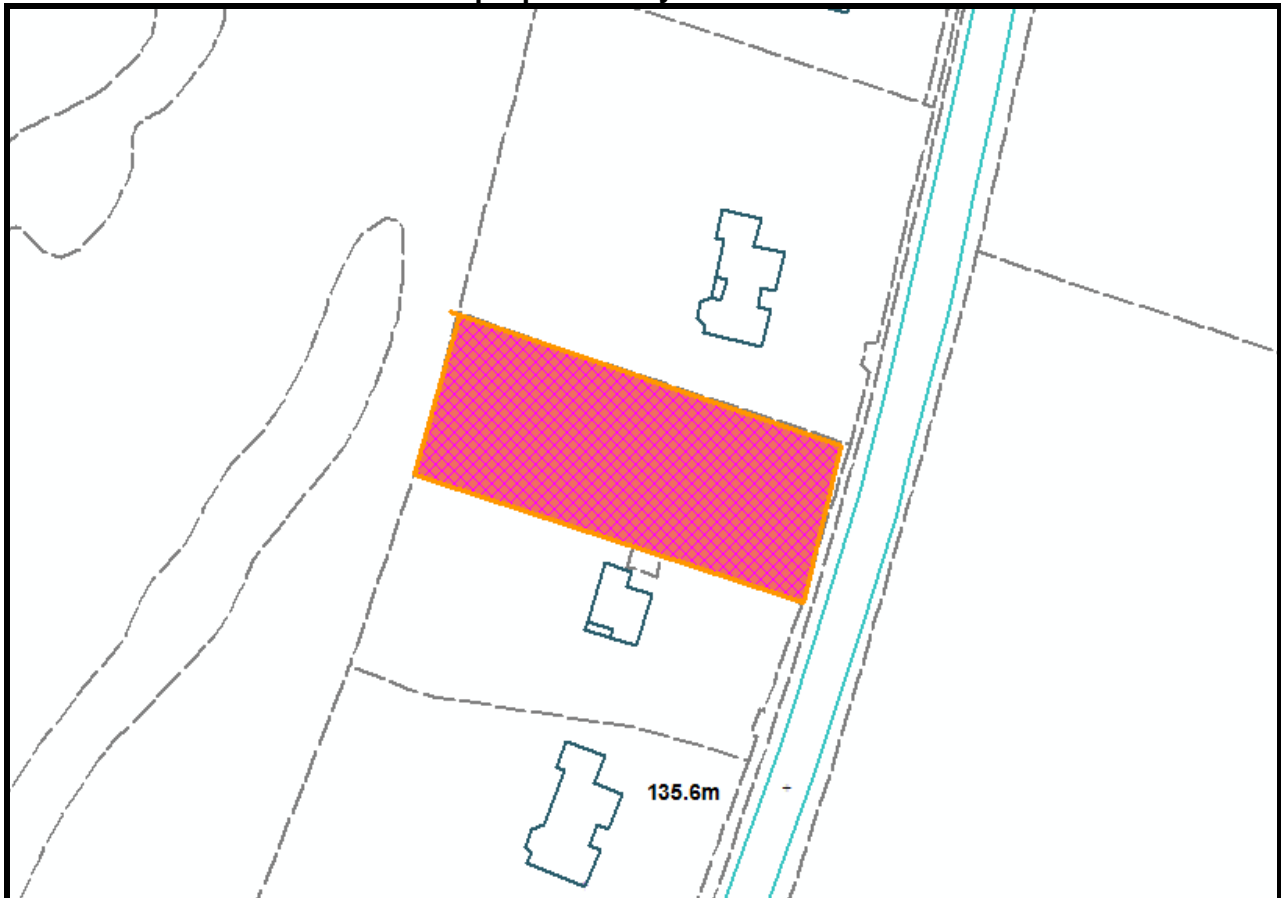
8 Week Date:

Recommendation:
REFUSE

13 September 2016

Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought before Planning Committee as the planning agent is related to a former councillor who has served within the last five years.

Proposal

Planning permission is sought for the erection of one detached dwelling and formation of a new access on land adjacent to 16 Measham Road, Ashby de la Zouch. A four storey dwelling (including a basement) of a modern design was initially proposed. However amended plans have been submitted which show a dwelling with a more conventional design. The dwelling would be located centrally on the site and would be two storeys high. A new access onto Measham Road Lane would be formed centrally within the site's eastern boundary with the existing access being closed.

Consultations

Two letters of objection (from the same resident) and one letter of support have been received. Ashby de la Zouch Town Council initially objected to the proposal but following submission of amended plans the Town Council now supports the application. Objections raised by the Highway Authority and the Council's Tree Officer have been addressed and there are no objections from other statutory consultees.

