

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 6 May 2014
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic 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

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 8 April 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	14/00047/FUL	Demolition of existing dwelling and erection of 7 no. dwellings 242 Melbourne Road Ibstock Coalville Leicestershire	PERMIT	21 - 46
A2	13/00249/OUTM	Employment uses (B2/B8) of up to 1,300,000 sqft (120,773 sqm approx) with associated ancillary uses and associated infrastructure, including a new access from Beveridge Lane and off-site highway improvements, earthworks and ground modelling, together with new landscaping, including habitat creation and provision of a new community woodland park (outline - all matters other than part access reserved) Land At Little Battleflat Farm Beveridge Lane Coalville Ellistown	DEFER	47 - 72
A3	13/00335/OUTM	Development of 605 residential dwellings including a 60 unit extra care centre (C2), a new primary school (D1), a new health centre (D1), a new nursery school (D1), a new community hall (D1), new neighbourhood retail use (A1), new public open space and vehicular access from the A511 and Woodcock Way (outline - all matters other than part access reserved) Money Hill Site North Of Wood Street Ashby De La Zouch Leicestershire	PERMIT subject to a Section 106 Agreement	73 - 134

Index of Applications to be considered

Item	Application Number	Application Details and Address	Recommendation	Page
A4	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 LE67 2XA	PERMIT subject to a Section 106 Agreement	135 - 182
A5	13/00818/OUTM	Residential development of up to 135 dwellings including the demolition of 138,140 and 142 Bardon Road along with new access and highway improvements to Bardon Road and associated open space and landscaping (Outline - All matters other than part access reserved) Land Rear Of 138 Bardon Road Coalville Leicestershire	PERMIT subject to a Section 106 Agreement	183 - 220
A6	13/00991/OUTM	Residential development of up to 90 dwellings (Outline - all matters other than part access reserved) Land To The West Of 164- 222 Bardon Road Coalville Leicestershire	PERMIT subject to a Section 106 Agreement	221 - 252
A7	14/00219/FUL	Erection of three no. single storey detached dwellings and one no. two-storey dwelling and associated garaging 191 Loughborough Road Whitwick Coalville Leicestershire	PERMIT	253 - 276
A8	14/00196/FUL	Erection of two detached dwelling alone with detached garages and associated access works 30 Clements Gate Diseworth Derby DE74 2QE	PERMIT	277 - 296

Index of Applications to be considered

Item	Application Number	Application Details and Address	Recommendation	Page
A9	14/00102/FUL	<p>Change of use to community play area and beer garden, extension to existing car park, buffer zone, provision of post and rail fencing and hedging and installation of external lighting</p> <p>Halfway House 65 Church Street Donisthorpe Swadlincote</p>	PERMIT	297 - 306
A10	12/00390/VCU	<p>Variation of condition 2 of planning permission 08/00362/FUL to allow an increase in the number of caravans that can be stationed on the site at any one time to 5, of which 2 can be occupied as residential accommodation at anytime.</p> <p>46 Bardon Road Coalville Leicestershire LE67 4BH</p>	PERMIT	307 - 314
A11	14/00151/FULM	<p>Demolition of existing toilet block, provision of new entrance canopy, new paving and other external alterations including changes to the pedestrian crossing</p> <p>Coalville Market Belvoir Shopping Centre Coalville Leicestershire</p>	PERMIT	315 - 322

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 8 APRIL 2014

Present: Councillor D J Stevenson (Chairman)

Councillors R Adams, G A Allman, A Bridges (Substitute for Councillor N Smith), J Bridges, J G Coxon, D Everitt, J Houlst, D Howe, P Hyde (Substitute for Councillor J Legrys), R Johnson, G Jones, T Neilson, V Richichi (Substitute for Councillor T Gillard), M Specht, R Woodward and M B Wyatt

In Attendance: Councillors R Blunt, T J Pendleton, S Sheahan and L Spence

Officers: Mrs V Blane, Mr C Elston, Mrs H Exley, Mr D Gill, Mr D Hughes, Mr J Knightley, Mr J Mattley, Mr A Mellor, Mrs R Wallace and Ms S Worrall

60. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors T Gillard, J Legrys and N Smith.

61. DECLARATION OF INTERESTS

The Legal Advisor reminded Members that if they had received the leaflet which had been circulated prior to the start of the meeting from the Appleby Environment Community Group, they would need to declare that they had been lobbied even if they had not read it in its entirety.

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

Councillor A Bridges declared a non pecuniary interest in item A2, application number 13/00799/FULM, item A3, application number 13/00697/OUTM and item A4, application number 13/00797/FULM as a governor of Sir John Moore Primary School. She also declared that her children attended the school.

Councillors R Adams, J G Coxon, D Everitt, G Jones, R Johnson, T Neilson, M Specht and M Wyatt declared that they had been lobbied without influence in respect of item A2, application number 13/00799/FULM, item A3, application number 13/00697/OUTM, item A4, application number 13/00797/FULM and item A5, application number 14/00051/FULM.

Councillors D Howe and R Woodward declared that they had been lobbied without influence in respect of item A2, application number 13/00799/FULM, item A3, application number 13/00697/OUTM and item A4, application number 13/00797/FULM.

Councillor J Bridges declared a non pecuniary interest in item A5, application number 14/00051/FULM as he was an acquaintance of the land owners.

Councillor D J Stevenson declared that he had been contacted by email by a member of the public enquiring into the start time of the meeting and he had responded with that information only.

62. MINUTES

Consideration was given to the minutes of the meeting held on 11 March 2014.

It was moved by Councillor J G Coxon, seconded by Councillor R Adams and

RESOLVED THAT:

The minutes of the meeting held on 11 March 2014 be approved and signed as a correct record.

63. 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.

In light of unaddressed concerns by the applicant regarding issues of overlooking, the Chairman moved that item A9, application number 14/00047/FUL be deferred to allow further discussions with the developer. It was seconded by Councillor R Woodward.

RESOLVED THAT:

Application number 14/00047/FUL be deferred to allow further discussions with the developer.

64. A1 - 13/00969/FUL

Demolition of existing buildings and erection of 7 new affordable dwellings, including access and parking arrangements and parking for No. 6 Queens Street

Land At 6 Queens Street, Measham, Swadlincote, Derbys

The Senior Planning Officer presented the report to Members.

Councillor S Sheahan, Ward Member, addressed the Committee and listed the following concerns:

- The inadequate proposed access to the site as raised by the Parish Council.
- The boundary dispute at the northern part of the site.
- The development would block the light of neighbouring properties, especially the fences of Plots one and two.
- Possible flooding issues, in particular with the proposed soakaways.
- The many different land levels of the development.
- The recommended separation between the boundary of the development and the hedgerows had been ignored.
- There was evidence that bats were on the site.

He added that he was unsure if the plans supplied were the most recent due to the dates printed on them and he felt that none of the issues had been addressed by the developer. He concluded by asking Members to consider deferring the application.

Ms P Wheatcroft, objector, addressed the Committee. She felt that the development did not fit within the proposed site and there were multiple boundary issues. In particular, the protection strip recommended by the ecologists had been ignored which would lead to damage to the hedgerows, therefore she felt that the advice of the officers was flawed.

She believed that plot three needed to be moved a further three metres from the boundary as it would lead to overshadowing, a loss of privacy and a loss of light. Ms P Wheatcroft concluded that she had been living in her property for 20 years and the damaging effects of the proposed development would be for the rest of her life. She urged Members to refuse the application.

Councillor T Neilson stated that he still believed that the access was a major issue and it had not been addressed by the developer within the application. He also felt that the concerns regarding overlooking, boundary disputes and soakaways needed to be

addressed, and therefore moved that the application be deferred. It was seconded by Councillor R Adams.

RESOLVED THAT:

The application be deferred to allow further discussions with the applicant to address issues regarding the access to the site, overlooking, boundaries, impact on boundary hedge and soakaways.

Before moving onto the next application, the Head of Regeneration and Planning stated the following:

'Members are aware that they will be considering three major housing applications in Appleby Magna and as such it is useful to provide a brief overview on the issues of sustainability and scale of development considered appropriate for the village before looking at the merits of each individual application.

Firstly, in terms of the sustainability credentials of Appleby Magna, the village has a good range of day to day facilities, including a primary school, shop and post office, church, church hall, two public houses, GP surgery, play area and recreation ground and some small-scale employment sites. However, Members are advised 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) and it is understood that the surgery will close in May 2014.

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 a total of 11 buses running per day.

Therefore, it is considered that Appleby Magna is a sustainable settlement that is capable of accommodating some new housing growth.

In terms of the scale of new development that might be considered appropriate for Appleby Magna, Members are advised that no formal policy decision has been made as to the amount of development in percentage terms that might be appropriate in individual villages. However, what Officers have sought to do when looking at these applications is to look at the scale of growth in comparison with what was anticipated for the District in the now withdrawn Core Strategy so as to provide members of the Planning Committee with some local context.

In terms of likely future needs the GL Hearn Leicester and Leicestershire Housing Requirements Study which was used to inform the housing requirement in the now withdrawn Core Strategy includes information regarding future natural change across the District. This Study projected a 23.4% increase in housing was required across the District from 2006-2031, which was reflected in the now withdrawn Core Strategy.

It is estimated that there are 433 properties in the village of Appleby Magna within its main built up area and 485 properties in the Parish of Appleby Magna. When considered cumulatively, the four major housing proposals for the village currently under consideration, with the other Top Street (Bloor) application likely to be reported to Committee in May, would result in a maximum of 153 dwellings. This would equate to a 35.33% increase in new dwellings within the village and a 31.55% increase across the whole Parish, which would represent a higher level of growth for the village and Parish than proposed across the District in the GL Hearn Study.

When taking into account new dwellings built since 2006 and existing commitments this growth increases to 41.57 % and 37.11% respectively. This level of cumulative development is considered to be inappropriate for Appleby Magna given its relatively poor public transport connectivity, its level of services/facilities and the village's rural location. However, cumulatively the 68 additional dwellings recommended for approval on this Planning Committee agenda (from the Measham Road and Top Street sites) would equate to a 15.7% increase within the village which is less than the level of growth previously forecast for the District. Alongside existing commitments and new housing, this would represent a 22% increase in total, which although only just below the predicted District wide level of growth up until 2031, does take into account development and commitments since 2006.

This level of growth, ie 22%, is considered to be appropriate for Appleby Magna given the sustainability credentials of the village and the need to contribute to the Councils requirement to provide a five year housing land supply. It should also be noted that the level of housing proposed across these two sites recommended for approval would be built over a number of years and works would not start immediately.

Therefore, while it can be concluded that, on balance, the level of growth for Appleby Magna as indicated, is appropriate, each application has also been considered on its own merits and these have been assessed in the detailed reports on the Agenda taking into account all other material planning considerations, and these will now be presented briefly in turn.'

The Planning and Development Team Manager read out the following letter from Andrew Bridgen MP regarding item A2, application number 13/00799/FULM, item A3, application number 13/00697/OUTM and item A3, application number 13/00797/FULM:

'I have received a number of objections to the various planning applications from residents of the village which raise questions about the sustainability of the schemes. I would ask that your Committee consider all of these local objections to the applications and whether this scale of house building is appropriate in the village.'

65. A2 - 13/00799/FULM

Residential development of 25 dwellings including affordable housing, formation of sustainable urban drainage system and public open space and demolition and replacement of boundary treatment at corner of Bowleys Lane and Church Street

Land (Dormers Green) Off Bowleys Lane, Appleby Magna, Derby

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

Mr C Nicholls, objector, addressed the Committee. He commented that he was pleased that the officer's recommendation was for refusal and there was high support for refusal within the village. He explained that it was a cherished site which was highly valued in the community and he believed it should remain an asset to the village. He asked Members to bear in mind the cumulative impact of the development on the area as referred to within the report. He concluded that if this application was not deemed sustainable, then it was difficult to understand how the other applications on the agenda were.

Mr J Ottewell, agent, addressed the Committee and asked Members to reconsider the recommendation for refusal. He referred to a recent application in Castle Donington which was permitted when the developer was congratulated on the approach taken and informed Members that the same approach had been taken for this development. He understood that local people wanted to protect certain areas of the site and this has been addressed in the application. He commented that the application met all of the

sustainability criteria and there had been no objections from the County Council Highway Authority or Severn Trent. He concluded that the affordable housing would take pride of place within the development and a village green would be provided.

The officer's recommendation was moved by Councillor M Specht and seconded by Councillor G Jones.

RESOLVED THAT:

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

66. A3 - 13/00697/OUTM

Residential development for up to 29 dwellings (Outline - access included)

Land Off Top Street, Appleby Magna, Swadlincote, Derby

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

Mr D Saunders, objector, addressed the Committee. He commenced by stating that Councillor R Blunt supported the objections as the National Planning Policy Framework criteria had not been met, plus under the Village Design Statement, there were eleven planning guidelines that conflicted with the application. He commented that it was a rural area with a lot of character with mainly agricultural land and he believed that all of the applications in the area should be considered together not separately due to the cumulative impact. He stated that parking already had an impact on Top Street especially during school drop off and collection times. He also confirmed to Members that the medical centre in the village was closing in May and the bus service was being reduced to only three trips per day; add to this the already full to capacity school and sustainability could be questioned. He concluded with his concerns that another development was also proposed in close proximity to this site.

The Head of Regeneration and Planning informed Members that there was another application expected for Top Street but this was still at an early stage and no officer recommendation had been decided yet.

Ms J Hodson, agent, addressed the Committee. She urged Members to follow the officer's recommendation as the 29 dwellings would fit snugly into the built form of the area and would not harm the character of the village. She stated that the developers were happy to accept the Section 106 contribution requests and work was being undertaken to address the flooding and Environment Agency concerns. She concluded that the scheme was sustainable in accordance with the National Planning Policy Framework and asked Members to permit.

The officer's recommendation was moved by Councillor M Specht and seconded by Councillor J Hault.

Councillor T Neilson questioned why officers had gone against the County Highway Authority's recommendation regarding sustainability as the Doctors Surgery was due to close and the bus service was being reduced. He commented that he could not support the application.

The Head of Regeneration and Planning explained that officers would normally follow County Highway Authority recommendations but that was generally on highway safety, on this occasion the concerns were on sustainability and officers were satisfied that the village was a sustainable location for the level of development proposed.

Councillor G Jones commented that he was in favour of the development but he was disappointed that there were no opportunities for self build units as he felt this was a perfect location.

Councillor A Bridges strongly disagreed with the amount of Section 106 contributions being requested. She stated that Sir John Moore Primary School was already full to capacity; therefore she was appalled by the recommendation for no contributions. She would have liked to have seen more contributions that were to be spent within the village.

Councillor J Bridges stated that he did support the application but he agreed with Councillor T Neilson on his views regarding the County Council Highways recommendation on sustainability. He also agreed that any contributions should be spent within the village.

Councillor P Hyde asked why the report referred to contributions for the academy schools in the area when they were not funded by the Local Education Authority. The Head of Regeneration and Planning responded that the Local Education Authority still collected contributions for the academies; therefore they had to be included.

Councillor R Johnson commented that he originally thought that this was an appropriate site but he now believed that the sustainability of it was an issue. He felt that the poor bus service would contribute to more traffic on the highways and even though there was a local shop, it only opened until lunch time. Therefore he did not believe it was sustainable and could not support the application.

Councillor J Hoult commented that if there were more houses the local shop may increase the opening hours. He believed the area would not be sustainable unless more houses were built.

Councillor M Specht commented that when he first read the report he had major concerns due to Policy E1 but the visit to the site made a big difference and made him question why it was classed as a sensitive area. He stated that sustainability was more than the transport links and included public houses, shops and medical units. He added that as orders could now be made on the internet and delivered to an address he believed the development was sustainable.

The Chairman commented that the application was a difficult decision but it was important for the Committee to influence applications such as this. If the decisions were not made by Committee then they would be made elsewhere and not necessarily in the best interest for the District.

RESOLVED THAT:

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

67. A4 - 13/00797/FULM

Erection of 39 residential units including affordable housing and provision of sustainable urban drainage and on site public open space

(Church View) Land Adjoining 33 Measham Road, Appleby Magna

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

Mr F Steward, objector, addressed the Committee. He stated that many people visited the rural area and if it was to be lost, it would be the District that would also lose out. He stated that evidence was needed to overturn an officer's recommendation and therefore raised the following:

- The site is Greenfield and objections had been received from English Heritage and local residents.
- The District has a high level of transport related emissions and this development would contribute to an increase.
- A sustainability appraisal was undertaken in 2013 which stated that only small scale growth would make the area sustainable; this would be 5.7 per cent. Prior to this meeting development was already much higher than that and with the addition of the previous application, that figure had been doubled.

