

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 4 February 2014
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Member Services (01530 454512)

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

PART A

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 7 January 2014.	5 - 16
4. PLANNING APPLICATIONS AND OTHER MATTERS	
Report of the Head of Regeneration and Planning.	17 - 20

Index of Applications to be Considered

Item	Application Number	Application Details and Address	Recommendation	Page
A1	13/00060/FUL	Erection of 8 no. detached dwellings with associated access road Land Adjoining Whitwick Filling Station Talbot Street Whitwick	Permit	21 - 44
A2	11/01054/FULM	Erection of 188 no. dwellings with associated garaging/parking, infrastructure, construction of new access off Frearson Road and formation of open space, landscaping and balancing pond Land Off Frearson Road Coalville Leicestershire	Permit Subject to a Section 106 Agreement	45 - 88
A3	13/00829/OUT	Erection of eight dwellings with associated garaging and access road (Outline - Access, layout and Scale included) Land At Measham Road Appleby Magna Swadlincote	Permit Subject to a Section 106 Agreement	89 - 122
A4	13/00702/FULM	Erection of two storey and single storey retail food store with restaurant (A1 and A3) (2830 sqm gross external), Erection of petrol filling station with single storey kiosk, erection of single storey retail terrace (538 sqm gross external) and erection of two storey nursery (D1) (604 sqm gross external) Land At Station Road Castle Donington	Permit	123 - 140
A5	13/00913/OUT	Residential development for three dwellings (Outline - all matters reserved) Land At Main Street Normanton Le Heath	Refuse	141 - 156

Item	Application Number	Application Details and Address	Recommendation	Page
A6	13/00983/COM	Extension to the existing Minorca Surface mine (At Measham fields farm) for the extraction of coal and fire clay by surface means with restoration to agricultural dwellings, agricultural and nature conservation (Leicestershire County Council Consultation ref 2013/CM/0353/LCC) Minorca Colliery Swebstone Road Measham	No Objection	157 - 168

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MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 7 JANUARY 2014

Present: Councillor J Bridges (in the Chair)

Councillors R Adams, J G Coxon, D Everitt, T Gillard, J Hoult, D Howe, R Johnson, G Jones, J Legrys, T Neilson, M Specht and R Woodward

In Attendance: Councillors D De Lacy, J Geary, T J Pendleton and L Spence

Officers: Mr C Elston, Mr D Gill, Mr D Hughes, Mr J Knightley, Mr J Mattley, Mr A Mellor and Mrs M Meredith

31. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors G A Allman, N Smith, D J Stevenson and M B Wyatt.

32. DECLARATION OF INTERESTS

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

Councillor J G Coxon declared a non-pecuniary interest in item A2, application number 13/00780/OUTM, as a Member of Leicestershire County Council.

Councillor J G Coxon declared a non-pecuniary interest in item A4, application number 13/00694/OUTM, as a Member of Ashby Town Council and its Planning Committee. He also declared that he had been lobbied without influence in respect of this application.

Councillor J Hoult declared a non-pecuniary interest in item A4, application number 13/00694/OUTM, as a Member of Ashby Town Council and as Chairman of its Planning Committee.

Councillors R Adams, J Cotterill, D Everitt, J Hoult, J Legrys, T Neilson and R Woodward declared that they had been lobbied without influence in respect of item A1, application number 13/00603/FULM.

Councillors R Adams, J Cotterill, D Everitt, J Legrys and T Neilson declared that they had been lobbied without influence in respect of item A2, application number 13/00780/OUTM.

Councillors R Adams, J Cotterill, D Everitt, J Legrys and T Neilson declared that they had been lobbied without influence in respect of item A3, application number 13/00626/OUTM.

Councillors R Adams, J Cotterill, D Everitt, R Johnson, G Jones, J Legrys, T Neilson and R Woodward declared that they had been lobbied without influence in respect of item A4, application number 13/00694/OUTM.

Councillors J Cotterill, D Everitt, T Gillard, J Legrys and R Woodward declared that they had been lobbied without influence in respect of item A5, application number 13/00060/FUL.

33. MINUTES

Consideration was given to the minutes of the meeting held on 3 December 2013.

Councillor M Specht referred to the recorded vote in respect of item A3, application number 13/00818/OUTM. He sought clarification as to whether the minutes were an accurate reflection of proceedings as this appeared to show that some Members voted in one manner on the motion to refuse the application, and then voted in the opposite manner on the motion to approve the application.

The Chairman clarified that this was an accurate record of the proceedings.

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

RESOLVED THAT:

The minutes of the meeting held on 3 December 2013 be approved and signed as a correct record.

34. PLANNING APPLICATIONS AND OTHER MATTERS

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

35. A1 - 13/00603/FULM

**Residential development for 27 dwellings including demolition/conversion of former school
Land Off Church Lane Ravenstone Coalville**

The Senior Planning Officer presented the report to Members. Further to the update sheet, he advised that Leicestershire County Council's position was that without the full developer contributions, especially in relation to education, they would not have the funds available to make up the shortfall.

Mrs S Lunn, representing the Parish Council, addressed the Committee. She referred to the density of the application and stated that the proposals were inappropriate for the environment. She added that the amenity the land provided as a wide open space had been ignored. She highlighted that the developer contribution of £55,000 represented 10.7% of what was required for sustainable development, and asked how this could be justified. She also asked if this would set a dangerous precedent of putting the burden on the taxpayer to subsidise development. She stated that the old school was a recognised heritage asset and the proposed landscaping did not mitigate the loss of the gardens. She added that the proposals were more reminiscent of suburbia than a rural landscape. She referred to the traffic and parking issues and stated that the traffic assessment had been completed based on an out of date Google map. She felt that the benefits of the scheme did not outweigh the harm and asked who would meet the shortfall of £450,000. She concluded that the proposals did not constitute sustainable development on account of their inability to meet the cost to the public purse.

Mrs M Danaher, objector, addressed the Committee. She relayed the background of the Lombardy Poplar trees which had been planted to commemorate those who had served in World War I. She added that the footpath through the middle of the site was widely known as memorial walk and should be preserved as many relatives of those who died in World War I still lived in the locality. She stated that the school was the only recognisable Victorian building in the village and if this was demolished it would have lost its historic character. She added that the boundary wall which had been retained in previous developments would be lost. She referred to the current parking issues and stated that elderly residents at the Almshouses would be put at risk. She added that the introduction

of double yellow lines would increase congestion. She concluded that heritage was very precious and should be retained.

Dr M Wellstood-Eason, supporter, addressed the meeting. He stated that the development solved a number of problems for Ravenstone and the old school was an eyesore which would benefit from having the recent additions removed. He added that the land was currently unused and the footpath was muddy and overgrown. He felt that the concerns in respect of increased traffic would pale into insignificance taking into consideration the benefits of the scheme and compared to the traffic chaos that used to occur when the school was previously open. He added that the only loss was the Lombardy Poplars, however the view was that these would sadly be lost in the near future irrespective of this application. He stated that the Almshouses was a listed building in need of repair, without which it may have to close. He urged Members to permit the application as recommended by the officer as there were no grounds for refusal.

Mrs J Hodson, the applicant's agent, addressed the Committee. She asked Members to support the officer's recommendation. She highlighted that Cameron Homes were specialists in this type of heritage site which required a high quality scheme. She stated that the construction materials would enhance the conservation area and the character of nearby listed buildings had been carefully considered in conjunction with the Council's conservation officer. She added that the proposals were within the limits to development of the village and therefore there was a presumption in favour of development. She acknowledged that the site was low density, however this was appropriate to the location. She stated that the proposals would improve the street scene, would bring the old school and the land back into use and would boost the housing land supply.

Councillor R Johnson expressed disappointment in respect of the lack of affordable housing and the insulting amount of developer contribution which had further reduced according to the update sheet. He felt that the developer needed to get back to basics and consult with local residents on what they wanted. He stated that he could not support a proposal like this without affordable housing provision.

The Head of Regeneration and Planning advised that the Council's policy in respect of affordable housing contributions was guidance only, and each application had to be weighed on its own merits. He added that in this instance, the site was in a special conservation area, and the funding required for the design element meant that there would be insufficient funding to provide affordable housing. He added that the District Valuer concurred with this view.

Councillor J Legrys referred to the access and traffic issues, and the proposal to introduce double yellow lines should the application be approved. He understood that there had been a change of policy in that the Highways Authority would not impose waiting restrictions before the development was occupied, as there was often a long period between approval and execution of a development. He stated that visibility at the site access was already limited, and there were problems on Church Lane. He added that the proposals would cause a serious highways issue with a substandard access. He expressed disapproval that construction materials were being prioritised over community services. He referred to the proposed developer contribution in respect of education, and the current position of Leicestershire County Council that they could not afford to top up the money required to improve Woodstone School. He expressed disapproval that the taxpayer should have to pay for improved education facilities and the developer would walk away without having to pay. He felt that it was a matter of principle that the development was not sustainable as it could not sustain its duty to the community.

Councillor A Bridges sought clarification on what consideration had been given to the impact on the village.

The Senior Planning Officer referred to the report which outlined the impact of the development by itself and cumulatively taking into account all three proposals. He stated that the view had been taken that the increase in property numbers would be in accordance with the now withdrawn Core Strategy, and on that basis there were no objections to the proposals.

Councillor A Bridges referred to the low density of the proposals and the lack of affordable housing provision. She asked if the number of dwellings on the site could be increased to enable the provision of affordable housing.

The Senior Planning Officer advised that there could be concerns from a conservation viewpoint if the density were increased.

Councillor D Everitt stated that at the site visit, he was quite pleased with the proposals. However he expressed concerns that the goalposts appeared to be moving and based on what he had heard at the meeting he felt he could not support the proposals.

The Senior Planning Officer clarified the update in respect of developer contributions. He advised that the amount being offered by the developer had not changed, however an additional request had been submitted by the Parish Council which reduced the pro-rata amounts slightly.

Councillor M Specht stated that the majority of the site could not be seen from the road. He added that he supported the recommendation but expressed concerns regarding the current safety of the footpath. He felt that this should be closed off until all the trees could be assessed.

Councillor G Jones paid tribute to all the contributions which had been made at the meeting. He expressed sympathy regarding the Lombardy Poplar trees, but highlighted that the walkways would be retained and enhanced. He felt the developer contributions were too low, however the development would have a beneficial impact on the local area and would provide a good mix of housing. He added that he would like to see a larger contribution to the Almshouses.

Councillor T Neilson expressed sympathy in respect of the value given to the Lombardy Poplar trees, however given that the Council's tree officer had concluded they would not survive, this could not be a material consideration. He felt that the works to the school would improve the streetscene. He stated that the developer contributions were miserly, and suggested that the developer come back with a scheme that was viable.

Councillor J Bridges asked if the request for developer contributions would be the same if the proposed development was not in a conservation area.

The Head of Regeneration and Planning advised that the contributions requested were in line with the policy and each scheme needed to be assessed in terms of its viability. He added that developers were not currently selling houses as quickly and not necessarily for the full market value.

Councillor J Bridges asked if a developer submitting an outline application could simply make a statement at that stage to indicate that they would pay the full amount of developer contribution.

The Head of Regeneration and Planning advised that outline applications were not normally accepted in conservation areas, however the position in respect of developer

contributions could change from the outline application if a further full application was submitted.

It was moved by Councillor T Gillard and seconded by Councillor A Bridges that the application be permitted in accordance with the officer's recommendation.

Upon being put to the vote, the motion was declared LOST.

It was moved by Councillor J Legrys and seconded by Councillor R Adams that the application be refused on the grounds that the development was not sustainable given the amount of developer contributions currently being offered.

Upon being put to the vote, the motion was declared CARRIED.

RESOLVED THAT:

The application be refused on the grounds that the development was not sustainable given the amount of developer contributions currently being offered.

36. A2 - 13/00780/OUTM

Residential development of up to 50 dwellings, with new vehicular access, landscaping, public open space, balancing pond, national forest planting and creation of new allotments. (Outline - all matters other than part access reserved) Land Off Heather Lane, Ravenstone

The Senior Planning Officer presented the report to Members.

Mr R White, on behalf of the Parish Council, addressed the Committee. He stated that the proposal was outside the limits to development and approval would be contrary to Policy S3. He referred to the Localism Act which enshrined in law the need for public consultation, however the developers had not attended. He felt that Ravenstone had inadequate infrastructure and local facilities to accommodate this development. He stated that the narrow roads could not cope with the existing traffic. He added that Woodstone School was at capacity and there were no doctors or dentists within walking distance. He stated that there were serious problems with flooding to the south of the site. He expressed concern that no ecological field study appeared to have been undertaken, however Ravenstone had a historic background, with Mesolithic, Neolithic and Bronze Age flints and arrow heads having recently been found. He concluded that the development would be the death warrant for Ravenstone as the village identity would be lost.

Mr D Lunn, objector, addressed the Committee. He stated that the development was too large and in the wrong location, being outside the limits to development. He added that the proposals would scar the approach to the development land and Woodstone School, which was at capacity, would lose its rural setting. He stated that Heather Lane was a section of the national cycle network and this road would be busier than ever with no footpaths. He urged Members to refuse the application.

Mrs M Duffy, the applicant's agent, addressed the Committee. She stated that Ravenstone was a sustainable location for development, being well related to Coalville and the range of opportunities it provided. She added that the issue in respect of cumulative impact had been assessed and deemed acceptable, and Leicestershire County Council had no objections in respect of highway safety. She highlighted that 20% of the site would be given over for National Forest planting which would enhance the landscaping and provide a buffer for existing residents. She added that a new footpath

would provide a link for residents walking to and from the school. She referred to the positive social and economic benefits provided by the Section 106 package and the provision of affordable housing. She urged Members to permit the application.

Councillor J Legrys outlined the similarities of the application to the Moira Road site in Ashby which had been lost at appeal. He stated that if Members were minded to approve the application, he would have particular concerns in respect of the contribution towards education. He highlighted that there was currently a deficit of 12 places at Woodstone School. He added that although Heather Primary School currently had a surplus of 10 places, Heather Lane was not suitable for primary school children to walk down. He asked if the contributions in respect of education could be solely allocated to Woodstone School.

The Senior Planning Officer advised that he had discussed the matter with the Education Authority and they had confirmed that all education monies from sites in Ravenstone would be spent on Woodstone School. He added that this could be secured in the Section 106 Agreement.

Councillor J Legrys asked that the developer consider providing dropping-off places at the school to overcome on-street parking issues.

Councillor J Bridges advised that this matter would be under discussion separately at the monthly Members Planning Forum.

The Head of Regeneration and Planning advised that as the application was in outline form, this request could be considered as the application progressed into the detail stage.

Councillor T Neilson stated that if the District Council was not in its current position in terms of the policy backlog and the five year housing land supply, he believed the application would be recommended to be refused on the grounds that it was not in accordance with Policy S3. He added that he could see no other reasons for refusal, and given the current situation, there was no other option.

Councillor G Jones asked if the land had ever been opencasted. It was clarified that it had not.

Councillor G Jones stated that the Council was duty bound to provide a healthy environment and good quality homes, and so he would be supporting the proposals.

Councillor M Specht stated that he would have been voting against the proposal if affordable housing had not been provided. He added that he would support the application on the basis that the affordable housing offer would not alter in the detail stage.

Councillor J Bridges supported this view in respect of affordable housing. He pointed out that the application was outline, and the Committee would be looking closely at the full application in due course.

It was moved by Councillor T Gillard, seconded by Councillor J Bridges and

RESOLVED THAT:

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

Residential development of up to 65 dwellings along with a new access, amenity space and associated works (Outline - All matters other than part access reserved) Land At Ibstock Road, Ravenstone, Coalville, Leicestershire

The Senior Planning Officer presented the report to Members.

Mr P Tubb, representing the Parish Council, addressed the Committee. He stated that there were problems that would render the development unsustainable. He pointed out that the development was clearly aimed at families, however it was not within walking distance of a bus route. He added that two thirds of the bus stops in Ravenstone were not serviced, and the number of services was being reduced. He referred to the deficit in school places and remarked that the one class per year system would be lost. He added that cyclists would be at increased risk with no proposed reduction in speed limit. He stated that there were not enough services to accommodate a 24% increase in housing. He felt that the village identity would be lost and the conservation area would be negatively impacted. He added that traffic issues would worsen.

Mr A Soeder, objector, addressed the meeting. He stated that the residents of Ibstock Road were living on a dangerous road, the transport situation being the main issue, and the measures proposed were insufficient. He added that the transport assessments undertaken in 2008 and 2011 had not considered the impact of 1,000 new houses, and these reports needed to be revised. He highlighted that the road audit had taken place at 12.15pm, which was an inappropriate time to properly assess the traffic. He referred to the death of a girl on the road in 2009, and the subsequent call to reduce the speed limit. He felt that this was even more relevant now, however no action had been taken. He added that casualties could rise significantly. He asked the Council to avoid danger to residents, and concluded that measures should be taken prior to development to prevent fatalities.

Mr M Robson, the applicant's agent, addressed the Committee. He stated that the scheme would provide 30% affordable housing, a rich mix of housing types and tenures, and a high quality scheme. He highlighted that the site was contained with urban inferences on three sides, and would provide public open spaces. He stated that the Section 106 contribution exceeded requirements. He added that the applicant was entirely content to pay the requested sums and had no intention to 'chip' away at the contributions. He highlighted that there had only been twelve letters of objection from local residents and there were no concerns from the Parish Council or the statutory consultees. He added that there would be contributions towards bus stop improvements.

Councillor J Bridges stated that he was pleased to see that the applicant had recognised the need for affordable housing in the area. He added that he would welcome a full application rather than an outline application.

Councillor J Legrys referred to the current Local Plan and sought clarification on the designation of the site.

The Head of Regeneration and Planning advised that the land had been designated as a sensitive area rather than an area of separation. He added that this policy was designed to prevent an ongoing ribbon of development down the road, and he felt that this proposal would achieve this by preventing development either side. He added that the policy did not outweigh the requirement to increase the housing numbers.

Councillor J Legrys felt that this scheme was the best of the three Ravenstone schemes. He highlighted that the developer had tried to engage the Highway Authority to reduce traffic speeds in order to aid access and egress. He understood that the developer's

proposals had been rejected by the Highway Authority. He felt that if a developer was prepared to install a road safety feature, the Highway Authority should take the opportunity. He agreed that he would like to see more firm full applications rather than outline. He concurred that the development would form a convenient boundary. However he felt that the Committee urgently needed to start using its policy remit to tell village communities where the boundaries lay.

Councillor J Bridges commented that if the developer was not required to make a contribution towards highways, perhaps more contribution could be made towards education.

Councillor M Specht stated that he supported the proposals in view of the provision of affordable housing and the land break between existing properties which would be provided by the development.

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

RESOLVED THAT:

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

The meeting was adjourned at 6.25pm and was reconvened at 6.32pm.

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

RESOLVED THAT:

The meeting be extended by not more than 30 minutes in accordance with the Council Procedure Rules.

38. A4 - 13/00694/OUTM

Residential of up to 70 dwellings (Class C3). Green infrastructure to include retained vegetation, habitat creation (including new woodland planting), open space, amenity space & play areas, sustainable drainage systems/features, & new walking/cycling/recreational routes. Infrastructure to include highway & utilities & associated engineering works (including ground modelling) & vehicular access via the construction of a new junction off the existing Lower Packington Road (outline - all matters reserved other than access)

Site At Lower Packington Road, Ashby De La Zouch, Leicestershire LE65 1TS

The Principal Planning Officer presented the report to Members.

Mrs M Tuckey, representing the Town Council, addressed the Committee. She stated that Ashby Town Council had strong objections to the development. She felt that Lower Packington Road should be the boundary to development. She referred to the severe traffic implications in terms of double parking, and increased congestion due to the winding roads. She stated that this would make the existing problems worse and local residents had voted this site as the least favourable. She added that the District Council had refused to endorse the site in the Local Plan and the submission Core Strategy, and development on the site had been consistently rejected. She concluded that the development was unsustainable and inappropriate and urged Members to refuse the application.

Dr N Garnham, objector, addressed the Committee. He highlighted that the site was outside the limits to development and was part of a much larger site which was refused on appeal in 2009. He added that the Secretary of State had identified that the development was unsustainable and would cause harm to the character of Ashby de la Zouch. He felt that these factors were still relevant today and as such he expressed astonishment that the officer had recommended that the application be permitted. He stated that the site would be blighted by noise from the A42 and was on the proposed HS2 route. He pointed out that the HS2 route would not be in a cutting but would be elevated, and therefore the noise assessment was inaccurate. He referred to the impact on road safety and contested the sustainability of the site. He concluded that there were more suitable sites known to the local planning system and he urged the Committee to take note of the overwhelming local objection.

Councillor J G Coxon stated that the site was part of a larger development which had been refused at the inquiry and he was dismayed at the officer's recommendation. He felt that this was not a natural area of growth for the town, and the location was unsustainable with no accessibility for walking, cycling or public transport having been demonstrated. He concluded that Lower Packington Road should be a development boundary for the town.

Councillor J Bridges sought advice on reasons for refusal of the application.

The Head of Regeneration and Planning advised that he could not concur that HS2 was a reasonable planning objection. He stated that the reason the application was recommended to be permitted was that the Council did not have a Core Strategy in place. If the Core Strategy was in place, a reasonable objection would be that the proposal did not relate well to the existing pattern of development and was not sustainable. However he highlighted the risks due to existing precedent and the current position in respect of the Core Strategy.

Councillor J Hoult stated that Lower Packington Road should be the boundary for development. He added that just because the Core Strategy had been withdrawn, that did not mean that Ashby de la Zouch should suffer.

Councillor G Jones stated that he could not support the application. He pointed out that Ashby Town Council had consistently voted against it and it was essential to preserve the small green wedge between Ashby de la Zouch and Packington.

Councillor J Legrys felt that refusing the application was the right decision. He felt that the area of separation was important. He recalled the difficulty with accessing the site on the site visit, which demonstrated how unsustainable the development was. He added that the site was remote from Ashby de la Zouch and the bus service would only be available for part of the day. He added that the developer had proposed no mechanism to improve or provide highways access. He felt that developers were trying their luck.

It was moved by Councillor J G Coxon and seconded by Councillor J Legrys that the application be refused on the grounds that it was unsustainable and would be located beyond the existing established extent of the town.

The motion was put to the vote and declared CARRIED.

RESOLVED THAT:

The application be refused on the grounds that the development was unsustainable and would be located beyond the existing established extent of the town.

39. A5 - 13/00060/FUL**Erection of 8 no. detached dwellings with associated access road
Land Adjoining Whitwick Filling Station, Talbot Street, Whitwick, Coalville**

The Senior Planning Officer presented the report to Members.

Councillor L Spence, as Ward Member, addressed the Committee. He stated that he was not averse to development on the site in principle, however there were three issues of significant concern to local residents. He expressed disappointment that Leicestershire County Council had chosen not to object on highway safety grounds, as the access was on a steep incline on a busy road, with a single file footpath. He added that existing residents had contacted him due to poor visibility and speeding traffic, a fact which was accepted by Leicestershire County Council when part night lighting was discussed. He felt that the development would significantly increase the risk if the access was sited in its proposed location, and if the Committee were minded to approve the application, consideration must be given to developer contributions to minimise the risk. He explained that Gracedieu Brook flooded regularly and put homes at risk at least annually. He stated that residents were concerned that the development would lead to an increased risk of flooding. He expressed concerns regarding overbearing and intrusion. He stated that the topography of the site meant that some properties were proposed to be located directly above existing properties. He added that consideration must be given to the measures which could be taken to prevent intrusion. He felt that the enjoyment of privacy was being put at risk and he urged Members to reconsider.

Mrs S Alldread, objector, addressed the Committee. She stated that the proposals would offer no benefit for local residents or for wildlife. She referred to the existing problems with speeding traffic and felt the development would lead to an increase in traffic. She explained that the plot of land was invaluable to wildlife and the proposals would not sustain the species on the site. She stated that the proposals would mean that she would be looking from her kitchen window into a brick wall, and all light to her property would be overshadowed. She expressed concerns regarding water drainage and that this would be diverted to the properties below.

Councillor J Bridges stated that a number of issues had been brought to his attention, and he moved that the application be deferred due to highways and other issues.

Councillor T Gillard indicated that he wished to move that the application be refused as it was contrary to policies T3 and E3. He referred to the current traffic issues and stated vehemently that this was an accident waiting to happen.

The motion to defer the application was seconded by Councillor M Specht.

The Legal Advisor explained that as the motion to defer the application had been moved and seconded, this needed to be considered before a further motion could be proposed.

The motion to defer the application was then put to the vote and declared a tie. The Chairman exercised his casting vote, and the motion was declared CARRIED.

RESOLVED THAT:

The application be deferred to allow further consideration of the highways, flooding and residential amenity issues.

40. A6 - 13/00740/FUL

**Erection of 6 no. dwellings with associated access off Kings Gate
Post Office Farm, 7 Main Street, Lockington, Derby**

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

It was moved by Councillor J Bridges, seconded by Councillor G Jones and

RESOLVED THAT:

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

The meeting commenced at 4.40 pm

The Chairman closed the meeting at 7.12 pm

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APPENDIX B

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

4 February 2014

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 Regeneration and Planning are material planning considerations and relate to matters not previously raised.

4. Reasons for Grant

Where the Head of Regeneration and Planning's 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 Regeneration and Planning.

5. Granting permission contrary to Officer Recommendation

Where the Head of Regeneration and Planning's 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 Regeneration and Planning.

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 Regeneration and Planning.

7 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 Regeneration and Planning.

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

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.

SECTION A- PLANNING APPLICATIONS

PLANNING APPLICATIONS- SECTION A

Erection of 8 no. detached dwellings with associated access road	Report Item No A1
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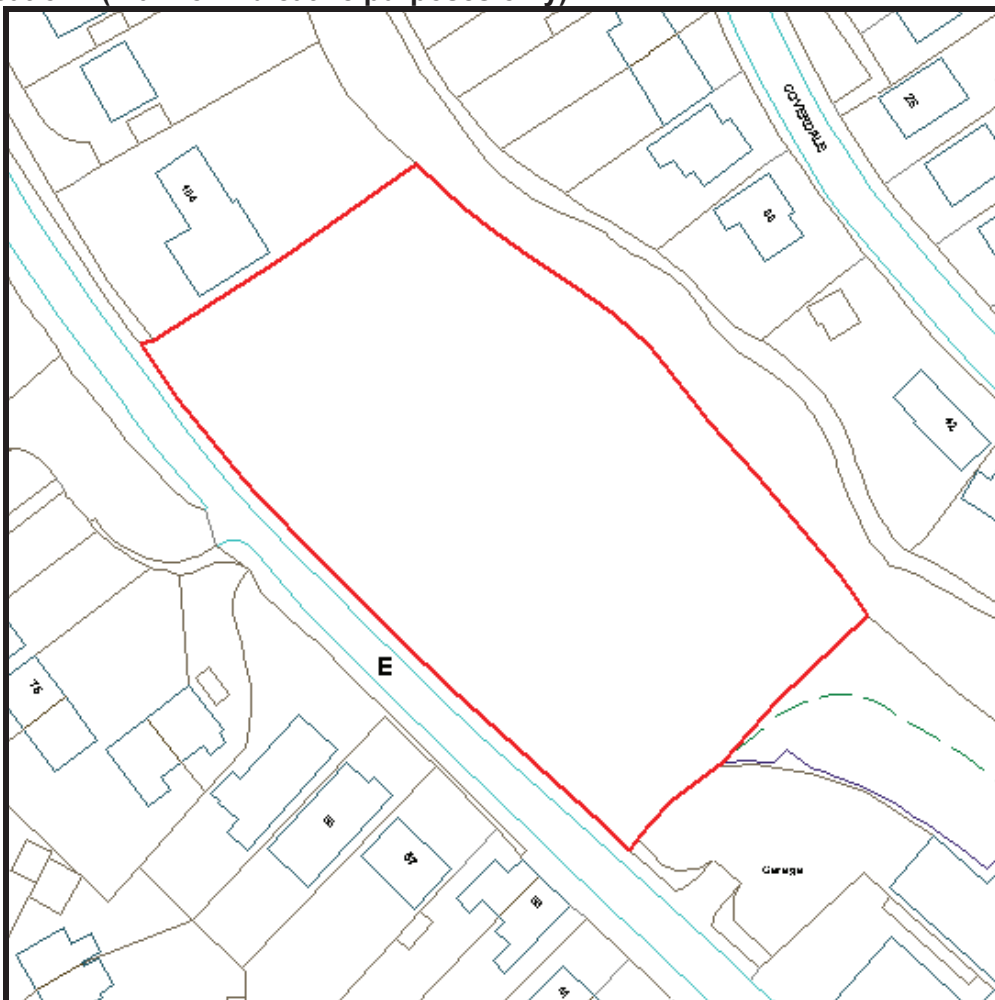
Land Adjoining Whitwick Filling Station Talbot Street Whitwick Coalville	Application Reference 13/00060/FUL
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Applicant:	Date Registered 23 January 2013
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Case Officer: Adam Mellor	Target Decision Date 20 March 2013
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**Recommendation:
PERMIT**

Site Location - (Plan for indicative purposes only)



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EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

Call In

The application has been brought to the Planning Committee at the request of Councillor Spence due to the impacts of the development on highway safety, drainage and the potential impacts on residential amenities.

Proposal

The application seeks to obtain planning permission for the erection of 8 no. detached dwellings on 0.5 hectares of land that currently forms part of a greenfield site between the Whitwick Filling Station and No. 104 Talbot Street. The application site is situated on the north-east side of Talbot Street with residential properties on Coverdale and the Grace Dieu Brook, lying to the north-east of the site. Properties within the vicinity of the site vary in their type and design with off-street parking predominately being situated to the frontage of dwellings. The vehicular access to serve the dwellings would be formed off Talbot Street.

Consultations

Nine individual letters of representation along with the two signed petitions have been received objecting to the application and Whitwick Parish Council also objects to the application. All other statutory consultees have no objections subject to conditions on any consent.

Planning Policy

It is considered that the development would accord with all relevant policies of the North West Leicestershire Local Plan as well as Paragraphs 14, 32, 49, 57, 60, 61, 103 and 118 of the National Planning Policy Framework (NPPF). Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System) would also be appropriate in any assessment.

Conclusion

The site is situated within the defined limits to development where the principle of this form of development is acceptable and although the development would be situated on a greenfield site the inability of the Local Authority to demonstrate a five year housing land supply would not restrict the development of the site under Policy H4/1, which is considered out of date. As the area is sustainable and the development would not result in the loss of protected open space the principle of the proposal would be acceptable. It is considered that the density of the scheme would be acceptable, taking into account the site constraints, the suitable housing mix achieved and the need to provide appropriate landscaping, and would accord with Policy H6 of the Local Plan. The amendments made to the development proposals have ensured that a satisfactory relationship with the dwelling at No. 104 Talbot Street would be established and that the overall heights of the dwellings and restriction on the residential curtilages of the properties would also ensure that the amenities of the occupants of properties on Coverdale would not be impinged upon significantly, as such the development would accord with Policy E3 of the Local Plan. It is considered that the scheme has been designed in a manner which would respect the existing building line along Talbot Street and the retention of a substantial amount of the existing landscaping, as well as its reinforcement, would ensure that the scheme would not result in the entire loss of this greenfield site. The individual designs of the properties would also enhance the architectural standards of the immediate environment and in these circumstances the scheme would respect the character and appearance of the streetscape and surrounding area in accordance with Paragraphs 57, 60 and 61 of the NPPF and Policies E4, F1 and H7 of the Local Plan. It is acknowledged that the County Highways Authority have no objections to the formation of the vehicular access to serve the potential dwellings and in these circumstances the proposal would not be severely detrimental to highway safety, given that sufficient off-street

parking and manoeuvring facilities would also be provided, and would accord with Paragraph 32 of the NPPF as well as Policies T3 and T8 of the Local Plan. Both Natural England and the County Ecologist have raised no objections to the application, subject to the imposition of appropriate conditions, and as such the development would accord with Paragraph 118 of the NPPF and Circular 06/05. The existing landscaping would be substantially retained on the site with additional landscaping also being proposed, it is considered that the restriction of the residential curtilages for the dwellings and the submission of a management plan would ensure compliance with Policies E2, E7, F1, F2 and F3 of the Local Plan. The Environment Agency suggested that conditions be imposed on the previous application refused on the site to agree the sustainable drainage techniques for surface water management and in the circumstances that these conditions are included on any consent it is considered that the proposal would not worsen any localised flooding issue which would ensure compliance with Paragraph 103 of the NPPF. The development therefore accords with the planning policies stated above.

RECOMMENDATION - APPROVE SUBJECT TO CONDITIONS.

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

MAIN REPORT

1. Background

Members may recall that the application was deferred at the Planning Committee meeting on 7th January 2014 in order to try and receive clarity on whether the issues raised by Councillor Spence in relation to highway safety, impact on residential amenities and the potential flooding impacts on the Grace Dieu brook could be addressed further. An email has been received from the agent for the application on the 21st January 2014 which states the following: -

"Thank you for your email of the 10th January 2014 outlining the Planning Committee concerns with regard to the above.

Highway Safety.

The shared private access drive location is the most logical position, furthest away from the bend to the west. Although the proposal is for 8 dwellings vehicles can only exit one at a time being a single access and always in a forward motion with good visibility. Equally County Highways had no objection. We are aware that there is concern with vehicles exceeding the speed limit, we don't consider this as a planning issue as how drivers perform is outside our control.

Flooding Impacts on the Grace Dieu Brook.

The proposed site is significantly elevated from the brook and we do not consider that the development will cause any adverse impact on the brook, no objection has been raised by the EA; We agree to comply with the conditions proposed which will be rigorously checked by the relevant bodies and will not be implemented until full technical approvals have been achieved; Comment was raised at committee that occupiers would be mindful to throw their garden refuse over the fence, again we do not accept this as a planning issue. As confirmed the lower element of the garden will be fenced and conveyed to one purchaser.

Impact on Residential Amenities.

Careful consideration has been given to adjoining properties throughout the planning process, to respect both the adjoining neighbour at No. 104 Talbot Street and those residents at the rear of the proposal, which although lower than the proposal have a significant separation distance with a well established landscape buffer between.

Having considered your email and attended the planning committee meeting, we do not consider that there are any sustainable planning reasons to refuse the above application. Please note that should the committee seek to refuse against officer recommendations our client will be mindful to appeal.

We trust the above provides a balanced response."

It is considered that the 'Highway Safety' section of the report covers the issues associated with the proposed vehicular access into the site and having had additional discussions with the County Highways Authority it is considered that the selected position for the vehicular access is the optimum position in achieving adequate visibility in both directions.

The impacts of the development on the flooding of the Grace Dieu Brook are addressed in the 'Other Matters' section of the report with the Environment Agency agreeing that the imposition of Conditions 22 and 23 would mitigate any flooding impacts associated with the development. Condition 15 has also been imposed on the consent at the request of the County Ecologist to ensure that any debris associated with the development does not impact on the Grace Dieu

Brook.

With regards to the impacts on the residential amenities of neighbours it is considered that the 'Residential Amenity' and 'Design' sections of the report address these issues with it being noted that the scheme has been significantly amended from that originally received in order to mitigate the impacts of the development on residential amenities. Conditions have also been imposed to restrict the extent of the residential curtilage of the properties so that the gardens do not extend to the Brook.

Issues in respect of the stability of the land would be dealt with at the Building Regulations stage but following discussions with the Council's Building Control department it was concluded that it would be possible to construct the properties with strip foundations with only plots 1 and 2 potentially causing conflict with this type of foundation design. In any case the general information supplied in support of a building control application would detail the 'make-up' of the land as well as its stability and whether any specialist foundation design would be required. As such this issue is considered to not be of particular relevance in assessing the merits of the planning application.

In the circumstances that the development is considered to be in accordance with all relevant planning policies there is no change to the recommendation.

2. Proposals

Planning permission is sought for the erection of eight detached dwellings with associated access road at Land Adjoining Whitwick Filling Station, Talbot Street, Whitwick. The land in question is situated to the north-west of the filling station and has an area of 0.50 hectares with residential properties on Coverdale, as well as the Grace Dieu Brook, lying to the north-east of the site. The land is situated within the defined limits to development, as identified in the North West Leicestershire Local Plan, and the surrounding area is predominately residential with dwellings varying in their type and design.

Within the application site there are a number of mature trees and hedging along the boundaries with there being a significant difference in the land levels between Talbot Street and Coverdale which is reflected in the varying topography of the application site.

Following amendments during the course of the application the dwellings proposed on the site would consist of three types which would be as follows: -

House Type B2 (Plots 1 & 2):

These houses would be a pair of two-storey semi-detached properties which would have individual dimensions of 9.7 metres in length by 5.4 metres in width and use of a pitched gable ended roof with an eaves height of 2.5 metres on the south-western (front) elevation and 5.5 metres on the north-eastern (rear) elevation and a ridge height of 5.2 metres, when viewed from Talbot Street, and 8.1 metres when viewed from Coverdale. It is indicated on the floor plans that the dwelling would provide a kitchen, water closet and living room at lower ground floor level and two bedrooms, a hall and bathroom at ground floor level for the occupants.

House Type B3 (Plots 3 & 8):

This house would be a detached two-storey type which would have dimensions of 10.6 metres in length by 10.2 metres in width and use of a pitched gable ended and hipped roof with an eaves height of 2.5 metres on the south-western (front) elevation and 5.5 metres on the north-eastern (rear) elevation and a ridge height of 5.1 metres when viewed from Talbot Street and 8.2 metres when viewed from Coverdale. It is indicated on the floor plans that the dwelling

would provide a family/dining room, kitchen, water closet, lobby and living room at lower ground floor level and three bedrooms, a bathroom, hall and garage at ground floor level for the occupants.

House Type B4 (Plots 4, 5, 6 & 7):

This house would be a detached two and a half storey type which would have dimensions of 10.6 metres in length by 10.2 metres in width and use of a pitched gable ended and hipped roof with an eaves height of 3.0 metres on the south-western (front) elevation and 5.5 metres on the north-eastern (rear) elevation and ridge height of 6.1 metres when viewed from Talbot Street and 9.2 metres when viewed from Coverdale. It is indicated on the floor plans that the dwelling would provide a family/dining room, kitchen, water closet, lobby and living room at lower ground level, three bedrooms, a bathroom, hall and garage at ground floor level and a bedroom and en-suite at first floor level for the occupants.

A new vehicular access into the site would be formed from Talbot Street which would serve all of the properties with off-street car parking being provided to the frontage of the properties and within the garages which serve house types B3 and B4.