Planning Policy

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

Conclusion

In conclusion, a reason for refusal on the basis of the proposal not being socially sustainable in terms of access to services and facilities could not be justified. Whilst the site is outside the Limits to Development and constitutes greenfield land, a reason for refusal on the basis of adverse impact on the character and visual amenities of the countryside could not be justified. The proposal would be a self-build dwelling that would not result in any unacceptable impacts on the natural, built or historic environment and would have limited economic benefits. However as the site lies outside the Limits to Development, in the context of the River Mease Special Area of Conservation (SAC) the proposal does not constitute a sustainable form of development, which on balance would not be outweighed by the benefits of the proposal or any other material considerations. It is therefore recommended that planning permission be refused.

RECOMMENDATION - THAT PLANNING PERMISSION BE REFUSED

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and 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 one detached dwelling and formation of a new access on land adjacent to 16 Measham Road, Ashby de la Zouch. The site is 0.19 hectares in size and is currently overgrown land that does not appear to be in use, located on the western side of Measham Road. The site is adjoined by dwellings to the north and south, a golf course to the west and open fields on the opposite side of the road.

A four storey dwelling (including a basement) of a modern design was initially proposed. However amended plans have been submitted which show a dwelling with a more conventional design. The dwelling would be located centrally on the site and would be two storeys high. Amended plans have also been received to address concerns relating to highway safety and impact on trees, as well as proposing a package treatment plant to deal with foul drainage discharge. The agent has subsequently advised that the application should be determined with a mains sewer connection to the site. The dwelling is proposed to be self-build.

A new access onto Measham Road would be formed centrally within the site's eastern boundary with the existing access being closed. Turning and parking space, including an attached garage, would be provided to the front of the site.

The site lies outside the Limits to Development as identified in the adopted and submitted North West Leicestershire Local Plans and lies within the catchment area for the River Mease Special Area of Conservation. Rotherwood House, which is a Grade 2 listed building, lies approximately 135 metres to the north east.

An outline application for one dwelling (01/00689/OUT) was refused by the Council in August 2001 on the grounds of impacts on highway safety and on the character and appearance of the surrounding countryside and the area of special housing character previously covering this part of Measham Road, and setting a precedent. A subsequent appeal was dismissed in May 2002 on the grounds of impact on highway safety.

2. Publicity

4 neighbours notified.

Site Notice displayed 5 August 2016.

Press Notice published Leicester Mercury 10 August 2016. Press Notice published Leicester Mercury 10 August 2016.

3. Summary of Consultations and Representations Received Statutory Consultees

Ashby de la Zouch Council initially objected to the application on the following grounds:

- *The design of the building including the visual appearance and finishing materials are inappropriate for that location. The design is out of keeping with neighbouring properties;*
- *Highway safety - the proposed visibility splay has a shortfall of 20 metres on a road where the traffic survey indicated speeds in the region of 47 to 48 mph.*

Following the submission of amended plans and additional information, the Town Council supports the application.

Leicestershire County Council Ecologist has no objections subject to a condition.

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

Natural England has no objections subject to conditions.

NWLDC Environmental Protection team has no environmental observations.

No comments have been received from Severn Trent Water and the Environment Agency by the date of this report. Any comments received will be reported on the Update Sheet.

Third Party Representations

Two letters of objection (from the same resident) have been received which make the following comments:

- loss of privacy/direct overlooking from rooflights in the side elevation;
- if the rooflights are either set at a higher position or obscurely glazed, then my objection would be withdrawn;
- the dwelling will be close to the boundary with No. 16 Measham Road and at least a metre should be provided between the dwelling and the boundary, not least to enable the occupier of the new dwelling to gain access for maintenance.

One letter of support has been received which make the following comments:

- the land appears to be a natural infill and in its current state as untended scrub land is very messy;
- the proposal would improve the streetscene and appearance of one of the main access routes into the town;
- the design of the dwelling appears sympathetic and fits in with nearby houses;
- existing dwellings are established and have been in place for many years.

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

4. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

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

Paragraph 10 (Achieving sustainable development)

Paragraph 14 (Presumption in favour of sustainable development)

Paragraph 17 (Core planning principles)

Paragraphs 32 and 35 (Promoting sustainable transport)

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

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

Paragraph 69 (Promoting healthy communities)

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

Paragraphs 109, 112, 113, 118 and 119 (Conserving and enhancing the natural environment)
Paragraphs 129, 131, 132, 133 and 134 (Conserving and enhancing the historic environment)
Paragraphs 203, 204 and 206 (Planning conditions and obligations)

Adopted North West Leicestershire Local Plan (2002):