Mr J Ottewell, agent, addressed the Committee. He stated that he had worked closely with officers on the design of the scheme and they agreed that the site was sustainable. He believed that the development would assist in maintaining local vitality and provided much needed affordable housing to the area. He commented that there were no objections from the County Council Highway Authority or Severn Trent and referred Members to the report which stated that refusal on the grounds of sustainability would not be justified.

The officer's recommendation was moved by Councillor J G Coxon and seconded by Councillor D Everitt. Both Councillors believed it was a good site for development with a good design. Councillor D Everitt was pleased with the level of affordable housing.

Councillor G Jones spoke in support of the application but once again expressed disappointment that there were no self build units.

Councillor A Bridges expressed concerns regarding the capacity of the local school and the additional number of children the development would bring. She stressed the need to extend the school and the importance of the Section 106 contributions.

Councillor T Neilson did not agree with the view that more people in the village would make it more sustainable and keep services running. He believed that the site was better than the previous application but that had already been approved. He also believed that it was not sustainable due to the oversubscribed local school, the closure of the medical surgery and the reduction in bus service.

Councillor M Specht stated that all children eventually moved through a school and if there were no more children then the school would be under threat so it was important to have more children in the area. He also added that with regards to local shops 'every penny counts' and he was sure they would appreciate the extra business the development would bring.

Councillor R Johnson felt that the development would complement the village and would be supporting the application.

RESOLVED THAT:

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

68. A5 - 14/00051/FULM

Residential development for 27 dwellings including demolition/ conversion of former school (amended scheme)

Land Off Church Lane, Ravenstone, Coalville, Leicestershire

The Senior Planning Officer presented the report to Members.

Ms S Lunn, Parish Councillor, addressed the Committee. She stated that she had attended the recent Local Plan Advisory Group and during the meeting Councillor J Bridges stressed the importance of affordable housing. This application had no affordable housing and would be setting a precedent for future developments. She reminded Members that Planning Policy stated that if no affordable housing was proposed in an application, the developer should make it clear the reason for this. There were no reasons given within the report. Ms S Lunn questioned whether it was acceptable that there was no provision for affordable housing and urged Members to refuse the application.

Captain R White (retired), objector, addressed the Committee. He urged Members to refuse the application due to the avenue of trees which formed the memorial for those fallen in the First World War. He understood that some of the trees were no longer healthy but as they were protected due to the conservation area, they should simply be replaced and not destroyed entirely. The footpath was known as memorial walk and would be greatly missed. He believed that the development was too dense for a conservation area centre and would destroy the heritage of the area. He added that a development had already been approved for the area and further development was not needed.

Dr M Eason, supporter, addressed the Committee. He stated that there would be a number of benefits from the development including improving an overgrown and unsightly area, the school was a derelict eyesore and it would greatly improve the street scene. He reported that he could find no evidence that the footpath was named memorial walk and residents that had lived in the area for many years had no recollection of this name. He explained that tests undertaken on the fallen trees in the area indicated that they were approximately 50 years old and therefore could not be trees planted in memorial as they were not old enough. He concluded that he felt dying trees were not an appropriate memorial.

Ms J Hodson, agent, addressed the Committee. She commenced by stating that the application had been previously refused due to the lack of Section 106 contributions not concerns over the trees. She explained that the revised application addressed all the Section 106 contributions apart from affordable housing. She concluded that a memorial stone had been offered to the Parish Council but no response had been received. She confirmed that the offer for the memorial stone still stood.

Councillor M Specht reported that due to the concerns of the trees that were raised when the application was previously considered, he had undertaken some research on the species of tree on the site. He stated that it seemed impossible for the trees in question to have been planted over 100 years ago as the life span of the tree was only 50 to 60 years, this was why the trees were now unhealthy and dying.

The officer's recommendation was moved by Councillor M Specht and seconded by Councillor A Bridges.

Councillor R Woodward commented that due to the lack of affordable housing he could not support the application.

Councillor T Neilson commented that he had previously opposed the proposed development on the site due to the lack of affordable housing and he believed that he should do the same for this application. At this point he requested a recorded vote.

Councillor R Johnson reminded Members that there was Planning Policy regarding levels of affordable housing and if this application was approved it would set a precedent. He added that it was important to encourage people onto the property ladder and this application was not doing that. He stressed the importance of adhering to policy.

Councillor G Jones commented that he did not believe it was an appropriate area for low cost housing and he supported the application.

The Chairman asked for clarification on the reasons for refusal when the application was considered by Committee previously. The Principal Planning Officer confirmed that it was refused on all elements of the Section 106 contributions not just affordable housing.

The Chairman reminded Members that if the application was to be refused, the Committee would need to consider the reasons for refusal. Councillor R Johnson suggested that if the application was to be refused, the Committee adjourn to consider appropriate reasons for refusal.

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

For the motion:

Councillors G A Allman, A Bridges, J Bridges, J G Coxon, J Hault, D Howe, G Jones, V Richichi, M Specht, D J Stevenson and M B Wyatt (11).

Against the motion:

Councillors R Adams, D Everitt, P Hyde, R Johnson, T Neilson and R Woodward (6).

Abstentions:

(0).

The motion was declared CARRIED.

RESOLVED THAT:

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

69. A6 - 14/00192/FUL

Formation of a vehicular access and provision of hard surface to front of a property for off-street car parking

5 Measham Road, Appleby Magna, Swadlincote, Derby

The Principal Planning Officer presented the report to Members.

The officer's recommendation was moved by Councillor G Jones and seconded by Councillor R Woodward.

RESOLVED THAT:

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

70. A7 - 14/00115/FUL

Conversion of garage into habitable room

164 Thornborough Road, Coalville, Leicestershire, LE67 3TJ

The Principal Planning Officer presented the report to Members.

The officer's recommendation was moved by Councillor G Jones and seconded by Councillor R Woodward.

RESOLVED THAT:

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

71. A8 - 14/00033/FUL

Two storey side extension and rear garage

213 Leicester Road, Ibstock, Coalville, Leicestershire

The Principal Planning Officer presented the report to Members.

The officer's recommendation was moved by Councillor G Jones and seconded by Councillor R Woodward.

RESOLVED THAT:

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

72. A9 - 14/00047/FUL

Demolition of existing dwelling and erection of 7 no. Dwellings

242 Melbourne Road, Ibstock, Coalville, Leicestershire

As the application was deferred earlier in the meeting it was not considered.

73. PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT FORMER PICKERING'S NURSERIES, BOSWORTH ROAD, MEASHAM

The Principal Planning Officer presented the report to Members.

The officer's recommendation was moved by Councillor T Neilson and seconded by Councillor G Jones.

Councillor T Neilson stated that he was not happy with the decision but he understood that it had to be done. He was disappointed that a registered provider could not be secured. He requested that an audit trail be provided to ensure that the money was being put to good use; he would prefer the money to be spent in Measham, although he understood that may not be possible. The seconder agreed to the additional proposal.

Councillor D Everitt expressed concerns that the District was not getting the much needed affordable housing.

Councillor R Woodward commented that he could not support the proposal.

Councillor J Bridges referred to comments he had made at previous meetings regarding the concerns of developers gaining permissions and then pulling out of Section 106 contributions. He added that caution needed to be taken regarding the robustness of an audit trail but he did however support the proposal.

The Head of Regeneration and Planning explained that he would be open with regards to where the money would be spent but as there were no current schemes in Measham, the funds would sit dormant for up to three years.

RESOLVED THAT:

- (a) The substitution of the existing affordable housing obligations by the payment of a commuted sum be agreed with the precise wording to be delegated to the Head of Legal and Support Services and limited to a period of three years.

- (b) An audit trail be provided as to where the money is to be spent to ensure clarity.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 6.35 pm

This page is intentionally left blank

APPENDIX B

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

6 May 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.

This page is intentionally left blank

Demolition of existing dwelling and erection of 7 no. dwellings

Report Item No
A1

242 Melbourne Road Ibstock Coalville Leicestershire

Application Reference
14/00047/FUL

Applicant:
Mr Louis Masserella

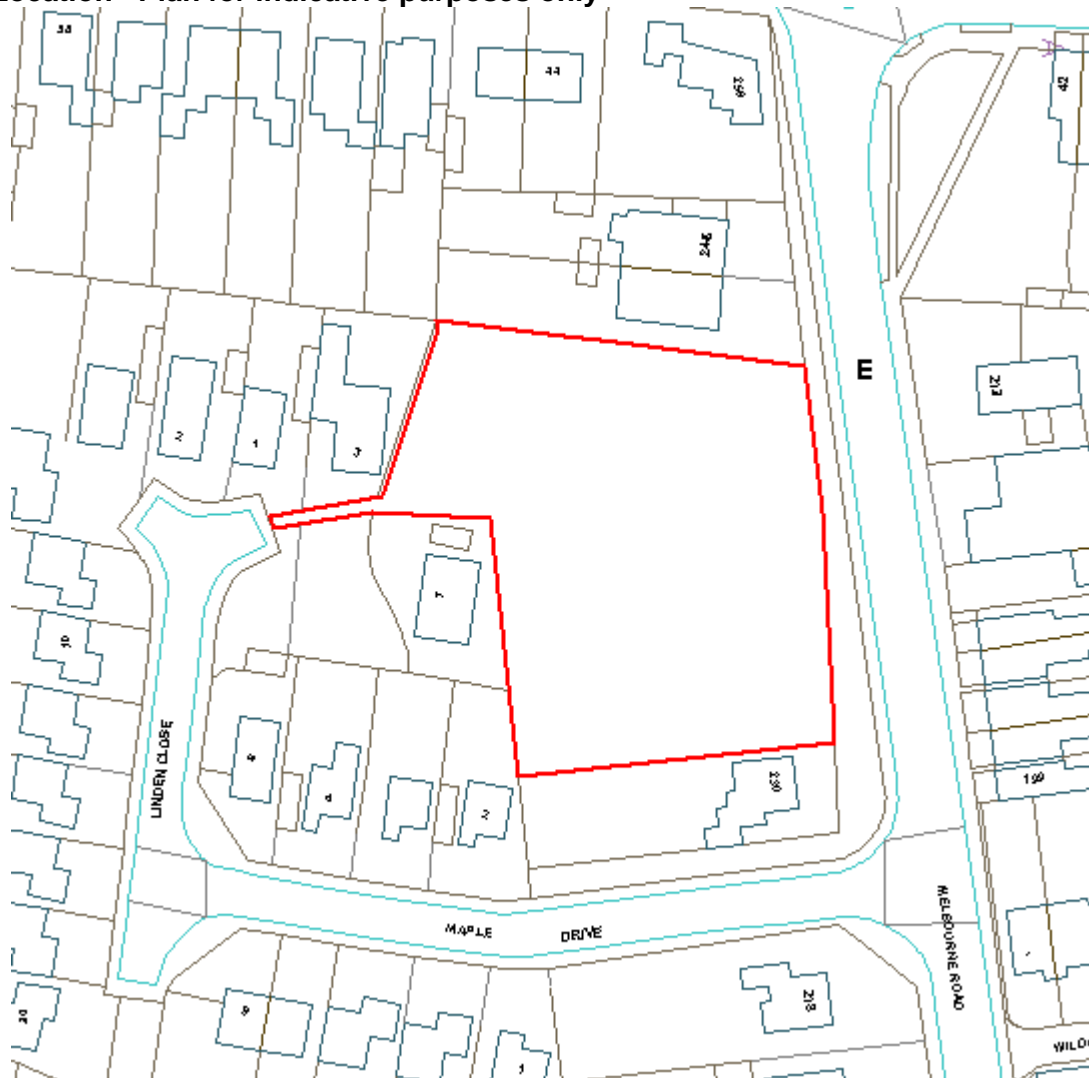
Date Registered
15 January 2014

Case Officer:
Adam Mellor

Target Decision Date
12 March 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application has been brought to the Planning Committee at the request of Councillor De Lacy due to the application being a matter of local concern.

Proposal

Planning permission is sought for the demolition of the existing dwelling and erection of seven dwellings at 242 Melbourne Road, Ibstock. It is proposed that No. 242 Melbourne Road, and its associated coach house, would be demolished with five two-storey detached properties being constructed fronting onto Melbourne Road and two single storey semi-detached properties being provided off Linden Close. A new vehicular access would be formed onto Melbourne Road to serve four of the dwellings with a shared parking court being provided to the rear of the properties. A detached triple garage and a single detached garage would be constructed within the parking court.

Consultations

As a result of the consultation process six letters of representation from third parties objecting to the application have been received along with an objection from Ibstock Parish Council. One representation supporting the design approach to the scheme has also been received. All other statutory consultees have no objections subject to appropriate conditions being imposed on any consent granted.

Planning Policy

It is considered that the development would accord with all relevant policies of the North West Leicestershire Local Plan, the general principles of the National Planning Policy Framework (NPPF) as well as Circular 06/05 and relevant supplementary planning guidance.

Conclusion

The site is situated within the defined limits to development where the principle of this form of development is acceptable and the proposal is also considered to be within a sustainable location which would ensure compliance with Paragraphs 14, 49 and 53 of the NPPF. Part of the development would be on greenfield land but this would not cause significant conflict with the aims of Paragraph 53 of the NPPF given the sustainable nature of the site, the fact that the land is not protected open space and the fact that the development of the site would not have an adverse impact on the character of the area. Justification for the removal of No. 242 Melbourne Road has been submitted in support of the application and although it is regrettable that this dwelling is lost the development would not cause significant conflict with Paragraph 135 of the NPPF given the unknown history of the property as well as the consideration that could be given to any permitted development application submitted simply for the demolition of the property. The density of the development is considered to be acceptable by virtue of the number of dwellings proposed and the need to ensure good design which would ensure compliance with Policy H6 of the Local Plan.

In the circumstances that the District Valuer has concluded that the scheme would not be viable with either an on-site affordable housing contribution or an off-site financial contribution it is considered that in order to comply with the principles of Paragraph 173 of the NPPF no contribution should be sought in this particular instance.

It is considered that the relationship between individual plots would be acceptable and the position of the dwellings in relation to neighbouring properties would also ensure that they would not have any significant overbearing, overshadowing or overlooking impacts. The revisions

made to the rear parking court and provision of suitable mitigation measures would also result in any noise generated by the movement of vehicles not impacting adversely on the amenities of neighbours. This would ensure compliance with Paragraph 123 of the NPPF and Policy E3 of the Local Plan.

The individual designs of the properties have drawn on the positive characteristics displayed by properties within the vicinity of the site and the layout also conforms to the place-making principles of the Local Authority as well as drawing on inspiration from the National Forest and as such the development would accord with Paragraphs 57, 60, 61 and 64 of the NPPF and Policies E4, F1 and H7 of the Local Plan.

With regards to highway safety it is considered that the provision of a shared access to serve four dwellings would be acceptable and would not cause significant highway safety concerns taking into account the previous conclusions made on application reference 13/00024/FUL which approved three dwellings with individual accesses being formed onto Melbourne Road. Sufficient off-street parking, along with visitor parking, would also be accommodated to the rear of the dwellings which would reduce the potential for on-street parking becoming an issue within the vicinity of the site. As such the development would not conflict with the principles of Paragraph 32 of the NPPF and Policies T3 and T8 of the Local Plan.

The County Council Ecologist has raised no objections to the scheme and as such it would accord with Paragraph 118 of the NPPF and Circular 06/05. Conditions would also be imposed to secure suitable landscaping features for the site, given its setting within the National Forest, which would allow compliance with Policies E2, E7, F1, F2 and F3 of the Local Plan. It is considered that the development would not result in land instability issues to the surrounding area which would accord with Paragraphs 120 and 121 of the NPPF and relevant conditions would be imposed on any consent to ensure that surface water run-off would not exacerbate any localised flooding issue in accordance with Paragraph 103 of the NPPF.

Overall the development would accord with the planning policies identified above.

RECOMMENDATION - PERMIT SUBJECT TO RELEVANT CONDITIONS.

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

MAIN REPORT

1. Background

Members may recall that the application was deferred at the April Planning Committee Meeting in order to try and ascertain whether all of the dwellings could be served off a newly formed access road off Melbourne Road, rather than Plots 6 and 7 being served off Linden Close, as well as to review the relationship between Plot 1 and No. 230 Melbourne Road.

The planning case officer and the Planning and Development Team Manager met the applicant and agent for the application on site on Wednesday 16th April 2014 to outline the concerns of the Planning Committee as well as to ascertain a position moving forward.