A design and access statement was initially submitted with the application and following the receipt of consultation responses an ecological survey and arboricultural assessment have also been submitted in support of the application.

The planning history of the site is as follows: -

- o 01/01182/OUT - Erection of five dwellings (outline - all matters reserved) - Withdrawn 26th February 2003;
- o 07/00566/FUL - Erection of 8 no. detached dwellings with associated access road - Refused 29th May 2007.

2. Publicity

41 neighbours have been notified (Date of last notification 19 June 2013)

Site Notice displayed 25 January 2013

3. Consultations

LCC ecology consulted 30 January 2013
Whitwick Parish Council consulted 24 January 2013
County Highway Authority consulted 24 January 2013
Severn Trent Water Limited consulted 24 January 2013
Head of Environmental Protection consulted 24 January 2013
Natural England consulted 24 January 2013
NWLDC Tree Officer consulted 24 January 2013
National Forest Company consulted 19 February 2013
LCC ecology consulted 21 October 2013
NWLDC Conservation Officer consulted 12 June 2013
LCC ecology consulted 16 September 2013

4. 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.

Environment Agency awaiting comments on scheme and these will be reported on the update sheet.

Leicestershire County Council - Ecology initially objected to the application and stated the following: *"Whilst I have no objection in principle to this development, I have some concerns about the impacts on the Grace Dieu Brook. This is an extremely important wildlife corridor, and is unique in Leicestershire as a fast-flowing stream flowing in a 'ravine' over bedrock (ref - Action for Wildlife: Leicester, Leicestershire and Rutland BAP, 1998). The trees along the brook are an important part of the wildlife corridor. My concerns are about impacts on the brook during construction and about future impacts on the wooded corridor of the brook; 1. Future impacts on the woodland along the Brook - The land slopes steeply down to the Brook. There are trees along the brook, and spreading up the slope towards Talbot Street. The lower parts of much of the development plot is wooded. The D&A statement for the development states that these trees will be retained. The layout plan shows the tree extent but it isn't clear whether it will be outside the gardens of the properties - however, it seems likely that the gardens will extend right down the development plot, and that the trees will become included in gardens. What guarantees are there that the occupants will not remove all the trees down to the brook edge and limit of ownership? My recommendation therefore is that the back gardens only extend down to the tree line, leaving a buffer of at least 10m at the lower end of the development plot which is allowed to remain wooded and unmanaged (as at present); 2. Impacts during construction - The ground will need major re-grading to allow construction. Due t the steep slopes, I feel there's a risk of soil and other materials falling or being tipped down the slope to the woodland and brook. What protection can be given to the brook and wooded corridor to prevent soil, rubble, and other construction materials ending up downslope, or for material to be tipped downslope? If any material ended up in the brook, it could smother bankside and stream-bed habitats and fauna, and could irreversibly damage the unique site; I would like to make a holding objection to this development until these two issues are resolved - my reason being the potential adverse impacts on a locally important and irreplaceable BAP habitat."* Following reconsultation on the ecological survey the County Ecologist has stated the following: *"The revised layout appears to show back garden boundaries following the approximate tree line alongside the brook, therefore it has satisfactorily addressed my previous concerns regarding inclusion of woodland within back gardens; The ecology report (EMEC Sept 2013) is satisfactory and no further survey work is required pre-determination. It appears as though the woodland corridor along the brook is used by badgers; EMEC recommend various conditions - see 6.1.2 b), c) and d) covering bat friendly lighting, avoidance of harm to badgers, and site clearance outside the bird-nesting season. I would also recommend a condition requiring a pre-development check for badgers, as it appears they are active in the area and may open up a new sett in the slope; My second concern has not been addressed; namely the protection of the brook and woodland habitats during construction. I imagine that this can be covered by a planning condition for a method statement regarding site fencing and barriers to prevent erosion of soils down-slope and to prevent construction materials, rubble etc polluting and littering the woodland and the Brook; Finally any tree and shrub planting adjacent to the woodland corridor must be of locally native species."*

Leicestershire County Council - Highways has no objections subject to the inclusion of conditions on any consent and the cutting back of vegetation along the site frontage to provide visibility plays.

Natural England initially commented that no response could be provided due to the lack of survey information addressing impacts on protected species. Following reconsultation Natural England has no objections subject to consideration being given to protection of protected

species.

National Forest Company initially stated the following: *"The application site area, as stated within the application form, is 0.5ha, therefore the National Forest Company's (NFC) Guide for Developers and Planners would expect 20% of this to be for woodland planting and landscaping. This would equate to 0.1ha; The Design and Access Statement suggests at paragraph 4.1 that 1,350 square metres of the site will be retained trees to the eastern boundary which would equate to 27%. The NFC would accept the retention and management of this woodland in lieu of new planting in this instance provided that the following are secured by way of condition or legal agreement: - Details of measures to protect the woodland during construction works; submission of an arboricultural report setting out the tree works required to accommodate housing in close proximity. This should also include details of ecological enhancements to the woodland to improve its value for biodiversity such as thinning, replacement tree and shrub planting, creation of hibernacula and installation of bird and bat boxes. A timescale for implementation of these works should be set out."* Following reconsultation the following comments have been provided: *"Our original comments sought for an arboricultural report to be submitted to assess the impact of the proposed dwellings on the woodland. The report now submitted appears satisfactory and concludes that three individual trees, one group and parts of a further three groups will need to be removed to facilitate the development; The NFC requests that tree planting to the road frontage should be required by condition to mitigate for these losses as proposed in paragraph 4.7 of the report; Our original comments also stated that for the existing trees to be considered as meeting the expected woodland planting and landscaping then the woodland would not only need to be retained but also managed, so that there is a benefit to the woodland from the development. Our comments suggested that there may be a need for thinning, replacement tree and shrub planting and the creation of hibernacula or bat and bird boxes. This aspect is addressed in the report therefore the NFC reiterates the request that a condition is imposed for biodiversity enhancements to be made to the retained woodland; Our comments also sought for details of protective fencing to be submitted, some details are provided within section 5 of the report. The NFC requests that a condition is imposed for details of the type and position of the fencing to be agreed; The application and report is not clear on the long term ownership for the wood, whether this will be retained by the applicant or form part of the private gardens for new dwellings. The NFC requests that clarification is sought from the applicant and that the District Council expresses a preference for the woodland to be retained in one ownership to allow its continued management, rather than divided between new residents."*

NWLDC - Environmental Protection no representation received.

NWLDC - Tree Officer initially stated the following: *"The outgrown and gappy hedge of Hawthorn and Elder on the front, roadside boundary, will need to be restored using C.monogyna, A.campestre, C.avellana and C.sanguinea. Tree species planted within it will need to be of fastigiated or upright native form. There is insufficient space for tree planting as shown in the small (5m) front gardens and therefore there is requirement for strong, high quality front boundary treatment. Future maintenance of the front hedgerow needs to be pre-determined to prevent neglect or piece-meal trimming by residents; Some existing young and middle-aged oak and hawthorn in the upper part of the site will be lost. The oak are mainly of local scrub form but with good potential. Their loss could be mitigated by new woodland planting at 2.5m centres in the gap on the lower slope. There will presumably be a need for gabions or terracing below the dwellings and detailed construction drawings will be needed. Such construction will require an assessment of the impact on trees and also the impact on the properties to the north and sufficient landscape screening provided. Landscape conditions need to be applied and an Arboricultural Assessment provided; Access to the existing woodland area*

needs to be designed into the scheme and future responsibility determined with a long-term management plan." Following reconsultation the following has been stated: *"The Arboricultural Assessment by FRCP is an accurate reflection of the impact that proposals will have on tree cover; Loss of T3 is significant but its loss, the partial encroachment into TG3 and loss of T5 and TG7 could be mitigated in number by replacement planting along Talbot Street and to the north-west of TG2; Future maintenance of the woodland area is still an issue to be resolved. There appears to be no obvious single access route into it for any necessary maintenance of new planting and of mature trees although narrow gaps are present along the site boundaries. A uniform and consistent management plan will be required for the whole band of trees TG2 - TG6 avoiding piecemeal maintenance by individual residents. A TPO may need to be considered."*

Severn Trent Water Limited no objections subject to a drainage condition being applied to any consent.

Whitwick Parish Council objects to the application and states: *"The proposed access/egress would exacerbate existing traffic problems experienced at the cul-de-sac on the opposite side of the road; The development would result in additional surface water run-off into the Grace Dieu Brook with potential to create flooding problems further downstream; The proposed 2.5 storey dwellings would create intrusive overlooking."*

Third Party Representations

Nine individual letters of representation and two signed petitions have been received objecting to the application which are broken down as follows: -

- o 1 No. letter from the occupants of No. 53 Talbot Street;
- o 1 No. letter from the occupants of No. 55 Talbot Street;
- o 1 No. letter from the occupants of No. 79 Talbot Street;
- o 2 No. letters from the occupants of No. 104 Talbot Street;
- o 2 No. letters from the occupants of No. 29 Coverdale;
- o 1 No. letter from the occupants of No. 42 Coverdale;
- o 1 No. letter from the occupants of No. 44 Coverdale;
- o 35 signatories to a petition from residents of Coverdale, Crescent Road and Mossdale;
- o 24 signatories to a petition from residents of Talbot Street.

The objections raised are as summarised below: -

- o Position of Plot 8 will have a detrimental effect on the light to our property;
- o If the occupant of Plot 8 puts up a fence between the properties, the soil is two feet higher there and the erection of an six foot fence would lead to there being an eight foot fence straight outside our windows and doors;
- o Increase in traffic will have a detrimental impact on highway safety;
- o Increase in vehicular fumes will impact on use of the garden and wildlife;
- o Development will impact on the ecological species supported by the site;
- o Water drainage to the brook could have a detrimental affect on water life and the houses would be in danger of flooding;
- o Dwellings will interfere with television reception;
- o New properties on the land will impact on privacy due to the difference in land levels;
- o New properties on the land will result in overshadowing;
- o Any rubbish deposited on the site could result in the pollution of the brook;
- o Development would be out of character with the area given that they stand over two-storey in height;
- o Infilling of the green field site with this type of property will be detrimental to the area;

- o Development of site will result in the loss of a view;

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

- o approve development proposals that accord with statutory plans without delay; and
- o grant permission where the plan is absent, silent or where relevant policies are out of date unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

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

Paragraph 32 outlines that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- o The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- o Safe and suitable access to the site can be achieved for all people; and
- o Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe;

Paragraph 49 outlines that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites;

Paragraph 57 outlines that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes;

Paragraph 60 outlines that planning policies and decisions should not impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness;

Paragraph 61 outlines that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the

natural, built and historic environment;

Paragraph 103 indicates that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere;

Paragraph 118 outlines that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying particular principles;

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

North West Leicestershire Local Plan

Policy S2 of the Local Plan provides that development will be permitted on allocated sites and other land within the Limits to Development, identified on the Proposals Map, where it complies with the policies of the Local Plan;

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees;

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings;

Policy E4 seeks to achieve good design in new development and requires new development to respect the character of its surroundings;

Policy E7 seeks to provide appropriate landscaping in association with new development including, where appropriate, retention of existing features such as trees or hedgerows;

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest, and requires built development to demonstrate a high quality of design, to reflect its Forest setting;

Policy F2 states that the Council will have regard to the existing landscape character of the site and the type of development when seeking new planting;

Policy F3 seeks to secure implementation of agreed landscaping and planting schemes for new development by the imposition of planning conditions and/or the negotiation of a planning agreement;

Policy T3 requires development to make adequate provision for vehicular access, circulation and servicing arrangements;

Policy T8 requires that parking provision in new developments be kept to the necessary minimum, having regard to a number of criteria;

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst others, public transport and services;

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account housing mix, accessibility to centres, design etc. Within Coalville and Ashby-de-la-Zouch town centres, local centres and other locations well

served by public transport and accessible to services a minimum of 40 dwellings per ha will be sought and a minimum of 30 dwellings per ha elsewhere (in respect of sites of 0.3 ha or above).

Policy H7 seeks good quality design in all new housing development;

Submission Version Core Strategy

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

Other Guidance

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

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

6. Assessment

Principle and Sustainability

The site is located within the limits to development where the principle of residential development is considered acceptable subject to compliance with the relevant policies of the adopted North West Leicestershire Local Plan and other material considerations. Policy H4/1 of the Local Plan aims to direct new development to sustainable locations and in doing so sets out a sequential approach to the release of housing land. Regard should also be paid to Paragraphs 14 and 49 of the NPPF.

Planning permission 07/00566/FUL was refused on the following grounds, amongst others: -

- o *The site constitutes greenfield land. Policies 2 and 3 of RSS 8 - Regional Spatial Strategy for the East Midlands, Strategy Policies 2A and 2B of the Leicestershire, Leicester and Rutland Structure Plan, and Policy H4/1 of the North West Leicestershire Local Plan set out a sequential approach to the selection of sites for residential development. The proposed development would result in the unnecessary use of a greenfield site, contrary to the sequential approach to residential development set out in the Development Plan and PPS 3;*
- o *Strategy Policy 3 of the Leicestershire, Leicester and Rutland Structure Plan states that where, after applying the sequential approach in Strategy Policy 2A and the criteria in Strategy Policy 2B, it is necessary to consider new development on greenfield land, such land should satisfy a number of criteria. Notwithstanding Reason for Refusal 1 above, the proposed development would not satisfy the criteria set out in Strategy Policy 3 of the Structure Plan, contrary to its managed approach for the release of greenfield sites, where this is deemed necessary;*

Of these policies only H4/1 remains extant and as such no consideration is given to the policies within the Regional Spatial Strategy for the East Midlands or Leicestershire, Leicester and Rutland Structure Plan in the assessment of this application.

The application site is currently a greenfield site within Whitwick, which would fall within criterion (c) allocated and other appropriate land within Coalville. The second section goes on to outline

a set of criteria relating to the sustainability of the location. It is considered that the Talbot Street area of Whitwick would be within a sustainable location, given its proximity to public transport facilities and local services, and as such would accord with the principles of Policy H4/1 of the Local Plan.

Whilst the development would be located on a greenfield site, with the NPPF seeking to direct the majority of housing to brownfield land, it is considered that Policy H4/1 would not be a constraint on resisting this type of development given that it is considered 'out of date.' This is due to appeal decision of May 2013 in respect of land south of Moira Road, Ashby De La Zouch which found that the 'Sedgefield' approach, to identify a five year supply of housing land, should be used given that the Council is only able to demonstrate a supply of 4.43 years which represents a significant shortfall vis-à-vis the requirements of the NPPF. The inability to demonstrate a five year supply of housing are profound with Paragraph 49 of the NPPF advising that *"Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites."* Given these circumstances as well as the fact that the loss of the site would not be significantly detrimental to the character of the area (as discussed in more detail below) or result in the loss of protected open space it is considered, overall, that the principle of the development would be acceptable.

Density

Policy H6 of the Local Plan seeks to permit housing development which is of a type and design to achieve as high a net density as possible taking into account factors such as housing mix, accessibility to centres and design. Policy H6 of the North West Leicestershire Local Plan also requires a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services and a minimum of 30 dwellings per hectare elsewhere.

With a site area of 0.50 hectares, the proposal would have a density of 16.0 dwellings per hectare. Whilst the density would fall below that advised in Policy H6 these policies also identify that it is important to factor into any assessment the principles of good design as well as green space and landscaping requirements. It is noted that development on the site would be constrained by the topography of the site and the retention of a significant amount of landscaping which would reduce the developable area. In the circumstances that the Local Authority values good design in its approach to residential development, there would be a need to reinforce the landscaping of the site, given the setting of the site within the National Forest, and a suitable housing mix has been achieved it is considered that the density proposed would represent an efficient use of the land in this instance. In these circumstances the proposal would not substantially conflict with the principles of Policy H6 as to warrant a refusal of the planning permission.

Residential Amenity

It is considered that the properties most directly affected by the proposed development would be No. 104 Talbot Street, a two and a half storey detached dwelling, situated to the north-west of the site, and Nos. 32, 34, 36, 38, 42 and 44 Coverdale, two-storey detached and semi-detached dwellings, situated to the north-east of the site.

At present no defined boundary treatment exists between the application site and No. 104 Talbot Street which contains two windows and two entrance doors on its south-eastern (side) elevation, along with a roof light in the same elevation. The floor plans associated with application reference 98/0609/P for extensions and alterations to No. 104 indicate that the two windows would serve a water closet and a kitchen (with the kitchen window being a secondary window given that another window exists on the north-eastern (rear) elevation), the two doors

would serve a hall and an integral garage and the roof light would serve an en-suite. The scheme has been amended so that the dwelling proposed adjacent to No. 104 would now be a one and a half storey type which would be set 4.6 metres from the side elevation of this dwelling. Although the land level rises between No. 104 and the side elevation of Plot 8 the eaves height of the proposal coupled with the overall height and use of a roof which would slope away from the boundary would ensure that the dwelling would not have a significantly detrimental overbearing or overshadowing impact on the amenities of No. 104 to justify a refusal of the application, particularly in the circumstances that the windows on the side elevation are not habitable room windows. Plot 7, at a distance of 17.5 metres from the side elevation of No. 104, would also incorporate a hipped roof into its design which would ensure that it would not impact significantly on the amenities of No. 104 given the distance involved. No windows are proposed in the side elevation of Plot 8 and as the property would be orientated away from the shared boundary it is considered that there would be no adverse overlooking impacts. Although the occupant of No. 104 has expressed concerns that a 'view would be lost' it is noted that the right to view is not a material planning consideration which could be taken into account in the assessment of the proposals. With regards to the potential establishment of a boundary treatment appearing 'dominating' to No. 104, by virtue of the difference in land levels, it is noted that planning permission would not be required should the current owner of the land wish to erect a boundary treatment to a height of 2.0 metres which would have a similar impact. In any case, however, the street scene drawing to Talbot Street shows that the land levels would be dropped at this point to ensure that any boundary treatment would be of a height between 1.8 metres to 2.0 metres from the ground level of No. 104 and the details of the boundary treatments to be established would be conditioned accordingly on any planning consent granted.

With regards to the impacts on the amenities of the properties on Coverdale it is considered that the distance of the properties from these dwellings, as well as the presence of other built forms of development along Talbot Street which have similar overall heights, would ensure that the development proposals would not have a significantly detrimental overbearing or overshadowing impact given that they would deviate significantly from the building line established by the rear elevation of No. 104 Talbot Street. In terms of overlooking impacts it is noted that the Officer report for application reference 07/00566/FUL stated the following: *"it is noted that the proposed dwellings would incorporate rear gardens of approximately 28 to 30 metres in length, resulting in window to window distances considerably in excess of those set out in the Council's Development Guidelines. Notwithstanding this, and notwithstanding the retention of existing trees referred to above, it is considered that, by virtue of the proposed development's significantly elevated position vis-à-vis the existing properties to the rear, significant loss of amenity to occupiers of those properties by way of overlooking and a perception of such from not only the proposed dwellings but, in particular, their gardens, would appear likely."* The properties proposed as part of the above application were two and a half storey types which presented eaves heights of 5.7 metres and ridge heights of 9.9 metres to Coverdale. Originally the dwellings proposed as part of this application presented eaves heights of 5.7 metres and ridge heights of 10.2 metres, on property type B1, and eaves heights of 5.7 metres and ridge heights of 10.2 metres, on property type B2, to Coverdale. On the basis of the revised house types the eaves and ridge heights presented to Coverdale would be as follows: -

- o House type B2 - eaves height of 5.5 metres and overall height of 8.1 metres;
- o House type B3 - eaves height of 5.5 metres and overall height of 8.2 metres;
- o House type B4 - eaves height of 5.5 metres and overall height of 9.2 metres;

On the basis of these details the overall heights of the properties have been significantly reduced, by almost two metres in some cases, with the tallest property still being 0.7 metres

lower than the dwellings previously considered under the aforementioned application. These changes have also coincided with the elevation details of the properties being amended with the ground floor area being more suppressed than the lower ground level and only roof lights being proposed in the roof slopes of the properties rather than dormer windows. It is considered that these changes, coupled with the overall position of the dwellings in relation to existing built forms along Talbot Street, would ensure that the extent of overlooking, or perceived impact of overlooking, from the dwellings themselves would not be sufficiently detrimental to warrant a refusal of the application. With regards to any loss of privacy by virtue of the use of private garden space it is proposed to condition any consent to ensure that the rear amenity area for each dwelling is restricted due to the need to maintain and enhance the existing landscaping along the Grace Dieu Brook in accordance with the aims of the National Forest Company and Council's Tree Officer. The exclusion of this land from the private amenity areas of each dwelling would ensure that this planting would not be 'lost' and a condition would also be imposed to reinforce the landscaping of this area as well as for a long term maintenance schedule to be agreed given its exclusion from domestic gardens. Given that the rear amenity areas for each of the dwellings would be restricted and the existing landscaping would be retained it is considered that the potential for any direct overlooking impacts onto or into the properties on Coverdale would be minimised and as such the impacts would not be sufficiently adverse to warrant a refusal of the application.

The relationship between the dwellings and those properties on the south-western side of Talbot Street would also be acceptable given the overall designs and distances involved.

In terms of the amenities of any future occupants of the properties it is considered that the proposed relationships between each individual property would be acceptable and would not result in any detriment in respect of overbearing, overshadowing or overlooking impacts. Views from the windows on the side elevation of No. 104 Talbot Street would be restricted by any proposed boundary treatment and the roof light would be a sufficient height above the internal floor level, in these circumstances there would be no adverse impact on the amenities of any occupant of Plot 8. In the circumstances that the Council's Environmental Protection team have raised no objections it is also considered that the relationship between Plot 1 and the Whitwick Filling Station, as well as the Quiet Storm telecommunications offices, would be acceptable.

Overall, therefore, the development would not conflict significantly with the principles of Policy E3 of the Local Plan.

Design

The need for good design in new residential development is outlined not only in Local Plan Policies E4 and H7 but also Paragraphs 57, 60 and 61 of the NPPF with Paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. The site is also located within the National Forest and as such Policy F1 of the Local Plan would also be of relevance.

The application site is steeply sloped with the properties on Talbot Street being at a higher land level than those on Coverdale. Properties along Talbot Street front onto the road and generally consist of two-storey and single storey detached and semi-detached types. Off-street parking exists to the frontage of dwellings and no properties within the immediate vicinity of the site exhibit any substantial quality in their architectural design with the terraced properties on Brook Lane perhaps exhibiting the most design quality given their use of eaves detailing, stone cills

and headers and chimneys.

It is proposed that the landscaping along the front boundary of the site would be retained and enhanced which would result in some natural screening of the development proposals when viewed from Talbot Street. The building line of the properties would mainly reflect that of Talbot Street with only Plots 1 and 2 being set slightly further forward than the remainder of the Plots due to their relationship with the retained trees. In the circumstances that the development would respect the context of its setting it is considered that the proposals would not have an adverse impact on the character and appearance of the Talbot Street streetscape. The elevation presented to the entrance into the site would also be of a standard which would ensure that the 'fleeting' views established at that point would not be adverse to the appearance of the street scene overall. With regards to the wider area it is considered that the retention and reinforcement of the trees to the rear of the site, within proximity to the Grace Dieu Brook, would limit the views which would be established from Coverdale and the properties to the north-east of the site but in the circumstances that the existing built forms of development on Talbot Street would be visible from these areas it is considered that the proposed development would not have a significantly adverse impact on the character and appearance of the wider area to justify a refusal of the application.

Although off-street parking would be provided to the frontage of the dwellings it is considered that this would not detract from the character of the area given that this form of parking is common along the remainder of Talbot Street and the landscaping retained to the site frontage would assist in reducing the visual impact of a car 'dominated' frontage. In any case the parking of vehicles to the frontage would remain the only feasible option for any residential scheme given the topography of the site preventing a parking solution to the side elevations of the properties with detached garages to the rear.

With regards to the individual designs of the properties it is noted that they would be 'split-level' dwellings which would have the appearance of one-storey to one and a half storey when viewed from Talbot Street and two-storey to two and a half storey when viewed from Coverdale. It is considered that this design approach would be acceptable and the dwellings would include eaves and verge detailing, bay windows and cills and headers as well as 'chunky' timber posts within the porches, timber cladding and suitably coloured render to reinforce the National Forest identity of the scheme. The overall scale of the properties would reflect those of the surrounding area and the variation in the roof types would enhance the architectural standards of the immediate environment.

Although the materials to be used in the construction of the dwellings have been partially specified in the application forms not all the materials have been noted and as such it is considered that it would be appropriate to condition any planning consent to ensure that samples of the materials to be used are submitted for approval to ensure that appropriate materials are utilised.

Overall the layout, design and scale of the dwellings are considered to be appropriate and would ensure that the development accords with Paragraphs 57, 60 and 61 of the NPPF and Policies E4, F1 and H7 of the Local Plan.

Highway Safety

The County Highways Authority has raised no objections to the proposal subject to appropriate conditions on any grant of planning permission. The appropriate visibility for the new access would be achieved with the cutting back and slight removal of the vegetation along the south-western (front) boundary with the access point serving all of the properties. A new access road

would run in front of the properties with associated off-street parking also being provided. Vehicular manoeuvring facilities to ensure that vehicles vacant the site in a forward direction would also be accommodated with the site boundaries.

Paragraph 32 of the NPPF indicates that "*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*" In the circumstances that the County Highways Authority has not objected to the application it is considered that the development would not have a severe impact on highway safety and as such it would accord with Paragraph 32 of the NPPF as well as Policies T3 and T8 of the Local Plan.

Ecology

Both Natural England and the County Ecologist are satisfied that the development would not have an adverse impact on any protected species, or the Grace Dieu and High Sharpley Site of Special Scientific Interest (SSSI), subject to the imposition of conditions on any consent. A condition requesting a method statement for the construction of the development would also be imposed on any consent to ensure that any debris from the development does not fall within the Grace Dieu Brook and is as requested by the County Ecologist. Whilst the County Ecologist has requested a condition for a pre-development check of the site for badger sett's should be carried out it is considered that this would be an unreasonable request in the circumstances that badgers could be established on any site between the decision on an application and the commencement of development, as such a suitably worded note to the applicant would be included on any consent. In the circumstances that the habitat of protected species would be preserved it is considered that the development would accord with Paragraph 118 of the NPPF and Circular 06/05.

Landscaping and National Forest Planting

Both the Council's Tree Officer and the National Forest Company have no objections to the scheme subject to appropriate conditions. The amount of trees retained would accord with the planting standards of the National Forest and the provision of additional landscaping, in the form of trees and mature hedgerows, would further reinforce this planting. Given the importance that the trees have on the visual amenity of the area, with the Council's Tree Officer considering the trees worthy of a tree preservation order (TPO), it is proposed to restrict the extent of the residential gardens to each property to ensure that the trees retained, and potentially planted, are protected from various works by any future occupants of the property which would impact on their integrity. A condition requesting the submission of a management plan for the future maintenance of the wood, as well as the provision of footpath access to this site, would be imposed on any consent. In the circumstances that the woodland would be retained and enhanced it is considered that the development would accord with Policies E2, E7, F1, F2 and F3 of the Local Plan.

Other Matters

Concerns have been expressed regarding increased flooding of the Grace Dieu Brook and the views of the Environment Agency are awaited following consultation. The Environment Agency previously advised, in a consultation response to application reference 07/00566/FUL, that "*the site is located in Flood Zone 1 and the risk of fluvial flooding to the site is less than 0.1% in any one year and the site lies outside the 1 in 1000 year floodplain. Generally this means that the chances of flooding each year from rivers is 0.1% (1 in 1000) or less.*" In terms of the increased risk of flooding elsewhere as a result of the proposed development, the Agency advises that there has been historic flooding problems with Grace Dieu Brook, and it would therefore be necessary for the development to incorporate sustainable drainage techniques (such an approval can involve a range of techniques including soakaways , infiltration trenches,

permeable pavements, grassed swales ponds and wetlands to reduce flood risk by attenuating the rate and quantity of surface water run-off from a site). In the circumstances that the suggestions of the Environment Agency are included in any planning consent it is considered that the development would accord with Paragraph 103 of the NPPF. It is considered that the imposition of a surface water condition would also meet the request of Severn Trent Water although it is considered that the imposition of a condition for an agreement on foul drainage discharge would not be required in this instance given that these matters would be addressed under separate legislation (Building Regulations and by Severn Trent Water themselves).

With regard to the issue relating to the potential impacts of the development on television reception it is considered that although this would be a material planning consideration no evidence has been provided to suggest that the provision of eight dwellings would have an adverse impact on television reception particularly as their ridge heights would not be substantially higher than neighbouring properties.

Summary Reasons for Granting Planning Permission

The site is situated within the defined limits to development where the principle of this form of development is acceptable and although the development would be situated on a greenfield site the inability of the Local Authority to demonstrate a five year housing land supply would not restrict the development of the site under Policy H4/1, which is considered out of date. As the area is sustainable and the development would not result in the loss of protected open space the principle of the proposal would be accepted. It is considered that the density of the scheme would be acceptable, taking into account the site constraints, the suitable housing mix achieved and the need to provide appropriate landscaping, and would accord with Policy H6 of the Local Plan. The amendments made to the development proposals have ensured that a satisfactory relationship with the dwelling at No. 104 Talbot Street would be established and that the overall heights of the dwellings and restriction on the residential curtilages of the properties would also ensure that the amenities of the occupants of properties on Coverdale would not be impinged upon significantly, as such the development would accord with Policy E3 of the Local Plan. It is considered that the scheme has been designed in a manner which would respect the existing building line along Talbot Street and the retention of a substantial amount of the existing landscaping, as well as its reinforcement, would ensure that the scheme would not result in the entire loss of this greenfield site. The individual designs of the properties would also enhance the architectural standards of the immediate environment and in these circumstances the scheme would respect the character and appearance of the streetscape and surrounding area in accordance with Paragraphs 57, 60 and 61 of the NPPF and Policies E4, F1 and H7 of the Local Plan. It is acknowledged that the County Highways Authority have no objections to the formation of the vehicular access to serve the potential dwellings and in these circumstances the proposal would not be severely detrimental to highway safety, given that sufficient off-street parking and manoeuvring facilities would also be provided, and would accord with Paragraph 32 of the NPPF as well as Policies T3 and T8 of the Local Plan. Both Natural England and the County Ecologist have raised no objections to the application, subject to the imposition of appropriate conditions, and as such the development would accord with Paragraph 118 of the NPPF and Circular 06/05. The existing landscaping would be substantially retained on the site with additional landscaping also being proposed, it is considered that the restriction of the residential curtilages for the dwellings and the submission of a management plan would ensure compliance with Policies E2, E7, F1, F2 and F3 of the Local Plan. The Environment Agency suggested that conditions be imposed on the previous application refused on the site to agree the sustainable drainage techniques for surface water management and in the circumstances that these conditions are included on any consent it is considered that the proposal would not worsen any localised flooding issue which would ensure compliance with Paragraph 103 of the NPPF. It is therefore recommended that the application be permitted.

RECOMMENDATION - PERMIT, subject to the following conditions;

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

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

- 2 This development shall be implemented in accordance with drawing number 1115-02, received by the Local Authority on the 23rd January 2013, drawing number 1115-12, received by the Local Authority on the 9th April 2013, and drawing numbers 1115-09 Revision A; 1115-11 Revision B; 1115-13; 1115-14, received by the Local Authority on the 18th June 2013, unless otherwise required by another condition of this permission.

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

- 3 Notwithstanding the details shown on the approved plans, no development shall commence until a schedule of external materials and brick bonds to be used in the new dwellings and external finishes to the window and door units have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details which shall thereafter be so retained.

Reason - to enable the Local Planning Authority to retain control over the external appearance, in the interests of the amenities of the area.

- 4 Notwithstanding the details shown on the approved plans, no development shall commence on site until detailed drawings of the eaves/verge detailing to the properties have been submitted to and agreed in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved details which shall thereafter be so retained.

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

- 5 No development shall commence on site until details of the location and design of a bin collection area have been submitted to and agreed in writing by the Local Planning Authority. The development shall then be carried out in accordance with the agreed scheme which shall thereafter be so retained.

Reason - to ensure the development takes the form envisaged by the Local Planning Authority, in the interests of amenity and highway safety.

- 6 Notwithstanding the provisions of Classes A, B, C and E of Part 1 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) the new dwellings shall not be enlarged, improved or altered nor shall any building, enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse be provided within the curtilage of the new dwellings unless planning permission has first been granted by the

Local Planning Authority.

Reason- To enable the Local Planning Authority to retain control over future development in view of the site's location and relationship with residential properties.

- 7 The residential curtilage's for the properties shall be restricted to the area outlined in red on the attached plan number LPA/13/00060/FUL.

Reason - to enable the Local Planning Authority to retain control over future development in view of the form of development proposed and its location, in the interests of residential amenities and to protect the amenity of the trees and maintain the wildlife habitat.

- 8 Notwithstanding the details showed on the approved plans before first occupation/use of the dwellings, hereby approved, a scheme of soft and hard landscaping (including for retention of existing trees and hedgerows) and boundary treatment scheme for the site (which will include the detailed design of any retaining walls), shall be submitted to and agreed in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the first occupation/use of the dwelling unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. The approved hard landscaping and boundary treatment schemes shall be provided in full prior to the occupation of any of the dwellings unless otherwise agreed in writing by the Local Planning Authority and shall thereafter be so retained.

Reason - to ensure a satisfactory landscaping scheme is provided within a reasonable period and in the interests of visual amenity given the site's location in the National Forest.

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

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

- 10 Prior to the first occupation of any dwelling on the site a landscape/ecological management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), together with a timetable for its implementation, shall be submitted to and agreed in writing by the Local Authority. The development shall be carried out in accordance with the landscape management plan, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority.

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

- 11 Notwithstanding the details shown on the submitted plans, or Condition 2 above, prior to first occupation of any dwelling on the site an amended plan shall be provided showing a pedestrian access from Talbot Street into the wooded area to the north-east of the

dwellings to allow maintenance of the retained woodland. Once agreed the pedestrian access shall be provided before first occupation of any dwelling on the site and shall thereafter be so retained.

Reason - to ensure that the woodland area can be maintained in accordance with the agreed management plan without disturbance to residential amenities.

- 12 No development shall commence on site until details of the protective fencing for the trees and its position on the site has been submitted to and agreed in writing by the Local Authority. Once agreed the protective fencing shall be provided in accordance with the approved details and shall be kept in place until all works relating to the development proposals are complete.

Reason - in the interest of health and safety and the amenity value of the trees.

- 13 There shall be no storage of materials, plant, skips, equipment and/or other items associated with the development hereby approved, mixing of materials, vehicular movements or fires or other ancillary works associated within any of the areas bounded by the protective fencing.

Reason - in the interests of health and safety and the amenity value of the trees.

- 14 The development shall be carried out in strict accordance with the recommendations outlined in Points (b), (c) and (d) of Section 6 (Mitigation, Compensation & Further Survey Recommendations) of the Ecological Walkover Survey by EMEC Ecology of September 2013, received by the Local Authority on the 12th September 2013.

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

- 15 No development shall commence on site until a method statement for the construction of the development has been submitted to and agreed in writing by the Local Planning Authority. The method statement shall have particular regard to the measures which will be provided to prevent soil, rubble and other construction materials being deposited within the retained woodland or the Grace Dieu Brook. Once agreed the development shall thereafter be carried out in strict accordance with the method statement.

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

- 16 No gates shall be erected to the vehicular access.

Reason - to enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway.

- 17 The gradient of the access drive shall not exceed 1:12 for the first 10 metres behind the Highway boundary.

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

- 18 Before first occupation of any dwelling on the site the following shall be provided: -
o The access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least

10 metres behind the Highway boundary;

o 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the Highway boundary on both sides of the access in accordance with the current standards of the Highway Authority.

o Visibility splays of 2.4 metres by 59 metres shall be provided at the junction of the access with Talbot Street;

Once provided the measures shall thereafter be so retained in perpetuity with nothing being allowed to grow above a height of 0.6 metres above ground level in the pedestrian visibility splays and nothing being allowed to grow above a height of 0.9 metres above ground level in the visibility splays.

Reasons - to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.); in the interests of pedestrian safety and to afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.

19 Before occupation of any dwelling, the existing footway shall be widened to 2 metres in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

Reason - the Highway fronting the site has substandard footway provision and the proposal would lead to an increase in pedestrian movement along the Highway.

20 For the period of construction of the development within the site, vehicle wheel cleansing facilities shall be provided within the site and all vehicles exiting the site shall have all tyres and wheels cleaned, as may be necessary, before entering the Highway.

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

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

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

22 No development shall commence on site until a scheme for the provision and implementation of a Sustainable Drainage (SuDs) system has been submitted to and approved in writing by the Local Planning Authority. The system shall be installed in accordance with the approved programme and details.

Reason - to ensure the satisfactory provision of drainage facilities to serve the proposed development are provided whilst preventing an increase in flood risk, protecting rivers and enhancing the habitat potential of the development.

23 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be

passed through trapped gullies with an overall capacity compatible with the site being drained.

Reason - to prevent pollution of the water environment.

- 24 No development shall commence on site until details of existing and finished ground levels and the proposed floor levels of the buildings in relation to an existing datum point off the site have been submitted to and agreed in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

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

Notes to applicant

- 1 Planning permission been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 In order to provide the visibility splays detailed above it will be necessary to trim back the hedges across the site frontage.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Northern Area Manager (telephone 0116 305 0001).
- 5 The Highway boundary is the hedge fronting the premises and not the edge of the carriageway/road.
- 6 The proposed roads do not conform to an acceptable standard for adoption and therefore they will NOT be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all plots served by all the private roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see www.leics.gov.uk/htd or phone 0116 2656782.
- 7 The Developer will be required to enter into an agreement with the Highway Authority under Section 278 of the Highways Act 1980 for works within the highway and detailed plans shall be submitted and approved in writing by the Highway Authority. The Section 278 Agreement must be signed and all fees paid and surety set in place before the Highway works are commenced. Any statutory undertaker apparatus that requires relocation shall be carried out entirely at the expense of the applicant, who shall first obtain the separate consent of the relevant authority.
- 8 Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Agency is required for any proposed works or structures in, under, over or within 8 metres of the top of the bank of the Grace Dieu Brook a designated 'main river.'