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

Policy S1 - Overall Strategy
Policy S3 - Countryside
Policy E2 - Landscaped Amenity Open Space
Policy E3 - Residential Amenities
Policy E4 - Design
Policy E7 - Landscaping
Policy F1 - National Forest - General Policy
Policy F2 - Tree Planting
Policy F3 - Landscaping & Planting
Policy T3 - Highway Standards
Policy T8 - Parking
Policy H4/1 - Housing Land Release
Policy H6 - Housing Density
Policy H7 - Housing Design

Submitted North West Leicestershire Local Plan

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

Policy S1 - Future Housing and Economic Development Needs
Policy S2 - Settlement Hierarchy
Policy S3 - Countryside
Policy D1 - Design of New Development
Policy D2 - Amenity
Policy IF1 - Development and Infrastructure
Policy IF4 - Transport Infrastructure and New Development
Policy IF7 - Parking Provision and New Development
Policy EN1 - Nature Conservation
Policy EN2 - River Mease Special Area of Conservation
Policy EN3 - The National Forest
Policy HE1 - Conservation and Enhancement of North West Leicestershire's Historic Environment
Policy CC2 - Water - Flood Risk
Policy CC3 - Water - Sustainable Drainage Systems

Emerging Ashby de la Zouch Neighbourhood Plan

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

Policy S1 - Presumption in Favour of Sustainable Development
Policy S3 - Development Proposals outside of the Limits to Development
Policy S4 - Design
Policy H1 - Sustainable Housing Growth
Policy H3 - Windfall Sites
Policy H6 - Promoting Self-Build
Policy T1 - Sustainable Development
Policy ELWB 5 - Biodiversity
Policy ELWB 6 - Trees and Hedges
Policy ELWB 7 - Listed Buildings
Policy DC1 - Community Infrastructure

Other Guidance

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
National Planning Practice Guidance 2014
The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations')
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)
River Mease Water Quality Management Plan - August 2011
The River Mease Developer Contributions Scheme (DCS)
The Community Infrastructure Levy Regulations 2010
6Cs Design Guide - Leicestershire County Council

5. Assessment

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

Principle of the Development

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

The application site lies outside the defined Limits to Development within the adopted Local Plan and the submitted North West Leicestershire Local Plan with dwellings not being a form of development permitted in the countryside by Policy S3 of both Plans. Paragraph 17 of the NPPF highlights the need to recognise the intrinsic character and beauty of the countryside, but does not specifically preclude development within the countryside.

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

Consideration must also be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

In terms of social sustainability Ashby de la Zouch benefits from a wide range of local services and is readily accessible by public transport. Some of these services/facilities are within 800m-

1000m (preferred maximum walking distance) of the site, including a primary school, park/recreation ground, a dentist and a pub. It is acknowledged that the town centre is approximately 1.5 km from the site. There is a lit footway along Measham Road/Tamworth Road leading directly to the town centre along a level route and the other services outlined above are also accessible via footways and crossing facilities. A bus stop is approximately 590 metres from the site, which provides a limited daytime service to the town centre. The site is a similar distance from services/facilities as the nearby Willesley Road site for 30 dwellings (14/00520/FULM) which was dismissed on appeal in November 2015 in part on not being ideally located in terms of accessibility to services/facilities, although this was given limited weight. As this application is for one dwelling with a footway running directly in front of the site, in this case, on balance, it is considered that occupiers of the dwelling would not necessarily be dependent on the private car. Taking all of these matters into account it is considered that a reason for refusal on the basis of the site not being socially sustainable in terms of access to services/facilities could not be justified in this case.

As set out in more detail below, the proposal would not result in an 'isolated' dwelling or any unacceptable impacts on the natural, built or historic environment. There would also be limited economic benefits which would include local construction jobs and helping to maintain local services in the area. Furthermore the dwelling would be self-build, for which there is support at national level with the introduction of new legislation by way of the Self Build and Custom Housebuilding Act 2015 and guidance published the Department for Communities and Local Government, including the need for the Council to provide a self-build/custom build register. To date 43 people, have registered their interest in such projects within the District of North West Leicestershire. In order to secure the dwelling as a self-build property, a Section 106 Agreement would be required to control the commissioning and construction process of the dwelling and its initial occupation.

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

In conclusion, whilst the site is outside the Limits to Development in both the adopted and submitted Local Plans, and constitutes greenfield land, this is a self-build dwelling that would not have unacceptable impacts on the natural, built or historic environment and would have limited economic benefits. A reason for refusal on the basis of the proposal not being socially sustainable in terms of access to services and facilities could not be justified. However as the site lies outside the Limits to Development, in the context of the River Mease SAC, the proposal does not constitute a sustainable form of development, which on balance would not be outweighed by any other material considerations.