It was agreed that all of the properties would be served off the access road off Melbourne Road, however, a pedestrian access would still be maintained into the site from Linden Close to allow occupants of Plots 6 and 7 to place their bins on Linden Close for collection given the distance of these Plots from the Melbourne Road access. This is considered necessary due to the fact that the Council's Refuse Collection vehicles would not utilise the internal access road of the development given that it would be a private drive. In order to prevent vehicular movements onto Linden Close it is proposed that a bollard be provided.

With regards to the relationship of Plot 1 with No. 230 Melbourne Road the applicant has outlined that it would be difficult to revise this relationship due to the nature of the development and the fact that the removal of a Plot would impact on the viability of the scheme as a whole.

Amended plans have been received to reflect the changes made to the internal access road and the County Highways Authority, the Parish Council and neighbours have been reconsulted on the proposals.

The 'Residential Amenity' and 'Highway Safety' sections of the report have been revised on the basis of the changes in the information and as such there is no change to the recommendation.

2. Proposals

Planning permission is sought for the demolition of the existing dwelling and erection of seven dwellings at 242 Melbourne Road, Ibstock. No. 242 is a two-storey detached dwelling, situated on the western side of the street, where it is set back 7.0 metres from the pedestrian footway. An existing vehicular access to the site provides off-street car parking and access to a detached outbuilding to the rear of the property. The site 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 properties varying in their type and design.

Following the demolition of No. 242 Melbourne Road, and associated coach house, it is proposed that five dwellings would be constructed fronting onto Melbourne Road with two dwellings being served off Linden Close. The dwellings fronting onto Melbourne Road would comprise three different house types which would be as follows: -

Plots 1 and 3

Two-storey detached dwellings with overall lengths of 11.4 metres by 6.7 metres in width and use of pitched hipped roofs with eaves heights of 5.2 metres and overall heights of 8.2 metres. It is indicated on the floor plans that a kitchen/dining area, utility, lounge and water closet would be proposed at ground floor level and four bedrooms, a bathroom and en-suite at first floor level for the occupants

Plots 2 and 4

Two-storey detached dwellings with overall lengths of 11.4 metres by 6.7 metres in width and use of a pitched gable ended roofs with eaves heights of 5.2 metres and overall heights of 8.7 metres. It is indicated on the floor plans that a kitchen/dining area, utility, lounge and water closet would be proposed at ground floor level and four bedrooms, a bathroom and en-suite at first floor level for the occupants.

Plot 5

A two-storey detached dwelling with an overall length of 11.4 metres by 7.3 metres in width and use of a pitched hipped roof with an eaves height of 5.2 metres and overall height of 8.5 metres. An integral garage would be attached to the northern (side) elevation of this plot which would project 3.5 metres by a length of 6.1 metres and use of a hipped pitched roof with an eaves height of 2.6 metres and overall height of 5.2 metres. It is indicated on the floor plans that a kitchen/dining area, utility, lounge and water closet would be provided at ground floor level and four bedrooms, a bathroom and an en-suite at first floor level for the occupants.

Plot 5 would utilise the existing vehicular access to No. 242 with off-street parking being provided within the integral garage and to the side of the property. Plots 1, 2, 3 and 4 would be served by a newly created access off Melbourne Road with an access road being provided between Plots 3 and 4 to a rear parking court. Plot 4 would be served by a single garage which would have dimensions of 6.0 metres in length by 3.2 metres in width and use of a pitched gable ended roof with an eaves height of 2.5 metres and overall height of 3.7 metres with two additional off-street parking spaces being provided. Plots 1, 2 and 3 would be served by a detached triple garage which would have dimensions of 6.0 metres in length by 9.2 metres in width and use of a pitched hipped roof with an eaves height of 2.6 metres and overall height of 4.6 metres with two additional tandem parking spaces being provided in front of the relevant garage doors.

The dwellings served off Linden Close (**Plots 6 and 7**) would be a pair of single storey semi-detached properties which would have individual dimensions of 10.0 metres in length by 7.8 metres in width and use of pitched gable ended roofs with eaves heights of 2.7 metres and overall heights of 6.2 metres. It is indicated on the floor plans that an open plan living room, family room and kitchen along with two bedrooms and a bathroom would be provided for the occupants. These dwellings would be served by a vehicular access created between Nos. 3 and 7 Linden Close, with part of the access being in existence, with two off-street parking spaces being provided to the side of each of the properties.

Following changes to the internal access road none of the dwellings would have a vehicular access off Linden Close with a bollard being provided to prevent these types of movement.

A design and access statement, building inspection statement and viability report have been submitted in support of the application.

The planning history of the site: -

- 75/1632/P - Outline application for residential development - Withdrawn 17th May 1976;
- 76/0046/P - Outline application for residential development - Withdrawn 17th May 1976;
- 76/0403/P - Residential development (erection of 20 dwellings) - Approved 28th April 1976;
- 13/00024/FUL - Erection of four detached dwellings - Approved 11th March 2013.

2. Publicity

26 no. neighbours have been notified (Date of last notification 25 March 2014)

Site Notice displayed 29 January 2014

3. Consultations

Ibstock Parish Council consulted 22 January 2014

County Highway Authority consulted 24 January 2014

Severn Trent Water Limited consulted 24 January 2014

Head of Environmental Protection consulted 24 January 2014

LCC ecology consulted 24 January 2014

Manager Of Housing North West Leicestershire District Council consulted 24 January 2014

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.

Ibstock Parish Council objects to the application for the following reasons: -

- Overdevelopment of the site;
- Capacity of local schools to accommodate addition children;
- Additional volume of traffic causing highway issues along Melbourne Road;
- Safety of children walking to school due to another junction being formed onto Melbourne Road;
- Insufficient off-street parking for any future occupants as well as visitors;
- The infrastructure of Ibstock being unable to cope with the additional housing and the fact that small developments such as this one add to the education and recreation demands but do not contribute to the relevant services.

Leicestershire County Council - Ecology has no objections or comments to make on the application.

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

NWLDC - Environmental Protection has no objections.

NWLDC - Environmental Protection (Contaminated Land) has no objections subject to the inclusion of conditions on any consent due to the presence of unknown filled ground within the vicinity of the site. Following reconsultation the contaminated land officer is of the opinion that any permission granted should still be conditioned until such time as information *"to deal with the soils in the vicinity of WS3 and WS6 is required as outlined in paragraphs 21.17 and 21.18. Details such as the volumes of soil to be removed and stockpiled separately, how removal of the contamination will be verified. Details of testing to show it is suitable for reuse and the proposed use of the soil, if the soil is found to be unsuitable for reuse how it will be disposed of."*

NWLDC - Housing Manager has outlined that in the circumstances that a viability assessment has been submitted the position would be that if the District Valuer (DV) agrees with the calculation the District Council would accept the position and there would be no on-site or off-site provision. However, if the DV finds that the site is viable with an element of affordable housing payment, as an off-site commuted sum, this should be obtained via a legal agreement and used to contribute to affordable housing elsewhere in the District where a need is identified.

Severn Trent Water Limited has no objections subject to the inclusion of drainage conditions on any consent.

Third Party Representations

Ten no. representations have been received to the development from the occupants of 202, 205, 207 and 230 Melbourne Road, Nos. 3, 6 and 7 Linden Close, No. 36 Penistone Street, No. 23 Usbourne Way and 109 High Street as well as a petition with 42 signatories from the residents of Maple Drive and Linden Close which object to the application on the following grounds: -

- Loss of 242 Melbourne Road which is a period house full of character that could be reused;
- Building survey has not been carried out by a independent qualified surveyor;
- Loss of 242 Melbourne Road and associated Coach House will make Ibstock full of new builds with no history left in village;
- Application does not accommodate adequate off-street parking arrangements;
- There will be yet another access/outlet road onto Melbourne Road, within close proximity to the junctions of Maple Drive and Wildgoose Close as well as the double islands on the A447;

Two no. representations have been received from the occupant of No. 244 Melbourne Road who supports the principle of the scheme for the following reason: -

- Neutral on demolition;
- Considers that the development has been well designed, planned and thought out and in keeping with surrounding buildings;

Concerns have, however, been raised over the following issue: -

- The proximity of the driveway to Plot 5 with No. 244 would cause problems for vehicles coming in and out of both driveways at the same time, crossing over each others paths and obscuring vision to pedestrians and on coming traffic.

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.

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 indicates, amongst other things, that planning should proactively drive and support sustainable economic development to deliver the 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 for all existing and future occupants of land and buildings;

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:

- 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;

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 53 outlines local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area;

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 64 outlines that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions;

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

Paragraph 120 outlines that to prevent unacceptable risks from pollution and land instability,

planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account;

Paragraph 121 outlines that planning policies and decisions should also ensure that, amongst other things:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;

Paragraph 123 outlines that planning policies and decisions should aim to avoid noise from giving rise too significant adverse impacts on health and quality of life as a result of new development;

Paragraph 135 indicates that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset;

Paragraph 173 states that 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 the 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 normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable;

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;

Policy H8 sets out the criteria for the provision of an element of affordable housing as part of any development proposal;

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

6C's Design Guide (Highways, Transportation and Development) - Leicestershire County Council

Paragraphs 3.171-3.176 set out the County Council's guidance in relation to parking standards for residential development. This document also provides further info in relation to motor cycle/cycle parking, the design of on/off-street parking and other highway safety/design matters;

Affordable Housing Supplementary Planning Document

The Council adopted a revised Affordable Housing Supplementary Planning Document (SPD) on 18th January 2011 and this indicates that the amount of affordable housing sought on all sites of 5 or more dwellings in areas such as Ibstock will be 20%;

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.

National Planning Practice Guidance

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

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. It is also acknowledged that the principle of residential development on the site has been established by the approval of the previous application (13/00024/FUL) for four dwellings.

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted, which reflects the urban concentration and sustainability objectives underpinning national policies. These are outlined as criteria (a) to (f) and the application site would fall within criterion (e) other appropriate land within a Rural Centre. The second section of the policy goes on to outline a set of criteria relating to the sustainability of the location.

However, policy H4/1 represents 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 which states 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. As the Council cannot at the current time demonstrate a five year supply of deliverable housing sites it could not rely on Policy H4/1 as a reason for refusal. Regardless of this issue the sustainability credentials of the scheme would still need to be assessed against the NPPF.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The settlement of Ibstock benefits from a range of local services and is readily accessible via public transport. The proposal for the erection of seven new residential dwellings is, therefore, considered to score well against the sustainability advice in the NPPF.

Paragraph 53 of the NPPF outlines that inappropriate development of residential gardens should be resisted where there is the potential that development would cause harm to the local area. As a result of the development No. 242, and the associated coach house, would be lost and as such redevelopment on this area of the site would be on previously developed land (brownfield). The remainder of the development would be on paddock land and land which was formerly the residential garden to No. 242. Whilst the aims of the NPPF would be to direct new development to previously developed sites (brownfield) it is considered that the development on garden land would not have an adverse impact on the character of the surrounding area given the extent of gardens which would be retained for the proposed dwellings. It is also considered that in the circumstances that the paddock is not a protected open space or countryside, and the fact that residential development exists to all boundaries of the site, the development would not have an adverse impact on the character of the surrounding area. In any case the sustainability of the sites location would outweigh any arguments which relate to the loss of this small greenfield site.

No. 242 Melbourne Road is considered to be a property which contributes positively to the

character and appearance of the streetscape and the exact history of the property is unknown but given the design of the dwelling and presence of a detached coach house it may have formerly been a farmhouse to agricultural land around the site which has been developed on over time. It is possible that the property and associated coach house could be considered a 'non-designated heritage asset' and as such Paragraph 135 of the NPPF outlines that in assessing the application *"a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."* A structural survey has been submitted in support of the application which outlines various defects in the property which include: -

- Widespread cracking in all of the external walls with the location of these cracks and orientation suggesting some history of differential ground or foundation movement;
- Extensive cracking in the internal walls and in the ceilings at both ground and first floor level with the presence of these cracks again suggesting some history of differential ground or foundation movement;

The structural survey also outlined that there was no obvious external factors, such as large trees or blocked drains, which might have precipitated the movement in the structure and the ground movement arising from former coal mining in the area was probably the principal cause for structural damage. Should the building be capable of being repaired and refurbished the following major works would be required: -

- Removal of render from all external elevations to expose the brickwork for repairs;
- Remove the plaster from all cracked walls to expose the brickwork;
- Repair fractured brickwork using stainless steel Helibar reinforcement;
- Rebuild all arched brickwork over window and external door openings and replace all other damaged external and internal limits;
- Strap the first floor and first floor ceiling joists to the external walls;
- Re-render all external elevations and replaster all walls;

It is considered that the above works would likely incur significant financial costs which may not be returned in any onward sale of the property and as a result of this it is proposed that the property be demolished as the cost of demolition would be substantially less and greater profits are achieved in providing two new dwellings on the site of one dwelling. Although the loss of the property would be regrettable it is considered that justification for its removal has been provided and it would not be of such historic significance that its demolition would substantially conflict with the aims of Paragraph 135 of the NPPF as to justify a reason for a refusal of the application. This is particularly true in the circumstances that should an application have simply been submitted for the demolition of the property, as outlined in Paragraph 17 of Circular 10/95, the only circumstances that the Local Authority could have taken into account would have been the proposed method of demolition and the restoration of the site.

Density

Policy H6 of the North West Leicestershire 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 0.27 hectares, the proposed development would have a density of 25.9 dwellings per hectare. Whilst this density would fall below that advised in Policy H6 this policy

also identifies that it is important to factor into any assessment the principles of good design as well as green space and landscaping requirements. 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 which reflects and is in keeping with the character of existing development within this part of Ibstock. In these circumstances the proposal would not substantially conflict with the principles of Policy H6 as to warrant a refusal of the planning permission. On the basis that the density of the scheme would be below that generally anticipated for residential development it is also difficult to support the view that the residential scheme would be an overdevelopment of the site.

Viability of the Development

Paragraph 173 of the NPPF outlines that careful attention to viability and costs in plan-making and decision-taking should be undertaken with it being necessary for plans to be deliverable. As a result of this development *"should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened,"* and that to ensure viability contributions should take account of normal costs for development and *"provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."*

The Affordable Housing Supplementary Planning Document indicates that on all development sites providing five or more properties a requirement of 20% affordable housing would be required with the Council's preferred position for this to be provided on site. This development would require the need for one dwelling to be provided as an affordable house and the comments of the Council's Affordable Housing Enabler have indicated that the District Council's position would be as follows: -

- If the District Valuer (DV) agrees with the calculation than it would be accepted that there would not be either on-site delivery or an off-site payment in lieu of on-site delivery;
- If the DV finds that the site is viable with an element of affordable housing the payment of an off-site commuted sum to support the provision of affordable housing anywhere in the District where a need has been identified would be acceptable.

The DV has been instructed in respect of the above matter and their conclusions on the viability of the scheme will be reported on the Committee Update Sheet.

In terms of the viability assessment that has been submitted in support of the application this outlines that *"the minimum return that any speculative developer would require from residential development of this size is 20% on the gross development value of the market sale element of the scheme. This is to cover risk, overhead recovery and profit and providing the minimum level of headroom required by the small number of lending institutions still willing to fund projects of this nature."* For the purpose of this appraisal *"a lower level of developer profit at 6% on the affordable housing revenue to reflect the reduced sales risk"* and *"both of the rates of profit have been included in our appraisals, as a blended margin of 19.3%, and we consider this to meet the requirements of the NPPF given current market conditions."* The assessment demonstrates that with a policy compliant scheme (i.e. one affordable home is provided) the development would return a profit of 9.58% which would be a deficit on the target on 19.3%. In a scheme where all dwellings are sold on the open market the scheme would return a profit of 12.97% which would still result in a deficit to the achieved target. In conclusion the assessment outlines that *"to bring the site forward for development the Applicant will need to accept a lower profit compared with standard market levels. Our understanding is that Cadeby Homes are willing to*

accept a lower margin in this case."

In the circumstances that the District Valuer has concluded that the scheme would not be viable with either an on-site affordable housing contribution or an off-site financial contribution it is considered that in order to comply with the principles of Paragraph 173 of the NPPF no contribution should be sought in this particular instance.

In respect of the comments of the Parish Council regarding why the development would not contribute to other services (education, health, highways) it is noted that the Leicestershire County Council Statement of Requirement for Developer Contributions in Leicestershire outlines that only developments comprising ten or more dwellings would lead to the need to make further financial contributions and in the circumstances that this scheme would not exceed the threshold no such contributions can be sought.