- 9 Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management (SUDS). This approach involves using a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, ponds and wetlands to reduce flood risk by attenuating the rate and quantity of surface water run-off from a site. This approach can also offer other benefits in terms of promoting groundwater recharge, water quality improvements and amenity enhancements. Approved Document Part H of the Building Regulations 2000 sets out a hierarchy for surface water disposal which encourages a SUDS approach. Further information on SUDS can be found in the CIRIA C522 document Sustainable Urban Drainage Systems design manual for England and Wales and the Interim Code of Practice for Sustainable Drainage Systems. The Interim Code of Practice provides advice on design, adoption and maintenance issues and a full overview of other technical guidance on SUDS. The Interim Code of Practice is available on both the Environment Agency's website at: www.environment-agency.gov.uk and CIRIA's website at www.ciria.org.uk.
- 10 Bats are a rare and declining group of species. Hence, all British species of bat and bat roosts are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection or disturb bat roosts. If bat or bat roosts are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0115 929 1191) should be notified and further advice sought. Failure to comply with this advice may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both.
- 11 The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in prosecution any anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both, as it is an offence to disturb nesting/breeding birds.
- 12 Prior to the commencement of development a check of the site for the presence of badger sett's shall be carried out. Should any sett's be discovered the presence of a qualified ecologist will be required to ensure that the progression of the development would not have an adverse impact on this protected species.

PLANNING APPLICATIONS- SECTION A

Erection of 188 no. dwellings with associated garaging/parking, infrastructure, construction of new access off Frearson Road and formation of open space, landscaping and balancing pond

**Report Item No
A2**

Land Off Frearson Road Coalville Leicestershire LE67 2XA

**Application Reference
11/01054/FULM**

**Applicant:
Bloor Homes East Midlands Division**

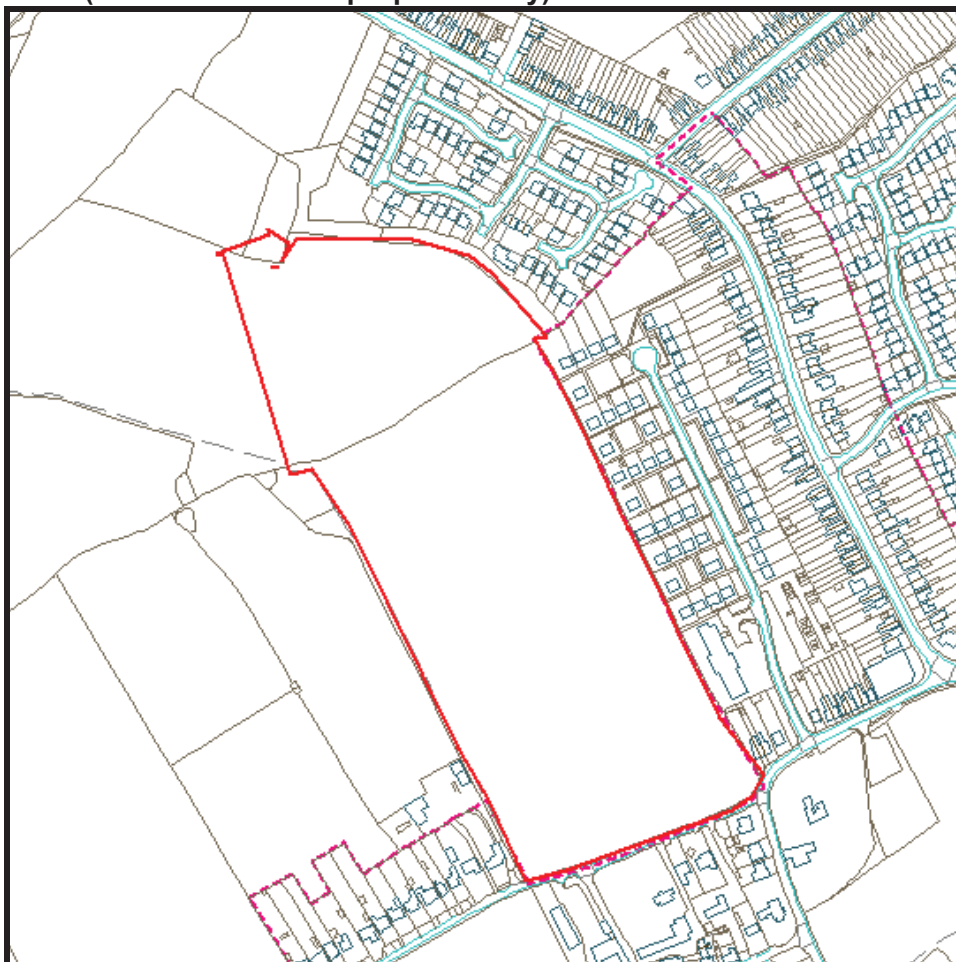
**Date Registered
6 December 2011**

**Case Officer:
James Knightley**

**Target Decision Date
6 March 2012**

**Recommendation:
PERMIT Subject to a Section 106 Agreement**

Site Location - (Plan for indicative purposes only)



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Executive Summary of Proposals and Reasons for Approval

Proposal

This application seeks full planning permission for residential development of 188 dwellings and associated public open space.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals, including from Hugglescote and Donington le Heath Parish Council and from the Leicestershire and Rutland Wildlife Trust.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application, however, is the supply of housing in the context of the National Planning Policy Framework (NPPF).

Conclusion

The report below indicates that, whilst the site is a greenfield site outside Limits to Development, having regard to the site's general suitability for housing (including its proximity to the built up areas of Hugglescote and Donington le Heath) and the need to demonstrate and maintain a five year supply of housing land within the District, the proposals would be considered to constitute sustainable development, and release of the site for residential development would be appropriate in principle. The proposed development would, it is considered, be acceptable in terms of access and transportation issues, landscape and visual impact, design, heritage issues, ecological issues, flood risk and residential amenity; there are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities, albeit with no contribution to affordable housing required so as to ensure the development remains viable whilst making appropriate contributions to highways and transportation infrastructure.

RECOMMENDATION:-

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

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

MAIN REPORT

1. Proposals and Background

This is a full planning application for residential development of a site of approximately 8.95 hectares for 188 dwellings, currently in agricultural use. The site is adjacent to land in agricultural use, and existing dwellings on the Frearson Road estate, Hugglescote, and St Mary's Avenue, Donington le Heath. The southern boundary of the site abuts Berry Hill Lane in Donington le Heath.

The submitted scheme shows a mix of 2, 3, 4 and 5 bed accommodation, vehicular access via Frearson Road, an on-site children's play area, woodland planting and other public open space including a community orchard / allotment area. Whilst the proposed vehicular access is shown from Frearson Road, pedestrian routes through the site are also provided for, including retention of the routes of the existing right of way passing through the site, as well as a further pedestrian (and cycle) access to the south east (i.e. from Berry Hill Lane) which would also act as an access for emergency service vehicles if the need ever arose. The formation of the principal site access from Frearson Road would necessitate the removal of part of the buffer tree planting provided in association with the construction of the existing Frearson Road estate.

The application as originally submitted proposed a total of 215 dwellings, but the number of dwellings has reduced to 188 following various amendments to the scheme.

2. Publicity

142 Neighbours have been notified (Date of last notification 12 December 2013)

Press Notice published 21 December 2011

Site Notice posted 4 January 2012

3. Consultations

NWLDC Urban Designer consulted 24 October 2012
 Hugglescote And Donington Le Heath Parish Council consulted 24 October 2012
 County Highway Authority consulted 24 October 2012
 LCC Development Contributions consulted 25 September 2012
 Highways Agency- Article 15 development consulted 25 September 2012
 NWLDC Conservation Officer consulted 18 October 2012
 Environment Agency consulted 27 June 2012
 Severn Trent Water Limited consulted 27 June 2012
 Head of Environmental Protection consulted 27 June 2012
 NWLDC Tree Officer consulted 27 June 2012
 County Archaeologist consulted 27 June 2012
 LCC/Footpaths consulted 27 June 2012
 LCC ecology consulted 27 June 2012
 NWLDC Conservation Officer consulted 27 June 2012
 NWLDC Urban Designer consulted 27 June 2012
 English Heritage- Ancient Monument consulted 27 June 2012
 LCC Development Contributions consulted 27 June 2012
 NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 27 June 2012
 Development Plans consulted 27 June 2012
 Head Of Leisure And Culture consulted 27 June 2012
 Manager Of Housing North West Leicestershire District Council consulted 27 June 2012

Police Architectural Liaison Officer consulted 27 June 2012
Highways Agency- Article 15 development consulted 27 June 2012
LCC Fire and Rescue consulted 27 June 2012
FRCA (MAFF)- loss of agricultural land consulted 27 June 2012
DEFRA consulted 27 June 2012
Natural England consulted 27 June 2012
Ramblers' Association consulted 27 June 2012
Head Of Street Management North West Leicestershire District consulted 27 June 2012
Leicester & Rutland Wildlife Trust consulted 27 June 2012
National Forest Company consulted 27 June 2012

4. Summary of Representations Received

Campaign to Protect Rural England (CPRE) Leicestershire objects on the following grounds:

- Application is premature to the Core Strategy
- Proposal does not meet the requirements for development within the countryside as set out in Local Plan Policy S3
- Would adversely affect the setting of Donington le Heath Manor House
- Contrary to Local Plan Policy H2
- Contrary to advice in (the then) PPS 3
- Poor housing mix (i.e. principally larger dwellings)
- Affordable housing not appropriately sited within the proposals
- Play area not properly overlooked, contrary to Local Plan Policy L21
- Adverse impact on protected species, contrary to (the then) PPS 9
- Agricultural land quality needs to be taken into account

English Heritage advises that the development includes for open space at its southern end so as to retain the distinctiveness of the village of Donington le Heath

Environment Agency has no objections subject to conditions

Highways Agency has no objections

Hugglescote and Donington le Heath Parish Council objects on the following grounds:

- Application is premature to the Core Strategy
- No demand for housing in the area
- Greenfield site
- Insufficient sewer capacity
- Too many dwellings off a single access
- Impact on great crested newts
- No regeneration benefits
- Loss of amenity
- Parish must receive a contribution from the New Homes Bonus spent in the area
- Outside Limits to Development
- Not within the area identified for development (i.e. South West Coalville) within the emerging Core Strategy
- Increased congestion, including at Hugglescote Crossroads
- Exacerbation of air quality problems
- Land is agricultural quality Grade 1
- Unsustainable location
- Impact on Conservation Area which would lead to the area no longer being designated

as such

- Emergency access in a dangerous position
- Already too many developments identified in the Core Strategy for the Parish
- Loss of visual amenity to neighbours on St Mary's Avenue
- Three storey dwellings out of character
- Overlooking of elderly residents' dwellings
- Plans refer to the site as being in Donington le Heath whereas it is in Hugglescote
- Transport Assessment must include committed developments
- If approved the area adjacent to St Mary's Court should be allotments and not a play area (due to noise)
- Landscape buffer planting to eastern boundary would result in distress to adjacent sheltered housing residents by way of falling leaves and branches and loss of light
- Proposed community orchard adjacent to St Mary's Court would be a source of anti-social behaviour with children / teenagers throwing fruit at St Mary's Court
- Proposed landscaping to boundary with St Mary's Avenue will have a negative impact on quality of life of existing residents
- Inappropriate to direct monies towards Ashburton Road Recreation Ground as it is in private ownership

If approved, the Parish Council requests the following:

- The ownership of Ashburton Road Recreation Ground to be transferred to the Parish Council
- The installation of robust vandal proof multi use goal posts on Ashburton Road Recreation Ground (£6,000)
- Skate board / BMX equipment for Ashburton Road (£100,000)
- Level football / ball game pitch on Ashburton Road Recreation Ground (£150,000)
- The ownership of the field adjacent to Ashburton Road Recreation Ground (up to the Manor House car park).
- Level field to make it suitable as a MUGA (£200,000)
- Construction of two MUGAs (£150,000)
- Construction of a Parish / Community Centre with changing and sports facilities (£400,000)
- Any use of monies by the Parish Council identified for youth and adult open space should be unrestricted within the Parish
- Contribution of £1,000 per dwelling towards replacement Community Centre at Hugglescote Crossroads

Leicestershire and Rutland Wildlife Trust makes the following comments:

- Great crested newt surveys were inadequate and suggest a lower population in view of the fact that the ponds were drying out - additional surveys should have been undertaken between April and June 2012 and, if these surveys had been undertaken, it is likely that a larger population of great crested newts would have been recorded
- The population of great crested newts will be adversely affected by loss of habitat and disturbance
- Loss of hedgerow and grasslands may result in an adverse impact on the bat population
- Concerned at the cumulative effect of this development and possible development on land to the west of the application site which would have a further detrimental effect on wildlife, particularly the populations of amphibians including great crested newts.
- No mention in the application documents of the impact of local climatic conditions, an important constraint
- No indication of the condition of the pond at the last completed survey of May 2011 (including water levels)
- Importance of hedgerows understated

PLANNING APPLICATIONS- SECTION A

- Importance of habitats used only for foraging and commuting by bats has been understated
- Potential impact of lighting and disturbance on bats has not been adequately assessed
- Queries planting and future management of ponds for great crested newts
- Insufficient future monitoring proposed, particularly in view of the vulnerability of the great crested newt population and the disturbance to the site from the housing development.

Leicestershire County Council Archaeologist has no objections subject to conditions

Leicestershire County Council Local Education Authority requests a developer contribution of £534,050.30 in respect of primary sector education

Leicestershire County Council Library Services Development Manager requests a developer contribution of £11,870

Leicestershire County Council Highway Transportation & Waste Management Authority requests a developer contribution of £13,361 in order to mitigate the impact on civic amenity waste facilities in the local area.

Leicestershire County Council Ecologist has no objections

Leicestershire County Council Landscape Officer has no comments

Leicestershire County Council Highway Authority has no objections subject to conditions and Section 106 obligations

Leicestershire County Council Rights of Way Officer advises that both branches of the existing public footpath (N81) passing through the application site should be surfaced with tarmacadam to a width of 2 metres.

Leicestershire Police requests a developer contribution of £606 per dwelling

National Forest Company has no objections

Natural England has no objections

NHS England (Leicestershire and Lincolnshire Area) requests a healthcare contribution of £103,164

North West Leicestershire District Council Environmental Health has no objections

North West Leicestershire District Council Leisure and Cultural Services request a leisure contribution of £181,250

North West Leicestershire District Council Waste Services Development Officer advises that adequate bin presentation points must be provided

Ramblers' Association comments as follows:

- Disappointed that greenfield sites developed in preference to brownfield
- Pleased that vehicular access to Donington le Heath not possible
- Concerned that increased traffic to Standard Hill / A447 will increase dangers to walkers

- Pleased to note that Footpath N81 would be protected in its entirety, including the spur at the southern end which is not currently useable
- Pleased to note proposed pedestrian link parallel to Berry Hill Lane and good links to N81 from various parts of the development
- Suggests potential inclusion of an additional link to the northern end of St Mary's Avenue which could contribute towards a virtually traffic free route to the centre of Coalville

Severn Trent Water has no objections subject to conditions

Third Party Representations

86 representations (and including from the Donington and Hugglescote Action Group) have been received, objecting on the following grounds:

- Unsuitable position of emergency access
- Emergency access needs restrictions to prevent use by motorcycles
- Emergency access encroaches on a Conservation Area
- Emergency access not workable
- Insufficient infrastructure (including schools, healthcare, public transport, shops, sewerage and highway network capacity)
- Adverse impact on highway safety
- Poorer highway infrastructure than Stephenson Green site
- Loss of high quality agricultural land
- Adverse impact on character of the Conservation Area
- Would more than treble the population of Donington le Heath
- Impact on wildlife / ecology, close to a nature reserve
- Coalescence and loss of identities of Hugglescote and Donington le Heath
- Non-essential development outside Limits to Development in the Local Plan / loss of countryside
- Contrary to now withdrawn / discredited Core Strategy
- Inclusion in SHLAA does not mean development is acceptable
- Adverse impact on air quality
- Flooding
- Light pollution
- Pollution to River Sence
- Unsustainable location
- Poor access to services and public transport
- Contrary to policy, including the NPPF, PPS 3, PPG 13, East Midlands Regional Plan and North West Leicestershire Local Plan
- Contrary to DfT guidance
- National Forest planting should be provided
- Out of character
- Adverse impact on setting of the grade II* listed Donington le Heath Manor House
- Affordable housing shown in "ghettos"
- Ecological data flawed
- No need to approve scheme to meet 5 year housing land supply
- Should be a second vehicular access point for all users
- Greenfield site should not be developed when previously-developed sites are available
- Areas other than Coalville should have a fair share of the District's development requirements
- Unsafe to access the site via Frearson Road (including in respect of children playing in the street and the junction with Standard Hill)
- Unsafe cycle access

- Should be additional access points
- Principal access should be via Berry Hill Lane
- Existing housing developments have unsold properties
- Insufficient local employment to support additional population
- Insufficient consultation by developers and District Council
- Loss of amenity / privacy
- Disruption during construction works
- New Homes Bonus should be used in the area
- Development could be provided on the former Lounge Disposal Point site instead
- Traffic calming is required
- Premature
- Loss of amenity space / access to countryside
- Disturbance from play and community orchard areas
- Increased on-street car parking at Hugglescote Primary School
- Land is green belt
- Railway needs to be reinstated before further housing is built
- Environmental issues more important than interests of big business
- Policy required to prevent development to the west of the site
- Noise
- Litter

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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

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

Paragraph 14 sets out the presumption in favour of sustainable development and, in respect of decision making, provides that, unless material considerations indicate otherwise, states that "this means:

- approving development proposals that accord with the development plan without delay;
- and
- where the development plan is absent, silent or relevant policies are out of date, granting

permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted."

"32 All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

"34 Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas."

"47 To boost significantly the supply of housing, local planning authorities should:

- identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

"49 Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

"57 It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes."

"59 Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally."

"61 Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."

"100 Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it

safe without increasing flood risk elsewhere."

"101 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding."

[Further advice on flooding is contained within the DCLG's Technical Guidance to the National Planning Policy Framework.]

"112 Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."

"118 When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;...
- opportunities to incorporate biodiversity in and around developments should be encouraged..."

"123 Planning policies and decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development..."

"124 Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan."

"128 In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."

"129 Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal."

"131 In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and

- putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness."

"132 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting...."

"133 Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use."

"134 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."

"173 Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."

"203 Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

"204 Planning obligations should only be sought where they meet all of the following tests:

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

Adopted North West Leicestershire Local Plan (2002)

The application site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan.

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development.

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst others, public transport and services.

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account housing mix, accessibility to centres, design etc. Within Coalville and Ashby-de-la-Zouch town centres, local centres and other locations well served by public transport and accessible to services a minimum of 40 dwellings per ha will be sought and a minimum of 30 dwellings per ha elsewhere (in respect of sites of 0.3 ha or above).

Policy H7 seeks good quality design in all new housing developments.

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

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings, and presumes against residential development where the amenities of future occupiers would be adversely affected by the effects of existing nearby uses.

Policy E4 requires new development to respect the character of its surroundings.

Policy E6 seeks to prevent development where it would prejudice the comprehensive development and proper planning of a larger area of land of which the site concerned forms part.

Policy E7 seeks to provide appropriate landscaping in association with new development including, where appropriate, retention of existing features such as trees or hedgerows

Policy E8 requires that, where appropriate, development incorporates crime prevention measures.

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest, and requires built development to demonstrate a high quality of design, to reflect its Forest setting.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 requires that parking provision in new developments be kept to the necessary minimum, having regard to a number of criteria.

Policy L21 sets out the circumstances in which schemes for residential development will be required to incorporate children's play areas. Further guidance is contained within the Council's Play Area Design Guidance Note Supplementary Planning Guidance.

Policy L22 provides that major new development will only be permitted where adequate

provision is made for open space for formal recreation use.

Other Policies

North West Leicestershire District Council Affordable Housing SPD

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

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

North West Leicestershire District Council Play Area Design Guidance SPG

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

Donington le Heath Conservation Area Character Appraisal and Management Plan

The Donington le Heath Conservation Area Character Appraisal and Management Plan identifies what contributes to the special character of the Conservation Area, and notes that, "Despite its location on the edge of the urban area of 'greater Coalville', the presence of fields and open recreational land round the hamlet reinforce the 'agricultural' character of the settlement".

The Appraisal and Management Plan identifies views to the countryside across the application site as elements making a positive contribution to the special character of the Conservation Area. Other features within the vicinity of the application site specifically identified as making a positive contribution to the special character of the Conservation Area include the existing hedges fronting onto Berry Hill Lane, listed buildings within the curtilage of Donington le Heath Manor House, and unlisted dwellings adjacent to the south eastern corner of the site.

Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville

On 11 June 2013, and following the completion of consultation on the draft policy, the District Council's Cabinet approved the revised policy document. The adopted policy states that "Where the Council is satisfied that a major residential development proposal in or around the Coalville area is proven to be unviable as a result of required developer financial contributions (e.g. off site highway works; education provision and affordable housing requirements), the Council will consider relaxing its normal affordable housing requirements proportionately so as to:

- (a) Give highway infrastructure investment the highest priority for funding
- (b) Ensure all other essential infrastructure is provided
- (c) Continue to contribute to affordable housing provision as far as possible whilst ensuring that the development scheme is viable.

For development proposals where the Council accepts no affordable housing or a lower proportion of affordable housing contribution (both on site provision and/or a financial contribution in lieu of provision) the Council will reduce the time period for any planning permission to be commenced to 2 years and shall include in the Section 106 agreement provision to enable the Council to periodically revisit the affordable housing contribution if the economic factors determining the level of affordable housing improves before the development is commenced."

In addition to agreeing the policy, Cabinet agreed that, for major developments in Coalville, the Planning Committee be asked to consider the policy through Section 106 agreements and recommended that Planning Committee, where appropriate, prioritises the requirement for highways infrastructure contributions in Coalville above affordable housing contributions where such contributions are necessary, in accordance with the policy.

Submission Core Strategy

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

6. Assessment

Principle of Development

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

In terms of the adopted North West Local Plan, the site is outside Limits to Development. Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development; the development proposed would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3.

Notwithstanding the countryside location, and whilst the proposals would be contrary to the adopted Development Plan, in determining the application, regard must be had to other material considerations, including other policies, such as other Development Plan policies and National policies.

In terms of the North West Leicestershire Local Plan, Policy H4/1 identifies that, in releasing appropriate land for housing, the Council will have regard to:

- up-to-date housing land availability figures;
 - the latest urban capacity information;
 - the need to maintain an appropriate supply of available housing land;
 - lead times before houses will be expected to be completed and build rates thereafter;
- and
- other material considerations.

Whether or not this site would be considered "appropriate" is a matter of judgement; having regard to its location outside Limits to Development, it could be argued that it would not be. This policy nevertheless sets out criteria relevant to release of land. Insofar as the site's location is concerned, and whilst it is outside Limits to Development, it is well related to the existing built up areas of Hugglescote and Donington le Heath. In terms of accessibility generally, the view is taken that, as a site within close proximity of Hugglescote / Coalville and the range of services available therein, it performs relatively well in this regard. Depending on which part of the site the measurement is taken from, the site is between (approximately) 1.2 and 1.6km from the town centre (being the closest point of the Core Town Centre Shopping Area as defined in the adopted Local Plan), and there are regular bus routes serving Station Road / Central Road in Hugglescote (approximately 750m from the Berry Hill Lane end of the site); there are also limited services (two buses in each direction Mondays to Fridays) serving Ashburton Road

which would be closer to residents of both the Frearson Road and Berry Hill Lane ends of the proposed development. Further consideration of the accessibility of the site is contained within Means of Access and Transportation below.

In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to meet this need. Given the need to provide significant areas of housing land as set out below, it is considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan. Furthermore in respect of Policy H4/1, this would represent a policy relating to the supply of housing and, as such, its relevance also needs to be considered in the context of Paragraph 49 of the NPPF (considered in more detail under Housing Land Supply and Limits to Development below).

Housing Land Supply and Limits to Development

The NPPF requires that the Council should be able to identify a five year supply of housing land and include an additional buffer of 5% or 20% depending on previous performance in terms of delivery of housing. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, found that the "Sedgefield" approach should be used (an approach to assessing land availability also suggested as appropriate within the draft National Planning Practice Guidance) and that a buffer of 20% should be allowed for. On this basis, the District Council's most recent calculations indicate that the Council is only able to demonstrate a supply of 4.7 years which therefore represents a shortfall vis-à-vis the requirements of the NPPF.

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". Policy S3 of the adopted Local Plan (Limits to Development) is not considered to be a relevant policy for the supply of housing (see the recent judgment in respect of the application to quash the Secretary of State's decision to dismiss the Stephenson Green appeal), notwithstanding that a contrary view has been taken elsewhere (and including by the Secretary of State on appeal), and accordingly the policy should not be considered to be out of date. Nevertheless, as the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements up until the end of the Plan Period (i.e. to 2006) less weight should be attributed to any conflict with Policy S3 in the overall planning balance. Furthermore, development plan policies are now required to follow the approach of the presumption in favour of sustainable development which means balancing any significant/demonstrable adverse impacts against the need to provide new development. Inasmuch as Policy S3 does not require such a balancing exercise to be undertaken it is inconsistent with the Framework and this again affects the weight that may be attached to the Policy.

In addition, the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to the economic growth associated with the proposed development would ensure that the scheme would sit well in terms of the economic dimension. Whilst the role played by the

proposed development in contributing to housing land supply and its inclusion of appropriate contributions to local services as detailed below would be positive aspects in terms of the social dimension, these factors also need to have regard to the issues in respect of affordable housing as considered in more detail under the relevant section of this report. Insofar as the environmental role is concerned, whilst the proposed development would result in the development of land outside of the defined Limits to Development, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment and, by virtue of its location, close to the existing built up area and associated services, would perform reasonably well in terms of need to travel and the movement towards a low carbon economy, notwithstanding its limited accessibility to frequent public transport services.

Conclusions in respect of the Principle of Development and Planning Policy

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and, as such, the scheme would be in conflict with the relevant Development Plan and other policies designed to protect the countryside from inappropriate development.

However, it is also necessary to consider any other relevant material considerations, including the Government's current intentions in respect of the need to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF), and the current position in the District in terms of housing land supply. An important consideration is that the Council must demonstrate and maintain a five year supply of housing land (with a 5% or 20% buffer) as required by the NPPF, which is considered to be a material consideration of some significance.

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

Detailed Issues

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

Means of Access and Transportation

As set out above, the application includes for a single principal vehicular access, via the existing Frearson Road estate (i.e. using the junction of Frearson Road with Standard Hill). Other access points include a pedestrian / cycle route from Berry Hill Lane (which would also serve as an alternative point of access for emergency services) and retention of the existing public footpath passing through the site.

In respect of the various access and transportation issues arising with the application, the County Highway Authority advises as follows:

Points of Vehicular Access:

The County Highway Authority is content that that the site can be satisfactorily served by the existing access arrangement at Frearson Road, with a secondary point of access for use in

emergencies. The County Highway Authority notes that the access would serve a dual purpose providing a pedestrian / cycle link. Whilst not forming part of the application, the applicants' transport consultants have provided the County Highway Authority with a plan detailing the proposed emergency access. This shows a gated 3 metre wide segregated cycleway and footway, with the footway between the access and the eastern edge of the application site widened to 2 metres. In highway safety terms, the County Highway Authority is satisfied that the proposed arrangement is appropriate, although without segregation of the access which, it considers, can be addressed as part of the Section 38 process. In principle, this access would seem acceptable from a visual amenity point of view (and including in terms of its impact on the existing hedgerow in this area and nearby heritage features); however, more detailed specification of the works would be required prior to installation so as to ensure that the works were appropriate in this regard. The Police Architectural Liaison Officer advises that he has been contacted by a local resident regarding the link and, whilst the scale of the scheme falls below the size thresholds at which design advice is provided by the Police, shares the resident's concerns that, by virtue of its width, it could be used by vehicles (i.e. allowing vehicular permeability through the site). The Police Architectural Liaison Officer therefore suggests that measures be included to prevent unauthorised vehicular use; these concerns would therefore appear to be addressed by the draft scheme prepared by the developer which would only allow pedestrian, cycle and emergency vehicle access.

Walking and Cycling:

Whilst the County Highway Authority does not consider that the applicants' 2km walking isochrone as included in the submitted Revised Transport Assessment takes account of available walking routes, it nevertheless accepts that a range of local amenities including schools, convenience stores etc. are within walking distance of the centre of the site. Similarly, whilst the County Highway Authority does not consider that the applicants' 5km cycling isochrones take account of available cycle routes, it is accepted that a range of key local facilities, Coalville town centre, and employment sites are within cycling distance from the centre of the site.

Public Transport:

The County Highway Authority accepts that the site is not of a sufficient size to warrant new bus provision, or likely to attract or sustain a diverted bus service. However, the County Highway Authority considers that application forms for two six-month bus passes should be included within Travel Packs to be provided to each dwelling on first occupation so as to encourage use of existing bus services.

Travel Plan:

The application is supported by a Travel Plan; the County Highway Authority has no objections per se, but advises that it requires amending to address a number of issues, and that this ought to be achieved by way of a suitably worded condition.

Junction Capacity Assessments:

In terms of junction capacity assessments, the County Highway Authority concludes as follows:

Leicester Road / Wash Lane / Ibstock Road signalised junction (Ravenstone crossroads):

The County Highway Authority agrees with the submitted LinSig assessment and agrees that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2018 "with development" scenario.

Standard Hill / Frearson Road priority junction:

The County Highway Authority agrees with the submitted PICADY assessment and agrees that

no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2018 "with development" scenario.

Standard Hill / Highfield street priority junction:

The County Highway Authority agrees with the submitted PICADY assessment and agrees that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2018 "with development" scenario.

Ashburton Road / Manor Road priority junction:

The County Highway Authority agrees with the submitted PICADY assessment and agrees that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2018 "with development" scenario.

Ashburton Road / Fairfield Road priority junction:

The County Highway Authority agrees with the submitted PICADY assessment and agrees that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2018 "with development" scenario.

Hugglescote Crossroads:

The County Highway Authority agrees with the submitted LinSig assessment. In terms of the issue of material impact, the County Highway Authority is of the view that this is a grey area. However, it draws attention to the 2007 DfT / DCLG document "Guidance on Transport Assessment" which provides that "a particular example of material impact would be a worsening of congestion. In congested areas, the percentage traffic impact that is considered significant or detrimental to the network may be relatively low...For the avoidance of doubt, the 1994 guidance regarding the assessment thresholds of 10 per cent and 5 per cent levels of development traffic relative to background traffic is no longer deemed an acceptable mechanism, since it creates an incentive in favour of locating development where high levels of development traffic already exist". The County Highway Authority is of the view that the proposed development would have an adverse impact at the Hugglescote Crossroads junction in terms of capacity and queue lengths, particularly in the pm peak, and that a contribution to the District Council towards improvements to the network would be appropriate as mitigation.

Internal layout:

The County Highway Authority is satisfied with the proposed internal access road arrangement, subject to minor alterations so as to comply with its requirements in respect of Section 38 adoption.

Developer Contributions:

In order to mitigate the impacts of the development on the local highway network, the County Highway Authority considers that the following matters should be secured by way of Section 106 obligations:

- A Construction Traffic Routeing Agreement;
- Provision of Travel Packs informing new residents from what sustainable travel choices are in the surrounding area (which can be supplied by Leicestershire County Council at £52.85 per pack);
- 6 month bus passes (2 per dwelling) (which can be supplied through Leicestershire County Council at (an average of) £325.00 per pass);
- Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development.
- A contribution towards the wider highway network in Coalville as considered appropriate

by the District Council

The applicants are agreeable to making the transportation contributions sought by the County Highway Authority as set out above. In terms of the transportation infrastructure contribution, on 15 January 2013, the District Council's Cabinet considered a report relating to Delivering Growth and Prosperity in Coalville which set out proposals to prioritise highways infrastructure contributions in Coalville above affordable housing contributions given the need for significant transportation infrastructure to be provided so as to enable otherwise stalled development to be delivered. Cabinet resolved to (i) agree to the preparation and consultation of an interim Section 106 policy which establishes the approach towards prioritising highway infrastructure contributions in Coalville, which will be reported back to cabinet after the consultation exercise; (ii) agree that for major developments in Coalville, the Planning Committee be asked to consider the emerging policy through Section 106 agreements; and (iii) to recommend that Planning Committee, where appropriate, prioritise the requirement for highways infrastructure contributions in Coalville above affordable housing contributions where such contributions are necessary, in accordance with the emerging policy proposals. The District Council consulted on a draft policy between 22 February 2013 and 5 April 2013 and, following the conclusion of that consultation, reported back to Cabinet on 11 June 2013. At that meeting, Cabinet resolved to approve the policy.

The report to Cabinet of 15 January 2013 included an indicative list of potential transportation infrastructure measures to which the financial contributions made would be expected to contribute; based on the figures available at that time, the calculations provided to Cabinet suggested a potential contribution of between £4,419 and £4,884 per dwelling. As of the current position, discussions are ongoing with the County Highway Authority and Highways Agency to establish an appropriate mechanism for securing contributions but, as matters stand, having regard to Local Highway Authority and Local Planning Authority officers' assessment of factors such as infrastructure scheme priority in terms of the importance on the wider highway network, estimated date of site delivery, and proximity of the respective potential developments to the relevant junctions / infrastructure schemes, the intention is that this site would need to contribute a sum of £846,000. This sum would, it is considered, represent a reasonable contribution towards those schemes identified as being necessary to enable development to proceed in the Coalville area including those which, insofar as this particular development is concerned, would be necessitated by this development. The intention of the District Council's contributions strategy is that the costs of undertaking improvements to the local and strategic highway networks necessary to accommodate anticipated growth are met by developers in an appropriate and equitable way. The contribution proposed in respect of this application is considered to be commensurate to its anticipated impact and the contribution will be used in line with the approved developer contribution strategy.

It is noted that Hugglescote and Donington le Heath Parish Council has requested a contribution of £1,000 per dwelling be made to the Parish Council to go towards the purchase of the existing Community Centre and the building of a new Parish Council owned facility; this refers to the potential implications on the existing Community Centre facility at Hugglescote Crossroads which, in the event the Crossroads were upgraded, could be affected. As a final design for the improvement of Hugglescote Crossroads has yet to be decided upon by Leicestershire County Council, however, a specific contribution of this nature would not meet the statutory tests for planning obligations set out in the CIL Regulations, although the officer view is that the County Council should be encouraged to consider design options that retain the existing Community Centre if at all possible. If demolition of the Centre could not be avoided, however, the loss would need to be mitigated by the funding from the Developer Contribution Scheme of suitable replacement community facilities.

As set out in more detail under Affordable Housing below, in order to accommodate the transportation infrastructure contribution within the scheme whilst retaining its viability, and in accordance with the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy, the applicants have undertaken a viability assessment (which has been subject to detailed independent assessment by the District Valuer on behalf of the Local Planning Authority) so as to demonstrate the impact that payment of the transportation infrastructure contribution would have on the viability of the scheme. This indicates that the scheme is not viable (when providing for the transportation infrastructure contribution along with other developer contributions and with a full affordable housing contribution as per the District Council's Affordable Housing SPD), and that, furthermore, no affordable housing would in fact be achievable whilst enabling the scheme to be viable; this is discussed in more detail under Developer Contributions below.

In terms of the accessibility of the site generally, this is considered in more detail above; also relevant, however, are the proposed non vehicular links to adjacent land. The route of Public Right of Way N81 passes through the western part of the site (connecting Snibston and Ravenstone with Berry Hill Lane), and the proposed layout would provide for a path closely following the line of this route (and including both spurs of the route at its southern end). Various linkages are also shown throughout in addition to the existing Right of Way, and connecting the site to Berry Hill Lane and the Right of Way; it is considered that this represents an appropriate level of accessibility / permeability for pedestrians. In terms of Right of Way N81, Leicestershire County Council's Rights of Way Officer notes that the eastern spur of the definitive map route (which is currently unused) route of the right of way as shown on the submitted layout does not meet with Berry Hill Lane, and recommends imposition of a condition to secure this; this is reflected in the recommendation below.

Insofar as the strategic highway network is concerned, the Highways Agency confirms that it has no objections.

Subject to the various requirements set out above being secured, the proposed development is therefore considered acceptable in terms of Means of Access and Transportation issues.

Landscape and Visual Impact

The application has been accompanied by a Landscape and Visual Impact Assessment, as well as an Arboricultural Assessment.

The Landscape and Visual Impact Assessment considers the site and scheme in the context of six nearby landscape character areas and from 32 viewpoints in the area, both within the immediate vicinity of the site, and from further afield, including from the A447 and Leicester Road in Ravenstone, Richmond Road, Ibstock and Ibstock Road, Ellistown. Following development, the Assessment considers that the impacts from these receptors will, in year 1, vary between moderate adverse and negligible but, by year 15, having regard to factors such as maturing of landscaping etc, none would be subject to an impact beyond slight adverse, and with most receptors' impacts being negligible. Overall, it suggests, the impact would be negligible-slight adverse.

Whilst the submitted Landscape and Visual Impact Assessment predates the amended plans, it is understood that the applicants' views in respect of the impact remain unchanged in this regard. The Assessment suggests that there are no significant landscape and visual issues that

would preclude development and that the site is capable of accommodating development. It also suggests that development would not cause any significant adverse landscape or visual impact on the Conservation Area, the Manor House, nor on the wider landscape. In terms of landscape / visual impact, it is generally accepted that there would be no overriding reason why planning permission should not be granted for the development. No comments have been made by Leicestershire County Council's Landscape Officer; issues in respect of the impact on the Conservation Area and Manor House are assessed in more detail later in this report.

Insofar as trees are concerned, as set out above, the application is supported by an arboricultural assessment. The District Council's Tree Officer raises no concerns in respect of the tree survey, and has no objections, subject to appropriate on-site landscaping being provided (which may, he advises, require more detailed consideration prior to approval of the final landscaping scheme).

In terms of green infrastructure provision, the National Forest Company raises no objections. In particular, it advises that the proposed Forest-related green infrastructure exceeds the expected 20% of the site, and that the proposed creation of additional grassland and Great Crested Newt habitat is welcomed in that, whilst it does not contribute to the woodland character of the development, it adds to the range of conservation habitats in the Forest and, as such, is accepted as an appropriate form of contribution in this case. On this basis, therefore (and as referred to under National Forest Planting below), the scheme is considered acceptable in this regard.

It is noted that the Parish Council had raised concerns regarding the impact of the previously proposed buffer planting adjacent to the eastern boundary, and this was subsequently deleted from the scheme. Similarly, the Parish Council has also expressed concern over the impact of the proposed community orchard / allotments, although has also suggested that this area should be allotments in preference to children's play space. The community orchard / allotment area would appear to be appropriately supervised by adjacent dwellings and, subject to the detailed scheme showing appropriate management of this area, there would appear to be no overriding reason why this area should necessarily become a focus of anti-social behaviour.