Character and Visual Impact

The site is outside the Limits to Development under the adopted and submitted Local Plans. On this basis the proposal would be assessed against the context of Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan, particularly as the Authority is able to demonstrate a five year supply of housing. 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. It is, however, recognised that the NPPF does not necessarily preclude development on greenfield land and therefore a determination is also made as to whether the dwelling would be 'isolated' in the context of Paragraph 55, or impact adversely on the rural environment as specified at Paragraph 17 of the

NPPF.

Given that the site is located adjacent and close to existing dwellings, it is not considered to be isolated. The proposal would result in the loss of greenfield land within the countryside. The eastern side of Measham Road is characterised by open fields with trees and hedgerows forming the boundaries. However on this part of the western side it is characterised by detached dwellings, some of which are large in scale. The 2002 appeal decision Inspector stated that *'...the proposed dwelling would form part of an existing ribbon of development along this stretch of Measham Road. In my view this side of Measham Road has a semi-urban appearance due not only to the existing dwellings but also to the boundary walls, detached garaging and other domestic garden buildings....it would not in my view erode the character of the surrounding countryside. It would form sensitive infilling...I conclude therefore that the proposal would be unlikely to harm the character or appearance of the countryside in this part of Measham Road.'*

At the time of the 2002 appeal decision, under Policy H9 of the emerging Local Plan the site lay within a proposed Area of Special Housing Character. However Policy H9 was not saved and as such can no longer be taken into account. Furthermore the appeal decision states that *'...the proposal would be readily assimilated into the existing pattern of development on Measham Road...It would not therefore in my view seriously threaten the visual character of the area.'*

Since 2002 several of the existing dwellings have been extended, some to a large scale, and both adjacent dwellings have been granted planning permission for an extension (No. 18) and a two storey detached outbuilding (No. 16), both of which have been constructed. The site is currently screened from the road by a boundary wall, although views would be opened up due to the position of the new access. As such, given the previous appeal decision and the development to existing dwellings that has taken place since 2002, in this case it is considered that a reason for refusal on the basis of adverse impact on the character and visual amenities of the countryside could not be justified.

Siting and Design

The proposal would result in a density of 5.2 dwellings per hectare. The NPPF states that authorities should set their own approach to housing density to reflect local circumstances. This density is considered appropriate in this location. There is variety in the scale and design of the dwellings along Measham Road and whilst the dwelling would be large in scale, it would not be out of keeping with the character of the area. The site could accommodate all of the necessary requirements (private garden, parking/turning space) without being too cramped or resulting in over-development.

Historic Environment

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess. Paragraph 131 of the NPPF requires, amongst other things, new development to make a positive contribution to local character and distinctiveness. Paragraph 132 of the NPPF stipulates that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Rotherwood House lies around 135 metres to the north east of the site, which is a Grade 2 listed building. Therefore the impact of the development on the setting of the listed building

should be given special regard as required by the 1990 Act. Rotherwood House is an early 19th Century two storey rendered building with wide eaves, hipped slate roof and sash windows and incorporates a central Doric porch which is considered to be one of its key features. The property is still isolated from the town and largely retains its rural setting. Therefore significant weight is given to preserving the setting of the Grade 2 listed building.

The built fabric of Rotherwood House and any of its special features would not be affected by the proposed development which lies beyond its curtilage. However consideration needs to be given to the impact of the proposed development on the setting of the listed building. The listed building largely retains its rural setting and is well screened from the road by mature conifer trees and a mature hedgerow and trees, so that it is barely visible in views from the site. The site is set apart from the listed building and would be seen alongside existing dwellings on the western side of Measham Road. On this basis it is considered that the proposal would not adversely impact on the setting of the listed building.

Residential Amenities

The dwelling would be sited within 12 metres of the side elevation to No. 16 Measham Road which contains windows serving habitable rooms. The closest part of the new dwelling to No. 16 would be single storey, with the two storey element being 15 metres away, with its roof slope running away from No. 16. Whilst the single storey front projection would be 1.4 metres from No. 16's garage/games room, this does not contain any windows or rooflights facing towards the site. A mature hedge forms the boundary between the site and No. 16. Whilst the dwelling would be located to the south of No. 16, given the above circumstances it is considered that the proposal would not result in significant loss of light or oppressive outlook to the occupiers of No. 16.

Windows and rooflights are proposed in the northern elevation facing towards No. 16. Two first floor side windows are proposed to be obscure glazed, which could be secured by condition, along with the windows being fixed shut. The four rooflights in the main roof to the dwelling would serve first floor rooms, and the bottom of the rooflights would be set approximately 3.3 metres above first floor level. The rooflights in the single storey element would serve the ground floor rooms below and the bottom of the rooflights would be set approximately 3.3 metres above ground floor level. As such it is considered that the proposal would be unlikely to result in a significant level of direct overlooking of No. 16.

