

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 6 June 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 Council is aware that planning applications may be controversial and emotive for those affected by the decisions made by this Committee. However all persons present are reminded that the Council will not tolerate abusive or aggressive behaviour towards staff or other visitors attending this meeting and anyone behaving inappropriately will be required to leave the meeting and the building.

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 9 May 2017.	3 - 6
4.	PLANNING APPLICATIONS AND OTHER MATTERS	
	Report of the Head of Planning and Regeneration.	7 - 10



Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	17/00284/OUT: Erection of one self build dwelling (outline - means access and layout for approval) Barn Farm Babelake Street Packington Ashby De La Zouch Leicestershire LE65 1WD	REFUSE	11 - 24
A2	17/00381/FUL: Subdivision of 5 bedroom dwelling into a two bedroomed dwelling and a three bedroomed dwelling, and change of use of agricultural land to residential curtilage to provide parking 70 Elder Lane Griffydam Coalville Leicestershire LE67 8HD	PERMIT	25 - 34
5.	TO CONSIDER THE MAKING OF A TREE PRESERVATION ORDER ON LAND AT 23A ASHBY ROAD DONISTHORPE Report of the Head of Planning and Regeneration.		35 - 38

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 9 MAY 2017

Present: Councillor D J Stevenson (Chairman)

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

In Attendance: Councillors T J Pendleton

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

121. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor R Boam and M Specht

122. DECLARATION OF INTERESTS

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

Councillor D Harrison declared a non-pecuniary interest in the meeting as a newly elected Member of Leicestershire County Council.

123. MINUTES

Consideration was given to the minutes of the meeting held on 4 April 2017.

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

RESOLVED THAT:

The minutes of the meeting held on 4 April 2017 be approved and signed by the Chairman as a correct record.

124. 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.

125. A1 17/00174/REM: ERECTION OF ONE SELF BUILD DWELLING (RESERVED MATTERS TO OUTLINE PLANNING PERMISSION 16/00612/OUT)

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

Officer's Recommendation: PERMIT

The Senior Planning Officer presented the report to Members.

The officer's recommendation was moved by Councillor G Jones and seconded by Councillor J Legrys

RESOLVED THAT:

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

126. A2
17/00312/FUL: RAISING OF ROOF HEIGHT TO CREATE A SECOND FLOOR
(REVISED SCHEME)

Elm Cottage 28 Hill Street Donisthorpe Swadlincote Derby DE12 7PL

Officer's Recommendation: REFUSE

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

Mr R Sutherland, applicant, addressed the meeting. He informed Members that the planned extension would transform the property whilst blending in with the surrounding area and would address inadequate insulation in the property. He highlighted to Members that the village had a mix of dwellings with no trend with regards to design, the property was not listed or in a conservation area and that the neighbours were in full support of the proposed development. He stated that the existing house was in a dip below the driveway, and that he intended to use reclaimed bricks and the original roof tiles. He advised Members that the property had been brought as a family home with a large garden for the family to enjoy. As personal circumstances had changed the family now required more living space to enable care to be given to a family member and for Mr Sutherland's daily treatment following an injury that he had sustained during active service, but they did not want to lose part of the garden. The proposed extension would give a bedroom and bathroom, which a side extension would not, and would provide work to local businesses. Another home nearby has permission for a similar extension.

The officer's recommendation was moved by Councillor G Jones and seconded by Councillor J Legrys.

Councillor D Harrison stated that he had been moved by the speaker. Members had noted that, once built, the materials would not match, but the Committee had noted that existing materials did not match, and that was not uncommon in the wider area. He felt that the application was a genuine family need and more consideration should be given to the applicant's needs. In his opinion the proposal was not an outrageous planning breach. He did not think that the proposed increased height of the property outweighed the freedom and benefit to the family, and that he would vote in favour of granting permission.

Councillor J Bridges congratulated officers on the report and understood the reason for recommending that the application be refused. He stated that upon listening to the speaker, he felt that, with the right conditions imposed, the property could be sympathetically extended. He stated that the application would benefit the family and on the basis that necessary conditions were imposed he was in favour of the application and, as such, would be voting against the officer's recommendation.

Councillor J Legrys stated that Members were between a rock and a hard place as officers had bent over backwards to help the applicant which was to be commended. His concern was in respect of design and felt that if the applicant and officers were to further discuss the application a solution could be found.

Councillor D Everitt stated that if the proposed extension had been a side extension then it would not have been an issue. However, as the proposed extension was upwards if granted planning permission and built, the property would be higher than other properties in the area. In his opinion he had not heard why the property could not be developed by way of a side extension. He felt that, having been out on the site visit and seen the property, the front door had been blocked up unsympathetically. He felt that the Committee should stick with the officer's recommendation in the hope that a more suitable proposal could be submitted and considered.

Councillor M B Wyatt felt that it would be wrong to refuse the application as there was a genuine family need and, as such, should be supported.

Councillor R Canny said that she, too, had been moved by the applicant's comments and stated that she was a long term hater of developing in gardens and was therefore in favour of the proposed development. She stated that the applicant's personal circumstances had changed hence the application. She would be voting against the recommendation.

Councillor G Jones stated that he endorsed the comments made by Councillors J Legrys and D Everitt. He felt that the extension would detract from the street scene and that a side extension would be better than the proposal to raise the roof height to create a second floor

The Head of Planning and Regeneration advised the Committee that the design and appearance of the application was of concern to the Council, and that this was one of the reasons why the application had been recommended for refusal.

Councillor D J Stevenson stated that he had listened carefully and felt that building out and taking away good garden land was a planning matter. He felt that in the location the additional height would not be noticeable. He added that the proposed development may not be the cheapest option, but it was the best option for the family.

The motion to refuse the application was put to the vote and LOST.

It was moved by Councillor J Bridges and seconded by Councillor D Harrison that the application be permitted subject to the imposition of conditions relating to materials on the ground that the proposed development did not significantly or detrimentally change the appearance of the property, it ensured the garden area would remain, in an area that was in the heart of the National Forest and would ensure that the property would remain sustainable by securing improved loft insulation.

RESOLVED THAT:

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

127. 5. PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT LAND AT MEASHAM ROAD, APPLEBY MAGNA
Report of Head of Planning and Regeneration

Officer's Recommendation:

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

In response to a question from Councillor D J Stevenson, the Affordable Housing Enabling Officer advised Members that this had been a long drawn out application but the solution before them was the best option. She stated that the site was one of three in the village and that the other two developments were providing affordable housing in the form of low cost home ownership and an offsite commuted sum payment. She informed Members that in accepting a reduced number the affordable housing on this site the homes would be provided at an affordable rent which would help to secure a balanced mix of affordable homes to suit different needs across the current developments in the village. She also informed Members that the one and two bedroom properties provided would also meet the identified affordable need in the area. While Officers had hoped to secure a better mix of

affordable housing on this particular site circumstances have prevented this and having some units, as would be the case if this application was granted, was better than having nothing.