Residential Amenity

It is considered that the properties most immediately affected by the proposed development would be No. 244 Melbourne Road, a single storey semi-detached dwelling, situated to the north of the site; 230 Melbourne Road, a two-storey detached dwelling, situated to the south of the site; No. 3 Linden Close, a single storey detached property, situated to the west of the site and No. 7 Linden Close, a single storey detached property, situated to the west of the site and No. 2 Maple Drive, a two-storey detached dwelling, situated to the south-west of the site.

At present a 1.0 metre high hedgerow defines the boundary between No. 230 and Plot 1 with the plans indicating that a 1.8 metre high close boarded timber fence would be erected along the shared boundary as part of the development. Whilst windows exist in the northern (side) elevation of No. 230 Melbourne Road facing the site these would be secondary windows to the principal windows on the eastern (front) and western (rear) elevations and a distance of 2.7 metres would exist between the side elevations of Plot 1 and No. 230 Melbourne Road (on the plans for application reference 13/00024/FUL the distance between side elevations was 4.6 metres). Unit 1 would have a projection of 1.8 metres beyond the rear elevation of No. 230 but given the orientation of No. 230 to Plot 1, as well as the set back of the dwelling off the shared boundary, it is considered that the positioning of the dwelling would not have a sufficiently detrimental overbearing or overshadowing impact on the occupant's amenities. There would also be no significant overlooking implications given that the first floor window in the side elevation of Unit 1 would be conditioned to be obscure glazed and the position of the rear elevation would only allow an oblique angle of view onto the latter parts of the amenity area to this property which is substantial in size.

No. 244 Melbourne Road sits on a slightly higher land level than No. 242 and at present a 1.2 metre high brick wall, taken from the side of No. 242, exists along the shared boundary. Three windows and a door exist in the southern (side) elevation of this property with it being considered that two of the windows would serve non-habitable rooms (given the use of obscure glazing) and the other serving a habitable room which is possibly a bedroom or lounge window. Plot 5 would be set 3.2 metres from the shared boundary, at its closest point, and has been designed so that it would angle away from No. 244 in order to create a similar relationship to that which presently exists. Although No. 244 is to the north of the site it is considered that the position of the dwelling would ensure that it would not impinge significantly on the habitable room window and as such there would be no adverse overbearing or overshadowing implications. In terms of overlooking impacts it is considered that the first floor window proposed in the northern (side) elevation of Plot 5 would not provide any direct view into No. 244 or onto its private rear amenity area and given that Plot 5 is angled away from the boundary with No. 244 there would be no direct overlooking impacts from the windows on the rear elevation. Plot 6

would be set 13.6 metres from the south-western corner of No. 244 and this distance, coupled with the presence of the boundary treatments, would ensure there would be no adverse overbearing or overshadowing impacts. As Plots 6 and 7 are also single storey there would be no adverse overlooking implications.

In respect of No. 3 Linden Close it is considered that no habitable room windows exist in the eastern (side) elevation of this property and given the presence of a substantial boundary hedge, and the overall height of Plot 7, there would be no adverse overbearing or overshadowing impacts on the occupant's amenities. The boundary treatment would also prevent any overlooking implications given that the property would be single storey only.

With regards to No. 7 Linden Close it is considered that the distance of Plots 3 and 4 from the shared boundary with this property, over 26.0 metres, would ensure that there would be no significant overbearing, overshadowing or overlooking implications. Plots 6 and 7 would be set over 7.0 metres from the northern (side) boundary of No. 7 and given the presence of a retained boundary hedge, as well as the fact that Plots 6 and 7 are single storey, it is considered that there would be no adverse impacts on the occupant's amenities.

The rear elevation of Plot 1 would be set 27.0 metres from the boundary with No. 2 Maple Drive which would ensure there would be no adverse overbearing, overshadowing or overlooking implications.

In respect of the garages to the rear of the site, the triple garage serving Plots 1, 2 and 3 would be set 9.0 metres from the north-eastern corner of No. 2 and given the presence of the boundary treatments, as well as the overall height of the structure, there would be no adverse overbearing or overshadowing impacts. The triple garage would be set 9.8 metres from the south-eastern corner of No. 7 with the single garage (serving Plot 4) being set 13.8 metres from the north-eastern corner and these distances would be sufficient in ensuring that the garaging structures would not have adverse impacts on the occupant's amenities.

It is considered that the relationship between the individual dwellings would be acceptable and although first floor windows exist in the side elevation of No. 230 these would only provide direct views onto the side elevation of Plot 1 with only an oblique angle of view being created towards the rear amenity area. The habitable room window at ground floor level on No. 244 is not currently obscured by the present boundary treatment but in the circumstances that a boundary treatment scheme could be agreed as part of any consent it is considered that any views out of this window would also not create any significant implications to the amenities of Plot 5. Plot 5 would also be set over 18.0 metres from the boundary with Plot 6 which would also be considered acceptable in preventing an adverse overlooking impact.

The detached garages are situated a sufficient distance from the immediate boundaries with No. 2 Maple Drive and No. 7 Linden Close. As part of the revisions to the plans all of the dwellings would now be served off the access drive off Melbourne Road which would result in the vehicles associated with Plots 1, 2, 3, 4, 6 and 7 being in close proximity to the northern and eastern boundaries of No. 7 Linden Close. It is proposed that acoustic fencing and landscaping would be provided to the eastern boundary of No. 7 in order to mitigate any noise generated by vehicular movements associated with these Plots and the areas where vehicles park are largely situated away from the boundary with this property. In any case the amount of vehicular movements which would occur would not be significant and would not be too dissimilar to having a development on a corner site with a road running close to the dwelling and its rear garden, which was considered in an appeal to be an acceptable yardstick for an acceptable standard (Appeal Ref: APP/G2435/A/08/2065885/WF), and in the circumstances that a suitable

mitigation scheme could be agreed as well as the fact that Environmental Protection has raised no objections it is considered that the level of noise generated would not be sufficiently detrimental to warrant a refusal of the application.

Overall, therefore, the development would accord with Paragraph 123 of the NPPF and 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 comprises a relatively flat piece of paddock land and residential garden to No. 242 which would be adjacent to Nos. 230 and 244 Melbourne Road, Nos. 3 and 7 Linden Close and No. 2 Maple Drive. The surrounding residential development on Melbourne Road varies between two-storey detached and semi-detached dwellings on the western side of the street and two-storey terraced properties on the eastern side. A large amount of the properties on Melbourne Road exhibit high quality in their architectural design including the use of eaves detailing, stone cills and headers, chimneys, mid-course details and contrasts between brick and render. Dwellings are generally set back from the highway and have small garden areas being enclosed by boundary fences, hedges or walls. Parking provision for the dwellings on the western side of Melbourne Road are either to the site frontage or to the side of the dwellings whilst the terraced properties on the eastern side of the street have a designated parking area in the main highway. Properties on Maple Drive and Linden Close are of modern construction and are either two-storey or single storey in height. It is considered that the dwellings on Melbourne Road which exhibit high architectural quality should inform the detailed design approach to this residential development.

Plots 1 - 5 would front onto Melbourne Road and have been set back a similar distance from the highway as No. 230 but further forward than No. 244 which ensures that they contribute positively to the appearance of the streetscape by providing a strong street frontage. New timber post and rail fencing along with landscaping would be provided to the front boundaries of the site which will help the development to respect its National Forest setting. The provision of a rear parking court and placement of garage to the side elevation of Plot 5 will assist in preventing car domination to the frontage of the properties. Plots 6 and 7 would be situated in the corner of Linden Close and would respect the building line of development on this street. Parking would also be provided to the side elevations of the dwellings to ensure that vehicles do not appear prominent in views and hedgerow planting would be provided to the frontage of these plots to contribute to the National Forest setting.

In terms of the designs of the individual properties it is considered that Plots 1 to 5 have drawn upon the positive characteristics of properties on Melbourne Road and as a result would contribute positively to the character and appearance of the streetscape by virtue of their design characteristics. The incorporation of timber into the scheme will also reinforce the National Forest identity of the dwellings which would accord with the principles of Policy F1. Plots 6 and 7 are situated on Linden Close and as such have a separate design concept to that of Plots 1 to 5. It is considered that these dwellings would be more simplistic in their design approach but

have maintained a degree of interest to the front elevations by the provision of projecting gables, the scale of the properties would also not be too dissimilar to those that exist on Linden Close and as such they would not detract from the character and appearance of the streetscape.

The termination of the vista along the access road would now be terminated by a landscaped area with a feature tree which is considered to be acceptable given that only fleeting views down this access drive would be established. Plots 3 and 4 will contain windows in habitable areas within their side elevations to ensure that the access road has natural surveillance and a scheme of boundary treatments could be agreed to ensure that Plots 2, 3 and 4 have low level rear boundary treatments to ensure that the detached garages, and associated parking to the garages frontages, would also have natural surveillance.

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. Bin storage areas would also be conditioned in order to ensure that details of their positions are agreed to prevent the storage of refuse containers impacting negatively on the appearance of the streetscape.

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, 61 and 64 of the NPPF and Policies E4, F1 and H7 of the Local Plan.

Highway Safety

The County Highways Authority raised no objections to the layout as originally submitted, subject to conditions, and as a result of the revisions to the scheme the County Highways Authority has been reconsulted although they have verbally confirmed that they would have no significant concerns. The revised response of the County Highways Authority will be reported to the Committee Members on the Update Sheet.

As part of the development proposals the existing vehicular access to No. 242 Melbourne Road would be closed and a new vehicular access created to serve Plot 5. An additional access would also be created to provide access to Plots 6 and 7 as well as the off-street parking provision for Plots 1, 2, 3 and 4. It is considered that the access road created would be of a sufficient width at its entrance to ensure that a vehicle could exit the site whilst another pulls clear from the highway which would allow the free and safe flow of vehicles in the highway. The new vehicular access for Plot 5 has also been considered acceptable to the County Highways Authority with sufficient manoeuvring facilities being provided within the curtilage to ensure that vehicles exit the site in a forward direction. The previous planning approval on the site (13/00024/FUL) allowed three individual accesses to be created onto Melbourne Road and although the vehicular movements associated with six dwellings would now utilise one access it is considered that the provision of a single vehicular access would result in less detriment to pedestrian and highway safety than that considered acceptable previously. This is due to the fact that more of the pavement would be left in tact and there would be less competition between vehicles moving from the individual properties should people exit at the same time.

In respect of parking matters it is considered that the detached garages would have internal dimensions which would ensure that they could accommodate a vehicle and as such Plots 1 - 5 would have at least three off-street parking spaces which would be considered sufficient and would also allow for visitor parking. Plots 6 and 7 would have two off-street parking spaces

which would be considered sufficient for the size of the properties and would also allow for potential visitor parking.

In these circumstances the development would accord with Paragraph 32 of the NPPF and Policies T3 and T8 of the Local Plan.

Ecology

The County Ecologist has raised no objections to the proposed development and in these circumstances it is considered that protected species would not be adversely affected by the proposed development which would ensure compliance with Paragraph 118 of the NPPF and Circular 06/05.

Landscaping

The site lies within the National Forest and as such a strong landscaping scheme would need to be incorporated as part of the overall development. In terms of the information shown on the site plan it is noted that hedgerows would be planted to the frontage of the properties and trees would also be planted. It is considered that a condition could be imposed on any consent granted to ensure that an appropriate soft landscaping scheme is submitted for approval and as such the development would accord with the principles of Policies E2, E7, F1, F2 and F3 of the Local Plan.

Other Matters

The Council's Environmental Protection team have raised no objections to the development with regards to ground contamination or land instability and given that the site does not fall within the Coal Mining Referral Area it is considered that the proposals would not lead to land instability issues to neighbouring properties which would ensure compliance with Paragraphs 120 and 121 of the NPPF. Should any future issue arise with regards to land stability then this would be a civil matter between the residential properties affected and the developers of the site.

It is noted that the application site and the properties within the vicinity of the site do not fall within a Flood Zone. Severn Trent Water has indicated that a condition should be imposed on any consent to ensure that details of foul and surface water drainage are agreed and it is considered that this condition would be relevant. In any case it is anticipated that any surface water run-off solution would not further exacerbate any localised flooding issues and as such the development would not conflict with Paragraph 103 of the NPPF.

In respect of the ownership of the land which is served off Linden Close the applicant has provided a title deed plan showing that they have ownership of the land identified in red on the site location plan submitted in support of the application.

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 the proposal is also considered to be within a sustainable location which would ensure compliance with Paragraphs 14, 49 and 53 of the NPPF. Part of the development would be on greenfield land but this would not cause significant conflict with the aims of Paragraph 53 of the NPPF given the sustainable nature of the site, the fact that the land is not protected open space and the fact that the development of the site would not have an adverse impact on the character of the area. Justification for the removal of No. 242 Melbourne Road has been submitted in support of the application and although it is regrettable that this dwelling is lost the development would not cause significant conflict with Paragraph 135 of the NPPF given the unknown history of the property as well as the consideration that could be given to any permitted development application submitted simply for the demolition of the

property. The density of the development is considered to be acceptable by virtue of the number of dwellings proposed and the need to ensure good design which would ensure compliance with Policy H6 of the Local Plan.

In the circumstances that the District Valuer has concluded that the scheme would not be viable with either an on-site affordable housing contribution or an off-site financial contribution it is considered that in order to comply with the principles of Paragraph 173 of the NPPF no contribution should be sought in this particular instance.

It is considered that the relationship between individual plots would be acceptable and the position of the dwellings in relation to neighbouring properties would also ensure that they would not have any significant overbearing, overshadowing or overlooking impacts. The revisions made to the rear parking court and provision of suitable mitigation measures would also result in any noise generated by the movement of vehicles not impacting adversely on the amenities of neighbours. This would ensure compliance with Paragraph 123 of the NPPF and Policy E3 of the Local Plan.

The individual designs of the properties have drawn on the positive characteristics displayed by properties within the vicinity of the site and the layout also conforms to the place-making principles of the Local Authority as well as drawing on inspiration from the National Forest and as such the development would accord with Paragraphs 57, 60, 61 and 64 of the NPPF and Policies E4, F1 and H7 of the Local Plan.

With regards to highway safety it is considered that the provision of a shared access to serve six dwellings would be acceptable and would not cause significant highway safety concerns taking into account the previous conclusions made on application reference 13/00024/FUL which approved three dwellings with individual accesses being formed onto Melbourne Road. Sufficient off-street parking, along with visitor parking, would also be accommodated to the rear of the dwellings which would reduce the potential for on-street parking becoming an issue within the vicinity of the site. As such the development would not conflict with the principles of Paragraph 32 of the NPPF and Policies T3 and T8 of the Local Plan.

The County Council Ecologist has raised no objections to the scheme and as such it would accord with Paragraph 118 of the NPPF and Circular 06/05. Conditions would also be imposed to secure suitable landscaping features for the site, given its setting within the National Forest, which would allow compliance with Policies E2, E7, F1, F2 and F3 of the Local Plan. It is considered that the development would not result in land instability issues to the surrounding area which would accord with Paragraphs 120 and 121 of the NPPF and relevant conditions would be imposed on any consent to ensure that surface water run-off would not exacerbate any localised flooding issue in accordance with Paragraph 103 of the NPPF.

Overall the development would accord with the planning policies identified above.

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 numbers 100 and 101, received by the Local Authority on the 15th January 2014, and drawing numbers 150E, 250D, 251C and 252A, received by the Local Authority on the 4th April 2014, unless otherwise required by another condition of this permission.

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

- 3 The external materials to be utilised in the development shall be in strict accordance with those specified on drawing number 150E, received by the Local Authority on the 4th April 2014, which shall be as follows: -
- Ibstock Stoneleigh Light Red bricks to all Plots;
 - Sto Render to Plots 2 and 4 of Colour Reference 31320 with a Smooth Finish;
 - Forticrete Gemini Roof Tiles to all Plots coloured Dark Brown;
 - White uPVC windows to all Plots;
 - Timber Doors by Coalville Glass and Glazing painted in Farrow and Ball Colours Pitch Black, Olive Green, Rectory Red and Catspaw;
 - Brick voissors and brick on edge cills to all Plots;
 - Keystone GRP Chimneys to Plots 1, 2, 3, 4 and 5;
 - Black uPVC Rainwater Goods with Rise and Fall Brackets;
 - Utility Boxes painted to match Brickwork;
 - Timber Porches painted White;
 - Wet Bedded Verges;

Reason - to ensure a satisfactory standard of external appearance given the viability constraints of the site.