The dwelling would be 3.8 metres from No. 18 Measham Road, which has an extension on the boundary containing a side window, along with three first floor side windows to the main dwelling. All of these side windows serve non-habitable rooms. The dwelling would not impact on the 45-degree line from the front doors to No. 18's extension which serve a habitable room. Whilst the dwelling would project five metres beyond the rear of No. 18's extension, it is unlikely to significantly impact on the 45-degree line from the rear kitchen window. The four rooflights in the main roof to the dwelling facing No. 18 would serve first floor rooms, and the bottom of the rooflights would be set approximately 3.3 metres above first floor level and the two first floor side windows would be obscure glazed. As such the proposal would not adversely impact on the occupiers of No. 18 Measham Road from overlooking, loss of light or oppressive outlook.

Trees and Ecology

There are trees and hedgerows on and near the site, the site is covered by vegetation and large areas of grassland are located nearby, all of which are features that could be used by European Protected Species (EPS) or national protected species. Therefore the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions and to the requirements of

the Wildlife and Countryside Act 1981 (as amended).

A survey found no evidence of badger setts or of badgers using the site. The majority of trees and hedgerows would be retained. Whilst some vegetation would be lost, there is other similar habitat including grassland, nearby. The County Ecologist has no objections in respect of impact on protected species subject to a condition relating to breeding birds. As such it is considered that protected species would not be adversely affected

The survey identified the presence of southern marsh orchids which the County Ecologist advised may indicate species-rich grassland on the site. The applicant's ecologist advised that the orchids were the only wildflower species present, and the County Ecologist has accepted that the site does not meet the criteria for a local wildlife site and as such has no objections.

The site was covered by an Area Tree Preservation Order (T267). However this Order has lapsed and was replaced by a new Order (T271) which relates to specific trees, none of which are located on this site. A mature oak tree located in the front garden to No. 18 Measham Road is however covered by T271.

The Council's Tree Officer initially raised concerns regarding the impact of the access improvements on the protected oak tree and the driveway on an oak tree to the front of the site, and advised that some trees on the site should be retained. Following the submission of amended plans to address these matters the Tree Officer advises that the layout is acceptable, subject to conditions.

Highway Safety

This part of Measham Road is a classified road with a 50mph zone which reduces to 40mph further to the north. As noted above the 2002 appeal was dismissed on highway safety grounds, on the basis that that proposal would intensify the use of the existing access and the available visibility to the south was insufficient. The Town Council also raised initially concerns regarding insufficient visibility.

The application initially proposed that the existing access close to the boundary with No. 18 Measham Road would be modified, which would be in a similar position to the access on the appeal proposal. However the County Highway Authority advised that the visibility splay to the south would not be achievable. As such the Highway Authority initially recommended refusal on the following grounds:

- 1. The applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development and the proposal, if permitted would consequently result in an unacceptable form of development and could lead to dangers for road users.*
- 2. The proposal, if permitted, would lead to the intensification of a vehicular access off a Class III road lacking adequate visibility which would not be in the interests of highway safety.*

Following submission of additional information and amended plans showing a new centrally positioned access, the Highway Authority advises that there would still be slight shortfall in the required visibility splay. However the Highway Authority goes on to advise that given that the shortfall is now so minor as to be measured in centimetres it could not reasonably be considered to have a severe impact on highway safety and that it is unlikely that a refusal on highway safety grounds could be defended at appeal.

River Mease Special Area of Conservation

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

A condition could be imposed requiring discharge of surface water to a sustainable drainage system. The flows from the dwelling needs to be taken into account against the existing headroom at Packington Treatment Works, which serves this area. At March 2016 capacity was available for 3368 dwellings but this is reduced by the number of dwellings that already have consent or are under construction at March 2016 (1444) and those subsequently approved or with a resolution (290). As such it is considered that capacity is available at the relevant treatment works for foul drainage from the site.

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

Members will be aware that DCS2 was adopted by the Council on 20 September 2016. However there is only limited capacity available for new development until pumping out of foul drainage discharge from the SAC catchment area takes place. The application initially suggested connection to the mains sewer. However subsequently due to the DCS2 capacity issues, the application was amended to propose a package treatment plant, which is a non-mains system. However as comments have not yet been received from the Environment Agency in respect of this system, the agent has requested that the application be amended to show use of the mains sewer system and be determined on this basis.

It is considered that the limited capacity within DCS2 should be directed to the most sustainable locations for new development within the District as set out in Policy S2 of the submitted Local Plan. Therefore as the site lies outside the Limits to Development in the adopted Local Plan and submitted Local Plan it is considered that in the context of the SAC and the limited capacity available in DCS2 the proposal does not constitute a sustainable form of development. Development of the site would therefore be contrary to the provisions of Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.

Other Matters

In response to the concerns raised in the letter of objection that are not covered above, issues of maintenance are not a planning matter that can be taken into account in the determination of this application and can therefore be given very limited weight.