In response to a question from Councillor J G Coxon, the Affordable Housing Enabling Officer advised Members that the mix of units would be 4 no. 1 bed maisonettes and 3 no. 2 bed houses.

Councillor J G Coxon stated that he did not agree with the 1 bed units.

Councillor D J Stevenson stated that the 1 bed homes had been requested due to the need in the area.

Councillor R Adams sought assurance that the homes would be occupied by people on the District Council's waiting list. The Affordable Housing Enabling Officer confirmed this would be the case.

Councillor D Harrison expressed concerns over the number of reports that the Committee was having to consider in regards to amending affordable housing obligations, and that it would continue if the Council agreed to the amendments each time, adding that it made a mockery of the Council's stance on affordable units. He stated that he knew the site in question and that there were substantial 5 bed houses, but affordable housing was much needed. He proposed that a premium of £5 - £10k should be paid to the Parish to stop the constant change to consents once they had been given.

The amendment to the motion, as proposed by Councillor D Harrison, was not seconded.

The Head of Planning and Regeneration informed Members that the rules surrounding changes to affordable housing obligations were set by Central Government. Therefore, upon registered providers advising the Council that they were facing difficulties in financing the scheme, the Council was under an obligation to enter into negotiations with the registered providers. He stated that it was not a case of rolling over but weighing up the pros and cons of each proposed amendment, and adding that a contribution or payment to the Parish was not without merit but for the purposes of the affordable housing consideration in front of the Committee it would not be compliant under the CIL Regulations.

Councillor J Legrys stated that Councillor D Harrison had hit the nail on the head, however regulations stated that the developer was entitled to ask us to consider accepting revised planning obligations due to the current market situation. He further highlighted that the changes had been approved by the District Valuer and that he would rather have seven units rather than none.

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

RESOLVED THAT:

The substitution of the existing affordable housing obligations by the provision of 7 units in accordance with the house type and tenure mix as set out in the report by agreed.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 5.09 pm

APPENDIX B

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

6 June 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.

Erection of one self build dwelling (outline - means access and layout for approval)

Report Item No
A1

Barn Farm Babelake Street Packington Ashby De La Zouch
Leicestershire LE65 1WD

Application Reference
17/00284/OUT

Applicant:
Mr & Mrs K Wathes

Date Registered:
14 March 2017

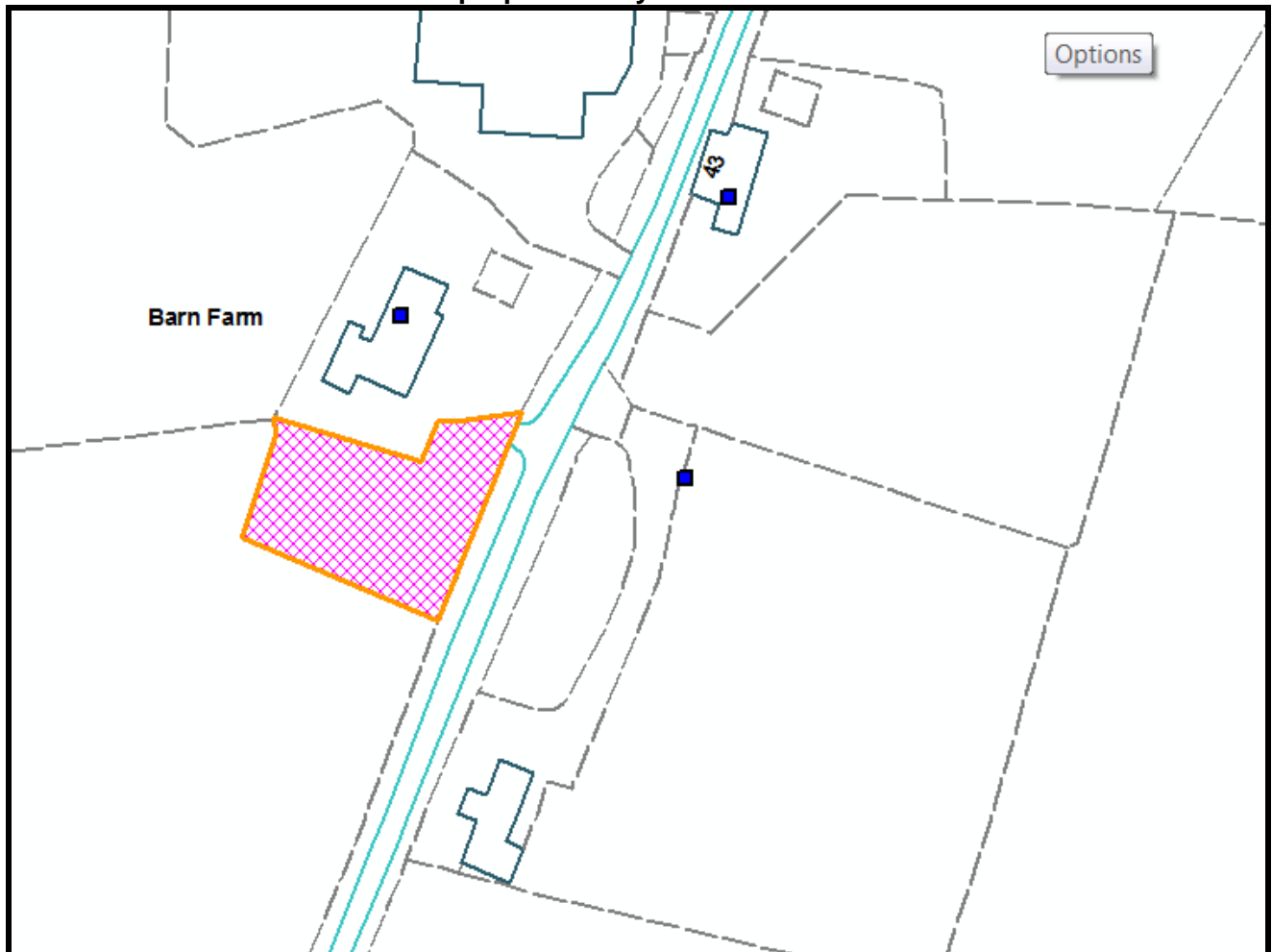
Case Officer:
Adam Mellor

Consultation Expiry:
20 April 2017
8 Week Date:
9 May 2017

Recommendation:
REFUSE

Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought to the Planning Committee at the request of Councillor Nigel Smith on the basis that permission has been granted for a dwelling on the opposite side of Babelake Street, that the family reside in the settlement and the extra accommodation obtained pursuant to the application is needed to help sustain the farm and permission has been granted for other sites outside the Limits to Development previously.

Proposal

Outline planning permission is sought for the erection of a self-build dwelling at Barn Farm, Babelake Street, Packington with means of access and layout for approval at this stage. The 0.05 hectare sized site is situated on the western side of Babelake Street and is outside the defined Limits to Development.