- 4 No utility boxes shall be provided unless in accordance with those shown on the approved plans, as outlined in Condition 2 of this permission, unless alternative positions and finishes have first been submitted to and agreed in writing by the Local Planning Authority.

Reason - in the interests of neighbouring amenities and the visual amenities of the locality.

- 5 Notwithstanding the details shown on the approved plans, no development shall commence until detailed drawings of the chimney stacks, eaves/verge detailing and head and cills to the properties have been first 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.

- 6 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) 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 scheme 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.

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

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

- 8 Notwithstanding the submitted plans, nor Condition 2 above, before first occupation/use of the dwellings a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railings and other means of enclosure and including details of acoustic fencing to the site boundaries with No. 2 Maple Drive and No. 7 Linden Close) shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be provided in full prior to the first occupation of any dwelling hereby approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.

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

- 9 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 to protect the free and safe passage of traffic, including pedestrians, in the public highway.

- 10 The gradients of the access drives shall not exceed 1:12 for the first 5 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.

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

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

- 12 No development shall commence on site until such time as a construction traffic/site

traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and 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.

- 13 Prior to the first occupation of any dwelling on the site 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 5 metres behind the highway boundary and shall be so maintained at all times.

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

- 14 Prior to the first occupation of any dwelling on the site the off-street parking provision, including garage spaces, as shown on drawing number 150E and 252A received by the Local Authority on the 4th April 2014 shall be provided and thereafter shall permanently remain available for car parking.

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

- 15 The scheme of lighting and marking of the off-street parking spaces shall be provided in strict accordance with that shown on drawing number 150E, received by the Local Authority on the 4th April 2014, unless an alternative scheme is first submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme, or any subsequent variation, which shall thereafter be so maintained at all times.

Reason - to ensure the satisfactory overall appearance of the completed development and to ensure the security of the parking facilities.

- 16 The window serving the landing at first floor level in the southern (side) elevation of Plot 1 shall be glazed with obscure glass, to Pilkington Standard 3 or its equivalent, and non-opening, unless the opening part is more than 1.7 metres above the internal floor level of the room in which the window is installed, which once provided shall thereafter be so maintained in perpetuity.

Reason - in the interests of preserving the amenities of neighbouring properties.

- 17 No development shall commence on site until details of proposed site levels and finished floor levels of the proposed dwellings, which should be related to a fixed datum point off the site, have been submitted to and agreed in writing by the Local Planning Authority. Once agreed the development shall be carried out in accordance with the approved details.

Reason - to determine the scope of the permission and in the interests of residential amenity.

- 18 No development shall commence on site until drainage plans for the disposal of surface water and foul sewerage have been submitted to and approved by the Local 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.

- 19 No development shall commence on the construction of any dwelling on site until a Remedial Scheme and Verification Plan, drafted in line with the recommendations of Nicholls Colton Geotechnical report reference G13290 dated January 2014 have been submitted to and approved in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.

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

- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;

- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.

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

- BS10175:2011 + A1:2013 Investigation of Potentially Contaminated Sites Code of Practice;

- BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);

- BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and

- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

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

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

- 20 Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;

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

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

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant 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 the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 The applicant will be required to enter into a suitable legal agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
- 4 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager - (telephone 0116 3050001).
- 5 Any street furniture or lining that requires relocation or alteration shall be carried out entirely at the expense of the applicant, who shall first obtain the separate consent of the Highway Authority.
- 6 The highway boundary is the fence fronting the premises and not the edge of the carriageway/road.
- 7 Please be aware that Leicestershire County Council as Lead Local Flood Authority (LLFA) are currently not a statutory consultee to the planning process for drainage matters. When Schedule 3 of the Flood and Water Management Act 2010 is implemented Leicestershire County Council will become the SuDs Approval Body (SAB) and also a statutory consultee of the planning process. You will need to contact Leicestershire County Council if you have an aspiration for us to adopt any SuDs features associated with the development. Please email roadadoptions@leics.gov.uk if you wish to discuss further.
- 8 The applicant's are advised that should the hedge along the boundary with No. 230 Melbourne Road be removed then it is requested that a 2.0 metre high close boarded timber fence is erected as a replacement boundary treatment to ensure the privacy between No. 230 and Plot 1.
- 9 The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These

hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at www.coal.decc.gov.uk

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires 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.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website www.coal.decc.gov.uk.

- 10 Severn Trent Water advise that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

This page is intentionally left blank

Employment uses (B2/B8) of up to 1,300,000 sqft (120,773 sqm approx) with associated ancillary uses and associated infrastructure, including a new access from Beveridge Lane and off-site highway improvements, earthworks and ground modelling, together with new landscaping, including habitat creation and provision of a new community woodland park (outline - all matters other than part access reserved)

**Report Item No
A2**

**Land At Little Battleflat Farm Beveridge Lane Coalville
Ellistown**

**Application Reference
13/00249/OUTM**

**Applicant:
Paragon (Coalville)**

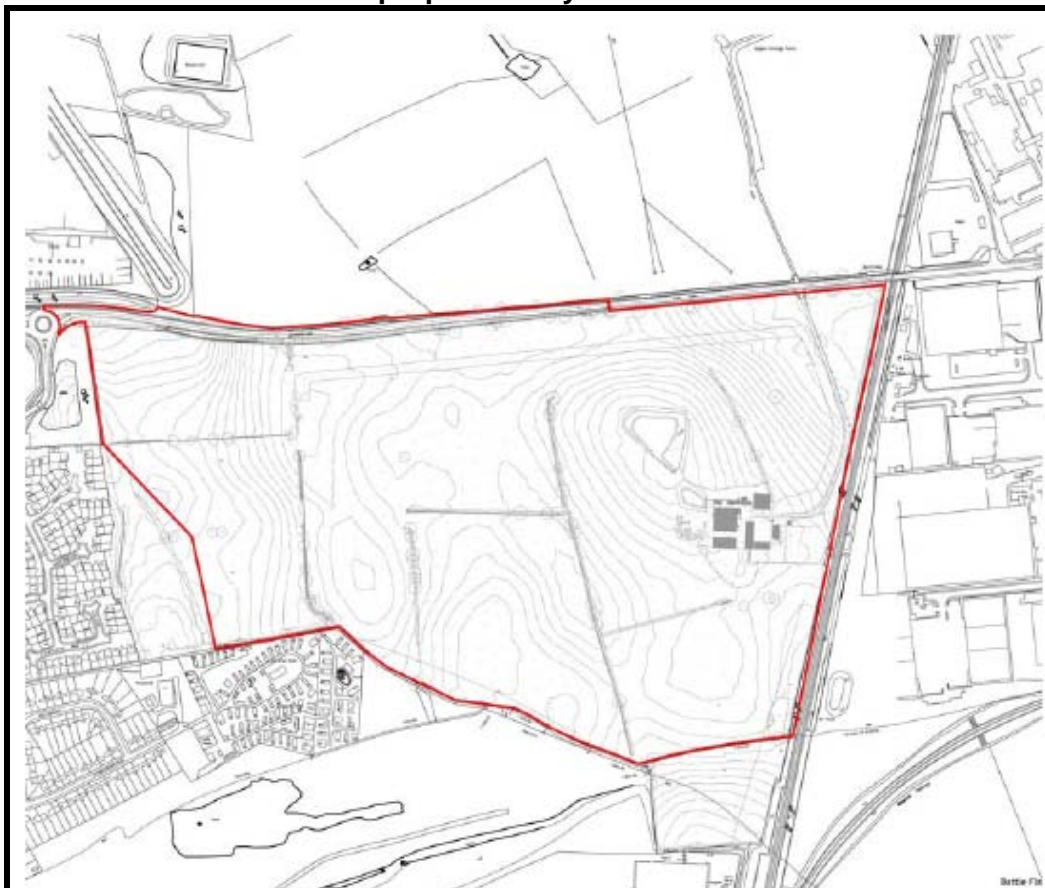
**Date Registered
15 April 2013**

**Case Officer:
James Knightley**

**Target Decision Date
15 July 2013**

**Recommendation:
DEFER**

Site Location - Plan for indicative purposes only



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

Executive Summary of Proposals and Recommendation

Proposal

The application seeks outline planning permission for the erection of a range of units for employment use (within Classes B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended)), together with associated landscaping and green infrastructure.

The application is in outline with all matters reserved save for the access insofar as it relates to the proposed vehicular access point into the site from Beveridge Lane.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals, including from Ellistown and Battleflat Parish Council and Leicestershire County Council.

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 is the supply of employment land in the context of the National Planning Policy Framework (NPPF).

Conclusion

The report below indicates that, whilst the site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, having regard to the existing position in terms of employment land supply within the District and the requirement within the NPPF for Local Planning Authorities to support economic growth through the planning system, the principle of the development is considered acceptable in land use terms. Whilst concerns have been raised by neighbouring occupiers regarding a range of issues, including the impacts on residential amenity, the application is accompanied by an Environmental Statement which indicates that, subject to appropriate mitigation, these issues or other adverse environmental impacts arising from the proposed development would not indicate that planning permission ought to be refused. However, and as set out in the report, the application is subject to unresolved objections from the Local Highway Authority given the failure to demonstrate in a robust manner the likely transportation impacts of the proposals.

RECOMMENDATION:-

DEFER IN ORDER TO ALLOW OUTSTANDING MATTERS TO BE ADDRESSED

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 Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

This is an outline planning application, accompanied by an Environmental Statement, for employment development (B2 general industrial and B8 storage & distribution) of a site of approximately 36 hectares to the south of Beveridge Lane currently used for agricultural purposes. Whilst some matters are reserved for subsequent approval, an illustrative masterplan has been submitted which shows:

- Employment development (uses within Classes B2 and B8 (up to 1,300,000 square feet (120,773 square metres), provided over an area of approximately 25 hectares in the format of a range of unit sizes, with the larger units located towards the eastern end of the development)
- Future rail sidings zone
- Vehicular access from Beveridge Lane
- Green Infrastructure / Landscaping / National Forest planting with public access (approximately 11 hectares)

As set out above, the application is in outline. All matters are reserved save for the access insofar as it relates to the proposed vehicular access into the site from Beveridge Lane. The remainder of the "access" matters (i.e. including circulation routes through the site itself) are reserved for subsequent approval. In terms of the scale of the development, the application documents indicate that proposed building footprints would be between 600sqm and 100,000sqm, and with building heights varying between 6 and 18 metres.

The site is located adjacent to a number of land uses, including residential, agricultural, a quarry, and the Leicester to Burton railway (beyond which is located other employment development, within the Interlink business park). The existing units within the closest part of the Interlink estate have a range of maximum heights, varying between approximately 11 and 17 metres in height (albeit located at a higher ground level than much of the existing land within the current application site).

For the reasons set out in more detail below, officers are of the opinion that the supporting information submitted in respect of the application is, at present, insufficient to enable the Local Planning Authority to come to a fully reasoned view in respect of it, and particularly in terms of the transportation impacts. However, it is understood from the applicants that, unless a decision is made in respect of the application at the earliest opportunity, a potential occupier is likely to withdraw its interest in the development, with the resulting impacts on job creation opportunities. As such, the application is presented at this stage to Members for their consideration at the specific request of the applicant.

2. Publicity

136 No neighbours have been notified (date of last notification 16 April 2014)

Site Notice displayed 19 April 2013

Press Notice published 24 April 2013

3. Consultations

Clerk To Ellistown And Battleflat Parish Council consulted 16 April 2013

County Highway Authority consulted 15 August 2013
Highways Agency- Article 15 development consulted 15 August 2013
Network Rail consulted 25 September 2013
LCC/Footpaths consulted 25 September 2013
Highways Agency- Roadside Service Area consulted 29 October 2013
Highways Agency- Article 15 development consulted 8 May 2013
Nicola Land Ibstock Parish Council consulted 16 April 2013
Environment Agency consulted 16 April 2013
Severn Trent Water Limited consulted 16 April 2013
Head of Environmental Protection consulted 16 April 2013
Natural England consulted 16 April 2013
NWLDC Tree Officer consulted 16 April 2013
County Archaeologist consulted 16 April 2013
LCC ecology consulted 16 April 2013
Airport Safeguarding consulted 16 April 2013
NWLDC Urban Designer consulted 16 April 2013
County Planning Authority consulted 16 April 2013
LCC Development Contributions consulted 16 April 2013
Head Of Leisure And Culture consulted 16 April 2013
Police Architectural Liaison Officer consulted 16 April 2013
LCC/Footpaths consulted 16 April 2013
Highways Agency- Article 15 development consulted 16 April 2013
National Forest Company consulted 16 April 2013
Hinckley & Bosworth Borough Council consulted 16 April 2013
Network Rail consulted 16 April 2013
DEFRA consulted 16 April 2013
FRCA (MAFF)- loss of agricultural land consulted 16 April 2013
Ramblers' Association consulted 16 April 2013
LCC Fire and Rescue consulted 16 April 2013

4. Summary of Representations Received

Environment Agency has no objections subject to conditions

Highways Agency directs that planning permission not be granted in view of unresolved issues relating to the potential impacts on the M1 motorway

Leicestershire County Council Archaeologist has no objections

Leicestershire County Council Ecologist has no objections subject to conditions

Leicestershire County Council Education Authority advises that a developer contribution in respect of education services is not required

Leicestershire County Council Landscape Officer has no comments

Leicestershire County Council Library Services Development Manager advises that a developer contribution in respect of library services is not required

Leicestershire County Council Waste Management Authority advises that a developer contribution in respect of civic amenity services is not required

Leicestershire County Council Highway Authority objects for the reasons set out in more detail under Means of Access, Highways and Transportation Issues below

Leicestershire County Council Planning Authority advises that the southern portion of the proposed site lies within an area designated as a mineral consultation area for clay but that, given the nature of the proposed development and the southern landscape buffer, there are no issues relating to mineral sterilisation.

Leicestershire County Council Rights of Way Officer requests that planning permission not be granted pending the resolution of issues in respect of the potential impacts on existing rights of way crossing the site

National Forest Company has no objections subject to conditions and Section 106 obligations

Natural England has no objections subject to conditions

Network Rail has no objections subject to conditions

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

Severn Trent Water has no objections subject to conditions

Third Party representations

260 representations have been received, objecting on the following grounds:

- Development not needed
- Existing industrial units remain empty
- Increased traffic
- Noise
- Adverse impact on air quality
- Loss of property value
- Area currently has low unemployment
- Loss of agricultural land
- Impact on wildlife / ecology / habitat
- Loss of trees / hedgerows
- Loss of village identity
- Contrary to adopted North West Leicestershire Local Plan Policy E21
- Coalescence of Hugglescote and Ellistown
- Contrary to Ellistown and Battleflat Parish Plan which showed that 91% of respondents did not want more employment land and 71% valued green spaces, wildlife, places to walk and tranquillity
- Contrary to emerging Core Strategy
- Inaccuracies / old data in the submitted Environmental Statement
- Flooding
- Brownfield sites should be used
- Light pollution
- Vacant land available on nearby industrial estates
- Adverse impact on rail safety
- Loss of view
- Overdominant
- Loss of light
- Insufficient landscaping

- Low skilled / paid jobs will not boost the local economy
- Site should be accessed via existing Interlink industrial estate
- Limited screening provided by proposed tree planting
- Balancing ponds would increase insect bites
- Site is in the National Forest
- Railway bridge not suitable for large volumes of heavy traffic
- UK Coal has not restored land in Ashby de la Zouch
- Insufficient infrastructure to accommodate the development (including healthcare and schools)
- Would render nearby properties uninhabitable
- Low water pressure
- Disturbance / disruption during construction works
- Will not help reduce carbon dioxide emissions
- Increased vermin

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."

"19 The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the

need to support economic growth through the planning system."

"20 To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century."

"28 Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings..."

"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."

"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."

"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."

"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."

"160 Local planning authorities should have a clear understanding of business needs within the economic markets operating in and across their area. To achieve this, they should:

- work together with county and neighbouring authorities and with Local Enterprise Partnerships to prepare and maintain a robust evidence base to understand both existing business needs and likely changes in the market; and
- work closely with the business community to understand their changing needs and identify and address barriers to investment, including a lack of housing, infrastructure or viability."

"161 Local planning authorities should use this evidence base to assess:

- the needs for land or floorspace for economic development, including both the quantitative and qualitative needs for all foreseeable types of economic activity over the plan period, including for retail and leisure development;
- the existing and future supply of land available for economic development and its sufficiency and suitability to meet the identified needs..."

"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 lies outside of Limits to Development as defined in the adopted Local Plan. No other site-specific policies apply. The following adopted Local Plan policies are considered relevant:

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

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 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 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 T10 requires development to make provision for effective public transport operation.