Conclusion

In conclusion, a reason for refusal on the basis of the proposal not being socially sustainable in terms of access to services and facilities could not be justified. Whilst the site is outside the Limits to Development and constitutes greenfield land, a reason for refusal on the basis of adverse impact on the character and visual amenities of the countryside could not be justified. The proposal would be a self-build dwelling that would not result in any unacceptable impacts on the natural, built or historic environment and would have limited economic benefits. However as the site lies outside the Limits to Development, in the context of the River Mease Special Area of Conservation (SAC) the proposal does not constitute a sustainable form of development, which on balance would not be outweighed by the benefits of the proposal or any other material considerations. It is therefore recommended that planning permission be

refused.

RECOMMENDATION, REFUSE for the following reason:

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

Notes to applicant

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

Retention of a first floor rear window to be openable to no more than 50mm and to not be fully obscure glazed

Report Item No
A9

7 Appleby Fields Close Appleby Magna Swadlincote DE12 7BF

Application Reference
16/01285/RET

Applicant:
A Davies

Date Registered:
16 November 2016

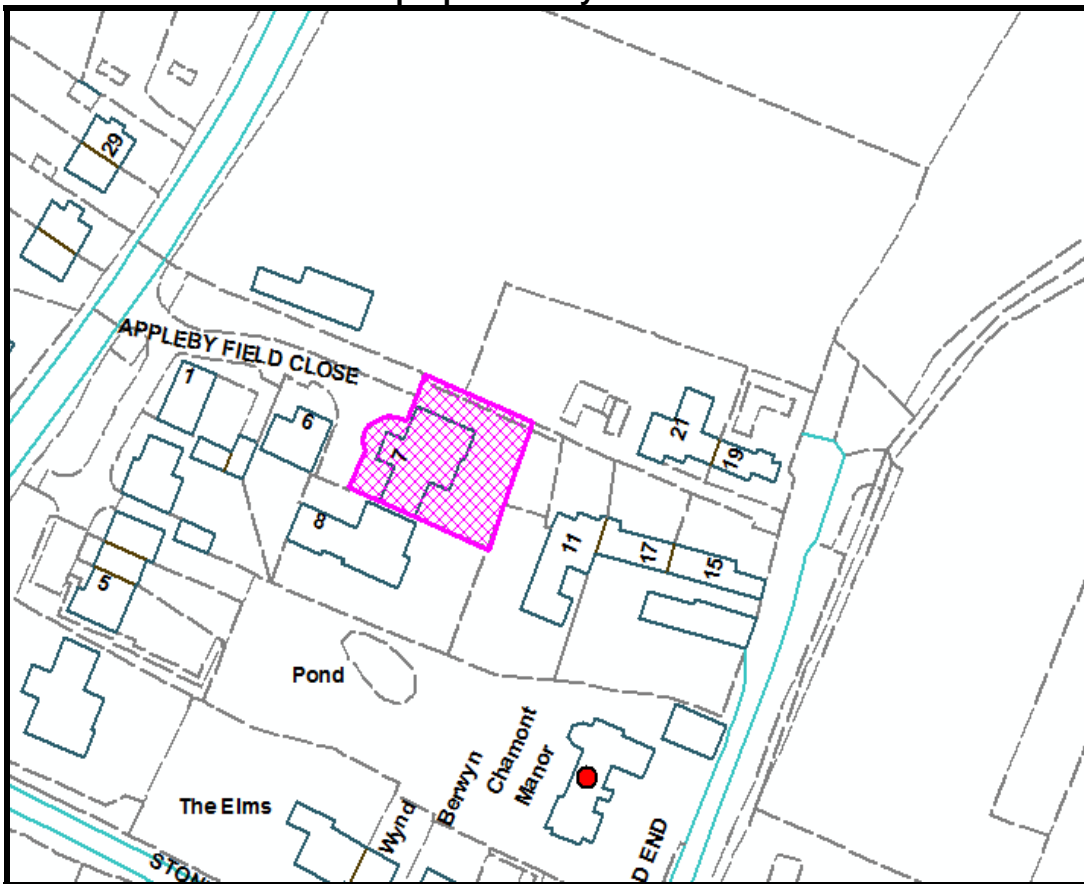
Case Officer:
Jenny Davies

Consultation Expiry:
28 December 2016

Recommendation:
PERMIT

8 Week Date:
11 January 2017
Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought before Planning Committee at the request of Councillor Blunt due to concerns regarding impact on residential amenities.

Proposal

Planning permission is sought to retain a first floor rear window to be openable to no more than 50mm and to not be fully obscure glazed at No. 7 Appleby Fields Close, Appleby Magna.

Consultations

Two letters of representation have been received which raise concerns regarding the proposal. No comments have been received from Appleby Magna Parish Council by the date of this report.