Consultations

One individual representation has been received which neither objects to nor supports the development proposals. Packington Parish Council objects to the application. All other statutory consultees, with the exception of the Environment Agency, 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 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 which should be protected for its own sake. 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 Policies S2 and S3 of the submitted Local Plan. Policy S2 of the submitted Local Plan also identifies that in Packington the limited amount of growth which would take place will be within the Limits to Development.

The layout of the proposal as submitted would result in a density of development which would be significantly higher than that established in the immediate area. On this basis the form of development would be discordant and incongruous with the local pattern of development and create a proposal which is cramped and constrained in the context of the spaciousness afforded to dwellings. This is compounded by the sites prominence. As a result of this there would be significant harm to the character and appearance of the streetscape. On this basis the development would fail to integrate into the environment in which it is set contrary to the environmental strand of sustainability, in particular the aims of Paragraphs 57, 61 and 64 of the

NPPF, as well as Policies E4 and H7 of the adopted Local Plan and Policy D1 of the submitted Local Plan. As the development would be partly on residential garden and would result in harm to the visual amenities of the local area it is also considered that the development would conflict with Paragraph 53 of the NPPF.

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 one self-build dwelling with means of access and layout for approval at Barn Farm, Babelake Street, Packington. The 0.05 hectare sized site is situated on the western side of Babelake Street and is outside the defined Limits to Development. The surrounding area is predominately rural in nature, being defined by open countryside and paddocks, with the main settlement of Packington being to the north east.

It is proposed that a detached dwelling would be created to the south of Barn Farm on land currently utilised for agriculture, as well as being a residential garden to Barn Farm, and which would cover a ground area of 94.32 square metres. Whilst scale is not for approval at this stage the indicative elevations suggest that the dwelling would be two-storey in height by providing habitable accommodation in the roof slope.

In terms of vehicular access this would be gained via an existing access off Babelake Street with two off-street parking places being provided externally. Manoeuvring facilities would also be accommodated within the site.

Within the planning statement it is specified that the proposed dwelling is for the applicants with their son (Matt Wathes) and his family occupying Barn Farm due to him being required to assist in the day to day running of the current agricultural operation on a more permanent basis.

A highway statement, River Mease SAC statement and planning statement have been submitted in support of the application.

The only other recent application was associated with an agricultural prior notification for the erection of an agricultural storage building where no objections were raised on the 23rd April 2014.

2. Publicity

Two neighbours notified 30 March 2017.

Press Notice published Leicester Mercury 5 April 2017.

Site Notice posted 05 April 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.

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

Leicestershire County Council - Archaeology has no objections.

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

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

Natural England has no objections subject to conditions.

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

Packington Parish Council object to the application as the proposal "*represents inappropriate ribbon development and is outside the defined Limits to Development.*"

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 which appears to provide a character reference for the applicant's son and is therefore considered to neither support nor object to the development proposals given that it has no planning basis.

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);
Paragraphs 32, 34 and 39 (Promoting sustainable transport);
Paragraphs 49 and 55 (Delivering a wide choice of high quality homes);
Paragraphs 57, 60, 61 and 64 (Requiring good design);
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);
Paragraphs 118, 120 and 121 (Conserving and enhancing the natural environment);
Paragraph 141 (Conserving and enhancing the historic environment); and
Paragraphs 203 and 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 - General Policy;
Policy F2 - Tree Planting;

Policy F3 - Landscaping and Planting;
Policy T3 - Highway Standards;
Policy T8 - Parking;
Policy H6 - Housing Density; 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 En2 - River Mease Special Area of Conservation;
Policy En3 - The National Forest;
Policy En6 - Land and Air Quality;
Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;
Policy Cc2 - 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.

River Mease Water Quality Management Plan - August 2011.

The River Mease Developer Contributions Scheme (DCS).

The Community Infrastructure Levy Regulations.

5. Assessment

Principle of Development

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

The application site lies 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 advises that Packington is a Sustainable Village where a limited amount of growth will take place within the defined Limits to Development.

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 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. Ashby De La Zouch is also located around 1.7km from the site, where a wider range of services can be found. Whilst there is no footway along this part of Babelake Street, it has a relatively low traffic flow with verges and footways being available further along the road. Furthermore, there are several public footpaths leading off the road linking to the village and National Forest plantations, and the road is used by cyclists, walkers and horse riders from the nearby Champneys spa and stables. On this basis there are opportunities to walk to the village from the site along a route which is already in use by pedestrians and other non-car users. Therefore, it is considered that occupiers of the dwelling would not necessarily be dependent on the private car in order to access basic services with the proposed dwelling assisting in sustaining the available services in the village 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 mainly agricultural land, with part of the garden associated with Barn Farm also being included in the application site area, both of which would be 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 criteria of Policy S3 of the submitted 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.

The supporting statement specifies that the proposed dwelling is not an "agriculturally tied dwelling" with limited information provided on why the dwelling is proposed in the location which has been selected. If a dwelling is required to support a farm the Annex, previously associated with the now cancelled Planning Practice Guidance (PPG) 7, is still considered to provide a reasonable basis for an assessment in respect of the issues to be considered for such dwellings. In such a scenario it would be expected that an application for such a dwelling would be accompanied by information setting out the functional and financial case for the need for a dwelling on the site. As no such information has been submitted, and the application has not been made wholly on this basis, limited weight is attached to dwelling being essential to the agricultural use undertaken.

The application site is detached from the Limits to Development and partly comprises residential garden as well part of an agricultural field, which is visually linked with further agricultural land beyond its southern, western and north-western boundaries, and which are defined by low level hedges and post and wire fencing. This open and undeveloped environment is considered to be its defining characteristic and therefore contributes positively to the character and appearance of the local landscape. A residential development, combined with its associated infrastructure, would diminish this present open character by urbanising the site and would represent an incongruous encroachment into the rural environment particularly given that the western side of Babelake Street remains largely undeveloped, and there is no overriding need for this type of proposal to come forward on the site. The development would also extend the extent of the built environment in a southern direction and, in a way, represents an inappropriate form of ribbon development which conflicts with the aims of Policy S3 of the submitted Local Plan. There is also no justification provided as to why the dwelling is required to be positioned in this particular location, rather than elsewhere on land within the ownership of the applicant which may have less implications to the rural environment.

Whilst it is acknowledged that permission has been granted for a dwelling on the eastern side of Babelake Street, under application references 16/00612/OUT and 17/00174/REM, it is considered that the circumstances of that site are somewhat different to the application site as this proposal would result in an unwarranted extension of residential development further southwards than that which currently exists on Babelake Street with Barn Farm currently defining the furthest extent of dwellings on this part of the highway. In addition, the recently approved dwelling on the eastern side of Babelake Street is located on a site where mature landscaping visually screens the property and reduces its integration with the wider rural environment.

It is also considered that the proposal would have design implications to this part of Packington, which are discussed in more detail below, and it remains a fundamental tenet of the planning system that each application be assessed on its own merits.

On the basis of the above 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.

Although 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 its association with the existing dwelling at Barn Farm.