Whilst the development would entail the removal of a small section of the existing buffer planting between the site and the Frearson Road development (i.e. to form the proposed site access), it is accepted that this loss would, overall, be minimal, and would be more than off-set by the additional new tree planting proposed.

Loss of Agricultural Land

The site is currently in active agricultural use (including arable crops and grazing) and, insofar as the proposed built development is concerned, this would result in an irreversible loss to non-agricultural use.

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to the five year housing land supply issue as set out above, it would seem inevitable that land outside Limits to Development (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification. In terms of the classification of the application site, the applicants have provided an agricultural land assessment suggesting that it falls within Grade 2 (and, therefore, would be BMV). However, the submitted report suggests that, whilst the site is of Grade 2 quality and suited to

agricultural production including a variety of arable cropping, the loss of the land to agricultural use would not be significant, for, amongst others, the following reasons:

- The site comprises a very small parcel of land (in modern agricultural terms) which is virtually surrounded by non agricultural uses or agricultural land in other ownership which is used for different purposes (i.e. rough grazing)
- Case evidence exists that suggests that the loss of an area of up to 20 hectares has the potential to still be considered as insignificant whereas this site is only 9 ha (approx).
- The location of the land and lack of farm buildings renders it of limited agricultural use, which is unlikely to form an independent agricultural holding or a farming base for a business
- The loss of the area for arable and grassland cropping will lead to a requirement for other land to be utilised for similar purposes. However, additional land in the locality is likely to be available to meet any demand arising through displacement.
- As there are no permanent agricultural buildings, the loss of this land will not give rise to additional buildings being required elsewhere.

Whilst the above arguments are appreciated, it is, in particular, noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process. This, it is considered, needs to be assessed in the context of the five year housing land supply issue, and the benefits of releasing the site to assist in ensuring the District meets its housing land supply obligations weighed against issues such as the irreversible loss of the developed part of the site to agriculture (i.e. a proportion of the site would be given over to National Forest planting and public open space which, it is considered, would not necessarily preclude its future re-establishment in active agricultural use if circumstances so dictated). In this case, having regard to the extent and permanence of the loss, and to the need to release sites for residential development, it is considered that the agricultural land quality issue is not sufficient to suggest that the development would not be sustainable in this regard and that planning permission should be refused. No comments have been received from DEFRA on this issue.

Design

The application is supported by a Design and Access Statement setting out the applicants' proposals, and explaining the approach taken in terms of design. Having reviewed the proposals and the Design and Access Statement, the District Council's Urban Designer had raised a number of concerns with the proposed scheme but, following the submission of further amendments to address these concerns, raises no objections to the application subject to the attachment of a number of design-related conditions as set out in the recommendation below.

Heritage Issues

A small section of the application site (a narrow strip of land to the frontage of Berry Hill Lane) appears to fall within the Donington le Heath Conservation Area. The remainder of the site lies outside of the Conservation Area but, nevertheless, regard needs to be had to the impacts on the setting of the Conservation Area.

As set out above, the Donington le Heath Conservation Area Character Appraisal and Management Plan identifies the features contributing positively to the character of the Conservation Area. In particular, it indicates that the current views from Berry Hill Lane across the adjacent countryside to the north (i.e. across the application site) are a positive feature of the Conservation Area, and the impact on the openness of this area (and its associated impact on the Conservation Area) has been raised in its response to the application by English

Heritage. In particular, English Heritage has advised that any proposals to develop the site should retain the distinctiveness of the village by retaining the southern end of the site as open space.

In order to seek to comply with these principles, the scheme proposes setting back the new dwellings facing onto Berry Hill Lane by (in general) approximately 20 to 25 metres (albeit varying in extent along the frontage). Whilst it would seem inevitable that the development would prevent more distant views across the countryside, the District Council's Conservation Officer is of the view that the buffer proposed is sufficient and, notwithstanding the impact on this identified feature, the view is taken that the development would preserve the character of the Conservation Area in this regard. In terms of the development's impacts on other features considered to make a positive contribution to the special character of the Conservation Area, it is noted that the site is adjacent to two unlisted buildings of merit (73 Manor Road, one of a terrace of three late Victorian / Edwardian dwellings, and Windycroft, Berry Hill Lane, an early twentieth century single storey dwelling of interest due to its slate roof). Both of these dwellings are adjacent to the south eastern corner, which is also opposite the Donington le Heath Manor House, a Grade II* listed building, and the former barn (used as a tea rooms, listed as Grade II). Insofar as the design of the dwellings to this area of the site is concerned, the District Council's Conservation Officer is satisfied that the plot at the junction (Plot 32) is suitably detailed, reflecting the importance of views to this corner from the Manor House and Manor Road. On this basis, it is accepted that no harm to these features would result from the proposed development.

Also identified as making a positive contribution to the special character of the Conservation Area are a number of hedges along road frontages within the Conservation Area, including one along the site's Berry Hill Lane frontage. Whilst there are two principal pedestrian links to Berry Hill Lane proposed (one of which would also be used as an emergency access), these links would be in the position of existing breaks in the hedgerow, so no significant harm in this respect would result.

Overall, therefore, it is considered that the proposed development would preserve the character of the Conservation Area, and would not materially harm any features contributing positively to it, and including nearby listed buildings such as the Manor House and barn.

Insofar as archaeology is concerned, the applicants have undertaken an archaeological evaluation of the site. In response to this assessment work, the County Archaeologist notes that a total of 16 trenches were excavated, the majority revealing no significant archaeological remains. However, he also advises that three trenches on the eastern edge of the development area have revealed evidence of an enclosed settlement site with an internal ring ditch, the latter having been interpreted as the site of a former round house, likely to date from the Iron Age. As such, the County Archaeologist recommends that, prior to the commencement of development, an appropriate programme of archaeological investigation should be undertaken, including the completion of a targeted area excavation of the affected enclosure. The County Archaeologist therefore raises no objections subject to the imposition of appropriate conditions to secure this, and the development is considered acceptable on this basis.

Ecology

The application is supported by an Ecological Appraisal. In terms of statutory sites, the appraisal suggests that the Snibston Grange Local Nature Reserve is approximately 600m from the proposed development area and that, given its separation, no significant effects on the conservation value of the site during or on completion of the proposed development would be

expected. In terms of non-statutory sites, one Local Wildlife Site is located approximately 500m from the site, considered to be physically remote from the proposed development area, and separated by intensively managed arable fields from it. As such the appraisal does not anticipate significant effects to the conservation value of that site. The appraisal also notes the presence of what would be potential Local Wildlife Sites, including two ponds with great crested newts. Again, the appraisal considers any impact on these off-site features would not be significant.

In terms of habitats, the appraisal assesses existing features within the site, including hedgerows, previously planted buffer planting to the existing Frearson Road estate (a section of which would need to be removed to facilitate the access road), and an area of improved pasture. In respect of these features, the appraisal concludes that the only affected hedgerow is the one sited centrally within the site (and would partially lost to the development so as to allow access through etc), adequate hedgerow compensation planting would be provided, the loss of approximately 6% of the buffer planting would not have significant impacts, and the area of improved pasture is of low conservation value.

In terms of protected species, the appraisal provides as follows:

Great Crested Newts:

A small population of Great Crested Newts (GCN) has been identified approximately 85-95 metres from the site. The County Ecologists advise that, whilst some GCN habitat will be lost, it is mostly arable land and essentially of low suitability for GCN. They also confirm that, should the proposals in the GCN applicants' mitigation strategy be implemented, GCN would be suitably mitigated for. Furthermore, the County Council advises, the enhancements would sufficiently compensate for the loss of low grade GCN habitat (arable fields). In response to County Ecologist concerns regarding the proximity of the originally proposed play area to the GCN mitigation area, the application has been amended to relocate the play area elsewhere within the site. A separate GCN mitigation strategy is contained within the amended Ecological Appraisal; subject to those mitigation measures being secured by condition, the County Council considers the development to be acceptable in this regard. Similarly, Natural England has no objections, although draws attention to the developers' separate obligations to obtain a licence for any works affecting GCN.

Bats:

No habitats suitable to support roosting bats were recorded within the site. In terms of foraging habitat, this would comprise the boundary hedgerows and the plantation woodland to the north of the site. However, given the limited impact on these elements, the appraisal suggests that the limited loss of these areas would indicate that impacts on this habitat. Whilst some impacts from street lighting etc could occur, these impacts could, the appraisal suggests, be limited having regard to the type of lighting used. The County Ecologist has no objections subject to the relevant light mitigation measures being implemented.

Badgers:

Whilst no evidence of badger activity was recorded during the applicants' original survey, a subsequent one identified some limited foraging activity. However, given its limited extent, it has been concluded that the habitats within the site do not provide a significant proportion of the local clans' foraging habitat and the appraisal suggests that the proposed development is unlikely to result in significant negative effects. Nevertheless, given that badger activity has been identified, the appraisal suggests that, prior to development commencing, a further precautionary walk-over survey should be completed to ensure that badgers have not established a sett.

Birds:

As per bats above, the appraisal suggests that the limited loss of existing vegetation is unlikely to result in material harm to bird habitat. The scheme also suggests that enhancements for breeding birds would be provided within the new housing including the installation of swift boxes and house sparrow terraces.

Reptiles:

The appraisal suggests that the application site does not provide particularly suitable habitat for common species of reptiles and that, if reptiles were using the site, it is only likely that small numbers of highly mobile species such as grass snake would be using hedgerows and other boundary treatments around the site as a corridor of movement. As set out in the summary of the representations received above, concern has been expressed over the presence of reptiles and, in particular, a grass snake is understood to have been sighted on the application site. The applicants' ecologists suggest that this sighting indicates that grass snakes may be present locally and could be using the site in small numbers. However, as suggested, they are of the view that the site is only likely to be used as a corridor of movement (including to optimal habitats in the wider countryside west of the site, where ponds and other suitable foraging habitats are present). They also suggest that the proposed Great Crested Newt mitigation would also be suitable for grass snakes if they were using the site and, therefore, no additional mitigation would be required.

It is noted that a number of objections have been received to the application, and including from the Leicestershire and Rutland Wildlife Trust (as set out in more detail under Summary of Representations Received above). The Trust has made a number of representations in respect of the application and, whilst much of its concerns have been addressed by the applicants to the Trust's satisfaction, there are some remaining differences between the Trust's views and those of the applicants' ecologists, who consider that all matters have been resolved. Whilst the Local Planning Authority has sought to ensure that all of the Trust's remaining concerns are addressed, this has not been possible in respect of all of the matters raised. In terms of the independent professional ecological advice sought by the Local Planning Authority, however, this is provided by Leicestershire County Council; as noted, the County Council has no objections to the development, and considers that all matters have been addressed, or are otherwise acceptable by way of the imposition of appropriate conditions. It is also noted that Natural England's various concerns have also been addressed during the course of the application's consideration.

It is therefore considered that, subject to the imposition of suitably-worded conditions, the submitted scheme is acceptable in ecological terms, and would provide suitable mitigation for any anticipated impacts.

Flood Risk and Drainage

A Flood Risk Assessment (FRA) has been submitted with the application, confirming that the site lies within Flood Zone 1, and the site is therefore considered suitable for development in principle (and in flood risk sequential terms, would meet the requirements of the NPPF). As set out in the consultee responses above, no objections are raised by the Environment Agency in this regard, subject to the attachment of conditions including, amongst others, in respect of water quality and the implementation of the scheme in accordance with the principles set out in the submitted FRA.

In terms of on-site surface water drainage, the application documents indicate that the

development would direct surface water into the a tributary of the River Sence, either by way of a new gravity surface water outfall limited to existing greenfield rates, or via an existing surface water sewer to the north of the site at a rate of no more than 5l/s/ha. A balancing pond would also be provided (located to the north western part of the site) in order to accommodate the surface water prior to discharge to the relevant surface water sewer, designed to accommodate the 1 in 100 year plus 30% storm event. The applicants propose contributions of £15,000 towards adoption of the balancing pond; this would however need to be agreed between the developers and any organisation which the developers were to approach with a view to adopting this feature.

Insofar as foul drainage is concerned, it is proposed to connect to existing foul sewers to the north and south of the site. The Environment Agency had previously raised objections to other development proposals in Coalville due to a lack of capacity in the sewerage networks serving the area and the potential for a negative impact on the water quality of the receiving watercourse, the Grace Dieu Brook, from combined sewer overflows and storm discharges from Snarrows Sewage Treatment Works (STW). In effect, the concerns raised were that, in the absence of additional capacity within the system, the additional flows could, at certain times, be greater than those which could be accommodated, leading to an overflow of untreated foul water into the receiving watercourse, the Grace Dieu Brook, with the resulting implications on the water quality of that watercourse. As a result of proposals by Severn Trent Water to release additional flow capacity in the catchment, however, the Agency's previous concerns regarding major new development have now been addressed, and no objections are raised by either the Environment Agency or Severn Trent Water in this regard subject to conditions.

Overall, in terms of issues of Flood Risk and Drainage, it is considered that the scheme is acceptable, and would provide for appropriate drainage solutions to accommodate the proposed development.

Residential Amenity

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

In terms of future residents' amenities, it is noted that the site is not located in close proximity to any existing incompatible land uses and, in principle, there appears no reason why the development would not be appropriate in this regard, and no objections are raised by the District Council's Environmental Protection team.

Insofar as the impacts on neighbouring occupiers arising from the proposed development are concerned, the principal impacts of the proposed development are considered to be those arising from the proximity of the proposed development to existing residential property, having regard to the relative positions of the dwellings and resulting issues of overlooking, overdominance or loss of light. The site is adjacent to existing dwellings to the north (Frearson Road estate), to the east (St Mary's Avenue / St Mary's Court / Manor Road) and to the south and south west (Berry Hill Lane).

To the north, the application site would be separated from the adjacent estate by the existing established tree planting buffer which (save an area towards its eastern end where there appears to have been some encroachment of gardens into the buffer) is in the order of approximately 15 metres in depth (albeit varying slightly in extent along the boundary).

Notwithstanding the relative levels in this part of the site, material loss of amenity would appear unlikely in this area.

In terms of the eastern boundary, much of the adjacent dwellings are single storey. The proposed dwellings would be set back from the site boundary in this area, although a previously proposed planting strip along the boundary has now been deleted from the scheme in response to concerns over impacts from this landscaping on neighbouring dwellings. Insofar as separation distances are concerned, all the two storey dwellings in this location would be located close to the new estate road frontage so as to maximise separation distances to the existing dwellings to the rear (between 11 and 25 metres approx, save for the south eastern most plot (Plot 32), but this would be positioned at an angle to the nearest neighbour of approximately 45 degrees, thus limiting its overlooking impacts). Whilst some built development would be closer to the boundary, this would be limited to domestic garages, single storey dwellings and a substation. There would be no built development adjacent to the existing flats at St Mary's Court, given the location of the proposed community orchard / allotments. To the southern end of this boundary, three no. two storey dwellings would be located backing onto the rear gardens of adjacent dwellings on Manor Road. Whilst there would be likely to be an impact on the amenities of the existing occupiers in that views into their gardens would be possible from the new dwellings, given the distances involved (i.e. having regard to the length of the new dwellings' back gardens) and the relative angle of Plot 32 as discussed above, an unacceptable loss of amenity would be difficult to demonstrate. Whilst anticipated relative levels of proposed and existing dwellings vary along this boundary (i.e. based on detailed information provided in respect of earlier iterations of the layout), none are considered of such a significant extent so as to render their relationships unacceptable.

Insofar as the impact on properties on Berry Hill Lane is concerned (both to the south of application site, on the opposite side of the road, and to the south west, on the same side as the development), the separation distances would be significant given the proposed open area fronting onto Berry Hill Lane (required to accommodate the development in this Conservation Area setting, as discussed above) and the retention of the two arms of the Public Right of Way (with open space retained between). As such, no material loss of amenity would be likely to result.

It is noted that the proposed development would result in the accessing of the new dwellings via Frearson Road, and this would therefore lead to a material increase in the use of this road such that residents of existing dwellings on or adjacent to this road would be subject to additional vehicular movements passing their dwellings. Whilst the increased use of this road over and above existing levels of traffic is likely to be significant (proportionally), having regard to the nature of the existing road, the number of dwellings in question, and the nature of the types of vehicles likely to be using the road on a day-to-day basis, it is not however considered that an undue loss of amenity to occupiers of existing dwellings could be demonstrated.

Geo-Environmental Conditions

A preliminary ground investigation report has been submitted with the application which provides an assessment of the site's ground conditions, and indicates that there are no impediments to the site's development in terms of contamination or general ground conditions. The District Council's Environmental Protection team raises no objections.

Other Matters

Developer Contributions

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

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

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

The relevant developer contributions are (save for those already referred to above) listed below.

Affordable Housing

When the application was originally submitted an affordable housing contribution of 20% (i.e. 43 of the then proposed 215 dwellings) was proposed as per the Local Planning Authority's current requirements for the Coalville area for a scheme of this scale. However, in response to the Cabinet report referred to above in respect of the prioritisation of transportation infrastructure over affordable housing, and further to a reduction in the total number of dwellings proposed on the site, no affordable housing is now proposed to be provided. As set out above, the applicants have undertaken viability calculations, and that these indicate that, when allowing for the other required contributions (and including the transportation infrastructure contribution as set out under Means of Access and Transportation above), the scheme would be unviable with any affordable housing.

Clearly the absence of an affordable housing contribution would fail to comply with the provisions of the District Council's Affordable Housing SPD which seeks to secure a minimum 20% contribution from new housing development in Coalville. However, this needs to be considered in the context of the approach suggested in the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy, which provides that, where a proposal is proven to be unviable as a result of required developer financial contributions, the Council will consider relaxing its normal affordable housing requirements proportionately so as to prioritise highway infrastructure investment, then all other essential infrastructure, and then contribute to affordable housing provision as far as possible whilst ensuring that the development scheme is viable. As set out under Relevant Planning Policy above, the policy does not set a minimum level to which affordable housing contributions in the Coalville area can be reduced, even in cases such as this whereby no contribution at all would be achievable financially.

In terms of the impacts of the non-provision of affordable housing, this was assessed in more detail when the *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy was introduced. A significant housing need already exists within the District, and the last housing needs study for the District which undertaken in 2008 as part of the Strategic Housing Market Assessment (SHMA) indicated that the level of affordable housing provision within the district required to meet the identified need was at least 355 new affordable dwellings per annum. In the years 2010/11, 2011/12 and 2012/13, the numbers of affordable houses built in the District were 42, 57 and 82 respectively, representing approximately 25% of all dwellings completed and, therefore, even at current levels of provision, and notwithstanding an increase in 2012/13, the housing needs of many people within the District are not being met, and not securing a

contribution in this instance would not assist. A lack of affordable housing in the District would be likely to impact upon some of the most vulnerable people within the District and has the potential to increase the number of homelessness cases. However, this needs to be balanced against the Government's support for Local Planning Authorities taking a proportionate approach to developer contributions and viability (and as indicated in Paragraph 173 of the NPPF) so as to enable development to come forward to meet market (if not affordable) housing needs, and the need to consider the potentially harmful impact on other service areas were the shortfall in viability to be addressed by way of reductions in contributions to other areas of infrastructure.

As set out above, the NPPF contains a presumption in favour of sustainable development, the dimensions of which include a social dimension, with the planning system's role being to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations. It is considered that, in this sense, the scheme would not perform well. On balance, however, whilst the contribution proposed would be substandard vis-à-vis the current affordable housing standards set out in the District Council's SPD, given that the applicants have been able to demonstrate to the District Valuer's satisfaction that no contribution could be provided from a viability point of view, it is considered that the omission of affordable housing would not be unacceptable in this case, and when balanced against all other viability considerations and other aspects of sustainable development.

Given the under-provision of affordable housing vis-à-vis the adopted Affordable Housing SPD, and having regard to the approach set out in the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy, it would be considered appropriate to limit the implementation period of any planning permission granted accordingly to two years, and to also ensure that the Section 106 agreement included for a periodic review mechanism so as to ensure that, should economic conditions change over the build period such that some affordable housing could be rendered viable, this would be secured.

Play and Public Open Space

The proposed layout shows a significant extent of the site given over to landscaping, retained and proposed tree / hedgerow planting and other open space; the open space includes an on-site equipped children's "natural" play area, an area of woodland planting, an off-site conservation grassland zone (adjacent to Standard Hill), landscaped open space / pedestrian routes along the western and southern site boundaries, a community orchard / allotment area, a "village green" and other incidental open space within the development. In terms of the extent of the proposed on-site play area, on the basis of the illustrative plan, this would be in the order of 1,130 square metres. Under the Local Planning Authority's Play Area Design Guidance SPG, children's play areas should be provided at a rate of 20 square metres per dwelling and, therefore, for a development of 188 dwellings, an area for children's play of 3,760 square metres would normally be required. Whilst this represents a shortfall in this regard, the extent of the "play area" in its general terms (which is the figure to which the SPG relates) is normally calculated in its wider sense and, when taking into account the other landscaped open space proposed as part of the application, the minimum requirements of the SPG would be comfortably met. Whilst the submitted detailed landscaping plans indicate limited equipment being provided to the centrally located play area, a suitable specification of equipment would need to be agreed in respect of the Section 106 obligations. The total proportion of the site proposed to be given over to green space (excluding private gardens) would be in the order of 25% and, having regard to this, and additional off-site green space of 1 hectare (approx) the

overall contribution towards green infrastructure would be considered acceptable.

In terms of the range of equipment necessary for the on-site play area, for developments of this number of dwellings, Local Plan Policy L22 and the District Council's SPG require that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity, as well as a "kickabout" area. In addition, formal recreation open space (e.g. sports pitches) should also be provided for. Whilst on-site "kickabout" and formal recreational open space provision is not proposed, the applicants propose to make a financial contribution in this regard. In order to seek to establish the need for such facilities in the surrounding area, the applicants have commissioned an open space assessment by consultants specialising in leisure development so as to establish the availability of existing facilities within the area and, hence, the level of contribution required to accommodate the development. This assessment concludes that, whilst the application proposals would include for sufficient open space, having regard to the nature of the open space, additional contributions towards other types of open space (i.e. youth / adult recreation) are required. The applicants therefore propose a contribution of £53,397 towards a new multi use games area (MUGA) at the Ashburton Road recreation ground which, it is considered, would represent a reasonable contribution from a development of this nature and the likely level of use of such facilities generated by the development. In coming to this figure, the applicants' consultants have sought figures from an equipment supplier and included provision for a ball court of 18.6m x 25m (costed at £23,543) and groundworks (£25,000) plus 10% contingency, equating to £53,397 (excluding VAT).

In response Hugglescote and Donington le Heath Parish Council advises that it does not accept the amount offered, but no alternative evidence as to the ability or otherwise of existing facilities to accommodate the development in this context has been provided. As set out under Summary of Representations Received above, significantly larger contributions are requested by the Parish Council but, in the absence of evidence to support these figures, it is not considered that the Local Planning Authority would be able to demonstrate that such contributions were justifiable in terms of the tests set out in the CIL Regulations and NPPF, and would appear to be significantly beyond what would be likely to be necessary to accommodate the additional youth / adult recreation requirements of the proposed development. It is acknowledged that, on the basis that the Ashburton Road recreation ground is currently in private ownership, it may not be considered appropriate by the Parish Council to direct the funds towards this particular location, and it is therefore recommended that any contribution be flexible in terms of its location of spend; ideally this would be within the Parish of Hugglescote and Donington le Heath but, potentially, given the site's close proximity to the unparished area of Coalville, could also be within that area as well if needs be whilst still being used for the benefit of residents of the new residential development.

Leisure

In addition to the recreation requirements set out above, a separate contribution (£181,250) is sought by the District Council's Leisure and Cultural Services towards a new fitness suite and studio at the Hermitage Leisure Centre; detailed information setting out existing capacity together with anticipated increased levels of use by occupiers of the proposed development have been provided which, it is considered, demonstrate that the contribution would be necessary to ensure that an appropriate level of service would continue to be provided by the Leisure Centre, and that the sum sought is commensurate to the additional facilities necessary to accommodate the development. The developers are currently considering their position on the appropriateness of this request; any further response received will be reported on the Update Sheet.

National Forest Planting

The applicants' proposals show the provision of on-site National Forest planting as part of their wider landscaping and public open space proposals as set out and under Play and Public Open Space above. For its part, the National Forest Company notes that the 20% minimum Forest-related green infrastructure requirements would be exceeded by the development. It also advises, however, that some substitution of proposed species / tree sizes would be appropriate and that more planting would be required to some of the landscaped areas so as to achieve the "formal parkland" feel aspired to in the submitted Design and Access Statement.

Various amendments to the planting proposals are suggested but, subject to these, the National Forest Company raises no objections to the application and the proposals are considered appropriate in this regard.

Education

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

Primary School Requirements:

The site falls within the catchment area of Hugglescote Primary School. The School has a number on roll of 423 and 653 pupils are projected on the roll should the development proceed; a deficit of 230 places (of which 185 are existing and 45 would be created by this development). There are 5 other primary schools within a two mile walking distance of the development, namely Belvoirdale Community Primary School, Ellistown Community Primary School, Woodstone Community Primary School, All Saints Church of England Primary School and Broom Leys School, and the overall deficit including all schools within a two mile walking distance of the development is 207 places. The 45 deficit places created by this development can therefore not be accommodated at nearby schools and a claim for an education contribution of 45 pupil places in the primary sector is sought. In order to provide the additional primary school places anticipated by the proposed development the County Council requests a contribution for the Primary School sector of £534,050.30. As set out above, the site currently falls within the catchment area of Hugglescote Primary School and the intention would therefore be for the contribution to be spent on improving, remodelling or enhancing facilities at that school. Leicestershire County Council also advises however, that, as catchment areas may be reviewed in this area in the future having regard to the effects of this and other proposed residential development, should the site fall within a different catchment as a result of any changes to catchments, the contribution would be used to accommodate the capacity issues created by the proposed development at the primary school that the children from the development would be expected to attend. Catchment areas will, the Local Education Authority advises, be reviewed when it is clearer which applications are proceeding, and how many houses are to be built.

High School Requirements:

The site falls within the catchment area of Newbridge High School. The School has a net capacity of 530, and 656 pupils are projected on roll should this development proceed; a deficit of 126 pupil places (of which 107 are existing and 19 would be created by this development). However, taking the two other high schools into account within a three mile walking distance of the development, namely Ibstock Community College and Castle Rock High School, there is an overall surplus for the area of 27 places, and no contribution request is therefore made in respect of this sector.

Upper School Requirements:

The site falls within the catchment area of King Edward VII College. The College has a net capacity of 1,128, and 1,100 pupils are projected on roll should this development proceed; a surplus of 128 places after taking into account the 19 pupils generated by this development, and no contribution request is therefore made in respect of this sector.

Overall, therefore, the County Council's contribution requests are limited to the primary sector, and the applicants are agreeable to the requests made.

Civic Amenity

A contribution of £13,361 is proposed to be made by the developer for Civic Amenity facilities in accordance with the requirements of Leicestershire County Council.

Library Services

A contribution of £11,870 is proposed to be made by the developer for library services in accordance with the requirements of Leicestershire County Council.

Healthcare

NHS England requests a developer contribution of £103,164 in respect of healthcare as set out in the consultation response above. This request has been supported by detailed information setting out the projected impacts on capacity arising from the proposed development (with the principal impacts being on Hugglescote surgery) together with commensurate costs of mitigation. It is considered that this request would meet the relevant CIL and NPPF tests, and the applicants have confirmed that are agreeable to making the contribution sought.

Contributions sought by Leicestershire Police

Leicestershire Police requests a developer contribution of £606 per dwelling in respect of policing as set out in the consultation response above which, the Police advises, would be used for extensions to local premises and communications infrastructures, to provide equipment for additional staff, and to contribute towards additional vehicles and local CCTV cover. As such, it is assumed that the total sum sought in respect of the current scheme would equate to £113,928.

Insofar as this specific contribution request is concerned, it would appear that request has been based upon a flat rate per dwelling which would subsequently be allocated to different policing proposals, and the request is not therefore considered to demonstrate that it has taken account of the specific infrastructure requirements the development would generate.

With regard to the acceptability of police contributions per se, however, the issue is not one of principle. The issue is, rather, whether Leicestershire Police can demonstrate that either on-site or off-site infrastructure is necessary and directly related to the impact of the development which is being granted consent, and that any contribution would in fact be used in order to pay for infrastructure which would actually be delivered. It is in this respect that officers remain to be persuaded that such requests are CIL compliant.

Whilst officers acknowledge that such requests have been accepted by Inspectors and the Secretary of State as being CIL compliant in some recent appeal decisions in Leicestershire, and indeed the District (although Inspectors and the Secretary of State have also reached a

contrary view on other occasions), and that consistency in decision making is desirable as a matter of policy, a decision as to whether an obligation is directly related to a particular development is one that can only be made on its individual merits.

The continuing controversy surrounding policing contributions is, however, itself undesirable as it creates uncertainty both for Leicestershire Police and developers / landowners as to whether a request for a contribution is likely to be supported in any given case. The Leicestershire Authorities have therefore agreed jointly to seek an independent legal Opinion as to the correct approach to be adopted by Local Planning Authorities to such requests.

Pending the receipt of Counsel's Opinion, it is not possible to reach a conclusion on whether a policing contribution of some description (assuming more robust supporting evidence were provided) would meet with the CIL tests at this particular time. Should Counsel advise that Leicestershire Police requests such as this would be CIL compliant then the principle of requiring such contributions to be secured by way of Section 106 planning obligations would be accepted by the Council and required to be paid, subject to any issues of viability being raised. Should the inclusion of policing contributions, when considered alongside other contributions, render a scheme unviable (or more unviable if already so), then the importance of these contributions would need to be considered alongside other material considerations (including, where applicable, relevant planning policies including those within the NPPF and other infrastructure requirements) and a view reached as to whether or not it would be appropriate to secure them by way of a planning obligation.

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

Conclusions

As set out in the main report above, whilst the site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, and constitutes greenfield land, its release for housing is considered suitable in principle, particularly having regard to the need to release sites in order to meet the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Whilst the site is located outside of Limits to Development, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall (and notwithstanding the non-provision of affordable housing), be considered to constitute sustainable development as defined in the NPPF and, as such, would benefit from a presumption in favour of such development as set out in that document. The scheme is considered to be acceptable in terms of access and transportation issues, landscape and visual impact, design, heritage issues, ecological issues, flood risk and residential amenity; there are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities, albeit with no contribution to affordable housing required so as to ensure the development remains viable whilst making appropriate contributions to highways and transportation infrastructure.

RECOMMENDATION- PERMIT, subject to Section 106 Obligations, and subject to the following condition(s):

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

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended), and to accord with the requirements of the Local Planning Authority's policy relating to developer contributions.

- 2 The proposed development shall be carried out strictly in accordance with the following plans:
 - Site location plan (EMS.2198_05-4 B) deposited with the Local Planning Authority on 6 December 2011
 - Site layout (ME-0006-11-001_W) deposited with the Local Planning Authority on 11 December 2013
 - Plans in respect of the proposed house types, garages and car ports as set out in the Schedule of Drawings dated June 2013 attached to and forming part of this permission

Reason - To determine the scope of this permission.

- 3 Unless a written statement to the effect that a phased form of development is not proposed has been submitted to the Local Planning Authority, no work shall commence on site until such time as a schedule of the phasing of the development has been submitted to and agreed in writing by the Local Planning Authority. No phased development shall be undertaken at any time other than in accordance with the submitted schedule unless an alternative schedule has first been agreed in writing by the Local Planning Authority.

Reason - To ensure the development takes place in an appropriate manner, in the event that details for approval of different phases of development are submitted after the commencement of development on the site as a whole.

- 4 No development shall commence on the site until such time as an infiltration removal strategy has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Environment Agency and Severn Trent Water Ltd. The strategy shall include an implementation programme for the timing and provision of the infiltration removal. No development shall be undertaken nor thereafter occupied at any time other than in accordance with the agreed scheme and implementation programme.

Reason - To ensure the protection of the environment and in particular that there is no deterioration in the water quality of the receiving watercourse, and in accordance with the Water Framework Directive.

- 5 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a scheme of foul and surface water drainage for the site (or, where applicable, the relevant phase), and including a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall demonstrate that any additional flows discharging into the surface water and foul sewerage drainage network will not cause deterioration in the operation of any Combined Sewer Overflows (CSOs) either upstream or downstream on the network and that there will not be an increase in spill frequency or volume from any CSOs affected by the increase in volume within the sewerage network. The scheme

shall also be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, and shall include:

- Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm;
- Detailed design (plans, cross sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
- Details of how the scheme shall be maintained and managed after completion.

The development shall be carried out in accordance with the agreed scheme and timetable.

Reason - To ensure that the development is adequately drained, to reduce the risk of creating or exacerbating a flooding problem, to minimise the risk of pollution to the water environment, to improve and protect water quality, to improve habitat and amenity, and to ensure future maintenance of the surface water drainage system.

6 The development hereby permitted shall only be carried out in accordance with the submitted Flood Risk Assessment (FRA) dated 20 April 2011 Revision Issue 3, dated 29 November 2011, Ref: 11024, undertaken by Banners Gate Engineers and the following mitigation measures detailed within the FRA:

- Sections 14.1, 15.8, 15.9 and 15.13. Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
- Section 15.10. Provision of a minimum of 1600 cubic metres of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm, on the site in the form of an open water retention basin; and
- Sections 10.2 and 14.2. Finished floor levels set no lower than 150mm above proposed external finished ground levels.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, and to reduce the risk of flooding to the proposed development and future occupants.

7 No development shall commence on the site until such time as a scheme to treat and remove suspended solids from surface water run-off during construction works, together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. No works shall take place at any time unless all of the measures as required under the agreed timetable are provided in full.

Reason - To minimise the risk of pollution of the environment.

8 No development shall commence on the site until such time as a programme of archaeological work including a Written Scheme of Investigation has first been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:

- The programme and methodology of site investigation and recording;
- The programme for post-investigation assessment;
- Provision to be made for analysis of the site investigation and recording;
- Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- Provision to be made for archive deposition of the analysis and records of the site investigation; and
- Nomination of a competent person or persons / organisation to undertake the works set out within the Written Scheme of Investigation

No development (or, in the case of phased development, no development in respect of the relevant phase) shall take place at any time other than in accordance with the agreed Written Scheme of Investigation. None of the dwellings (or, in the case of phased development, none of the dwellings within the relevant phase) shall be occupied until such time as the site investigation and post investigation assessment has been completed in accordance with the programme set out in the agreed Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason - To ensure satisfactory archaeological investigation and recording.

- 9 No development shall commence on site until such time as precise details of all mitigation and management measures set out within Section 4.0 of the Ecological Appraisal (Rev A, dated May 2012, prepared by FPCR) and Section 7.0 of Appendix A to that document (GCN Mitigation Strategy (Rev A, dated May 2012, prepared by FPCR)), and including timetables for their implementation, have been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative mitigation and management measures are first agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in strict accordance with the agreed measures and timetables.

Reason - In the interests of nature conservation.

- 10 Notwithstanding the submitted details, nor Condition 9 above, no development shall commence on the site until such time as a timetable for the undertaking of updated surveys in respect of badger and Great Crested Newts in relation to commencement of site works on the relevant phase (and including the specification of maximum periods between undertaking of surveys and commencement of work on the relevant phase) has been submitted to and agreed in writing by the Local Planning Authority. No development shall thereafter be undertaken at any time unless the relevant surveys have been undertaken and the results (including any amended mitigation and management measures, and including timetables for their implementation where appropriate) have been submitted to and agreed in writing by the Local Planning Authority. Unless any further alternative mitigation and management measures are first agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in strict accordance with any such amended measures and timetables.

Reason - In the interests of nature conservation.

- 11 Notwithstanding the submitted details, nor Condition 9 above, no work shall commence on site until such time as precise details of all measures proposed in respect of the enhancement of the biodiversity of the area, including proposals in respect of future

maintenance and a timetable for the implementation of the relevant measures have been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be undertaken and occupied in accordance with the agreed measures and timetable unless otherwise agreed in writing with the Local Planning Authority.

Reason - To ensure the development contributes to the meeting of BAP and LBAP priorities.

- 12 Notwithstanding the submitted details, nor Condition 2 above, no development shall commence on the site until such time as open space landscaping schemes for all areas of the application site identified on drawing nos. JBA 13/32-02 Rev B, 13/32-03 Rev B, JBA 13/32-04 Rev B and JBA 13/32-05 Rev B (and including a timetable for their implementation and future maintenance and management measures, together with detailed proposals for the reinforcement of existing hedgerows) have been submitted to and agreed in writing by the Local Planning Authority. The approved schemes shall be implemented and thereafter be so maintained in accordance with the agreed details and timetable.

Reason - To ensure satisfactory landscaping is provided within a reasonable period, and to comply with Policies E2, E4 and E7 of the North West Leicestershire Local Plan.

- 13 Notwithstanding the submitted details, nor Condition 2 above, no development shall commence on the site until such time as a landscaping scheme (and including a timetable for its implementation and future maintenance and management measures) of all areas of the application site not shown hatched in blue on drawing no. JBA 13/32-01 Rev B has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented and thereafter be so maintained in accordance with the agreed details and timetable.

Reason - To ensure satisfactory landscaping is provided within a reasonable period, and to comply with Policies E2, E4 and E7 of the North West Leicestershire Local Plan.

- 14 Any tree or shrub planted in respect of the landscaping schemes referred to in Conditions 12 and 13 above which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

Reason - To ensure that the site landscaping is maintained for a suitable period, and to comply with Policies E2, E4 and E7 of the North West Leicestershire Local Plan.

- 15 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on site until such time as precise details of the proposed dwellings' anticipated level of achievement in respect of criteria / sub-categories contained within the Code for Sustainable Homes have been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative timescale is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as evidence to demonstrate the relevant dwelling's compliance with the relevant criteria has been submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure the scheme provides for a sustainable form of development.

- 16 No development shall commence on site until such time as precise details of the proposed floor levels of the proposed buildings in relation to neighbouring land / buildings have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, in the interests of amenity, and to comply with Policies E3, E4 and H7 of the North West Leicestershire Local Plan.

- 17 No work shall commence on site (or, in the case of phased development, on the relevant phase of the development) until such time as precise details of all external materials to be used in the construction of the dwellings within the site or phase have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the agreed details.

Reason - To enable the Local Planning Authority to retain control over the external appearance, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.

- 18 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on site (or, in the case of phased development, on the relevant phase of the development) until such time as precise details of all doors and windows (including door and window styles, porches and door surrounds, doors to proposed garages, and headers and cills) within the site or phase have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.