Policy T13 requires adequate provision for cycle parking.

Other Policies

South East Coalville Development Brief

A Development Brief for the South East Coalville Strategic Development Area has been prepared by consultants on behalf of the developers' consortium with interests in the land in conjunction with the Local Planning Authority, and including input from other professional consultants, stakeholders and members of the local community, in order to inform the process of planning and development of land at South East Coalville.

The draft Development Brief was considered by the District Council's Cabinet at its meeting of 23 July 2013 where it was resolved that the production of the Development Brief for South East Coalville be noted, that regard be had to the Development Brief when negotiating on and determining planning applications in the South East Coalville Broad Location, and that the Development Brief form part of the evidence base for the [then] submission Core Strategy.

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 those within the National Planning Policy Framework (NPPF).

Employment Land Supply

As set out under Relevant Planning Policy above, the NPPF seeks to encourage proposals for employment / business uses where such schemes would represent sustainable development. Whilst the site is located outside Limits to Development as defined in the adopted Local Plan, regard must also be had to the need to provide for sufficient employment land for new businesses.

The North West Leicestershire Core Strategy was submitted to the Secretary of State on 24 June 2013. Policy CS2 of the submission draft Core Strategy set out the overall District-wide requirement for employment land (i.e. 164 hectares), taking into account existing identified employment sites and commitments, as well as identifying an overall residual requirement of 60 hectares; Policy CS36 included for provision be made for 20 to 25 hectares of employment land in the proposed Broad Growth Location to the South East of Coalville (within which the application site fell). Following an exploratory meeting with the Planning Inspector appointed to

examine the Core Strategy, however, it was agreed to withdraw the Core Strategy and, as a result, no weight should be attributed to its provisions in this regard. However, whilst the Core Strategy itself has been withdrawn, the background evidence upon which its provisions in respect of employment land requirements were based is nevertheless considered to remain robust, and it is therefore still accepted that a need remains for the additional 60 hectares of employment land in addition to existing commitments as previously referred to in the Core Strategy. Whilst the site lies outside Limits to Development as defined in the 2002 adopted North West Leicestershire Local Plan, these Limits to Development were drawn having regard to, amongst others, employment land requirements up until the end of the Plan Period (i.e. to 2006) and, as such, less weight should be attributed to any conflict with Policy S3 in the overall planning balance. It is noted that objections have been raised on, amongst others, the grounds that there are existing employment units and sites currently vacant within the area, and this is indeed the case (and including on the adjacent Interlink business park). However, the additional employment land requirements which had been identified in the evidence base for the draft Core Strategy were for additional employment land (i.e. over and above any existing land, even if unoccupied).

Contribution to Sustainable Development

As set out above, the NPPF contains a presumption in favour of sustainable development. Having regard to the three dimensions of sustainable development, it is concluded as follows:

Economic Dimension:

The NPPF gives a very strong steer that support should be given for proposals which boost the economy and provide job opportunities. The application documents suggest that this proposal would create around 1,300 full time equivalent jobs although, given that the application is for B2 and B8 uses with no specific amount for each use, it is not known what type of jobs these will be. Given that Coalville is the largest centre of population and employment within the District, it is considered reasonable to assume that there will be a need for more employment opportunities in the Coalville area (and hence the former draft Core Strategy's proposals in respect of the significant development within the South East Coalville broad location).

Social Dimension:

The economic benefits associated with the proposed development would, by virtue of the jobs created, also be expected to provide some social benefits. Furthermore, on the basis of the proposed bus service diversion forming part of the application proposals (so as to connect the application site with services to Coalville and Leicester), this would also be considered to provide wider social benefits for those communities served by these bus services by virtue of the enhanced access to services and facilities that would result.

Environmental Dimension:

The site is identified as countryside in the adopted Local Plan. However, the Local Plan only covers the period to 2006 and so the employment requirements contained therein are not up to date. Whilst the NPPF makes it clear that sites of lower environmental quality should be preferred to those of higher value, it appears inevitable that there will be a need for greenfield sites to be released to meet future needs; furthermore, there do not appear to be any brownfield sites available elsewhere in the District of the scale of this proposed development. Further issues in respect of the environmental dimension of sustainable development are considered in more detail within the relevant sections below including, for example, issues such as the impacts on the natural and historic environment, accessibility of the site and loss of agricultural land.

Having regard to the three dimensions of sustainable development, therefore, and having regard to the conclusions in respect of various technical issues below, it is accepted that the contribution to the economic growth associated with the proposed development, coupled with the role played in contributing to employment land supply, 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 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, has the potential to perform well in terms of need to travel and the movement towards a low carbon economy subject to the provision of suitable pedestrian, public transport and cycle linkages.

Conclusions in respect of the Principle of Development

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 majority of the site lies outside Limits to Development. 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 employment land supply. Whilst the Core Strategy has been withdrawn, the evidence base used in this regard in terms of calculating the required amount of employment land within the District is considered to remain relevant, and the proposed development would make a contribution towards this. Whilst the contribution made would represent a significant proportion of the overall requirement within the District, it is not considered that there are other, more suitable, sites (in terms of their location and other credentials) elsewhere in the District which would be sufficient to meet the identified need.

Thus, overall, the proposed development of the site is considered acceptable in principle.

Detailed Issues

In addition to the issues of the principle of development, consideration of other issues relevant to the application (and including those addressed within the Environmental Statement) is set out in more detail below.

Landscape / Visual Impact and National Forest planting

The development has been assessed in terms of its landscape and visual effects both during and after construction. The Environmental Statement identifies what the applicants' landscape consultants consider to be the site's zone of visual influence, and assesses the impacts on a range of viewpoints in the surrounding area, both in the immediate vicinity of the site and further afield. The Environmental Statement suggests that the site is of medium landscape condition and is of low / medium landscape sensitivity to new employment development. It is suggested that the site landscape is potentially tolerant of change, but that there are some valued (and relatively higher sensitivity) features (i.e. hedgerows and trees) that ought to be conserved wherever practicable within any development proposals.

The site itself currently includes arable farmland and networks of trees and hedgerows, some of which are proposed to be retained following development.

In terms of mitigation, it is noted that raised landscaped bunds are proposed in order to limit a number of the views of the proposed development, and the Environmental Statement states that the principle of the development's landscape and green infrastructure proposals is to deliver functional well designed green spaces that will offer biodiversity, landscape and recreational benefits, whilst mitigating the effects of the proposed built development. The Environmental Statement indicates that the landscape and green infrastructure proposals comprise the two key areas, namely a National Forest Community Woodland Area and perimeter greenways and landscape corridors. Within these areas the Environmental Statement indicates that there are a number of key components comprising conserved hedgerows and trees, retained and extended public rights of way, new footpaths and cycleways, SuDs features and new National Forest planting and other open space / habitats. The Environmental Statement suggests net gains as a result of the landscaping proposals as follows:

Woodland, trees and structure planting:	+4.6 hectares	
Hedgerows / Hedgerow Trees:	+1,350 metres	
Grassland / Meadow:	+4.6 hectares	
Water Features / Wet Grassland:	+1.1 hectares	
Off road footways/ cycleways (including public rights of way):		+1,400 metres

In terms of landscape impacts, the Environmental Statement considers that the effects of the completed development would lessen over time with the successful establishment and maturing of the planting and other habitat creation measures. In addition to the beneficial effects arising from the proposed landscape, the Environmental Statement suggests that the application of appropriate management and maintenance operations to the existing conserved trees and hedgerows would also deliver some minor localised and longer term benefits. It indicates that the main benefits in landscape terms would arise from the maturing of the National Forest Community Woodland area and perimeter landscape and planting proposals. The National Forest planting would, the Environmental Statement states, establish an appropriate wooded setting and buffer between the settlement edge and the built development and the other perimeter proposals would assist in forming a robust landscape setting to the scheme.

Insofar as visual effects of the development are concerned (and including the effects of the above mitigation), the Environmental Statement considers the impacts on 16 principal viewpoints. In terms of these impacts, their predicted impacts are as follows:

Construction Phase:

Low Negative to Medium / High Negative 1, Low / Medium Negative 2, Low Negative 2, No Discernible Change / Neutral to Low Negative 9, No Discernible Change 2

Year 0 (following construction) (winter):

Medium / High Negative 2, Low Negative to High Negative 1, Low / Medium Negative 2, Low Negative 1, No Discernible Change / Neutral to Low Negative 8, No Discernible Change 2

Year 10 (summer):

No Discernible Change / Neutral to Low Negative 10, No Discernible Change 6

Of particular significance in this case are considered to be the views from Ellistown to the west of the site, and from public rights of way. The Environmental Statement suggests that the successful establishment and maturing of the planting and habitat creation proposals would

provide some valuable improvements to a number of the receptors and including views from properties within the recently completed David Wilson Homes development off Battleflat Drive. From these locations, the Environmental Statement states, the maturing of the woodland, tree and hedgerow planting would greatly assist in screening and filtering any available views to the very highest parts of the buildings. It would also, it argues, provide an increasingly mature and attractive mosaic of habitats that will be appreciated from these existing settlement edge houses and from the existing and new footpaths in the west of the site. The Environmental Statement also suggests that the maturing of the landscape strategy proposals would provide some localised visual improvements from the public right of way and Beveridge Lane.

Insofar as National Forest planting is concerned, the National Forest Company advises that, in order to meet the relevant 30% National Forest Planting Guidelines standard, 10.8 hectares would be required; the application indicates that 11 hectares of green infrastructure would be provided and, therefore, the proposals are considered to accord with the relevant standards in respect of this requirement. The National Forest Company raises no objections to the proposals subject to the securing of various matters through conditions and Section 106 obligations, including a landscape management plan, landscape mitigation, and provision of pedestrian and cycle links.

Whilst there would clearly be some adverse impacts both during and immediately following construction of the development, the greatest impacts would be relatively limited in their extent and severity, particularly in the longer term as mitigation planting matures. In this sense, the extent of harm would be expected to reduce over time, such that, whilst there would inevitably be *changes* to the character of the area in this regard (and particularly in respect of the site itself), the adverse impacts would be limited to a degree whereby unacceptable harm would not be considered to result, particularly in view of the nature of the existing landscape quality.

The Environmental Statement also includes an assessment of the visual effects at night, having regard to, amongst others, existing night time lighting levels in the area, and the number of receptors with views to the proposals. In this respect, the Environmental Statement suggests that, by virtue of adjoining employment areas and other nearby major roads and urban uses, existing light sources occur in all directions of the site. Whilst new light sources would be introduced as part of the proposals (with the most sensitive receptors being existing residential development on the eastern side of Ellistown), the Environmental Statement states that no significant adverse night time visual effects would be expected; in terms of the most sensitive properties in the east of Ellistown, the Environmental Statement indicates that the proposed lighting columns and any wall mounted lamps within the built development area would be likely to be screened / hidden beyond the perimeter mounding and landscape proposals.

Overall in terms of visual impacts, therefore, whilst the development would be likely to be of a significant scale, by virtue of the proposed alterations to topography, the adverse impacts would be relatively limited. When taking this into account, together with the existing context of the site and other proposed mitigation, it is considered that the landscape and visual effects of the proposed development would be acceptable.

Ecology

The submitted Environmental Statement includes a detailed assessment of the ecological implications of the proposed development on various receptors of ecological value. In addition to the anticipated impacts, mitigation measures are also proposed.

The Environmental Statement provides that the closest statutorily designated site of nature

conservation interest to the application site is approximately 1.6km from the site (being the Bardon Hill Quarry Site of Special Scientific Interest (SSSI)); no other statutory sites are located within 2km. There are also no designated Local Wildlife Sites within 1km of the site, although several of the hedges in the local area (including a number of hedges within and bordering the site) are of Parish level nature conservation value. There are four potential Local Wildlife Sites within 1km of the site. In terms of the various ecological features / habitat identified, these include arable, species poor semi-improved grassland, hedgerows, mature trees and waterbodies.

The effects of the development are assessed within the Environmental Statement in terms of both the construction and post-construction (operational) impacts.

Insofar as the construction effects are concerned, the Environmental Statement indicates that there would be some habitat loss, including loss of hedgerows, trees and two ponds which would have a moderate adverse effect at a local level. Insofar as the effects upon wildlife are concerned, the following conclusions are reached within the Environmental Statement:

Birds: Given the loss of habitat, adverse impacts are anticipated in respect of skylarks, yellowhammer and linnet, although in view of the proposed structural landscaping, the overall impacts on birds are considered to be minor adverse at a local level. In terms of disturbance to birds, the Environmental Statement indicates that, whilst there is some potential for breeding success to be reduced, habitat loss from hedgerow removal is considered to have a greater effect and the construction-related disturbance effects are not expected to affect the local conservation status of any bird using the site for breeding; the disturbance effects on birds are only expected to be short-term and temporary, and of a minor adverse effect at a site level.

Reptiles: Grass snake has been recorded close to the eastern boundary of the site (albeit in small numbers with no more than one snake observed on any survey occasion). The Environmental Statement therefore concludes that the effects on grass snake would be limited to a small number of individuals during vegetation clearance of habitats in the east of the site only. Due to the limited risk in terms of numbers of animals and area of suitable habitats to be lost and the availability of other habitats surrounding the site, the effects are assessed as being of a minor adverse effect at a site level (as are the construction disturbance effects).

Bats: Whilst the Environmental Statement suggests that the proposed development would result in a loss of habitat (removal of trees and hedgerows), it considers that the effects would be limited to minor adverse at a site level by virtue of the low level of bat activity of a limited number of common species of bat recorded using the site to commute and forage. As the bat habitat is essentially that used for commuting and foraging (and there were no roosts identified within the site), construction disturbance effects would be expected to be negligible, and would not be expected to affect the conservation status of the local bat population.

No other protected species are considered likely to be present, having regard to the findings of the Environmental Statement.

In terms of mitigation, the Environmental Statement indicates that the western part of the site would be enhanced with new grassland, wetland and woodland habitats and works to enhance the retained hedges. It suggests that the woodland planting would compensate for hedgerow removal and contribute to the Green Infrastructure proposals of the wider landscape. Insofar as biodiversity measures are concerned, the Environmental Statement provides that the proposals would include:

- Retention of perimeter and some internal existing trees and hedgerows;

- Creation of balancing facilities in the west of the site as part of a SUDs system across the site, which, the Environmental Statement suggests, would compensate for the loss of the two existing ponds;
- Creation of an area of green space and retained habitats in the west of the site; and
- Existing perimeter habitats reinforced with new native tree planting

Natural England and the County Ecologist have been consulted in respect of the application and raise no objections subject to conditions. Notwithstanding the content of the Environmental Statement, Natural England comments that the proposal is likely to affect bats, but that it is satisfied that the avoidance / mitigation measures proposed would be sufficient to maintain the favourable conservation status of the species.

Under Regulation 53 of the Habitat Regulations 2010, activities which would otherwise contravene the strict protection regime offered to European Protected Species under Regulation 41 can only be permitted where it has been shown that the following three tests have been met:

- The activity must be for imperative reasons of overriding public interest or for public health and safety;
- There must be no satisfactory alternative; and
- The favourable conservation status of the species in question must be maintained.

Whilst these tests would need to be applied by Natural England at the appropriate time in respect of any required licence submission, it is nevertheless considered appropriate to also have regard to them at this stage in respect of the planning process. In this case, it is considered that the tests would be met as (i) for the reasons set out under Principle of Development above, it is considered that the site needs to be released for the proper operation of the planning system in the public interest; (ii) the works affecting the protected species would be necessary to enable the development to proceed in a logical / efficient manner; and (iii) the proposed mitigation measures would satisfactorily maintain the relevant species' status.

Insofar as the County Ecologist's advice is concerned, she considers that the ecology chapter and appendices of the Environmental Statement are satisfactory but advises that it may be necessary to undertake updated badger and bat surveys depending on when development commences (so as to ensure they remain up-to-date). The County Ecologist notes that much of the land is arable and of little wildlife value, but the proposed development will cause the loss of hedgerows and trees; however, the County Ecologist is of the view that, having regard to the retention of the species-rich hedges around the perimeter of the site and the proposed woodland planting to the west of the site, the loss of other hedges and trees within the site would be adequately compensated for.

However, concern is raised by the County Ecologist over the loss of two substantial ponds close to the farm; whilst the supporting documents indicate that one of these ponds is affected by slurry, it supports a number of species, and the County Ecologist therefore considers that it cannot be without local value. The larger pond is also considered to be of local value, supporting reed bunting, tufted duck and a population of toads. As such, the County Ecologist advises that compensation for the loss of these two ponds through habitat creation of two ponds of equivalent or greater size would be appropriate; the applicants have confirmed that they would be agreeable to providing this.