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 proposed development 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 Classes 2 (Very Good) and 3 (Good to Moderate) and whilst the NPPF does not suggest that the release of a 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 (0.05 hectares), it is considered that this is not sufficient to sustain a reason for refusal against Paragraph 112 of the NPPF in this case.

The site is also partly 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, and results in harm to the character and appearance of the streetscape, as assessed below, it is considered that there would be a conflict with Paragraph 53 of the NPPF.

Impact on the Character and Appearance of the Streetscape and Density

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

At present the application site is an open agricultural field with land levels which rise from east to west and south to north. The western side of Babelake Street beyond Barn Farm remains largely undeveloped with the equestrian uses which exist, and only other existing dwelling (no. 43), being contained to the eastern side of the highway. Barn Farm and no. 43 Babelake Street both present their principal elevations to the highway but are set at differing proximities to Babelake Street.

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 dwelling would be orientated to address Babelake Street and whilst it would be closer to the highway than Barn Farm it is considered that no. 43 Babelake Street abuts the highway and the dwelling permitted under application references 16/00612/OUT and 17/00174/REM is further from the highway than both Barn Farm and no. 43. Given the variety in the proximity of dwellings to the carriageway it is considered that its proximity 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 the dwellings which exist in the area, including that permitted under application references 16/00612/OUT and 17/00174/REM, are located within plots of land which

are large and provide a degree of spaciousness around the property with densities of 5.2 dwellings per hectare (new dwelling on eastern side of Babelake Street), 10 dwellings per hectare (Barn Farm) and 14.3 dwellings per hectare (no. 43 Babelake Street). By contrast the proposed dwelling would be situated on a plot of land which would result in a density of 20 dwellings per hectare which would be significantly higher than that established in the area and not provide an opportunity to create the spaciousness around the proposal which is a characteristic of the area. On this basis the form of development would be discordant and incongruous with the pattern of development and create a proposal which is cramped and constrained in the context of the spaciousness afforded to dwellings close by. As a result of this there would be significant harm to the character and appearance of the streetscape with this harm being compounded by the prominence of the property when travelling in both directions along Babelake Street.

As the land is partly 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 local area.

With regards to the appearance of the dwelling this would be agreed at the reserved matters stage, should outline permission be granted, and at this point an appropriate design could be achieved which would accord with the Council's current design agenda by providing a scheme which responds to the positive characteristics of dwellings within the area.

Overall the proposed development would result in conflict with the environmental strand of sustainability, as well as Paragraphs 61 and 64 of the NPPF, Policies E4, H6 and H7 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

Accessibility

The County Highways Authority have raised no objections subject to their standing advice being considered.

The site is located on a straight stretch of Babelake Street within a 30mph zone. A supporting highway statement has identified that the applicant's son is responsible for running the farm, with the applicants themselves assisting him, and at present he has to travel between 2 to 3 times a day from his current residence in Donisthorpe in order to carry out this work. It is intended that the applicants would reside in the proposed dwelling with their son and his family then residing in Barn Farm. On this basis it is considered that any additional movements on Babelake Street from the new dwelling would be off-set by the removal of vehicle movements by the applicants son between the site and Donisthorpe and therefore there would not be a significant increase in vehicular movements on Babelake Street which would be considered to be of severe detriment to highway safety.

It is, however, acknowledged that the suitability of the proposal under application reference 16/00612/OUT (on the opposite side of Babelake Street) was on the basis that a condition was imposed to ensure that the dwelling was not severed from the use of the site for the keeping of horses in order to prevent an increase in vehicular movements. Given the imposition of such a condition on that permission it is considered reasonable to impose a similar restriction, should outline consent be granted, specifying that the proposed dwelling should only be occupied by anyone associated with the farming operations undertaken.

In respect of the access arrangements it is proposed that one of the existing accesses would be adapted to be solely used by the new dwelling with the other access only being connected with

Barn Farm. This access has visibility splays of 60 metres in a northwards direction and 100 metres in a southern direction and these would be considered sufficient on a highway where the speed limit is 30mph with the longest visibility splay being in a direction where the speed of vehicles would reduce from 60mph to 30mph. Given that the proposed access has previously been associated with the movements of one dwelling it is considered that it is of a sufficient width to cater for domestic vehicles with relevant manoeuvring facilities being provided within the site so as to enable vehicles to exit in a forward direction.

On the basis that there would not be a severe impact on highway safety it is considered that the proposal accords with Paragraph 32 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF4 of the submitted Local Plan.

The plans indicate the provision of two off-street parking spaces which would be considered sufficient for a property with up to three bedrooms, on the basis of the 6Cs Design Guide. On this basis 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 dwelling which would be directly impacted on as a result of the development would be Barn Farm (within the ownership of the applicants) which is a single storey detached property.

On the basis of the submitted layout plan the dwelling would be set to the south-east of Barn Farm at a distance of 9.4 metres from the closest habitable room window (located on the south-eastern (side) elevation). It is considered that the position of the dwelling would not result in any significantly adverse overbearing or overshadowing impacts to the amenities of Barn Farm although the full extent of any impact could only be undertaken once the height of the dwelling was known. Therefore, a more definitive conclusion would be reached on this matter under a subsequent reserved matters application should permission be granted. It is also not possible for a judgement to be made on any potential overlooking impacts until such time as the floor plan of the dwelling is known which would not be until the reserved matters stage.

It is also considered that the future amenities of any occupant of the proposed dwelling would not be adversely impacted on by the relationship with Barn Farm particularly given that this dwelling is single storey in height and is orientated to the north-west.

Whilst no representation has been received from the Council's Environmental Protection it is noted that the initial occupants would be associated with the farming activity undertaken on the site and as such would not be concerned with any noise or smell implications connected with such a use. Also the imposition of a condition on any permission granted limiting the occupancy of the dwelling to anyone associated with the agricultural operations from the site, which would be required from a highway safety perspective, would also ensure that any future occupant would be generally familiar with the environment created from residing in close proximity to a farming operation.

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.

Ecology

The County Council Ecologist has raised no objections subject to the hedgerow to the site's front boundary being retained as it is identified as a Local Wildlife Site. On the basis of the site layout the dwelling would be set at least 5 metres from this hedgerow, at its closest point, which

would ensure that the built form would not impact on its integrity. An existing access into the site would also be utilised. Subject to the imposition of the suggested condition of the County Council Ecologist the proposal would accord with Paragraph 118 of the NPPF, Circular 06/05 and Policy En1 of the submitted Local Plan.

Landscaping

In order to facilitate the development it would be necessary to remove a hedge, which exists internally within the site, and two trees. None of the vegetation to be removed is considered to contribute significantly to the visual amenities of the streetscape or wider area and as such its removal would be acceptable. It would also be possible to secure replacement planting as part of the landscaping proposals presented at the reserved matters stage should outline permission be granted.

On this basis the proposal would accord with Policies E7, F1, F2 and F3 of the adopted Local Plan and Policy En3 of the submitted Local Plan.

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.