- 19 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on the site (or, in the case of phased development, on the relevant phase of the development) until such time as a detailed scheme for the boundary treatment of the site or phase has been submitted to and agreed in writing by the Local Planning Authority. None of the dwellings within the site or the relevant phase shall be occupied until the relevant dwelling's boundary treatment as denoted on the agreed scheme has been implemented in full. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no gates, fences, walls or other means of enclosure (other than any approved pursuant to this condition, or as a replacement of such in the same location, constructed in the same materials, and at a height not exceeding that which it replaces) shall be erected, unless planning permission has first been granted by the Local Planning Authority.

Reason - To preserve the amenities of the locality, in the interests of highway safety, to ensure that there is a clear and robust demarcation between public and private spaces, to ensure an appropriate form of design, to protect the special character of the adjacent Conservation Area, and to comply with Policies T3, E3, E4 and H7 of the North West Leicestershire Local Plan.

- 20 No work shall commence on site (or, in the case of phased development, on the relevant phase of the development) until such time as precise details of all proposed timber features (including lintels) within the site or relevant phase have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.

- 21 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on site (or, in the case of phased development, on the relevant phase of the development) until such time as precise details of the treatment of verges, eaves, midcourse and rainwater goods (and including all barge or fascia boards) within the site or relevant phase have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.

- 22 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence in respect of the construction of Plot 48 until such time as precise details of the treatment of the arch above the first floor window to the front elevation have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.

- 23 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on site (or, in the case of phased development, on the relevant phase of the development) until such time as precise details of the positioning and treatment of utility boxes to individual units within the site or relevant phase have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.

- 24 None of the dwellings (or, in the case of phased development, none of the dwellings within the relevant phase of the development) shall be occupied until such time as precise details (including positioning) of all street name plates within the site or relevant phase have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.

- 25 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence in respect of the construction of Plots 89, 98 and 137 until such time as precise details of the elevations and floor plans and parking arrangements in respect of the dwellings have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to ensure that adequate provision is made for off-street car parking in accordance with Leicestershire County Council standards, and to comply with Policies E4, T8 and H7 of the North West Leicestershire Local Plan.

- 26 Notwithstanding the submitted plans, nor Conditions 2, 16 and 19 above, no retaining walls / structures shall be erected unless in accordance with precise details (including in respect of external materials of construction) first submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, to ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.

- 27 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence in respect of the construction of the proposed substation until such time as precise details of the substation have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

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

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

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, to ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, in the interests of highway safety and to comply with Policies E4, T3 and H7 of the North West Leicestershire Local Plan.

- 29 Notwithstanding the submitted plans, nor Condition 2 above, no more than 99 dwellings within the application site shall be occupied until such time as the proposed emergency access (including pedestrian and cycle facilities) has been implemented in full and is available for use in accordance with precise details first submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed scheme shall thereafter be so maintained and available for its intended uses at all times.

Reason - To provide vehicular access to the site in the event of an emergency, to ensure that unfettered pedestrian and cycle linkages are available at all times, to ensure that the

proposed access is appropriate to its surroundings, and to comply with Policies H7, E4 and T3 of the North West Leicestershire Local Plan..

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

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

- 31 Notwithstanding the submitted plans, nor Conditions 2 and 18 above, no garage doors shall be installed within 6.5 metres of any public highway from which the relevant garage's drive is accessed unless in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason - To enable a vehicle to stand clear of the highway whilst the garage doors are opened / closed and protect the free and safe passage of traffic, including pedestrians, in the public highway, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 32 Notwithstanding the submitted plans, nor Condition 2 and 16 above, no access drive served directly from a public highway shall exceed a gradient of 1:12 for the first 5.5 metres behind the highway boundary.

Reason - To enable vehicles to enter and leave the highway in a slow and controlled manner, in the interests general highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 33 Notwithstanding the submitted plans, nor Conditions 2 and 28 above, none of the dwellings hereby permitted shall be occupied until such time as any relevant access drive, turning space or parking space (including garage space) serving that dwelling has been provided in full and is available for use. Once provided, the relevant facilities shall remain available for such use in association with the occupation of the relevant dwelling(s).

Reason - To ensure the provision of appropriate access, turning or parking facilities to serve the development, in the interests of highway safety and to comply with Policies T3 and T8 of the North West Leicestershire Local Plan.

- 34 Notwithstanding the submitted plans, nor Condition 2 above, no dwelling shall be occupied until such time as 1.0 metre by 1.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of any relevant access drive serving that dwelling with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway in accordance with the current standards of the Local Highway Authority and, once provided, shall thereafter so be maintained.

Reason - In the interests of pedestrian safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 35 Notwithstanding the submitted details, none of the dwellings hereby permitted shall be occupied until such time as a Residential Travel Plan for the development as a whole, and including a timetable for its implementation and ongoing monitoring / review, has been submitted to and agreed in writing by the Local Planning Authority. The plan shall be implemented in accordance with the relevant approved details and timetable.

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

- 36 Notwithstanding the submitted plans, nor Conditions 2 and 28 above, no development shall commence until such time as details of all works in respect of the routes of Public Right of Way N81 within the application site (and including of its means of connection to adjacent land and Berry Hill Lane), together with a timetable for their provision, have been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable and, once provided, shall thereafter so be maintained.

Reason - To ensure the appropriate treatment of existing Public Rights of Way.

- 37 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence in respect of the erection of any dwelling to Plots 18, 27, 34, 68 and 149 until such time as precise details of the relevant dwelling's elevations and floor plans have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority having regard to minor discrepancies between the submitted house type plans and site layout, to ensure an appropriate form of design, in the interests of the amenities of the area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.

- 38 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence in respect of the erection of any dwelling to Plots 36, 38, 80, 160, 176 and 186 until such time as precise details of the relevant dwelling's elevations have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority having regard to minor discrepancies between the submitted elevations, to ensure an appropriate form of design, in the interests of the amenities of the area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

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

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

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

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

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

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

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

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

PLANNING APPLICATIONS- SECTION A

- 3 Your attention is drawn to the attached report of Severn Trent Water Limited.
- 4 Your attention is drawn to the attached report of the Environment Agency
- 5 Your attention is drawn to the advice contained within the attached report of Leicestershire County Council's Director of Environment and Transport. Attention is drawn in particular to the advice regarding compliance with relevant County Council criteria for adoption of roadways, the County Highway Authority's requirements in respect of the setting out of the proposed emergency access, and SUDS adoption.
- 6 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer.
- 7 The applicants are advised that, for the purposes of complying with Condition 18 above, the Local Planning Authority would expect all doors to be coloured black.
- 8 Your attention is drawn to the attached report of the National Forest Company, and the applicants are advised that the Local Planning Authority would expect the detailed planting schemes to have regard to this advice.
- 9 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at www.defra.gov.uk
- 10 This decision is in accordance with the resolution of the Planning Committee of 4 February 2014 and is subject to a Section 106 Obligation.

PLANNING APPLICATIONS- SECTION A

Erection of eight dwellings with associated garaging and access road (Outline - Access, layout and Scale included)

Report Item No
A3

Land At Measham Road Appleby Magna Swadlincote Derby

Application Reference
13/00829/OUT

Applicant:
Keller New Homes Ltd

Date Registered
18 October 2013

Case Officer:
Jenny Davies

Target Decision Date
13 December 2013

Recommendation:
PERMIT Subject to a section 106 Agreement

Site Location - (Plan for indicative purposes only)



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Executive Summary of Proposals and Recommendation

Proposal

This application seeks outline planning permission (with access, layout and scale included for determination) for the erection of eight dwellings with associated garaging and an access road at land off Measham Road, Appleby Magna. The site is currently a grassed field/paddock lying on the eastern side of Measham Road which is adjoined by residential properties, an open field, a dilapidated building and Measham Road. Five of the dwellings would be served by a private drive and face onto Measham Road, with the other three dwellings being located on the rear of the site. Access to the site would be via the existing site entrance (which will be altered and widened) onto Measham Road.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals, including from Appleby Magna Parish Council, with 26 letters being received from members of the public. The objections cover several different issues, broadly but not exclusively relating to the principle and sustainability of the proposal, highway safety, impact on the character of the area, flood risk and drainage. The County Highway Authority has objected in relation to the sustainability of the site's location. No objections have been received from any other statutory consultees.

Planning Policy

The site lies within the Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application is national guidance set out in the National Planning Policy Framework (NPPF) including relating to the supply of housing.

Conclusion

Whilst the site constitutes greenfield land, its release for housing is considered suitable in principle, particularly having regard to the need to release sites in order to meet the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Whilst there would be harm to the Sensitive Area it is considered that a reason for refusal based on the proposal resulting in an adverse impact on the character, form and setting of the village and streetscene could not be justified in this case. The scheme is considered to be acceptable in terms of its density, design and layout and impact on trees. The proposal would result in less than substantial harm to designated and undesignated heritage assets as there would not be an adverse impact on the setting of the listed and unlisted buildings, there would not be a negative impact on the character and appearance of the Conservation Area and any archaeological remains can be investigated. The less than substantial harm to the heritage assets and the harm to the Sensitive Area is in this case considered on balance to be outweighed by the site's contribution to the District's housing land, the provision of two affordable homes, a contribution under the River Mease DCS which will improve the quality of the River Mease SAC and improvements to the village's drainage system. The proposal is unlikely to result in significant levels of noise and disturbance to existing residents and would not result in significant detriment to occupiers of properties on Measham Road and Stoney Lane in terms of loss of privacy, overshadowing and impact on outlook. A reason for refusal on the grounds of significant detriment occurring to residents of Old End could not be justified. It is considered that the proposal would not adversely affect protected species. Reasons for refusal relating to highway safety, flood risk and capacity of the drainage system could not be sustained in this case. It can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the

PLANNING APPLICATIONS- SECTION A

internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. The proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development. The proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION:-

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

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

MAIN REPORT

1. Proposals and Background

Outline planning permission (with access, layout and scale included for determination) is sought for the erection of eight dwellings with associated garaging and an access road at land off Measham Road, Appleby Magna. As access, layout and scale are included at this stage, the layout for the site, the position of the access and the maximum dimensions of the proposed dwellings are included, but the design of the dwellings has not been provided, although illustrative 3D views have been submitted.

The site is currently a grassed field/paddock lying on the eastern side of Measham Road which is adjoined by residential properties, an open field, a dilapidated building and Measham Road. Land levels increase approximately by up to 1.5 metres from south to north and by up to 1.7 metres from east to west, with the site being higher than existing dwellings on Stoney Lane and Old End. The submitted plans do not show any significant change in land levels.

The 8 dwellings comprise five detached properties and a terrace of three dwellings, with one of these indicated to be three storey in height, six to be two storey and one to be single storey. The application also indicates that four properties would have four bedrooms, two would have three bedrooms and another two would have two bedrooms. The scheme would provide for 25% affordable housing (two dwellings) with the single storey property being available for rent and the other being intermediate/shared ownership.

Five of the dwellings would be served by a private drive and face onto Measham Road with the other three dwellings being located on the rear of the site. Access to the site would be via the existing site entrance onto Measham Road (which would be altered in terms of its width and alignment), which is located in the site's north west corner. The mature trees that currently lie along the southern part of the site's boundary with Measham Road are shown to be retained, although part of the frontage hedgerow, vegetation and a tree to the north of the access would be removed and replaced to allow for access alterations and visibility splays. Hedgerows and trees located on the other three boundaries will be retained.

Amended plans and additional information have been submitted during the course of the application to address officer concerns relating to layout and design, impact on trees, management of landscaped areas and flooding/drainage.

The site lies within the catchment area of the River Mease Special Area of Conservation. The boundary of the Appleby Magna Conservation Area lies between five and nine metres to the east of the site and adjoins the site along part of its northern boundary. Nos. 11, 15, 17 and 19 Old End are identified as unlisted buildings of interest in the Appleby Magna Conservation Area Appraisal. The Church of St Michael is a Grade 2* listed building.

Planning history:

- erection of 12 dwellings -outline (95/0889) refused in December 1995 on the grounds of detrimental impact on the character of the area and dismissed on appeal in February 1997 on the grounds of detrimental impact on the character of the area with concerns raised in relation to prematurity;
- erection of 11 dwellings - outline (88/0948) refused November 1988 on the grounds of the site being in the countryside, sufficient land being available for housing, detrimental impact on the character of the area and setting a precedent in relation to highway safety;
- erection of one dwelling - outline (84/0225) refused April 1984 on the grounds of the site being

in the countryside, detrimental impact on the character of the area and setting a precedent in relation to highway safety.

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraph 10(b) of Schedule 2 to the Regulations it has been concluded that this proposal does not constitute EIA development under the 2011 Regulations as its impacts are considered to not be significant and can be considered as part of the planning application.

2. Publicity

15 neighbours have been notified (Date of last notification 24 October 2013)

Site Notice displayed 9 January 2014

Press Notice published 22 January 2014

3. Consultations

Appleby Magna Parish Council consulted 24 October 2013

Development Plans consulted 10 December 2013

NWLDC Tree Officer consulted 1 November 2013

English Heritage- major dev in CA consulted 1 November 2013

DEFRA consulted 13 January 2014

County Highway Authority consulted 25 October 2013

Environment Agency consulted 25 October 2013

Severn Trent Water Limited consulted 25 October 2013

Head of Environmental Protection consulted 25 October 2013

Natural England consulted 25 October 2013

County Archaeologist consulted 25 October 2013

LCC ecology consulted 25 October 2013

NWLDC Conservation Officer consulted 25 October 2013

Manager Of Housing North West Leicestershire District Council consulted 25 October 2013

4. Summary of Representations Received

Statutory Consultees

Appleby Magna Parish Council objects on the following grounds:

'- No indication of how surface water will be managed, Cllr Butler is the Flood Warden for the village and as such liaises with various key contacts such as Severn Trent; in 2012 the Snarestone works only had capacity for 51 new dwellings, to include Appleby Magna and Snarestone; since then Appleby Magna has approved 10 and Snarestone has approved some (figure unknown to us, but you will have details); therefore the Parish Council needs an update on capacity as the pumping station pumps to the Snarestone works.

- Currently there is major back-flooding in Appleby Magna, especially in the Black Horse Hill area and Severn Trent states that Appleby Magna has major problems with water management; they are having to pump out on a regular basis due to the lack of capacity of the pumping station; more development in the village can only exacerbate the problem.

- Access issues - the location is not right for development, the area is too high and water drainage is a major issue.'

The Parish Council also advises that if density was reduced to a few proposed dwellings, this could be considered again, once infrastructure problems are resolved in the village.

The Parish Council also states that *'There is a village survey being carried out (an unbiased, objective questionnaire) re development within Appleby Magna - the results are not yet available, but we will pass these to you on receipt, this, with other planning matters can be discussed when you meet with Councillors to review the planning applications.'*

The Parish Council also *'wishes to register interest in any Section 106 funding, should this become relevant - this would be useful to the village and Councillors are open to discussion in the future based on mutually agreed planning applications - however, this does not in any way give approval to any large scale planning applications as long as the infrastructure and inadequate water management in the village remains as is.'*

The Parish Council goes onto state the following:

'All of the above applications are responded to by the Parish Council using material considerations, Councillors have acted fairly, openly and apolitically, approaching each application with an open mind and avoiding pre-conceived opinions, all issues have been carefully weighed up and they determined each application on its individual planning merits, avoiding undue contact with interested parties, clearly stating reasons for their decisions.'

It is interesting to note that Christine Fisher, Chief Executive of NWLDC stated in a letter sent 14th October 2014 re Churchyard of St Michael and All Angels, Appleby Magna regarding further burial land - "It is also unlikely that there will be any major development in Appleby Magna that would attract significant 106 funding." ... this leads the Councillors to feel that their major concerns with the infrastructure of the village are generally held.

Appleby Environment believes, in light of the cumulative effects of the various housing developments, and taking account of guidance set out in the NPPF on the importance of such cumulative effects, that NWLDC is required to commission an Environmental Impact Assessment (EIA). This is required to assess the cumulative effects of the proposed developments. This has to be undertaken prior to the determination of these residential applications.

The Parish Council works closely with Appleby Environment and other key interdependents to ensure the village is looked after and is sustained (and grows) in a strategic and robust manner, taking into account all factors which impact residents and are also material planning considerations, such as water management, road use, access/egress issues, sewage management and ensuring Appleby Magna sustains its character.

Furthermore the Parish Council initially made the following comments:

'In the absence of an approved NWLDC Core Strategy we would ask that the total number of dwellings for all the applications be taken into consideration. The rejected Core Strategy considered Appleby Magna as a sustainable village and as such would share a quantity of new dwellings with the other sustainable villages. The proposed quantity was 80 between all the sustainable settlements; the proposals before the Council would exceed this level by 20% in a single community. There are several new dwellings already approved or awaiting approval prior to these applications giving a total of 9 new dwellings to be constructed. Please note that the Parish Council does not object to some development within the village, but feels that the proposed 9 dwellings plus 1 or 2 more would more than satisfy this village's quota towards the 5 year plan.'

A major point of concern is the current flooding issues associated with a stream running through the village, this causes flooding in Church Street, Mawbys Lane, Duck Lake, Black Horse Hill

and Old End as well as the Caravan Park off Measham Road. The Caravan Park off Measham Road is also the location of the main Severn Trent Water sewage pumping station for the village. With reference to the Severn Trent Water letters included in the Flood Risk Assessments for Applications 13/00797/FULM and 13/00799/FULM which states "the Village system is currently experiencing some hydraulic sewer flooding problems". These problems are associated with Black Horse Hill, Duck Lake, Old End and the Caravan Park off Measham Road. One resident of Black Horse Hill is currently unable to reside in the property because of these known problems. The application 13/00809/OUT would add to this problem and the dwelling may also be affected by it. The Parish Council would ask that further investigation of these known issues be carried out before adding to this problem.

The application 13/00799/FULM is on land that is currently subject to an Application for Village Green Status under consideration by Leicestershire County Council, the Parish Council ask that this be taken into consideration when assessing this application. It is our understanding that planning applications appertaining to Village Green land should be frozen, awaiting conclusion. There are also concerns about traffic movements on the single track section of Bowleys Lane from the proposed entrance to this development to its junction with the A444.

The Parish Council requests that all of the above applications be deferred until the key, serious issues relating to infrastructure, highways and footpaths are sorted out and professional reports requested and received for due consideration by all parties.'

The County Highway Authority recommends refusal on the following grounds:

'The Applicant has failed to demonstrate that their proposal will be in a location where services are readily and safely accessible by walking, cycling and public transport. Leicestershire County Council policy contained in the Local Transport Plan 3 seeks to deliver new development in areas where travel distances can be minimised, and genuine, safe and high quality choices are available (or can be provided) for people to walk, cycle and use public transport facilities and services nearby. The LTP3 reflects Government guidance contained in the NPPF.'

English Heritage recommends that the Authority's Archaeological Advisor should be contacted for advice in relation to impacts on archaeological remains. English Heritage also advises that the application should be determined in accordance with national and local policy guidance and on the basis of the Authority's specialist conservation advice.

The Council's Conservation Officer has no objections.

The County Archaeologist has no objections subject to conditions.

Severn Trent Water has no objection subject to a condition.

The Environment Agency has no comments to make.

Natural England has no objections.

The County Ecologist has no objections provided the site is developed in accordance with the outline masterplan.

The Council's Tree Officer requires some amendments to be made to the layout.

The Council's Environmental Protection team has no environmental observations or comments in relation to contaminated land.

The Council's Affordable Housing Enabling Officer has no objections.

Third Party Representations

26 letters of representation have been received which object on the following grounds:

Principle and Sustainability

- all applications for new housing in Appleby Magna need to be considered at the same time;
- all applications will need to be delayed pending outcome of the Village Green application as this takes precedence;
- cumulative impact on village of proposal needs to be considered alongside other applications for new houses;
- Environmental Statements need to be undertaken to consider cumulative impacts;
- under the Core Strategy quota of new houses for Appleby Magna anticipated at 8-10 dwellings;
- under last Local Plan large scale developments unacceptable in the village;
- professionally established local need should be met by specific allocation;
- large scale development of the village would be unsustainable as the three tests in the NPPF would not be met;
- cumulative number of dwellings proposed is disproportionate to the size and character of the village;
- the village cannot absorb more than small scale development due to limited public transport, facilities, jobs and infrastructure;
- unsustainable demands on local services and possible creation of tensions within the community;
- difficult to increase limited capacity at Sir John Moore School as it is a Grade 1 listed building;
- current consultations to close GP surgery and reduce bus service;
- impact on local village shop;
- limited capacity at Snarestone Treatment Works;
- limited capacity of local drainage system;
- limited capacity of electricity supply cables;
- limited capacity of internet/broadband links to the village;
- increase in car journeys which will increase carbon emissions;
- Strategic Housing Land Allocation Assessment is flawed;
- house sizes need to complement those already in the village;
- lack of affordable homes;
- minimum number of affordable homes will be provided;
- little evidence of need and demand for new homes in the village as a number of homes currently for sale and have been for some time;

Visual Impact and Historic Environment

- this site has been assessed as fundamental to the character of the village in previous applications;
- details of housing layout and design should be provided;
- contrary to Appleby Magna Village Design Statement;
- impact on character of area including extending beyond existing village boundary and loss of open rural aspects and open spaces within the village;
- rural aspect of the village from approach roads and uninterrupted views to landmark buildings in their settings should be retained with solid blocks of housing at the edge of the village avoided ;
- executive style housing should be discouraged or forbidden;
- village will lose its identity;
- consideration needs to be given to impact on Conservation Area;

Residential Amenities

- loss of light;
- impact on tranquillity of area;
- impact on lifestyle;
- impact on greater number of dwellings than listed in the application;

Flooding and Drainage

- current issues with flooding along Old End will be exacerbated;
- water runoff from site has flooded a property on Old End;
- loss of natural drainage currently provided by the site;
- increase in surface water runoff from the site;
- potential pollution problems need to be considered;

Highway Safety

- village road network does not have the capacity and is not suitable for extra traffic;
- additional traffic will cause congestion;
- additional traffic will have significant detrimental impact on health and safety of road users and residents;
- poor visibility at junction of site access and Measham Road;
- Measham Road is narrow and has poor street lighting;
- high speeds of traffic in particular from large lorries;
- speed restrictions must be extended;
- lack of footway along Measham Road;
- not enough parking spaces so on-street parking will increase;
- new access on opposite side of Measham Road was previously not allowed;

Ecology

- impact on and loss of wildlife;
- loss of trees and hedgerows;

Other Matters

- loss of view;
- impact on property values;
- financial compensation required if permission granted;
- setting of a precedent;
- policies from current Local Plan are still in place and maintained in emerging Core Strategy;
- selective use of policy in application submissions;
- high probability that land will be sold on and plans changed to higher densities and lower quality design;
- concerns in respect of commerciality and viability of proposals due to potential impact of HS2;
- HS2 may dissuade potential buyers and result in half-finished building sites.

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

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document.

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

Paragraph 17 sets out the 12 key principles that should underpin plan-making and decision-taking, which include:

- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity;
- take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- encourage effective use of land by reusing land that is previously developed;
- conserve heritage assets in a manner appropriate to their significance;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
- take account of and support local strategies to improve health, social and cultural wellbeing.

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

"Paragraph 14 sets out the presumption in favour of sustainable development and, in respect of decision making, provides that, unless material considerations indicate otherwise, states that this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted."

"32. ...Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

"34. Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas."

"47. To boost significantly the supply of housing, local planning authorities should:

- identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to

provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

"49. Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

"54. ...Local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs."

"55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities."

"57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes."

"59. Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally."

"61. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."

"100. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere."

"112. Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."

"118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest; ...
- opportunities to incorporate biodiversity in and around developments should be encouraged..."

"119. The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."

"123. Planning policies and decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development..."

"131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness."

"132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting...."

"133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss or all of four other criteria apply."

"134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."

"135. The effect on the significance of a non-designated heritage asset should be taken into account in determining the application.

"139. Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets."

"173. Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."

"203. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

"204. Planning obligations should only be sought where they meet all of the following tests:

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

North West Leicestershire Local Plan:

The East Midlands Regional Plan (RSS8) has now been revoked and therefore no longer forms part of the development plan. The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

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

Policy S2 states that development will be permitted on allocated sites and other land within the Limits to Development where it complies with the policies of the Local Plan.

Policy E1 states that development will not be permitted within the Sensitive Areas which would adversely affect or diminish the present open character of such areas and the contribution they make to the settlement, streetscene or relationship with adjoining countryside.

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 seeks to achieve good design in new development.

Policy E7 seeks to provide appropriate landscaping in association with new development.

Policy E8 requires that, where appropriate, development incorporates crime prevention measures.

Policy E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplain of the River Mease.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 sets out the criteria for the provision of parking associated with development. In relation to car parking standards for dwellings, an average of 1.5 spaces off-street car parking spaces per dwelling will be sought.

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst other things, public transport and services.

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account a number of issues including housing mix, accessibility to centres and design.

Policy H7 seeks good quality design in all new housing development.

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

Policy L21 sets out the circumstances in which schemes for residential development will be required to incorporate children's play areas. Further guidance is contained within the Council's Play Area Design Guidance Note Supplementary Planning Guidance.

Other Guidance

Submission Core Strategy

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs).

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System) sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

River Mease Water Quality Management Plan - August 2011 draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

The River Mease Developer Contributions Scheme (DCS) - November 2012 is relevant to development which results in a net increase in phosphorous load being discharged to the River Mease Special Area of Conservation (SAC). It currently applies to all development which contributes additional wastewater via the mains sewerage network to a sewage treatment works which discharges into the catchment of the River Mease SAC.

The Community Infrastructure Levy Regulations 2010 provide a legislative requirement that an obligation must meet the following tests:

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

NWLDC SPD for Affordable Housing - January 2011

Key Principle AH2 provides that affordable housing will be sought on all sites of 5 or more dwellings in areas outside the Greater Coalville Area, Ashby de la Zouch and Castle Donington.

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within areas outside the Greater Coalville area and Ibstock.

NWLDC SPG - Play Area Design Guidance - July 2002 sets out the relevant requirements in respect of children's play provision required in association with residential development.

Appleby Magna Village Design Statement The purpose of the Village Design Statement is to influence the planning process so that any further development and change within the village and the surrounding countryside will be managed in a way that protects and enhances the qualities that give Appleby its special character, by taking into account local knowledge, views and ideas.

Appleby Magna Conservation Area Appraisal and Study SPG identifies individual factors considered to have a positive impact on the character of the Conservation Area. These factors include principal listed buildings and unlisted buildings of interest in the vicinity of the site.

6. Assessment

The main issues for consideration in the determination of this application relate to the principle and sustainability of the proposal, loss of the Sensitive Area, design and visual impact and its impact on the historic environment, trees, residential amenities, highway safety, drainage and flood risk, protected species/ecology and on the River Mease Special Area of Conservation, and the provision of affordable housing and developer contributions.

Principle of Development

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

In terms of the Local Plan, the site lies within the Limits to Development, where under Policy S2 development will be permitted where it complies with the policies of the Local Plan. In determining the application, regard must be had to other material considerations, including other policies, such as other Development Plan policies and national policies.

In terms of the Local Plan, Policy H4/1 identifies that, in releasing appropriate land for housing, the Council will have regard to:

- up-to-date housing land availability figures;
 - the latest urban capacity information;
 - the need to maintain an appropriate supply of available housing land;
 - lead times before houses will be expected to be completed and build rates thereafter;
- and
- other material considerations.

Whether or not this site would be considered "appropriate" is a matter of judgement; this policy sets out criteria relevant to release of land and insofar as the site's location is concerned, it is within the Limits to Development and it is well related to the existing built up area of the settlement and would not result in isolated development in the countryside.

In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to meet this need. Given the need to provide significant areas of housing land as set out below, it is considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan. Furthermore in respect of Policy H4/1, this would represent a policy relating to the supply of housing and, as such, its relevance also needs to be considered in the context of paragraph 49 of the NPPF (considered in more detail under Housing Land Supply below).

Housing Land Supply

The NPPF requires that the Council should be able to identify a five year supply of housing land and include an additional buffer of 5% or 20% depending on previous performance in terms of delivery of housing. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, found that the "Sedgefield" approach should be used (an approach to assessing land availability also suggested as appropriate within the draft National Planning Practice Guidance) and that a buffer of 20% should be allowed for. On this basis, the District Council's most recent calculations indicate that the Council is only able to demonstrate a supply of 4.7 years which represents a significant shortfall vis-à-vis the requirements of the NPPF.

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". The Council would not, in these circumstances, be able to rely on adopted Local Plan Policy H4/1 as, being a policy that constrains the supply of housing land it is considered to be out of date (see the Moira Road appeal decision referred to above).

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

Sustainability

As set out above, the application site is an unallocated site located within the Limits to Development in the adopted Local Plan. The County Highway Authority (CHA) raises concerns as it considers that the applicant has failed to demonstrate that the proposal is in a location where services are readily available and safely accessible by a variety of modes of transport. These are issues which Policy H4/1 of the Local Plan deals with. Notwithstanding the status of Policy H4/1 as mentioned above, since its adoption the NPPF has been published.

In terms of the sustainability of the site, Appleby Magna provides a good range of day to day facilities, i.e. a primary school, shop/Post Office, church, church hall, two public houses, GP surgery, play area/recreation ground and some small-scale employment sites. It should be noted that public consultation was undertaken at the end of 2012 to close the GP surgery so patients would have to attend the surgery in Measham (3.05km away), although the outcome of the consultation is not yet known.

There is also a limited public transport service; the No. 7 service currently provides a service Monday to Saturday (approximately every 1.5-2 hours) from 8.10am to 5.48pm which serves Measham, Ashby de la Zouch, Atherstone and Nuneaton with 4-5 buses running per day. Public consultation was also undertaken at the end of 2012 to reduce the bus service so it operates every four hours.

In terms of distance to amenities, the Institute of Highways and Transportation (IHT) document 'Providing for Journeys on Foot' details the distance of 800 metres is considered to be the preferred maximum walking distance to a town centre with 400 metres acceptable and 200 metres being desirable. The Inspector in the Moira Road appeal referred to the DoT statistics which detail that the average trip length regularly undertaken by the population of Great Britain is, on average, walking about 1Km (0.62 miles), cycling about 4.5Km (2.8 miles) and by bus about 8Km (4.97 miles). Below are the approximate distances from the centre of the site to local facilities and services via the existing footway network:

Bus Stop - 270 metres
 Primary School - 1.22km
 Shop/Post Office - 470 metres
 Play Area/Open Space - 700 metres
 Church Hall - 400 metres
 Public House - 480 metres

The application site is within 800 metres (preferred maximum walking distance) of the majority of the services listed above, apart from the school, which is located outside the main village. The level of services available is considered to be good for a rural village although the public transport connectivity is considered to be poor. Given the small scale of the development it is considered that the proposal would not result in unsustainable demands on local services and facilities. Taking all of these matters into account, it is considered that the site would be located within a sustainable area.

Scale of Development

It is appropriate to consider the scale of the proposed development compared to Appleby Magna so as to understand its potential impact upon the scale and character of the village.

It is estimated that there are 433 properties in the village of Appleby Magna within its main built up area. This proposal for 8 dwellings would represent a 1.8% increase in the existing number of dwellings. There are 485 properties in the Parish of Appleby Magna; an additional 8 dwellings would represent a 1.6% increase in the existing number of dwellings. It is therefore considered that the scale of this development alone would be not detrimental to the scale and character of the village.

There are outstanding applications in Appleby Magna for the development of 26 dwellings (Bowleys Lane), for up to 32 dwellings (Top Street) and for 73 dwellings (Measham Road). However given the small scale of the proposal and that these applications are still under consideration, cumulative impact will be assessed as part of these larger applications at a later Planning Committee.

Loss of Agricultural Land

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. The site is currently a paddock although it is not clear if it is in active agricultural use. However the development of the site would result in an irreversible loss to non-agricultural use. DEFRA has been consulted on this issue, but no response has been received.

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to the five year housing land supply issue as set out above, it would seem inevitable that greenfield land (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The application site falls within Grade 2 of the ALC.

However, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in loss of between 20 and 50ha, and those of 50ha and above respectively). The site is approximately 0.37 hectares in size. It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process, which in this case would be

small in scale but irreversible as there are no areas of open space/landscaping that would be large enough to accommodate an agricultural use in the future.

Nevertheless it is not considered that the proposed development sits particularly comfortably with the requirements of the NPPF and, in particular, the aims of paragraph 112. However, this would need to be weighed against other material considerations and, whilst there would be adverse impacts in this regard, these concerns would not be so significant as to outweigh the considerations in favour of the scheme. When considered in the context of the five year housing land supply issue, and the benefits of releasing the site to assist in maintaining such supply, it is considered that the agricultural land quality issue is not sufficient to suggest that planning permission should be refused, particularly given the relatively limited extent of the loss (i.e. 0.37ha).

Conclusions in respect of the Principle of Development and Planning Policy

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The site is within Limits to Development in the adopted Local Plan. The site's general suitability for housing (given its relationship to existing dwellings and distance to services/facilities) is also material, together with the need for the District to release land for housing to ensure the provision and maintenance of a five year supply of land and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF). An important consideration is also that the Council must demonstrate and maintain a five year supply of housing land (with a 20% buffer) as required by the NPPF, which is considered to be a material consideration of some significance.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to the economic growth associated with the proposed development, coupled with the role played in contributing to housing land supply and the provision of affordable housing, would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, whilst the proposed development would result in the development of a greenfield site, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural or historic environment. There would be some harm to the built environment but not at a sufficient level to justify a reason for refusal and would be to be outweighed by the other benefits of the proposal. In the overall balance it is considered that the proposal would be a sustainable form of development.

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

Sensitive Area and Character of the Area

The site is designated within the Local Plan under Policy E1 as a Sensitive Area. Policy E1 is not considered to be a relevant policy for the supply of housing (see the recent judgment in respect of the application to quash the Secretary of State's decision to dismiss the Stephenson Green appeal), notwithstanding that a contrary view has been taken elsewhere (and including by the Secretary of State on appeal), and accordingly the policy should not be considered to be out of date.

Policy E1 is supported by the advice in the NPPF which seeks to protect valued landscapes as well as its key principles to conserve and enhance the natural environment and recognising the character and beauty of the countryside.

The Inspector's Report into the Local Plan stated that *'the elevated position of the objection site and the open land to its north, as well as the presence of a continuous strong hedgerow boundary along both of their western sides, tend to imply that this site continues the adjoining countryside into the village. To that extent, therefore, the Measham Road aspect of the site in my opinion contributes to the current, semi-rural character of the area.'* The Inspector went on to consider whether the southern part of the site of the Sensitive Area (the garden to the property known as The Elms) should be designated on its own but felt that without designation of the northern part (the current application site), there would be no impediments to its development which in turn would make development of the southern area hard to resist. He therefore concluded that both areas needed to be designated as a Sensitive Area. Therefore whilst it is clear why the site was designated as a Sensitive Area, it appears it was largely required to protect the southern part from future development.

The proposal would diminish the present open character of the Sensitive Area and would therefore be contrary to Policy E1. However an assessment also needs to be undertaken as to whether the proposal would adversely affect the contribution the site makes to the character, form and setting of the settlements and streetscene.

In terms of the character of the site and locality and the guidelines in the adopted Village Design Statement (VDS), the site forms an open space and is part of the semi-rural feel to the approach into the village along Measham Road and the public footpath which runs through the adjacent field to the north. The Village Character section of the VDS indicates that the character of Appleby is essentially rural, there is a strong sense of being in the countryside and natural features contribute to its rural ambience. However the site is well related to the existing settlement with development on three sides and its northern boundary interrupts the flow of the countryside into this part of the village.

The site and its boundary treatments are important elements of the setting and approach to the village as identified in the VDS. The northern hedgerow, which creates a strong sense of enclosure to the site would not be affected. About a third of the frontage hedgerow would be lost, therefore opening up views into the site and making development more prominent, as the western and central parts of the site are elevated above Measham Road. Although replacement hedge and planting would be provided this would take some time to mature. It appears that the majority of the frontage embankment would be retained, as would the group of mature trees at the south western corner thereby retaining most of the boundary treatments that are considered to form an important part of the character of the village. Although the Council's Tree Officer advises that these are in poor condition and not suitable for residential sites, they do form part of the character of the site and streetscene and are shown to be retained. The submitted plans do not show any significant changes to land levels.

Five of the dwellings would front onto Measham Road being set back at least 13 metres from the road and set approximately one metre above the road, which reduces their prominence within the streetscene. Due to their positions, the proposed dwellings would not create a harsh edge to or form a solid block of development at the village boundary. Existing trees and hedgerows further along Measham Road and the site's northern boundary will continue to provide screening, so the character of the area in longer views will not be significantly affected as the site will not be prominent or indeed visible at all.

It is in more immediate views that the site and locality's character will be more affected due to the loss of the site's openness and introduction of development, but on the other hand the current views into the site are quite restricted due to the mature vegetation along the northern

and western boundaries. As noted above most of the site's boundary treatments would be retained and the dwellings would be set back within the site rather than at its frontage. Given the position of the dwellings and the screening it is considered they would not be overly dominant within the street scene. Furthermore the housing on Old End and Stoney Lane and further into the distance already forms the site's backdrop. The number of dwellings has been reduced from the two previous proposals and the layout is very different from the scheme proposed in 1995, which showed dwellings much closer to the road and situated effectively in a circle.

The site also does not form a prominent backdrop to existing properties on Stoney Lane and Old End as it is largely not visible from these roads due to screening by existing dwellings and vegetation, in particular the vegetation to the garden to The Elms.

Whilst the openness of the northern part of the Sensitive Area would largely be lost, the southern area would still be retained. Part of the northern area will be left undeveloped as it now forms garden to Charmant Manor, although this area is well within the site. Also the characteristics of the site do not appear to significantly differ from the adjacent field to the north. Whilst the site makes an important contribution to the form and character of this part of the village, the appeal decision for the last planning application for the site (95/0889) stated that some form of development could be accommodated on the site and had regard to the contribution that the site makes to the character of the area (although at that point the site was not designated as a Sensitive Area). Furthermore if any future applications were submitted for development of The Elms' garden, they would be considered on their own merits, including the importance of this area identified by the Local Plan Inspector.

Whilst the openness of the site will largely be lost contrary to Policy E1 of the Local Plan and the semi-rural character of the streetscene in the immediate vicinity of the site will be affected to some extent, the semi-rural character of the approach to the village along Measham Road in longer views will be largely unaffected. The contribution that the whole of the site makes to the form and character of the streetscene and settlement is limited to some extent given the screening by existing vegetation and development. The boundary treatments will largely be retained and development will set back from the site frontage. Therefore having regard to all of the above considerations, whilst there would be harm to the Sensitive Area it is considered that a reason for refusal based on the proposal resulting in an adverse impact on the character, form and setting of the village and streetscene could not be justified in this case. The impact on the Sensitive Area also has to be considered in the balance of other planning considerations set out above and below.