Planning Policy

The application site lies 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 and the adopted and submitted Local Plans and other relevant guidance.

Conclusion

On balance it is considered that a reason for refusal on the grounds of significant detriment to the occupiers of No. 17 Old End from direct overlooking of their private garden could not be justified in this case. The proposal would not adversely impact on the historic environment or the River Mease SAC/SSSI. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION - PERMIT subject to 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 to retain a first floor rear window to be openable to no more than 50mm and to not be fully obscure glazed at No. 7 Appleby Fields Close, Appleby Magna.

Full planning permission was granted in April 2015 (14/00830/FUL) for the erection of No. 7. Concerns were raised during the course of that application regarding the potential for direct overlooking of the garden to No. 17 Old End from this rear window. Amended plans were received showing the window to be obscure glazed and fixed shut, which was secured by condition 13, and required to be retained as such unless planning permission is first granted by the Council.

The window serves a bedroom and has three panes. The window faces east towards No. 17's rear garden, and is positioned 9.5 metres from the boundary between No. 7 and No. 17.

This application seeks to retain the application in the form that it has been installed to No. 7; with obscure glazing film stuck to the three panes with a 25mm clear edge to each pane, and all three window panes being openable to no more than 50mm (secured by restrictor mechanism). A request for amended plans to show all three panes to be fully obscured glazed has been made. However the agent has advised that the applicant wishes for the application to be determined as submitted. The submission of a planning application has arisen from an enforcement investigation into the installation of the window.

The boundary of the Appleby Magna Conservation Area runs along the boundary between Nos. 7 Appleby Fields Close and 17 Old End, and in part along the northern boundary to No. 7. Nos. 11, 15, 17 and 19 Old End are identified as unlisted buildings of interest in the Appleby Magna Conservation Area Appraisal. The Church of St Michael is a Grade 2* listed building. The site also lies in the catchment area for the River Mease Special Area of Conservation. The planning history for the site is set out in the reports for 14/00830/FUL and 13/00829/OUT and relates to residential development of the site.

The application was originally submitted as a variation to condition 13 on 14/00830/FUL. However given the wording of condition 13, which refers to the need for planning permission to first be granted to change the window, it is considered that the proposal can be the subject of a full application to retain the window.

2. Publicity

7 neighbours have been notified.

Site Notice displayed 2 December 2016.

Press Notice published Burton Mail 7 December 2016. Press Notice published Burton Mail 7 December 2016.

3. Summary of Consultations and Representations Received

Statutory Consultees

NWLDC Environmental Protection team has no environmental observations.

No comments have been received from Appleby Magna Parish Council by the date of this report. Any comments received will be reported on the Update Sheet.

Third Party Representations

Two letters of representation have been received which raise the following concerns:

- lack of privacy to garden area;
- the restrictions were put in place to protect the privacy of existing properties on Old End;
- the window not being fully obscure glazed and fixed shut was not properly followed up;
- disappointment that the original condition has been ignored and that the Council has failed to enforce the condition despite being informed of the breaches immediately as they occurred; and
- the scenario relating to the window has dragged on for some time and it has been very stressful;

The two letters also go on to make the following suggestion:

- the window could be allowed to open no more than 50mm but should be fully obscure glazed, as per the planning condition; and
- restrictions would need to be put in place to ensure that full obscure glazing is installed before the window could be opened.

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

4. 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 58 and 61 (Requiring good design)

Paragraphs 129, 131, 132, 133, 134, 135, 137 and 138 (Conserving and enhancing the historic environment)

Paragraphs 203 and 206 (Planning conditions and obligations)

Adopted North West Leicestershire Local Plan (2002):

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

Policy S1 - Overall Strategy

Policy E3 - Residential Amenities

Policy E4 - Design

Submitted North West Leicestershire Local Plan

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

Policy D1 - Design of New Development

Policy D2 - Amenity

Policy HE1 - Conservation and Enhancement of North West Leicestershire's Historic Environment

Other Guidance

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

National Planning Practice Guidance 2014

6Cs Design Guide - Leicestershire County Council

Appleby Magna Conservation Area Appraisal and Study (2001)

5. Assessment

The main issue for consideration in the determination of this application relate to the impact of the window on the residential amenities of nearby dwellings.

Residential Amenities

The window is situated 9.5 metres from the boundary with No. 17 Old End's rear garden. No. 17's garden is approximately 28.5 metres in length and a patio area is located approximately 10 metres from the boundary with No. 7 Appleby Fields Close. No. 17's garden slopes down gradually from west to east, with No. 7 being sited at a slightly higher land level. The boundary between the two dwellings is formed by a horizontal close boarded fence which is around 1.8 metres high, with mature trees and young conifer trees located on No. 17's side of the boundary.