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

As the site is over 30 metres from the nearest public sewer and the applicant does not have permission to connect to a nearby private sewer a package treatment plant is proposed to be utilised in connection with the dwelling and which would discharge treated water into soakaways and would be required to be emptied once a year. The existing dwelling is served by a septic tank.

Natural England advises that the Council should satisfy itself that there would be no harmful discharges of foul or surface water from the site into the River Mease or its tributaries (which includes the Gilwiskaw Brook). No representation has been received from the Environment Agency but it is noted that they did not object to the application associated with the dwelling constructed on the opposite side of Babelake Street (under application reference 16/00612/OUT) which proposed the use of a septic tank or cess pool. The management of a package treatment plant would be dealt with by the Environment Agency as 'competent authority' under the Environmental Permit system. Furthermore none of the Severn Trent Water (STW) treatment works in the SAC catchment area accept foul waste from licensed waste collectors, which STW have previously advised on and this arrangement is to continue in perpetuity. Given the distance from the site to the Gilwiskaw Brook (in excess of 150 metres) it is considered that the effluent discharged from the package treatment plant and any surface water drainage solution would not adversely impact on the SAC/SSSI. A condition could be imposed requiring discharge of surface water to a sustainable drainage system.

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.

Archaeology

The County Council Archaeologist has raised no objections to the application and does not consider any archaeological investigations will be required. On the basis that archaeology would not act as a constraint on the development the proposal would accord with Paragraph 141 of the NPPF and Policy He1 of the submitted Local Plan.

Other Matters

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. As identified above the proposed dwelling cannot connect to the mains sewer and consequently the second most preferable non-mains drainage solution (a package treatment plant) has been selected. It is considered that the use of such a system on this site would not set a precedent for non-mains drainage on other sites, given the circumstances, and consequently this solution would be acceptable.

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 which should be protected for its own sake. 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 Policies S2 and S3 of the submitted Local Plan. Policy S2 of the submitted Local Plan also identifies that in Packington the limited amount of growth which would take place will be within the Limits to Development.

The layout of the proposal as submitted would result in a density of development which would be significantly higher than that established in the immediate area. On this basis the form of development would be discordant and incongruous with the local pattern of development and create a proposal which is cramped and constrained in the context of the spaciousness afforded to dwellings. This is compounded by the sites prominence. As a result of this there would be significant harm to the character and appearance of the streetscape. On this basis the development would fail to integrate into the environment in which it is set contrary to the environmental strand of sustainability, in particular the aims of Paragraphs 57, 61 and 64 of the NPPF, as well as Policies E4 and H7 of the adopted Local Plan and Policy D1 of the submitted Local Plan. As the development would be partly on residential garden and would result in harm to the visual amenities of the local area it is also considered that the development would conflict with Paragraph 53 of the NPPF.

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 Packington a limited amount of growth will take place within the Limits to Development. 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 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 National Planning Policy Framework (NPPF) defines sustainable development and provides that the planning system needs to perform an environmental role, including contributing to protecting and enhancing our built and natural 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 development to respect the character of its surroundings. Policy H6 of the adopted Local Plan also indicates that when assessing density it is important to factor into the assessment, amongst other things, the good principles of design and layout which respect the local context. Paragraph 53 advises that inappropriate development on residential gardens should be resisted. It is considered that the proposed density of development, which would be significantly higher than that established in the immediate area, would be discordant and incongruous with the pattern of development on Babelake Street and create a proposal which is cramped and constrained in the context of the spaciousness afforded to dwellings, particularly given the site's prominence. The development would also partly be on residential garden and would result in harm to the local area. On this basis the proposal fails to integrate into the environment in which it is set contrary to the environmental strand of sustainability, and in particular the aims of 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.

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.

Subdivision of 5 bedroom dwelling into a two bedroomed dwelling and a three bedroomed dwelling, and change of use of agricultural land to residential curtilage to provide parking