Density

The proposal results in a density of 21.6 dwellings per hectare, which is below that sought under Policy H6 of the Local Plan (a minimum of 30 dwellings per hectare). The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances. This density is considered appropriate having regard to the location of the site in a rural village and the character of the area.

Layout and Design

The proposal provides a mix of housing and although predominantly detached properties, the scheme includes a terrace of three dwellings, including a bungalow, and the dwellings range in size from two to four bedrooms.

In terms of the design of the layout, Plot 1 provides a corner property to provide interest at the site entrance and the position of Plots 6, 7 and 8 and the northern hedgerow create a street

scene along the private drive. A key vista would be created in the view along the drive from Measham Road towards Plot 8 and opportunities for surveillance are available with the corner plots and elevations facing onto parking areas. Although appearance has been reserved for future consideration, illustrative 3D views have been submitted. Plots 7 and 8 appear to have the footprints and scale of more modern executive dwellings but the illustrative drawings show that dwellings with traditional proportions and designs could be provided. The site can accommodate all of the necessary requirements (private gardens, parking/turning space) without being too cramped. The area is also characterised by a mix of property ages, sizes and designs on Old End, Stoney Lane and Measham Road, and the VDS states that there is no over-riding style that characterises the village's appearance. Consideration of how the dwellings' design, details and materials meet the VDS guidelines can be undertaken at the reserved matters stage. Whilst minor amendments to improve the scheme have been sought which the applicant does not wish to undertake, the scheme in its current form is considered to be a housing development that creates dwellings that to some extent reflect the traditional house types within the village whilst fitting in with the existing mixed character of the area. The development's character would be further reinforced by landscape features and building details, such as materials and colour. Based on the above and subject to conditions, the scheme is considered to be acceptable in terms of its design and layout.

Historic Environment

The boundary of the Appleby Magna Conservation Area lies between five and nine metres to the east of the site and adjoins the site along part of its northern boundary. Nos. 11, 15, 17 and 19 Old End are identified as unlisted buildings of interest in the Appleby Magna Conservation Area Appraisal. The Church of St Michael is a Grade 2* listed building and is visible in views along Measham Road. There are also other listed buildings located within the village, with the nearest being the almshouses which are 200 metres to the south, along with the moated site of the former medieval manor house which is a Scheduled Ancient Monument. The Conservation Area and listed buildings are designated heritage assets as defined in the NPPF, with the properties on Old End being undesignated heritage assets. The site also lies within the medieval and post-medieval historic settlement core of the village and buried archaeological evidence can be expected within the site, which would also form a heritage asset.

Appleby Magna is thought to have Saxon origins and it is considered likely that the original settlement may have been in the vicinity of the later St Michael's Church. However evidence of Romano-British activity indicates that the area around the shallow stream valley was farmed and settled much earlier.

The nearest part of the Conservation Area is a residential area with dwellings located on the western side of Old End, although parts of Black Horse Hill are also visible in longer views. The willow trees on the eastern side of Old End are protected by a Tree Preservation Order. The Conservation Area Appraisal states that *'The buildings in the Black Horse Hill/Old End area superficially largely appear to be of a late eighteenth/early nineteenth century date and many are in the local vernacular building tradition. The location of many properties on Old End at right angles to the road suggests that they may be of even earlier origin. Buildings are largely constructed of local red brickwork with blue clay plain tile roofs.* The properties on Old End that are undesignated heritage assets are those that are positioned at right angles to the road.

Therefore the listed and unlisted buildings, the Conservation Area and Scheduled Ancient Monument form an important part of the history of this part of the village and are considered to be heritage assets of some significance which have value for this and future generations.

The contribution made by this site to the setting of the Conservation Area and listed

buildings/Scheduled Monument within derives from its landscape character, which helps reinforce the strong contrast of the rural landscape with the historic village settlement. The survival of the development site in both land use and visual terms helps define the direct historic relationship between the settlement and its agricultural setting. It is accepted that existing 20th century development has impacted on the setting of the medieval village and the setting of the Conservation Area and the continued development of surrounding land is considered harmful to the significance of the designated heritage assets. However the site and the proposed development are small in scale and is not considered to be significantly detrimental to the semi-rural character of the area (as discussed earlier in the report).

The church spire is visible in longer views of the site's frontage from Measham Road to the north although it is seen alongside and screened by existing trees. However it is considered unlikely that the new dwellings would be seen in the foreground to the church. Although at a higher land level the site does not form a prominent backdrop to Old End due to screening by existing dwellings and vegetation. Some of the dwellings on Old End are visible from the site and in views from Measham Road but form the backdrop as they are at a lower land level and are screened by some vegetation. Some of the properties on Black Horse Hill are visible in longer views as the land rises again to the south east. As such the site does not form a significant backdrop or foreground to the Conservation Area. There will also be some separation between the proposed development and the dwellings on Old End due to existing and proposed gardens and the existing boundary. The proposal will therefore have a limited visual impact on the Conservation Area and the unlisted buildings.

The County Planning Archaeologist notes that buried archaeological evidence can be expected within the development area and recommends that conditions can be imposed to allow for the investigation and recording of any archaeological remains that may be found. Neither the Conservation Officer nor English Heritage have any objections. It is therefore considered that the proposal would result in less than substantial harm to or total loss of significance of designated and undesignated heritage assets and would sustain their significance, as there would not be an adverse impact on the setting of the listed and unlisted buildings, there would not be a negative impact on the character and appearance of the Conservation Area and any archaeological remains can be investigated.

Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal, including securing its optimum viable use. The VDS requires the historic environment to be conserved, enhanced and respected. The harm to the heritage assets is in this case considered on balance to be outweighed by the provision of eight new homes to contribute to the District's housing land which includes two affordable homes, a contribution under the River Mease DCS which will improve the quality of the River Mease SAC and improvements to the village's drainage system (with the latter two being discussed below in more detail).

Trees

The frontage tree to be removed makes a limited contribution to the street scene and the rest of the trees are shown to be retained, although the Council's Tree Officer advises that the mature trees in the south west corner are in poor condition and would be better replaced. However these trees provide screening to the site. None of the trees are considered to be worthy of retention by Tree Preservation Order. Conditions can be imposed relating to landscaping and boundary treatments.

The canopies of the frontage trees are approximately 10 metres from Plots 3-5. The Tree Officer advises that Plot 8 should be moved further away from a nearby oak tree to ensure long

term compatibility. However the tree survey indicates that Plot 8 would be four metres from this tree's canopy and the applicant does not wish to reposition Plot 8. Given this distance it is considered that on balance a reason for refusal on the grounds of future incompatibility with the tree could not be justified.

Residential Amenities

The access road/turning area would be located over nine metres from existing properties and their gardens and therefore its use is unlikely to result in significant levels of noise and disturbance. Whilst tranquillity in the area may in part be due to the site's current use, it is not unusual to find housing adjacent to other areas of housing, and new housing is unlikely to generate significantly detrimental levels of noise and disturbance.

The outlook from the dwellings on the opposite side of Measham Road towards and across the site would be affected. These dwellings' private garden space is located to the rear. The new dwellings would be at least 19 metres from their front boundaries and 25 metres from the dwellings themselves. It is not an unusual arrangement for dwellings to face each other across the street, even at different land levels, as is the case elsewhere in the village.

The properties on Stoney Lane are located at a lower land level, with the garden to The Elms adjoining the site closest to Plot 5. Plot 5 would be single storey and at least 36 metres from The Elms itself, whose garden is large in size, with an existing hedgerow forming the boundary. Plot 7 would be at least 32 metres from The Elms and 22 metres from its garden. It is therefore considered that the proposal would not result in significant detriment to occupiers of properties on Measham Road and Stoney Lane in terms of loss of light, loss of privacy and creation of an oppressive outlook.

Whilst Plot 7 would be within seven metres of the boundary with Charmant Manor, the dwelling itself would be at least 40 metres away and has a large garden. Plot 7 would be 15 metres from the boundary with No. 11 Old End and 24 metres from No. 11 itself, as well as being 25 metres from the boundary with No. 17 Old End. Parts of Plot 8 would be within 9.5 metres of the boundary with No. 11 and 20 metres from No. 11 itself. However No. 11 has a large rear garden and a hedgerow forms the boundary. Plot 8 would be 15 metres from No. 17's garden, with direct views towards No. 17 largely being obscured by No. 11. Plot 8 would be within five metres of the boundary with No. 21 Old End and within 12 metres of No. 21 itself but the two properties would not be positioned back to back and there is some tree planting in-between.

There is a difference in land levels between the site and dwellings on Old End and some of the distances between Plots 7 and 8 and existing dwellings do not meet the Council's Development Guidelines (which are guidelines only and therefore have limited weight). Permitted development rights could be removed from Plots 7 and 8 given the changes in land levels. However whilst there may be some impact on existing properties in terms of loss of privacy, overshadowing and impact on outlook, given the orientation of the new and existing dwellings, the proposed distances, the size of gardens to properties on Old End and some vegetation being in place on the boundary, it is considered that a reason for refusal on the grounds of significant detriment occurring to residents of Old End could not be justified.

Highway Safety

Concerns have been raised by local residents in terms of poor visibility at the access, speed of traffic along Measham Road, lack of streetlighting and a footway and an increase in on-street parking, as well as in relation to the capacity of the village road network to cope with the traffic generated by this and the three other major housing schemes currently proposed.

The County Highway Authority has no objections in relation to highway safety matters. The Highway Authority's objection on the grounds of the site being in an unsustainable location is addressed earlier in this report. Whilst there is no footway on this side of the road, one is available on the western side which runs into the village, from which Measham Road has to be crossed to continue into the village. Furthermore other dwellings further along Measham Road would have to cross the road to use the footway into the village. The existing access to the site would be widened and altered and visibility splays can be provided in both directions. The Highway Authority's requirements for visibility splays and other technical requirements can be met and at least two parking spaces are proposed per dwelling, with three to four spaces in some cases, all of which can be secured by condition. As the site is served by new access roads, there is likely to be space for any off-street parking to take place within the site. Given the small scale of the proposal it is unlikely that the proposal on its own would adversely affect the capacity of the village road network. The cumulative impact on the highway network will be considered as part of the assessment of the other proposed housing sites in Appleby Magna. As such it is considered that a highway safety reason for refusal could not be sustained in this case.

Drainage and Flood Risk

The site lies within Flood Zone 1 and as it is also under one hectare in size, a Flood Risk Assessment is not required and the Environment Agency has advised it has no comments to make. The application is therefore covered by the Agency's Standing Advice. Natural England has no objections in relation to surface water and Severn Trent Water has no objections subject to the imposition of a condition relating to drainage details. Consideration of the capacity of Severn Trent Water's treatment works is set out below in the section relating to impact on the River Mease SAC.

Concerns have been raised by residents in relation to the capacity of the local drainage network. Severn Trent Water has advised that it is aware of current issues with the sewerage system which is being looked into by its sewer modelling team and it intends to promote a project into its capital programme within the coming months. Severn Trent Water advises that it will not object to the proposal and that a phasing condition should be imposed, which can be drafted as a Grampian condition to prevent occupation of the proposed dwellings until the works to the sewer/drainage system have taken place.

Concerns have also been raised in relation to the natural drainage that the site currently provides to be lost and for surface water (once the site is developed) to flood properties on Old End and the lane itself which are at a lower land level and exacerbate flooding that already takes place. Photographs have been provided to show the extent of flooding that has occurred in the past.

The agent has advised that the site would be developed in a way which will be neutral in terms of surface water runoff, with the dwellings having soakaways and where possible porous hard surfaces. The Environment Agency's guidance in relation to surface water drainage states that '...the main flood risk issue to consider is usually the management of surface water run-off. Drainage from new development must not increase flood risk either on-site or elsewhere. Government policy strongly encourages a sustainable drainage system (SuDS) approach to achieve these objectives.' Best practice is for developments of greenfield sites to ensure surface water runoff discharges at greenfield runoff rates (i.e. the rate at which surface water currently discharges from the site when undeveloped), which is usually set at 5l/sec/ha, and this is required by the Environment Agency in respect of developments of larger greenfield sites and can be secured by condition.

On this basis and given the lack of objection from Severn Trent Water and the Environment Agency it is considered that a reason for refusal relating to flood risk and capacity of the drainage system could be not justified.

Protected Species/Ecology

The site is a paddock with hedgerows and mature trees forming the boundary, is adjoined by a dilapidated building and some large gardens and trees and a pond is located within seven metres. All of these are habitats that can be home to protected species. Natural England refers to its Standing Advice relating to protected species. The majority of trees and hedgerows would be retained and the adjacent building would not be affected. The pond is within an adjacent garden and is separated from the site by an existing hedgerow. The County Ecologist has no objections provided the proposal is carried out in accordance with the submitted masterplan (layout) for the site and has not requested the submission of an ecological survey. On this basis it is considered that the proposal will not adversely affect protected species.

The supporting information also refers to the County Ecologist previously advising that hedgerows should not form garden boundaries as this can result in the loss of sections of hedgerow and a corresponding loss of habitat continuity. However in practice it would be difficult to provide buffer zones to existing hedgerows other than by requiring the erection of post and rail fences to prevent the hedgerows from being affected by domestic activity, which can be secured by condition.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. A tributary to the River Mease lies 54 metres to the east of the site, running along the eastern side of Old End. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

The River Mease Water Quality Management Plan (WQMP) has been drawn up to ensure there is no adverse impact on the SAC from further development and includes an action to establish a developer contribution framework to fund a programme of actions to restore and provide new benefits to the river. The River Mease Developer Contribution Scheme (DCS) has been produced to meet this action of the WQMP so that the costs of improving the quality of the water in the river are met by potential developers. 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 has been assessed against and is considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations, which are also set out at paragraph 204 of the NPPF.

The application proposes that foul drainage would be dealt with via the mains sewer system and confirms that the applicant will pay the required contribution under the DCS. Natural England has no objections provided the proposal is in full accordance with the DCS and Severn Trent Water has been consulted in relation to capacity to accommodate the flows from the development.

The flows from the new dwellings will need to be taken into account against the existing

headroom at Snarestone Treatment Works, which serves the village. At March 2013 capacity was available for 47 dwellings but this is reduced by the number of dwellings that have already received a permit from Severn Trent Water and/or are under construction, and by the number of dwellings that have been granted planning permission. Taking these into account the capacity available at the treatment works is significantly reduced.

Severn Trent Water has advised that it has verbally agreed with the Environment Agency to change Severn Trent Water's permits, which will enable the transfer some capacity from Packington Treatment Works to Snarestone (in part due to additional capacity becoming available due to the planned closure of the Arla site in Ashby) and that is likely to be take place as this approach has been successfully adopted elsewhere in the SAC catchment area. Severn Trent Water will be formally applying to vary the permits in the coming weeks and it expects that the update permit will be issued in May 2014. As such Severn Trent Water advises that it will not object to the proposal and that if the transfer of capacity has not been agreed by the time the application is determined, then a phasing condition should be imposed, which can be drafted as a Grampian condition to prevent occupation of the proposed dwellings until additional capacity has been provided at Snarestone Treatment Works. As such a reason for refusal based on limited capacity at the treatment works could not be justified.

Whilst a condition relating to details of foul drainage would not normally be imposed, given concerns raised by residents and the Parish Council and confirmed by Severn Trent Water in relation to the capacity of the drainage system, in this case it is considered appropriate. A condition requiring that only a mains connection is used at the site would also be required as the use of other means for foul drainage discharge could adversely affect the SAC. Matters relating to surface water runoff are considered in the section above relating to drainage and flood risk and a condition will be imposed to secure a surface water drainage system.

The site is 54 metres from the nearest tributary to the River Mease, with other existing development located in-between. Therefore there is unlikely to be any direct adverse impact on this stream, in particular from pollution through the surface water disposal system, as the standards for such a system include measures to prevent pollution from entering watercourses.

Therefore based on the above it can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Developer Contributions

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

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

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

As the site is under 10 dwellings it is under the threshold for contributions relating to healthcare, education, civic amenity sites, libraries, leisure facilities and play area/open space. The site lies outside the National Forest and a request has not been received from Leicestershire Police for a contribution.

The long term maintenance of the landscaped area to the front of the site should be secured, ideally in a legal agreement. However the agent has advised that this would be secured by covenants on the dwellings and given the small area in question it is unlikely that the Parish Council or other organisation would wish to take on responsibility.

A contribution under the River Mease DCS is required (as outlined earlier in the report) but an exact figure for the contribution cannot be determined at this stage as the final size of each dwelling would not be finalised until the reserved matters.

Two affordable homes are proposed, which equates to 25% provision. The Strategic Housing Team advises that this is lower than the 30% provision set out in the Authority's adopted Affordable Housing SPD. However they are happy to accept the offer as the applicant has sought to meet the identified needs of the Parish, with one property being a rented bungalow and the other being a shared ownership dwelling. Also there is a severe shortage of bungalows within the District and inclusion of a bungalow offsets the percentage reduction in overall provision.

Overall it is considered that the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development. The applicant has agreed to the above two obligations and the legal agreement is currently being negotiated.

Other Matters

In respect of the concerns raised in the letters of representation that have not been addressed above, impacts on views, property values, lifestyle, the capacity of the electricity supply and broadband networks are not planning matters that can be taken into account in the determination of planning applications. Other sites will be affected by a different set of circumstances and it is a fundamental tenet of the planning system that every application is determined on its own merits. There is no mechanism within the planning system for financial compensation to be paid to existing residents. Consideration is given to all policies set out in the Local Plan and the NPPF when assessing planning applications.

The purpose of the Strategic Housing Land Allocation Assessment (SHLAA) is to identify potential sites for housing, in order to inform the housing allocations in the Local Development Framework. The inclusion of the site in the SHLAA does not provide any support for its development for housing. The process associated with the SHLAA is not a matter that can be taken into account in the determination of planning applications.

The Village Green application relates to another site within the village at Bowleys Lane, which is subject to a separate planning application (13/00799/FULM). The Village Green application therefore does not affect the progression of planning applications on separate sites.

Given the proximity of the site to residential properties on three boundaries and that there is only one access to the site, in this case it is reasonable to impose a condition limiting the hours of construction works (as at Measham Road, Moira - 13/00183/FULM).

The site lies 700 metres to the west of the proposed route of HS2. Any potential adverse effects on future residents would be expected to be limited due to mitigation measures to be included in the HS2 design having regard to the need to protect other nearby dwellings. Putting the potential for noise nuisance to future residents to one side, however, it is considered that only

limited weight can be attributed to HS2 as a material planning consideration at this stage in HS2's development. The Government is currently consulting on the proposed Phase 2 (i.e. West Midlands to Manchester and Leeds) connections, and the route is not fixed at this time; Phase 2 is not currently subject to the safeguarding mechanism which applies to the Phase 1 (London to West Midlands) section.

Conclusion

As set out in the main report above, whilst the site constitutes greenfield land, its release for housing is considered suitable in principle, particularly having regard to the need to release sites in order to meet the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Whilst there would be harm to the Sensitive Area it is considered that a reason for refusal based on the proposal resulting in an adverse impact on the character, form and setting of the village and streetscene could not be justified in this case. The scheme is considered to be acceptable in terms of its density, design and layout and impact on trees. The proposal would result in less than substantial harm to designated and undesignated heritage assets as there would not be an adverse impact on the setting of the listed and unlisted buildings, there would not be a negative impact on the character and appearance of the Conservation Area and any archaeological remains can be investigated. The less than substantial harm to the heritage assets and the harm to the Sensitive Area is in this case considered on balance to be outweighed by the site's contribution to the District's housing land, the provision of two affordable homes, a contribution under the River Mease DCS which will improve the quality of the River Mease SAC and improvements to the village's drainage system. The proposal is unlikely to result in significant levels of noise and disturbance to existing residents and would not result in significant detriment to occupiers of properties on Measham Road and Stoney Lane in terms of loss of privacy, overshadowing and impact on outlook. A reason for refusal on the grounds of significant detriment occurring to residents of Old End could not be justified. It is considered that the proposal would not adversely affect protected species. Reasons for refusal relating to highway safety, flood risk and capacity of the drainage system could not be sustained in this case. It can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. The proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development. The proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION, PERMIT, subject to the signing of the Section 106 Agreement and the following condition(s):

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

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

- 2 Approval of the details of the appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason- this permission is in outline only.

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

- Location Plan (1:1250) received by the Authority on 18 October 2013;
- Drawing No. S1024/02 (Topographical Survey) received by the Authority on 18 October 2013;
- Drawing No. TTP/13/MRAM/01 (forming part of the Arboricultural Survey undertaken by Symbiosis Consulting and dated 17 October 2013);
- Drawing No. 13.2909.06B (Outline Planning Proposals - Sheet 1 of 2) received by the Authority on 7 January 2014;
- Drawing No. 13.2909.07A (Outline Planning Proposals - Sheet 2 of 2) received by the Authority on 7 January 2014.

Reason- To determine the scope of this permission.

- 4 None of the dwellings hereby approved shall be occupied until Severn Trent Water has demonstrated in writing that there is sufficient capacity available at Snarestone Waste Water Treatment Works to take the foul drainage discharge from the whole of the development hereby approved.

Reason- to ensure sufficient capacity is available at the treatment works and to prevent an adverse impact on the River Mease Special Area of Conservation/SSSI.

- 5 None of the dwellings hereby approved shall be occupied until a scheme of measures to improve capacity within the sewer/drainage network within Appleby Magna that would serve the development has been provided in full in accordance with a scheme that has first been submitted to and agreed in writing with the Local Planning Authority (in consultation with Severn Trent Water).

Reason- to ensure sufficient capacity is available within the local drainage network.

- 6 No development shall commence on site until such time as details of the means of disposal of foul drainage from the site have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details which shall thereafter be so retained.

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

- 7 The development hereby approved shall only use the mains sewer system for its foul drainage discharge.

Reason- Any other means of dealing with foul discharge could have an adverse impact on the River Mease Special Area of Conservation.

- 8 No development shall commence on site until such time as the detailed design of a surface water drainage scheme for the site, based on sustainable drainage principles and which does not discharge to the mains sewer system, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of treatment trains to help improve water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; timing/phasing arrangements; and the responsibility for the future maintenance of drainage features. The scheme shall be provided in full in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority and shall thereafter be so maintained in perpetuity.

Reason - To prevent the increased risk of flooding, both on and off site; to prevent an adverse impact on the River Mease Special Area of Conservation.

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

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

- 10 No development shall commence on site until such time as details of the following matters have been submitted to and agreed in writing by the Local Planning Authority:

- i. design and location of a communal bin collection area;
- ii. design and location of post and rail fencing to prevent access to existing hedgerows on the site's southern and eastern boundaries.

The development shall be carried out in accordance with the agreed details which shall thereafter be so retained in perpetuity.

Reason: in the interests of visual amenity and highway safety; to maintain wildlife corridors and provide biodiversity enhancements.

- 11 The reserved matter application shall include precise details of existing and finished ground levels and the proposed floor levels of the building in relation to an existing datum point.

Reason - To enable the Local Planning Authority to fully assess the development in the light of the ground levels on the site.

- 12 No development shall commence on site until such time as protective fencing in accordance with Figure 2 of BS: 5837: 2012 (Trees in Relation to Design, Demolition and Construction) to trees T1, T2, T3 and T15 identified on Drawing No. TTP/13/MRAM/01 has been erected to the trees' radial root protection areas (RPAs). The protective fencing shall remain in place until all demolition and construction works are complete.

Reason - in the interest of health and safety and the amenity value of the trees.

- 13 No development shall commence on site until such time as a design and method statement for all works taking place within the radial root protection areas (RPAs) to trees T1, T2 and T3, including details of changes to ground levels and arboricultural surface requirements, has been submitted to and agreed in writing by the Local Planning Authority. All works within to trees T1, T2 and T3's root protection areas shall be carried out in accordance with the agreed design and method statement.

Reason - in the interest of health and safety and amenity value of the trees.

- 14 There shall be no storage of materials, plant, skips, equipment and/or other items associated with the development hereby approved, mixing of materials, vehicular movements or fires or other ancillary works associated within the area bounded by the protective fencing to trees T1, T2, T3 and T15.

Reason - in the interest of health and safety and the amenity value of the trees.

- 15 Notwithstanding the provisions of Part 1 (Classes A, B and E) of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) Plots 7 and 8 and the garages to Plots 1, 2 and 3 hereby permitted shall not be enlarged, improved or altered nor shall any building, enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse be erected within the curtilages of Plots 7 and 8 unless planning permission has first been granted by the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain control over future development in view of the relationship of these properties to existing and proposed dwellings.

- 16 Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to September inclusive unless otherwise agreed in writing by the Local Planning Authority that breeding birds will not be adversely affected by any works.

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

- 17 No development shall commence on site until details of the design and location of bird nesting boxes and bat boxes have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details, and the measures incorporated shall thereafter be so retained.

Reason - In the interests of providing potential bird nesting and bat roosting sites, to mitigate the loss of those resulting from the loss of trees/vegetation.

- 18 Prior to the erection of any external lighting to the private drives, details of the lighting scheme shall be submitted to and agreed in writing by the Local Planning Authority. The external lighting shall be provided in accordance with the agreed scheme and shall thereafter be so retained.

Reason: to prevent light spill towards the trees/vegetation in the interests of bats.

- 19 No demolition/development shall commence on site until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a

Written Scheme of Investigation, submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and:

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

The development shall be undertaken in accordance with the approved Written Scheme of Investigation unless a variation is agreed in writing with the Local Planning Authority.

Reason: To ensure satisfactory archaeological investigation and recording.

- 20 None of the dwellings hereby approved shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 19 and provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure satisfactory archaeological investigation and recording.

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

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

- 22 Before the first occupation of any dwelling hereby approved, visibility splays shall be provided at the junction of the access with Measham Road in accordance with the details shown on Drawing No. 13.2909.06B. Nothing shall be allowed to grow above a height of 0.9 metres, or overhang lower than 2.0 metres above ground level within the visibility splays. These shall be provided in accordance with the standards contained in the current County Council design guide and shall thereafter be so maintained in perpetuity.

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

- 23 Before first occupation of any dwelling hereby approved, the access, access drive and turning space shall be provided in accordance with the details shown on Drawing No. 13.2909.06B. The access drive and turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 7 metres behind the Highway boundary. The access, access drive and turning space once provided shall thereafter be so maintained in perpetuity.

Reason: To enable vehicles to enter and leave the highway in a slow and controlled manner in the interests of general highway safety, to ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway; to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.); to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

- 24 The car parking (including garage spaces) shown within the curtilage of each dwelling shall be provided in accordance with the details shown on Drawing No. 13.2909.06B, hard surfaced and made available for use before the dwelling is first occupied and shall thereafter be permanently so maintained.

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

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

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

- 26 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as to open inwards only.

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

- 27 The gradient of the access drive shall not exceed 1:12 for the first 7 metres behind the highway boundary.

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

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through early engagement with the applicant at the pre-application stage and during the application which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning

PLANNING APPLICATIONS- SECTION A

- (Development Management Procedure) (England) Order 2010 (as amended).
- 2 You must also apply to the Northern Area Manager, Leicestershire County Council, Granite Way, Mountsorrel, Leicestershire, LE12 7TZ (Tel: 0116 3052104) for consent to construct or alter a vehicular crossing or any works within the highway limits.
- 3 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at www.defra.gov.uk
- 4 This decision is subject to a Section 106 Obligation regarding the following matters:
- Contribution under the River Mease Developer Contribution Scheme
 - Affordable housing
- 5 In respect of condition 18 the Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

PLANNING APPLICATIONS- SECTION A

Erection of two storey and single storey retail food store with restaurant (A1 and A3) (2830 sqm gross external), Erection of petrol filling station with single storey kiosk, erection of single storey retail terrace (538 sqm gross external) and erection of two storey nursery (D1) (604 sqm gross external)

Report Item No
A4

Land At Station Road Castle Donington Derby

Application Reference
13/00702/FULM

Applicant:
Mr Gary Barber

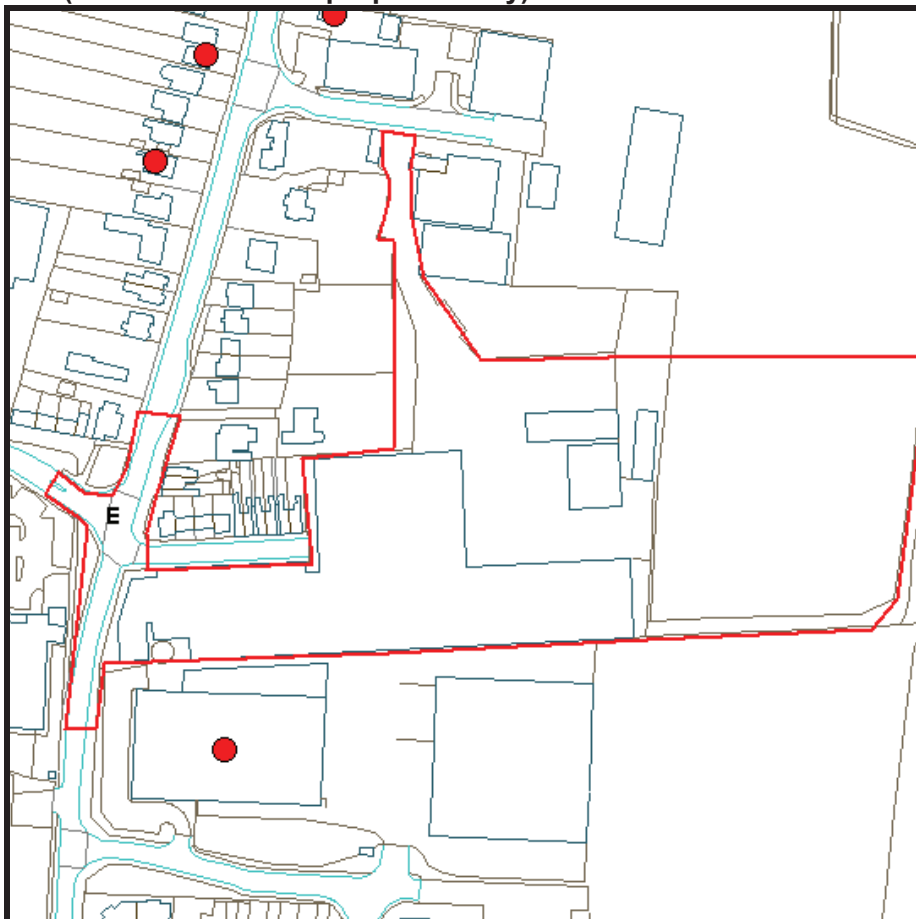
Date Registered
16 September 2013

Case Officer:
Sarah Worrall

Target Decision Date
16 December 2013

Recommendation:
PERMIT

Site Location - (Plan for indicative purposes only)



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Executive Summary

Call In

The application is brought before Planning Committee due to the major retail proposal within the Limits to Development of Castle Donington and on the grounds of local concern.

Proposal

This is a full application for the demolition of the existing factory buildings within the site, except the northern façade of the Victoria Street factory, and the erection of the following within the Limits to Development of Castle Donington:

- Part two storey food store (A1 and ancillary A3 uses) (first floor element to include staff room, ancillary store room, and wc facilities) comprising 2,830 sq m of gross external floor space and a net internal area (sales space) of 1,860 sq m;
- Single storey retail (A1 use) terrace of 4 units comprising 538 sq m gross external floor space with a gross internal area of 502 sq m;
- Two storey pre-school nursery (D1 use) with a gross external floor space of 604 sq m;
- A petrol filling station including canopied area over fuelling units and ancillary sales kiosk
- The kiosk would have a gross external area of 106 sq m.

Consultations

Members will note that representations from local residents and businesses have been made and the full representations are available to view on the working file. In terms of the issues raised, statutory consultees are satisfied that there are no matters that have not been satisfactorily addressed or cannot otherwise be satisfied by way of condition. Members will also note that the applicant has undertaken a number of public consultation events prior to submission of the application.

Planning Policy

The site is an existing employment site and the loss of employment opportunities will need to be gauged against proposed employment opportunities at retail and nursery operations. The retail impact on Castle Donington will also need to be considered under National Planning Policy Guidance (NPPF) and the North West Leicestershire Retail Survey. Other material planning considerations are design, heritage, residential amenity and highways aspects of the proposal and can be considered under NPPF and Adopted Local Plan Policies.

Conclusion

The report below indicates that the site is located within the Limits to Development of the sustainable settlement of Castle Donington, and is considered to represent a sustainable location for new development. The proposed retail and nursery development would provide employment opportunities which would counter the loss of the current employment opportunities at the site, would not adversely impact on Castle Donington village centre, would be in scale and character with its surroundings, and have no adverse impact on residential amenities or highway safety in accordance with the requirements of the Adopted Local Plan and NPPF. As such the proposal is recommended for approval.

RECOMMENDATION - PERMIT, SUBJECT TO CONDITIONS.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides a full details of all consultation responses, planning policies, the Officer assessment and recommended conditions, and

Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

Proposals and Background

This is a full application for the demolition of the existing factory buildings within the site, except the northern façade of the Victoria Street factory, and the erection of the following:

- Part two storey food store (A1 and ancillary A3 uses) (first floor element to include staff room, ancillary store room, and wc facilities) comprising 2,830 sq m of gross external floor space and a net internal area (sales space) of 1,860 sq m;
- Single storey retail (A1 use) terrace of 4 units comprising 538 sq m gross external floor space with a gross internal area of 502 sq m;
- Two storey pre-school nursery (D1 use) with a gross external floor space of 604 sq m;
- A petrol filling station including canopied area over fuelling units and ancillary sales kiosk
- The kiosk would have a gross external area of 106 sq m.

Whilst the application site includes part of Station Road, where off-site highways works are proposed, the main development site is some 1.6ha and currently has a main vehicular access off Station Road via Newbold Drive, and includes various factory buildings of different ages. The site forms part of a wider area of land which is an industrial/business estate and the site is currently occupied by Duflex, a company which manufactures foam mattresses and cushions.

A BP petrol filling station and the 'Available Car' site are situated to the north of Newbold Drive, with residential dwellings on Station Road backing onto the western boundary of the site access off Newbold Drive. This access would be used for delivery vehicles accessing the proposed retail units and for staff parking (30 spaces) and recycling bins associated with the nursery and retail units. Two industrial units off Carnival Way adjoin the application site at southern elevation, the Art Forma unit fronting Station Road and the Charles Blyth firm to the rear of that

It is proposed that the existing factory buildings would be demolished with the northern façade of the original brick factory fronting Victoria Street being the only part retained. The removal of the bulk of the original brick factory facing Station Road would provide for a new vehicular access to the site. Works to Station Road are proposed, including a right turn lane to the site, to form a new road junction. The access would involve an in and out lane along with a mini roundabout within the application site.

The main supermarket would be situated to the rear of the site with a car parking area of 163 spaces to the front. The supermarket would be some 7.2m in height with a flat roof incorporating a pitched roof section at the southern end. The pitched roof section would have a ridge height of some 12.9m, dropping to some 8m at eaves level.

Four smaller retail units would adjoin the main supermarket building at its north west corner and extend across the top section of the access off Newbold Drive effectively separating that access from the main part of the site. The terrace of four retail units would be a single storey flat roof section with a height of some 4.5m. The two storey nursery building would adjoin the retail terrace at its western elevation. This section of built form would also face onto the main car park which would cover the central part of the main application site.

A petrol filling station with ancillary canopied area and kiosk would be situated to the front of the site nearest to Station Road, with the kiosk being situated on the road frontage with landscaping to the fore. An amended plan in relation to the kiosk design and how the canopy would relate to the retained brick façade onto Victoria Street was submitted on 5 December 2013.

A planning statement, Design and Access Statement, Flood Risk Assessment, Phase I ground report, Retail Assessment, Transport Assessment and Statement of Community Involvement have been submitted as part of the application. During the application process additional information has been submitted as follows:

- Highways swept path plans - 29 October 2013;
- Historic Buildings Assessment - 30 October 2013;
- Additional Travel Plan - 4 November 2013;
- Transport information and an amended kiosk elevation plan - on 5 December 2013; and,
- Retail Assessment update was received on 13 December 2013.

The District Council has sought independent advice on the retail assessment information from Peter Brett Associates.

History

The site has a planning history dating back to the mid 1970's up to 2007. The applications relate to extensions, alterations and new buildings at the existing factory site.

2. Publicity

31 no neighbours have been notified.(Date of last notification 16 December 2013)

Site Notice displayed 22 October 2013

Press Notice published 2 October 2013

3. Consultations

Castle Donington Parish Council consulted 24 September 2013

County Highway Authority consulted 16 December 2013

NWLDC Urban Designer consulted 16 December 2013

County Archaeologist consulted 1 November 2013

NWLDC Conservation Officer consulted 1 November 2013

County Highway Authority consulted 5 November 2013

County Highway Authority consulted 17 October 2013

Environment Agency consulted 25 September 2013

Severn Trent Water Limited consulted 25 September 2013

Head of Environmental Protection consulted 25 September 2013

County Archaeologist consulted 25 September 2013

Airport Safeguarding consulted 25 September 2013

NWLDC Conservation Officer consulted 25 September 2013

NWLDC Urban Designer consulted 25 September 2013

County Planning Authority consulted 25 September 2013

Development Plans consulted 25 September 2013

Police Architectural Liaison Officer consulted 25 September 2013

Building Control consulted 25 September 2013

County Planning Authority consulted 14 October 2013

4. Summary of Representations Received

Castle Donington Parish Council - No objections to original submission or additional information including kiosk plans;

Severn Trent Water - No objection subject to condition;

Environment Agency - No comments received;

LCC (Highways) - No objections in principle subject to conditions;

LCC (Minerals) - No objection;

LCC (Contributions) - No requests in relation to proposal;

LCC (Archaeology) - A Historic Building Assessment should be submitted;

Manchester Air Group - No objection;

NWLDC (Environmental Protection - noise) - No objection;

NWLDC (Conservation Officer) - Concern regarding the loss of legibility of a non-designated heritage asset which would be demolished.