Subject to the imposition of suitably-worded conditions, therefore, the submitted scheme is considered acceptable in ecological terms, and would provide suitable mitigation for the habitat affected, as well as appropriate measures for biodiversity enhancement.

Geology, Geotechnical Issues and Land Contamination

The applicants have undertaken a Phase 1 Geo-Environmental Assessment, and which has been used to inform the Environmental Statement's findings in respect of these issues. The Environmental Statement concludes that the proposals are expected to have a low to moderate adverse environmental effect with respect to geology and ground conditions. The District Council's Environmental Protection team raises no objection to the application in this regard subject to conditions.

In terms of coal-related issues, the Environmental Statement provides that the site is in an area affected by underground coal mining, although movements are expected to have now ceased; the site lies within an area subject to the Coal Authority's standing advice. Furthermore, the Environmental Statement indicates that the shallow geology is not considered viable for mineral extraction; the County Planning Authority has no objections insofar as the potential for sterilisation of resources is concerned.

The proposals are therefore considered acceptable in terms of these issues.

Water Resources, Drainage and Flood Risk

The Environmental Statement includes assessment of the proposed development's impacts on water resources, drainage and flood risk, informed by a Flood Risk Assessment (FRA), setting out how the site is proposed to be drained, and assessing the existing flood risk to the site along with any resulting flood risk associated with the proposed development.

Insofar as river flooding is concerned, the majority of the application site lies within Flood Zone 1 (i.e. low probability - less than 1 in 1,000 year annual probability of flooding). Other potential sources of flood risk identified in the FRA include pluvial run-off, surface water and sewer flooding. The FRA indicates that there is no evidence of pluvial flooding within the area. Insofar as sewer flooding is concerned, the FRA notes that, whilst much of the sewerage system of North West Leicestershire is based on Victorian sewers, as the site is greenfield, the risk of sewer flooding impacting upon the proposed site is unlikely, and therefore not considered a significant risk. In terms of potential effects of the proposed development on the wider catchment, given that the existing site is greenfield (and therefore any form of development will increase the volume of hardstanding on site), the development has the potential to increase surface water flows from the development and impact upon the wider catchment.

The NPPF and the DCLG's Planning Practice Guidance set out the relevant requirements in respect of the Sequential Test, and indicates that the Local Planning Authority's Strategic Flood Risk Assessment will provide the basis for applying this test. Having regard to the site's location within Flood Zone 1, it is considered that the proposed development passes the Sequential Test.

In terms of mitigating the impacts of other potential sources of flooding, the FRA recommends the setting of proposed finished floor levels no lower than the existing site levels, arrangement of external ground levels so as to direct any overland flows away from buildings, use of SuDS, disposal of surface water discharge via a pumped outfall or by infiltration, and provision of between 15,000 and 30,000 cubic metres of surface water attenuation. This, the FRA and Environmental Statement suggest, would limit the potential for increased flooding elsewhere as a result of the development. Whilst objections have been raised by nearby residents regarding the potential for increased flood risk to their properties in the event that the development takes place (and photographic evidence provided of previous flooding to properties nearby), there is

no evidence to suggest that increased risk to nearby properties would result from the proposals, particularly given the requirement to mimic greenfield run-off rates, and the proposals to for surface water attenuation storage so as to accommodate the 1 in 100 year (+20% for climate change) storm event.

Whilst, at this outline stage, detailed drainage proposals have not been devised, the application documents indicate that an attenuation / infiltration basin would be proposed within the landscaped area towards the western end of the site. Infiltration drainage could, the FRA suggests, be maximised in this part of the site, having regard to the presence of a sandstone outcrop in this location. However, this would need to be addressed in more detail at a later stage (i.e. in respect of the discharge of drainage conditions and the proposed layout as shown in any reserved matters application).

Insofar as foul drainage is concerned, the Environmental Statement indicates that connection to local sewers would be required, although, at this stage, no further details are set out, pending the formulation of the detailed design of the proposed development. The Environmental Statement suggests that, on the basis that the system was designed and constructed in line with current sewer adoption standards (which would be required for connection), there would be little residual risk associated with the potential effect on the foul drainage system.

From the point of view of statutory consultees, neither the Environment Agency nor Severn Trent Water raise objections to the application, subject to the imposition of conditions, and the development is considered acceptable in this regard.

Agricultural Land Quality

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 employment land requirements 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. The submitted Environmental Statement contains an assessment of agricultural land quality suggesting the following distribution of land quality:

Grade 3b:	32ha (approx.) (91%)
Non-Agricultural:	3ha (approx.) (9%)

As such 32 hectares would be lost from agricultural use, along with a further 2 hectares within a field to the south of the site which, the Environmental Statement suggests, would become isolated as a result of the development. However, on the basis that none of the land within the site would be BMV, it is accepted that the harm that would result from the loss of this land to non-agricultural uses would not be significant.

Air Quality

The Environmental Statement assesses the impacts on nitrogen dioxide and particles associated with the development, including impacts arising from the construction works and the additional traffic associated with the development once it is in use. The Environmental Statement indicates that it considers, in particular, the impact on the Coalville Air Quality Management Area (AQMA), which is located in the vicinity of the junction between the A511 Stephenson Way and Broom Leys Road. The Environmental Statement has been assessed by the District Council's Environmental Protection team.

In terms of National policy, Paragraph 124 of the NPPF sets out the Government's approach to air quality and AQMAs. However, this also needs to be read in the context of the wider approach to sustainable development as set out in the NPPF, and its economic, social and environmental roles.

The Environmental Statement considers likely air quality effects in two principal categories: impacts during the demolition, earthworks and construction phase (principally dust emissions), and impacts from road traffic during the operational phase (nitrogen dioxide and particulates).

In terms of the construction phase, the Environmental Statement indicates that, given that scale of the development, and the proximity to sensitive receptors, the development would, if unmitigated, be of a high risk in terms of dust soiling and particulates. The Environmental Statement suggests however that, subject to the implementation of appropriate mitigation measures as set out within the Environmental Statement, the impacts would be negligible.

Insofar as the operational phase is concerned, the Environmental Statement concludes that, save for the nitrogen dioxide levels at a receptor location at Shaw Lane, all predicted concentrations for both nitrogen dioxide and particulates would be below the annual mean Air Quality Limit Value (AQLV) of 40 micrograms per cubic metre ($\mu\text{g}/\text{m}^3$). All locations would, however, be predicted to experience an increase as a result of the proposed development (albeit with differing degrees of increase). In terms of the significance of these changes, however, save for the Shaw Lane receptor and a receptor location on Beveridge Lane (insofar as nitrogen dioxide is concerned), impacts at all receptors (and including all particulate predictions) would be identified as negligible (with the Shaw Lane and Beveridge Lane nitrogen dioxide impacts being "slight" and "moderate" respectively). Overall, and having regard to proposed mitigation, the significance of the air quality impacts would be, the Environmental Statement suggests, slight adverse and, on this basis (and having regard to the requirements of the NPPF), the proposals are considered acceptable in this regard. No objections are raised in respect of air quality issues by the District Council's Environmental Protection team.

However, it is noted that the receptor identified for the purposes of assessing impacts within the Coalville AQMA is located on Bardon Road in the vicinity of its junctions with Waterworks Road and Bardon Close; this area is no longer within the Coalville AQMA, the extent of the AQMA having been amended in 2011. As such, as matters stand, no data in respect of predicted impacts on the AQMA has been provided and, until such time as it has been, the Local Planning Authority is unable to conclude with any confidence that there would not be any materially adverse impacts on air quality within the AQMA. It is, however, understood that the applicants' air quality consultant is in the process of addressing this issue, and any further submissions on this point will be summarised on the Update Sheet. In addition to this issue, however, the concerns regarding the robustness of the transportation evidence as set out in more detail below are also material to assessment of the air quality impacts in that, until such time as the extent of any additional traffic likely to pass through the AQMA (and the ability of any traffic control measures to mitigate the impacts of any such changes in traffic etc) is established, it is not possible to come to a final view on the likely air quality impacts (i.e. if the Local Planning Authority is unable to be satisfied that the applicants' predicted traffic impacts are correct, it is similarly difficult to come to a firm conclusion that there would be no unacceptably adverse air quality impacts on the basis of predictions based on assumptions set out within the applicants' transport evidence). As matters currently stand, therefore, and whilst additional work may address the concerns, it is not considered that it would be appropriate to permit the application as currently presented pending resolution of these issues.

Neighbours' Amenities

In terms of amenity issues, the impacts of the proposed development need to be considered both in terms of the effects on nearby residents arising from the undertaking of the construction of the proposed development (including, in particular, construction noise), as well on the future living conditions of residents following construction, having regard to the noise and other amenity impacts of the proposed development. These are considered in turn below. Insofar as vibration issues are concerned, the Environmental Statement indicates that, by virtue of the distance between the proposed development and the nearest residential properties, this would not be an issue.

Construction Noise

The submitted Environmental Statement suggests that noise during construction would have a "moderate" effect; a number of mitigation measures during this construction phase are recommended.

Post Construction / Operational Impacts

The submitted Environmental Statement considers the noise impacts of the proposed development in terms of both the construction works and the future operation of the site.

In terms of the effects arising from construction, the Environmental Statement concludes that these (temporary) effects would be "moderate".

In terms of the noise impacts arising from operation of the proposed development itself, given the outline nature of the proposals, the Environmental Statement assesses different scenarios of the final scheme's format, and the likely noise impacts on neighbouring properties arising therefrom, during both the night and daytime.

In terms of these noise impacts, the scenarios set out include options whereby the principal road through the site is routed via different areas of the site. Insofar as the scenario whereby the principal road was located adjacent to the southern boundary of the site is concerned, the predicted noise impacts would, at night, and based on 3 HGV movements per hour along this road, just fall below the 45dB LAeq (night) level at all nearby residential property (the highest being 44.9dB LAeq (night), located on St Christopher's Park). Under an alternative night time noise scenario whereby the principal road was located adjacent to the northern boundary of the site, the predicted impacts would be such that the impacts on St Christopher's Park would be reduced, although would be higher elsewhere, including on the existing residential development to the west of the application site; this scenario is based on 60 HGVs per hour using the road. A third scenario has also been prepared, assuming use of noisy plant located in the north eastern corner of the site; again, no unacceptable impacts are predicted.

In terms of daytime impacts, and based on 30 HGV movements per hour, the Environmental Statement indicates that these can be accommodated without exceeding the 55dBA criterion. For the reasons referred to under Means of Access, Highways and Transportation Issues below, there remain a number of concerns with the applicants' transportation evidence. However, the submitted Transport Assessment suggests a total number of 108 peak hour HGV movements so it is not entirely clear as to how this sits with the assumptions used in the noise assessment. It would therefore seem appropriate to seek clarification on the approach used in the noise assessment once the transportation issues were resolved.

Insofar as mitigation is concerned, the Environmental Statement considers the impacts of the proposed earthworks bund to the south and west of the site (proposed essentially for visual

impact mitigation reasons), and assuming a height of between 5 and 7 metres. The Environmental Statement suggests that the bund would provide a degree of mitigation in some locations, and depending on bund height.

On balance, therefore, and whilst much of the impacts are unclear at this outline stage, it would appear that, a form of development which prevents unacceptable noise disturbance to nearby occupiers could in principle be provided on the site, and particularly when having regard to the potential for on-site mitigation (albeit subject to clarification on the number of assumed HGV movements being provided). No objections on noise or vibration grounds have been raised in respect of the proposed development by the District Council's Environmental Protection team.

Other Residential Amenity Impacts

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves, whilst an illustrative masterplan has been submitted, all matters except part access are reserved for subsequent approval. The illustrative submissions and Design and Access Statement indicate that the proposed buildings would be of maximum heights of between 6 and 18 metres, and that the proposed built development would be located away from the western section of the site (which would be an area of woodland / National Forest planting). On the basis of the illustrative masterplan, the closest properties in residential use (i.e. caravans on the St Christopher's Park site) would be somewhere in the order of 60 metres (approx.) from proposed buildings on the development, with those buildings being indicated to be "small units"; a bund would also be proposed to be constructed to in the intervening land. Notwithstanding the anticipated maximum heights of the proposed units, it is considered that, in principle, a form of development could be provided within the site which would not lead to any undue loss of amenity by virtue of loss of light, overdominance or other residential amenity impacts. Clearly, careful consideration would need to be given to any detailed proposals for these and other areas of the site submitted at the reserved matters stage(s) so as to ensure that an appropriate relationship between proposed units and existing dwellings were provided. However, as set out above, there is no reason to suggest that the eventual form of development proposed at the reserved matters stage(s) would necessarily result in undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, considered acceptable in this regard.

Means of Access, Highways and Transportation Issues

As set out in the introduction above, the application is in outline with all matters reserved save for the proposed vehicular access into the site from Beveridge Lane. At the time of preparing this report, it is understood that amended plans in respect of the proposed site access (which would be in the form of a ghost island access) are intended to be submitted to the Local Planning Authority pending checking of the proposed revised design by the County Highway Authority. In terms of the addressing of the proposals' impacts on the wider highway network, the applicants propose, amongst others, making a contribution of £1,980,000 (as part of the District and County Councils' emerging Transportation Infrastructure contributions strategy for accommodating growth in and around Coalville).

Local Highway Issues

The County Highway Authority has raised a number of issues in respect of the submitted Transport Assessment and other supporting information on various occasions during the course of the application's submission, with its most recent formal observations being provided in November 2013 (although the County Highway Authority has been engaged in direct dialogue with the applicants' transport consultant on an ongoing basis prior to and since that time).

Whilst no further formal observations are available at the time of preparing this report, it is understood from the County Highway Authority that outstanding work required for the County Highway Authority to be able to provide its finalised comments includes:

- Internal design checking for the proposed site access (and, depending on the outcome of that checking, potentially submission of amendments to the access design and re-checking of those amendments);
- Testing of the applicants' distribution assumptions (using the County Council's LLITM model); and
- Assessment of junction capacity modelling

The County Highway Authority has suggested a programme for the addressing of these outstanding issues which would involve work at different times by both the County Highway Authority and the applicants' transport consultants. Assuming both parties kept to this timetable in terms of the required actions, this indicates that the County Council would be in a position to provide its final formal observations to the District Council by the end of June 2014.

In order to enable Members to understand more fully the issues of concern to the County Highway Authority, however, the County Council has been requested to provide a summary of what remains to be agreed / demonstrated; any additional comments received from the County Highway Authority in this regard will be reported on the Update Sheet.

For their part, the applicants' transport consultants contend that their traffic distribution figures are correct; it is understood that, rather than being of the view that these figures are incorrect per se, the County Highway Authority's concern is that the evidence to support them is not yet robust. The applicants' transport consultants also draw attention to the approach to traffic issues as set out in the NPPF (i.e. that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe), and contend that as, in their view, there are no severe residual impacts, the Local Planning Authority cannot refuse the application. However, the issue here does not necessarily appear to be whether the impacts are severe or otherwise but, moreover, that the County Highway Authority cannot say with any confidence that the applicants' consultants' predicted impacts are correct and, therefore, whether or not any impacts would be adverse (and, if so, severe) is simply not yet established one way or the other.

Strategic Highway Issues

At the present time, the Highways Agency (on behalf of the Secretary of State for Transport) has issued a TR110 Direction preventing the Local Planning Authority from permitting the application pending the resolution of unresolved issues in respect of the impacts on Junctions 13 and 22 of the A42 and M1 motorway respectively. It is understood from the Agency that it is of the view that, in principle, an appropriate solution is achievable (and likely to be by way of the formulation of an appropriate contribution under the District and County Councils' emerging Transportation Infrastructure contributions strategy) but, until such time as that is resolved, its Direction must remain in place. On this basis, whilst a solution to this issue seems achievable and there would seem to be potential for the Highways Agency's Direction to be removed, the Local Planning Authority would, at this time, be unable to issue any planning permission. Nevertheless, and notwithstanding the overall recommendation to defer, there appears to be no overriding reason why, in respect of this particular issue, the Planning Committee could not resolve to grant permission subject to the matter being concluded to the Highways Agency's satisfaction (and the TR110 Direction hence being removed and any additional conditions required by the Agency imposed). Alternatively, however, if Members were minded to refuse the

application, reference to this issue in the reason(s) for refusal would be considered appropriate.