The obscure glazing largely screens No. 17's garden from view from No. 7's window. However No. 17's garden is visible through the clear gaps around the edge of each window pane. When standing away from the window it is considered that there is not a clear view of the garden, due to the size of the clear gaps and the distance from the window. Clearer views of No. 17's garden are however available when standing immediately adjacent to the window sill or immediately adjacent to the window itself.

However views of the garden are screened in part by the boundary fence and mature silver birch tree, and mostly by the conifer trees when grown above the top of the fence. It is acknowledged that the screening provided by the silver birch tree is much less during the winter months. However most of the screening is provided by the conifer trees, which remain evergreen during the winter months. In August 2016, the conifer trees had grown up to a metre above the fence, which provided a screen to No. 17's garden so that whilst the garden was visible, a direct open view was not available. In December 2016 and February 2017, the conifer trees were at a lower height, approximately in line with the top of the fence, thereby providing less screening and a more open view of the garden. The conifer trees are within No. 17's garden and it is acknowledged that these trees could be removed or kept at a lower height. However even if this was the case and a clear view of No. 17's garden is available, this would occur only if standing immediately adjacent to the window itself or the window sill, as further back into the room the clear view recedes. Furthermore a narrow view of the garden is only available at six points in the window, given the size of the clear gaps. In addition No. 17's garden is long in length, and the patio area (which is most likely to be used in the warmer months) has some screening from other vegetation.

No. 17's garden is not visible through the gap made when the panes are opened to 50mm, due to the narrowness of the open gaps and the direction of the view through these gaps. It is acknowledged that the window restrictors that prevent the panes from being opened fully could

be over-ridden. However it is considered that a precise, enforceable and reasonable condition could be imposed requiring the panes to be open no more than 50mm, which is measurable and discernible from No. 17's garden. In addition a separate emergency escape window to the room has been approved under the Building Regulations, and its other two side windows and rooflights are not obscure glazed and are openable, and so provide light and ventilation.

Views are available towards Nos. 11 and 21 Old End from the window, including when the panes are opened to 50mm. However there is screening from vegetation on the boundary, the window is approximately 11 metres from the boundaries and at least 18 metres from Nos. 11's and 21's nearest windows, and both dwellings have a large private garden, with No. 21's mostly located to the north of No. 21.

It is also acknowledged that there is likely to be a perception of being overlooked by the window from No. 17's garden, although the extent of the obscure glazing is apparent from No. 17's garden. However it is not unusual for rear windows to face towards, and overlook, adjoining private gardens and this occurs in various locations throughout the village.

On this basis, on balance it is considered that a reason for refusal on the grounds of significant detriment to the occupiers of No. 17 from direct overlooking of their private garden could not be justified in this case.

Other Matters

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects a listed building or its setting or a conservation area, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess, and to the desirability of preserving or enhancing the character or appearance of a such an area. Paragraph 131 of the NPPF requires, amongst other things, new development to make a positive contribution to local character and distinctiveness. Paragraph 132 of the NPPF stipulates that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The boundary of the Appleby Magna Conservation Area runs along the boundary between Nos. 7 Appleby Fields Close and 17 Old End, and in part along the northern boundary to No. 7. Nos. 11, 15, 17 and 19 Old End are identified as unlisted buildings of interest in the Appleby Magna Conservation Area Appraisal. The Church of St Michael is a Grade 2* listed building and is visible in views along Measham Road, although is not visible in views of the window from the Conservation Area. Therefore the impact of the development on the setting of the listed building and Conservation Area should be given special regard as required by the 1990 Act.

The Conservation Area Appraisal states that 'The buildings in the Black Horse Hill/Old End area superficially largely appear to be of a late eighteenth/early nineteenth century date and many are in the local vernacular building tradition. The location of many properties on Old End at right angles to the road suggests that they may be of even earlier origin. Buildings are largely constructed of local red brickwork with blue clay plain tile roofs.'

Significant weight is given to preserving the setting of the Grade 2 listed buildings and Conservation Area. The window is not seen in the setting of the listed church and the alterations to the window do not significantly change the design of No. 7 from the approved scheme. As such it is considered that the proposal would not adversely impact on the heritage assets.

Whilst the site lies within the catchment area of the River Mease Special Area of Conservation (SAC)/SSSI, the changes to the window would not result in additional foul or surface water discharge from the site.

Conclusion

In conclusion, on balance it is considered that a reason for refusal on the grounds of significant detriment to the occupiers of No. 17 from direct overlooking of their private garden could not be justified in this case. The proposal would not adversely impact on the historic environment or the River Mease SAC/SSSI. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION, PERMIT subject to the following conditions:

1. **Plans condition**
2. **Obscure glass**
3. **Window restrictor**

This page is intentionally left blank