Business representations have been received from Marrons on behalf on Midlands Co-operative Society; NJL Consulting on behalf of The Co-operative Group; Enwabe Investments Ltd as owner of the Art Forma and Blyth factory site; and Charles Blyth and Co Ltd and their concerns can be summarised as follows:

- There is insufficient expenditure capacity available to support the proposed development which will therefore have an adverse impact on Castle Donington village centre;
- Proposed new access would be adjacent to Carnival Way which serves adjacent industrial units and may cause highway safety problems;
- Employees turning right out of Carnival Way already have to wait a long time and the access will make this worse;
- Highway problems for daily deliveries to our site from suppliers and couriers who already have to observe the weight limit on part of Station Road and travel via Trent Lane to station Road;
- We would need to invest in boundary treatments to ensure children don't stray onto our industrial site;
- Timber is stored at the rear of the Art Forma and Charles Blyth units so there is a risk of fire from cigarette ends from the development site;
- The development may cause problems with trespass and theft.

Four neighbour representations have been received from residents of Victoria Street and Station Road and can be summarised as follows:

Amenity Issues

- Could you explain how the residents of Station Road have been taken into consideration as part of the development, particularly those with houses whose gardens back onto the access road from Newbold Drive;
- The petrol filling station (PFS) is some 40-50 feet away from my front door;

PLANNING APPLICATIONS- SECTION A

- The PFS will cause a risk of air pollutants which can contaminate buildings up to 100m away, high levels of benzene increase the chances of cancer, children are four times more likely to develop leukemia, acute non-lymphoblastic leukemia is seven times more likely and these all stem from evaporated vehicle fumes;
- The PFS should be a minimum of 50m away from houses;
- The close proximity of the PFS to dwellings will be a health risk, a fire risk and cause air pollution;
- We have not been assured that our 130 year old houses will be safe and withstand the work and vehicles required in the area;
- How will we avoid dust and dirt?;
- New development on a quiet street could be considered out of scale or character;
- The impact of change is significant;
- Noise pollution from the increase in traffic will affect the standard of living and well being;
- Large lighting is likely to be erected at the supermarket and PFS which will severely impose and affect the character of the neighbourhood and impact on our lives;
- Victoria Street resident are concerned about the effect of demolition and subsequent redevelopment may have on our homes and surrounding infrastructure;
- The safety and stability of houses needs to be considered before, during and after work occurs - our house walls are only one brick thick so there will be noise and disturbance during construction and after;
- The Victoria Street factory wall should be retained and Victoria Street should not be used as a through road to the development;
- Concerns over increased food waste and rubbish created by the development which will attract vermin;

Highways Issues

- The access road via Newbold Drive which turns right behind our property is used by lorries;
- Concerns about the increase in traffic and parking adjacent to my property despite there being covenants to prevent this;

Other Issues

- Devaluation of property;
- Impact on house insurance;
- We should be offered compensation so if we feel we can't live on Victoria Street then we have an option to move if required.

5. Relevant Planning Policy

National Planning Guidance

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

- o approve development proposals that accord with statutory plans without delay; and
- o grant permission where the plan is absent, silent or where relevant policies are out of date unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or

- specific policies in this Framework indicate development should be restricted.

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

Paragraph 17 of the NPPF establishes 12 core planning principles, which outline that planning should (amongst other things):

- be genuinely plan-led
- proactively drive and support sustainable economic development ... Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area...
- always seek to secure high quality design and a good standard of amenity....
- Encourage the effective use of land by reusing land that has been previously developed
- Promote mixed use developments
- Deliver sufficient community and cultural facilities and services to meet local needs
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

Paragraph 22 states that Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or building should be treated on their merits, with regard to market signals and the relative need for different land uses to support local communities.

Paragraph 23 advocates that town centres are to be at the heart of communities and policies should promote competitive town centre environments and support their viability and vitality.

Paragraph 24 goes on to state that the sequential test should be applied to proposals for main town centre uses. The sequential test requires applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre sites, preference should be given to accessible sites that are well connected to the town centre. There should also be flexibility on issues such as format and scale.

An impact assessment is needed if the development is over 2,500 sqm (Para 26). Such an assessment should include the impact of the proposal on;

- existing, committed and planned public and private investment in a centre or centres in the catchment area;
- town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years ahead from the time the application is made.

Paragraph 27 concludes that that if proposals fail to satisfy the sequential test or are likely to have an adverse impact on one or more of the above factors, they should be refused.

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

North West Leicestershire Local Plan

Policy S2 sets out that development will be permitted within Limits to Development, subject to material considerations

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 seeks to achieve good design in new development.

Policy E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplain of the River Trent.

Policy T8 sets out the criteria for the provision of parking associated with development.

Policy R1 seeks to permit shopping and related development within Coalville and Ashby de la Zouch Town Centres, allocated sites (as shown on the Proposals Map) and in existing or proposed local shopping areas. Policy R1 states that "new retail development will only be permitted outside these areas where it can be shown that:

(a) There is a clearly demonstrable need for the development

(b) There is no suitable site capable of accommodating the proposed development within, or failing that, adjoining, the nearby town centre

(c) The proposed development would not, either by itself or cumulatively with other development proposals, be detrimental to the vitality or viability of Coalville or Ashby de la Zouch town centres

(d) The location of the proposed development is well related to an existing centre, and is readily accessible on foot or by bicycle and by public transport, and will not result in an unacceptable increase of CO2 or other polluting emissions compared with the alternatives

(e) The proposed development would not be detrimental to plans for new investment in redevelopment or revitalisation of existing centres

(f) The proposed development would not adversely affect the supply of land for other major uses, particularly the supply of land for employment".

Submission Core Strategy

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

Other Guidance

NWLDC Retail Capacity Study (March 2013) The Council's Updated Retail Capacity Report: March 2013 (Peter Brett/Roger Tym) identifies Castle Donington village centre as displaying positive signs of vitality and viability, and having low vacancy rates and a reasonable mixture of uses relative to the size of the centre. It also recognises that Castle Donington is served by an out-of-centre Midlands Co-operative supermarket on Station Road (opposite the application site)

and approximately 10 minutes walk to the north of the village centre. It was considered a suitable size (1147 sqm) to meet residents' main and top-up shopping needs and there was not considered to be a qualitative gap in convenience provision in this centre.

The study concludes there to be an oversupply of convenience retail floorspace across the district with no need for additional floorspace until beyond 2016. It recommends that the maximum floorspace requirement would be for an additional 1100 sqm up to 2021 and an additional 2500sqm for the period up to 2031. This would translate into one medium-size food store in the district over the period to 2031, with Coalville the focus for development.

6. Assessment

Principle of Development

The site lies within the Limits to Development of Castle Donington, although not within the defined Local Centre Boundary, and within an existing Industrial Estate. As such development of the site is, in principle, acceptable subject to a sequential approach and retail impact issues, loss of employment land issues, and design and heritage, amenity and highways considerations.

Sequential Approach Issues

The proposal is for a main town centre use on an out-of-centre site and a sequential test should be applied. The area of search has included Castle Donington and Kegworth and in this respect the applicants advise that there are no available and suitable sequentially preferable sites in Castle Donington, being in part due to the constrained and historical character of the village centre, or in Kegworth due to the existing pattern of development within the village, its historical importance and the village's defined boundaries which restrict any new development on the edges of the village centre. This conclusion is supported by Peter Brett Associates (PBA).

Retail Impact Assessment

Peter Brett Associates have considered the original and additional retail impact information on behalf of the District Council. PBA's latest comments advise as follows in relation to retail impact:

In terms of the applicant's impact assessment, we concluded that whilst the application proposals would not have any significant impacts on in-centre investment, we were not satisfied that the applicant has demonstrated that the proposal would not result in significant adverse impacts on the vitality and viability of Castle Donington village centre. The applicant's quantitative assessment of retail impact was considered to have underestimated the potential impacts of the proposed development by calculating the turnover of the proposed retail development on the basis of figures that were below benchmark level, by not including any assessment of the impacts of the additional floorspace contained within the proposed retail terrace, and by underestimating the impacts of the proposed foodstore on local facilities in Castle Donington and Kegworth.

Jones Lang LaSalle (JLL) has now provided an update to its Retail Assessment that seeks to address these points... and now includes consideration of the impacts of the proposed comparison goods floorspace and a more realistic assessment of the pattern of trade draw to the application scheme from existing facilities. JLL has also clarified the relevant floorspace figures for the application scheme and the neighbouring Co-operative foodstore on Station

Road.

PBA advises of some potentially negative aspects in relation to the proposal as follows:

- that there is no confirmed operator for the proposed foodstore;
- no identified capacity for additional convenience goods floorspace within the District;
- the North West Leicestershire Retail Study found the neighbouring Co-operative foodstore to be undertrading; and,
- despite recent improvements in the economic environment convenience goods expenditure and sales density growth is forecast to be very low over the next five years.

However, in light of the amended retail impact information submitted as part of the application, PBA also advises the following points:

- In view of the corrected floorspace figures for the Co-operative foodstore at Castle Donington, PBA is of the view that the proposed foodstore would provide the village with a larger foodstore that may encourage more local residents and workers to carry out their main food shopping in the primary catchment area (possible top up sales from the PFS kiosk are also considered within this);
- There may be some loss of trade to the Co-operative foodstore on Station Road, which is already noted as undertrading in the North West Leicestershire Retail Study, but the impact on the vitality and viability of the village centre is the key consideration for the retail impact assessment, and the Co-operative foodstore on Station Road is an out-of-centre facility and is not afforded any policy protection;
- The applicant's assessment of the impact of the development on the in-centre Co-operative stores at Castle Donington and Kegworth is reasonable, although PBA considers there is an under-estimation of impact on the Castle Donington store on Borough Street. However, since that store principally performs a top-up shopping role the impact of the proposal on that store would be less than that experienced by the larger Co-operative store on Station Road. Notwithstanding this point, even if the application scheme fundamentally compromised the Station Road Co-operative foodstore PBA considers that the Co-operative would retain the Borough Street store;
- A quantitative assessment of the proposed comparison goods floorspace of the proposed main store and retail terrace has now been undertaken and PBA advises that the predicted impacts of the proposed comparison goods floorspace are acceptable (more so if the retail terrace units were to become occupied by non-retail operators);
- In the unlikely event that all four units within the retail terrace were occupied by retailers or service operators that had previously occupied premises within the village centre it is not clear that this would result in significant adverse impacts on the village centre.

As such, PBA advise that, on balance, the proposed development satisfies the requirements of the NPPF paragraph 26 and would be unlikely to give rise to significant adverse impacts on the vitality and viability of any centre within the catchment area of the proposed development. Conditions relating to limitation of comparison floorspace and subdivision of the foodstore unit are recommended should the application be approved since the submitted retail impact assessment does not take that potential impact into account.

Loss of Industrial Site

Whilst there would be a loss of land currently occupied by an industrial operation, the proposed development would also result in employment opportunities albeit in a different setting. The application form submits that the existing employees equate to No.78 full time employees (FTE), and that the proposed development including main retail store, retail terrace of four units and a D1 use class nursery would equate to No.105 FTE.

The existing business at the site, Duflex foam mattress and cushion manufacturers, would be seeking to relocate within the wider area should the application be approved and the application submission advises that Duflex has already been actively seeking alternative premises. The Planning Statement in support of the application states that only six employees are from Castle Donington and the North West Leicestershire District area, with the bulk of the staff living in Derbyshire and Nottinghamshire districts.

The application Planning Statement also submits that the existing factory buildings are no longer suitable for modern business requirements. Buildings at the site have been added to or new ones attached to existing and all in a manner which kept the scale and form of the original factory, meaning that manufacturing processes are spread about the site. The factory buildings are low grade with poor insulation, have a low haunch height, and there is no space inside for storage so temporary warehousing takes place in the outside yard.

On the basis that the proposed development would offer varied employment opportunities to residents of Castle Donington as well as further afield which would offset the loss of Duflex from the site, and that there are vacant industrial units at the nearby airport business park as well as other areas within the District, the impact of the loss of the industrial use at the site would not justify a refusal of the application.

Design and Heritage Issues

The main supermarket would be some 7.2m in height with a flat roof incorporating a pitched roof section at the southern end. The pitched roof section would have a ridge height of some 12.9m, dropping to some 8m at eaves level and would be predominantly glazed at the west elevation to form a design feature incorporating the store entrance at ground floor level, and the staff area at the first floor. The pitch roof section would be quite substantial in size and would form a strong visual terminus within the site from the proposed new customer access from Station Road. This subordinate section of the store would also have a predominantly glazed west elevation using vertical glazed units with an overhead canopy section running the full length of the frontage.

Adjoining the subordinate section at a right angle, the proposed terrace of four retail units would follow the appearance of the main retail store with the glazed frontage with canopy at the south elevation. The retail terrace would be at a lower height again (some 4.5m) to visually break up the appearance of the flat roof developments proposed at the site.

The nursery (D1) unit at the western end of the retail terrace would be a two storey pitched roof development with subordinate elements, in height and set back, which would visually break up the appearance of the unit. There would also be a flat roof 'wrap round' section on the south western corner of this unit which would provide a contemporary visual link to the two storey glazed section of the main store, and would also emulate the canopied frontages and flat roofs of the main body of the main store and the adjoining retail terrace. The roof ridge would be some 11.4m in height, dropping to 7.6m at eaves level so this two storey unit would be quite substantial in size.

In addition, to the main design focus at the fronts of the proposed units, various doors and windows are proposed at the side and rear elevations of the main store, retail terrace and nursery unit to provide for servicing and access.

Whilst the main development would be larger in scale and form to nearby residential units on Victoria Street and Station Road, the development would be set away from those dwellings so

there would be no overbearing visual effect on those properties. In addition, the scale and form of the proposed development would be in scale with adjacent and nearby industrial units off Carnival Way to the south and Station Road to the north. As such, the main retail and nursery development would be in scale and character with the locality.

The petrol filling station (PFS) to the front of the site nearest to Station Road would be the same height as the retail terrace at the rear of the site (some 4.5m in height) and would be of a similar appearance. Amended plans were received on 5 December 2013 in relation to an amended design which would incorporate additional glazing at the west elevation, along with landscaping, to ensure a more interactive frontage with Station Road rather than a blank brick wall which had been proposed originally. In addition, a canopy would be associated with the PFS kiosk to cover the four fuel dispensing stands which would accommodate eight vehicles at any one time.

The Historic Buildings Assessment which was submitted as part of the application, following concerns raised by the District Council Conservation Officer and the County Archaeologist, indicates that the earliest building on the site is a single storey north light factory on the south side of Victoria Street and was built in 1897 and occupied by a hosiery manufacturer from at least 1899 to the early 1940's. The factory site has been added to over the years to cover much of the current application site. In terms of the current application, the Victoria Street façade would be retained, although the north light roof would be removed.

The retention of the façade wall, supported with new brick buttresses on the application site, would address the main heritage concerns raised in that the relationship between the likely former workers cottages on Victoria Street and the original factory building would remain intact as well as the façade acting as a visual barrier to the PFS forecourt. Heritage concerns were raised about the canopy adjoining the retained façade and the amended plan received on 5 December 2013 indicates that the canopy would be kept separate to the façade to ensure legibility of the original factory elevation. It is proposed that the brick buttresses on the application site would be erected to a lower level than the capping stone in order for a return to be formed below the main canopy which would extend down towards the buttresses and below the top section of the façade.

The Historic Buildings Assessment also sets out the background to the growth of the site and outlines other buildings on the site, the majority of which are more modern additions over the last 40 years. Whilst the loss of the rest of the original factory would be regrettable, the premises are not listed and are not situated within a Conservation Area and the applicant submits that the premises are no longer suitable for modern day use as outlined in an earlier section of this report.

On balance, the retention of the façade of the original factory building and its incorporation into the proposal along with the proposed design, scale and form of the new buildings and structures at the site would ensure the historic character of the locality is retained, and that the new build elements would, visually, be in scale and character with their surroundings all in accordance with the provisions and intentions of NPPF and Adopted Local Plan Policy E4.

Residential Amenity Issues

It is noted that the majority of neighbour concerns relate to amenity issues. In terms of the new buildings proposed, the proposed PFS kiosk and canopy would be at a lower height than the existing north lit factory roof so would have no adverse impact on the residents of Victoria Street in terms of overshadowing or loss of light, and would not have an overbearing impact on these dwellings either. No vehicular access to the site is proposed via Victoria Street. In addition, the

retention of the original factory façade at Victoria Street would form a barrier between the PFS activity and the existing dwellings on that street so there would be no adverse impact on occupiers of those dwellings as a result of noise pollution.

The only other new building close to existing residential development is the proposed nursery building which would be situated some 35m away from the nearest dwelling at No.68a Station Road. Whilst the nursery would be some 5m from the actual boundary of that property, the total 35m between the two would ensure that there would be sufficient distance separation to ensure no significant adverse impact on the residential amenities of the occupiers of that dwelling. Boundary treatment could be implemented at the boundary with that dwelling which is already separated from the site by mature hedging and trees to ensure no intrusion from activity from the parking area or outdoor play area associated with the nursery.

The nursery operation would be set away from the industrial operations to the south of the application site, so it would be highly unlikely that children attending the nursery would stray onto the nearby industrial sites. In addition, boundary treatments could be implemented to ensure clear demarcation between adjacent commercial sites and the application site, although conventional wisdom also indicates that businesses should ensure their security arrangements are appropriate for their site.

The main access to the site for customers would be from Station Road itself, and the existing access via Newbold Drive would be used by staff and delivery vehicles only. As such, in amenity terms, it is unlikely that the comings and goings associated with the proposed development would be significantly worse than those associated with an industrial operation at the site which uses the access via Newbold Drive as a main access.

The PFS and proposed retail elements would not cause any overlooking of nearby residential dwellings. However, the proposed nursery building includes two first floor windows serving a staff room on the west elevation which would have the potential to overlook the garden area of No.68a Station Road should the existing vegetation die or be removed at any stage in the future. As such, should the application be approved, it is recommended that those windows be obscure glazed to protect the privacy of the occupants of that dwelling and in order for the garden area not to be overlooked. The glazed stair well and wrap round glazed part of the west elevation would not cause overlooking of any residential properties due to orientation within the site.

The application form advises that hours of operation for the proposed A1 retail and D1 nursery operations are not known at this time. It also has to be taken into consideration that the site has an existing industrial use and could continue to be used for industrial activities. However, it is recommended that opening hours of the nursery and retail uses are limited by condition should the application be approved to ensure that residential amenities of occupiers of nearby dwellings are not adversely affected by comings and goings to and from the site during unsocial hours.

Dust and disruption during any construction activity is inevitable, but would only be for a temporary time. As such, a refusal of a scheme on such grounds would not be warranted.

Concerns over food waste and rubbish attracting vermin are also noted but trade bins would be situated to the rear of the new build elements, away from residential properties, as shown on the submitted layout plan (Drawing Number 12-133-P002) and businesses have to comply with Environmental Health legislation in respect of waste disposal. As such, if a problem was to arise with trade waste it would be dealt with under legislation separate to planning law and

would not warrant a refusal of the current scheme put forward in this planning application.

A number of comments have been received in relation to health and safety of residents of Victoria Street in relation to the PFS activity. Whilst good practice distance appears to have been suggested in an article contained in the Journal of Environmental Management, as referred to in a neighbour representation, good practice is not a statutory obligation and there is no planning law or policy which stipulates a specific distance between residential dwellings and a PFS. A PFS operator would have to obtain a petroleum licence from Trading Standards at Leicestershire County Council and would have to meet health and safety requirements set out in any relevant legislation in order to operate.

Overall, the proposed development would not have an overbearing presence and would not cause any loss of residential amenity through overlooking or overshadowing in accordance with Policy E3 of the Adopted Local Plan. Health and safety issues relating to the proposed PFS would be dealt with under legislation separate to planning. On balance, it is considered that the proposed development would not adversely impact on the residential amenities of occupiers of nearby dwellings to such a significant extent that the application should be refused.

Highway Issues

A new access to Station Road is proposed as part of the application and this would involve off-site works which the County Council has been notified of and consulted on. Works within the public highway would involve an additional lane on Station Road to form dedicated right turn junction to the application site. Notwithstanding the representations made by local residents and businesses the County Highways Authority has advised that it has no objection to the proposal in principle, subject to conditions and agreement of appropriate off-site works, and that final observations will be submitted. Further comments received will be reported on the update sheet. As such, the proposal complies with policies T3 and T8 of the Local Plan.

Other Issues

The content of covenants, devaluation of property, impact on house insurance and compensation between a developer and a third party are all private matters and not material planning considerations.

Summary

In summary, the site is located within the limits to development within the sustainable settlement of Castle Donington which is considered to represent a sustainable location for new development. The proposed retail and nursery development would provide employment opportunities which would counter the loss of the current employment opportunities at the site, would not adversely impact on Castle Donington village centre, would be in scale and character with its surroundings, and have no adverse impact on residential amenities or highway safety in accordance with the requirements of the Adopted Local Plan and NPPF. As such the proposal is recommended for approval.

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

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

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

2 The development shall be built in accordance with the approved plans as follows:

Drawing Number 12-133-P001 - Site Location Plan;
Drawing Number 12-133-P002 - Site Layout Plan;
Drawing Number 12-133-P004 - Supermarket plans and elevations;
Drawing Number 12-133-P005 - Nursery and Retail Terrace unit plans and elevations (all received on 16 September 2013); and,
Drawing Number 12-133-P105 - Petrol Filling Station and associated canopy and Victoria Street façade retention plans and elevations (received on 5 December 2013).

Reason- To determine the scope of this permission.

3 No work shall commence on site until such a time as a scheme indicating the precise proposed finished floor levels of all buildings, and the relationship of such to the adjacent dwellings on Victoria Street and Station Road has been submitted to, and agreed in writing, by the Local Planning Authority, and the development shall be constructed in accordance with the agreed levels.

Reason- For the avoidance of doubt since specific details have not been submitted. Whilst the site is flat and occupies factory buildings floor level details would ensure that the privacy and amenities of occupiers of nearby dwellings could be safeguarded.

4 The gross retail floor space of the larger retail unit hereby permitted shall not exceed 2682 sq m, and the net retail sales floor space shall not exceed 1860 sq m. The sales area shall not be subdivided into separate retail units, and no mezzanine floor shall be installed other than the first floor staff area shown on the approved plans.

Reason- For the avoidance of doubt and in the interests of the vitality and viability of Castle Donington village centre.

5 The gross retail floor space of the retail terrace units (No.4) shall not exceed 502 sq m in total and the No.4 units hereby permitted shall remain as No.4 individual units as per Drawing Number 12-133-P005 and not be consolidated into fewer larger units.

Reason- For the avoidance of doubt and in the interests of the vitality and viability of Castle Donington village centre.

6 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended), or any Order revoking and re-enacting that Order, the D1 use class unit hereby permitted shall be retained for D1 use only.

Reason- For the avoidance of doubt and in the interests of the vitality and viability of Castle Donington village centre.

7 The retail operations and uses (including Petrol Filling Station) authorised under this permission shall be carried out within the application site only between the following times:

Between 0700 hours and 2200 hours Mondays to Saturdays; and,

Between 1000 hours and 1600 hours on Sundays.

Reason- For the avoidance of doubt since specific details have not been submitted, in the interests of residential amenities of residents of Victoria Street, and in the interests of the vitality and viability of Castle Donington village centre.

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

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

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

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

- 10 Notwithstanding the submitted details, no development shall commence on site until representative samples of the materials to be used in all external surfaces have been submitted to and agreed in writing with the Local Planning Authority. The works shall be undertaken in accordance with the approved details and maintained as such.

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

- 11 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a five year period from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason- To ensure the satisfactory overall appearance of the completed development.

- 12 No work shall commence on the site until such time as a scheme for protecting the existing trees and hedgerows at the western site boundary of the site access via Newbold Drive, to the rear of properties on Station Road, during the construction process has been submitted to and approved by the Local Planning Authority and implemented to its satisfaction. The scheme shall include measures to protect the working area within Root Protection Areas. Such protection as is agreed shall be maintained during the course of development.

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

- 13 Notwithstanding the details submitted, no development shall commence until a detailed scheme for the boundary treatment of the site has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the dwellings and retail unit are occupied, taking into account any agreed phasing of construction works.

Reason- To preserve the amenities of the locality.

- 14 No development shall commence until details of waste/recycling storage for units within the site have been submitted to and agreed in writing by the Local Planning Authority. The works shall be undertaken in accordance with the approved details and maintained as such.

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

- 15 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use

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

- 16 Any highways conditions which may be requested by the Highway Authority. Any requirements will be reported on the Update Sheet.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England)) Order 2010 (as amended).
- 2 As of April 6th April 2008 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £85.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.

PLANNING APPLICATIONS- SECTION A

Residential development for three dwellings (Outline - all matters reserved)

Report Item No
A5

Land At Main Street Normanton Le Heath Leicestershire

Application Reference
13/00913/OUT

Applicant:
Mr S Bryan

Date Registered
2 December 2013

Case Officer:
Hannah Exley

Target Decision Date
27 January 2014

Recommendation:
REFUSE

Site Location - (Plan for indicative purposes only)



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EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

Call In

This application is reported to Members of the Planning Committee at the request of Councillor Smith on the ground that the site is outside the settlement boundaries and that previous applications on the site have been refused.

Proposal

Outline approval is sought for the erection of three dwellings on 0.29 hectares of agricultural land off Main Street, Normanton le Heath. All matters are reserved for consideration at a later stage and therefore, the application submission includes limited documentation. Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application.

A public footpath O60 is routed through the site.

Consultations

A total of 17 letters of objections have been received from members of the public. Normanton le Heath Parish Meeting raises objection to the proposal and the County Highways Authority raises objection to the application and these are set out in the report below. No other objections have been received from statutory consultees.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and in the countryside which is protected by Policy S3. Also material to the determination of the application and the weight that can be attached to these policies is the supply of housing in the context of the National Planning Policy Framework (NPPF).

The front part of the site lies within a Sensitive Area as designated under Policy E1 of the Local Plan.

Conclusion

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF states that development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless material considerations indicate otherwise. The site that is subject to this application is located outside the Limits to Development for the settlement of Normanton le Heath; a village which has no local services and facilities which would help to ensure that occupiers are not heavily reliant on the use of the private car to access such services and facilities. The development of the site for housing would therefore be contrary to the provisions of Policy S3 and would not represent a sustainable form of development for the purposes of the provisions of the NPPF. There are some material considerations to take into account, including the lack of a 5 year supply of land for housing but none of these material planning considerations would outweigh the conflict with development plan policies.

The application site forms part of a large piece of agricultural land within the village that extends up to Main Street and allows long and important open views from within the village of the wider countryside beyond, which contributes to the rural setting and character of the settlement.

PLANNING APPLICATIONS- SECTION A

There are limited opportunities within the centre of the village for glimpses of the wider countryside beyond the settlement boundaries and therefore, the site, along with the land forward of the site is considered to be an important vista that makes a positive contribution to the rural setting of the village. Therefore, the development of the site for housing would result in an important view out of the centre of the village being lost to the detriment of the rural setting and character of Normanton le Heath. Approval of the proposal would therefore, be contrary to the provisions of Policy E4 of the Local Plan.

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

MAIN REPORT

1. Proposals and Background:

Outline approval is sought for the erection of three dwellings on 0.29 hectares of agricultural land off Main Street, Normanton le Heath. All matters are reserved for consideration at a later stage and therefore, the application submission includes limited documentation. Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application.

A public footpath O60 is routed through the site.

The application submission was accompanied by the following supporting documents:

- River Mease Statement;
- Planning Statement;
- Heritage Impacts Assessment.

Planning History:

88/1304- Residential Development (Outline) - Refused on the grounds that the proposal would develop an open break in the street frontage that has been designated as a Sensitive area where development will be resisted to maintain the character of the streetscene and the character of the area. An appeal was lodged and was dismissed by the Planning Inspector.

84/0045- Residential Development (Outline) - Refused on the ground that the site forms part of a field extending up to the back of the footway on Main Street and between existing development. To develop the site as proposed would close up this important area of informal open space with its attractive views to the north-west, and would be detrimental to the rural amenities enjoyed by residents of the village.

2. Publicity

12 No neighbours have been notified. (Date of last notification 9 December 2013)

Site Notice displayed 9 January 2014

Press Notice published 22 January 2014

3. Consultations

- Normanton-le-Heath Parish Meeting consulted 9 December 2013
- County Archaeologist consulted 21 January 2014
- County Highway Authority consulted 10 December 2013
- Environment Agency consulted 10 December 2013
- Head of Environmental Protection consulted 10 December 2013
- Natural England consulted 10 December 2013
- NWLDC Conservation Officer consulted 10 December 2013
- Development Plans consulted 10 December 2013
- LCC/Footpaths consulted 10 December 2013

4. Summary of Representations Received

17 letters of neighbour representation have been received, raising objection on the following grounds:

- concerned about large properties being built on greenbelt land, 50m back from the road;

PLANNING APPLICATIONS- SECTION A

- if development is allowed on the site, it should be smaller properties that would better meet local housing needs and not large executive housing;
- smaller properties are needed to enable families to stay in the village;
- any new development should be within the building line of existing development;
- there is no need for a village green and concern about how it would be maintained;
- approval would set a precedent for the development of other greenbelt infill areas in the village;
- the proposal would affect a public right of way which is popular with dog walkers and allows views of an ancient holly hedgerow which runs the whole length of the field;
- the open space is part of Normanton history and should be kept for the enjoyment of residents and walkers;
- the gaps between development have been designated as sensitive areas in order to preserve the nature and layout of the village and therefore should be protected against development;
- the proposal would not create a greater sense of openness or enhance the setting of the village, or give a sense of place to the church as suggested in the supporting information;
- loss of amenities as the proposal would result in the loss of views from neighbouring properties and noise nuisance due to proximity;
- loss of neighbouring property values;
- diversion of the footpath would cause noise and disturbance to the neighbouring property;
- the proposal would result in the loss of the last remaining area in the middle of the village;
- the proposal would diminish the present open character of the area and would be contrary to Policy E1 of the Local Plan;
- the proposal would strain existing infrastructure;
- additional traffic along Main Street which can get congested;
- the proposal would be of no benefit to the village;
- the development would be on land outside the building line and within the countryside;
- there has never been a farmhouse on the field and therefore, the proposal would be out of character and out of keeping with the surrounding properties;
- the access drive to the development would reduce the space available for on-street parking;
- the proposal would mean the loss (by means of diversion) of an ancient footpath that is well used;
- this part of the village is already very crowded with houses and flats and as such many cars are already parked on the narrow road at all times of the day and night, making the road difficult to drive and therefore, the proposal would exacerbate this existing problem;
- the land is unsuitable for development due to the lack of services and environmental issues; there is no bus service and villagers are dependent on the private car to reach services;
- Normanton is thriving and does not need more development to make it sustainable;
- Approval of the proposal would set a precedent for further development within the village;
- the land has archaeological interest (possibly a Roman road);
- previous proposals for development on the site and within the village have been refused and should continue to be resisted;
- the land does not adjoin 40 Main Street as suggested on the website;
- the timing and deadline for comments is unfortunately timed over the Christmas period.

Normanton le Heath Parish Meeting raise objection on the following grounds:

- this green area within the village has been designated in order to preserve the nature and layout of the village and should not be built on;
- the open space is part of Normanton history and should be kept for the enjoyment of villagers, walkers and visitors to the area;
- no further houses should be built in the village due to the lack of amenities and environmental issues associated with increased car usage to reach services and traffic/parking levels in the village;
- large properties would not match housing needs;
- concern that the proposal will set a precedent for more housing;
- the proposal would not create a greater sense of openness or enhance the setting of the village as stated in the supporting information but instead would fill the open space with development;
- there is no need for another village green;
- the pasture land off Main Street is an ancient, beautiful and well used feature of the settlement that is well used due to the footpath which passes through it;
- the space allows views of the countryside beyond the settlement and an ancient holly hedge which runs the length of the field;
- the proposal would adversely affect or diminish the present open character of the sensitive area;
- this part of the village is already very crowded with houses and flats and as such many cars are already parked on the narrow road at all times of the day and night, making the road difficult to drive and therefore, the proposal would exacerbate this existing problem;
- the land is greenbelt and has archaeological interest (possibly a Roman road);
- the proposal should be refused.

County Highways Authority raises objection on the ground that the application fails to demonstrate that the proposal will be in a location where services are readily and safely accessible by walking, cycling and public transport.

Environment Agency has no objections subject to the development according with the River Quality Management Plan and there being capacity at Severn Trent Water treatment works to accommodate the increase in foul flows.

Environmental Protection has no environmental observations.

Natural England has no objections subject to conditions.

NWLDC Conservation Officer advises that the proposal is unlikely to affect the setting of the nearby Grade II(star) listed church and therefore, has no observations to make.

LCC Footpaths Officer raises objection on the ground of the indicative layout shown unless plans amended or a Footpath Diversion Order has been agreed by the County Council.

County Archaeologist has no objections subject to conditions.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012:

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The

NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.
- Paragraph 17 sets out the 12 key principles that should underpin plan-making and decision-taking, which include:
 - be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
 - proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
 - always seek to secure high quality design and a good standard of amenity;
 - take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
 - support the transition to a low carbon future in a changing climate;
 - contribute to conserving and enhancing the natural environment and reducing pollution;
 - encourage effective use of land by reusing land that is previously developed;
 - conserve heritage assets in a manner appropriate to their significance;
 - actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
 - take account of and support local strategies to improve health, social and cultural wellbeing.

Paragraph 119 states that 'The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.'

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

The sections of the NPPF that are relevant to this application are:

- 3 - Supporting a Prosperous Rural Economy;
- 4 - Promoting Sustainable Transport;
- 6 - Delivering a Wide Choice of High Quality Homes
- 7 - Requiring Good Design;
- 8 - Promoting Healthy Communities;
- 11 - Conserving and Enhancing the Natural Environment;
- 12 - Conserving and Enhancing the Historic Environment.

North West Leicestershire Local Plan:

The East Midlands Regional Plan (RSS8) has now been revoked and therefore no longer forms part of the development plan. The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in

the NPPF and should be afforded weight in the determination of this application:

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

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development.

Policy E1 seeks to prevent development within the Sensitive Areas, which would adversely affect or diminish the present open character of such areas.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 seeks to achieve good design in new development.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 sets out the criteria for the provision of parking associated with development. In relation to car parking standards for dwellings, an average of 1.5 spaces off-street car parking spaces per dwelling will be sought.

Policy F1 requires new development within the National Forest to reflect the importance of its setting.

Policy F2 sets out the criteria for maximising the potential for landscaping/planting as set out under Policy F1.

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst other things, public transport and services.

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account a number of issues including housing mix, accessibility to centres and design.

Policy H7 seeks good quality design in all new housing development.

Submission Core Strategy (April 2012):

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

Other Guidance:

The Habitat Regulations:

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs).

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

Circular 06/05 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in

order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

River Mease Water Quality Management Plan - August 2011:

This plan draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

The River Mease Developer Contributions Scheme - November 2012:

The Developer Contribution Scheme (DCS) is relevant to development which results in a net increase in phosphorous load being discharged to the River Mease Special Area of Conservation (SAC). It currently applies to all development which contributes additional wastewater via the mains sewerage network to a sewage treatment works which discharges into the catchment of the River Mease SAC.

The Community Infrastructure Levy Regulations 2010:

The 2010 Regulations provide a legislative requirement that an obligation must meet the following tests:

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

6. Assessment

Principle and Sustainability:

The National Planning Policy Framework (NPPF) states, at paragraph 49, that housing applications should be considered in the context of a presumption in favour of sustainable development. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Policy H4/1 of the North West Leicestershire Local Plan adopts a sequential approach to the release of land for housing, with priority given to previously developed land within or adjoining town centres, then previously developed land within identified centres, followed by allocated housing sites and lastly, other locations where appropriate in the context of other policies in the plan.

The site lies outside the settlement boundary for Normanton le Heath and the proposal would not qualify as an exception to rural restraint policies for housing under the terms of Policies S3, H10, H11 or H12 of the Local Plan. The application site would fall to be determined at the bottom of the hierarchy under Policy H4/1 of the Local Plan i.e within criterion (f) in other appropriate locations. The application site is located outside the Limits to Development for Normanton le Heath, which has no services and facilities and, therefore, occupiers of the proposed new dwellings would be dependent on the private car to reach basic services to meet their day to day needs. The County Highway Authority (CHA) have been consulted on the application and recommends that the application be refused as residential development in this location would run counter to both local and national planning/transport policies relating to sustainable development. The CHA consider that the applicant has failed to demonstrate that their proposal would be in a location where services are readily and safely accessible by walking, cycling and public transport. In conclusion, the proposal would not accord with the sequential approach for housing development advocated in Policy H4/1 of the Local Plan.

The NPPF requires that the Council should be able to identify a five year supply of housing land and include an additional buffer of 5 percent or 20 percent depending on previous performance

in terms of delivery of housing. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, found that the 'Sedgefield' approach should be used and that a buffer of 20 percent should be allowed. On this basis, the District Council's most recent calculations indicate that the Council is able to demonstrate a supply of 4.7 which represents a significant shortfall vis-à-vis the requirements of the NPPF.

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". The Council would not, in these circumstances, be able to rely on adopted Local Plan Policy H4/1 (Housing Land Release) as, being a policy constraining the supply of housing land, it would be considered to be out of date.

Therefore, Policy H4/1 cannot be considered to be up-to-date. However based on the approach taken in the recent judgment in respect of the application to quash the Secretary of State's decision to dismiss the Stephenson Green appeal, given that Policy S3 does not specifically relate to the supply of housing, notwithstanding the approach taken elsewhere (and including by the Secretary of State on appeal), the provisions of paragraph 49 of the NPPF may not necessarily be applicable to Policy S3 and that, in this sense, the policy would not be considered to be out of date. Nevertheless, consideration must be given to whether the proposals constitute a sustainable form of development given the presumption in favour of sustainable development within the NPPF.

Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to provide an environmental role, including in respect of minimising pollution and mitigating and adapting to climate change, and moving to a low carbon economy. The site is in a location remote from services and public transport and occupiers of the development would be likely to be reliant on the use of the private car for accessing goods and services to meet their day to day needs, not providing for a sustainable form of development compatible with a move towards a low carbon economy, and contrary to the policies and intentions of the NPPF.

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF states that development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless material considerations indicate otherwise. The site that is subject to this application is located outside the Limits to Development in the adopted Local Plan in an unsustainable location and its development for housing would therefore be contrary to the provisions of Policy S3 of the Local Plan and the provisions of the NPPF. There are some material considerations to take into account, including the lack of a 5 year supply of land for housing but none of these material planning considerations would outweigh the conflict with development plan policy and the provisions of the NPPF.

Density:

Policy H6 of the North West Leicestershire Local Plan both seek to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account factors such as housing mix, accessibility to centres and design. The NPPF states that Local Planning Authorities should set out their own approach to housing density to reflect local circumstances.