Report Item No
A2

70 Elder Lane Griffydam Coalville Leicestershire LE67 8HD

Application Reference
17/00381/FUL

Applicant:
Mr George Denoon

Date Registered:
19 April 2017

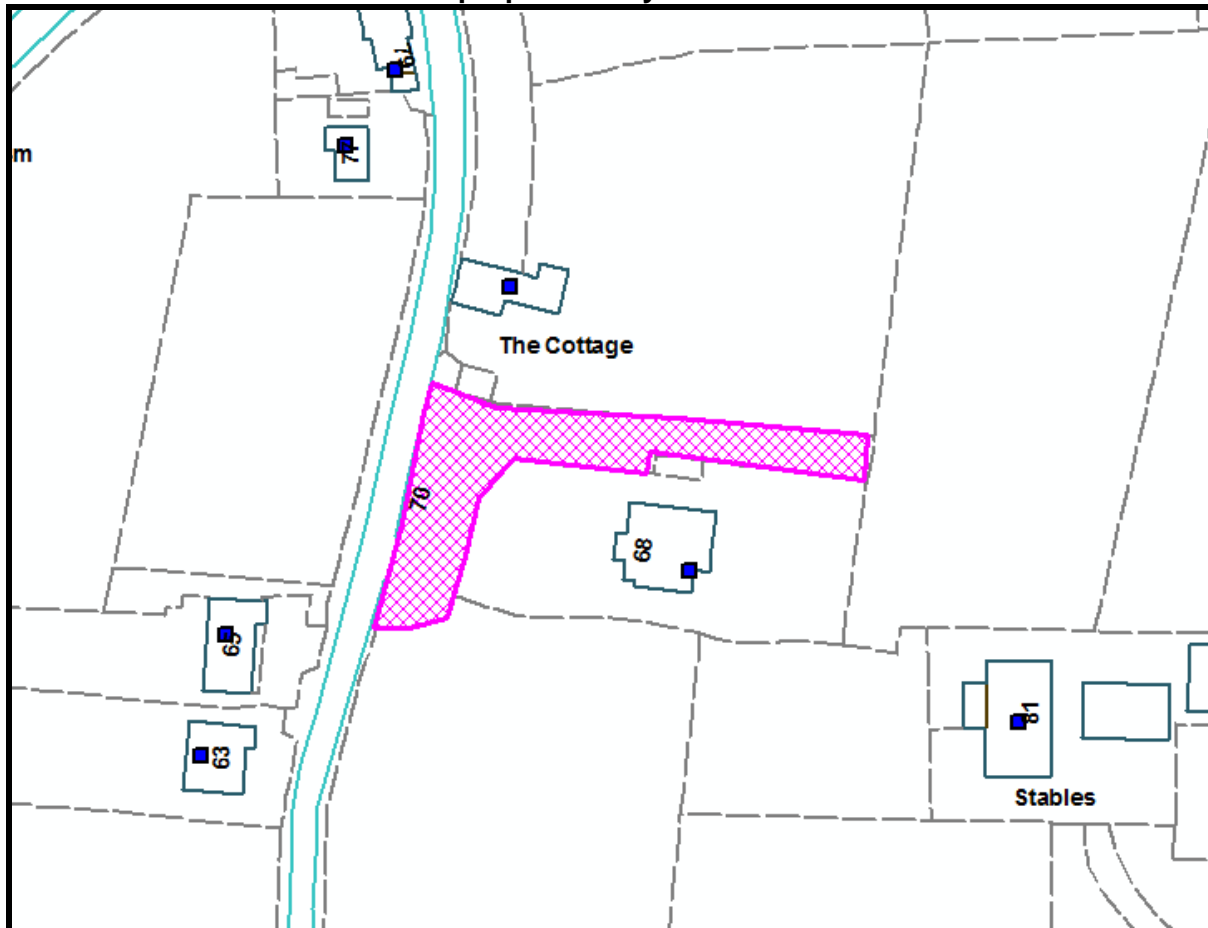
Case Officer:
Hannah Exley

Consultation Expiry:
11 May 2017

Recommendation:
PERMIT

8 Week Date:
14 June 2017
Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

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

Proposal

Planning permission is sought for the subdivision of an existing property (including minor external alterations) into two separate dwellings at 70 Elder Lane, Griffydam. The proposal also includes the change of use of part of a neighbouring agricultural field owned by the applicant to provide off-street parking and turning for the proposed dwellings.

Consultations

Seven letters of representation have been received; six of which are supportive of the development proposals and one is supportive of the proposals with some concerns. All statutory consultees, with the exception of Worthington Parish Council whose comments are awaited, have raised no objections.

Planning Policy

The application site is located outside the Limits to Development as defined in the adopted Local Plan and outside the limits in 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 site lies outside the Limits to development and whilst proposals relating to the conversion of existing buildings are acceptable in principle, the change of use of land to domestic curtilage would conflict with the restrictive countryside Policies S3 of the adopted and submitted local plans. However, the NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. In this instance, the proposed scheme is considered to comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable. The scheme does not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, ecology or highway safety. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION - PERMIT, subject to conditions and subject to no contrary representations being received by 22nd June 2017.

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 subdivision of an existing property into two separate dwellings at 70 Elder Lane, Griffydam. The subject property is a detached two storey dwelling with five bedrooms, and is one of a group of 8 dwellings located at the northern end of Elder Lane. The subject property is located within Limits to Development as defined by the adopted and submitted Local Plans.

In terms of external alterations the scheme would include for the removal of a garage door and insertion of a window and a door (with canopy) at ground floor level in the front elevation and a new ground floor window in the rear elevation.

The property currently has one parking space available within the site within the garage which conforms with highway standards. Although there is a driveway to the front of the dwelling, which is currently used for the parking of one vehicle, it has been established during the course of the application that the existing driveway and front boundary currently encroach into highway land as the highway boundary aligns with the front gable of the existing dwelling.

The proposal also includes the change of use of part of a neighbouring agricultural field owned by the applicant to provide off-street parking and turning for the proposed dwellings.

Relevant planning history:

08/01363/FUL - Change of use of premises to livery stables including alterations to existing barn, erection of horse walker and formation of new access off Top Road (Permitted). This application resulted in the closure of a former vehicular access in the location of the currently proposed access which allowed access to the neighbouring agricultural field/equestrian use of the land.

2. Publicity

Six neighbours notified 20 April 2017

Site notice posted 20 April 2017.

3. Summary of Consultations and Representations Received

The following summary of representations is provided.

Worthington Parish Council any comments received will be reported to Members on the Update Sheet.

Leicestershire County Council Highways have referred the Authority to Standing Advice.

Leicestershire County Council Ecologist has no objections.

Third Party Representations

Seven letters of neighbour representation have been received which are summarised below:

Six letters of neighbour letters of support have been received raising the following comments:

- the proposal would help maintain a resident that contributes to village life;
- the proposal would enable an existing resident to stay in the village and allow a family

who currently live in different villages to be together and allow a young family to care for a relative;

- the proposal would bring another young family into the village to support a local school;
- the applicant's grandchild already attends the local school and therefore, the development would place no greater burden on local services;
- alterations to the building would be minimal and there would be no change in the visual impact;
- a small amount of notional agricultural land (waste ground) would be converted into parking space;
- better use of a large property;
- Griffydam is sustainable with local services within 1-1.5 miles;
- the parking proposals are reasonable and would get vehicles off the road;
- the proposal include car parking which will improve highway safety;
- the proposal makes environmental and economic sense: and
- economic use of housing stock.

One letter has been received stating support for the proposed sub-division but raising concerns regarding the proposal to create 'off-site' shared parking facilities for both new properties for the following reasons:

- questioned whether the short term sustainability credentials of the subdivision are outweighed by the potential longer term negative cumulative impacts of the parking element of the proposal;
- the District Council should work with the applicant to find alternative parking arrangements;
- the proposed parking area on agricultural land outside the Limits to Development and will result in the domestication of the land which will have a detrimental impact on the character and appearance of the rural environment and harm to the environmental strand of sustainability;
- impact on wildlife with the destruction of hedgerow;
- detrimental impact on highway safety including use of the lane by pedestrians;
- detrimental impact on neighbour to the rear residential amenity, including loss of privacy and noise disturbance;
- the access drive between 70 Elder Lane and the car parking area is unregistered land at the Land Registry and is not owned by the applicant, however, the neighbouring occupier and the owner of the neighbouring field (the applicant) have a right of way across the land for access;
- if permission is granted it should be subject to a detailed plan being provided of the works required to the parking site to ensure that the existing access drive is not affected; and
- the proposal should be assessed against the 6C's design guide, a drainage scheme should be implemented if required; hardsurfacing should be required, the existing boundary with the access drive should be retained where possible with additional planting, the parking area should not be used in connection with the livery owned by the applicant; permitted development rights should be removed and neighbouring soft landscaping should not be harmed.

The full contents of these letters are available for Members to view on the case file.

4. Relevant Planning Policy **National Planning Policy Framework**

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with

the NPPF. The closer the policies in the development plan to the policies in the NPPF, the greater weight they may be given.

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

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

Paragraph 10 (Achieving sustainable development);
Paragraph 14 (Presumption in favour of sustainable development);
Paragraph 17 (Core planning principles);
Paragraph 28 (Supporting a prosperous rural economy);
Paragraphs 32 and 39 (Promoting sustainable transport);
Paragraph 49, 55 (Delivering a wide choice of high quality homes);
Paragraph 57, 60, 61 (Requiring good design);
Paragraph 109 and 118 (Conserving and enhancing the natural environment); and
Paragraph 203 and 206 (Planning conditions and obligations);

Adopted North West Leicestershire Local Plan (2002) Saved Policies (ALP)

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.

Submission North West Leicestershire Local Plan (SLP)

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; and
Policy En3 - The National Forest.