With a site area of 0.29 hectares, the proposal would have a density of 10.3 dwellings per hectare. When having regard to the proposed density, the size of the site and the character of the surrounding area, it is considered that the proposal for three dwellings would represent an efficient use of land in this instance. Furthermore, additional dwellings on the site would only exacerbate concerns about sustainability as outline above. Therefore, the scheme is considered to be acceptable in relation to the advice contained in the NPPF and Policy H6 of the Local Plan.

Character of the Area:

The front part of the site falls within an area designated as a 'Sensitive Area' under Policy E1 of the Local Plan. This policy provides that development will not be permitted within the Sensitive Areas, identified on the Proposals Map, which would adversely affect or diminish the present open character of such areas and the contribution they may make to the character, form and setting of settlements, the streetscene generally or the relationship with adjoining countryside. The supporting text for the policy provides that *'The need to protect open areas within or closely related to urban areas is widely recognised. There are many instances of important open areas within or adjoining settlements which contribute positively to the character of the settlement concerned, its streetscene or its setting or approaches. It is important that such areas are kept free from development in view of the contribution they make to local environmental quality.* The policy identifies types of sensitive areas of open land; including important open breaks in street frontages and important settings and approaches to settlements.

In considering an earlier appeal lodged against an outline application for residential development on the agricultural land adjacent to the public highway (the whole of the designated 'Sensitive Area') an inspector commented as follows:

'Normanton le Heath is a small village with strong linear form along Main Street. On the north-west side of Main Street, between the B5326 and Normanton Lane, the frontage has been developed apart from the appeal site. The development could be regarded as infilling, i.e infilling a small gap in an otherwise built up frontage, however, in this case, the appeal site has been specifically excluded from the limits to development and designated a Sensitive Area in the recently adopted plan, to which, I must give considerable weight. The site has several trees along the road frontage and there are fine views from Main Street across the site towards the rolling countryside in the direction of Packington and Ashby de la Zouch. This is the only substantial gap on the north-west side of Main Street and offers the only significant view of the countryside to the north. Outbuildings associated with farms and garages restrict the views between the existing dwellings. I therefore consider that this is an important vista to retain. I also consider that this open land contributes to the rural character of the village particularly due to its proximity to the designated Sensitive Area around the church on the opposite side of Main Street. Since 1984 it has been the aim of the Local Planning Authority to retain this area as open land within the village and I find no overriding reason to depart from this Policy. I conclude that this open land makes a significant contribution to the form and character of Normanton le Heath and that the proposed development would harm the character and appearance of the village streetscene.' The appeal was dismissed.

The current application proposal is an outline proposal with all matters reserved and therefore, that part of the site which falls within the designated 'Sensitive Area' could be left open and excluded from built development, and therefore, it is not considered that the proposal would be contrary to Policy E1 of the Local Plan.

The application site forms part of a large piece of agricultural land within the village that extends up to Main Street and allows long and important open views from within the village of the wider

countryside beyond, which contributes to the rural setting and character of the settlement. There are limited opportunities within the centre of the village for glimpses of the wider countryside beyond the settlement boundaries and therefore, the site, along with the land forward of the site is considered to be an important vista that makes a positive contribution to the rural setting of the village. Therefore, the development of the site for housing would result in an important view out of the centre of the village being lost to the detriment of the rural setting and character of Normanton le Heath. Approval of the proposal would therefore, be contrary to the provisions of Policy E4 of the Local Plan.

Design:

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

It is noted that layout, scale, appearance and landscaping are all included as matters to be considered at a later stage. In terms of the indicative layout proposed, three large dwellings built in a courtyard arrangement are shown. Given the rural nature of the site, whilst it is not considered an inappropriate approach to seek to emulate a farm courtyard arrangement, when having regard to the prominence of the site from the public footpaths/open countryside beyond the site and the location of the development on the edge of the settlement, it is considered that the siting of large buildings towards the rear of the site would not be appropriate. However, as all matters are reserved, this application which specifically proposes the erection of three dwellings (with no specific layout), should not be refused on this issue.

The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and as such local planning authorities should ensure that the potential consequences are taken into account when a planning application is considered. The Rights of Way Officer at Leicestershire County Council advises that the dwelling and garden on plot 1 and the garden on plot 2 (as shown on the indicative layout) would impinge on the line of public footpath O60, and therefore, raise objection to the proposed indicative layout. When having regard to the size of the site, it is considered that three dwellings could be accommodated on the site without adversely affecting the line of the public footpath. As all matters are reserved, it is considered that this application which specifically proposes the erection of three dwellings (with no specific layout), should not be refused on this issue.

In these circumstances the development would be considered to comply with Policy H7 of the Local Plan, although it is noted that detailed consideration of access, layout, scale, appearance and landscaping will need to be made at the reserved matters stage.

Highway Safety:

A linear strip of land at the front of the site, links the main part of the site with the public highway and it is considered that this part of the site is of sufficient width to allow adequate vehicular access into the site to be achieved and this has been verbally confirmed by the County Highways Authority. Notwithstanding comments by residents about the proposal contributing to existing on-street parking problems, the wider site is of sufficient size to enable adequate parking and turning to be provided within the site for the proposed new dwellings and therefore, the proposal would comply with the provisions of Policy T3 and T8 of the Local Plan.

Residential Amenities:

The narrow strip of land which links the site to the highway is over 10m from the nearest neighbouring properties and therefore, it is not considered that any noise and disturbance from comings and goings of vehicles into the site would give rise to any significant adverse impact on the amenities of neighbouring residents. In terms of built development, it is considered that the site is of sufficient size to accommodate three dwellings and allow for the diversion of the public footpath (if necessary) without adversely impacting on neighbouring residents. The proposal is therefore, considered acceptable for the purposes of Policy E3 of the Local Plan.

Impact upon Heritage Assets:

Paragraph 131 of the NPPF requires amongst other things new development to make a positive contribution to local character and distinctiveness. Paragraph 132 of the Framework stipulates that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The application site lies to the north west of the Grade II (star) listed Holy Trinity Church which is sited on the opposite side of Main Street. The proposed development would be visible in views of the church from the public footpath which crosses the application site. However, there are currently existing buildings between the site and the church which already obscure views of the church building. The Conservation Officer has been consulted on the application and advises that the proposed development of the site for three dwellings would be unlikely to affect the setting of the Grade II(star) listed building.

Concern has been raised by local residents and the Parish Meeting about the archaeological remains that may be potentially present on the site, and therefore, may be affected by the proposals. The County Archaeologist has been consulted on the application proposals and advises that the Leicestershire and Rutland Historic Environment Record (HER) notes that the projected line of a Roman road, the 'Via Devana' (HER ref.: MLE4345), appears to run c. 200m to the south of the application area. Whilst it is unlikely that the proposed development will, consequently, disturb evidence of the road, its presence in the vicinity raises the potential that there may be as yet unrecorded Roman remains in the area. The proposed development also lies squarely within the historic settlement core of the medieval and post-medieval village (MLE16886); this is the area within which it is anticipated to find evidence of Anglo-Saxon and later settlement and activity. The potential for such remains is enhanced by the location of the site close to Holy Trinity church, first recorded in the 13th century. The place name Normanton-le-Heath is suggested to indicate a farmstead and settlement established by Norwegian Viking settlers, however, it is not mentioned in the Domesday Book.

The County Archaeologist has reviewed historic mapping and available aerial photographs for the site, and it appears there were some earthworks in the area of the proposed development in the 1960's, these appear to survive at least in part until the 1990's but were damaged by ploughing/cultivation in or before 2001. The residential development is situated some distance back from the Main Street and it is likely that the main focus of any medieval and post-medieval archaeological remains will be in the vicinity of the proposed village green. However, rear yards, ancillary structural remains, evidence of refuse disposal, domestic and agricultural industry, etc., may all occur on site, whilst the proposed access road (and services) would affect remains toward the frontage.

In accordance with National Planning Policy Framework (NPPF), as assessment of the proposals has indicated that the development is likely to have a detrimental impact upon any heritage assets present, archaeological recording will be required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development. In that context, the County

Archaeologist raises no objection to the proposal subject to conditions requiring an appropriate programme of archaeological mitigation, including as necessary intrusive and non-intrusive investigation and recording.

Accordingly, subject to conditions, it is not considered that heritage assets would be adversely affected by the proposal and therefore, accords with the relevant principles of the NPPF.

River Mease:

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

The River Mease Water Quality Management Plan (WQMP) was drawn up to ensure there is no adverse impact on the SAC from further development and includes an action to establish a developer contribution framework to fund a programme of actions to restore and provide new benefits to the river. The River Mease Developer Contribution Scheme (DCS) has been adopted to meet this action of the WQMP so that the costs of improving the quality of the water in the river are met by potential developers. 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 has been assessed against and is considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations, which are also set out at paragraph 204 of the NPPF.

Although the site lies within the catchment of the River Mease, Severn Trent Water Ltd have advised that waste water from the site would be pumped to Ravenstone Sewerage Treatment Works which lies outside the River Mease catchment. The proposed development of the site for housing would not contribute additional wastewater within the River Mease catchment and, therefore, would be subject to the requirements of the DCS.

In terms of surface water run-off, the River Mease Statement advises that surface water would be dealt with by a soakaway system. Given the outline nature of the application with all matters reserved, it is considered that a scheme for the surface water drainage on the site could be dealt with by an appropriately worded condition. Therefore, subject to a drainage condition, it is considered that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Other:

The proposal would result in the loss of Grade 3 agricultural land. However, when having regard to the size of the site, it is not considered that the proposal would result in a significant loss of agricultural land in the area.

With regard to comments raised by local residents that have not already been covered in the above text, the application does not include the provision of a village green, although the remaining land between the site and the highway which is outside the application site is noted as a village green on the indicative layout. The application is a greenfield site but is not

designated as Greenbelt as suggested by some local residents. Loss of views from neighbouring properties and loss of neighbouring property values are not planning matters that can be taken into account in the determination of this application. In terms of concern about the proposal setting a precedent, it is a fundamental principle of planning legislation that each application should be assessed on its own merits.

Conclusion

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF states that development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless material considerations indicate otherwise. The site that is subject to this application is located outside the Limits to Development for the settlement of Normanton le Heath; a village which has no local services and facilities which would help to ensure that occupiers are not heavily reliant on the use of the private car to access such services and facilities. The development of the site for housing would therefore be contrary to the provisions of Policy S3 and would not represent a sustainable form of development for the purposes of the provisions of the NPPF. There are some material considerations to take into account, including the lack of a 5 year supply of land for housing but none of these material planning considerations would outweigh the conflict with development plan policies.

The application site forms part of a large piece of agricultural land within the village that extends up to Main Street and allows long and important open views from within the village of the wider countryside beyond, which contributes to the rural setting and character of the settlement. There are limited opportunities within the centre of the village for glimpses of the wider countryside beyond the settlement boundaries and therefore, the site, along with the land forward of the site is considered to be an important vista that makes a positive contribution to the rural setting of the village. Therefore, the development of the site for housing would result in an important view out of the centre of the village being lost to the detriment of the rural setting and character of Normanton le Heath. Approval of the proposal would therefore, be contrary to the provisions of Policy E4 of the Local Plan.

RECOMMENDATION - REFUSE, for the following reason(s):

- 1 The site that is subject to this application is located outside the Limits to Development where there is a presumption against development non-essential residential development as set out in Policy S3 of the adopted Local Plan. Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to provide an environmental role, including in respect of minimising pollution and mitigating and adapting to climate change, and moving to a low carbon economy. The site is in a location remote from services and public transport and occupiers of the development would be likely to be reliant on the use of the private car for accessing goods and services to meet their day to day needs, not providing for a sustainable form of development compatible with a move towards a low carbon economy, and contrary to the policies and intentions of the NPPF. The development of this site for housing would therefore, be contrary to Policy S3 of the adopted Local Plan and the provisions of the NPPF.

- 2 Policy E4 of the North West Leicestershire Local Plan requires that in determining planning applications, regard should be had to the wider setting of new buildings and that new development should respect the character of its surroundings, in terms of scale, design, density, height, massing, materials of construction, the spaces between and around buildings and the streetscene generally. The application site forms part of a large piece of agricultural land within the village that extends up to Main Street and allows long and important open views from within the village of the wider countryside beyond, which contributes to the rural setting and character of the settlement. There are limited opportunities within the centre of the village for glimpses of the wider countryside beyond the settlement boundaries and therefore, the site, along with the land forward of the site is considered to be an important vista that makes a positive contribution to the rural setting of the village. Therefore, the development of the site for housing would result in an important view out of the centre of the village being lost to the detriment of the rural setting and character of Normanton le Heath. Approval of the proposal would therefore, be contrary to the provisions of Policy E4 of the Local Plan and the provisions of the NPPF.

PLANNING APPLICATIONS- SECTION A

Extension to the existing Minorca Surface mine (At Measham fields farm) for the extraction of coal and fire clay by surface means with restoration to agricultural dwellings, agricultural and nature conservation (Leicestershire County Council Consultation ref 2013/CM/0353/LCC)

**Report Item No
A6**

Minorca Colliery Swebstone Road Measham Swadlincote

**Application Reference
13/00983/COM**

**Applicant:
Mr Peter Bond**

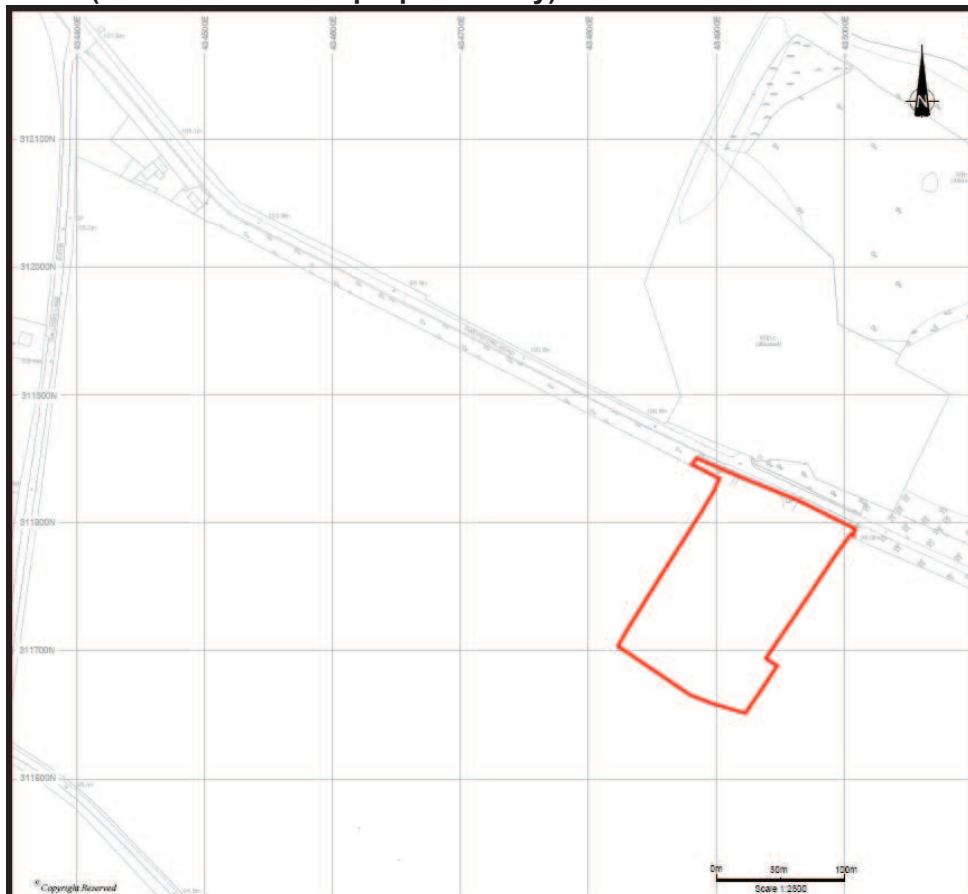
**Date Registered
4 December 2013**

**Case Officer:
Hannah Exley**

**Target Decision Date
25 December 2013**

**Recommendation:
NO OBJECTION**

Site Location - (Plan for indicative purposes only)



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EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

Call In

This application is reported to Members of the Planning Committee at the request of Councillor Sheahan given the level of public interest in the original application for the surface mine.

Proposal

The application is for the working of coal and fireclay by surface means and the reinstatement to agriculture, farm house and nature conservation, of an area of land amounting to 1.86 hectares, which is currently occupied by Measham Fields Farm. The area of land in question off Sweystone Road being bordered by the existing Minorca site on three sides, and will be worked as an extension to the existing Minorca Surface mine site. On restoration, the farmhouse will be replaced and the land returned to agricultural use with additional areas of hedgerow included as part of the development.

Consultations

As the application is a County Matter, the formal consultation process is being carried out by Leicestershire County Council.

Planning Policy

The site lies within the countryside wherein Policy S3 presumes against non-essential development. However, this must be balanced against the general advice in the NPPF that minerals can only be worked where they are found.

Conclusions

Overall, therefore, it is accepted that the principle of the proposals would be acceptable, having regard to the likely implications on the environment, and the need to work minerals where they are found. It is therefore recommended that no objections be raised, subject to the County Council being satisfied that:

1. The proposed working methodology can be achieved and being the most effective in terms of balancing the extraction with minimising the environmental impacts following consultation with their professional advisors and subject to the mitigation measures and restoration plans being considered satisfactory and the most effective that could reasonably be achieved on the site.
2. Any issues in relation to the impact of the scheme on the River Mease Special Area of Conservation (SAC) having been fully addressed and satisfactorily resolved.

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

MAIN REPORT

1. Proposals and Background:

This application is a County Matter with Leicestershire County Council as the determining authority,

The application is for the working of coal and fireclay by surface means and the reinstatement to agriculture, farm house and nature conservation, of an area of land amounting to 1.86 hectares, which is currently occupied by Measham Fields Farm. On restoration, the farmhouse will be replaced and the land returned to agricultural use with additional areas of hedgerow included as part of the development.

The area of land in question will be worked as an extension to the existing Minorca Surface mine site permitted under application reference 2009/0720/07 and a separate application is before the County Council to vary the working scheme approved as part of that permission to take into account the additional working area.

As the extraction of Coal is a Schedule 1 project, an Environmental Statement addendum has been prepared to address the changing impacts as a result of the additional area of extraction and consequent changes to the working scheme. The starting point for consideration has been the presence and continued operation of the existing surface mine site and the addendum has considered any change in impact resulting from the working of the additional area of land.

Planning permission was granted for the Minorca site on 7 July 2011 under reference 2009/0720/07, referred to as the Former Minorca Colliery Coal and Fireclay Surface Mining Scheme. The current application is for the extraction of an estimated 250,000 tonnes of coal and 7,000 tonnes of fireclay. Planning permission already exists for the working of 1,250,000 tonnes of coal with 250,000 tonnes of fireclay at the Minorca site. The amount of mineral arising from the Minorca site has been below that originally expected i.e. approximately 1,201,300 tonnes of coal are now estimated and 25,000 tonnes of fireclay. It is proposed to work the Measham Fields Farm site as an integral part of the existing operational development and working the application area and the Minorca site together, will yield approximately 1,451,300 tonnes of coal and 32,000 tonnes of fireclay in total.

Coal will be removed from the site via the existing Minorca site access. It is proposed that the haulage route from the site will continue to be to the A42 via Bosworth Road and Gallows Lane which will continue to experience an average of six loads (12 movements) an hour.

Top and sub-soil from the paddock areas adjacent to the farm building will be separately stripped and stored in mounds. The subsoil mounds currently forming a bund adjacent to the farm buildings will be removed and placed onto the restored areas of the existing site as part of the restoration proposals. Overburden from the Measham Fields Farm extension area will be back filled into previously extracted areas as part of the restoration process. The restoration of the Minorca development site will remain as approved. The restoration of the Measham Fields Farm area will include the replacement of the existing farmhouse.

The scheme of working for both the Minorca site and the Measham Fields Farm area will continue as at present. There will continue to be environmental controls over noise, air quality, drainage and a range of other factors. As is indicated within the Environmental Statement Addendum, all of these matters can be adequately controlled by the implementation of good working practices. The proposed operational hours of the site will continue to be as follows:

General Operations - Monday to Friday 0700-1900, Saturday 0700-1200;
Temporary Operations (formation of screen bunds) - Monday to Friday 0800-1800, Saturday 0800-1200 (No Sunday or Bank Holiday working);
Export of Coal - Monday to Friday 0715-1700.

Planning History:

09/00720/COM - Extraction of coal and fireclay by surface mine methods and restoration to agriculture, woodland and nature conservation - land to the East of Gallows Lane Measham and Swepstone and known as Minorca Site. (LCC 2009/C088/07). (The views of the Planning Committee in response to this consultation from Leicestershire County Council were as follows:

1. No objections in principle provided the County Council are satisfied that the proposed working methodology can be achieved and being the most effective in terms of balancing the extraction with minimising the environmental impacts following consultation with their professional advisors and subject to the mitigation measures and restoration plans being considered satisfactory and the most effective that could reasonably be achieved on the site.
2. Notwithstanding the above North West Leicestershire District Council consider that the application should not be approved until such time as any issues in relation to the impact of the scheme on the River Mease Special Area of Conservation (SAC) have been fully addressed and satisfactorily resolved with the completion of the necessary appropriate assessment.)

13/00484/COM - Application for approval of details reserved by condition 77 of planning permission 2009/0720/07 (Restoration Scheme) (Leicestershire County Council Consultation 2013/csub/0150/LCC) (No objections, subject to the County Council, as the determining authority, being satisfied that the proposed works would not have a detrimental impact on the integrity of the River Mease Special Area of Conservation/ SSSI; either alone or in combination.)

12/00793/COM - UK Coal mining Limited - Removal of condition 38 of Planning Permission ref 2009/0720/07 to permit soil handling throughout the year - Minorca Colliery, Swepstone Road, Measham (Leicestershire County Council Consultation 2012/VOC/0311/LCC) (No objections subject to Leicestershire County Council being satisfied that, following consultation with its professional advisors, the conclusions of the supporting information that the integrity of the soils can be safeguarded by virtue of other conditions attached to planning permission 2009/0720/07 are technically sound.)

2. Publicity

No neighbours have been notified.

3. Consultations

LCC carry out all consultations

4. Summary of Representations Received

As the application is a County Matter, the formal consultation process is being carried out by Leicestershire County Council. The County Council has advised that, at the time of writing this report, seven letters of support had been received, of which three are from local companies, three are from UK Coal employees and one is from an unknown source. Two letters of objection have also been received from local residents, along with one letter which passes comment but does not express a view on the application.

The District Council has been copied in on a response provided by Snarestone Parish Council which provides the following comments:

- A full environmental report is to be made available to the Minorca Liaison Committee on a regular basis. We have been advised that the Committee is aware that serious misgivings have been raised by Swepstone Parish Council on both environmental reporting and the waste management plan.
- the current restoration bond is to be increased to incorporate the proposed extension, within the existing timeframe.
- no additional overburden is to be added to the existing mounds above ground.
- no additional vehicle movements or Coal tonnage above the existing conditions is required.

On the basis of the above, Snarestone Parish council is supportive of the application, but would seek the following additional points to be added into the 106 agreement:

- 1) UK Coal to make an additional contribution to the Minorca Community Fund of £100,000.
- 2) No further extensions to this site are to be considered.

Snarestone Parish Council is very much aware that this application is being submitted within the context of UK Coal exploring for coal reserves to the north of the Swepstone Road (Minorca North). Regardless of the outcome of this new exploration, UK Coal must honour its commitment to fully restore the existing Minorca site by the distinct 60 month finish date on 6th June 2017, as per Condition No.9 of the extant Minorca planning permission by entering into a section 106 agreement with Leicestershire County Council to expressly prohibit further extensions.

Snarestone Parish Council insist that Leicestershire County Council grant this extension with the express condition that this is the final extension for the existing site. No further extensions will be considered using the current infrastructure, effectively meaning that Minorca North must be applied for on a standalone basis.

We thank you in advance for consulting with the local Parish councils, and trust that these views, which represent the views of those living alongside the mine are taken into consideration.'

5. Relevant Planning Policy

National Planning Policy Framework:

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

- o approve development proposals that accord with statutory plans without delay; and
- o grant permission where the plan is absent, silent or where relevant policies are out of date unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

Paragraph 17 sets out the 12 key principles that should underpin plan-making and decision-taking, which include:

- be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;

- always seek to secure high quality design and a good standard of amenity;
- take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- encourage effective use of land by reusing land that is previously developed;
- conserve heritage assets in a manner appropriate to their significance;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
- take account of and support local strategies to improve health, social and cultural wellbeing.

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

The sections of the NPPF that are relevant to this application are:

- 3 - Supporting a Prosperous Rural Economy;
- 4 - Promoting Sustainable Transport;
- 11 - Conserving and Enhancing the Natural Environment;
- 13 - Facilitating the Sustainable Use of Minerals

Technical Guidance to the National Planning Policy Framework (March 2012) includes a section on Minerals Policy.

Leicestershire Minerals Local Plan:

The Leicestershire Minerals Local Plan review was adopted in May 1995. A saving decision was issued by the Secretary of State in September 2007, the effect of which is that identified plan policies remain extant until superseded. Whilst the subsequent adoption of the Mineral Core Strategy and Development Control Policies DPD by Leicestershire County Council (see below) has resulted in a number of policies now being superseded, a 'saved' policy still relevant to this proposal is Policy 2A which sets out the matters that will be taken into account in determining planning applications; these include operational and economic needs and the likely impact on the overall environment.

Mineral Core Strategy and Development Control Policies DPD:

The Mineral Core Strategy and Development Control Policies DPD were adopted by the County Council in October 2009 and the following are considered salient to the proposals :-

Policy MCS7 indicates that the working of coal will only be permitted where the proposal is environmentally acceptable or can be made so by planning conditions or obligations, or if not can provide local or community benefits which clearly outweigh the likely environmental impacts.

Policy MCS4 deals with the extraction of fireclay associated with coal resources and regards fireclay as an important resource which should be worked where environmentally acceptable and should not be unnecessarily sterilized.

Policy MCS1 seeks to prevent sterilization of a range of minerals including shallow coal deposits.

North West Leicestershire Local Plan:

The following policies of the Local Plan are considered relevant to this application :-

Policy S1 sets out overall goals including the overall enhancement of the environment and delivery of the aims of the National Forest.

Policy S3 relates to development outside existing developed areas.

Policy F1 states that, amongst other things, development within the National Forest should reflect the importance of its context by making appropriate provision for landscaping and tree planting.

Policy F2 states that in assessing the appropriateness of the landscaping and planting schemes for individual development proposals within the Forest regard will be given to the existing character of the site and appropriate level of planting, environment constraints affecting the site and the type of development.

Policy F3 indicates that the Council will seek to secure planting proposals by use of conditions.

Policy E3 seeks to prevent development, which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings, and presumes against residential development where the amenities of future occupiers would be adversely affected by the effects of nearby uses.

Submission Core Strategy (April 2012):

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

Other Guidance:

The Habitat Regulations:

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs).

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

Circular 06/05 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

River Mease Water Quality Management Plan - August 2011:

This plan draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

The River Mease Developer Contributions Scheme - November 2012:

The Developer Contribution Scheme (DCS) is relevant to development which results in a net increase in phosphorous load being discharged to the River Mease Special Area of Conservation (SAC). It currently applies to all development which contributes additional

wastewater via the mains sewerage network to a sewage treatment works which discharges into the catchment of the River Mease SAC.

The Community Infrastructure Levy Regulations 2010:

The 2010 Regulations provide a legislative requirement that an obligation must meet the following tests:

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

6. Assessment

Principle of Development:

In principle, it is noted that the site lies within the countryside wherein Policy S3 presumes against non-essential development. However, this must be balanced against the general advice in the NPPF that minerals can only be worked where they are found. On this basis, it is considered that the proposed extension proposals would be acceptable in principle.

Environmental Issues:

The application is supported by an Environmental Statement (ES), and throughout the document reference is made to the original ES, which for clarification, is that which accompanying the original application for the surface mine (reference 2009/0720/07). The ES accompanying the current application reaches the following conclusions:

Landscape Character and Visual Assessment:

The original Landscape and Visual Impact Assessment of the ES concluded that the overall development would have the following impacts from visual receptors during extraction:

- Public Highways - Negligible
- Public Rights of Way - Negligible to Substantial Adverse
- Residential Properties - Negligible to Substantial Adverse

It also concluded that impacts on landscape character would range from Negligible to Substantial Adverse during extraction. These impacts were inclusive of mitigation measures to screen views into the site, which included bunding to the perimeters of the site. Controls were applied by the planning permission and consequently there are no unacceptable impacts.

The ES considers the visual impact of the proposed extension from five viewpoints and considers that the impact on the landscape character of the site and the surrounding area would be Negligible during operation and following restoration. Furthermore, it concludes that the visual impact of the working of the site would not be experienced beyond the five viewpoints assessed and their immediate surroundings, which would have Negligible to Moderate Adverse impacts during operation. The greatest impact bring from a viewpoint adjacent to the site boundary on Swepstone Road but this view would be localised, transient and visible only from a fast road and the view would be seen within the context of the existing bunding of the site. The ES concludes that the impact upon restoration would reduce to Negligible, and with additional hedge and tree planting along the Swepstone Road frontage there will be a long term positive effect for landscape character and visual impact, though it is acknowledged that this would take many years to become a significant benefit. Officers concur with the conclusions of the ES and it is therefore, considered that the proposed development of the site would not result in a significant additional landscape and visual impact.

Ecology:

The ES provides that extensive survey and consultation of ecology and nature conservation has

been undertaken from the early stages of the proposed development. The scoping study identified a number of issues, which were investigated in detail through additional survey and data collection. This work has allowed the compilation of a baseline that comprehensively characterises the ecological conditions within the development site and adjacent areas. This ecological assessment has identified and evaluated the elements that make up the local ecosystems and has considered how the impacts of the development may affect each of these. Where impacts have been identified mitigation measures have been proposed to reduce impacts to a level which is considered to be not significant with regards to nature conservation. These will need to be assessed by the County Council's Ecologist before a decision is reached.

In terms of Appropriate Assessment, when the previous application was considered, because of the proximity to the Gilwiskaw Brook a tributary of the River Mease, a Special Area of Conservation (SAC), a report was prepared to assist the County Council in undertaking an Appropriate Assessment under the terms of the Habitat Regulations. The County Council then undertook an Appropriate Assessment, concluding in agreement with Natural England that there would be no overall adverse impacts on the SAC as a result of the proposed development. In preparing this ES addendum consideration has been given to all ecological effects, but in particular the potential for development to have an adverse impact on the Gilwiskaw Brook. The main potential for impact on the Gilwiskaw Brook arose from the potential for draw down to have an adverse impact upon water flows within the brook, particularly during periods of low flow, or for chemical contaminants to be released into the brook. An assessment of the hydrogeological conditions, considers both the accuracy of the original modelling of the impact of the works on the brook and the actual impact based on monitoring data during the operational phase. The monitoring data demonstrates that the modelling work undertaken was accurate and that there has been no significant change in the quantity or quality of water flow in the brook resulting from site operations.

The assessment work undertaken for this application concludes, taking into account the additional knowledge gained during the operation of the Minorca site, that there will be no impact on water quality or quantity as a result of the current application. Based upon this assessment it is considered that it is highly unlikely that the current application will have any ecological impact upon the Gilwiskaw Brook. Taking into account the clear evidence provided from previous operations and monitoring on the site, the greater separation from the brook of the proposed works than the original application and the comparatively small scale of operations proposed, the ES concludes that Appropriate Assessment will not be required in this instance. As the determining Authority, the County Council will need to be satisfied that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Traffic:

The ES provides that there will be no significant change to the results of the previous traffic assessment as a result of the proposed extension. Therefore, it is concluded in the ES that the extended site, therefore, is considered suitable for the type of development proposed and there are no highway reasons why the application to develop the site should be refused. Whilst there are not expected to be any highway safety concern, this would need to be assessed by the County Highways Authority.

Geology, Hydrology and Hydrogeology:

The baseline conditions of the Minorca site were established in the original ES and the sources used are considered to be applicable to this addendum. Additional data regarding groundwater level and quality as well as surface water flow and quality have been collected since the

submission of the original ES. Where applicable, this data has been incorporated into the addendum ES.

Floodrisk and Drainage:

The original Environmental Statement concluded that the overall development would have no significant impact on flood risk and drainage to both the development site and to those areas downstream from the development (offsite). Flood risk to areas, both on and offsite, would be mitigated by implementation of flood risk management measures which were applied by the planning permission. Consequently, the ES concludes that there were no unacceptable impacts.

The new proposal is to work an additional area of land at Measham Fields Farm. The calculated storage attenuation volumes for the existing situation already took into account any surface water runoff from this additional area of land, as site topography naturally falls towards the original site boundary and, therefore, surface water currently sheds to within the original development area. The ES concludes that when taken into the context of the existing situation the increase in impact from flood risk and drainage, therefore, would be negligible and no further mitigation is likely to be required to comply with the conditions on the original permission. The County Council will need to be satisfied that the Environment Agency has no objections.

Noise:

Previously noise monitoring has been carried out to assess the existing baseline noise conditions. A total of 5 background noise surveys were undertaken on separate occasions to inform the original application submission. In each case the surveys were carried out within the period of normal operations proposed for the site.

The Technical Guidance to the NPPF requires that at sensitive receptors, in this case residential properties, the maximum acceptable operational noise level is 10dB(A) above the background level, or a noise level from site activities of 55dB(A) LAeq, whichever is the lower. Calculations have been carried out to determine the operational noise levels at each sensitive receptor during the amended scheme. The results show that the proposed extension would not exceed noise criteria.

The Environmental Protection team at the District Council has been consulted on the application by the County Council and provide the following comments:

'Further to the above planning applications for the extension of the existing Minorca site I can confirm that the Environmental Protection section at North West Leicestershire District Council acknowledge the background readings taken as part of the initial planning application are not representative of the current background. However, due to the small variation of this application it would not be expedient to require the applicant to undertake a full noise assessment and, therefore, the Environmental Protection section has no environmental observations with regard to the granting of this planning permission, based upon the details contained within the application.'

Air Quality and Dust:

As part of the preparation of the original ES, an assessment of dust generation was prepared. This concluded that taking into account the control measures that were proposed as part of the working scheme, the site could be operated without having an unacceptable adverse impact on sensitive receptors. Subsequently a Dust Management Plan was prepared and the generation of dust is required to be controlled by the conditions attached to the Minorca planning permission.

The proposals for the working of the site are the same as for the Minorca site, and indeed the

current application makes it clear that the working of the site will be integral to the existing works at Minorca. The conditions within the Measham Fields Farm area are comparable with those on the Minorca site as a whole. The ES concludes that the same dust management regime can be implemented and emissions controlled by simple and well understood dust management techniques, and this could be secured by conditions. The County Council will need to be satisfied with the conclusions reached.

Vibration:

The original vibration assessment was prepared on the basis that blasting would not be necessary, although a requirement for blasting could not be ruled out. Operation of the existing site has so far demonstrated that blasting is not necessary at the site, and this has not therefore been considered further. When the vibration assessment was undertaken previously, the only property identified as being potentially susceptible was Measham Fields Farm itself. The assessment concluded that there was unlikely to be an unacceptable adverse effect as a result of vibration. The pig breeding unit is no longer operational and Measham Fields Farm is now proposed to be removed. The working of the Measham Fields Farm site will not bring operations closer to any other sensitive properties at the existing Minorca site.

The ES concludes that the original assessment remains valid and that there will be no unacceptable adverse impact on any sensitive properties as a result of vibration. Conditions were imposed on the original permission for the Minorca surface site to ensure this remains the case and therefore, conditions could be imposed on the extended site should permission be granted. The County Council will need to be satisfied with the conclusions reached.

Land Use and Soil:

Within the application area at Measham Fields Farm there are two small paddocks which are in agricultural use. The ES details that these areas are not actively cropped but have in the past been cut for silage and grazed, and therefore, the statement considers whether the agricultural quality of this land can be protected in the long term following mineral extraction and restoration.

As was concluded within the original ES, subject to the application of good practice, the conservation and reinstatement of the soil to their original quality could be achieved. Based on the available information it is considered that the findings of the original ES remain valid, and it is concluded that the short term loss of agricultural land inevitable as a result of mineral extraction need not restrict the proposed development of the site. Officers concur with the conclusions of the ES and it is therefore, considered that the agricultural land can be protected in the long term.

Archaeology and Heritage Assets:

The original ES remains valid. Cropmarks associated with prehistoric features and Roman artefacts have been located nearby. Fieldwalking undertaken on the fields associated with the Minorca site prior to their excavation has yielded prehistoric artefacts from the Mesolithic through to the Neolithic period. The early 19th century maps of the site also show buildings on the northern part of the site, the remains of which may be located by trial trenching. Trial trenching has been undertaken but no archaeological features were discovered.

Evidence obtained during the building survey suggests that the surviving buildings may be somewhat earlier in date than initially thought. As a feature of the post-enclosure parish landscape, the historic buildings of Measham Fields Farm are of moderate significance, representing an episode in the agricultural history of Measham which is not well understood. However, as the farmstead is not complete, with other early farm buildings having been demolished in the late 20th century, the view taken in the ES is that the historic significance of

the site is compromised. It is commented that the likely use of jumb bricks in the construction of the farmhouse and in the loose-boxes, affords them some moderate architectural merit, but this is limited by the extensive alterations that have taken place since their construction. The ES concludes that there is no archaeological reason why the development of the site may not proceed. These conclusions will need to be assessed by the County Council's Archaeologist before a decision is reached.

Conclusions:

Overall, therefore, it is accepted that the principle of the proposals would be acceptable, having regard to the likely implications on the environment, and the need to work minerals where they are found. It is therefore recommended that no objections be raised, subject to the County Council being satisfied that:

1. The proposed working methodology can be achieved and being the most effective in terms of balancing the extraction with minimising the environmental impacts following consultation with their professional advisors and subject to the mitigation measures and restoration plans being considered satisfactory and the most effective that could reasonably be achieved on the site.
2. Any issues in relation to the impact of the scheme on the River Mease Special Area of Conservation (SAC) having been fully addressed and satisfactorily resolved.

RECOMMENDATION - NO OBJECTIONS, subject to the following comments:

- 1 No objections in principle provided the County Council are satisfied that the proposed working methodology can be achieved and being the most effective in terms of balancing the extraction with minimising the environmental impacts following consultation with their professional advisors and subject to the mitigation measures and restoration plans being considered satisfactory and the most effective that could reasonably be achieved on the site.
- 2 Notwithstanding the above North West Leicestershire District Council consider that the application should not be approved until such time as any issues in relation to the impact of the scheme on the River Mease Special Area of Conservation (SAC) have been fully addressed and satisfactorily resolved.