National Planning Practice Guidance

6Cs Design Guide (Leicestershire County Council)

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

5. Assessment

Principle and Sustainability

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

The application site lies outside the defined Limits to Development with residential dwellings not being a form of development permitted by Policy S3 of the adopted Local Plan or Policy S3 of the submitted Local Plan. However, Policies S3 and E24 of the adopted Local Plan do allow for the conversion of rural buildings and Policy S2 of the submitted Plan identifies Griffydam as a small village with very limited services and where development will be restricted to conversions of existing buildings or the redevelopment of previously developed land. The application proposals also include the extension to the existing residential curtilage resulting in the change of use of agricultural land outside the Limits to Development and this element of the proposal would not accord with Policy S3 of the adopted or 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 Submission Local Plan.

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

With regards to the sustainability credentials of the site; there is a church located 170m from the site off Rempstone Road and a Primary School off Top Road within 615m (or 540m when utilising the footpath network) of the site which are within an acceptable walking distance of the site. The Beaumont Social Centre is located 1,160m from the site and the nearest bus stop is on Top Road and provides a less than 2 hourly service. Elder Lane has no footways but is lightly trafficked and there is an option to cross over onto Top Road using the public footpath network.

The social role, as defined in Paragraph 7 of the NPPF, requires the supply of housing to be linked to accessible local services which meet the needs of the community and support its health, social and cultural wellbeing. As identified above Griffydam does not benefit from many services and as such any future resident would be isolated from key services that meet day to day needs. The limitations of the public transport available would also restrict the opportunity to access services other than via the private car.

As a consequence, the settlement of Griffydam has very few services such that residents of the proposed dwelling (as with the existing dwelling), would be heavily reliant on the private car to reach the most basic services in order to meet day to day needs. However, Policy S2 of the submitted Plan identifies Griffydam as a small village with very limited services and does allow for some development including the conversions of existing buildings. Furthermore, in considering the social sustainability of the proposed development, consideration must be also

be given to the existing situation. The existing dwelling has 5 bedrooms and the proposed dwellings would cumulatively have the same number of bedrooms. The local planning authority cannot control the number of people residing at a property and therefore, the number of residents could be less or more than the existing situation. Therefore, whilst it is possible that the proposal could result in an increase in the vehicular movements to and from the site, it is considered that this is unlikely to be to an extent that would result in the development being significantly more socially unsustainable than the existing situation.

There would be some limited economic benefits as a result of construction works associated with the subdivision of the dwelling and formation of the parking area, and by utilising an existing building, which would contribute to the economic strand of sustainability.

From an environmental sustainability perspective, the NPPF in paragraph 109 states that the planning system should protect and enhance the natural and local environment. The dwellings would be provided within an existing building and therefore, the built development would have no greater impact on the surrounding rural environment than the existing situation. The proposal also includes the change of use of land for parking associated with the dwelling. This land forms part of an agricultural field to the south of No.70 Elder Lane which is separated from the dwelling by the access to Breach House. The land is elevated above the highway and includes a triangular area of land enclosed by hedgerows/post and rail fencing that was left over following the closure of the former access to the stables on the field to the south, when a new access was introduced off Top Road. The triangular area within the north-western corner of the agricultural field would need to be extended as part of the proposals and would result in an encroachment of development into the countryside. However, when having regard to the fact that there is already an existing enclosed area within this corner of the field which does not appear as part of the open paddock, that an access formerly existed in this location, the hedgerow screening available along the highway boundary and the potential to further mitigate the impacts of the proposed car parking area through additional landscaping along the boundaries, along with the informal/irregular form and arrangements of plots within this locality, on balance, it is not considered that the proposal would be significantly harmful to the character and appearance of the surrounding countryside.

It is considered that the use of the land as garden with domestic paraphernalia could change the appearance of the land which could have an adverse impact on the character and appearance of the site. Therefore, it is considered that it would be prudent to remove permitted development rights for curtilage buildings and structures. Subject to conditions, it is considered that the proposals would not cause significant harm to the environmental strand of sustainability and would accord with the aims of the NPPF.

In conclusion, whilst the proposal would not comply with the provisions of Policy S3 of the submitted Local Plan, there is some support for the conversion of buildings to residential accommodation within Policies S3 and E24 of the Local Plan and within Policy S2 of the submitted Local Plan. Whilst the proposals would be contrary to the adopted Local Plan, in determining the application regard must be had to other material considerations, including other policies, such as national policies. When having regard to the existing situation on site, as set out above, it is considered that the proposals would represent a sustainable form of development for the purposes of the provisions of the NPPF. The principle of the development is therefore, considered acceptable.

Residential Amenities

The neighbouring properties that would be most immediately affected by the proposals would be No.68 Elder Lane (Breach House) to the rear (west) of the application dwelling and The Cottage

to the north of the application dwelling. The proposed alterations to the dwelling would be at ground floor only and the internal layout is such that the use of just one of the first floor rooms would be different to the existing situation. A former study is now proposed as a bathroom. In these circumstances, it is not considered that there would be any additional overlooking from the existing dwelling over the two nearest neighbouring dwellings. In terms of comings and goings, the number of bedrooms available within the existing and proposed developments would be the same. The local planning authority cannot control the number of people residing at a property and therefore, the number of residents occupying the proposed dwellings could be less or more than the existing situation. Therefore, whilst it is possible that the proposal could result in an increase in the vehicular movements to and from the site, it is considered that this is unlikely to be to an extent that would result in the development generating a significant increase in noise and disturbance to the neighbouring dwellings. Although there would be comings and goings along the shared access drive, these would be at sufficient distance from the neighbouring dwellings to prevent any significant loss of amenities from noise and disturbance. There is a ground floor window that would serve a dining room in the side elevation of the application dwelling which faces the shared access route, and there would be an increase in vehicles passing this window but it is not considered that this would give rise to any significant loss of amenities to the occupiers of this dwelling to warrant a refusal of permission on this ground.

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 Policy E3 of the adopted Local Plan and D2 of the submitted Local Plan.

Design and Character of the Area

The subdivision of the dwelling would require some minor alterations to the existing dwelling and these are detailed in the background and proposals section of this report. The proposed alterations to the existing dwelling would not look out of keeping with the character and appearance of the existing dwelling or the street scene.

With regard to the proposed parking area, as detailed above within the consideration of the environmental strand of sustainability, when having regard to the fact that there is already an existing enclosed area within this corner of the field which does not appear as part of the open paddock, that an access formerly existed, the hedgerow screening available along the highway boundary and the potential to further mitigate the impacts of the proposed car parking area through additional landscaping along the boundaries, along with the informal/irregular form and arrangements of plots within this locality, on balance, it is not considered that the proposal would be significantly harmful to the character and appearance of the surrounding countryside.

Overall, the application is considered to be compliant with Policy E4 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

Highway Safety

The existing 5 bedroom dwelling currently only has one parking space within the existing curtilage that complies with the dimensions set out in the 6C's Design Guide (within the existing garage). Therefore, as 3 spaces are required for this size property, there is currently a deficit of 2 spaces which exists and this will need to be considered in the determination of the application. The current proposal for 3 and 2 bedroom dwellings would generate a requirement for 4 spaces. However, the proposals include the change of use of nearby land to provide parking and turning for four vehicles and it is considered that this part of the site is of sufficient size to accommodate parking and turning in accordance with the 6C's Design Guide. The access drive over which the

proposed parking area is accessed is bound by land owned by the applicant on both sides. It is considered that an effective width of 4.25m could be achieved for the access drive to allow two vehicles to pass clear of each other in order to avoid the need for vehicles to reverse into the public highway. Visibility at the access drive is restricted by the application dwelling to the north and by the existing hedgerow to the south and would not comply with the 6C's Guide, and whilst visibility to the south could be improved by the removal of hedgerow to the south, this would have adverse impacts on visual amenities.

On balance, when having regard to the existing parking deficit, the poor visibility available at the existing access to the front of the existing dwelling and the available visibility at the shared private drive and in the absence of an accident record on Elder Lane, the County Highways Authority considers the applicant's specific proposal to be acceptable, subject to conditions concerning access width, parking and turning.

In response to comments raised by the neighbour about alternative parking options being explored, this has been undertaken in consultation with the County Highways Authority and although a potential solution was reached, which provides two parking spaces within the existing site, the applicant decided that this level of provision, which is below that required by the 6C's Design Guide, would be inadequate for his family in the future and therefore, the application has been determined on the basis of the originally submitted plans.

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 Policies IF4 and IF7 of the submitted Local Plan, and the 6C's Design Guide.

Ecology

The proposal relates to agricultural land in the countryside and therefore, the County Ecologist has been consulted on the application. Despite the concerns of the neighbour regarding the destruction of the hedgerow, the County Ecologist raises no objections due to the minor nature of the application and the minor loss of hedgerow. Therefore, the proposal is considered acceptable for the purposes of Policy En1 of the submitted Local Plan and paragraphs 118 of the NPPF.

Other Matters

With regard to comments about land ownership, the applicant has provided a revised Certificate of Ownership which reflects the fact that the applicant does not own all of the application site. A notice has also been published in a local newspaper as required when the land owner is unknown, and therefore, the applicant has met with the necessary requirements of legislation and the application is a valid submission.

With regard to matters relating to rights of way, this is a civil matter covered by separate legislation and, therefore, is not a planning matter to be taken into account in the determination of this application.

The neighbours' concerns regarding the need to provide details of the parking area should permission be granted are addressed through the imposition of conditions.

Conclusion

The site lies outside the Limits to Development and whilst proposals relating to the conversion of existing building are acceptable in principle, the change of use of land to domestic curtilage would conflict with the restrictive countryside Policies S3 of the adopted and submitted Local Plans. However, the NPPF specifically states that decision takers should consider housing

applications in the context of the presumption in favour of sustainable development. In this instance, the proposed scheme is considered to comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable. The scheme does not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, ecology or highway safety. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMENDATION - PERMIT, subject to the following condition(s) and subject to no contrary representations being received by 22nd June 2017

Time limit
Approved plans
Levels for parking area
External materials - dwellings and parking area (surfacing)
Landscaping and boundary treatments
Highways - effective access width of 4.25m
Highways - parking and turning (tie occupation to provision of parking)
PD removal - extensions and alterations (dwelling) /curtilage buildings and structures (parking area)

Notes to applicant:
Positive and proactive statement
Coal authority Standing Advice note

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – TUESDAY, 6 JUNE 2017

Title of report	TO CONSIDER THE MAKING OF A TREE PRESERVATION ORDER ON LAND AT 23A ASHBY ROAD DONISTHORPE
Contacts	<p>Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Director of Services 01530 454555 steve.bambrick@nwleicestershire.gov.uk</p> <p>Head of Planning and Regeneration 01530 454782 jim.newton@nwleicestershire.gov.uk</p>
Purpose of report	To consider the objection lodged by Mr and Mrs S Hallam to the Tree Preservation Order made on 3 rd March 2017 to protect two apple trees (“the Order”).
Council priorities	Homes and Communities Green Footprints
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>None</p> <p>None</p> <p>None</p> <p>Equality Impact Assessment already undertaken, issues identified actioned</p> <p>Under the Human Rights Act 1998, Article 8, there is a right to respect for private and family life, the home and correspondence. Article 1 of the First Protocol of the European Convention on Human Rights ensures the peaceful enjoyment of possessions. The making of the Order potentially impacts upon these two rights. Individuals should not be deprived of these rights and nor should these rights be intererered with except in the public interest, which is considered to be the case here.</p> <p>None</p>

Comments of Deputy Chief Executive	The report is satisfactory
Comments of Deputy Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	People with a legal interest in the land affected by the Order have been consulted and members of the public were consulted by the placing of site notices close to the site.
Background papers	None
Recommendations	THAT THE TPO BE CONFIRMED

1.0 INTRODUCTION AND BACKGROUND

- 1.1** The Order was made in respect of planning application 16/00678/FUL to build three detached dwellings and garages on an orchard site.

The proposed layout would necessitate the removal of all existing orchard trees. The site consists of seventeen pear and apple trees over 40 years in age, with two apples being said to be in excess of 80 years.

In support of the planning application above, the applicant submitted an ecological report compiled by wildlife consultants which only included a brief arboricultural appraisal.

A specific arboricultural report in accordance with BS5837:2012 Trees in relation to the development has not been provided with the planning application.

A fruit tree may be protected by a Order provided that the local planning authority believes it to be in the interests of amenity and it is expedient to do so.

2.0 OBJECTIONS AND OFFICER COMMENTS

2.1 Summary of Representations Received

The following summary of representations is provided. Members will note that full copies of correspondence received are available on the planning file.

One objection to the confirmation of the Order has been received from the owner of the site and applicant for planning application 16/00678/FUL who states that the said trees provide little or no fruit, and little or no amenity benefit as there are no public highways or rights of way nearby. The owners consider that confirming the Order is a move to prevent planning consent being granted.

2.2 Officer Comments

Trees are a material consideration in any planning application and paragraph 118 of the National Planning Policy Framework (2012) highlights the importance of aged or veteran trees. A tree preservation order cannot be used as a tool to prevent development. If the benefits of development outweigh the value of the trees, the trees can be removed.

Tree surveys on development sites should assess arboricultural, landscape and cultural qualities and categorize each tree or tree group accordingly.

In light of the objection received to the planning application, the Council's Tree Officer carried out a site inspection and assessed that the two apple trees are in fair condition, with a likely life expectancy of 20-40 years. Although they have limited public visibility, they do merit retention and could be incorporated into the gardens of an appropriate building layout to provide a desirable amenity contributing to a pleasant and attractive place to live. Confirmation of the Order is also deemed expedient under the circumstances.

Aged trees make a significant contribution to biodiversity, the landscape character and the distinctiveness of the National Forest. Orchard trees in excess of 60 years are important due to their inherent biodiversity and characteristics, including decay, dead wood and cavities which are a feature of veteran trees, in addition to their aesthetic value.

With suitable protection and management, the two aged apple trees could continue to reflect the National Forest setting and make a positive contribution to the physical creation of the forest by enhancing both the landscape and biodiversity.

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