Public Rights of Way

The site is affected by a number of public rights of way. Two principal rights of way (Footpath N50 and Restricted Byway N51 / Bridleway N52) cross the site. In addition, Footpath N47 abuts the southern boundary of the site, linking Whitehill Road with the southern part of the Interlink business park at Bardon. N50 connects with N47; N50 and N51/N52 both connect in the north to Beveridge Lane. Both N47 and N50 cross the Leicester to Burton railway by way of pedestrian level crossings.

Concerns have been raised by Leicestershire County Council's Rights of Way team with respect to the impacts on the existing routes of rights of way passing through the site which, based on illustrative layouts submitted with the application, would be affected, and that suitable alternatives have not been demonstrated. Further to these concerns, the applicants have amended their supporting information accordingly, with the illustrative details now indicating the deletion of that part of N50 between Beveridge Lane and its intersection with N47 (to the southern side of the Interlink business park), as well as that part of N51/N52 connecting to the existing farm buildings on the site. New links are shown along the eastern site boundary (connecting N52 and N47), to the northern boundary (parallel to Beveridge Lane), and through the proposed planting area at the western end of the site (linking Beveridge Lane, the Rushby Road roundabout and N47 to the north of St Christopher's Park). At the time of preparing this report the updated views on these proposals from the County Council's Rights of Way team were awaited, and any further comments received will be reported on the Update Sheet. The applicants have also been in direct liaison with the Councils Cultural Services Officer responsible for footpaths and it is considered that any issues can be satisfactorily addressed at the reserved matters stage.

Rail Issues

As noted under Public Rights of Way above, the proposed changes to the local rights of way network include the deletion of N50 between Beveridge Lane and its intersection with N47 and a new route alongside the eastern boundary. These proposed changes are intended to address the concerns of Network Rail with respect to impacts on use of pedestrian level crossings, and in accordance with Network Rail's policy to secure a significant reduction in risk at level crossings. Whilst Network Rail accepts that there would not be a very significant increase in usage of the crossing, it considers that there would, nonetheless, be an increase as a result of the development and, as such, considers that it would be appropriate to seek the removal of one of the two crossings affected by the development, and suggests the one serving N50 as it has the higher risk (and with the provision of the new pedestrian route enabling users on the western side of the railway to access the retained (N47) crossing).

Insofar as other railway issues are concerned, the illustrative details indicate a "future rail sidings zone" and, depending on the levels and layout of the proposals as set out at the reserved matters stage, the scheme would appear capable in principle of being served (in part, at least) by rail. The Environmental Statement and Design and Access Statement also indicate that the eastern boundary would not include any new landscape proposals so as to maintain the potential for future rail connectivity to the site. The application as submitted does not propose a rail connection per se, but recognises that the site has the potential in the future to be accessed in this way. In order to ensure that the development of the site does not preclude its future use in this way, it is recommended that any approval require the submission of details with the reserved matters proposals to demonstrate that those proposals would not prejudice this aspiration in the future, should circumstances ever allow.

For its part, Network Rail raises no objections to the development subject to the above measures, and subject to the imposition of other conditions required to ensure the safety, operational needs and integrity of the railway. It also confirms that it has no objections relating to the increased use of the existing road bridge over the railway on Beveridge Lane (and including the types of vehicle likely to be using it).

Access, Highways and Transportation Conclusions

In summary, in respect of the access and transportation issues, it is noted that there are a number of unresolved issues insofar as the County Highway Authority is concerned which, it considers, mean that the County Council cannot be satisfied that there would not be an unacceptable impact on highway and transportation matters. Whilst the applicants' consultants contend that all issues have been appropriately addressed, the County Highway Authority does not concur, and is unable, at this time, to recommend approval from the highway and transportation aspect.

It is also noted that the Highways Agency has issued a Direction preventing issuing of a planning permission at this present time. Until such time as the Highways Agency can be satisfied that there would be no unacceptable (and unmitigated) impacts on the safe and efficient functioning of the strategic highway network (and, in particular, at the affected junctions of the A42 and M1), it would be inappropriate to release the site for development and, indeed, the Direction prevents the Local Planning Authority from so doing. Nevertheless, were members minded to permit, it is considered that any such resolution could be framed in a manner as to allow the development to proceed if and when the Highways Agency's concerns had been resolved.

The proposed development is, overall, however, considered unacceptable at this time in respect of access and transportation issues, and it is therefore recommended that the application be deferred pending resolution of these issues.

Historic Environment

There are no listed buildings, Conservation Areas or scheduled monuments within the vicinity of the application site. It is also considered that there are no features which would be likely to be viewed as non-designated heritage assets of significance.

Insofar as archaeology is concerned, the application is supported by a range of documents, including an archaeological desk based assessment, a geophysical survey report and an archaeological trial trench evaluation. These indicate that the site has a low potential for significant remains of all periods and that any yet to be any undiscovered assets are, based on the archaeological background of the area, only likely to be of local interest and significance.

On this basis, and subject to the implementation of the relevant recording / mitigation measures, it is accepted that no unacceptable impacts on heritage features would result; the County Archaeologist advises that, on the basis of the desk-based assessment, geophysical survey and trial trenching undertaken, there does not appear to be a reasonable potential for the survival of significant archaeological remains within the site, and raises no objections.

Design

The proposed scheme is outline only, with all matters other than part access reserved for later consideration; the application is supported by a Design and Access Statement.

The proposal has been assessed by the District Council's Urban Designer, who has raised, amongst others, the following issues regarding the scheme:

- The scheme needs to take account of the Council's aspirations for National Forest inspired buildings and spaces and associated integration of landscaping and SuDS
- Concerns regarding the extent of trees and hedgerows proposed (on the illustrative plans) to be removed or across the developed parts of the site;
- The Design and Access Statement should establish more specific principles for architectural design, and including in respect of the environmental performance of buildings;
- Green infrastructure and pedestrian / cycle connectivity should thread through the site - whilst the green infrastructure is largely indicated as being concentrated to the west (the logic for which is clear), the central spine road could be developed as a much stronger feature, integrating SuDS, a greenway and existing hedgerows, thus creating a more subtle contrast between the undeveloped and developed parts of the site in this National Forest location; and
- A pedestrian / cycle route should run west to east across the site, providing two links across the open space, the first running in a west / east alignment directly across from the "green" located within the recently built Poppyfields (David Wilson Homes) development, the second running from the south east corner of Poppyfields, heading in a north easterly direction to connect with the other route

In response to these issues, the applicants have provided amended illustrative layouts in order to demonstrate how existing hedges could potentially be retained within the scheme and to indicate the potential integration of green infrastructure into the site. Further to these amended details, and given the outline nature of the application, the District Council's Urban Designer raises no objections but suggests that his other comments be flagged up by way of a Note to Applicant so as to ensure that these matters are appropriately addressed at the reserved matters stage(s). Given the scale of the development, however, and the potential for different plots to be designed and built out by different developers / occupiers, it is also considered that there is the potential for the site to be developed in a range of different styles / approaches, which could result in an ad hoc approach to design, to the detriment of the overall quality of the scheme. As such, it is considered that the implementation of a Design Code would be appropriate, and would serve to ensure that a consistent approach is taken.

Overall, therefore, subject to the imposition of a condition requiring a Design Code, together with the reserved matters schemes encompassing other issues of importance as identified by the District Council's Urban Designer, it is considered that the development has the potential to provide for an appropriate form of design at the reserved matters stage, and compliance with the relevant design-related policies could be achieved.

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.

In addition to the Transport Infrastructure contribution (and any separate County Highway Authority contribution requirements) which would be likely to be required in respect of the proposed development pending resolution of the transportation issues, the only other developer contributions required in this case would be in respect of the provision / maintenance of the proposed green infrastructure. As set out above, the landscape management plan would also require inclusion as an obligation within any associated Section 106 agreement.

Conclusions

As set out above, the site is considered suitable in principle for the proposed development and Officers are supportive of increasing the supply of B2/B8 employment sites in the south east Coalville area. It is considered that the supporting information indicates that the development is acceptable in technical terms, and the conclusions as set out in the applicants' Environmental Statement are for the most part accepted, although unresolved concerns are considered to remain in respect of transportation issues and, partly as a result, air quality. Whilst the site is outside Limits to Development and, therefore, would be contrary to existing National and Development Plan policies designed to protect the countryside from unnecessary development, regard also needs to be had to other material considerations and including the District's employment land requirements as well as the NPPF's stated aim of supporting economic growth through the planning system.

In terms of technical issues affecting the proposed development, and as set out in the applicants' Environmental Statement, it is considered that the proposals are, for the most part, acceptable. It is also likely that appropriate contributions to infrastructure would be secured in order to accommodate the development, and the proposals would make a significant contribution to local employment opportunities. However, these benefits need to be considered in the context of the other environmental effects (and, not least, in respect of transportation issues) and, whilst it is accepted that significant weight can be properly attached to the economic development issues associated with the proposals, it is considered that the Local Highway Authority (and, hence, the Local Planning Authority) are not, at this time, in a position to have any certainty over the likely impacts of the proposals and, accordingly, whether they would be harmful in this regard (and, if so, to what degree). It is therefore recommended that the application be deferred so as to allow for the unresolved issues to be addressed.

RECOMMENDATION- DEFER IN ORDER TO ALLOW OUTSTANDING MATTERS TO BE ADDRESSED

Development of 605 residential dwellings including a 60 unit extra care centre (C2), a new primary school (D1), a new health centre (D1), a new nursery school (D1), a new community hall (D1), new neighbourhood retail use (A1), new public open space and vehicular access from the A511 and Woodcock Way (outline - all matters other than part access reserved)

Report Item No
A3

Money Hill Site North Of Wood Street Ashby De La Zouch
Leicestershire

Application Reference
13/00335/OUTM

Applicant:
Mr Matthew Inman

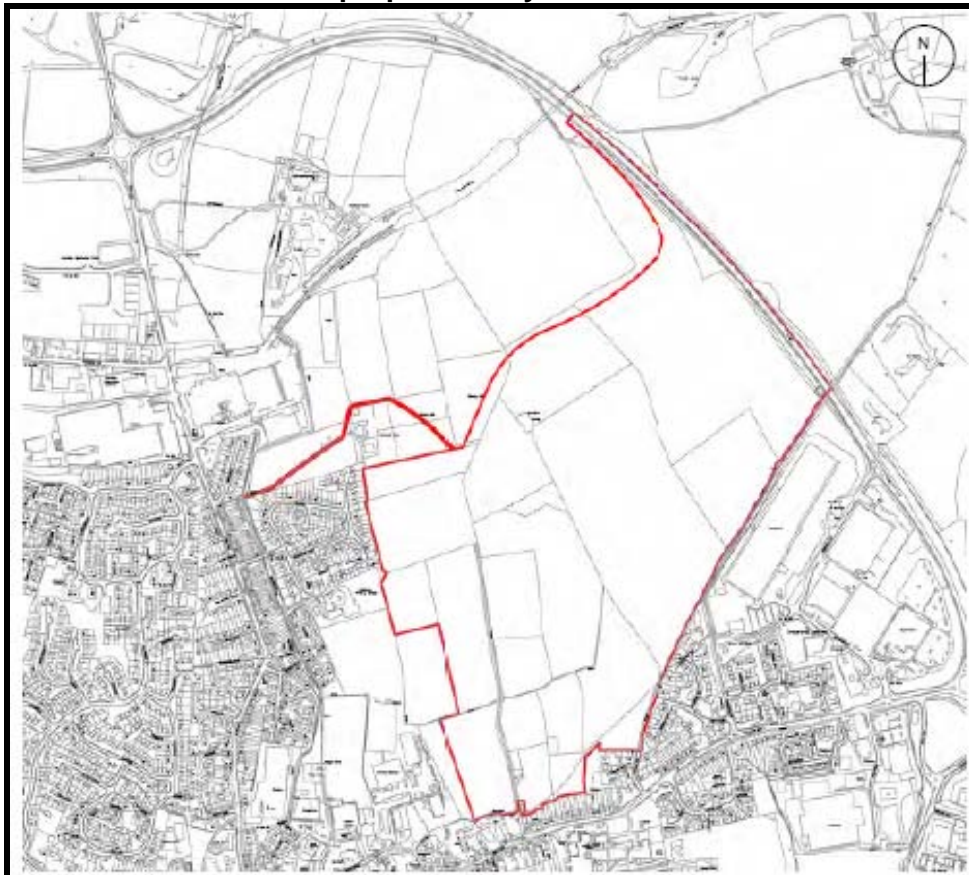
Date Registered
3 May 2013

Case Officer:
James Knightley

Target Decision Date
28 June 2013

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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

Executive Summary of Proposals and Recommendation

Proposal

This application seeks outline planning permission for residential development of 605 dwellings together with an extra care centre, primary school, health centre, nursery school, community hall and retail development as well as new public open space served via vehicular accesses from the A511 and Woodcock Way.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals (and including from Ashby de la Zouch Town Council); the application is also the subject of a holding Direction issued by the Highways Agency on behalf of the Secretary of State for Transport.

Planning Policy

The majority of the application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. This Policy now has to be considered as not being up-to-date in the context of the National Planning Policy Framework (NPPF) as the Council cannot currently demonstrate a five year supply of deliverable housing sites.

Conclusion

The report below indicates that, whilst the majority of 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 area of Ashby de la Zouch) 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. Whilst the Local Highway Authority raises a number of issues in respect of the proposed means of access to the site, the Highway Authority does not raise objection and these are not considered to be issues of such concern so as to warrant a refusal of planning permission; 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 a reduced contribution to affordable housing required so as to ensure the development remains viable.

RECOMMENDATION:-

PERMIT, SUBJECT TO THE WITHDRAWAL OF THE SECRETARY OF STATE FOR TRANSPORT'S TR110 DIRECTION, SUBJECT TO SECTION 106 OBLIGATIONS, AND SUBJECT TO THE IMPOSITION OF CONDITIONS

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

MAIN REPORT

1. Proposals and Background

This is an outline planning application, accompanied by an Environmental Statement, for the mixed development of a site of approximately 44 hectares to the north / north east of Ashby de la Zouch currently used primarily for agricultural purposes. Whilst some matters are reserved for subsequent approval, an illustrative masterplan has been submitted which shows:

- 605 new dwellings
- A 60 unit extra care facility
- A health centre (2,000sqm (gross), including 1,200sqm GP area, 150sqm pharmacy and 400sqm future expansion space)
- A primary school (210 pupil capacity on a site of 1.5ha)
- A nursery school (adjacent to the primary school)
- A community hall
- Retail development (total 560sqm) located in two areas of the site
- Public open space, and play areas (14.3ha)
- Pedestrian and cycle links, including connections to Featherbed Lane, Plantagenet Way, Wood Street, North Street and Smisby Road (and including via existing rights of way)

The southern part of the site is the subject of a separate application for those works indicated within that area of the site as a whole (and including for up to 130 dwellings); this application is currently undetermined (ref. 13/00041/OUTM).

As set out above, the application is in outline. All matters are reserved save for the access insofar as it relates to the proposed means of vehicular access into the site (and including for the principal route through the site connecting the two site vehicular entrances). The remainder of the "access" matters (i.e. including the pedestrian and cycle links to adjacent land and circulation routes through the site itself as shown on the illustrative masterplan) are reserved for subsequent approval. In terms of the proposed *vehicular* access arrangements, the applicants had proposed that, initially, the Phase 1 residential development (i.e. 130 dwellings) plus the proposed health and community centres would have accessed the site via Woodcock Way but that, following implementation of the later phases of development (and including the balance of the 605 dwellings), the extent of the development proposed to be accessed from this direction would have been reduced to 30 dwellings plus the proposed health and community centres.

The application was first considered at the Planning Committee meeting of 12 November 2013 where it was resolved that the application be deferred so as to enable further consideration to be given to improving access between the application site and Ashby de la Zouch town centre. Further to the deferral, the agents advised that, in their view, there was no good reason why application should not be positively determined at the Planning Committee meeting of 3 December 2013 and that, if the application was not heard in December, they were instructed to appeal and to apply for costs. The application was accordingly considered at the December 2013 meeting where it was resolved to be refused contrary to the officer recommendation on the grounds of unacceptable access (in terms of connections to the town centre and vehicular access to Woodcock Way), the adverse impacts on highway safety at Junction 13 of A42, and the under-provision of affordable housing. The reasons for refusal relating to the adverse impacts on highway safety at Junction 13 of A42 and the under-provision of affordable housing were included on officers' advice in the event that members were minded to refuse for other reasons (i.e. the connections to the town centre and vehicular access to Woodcock Way) in

that, whilst officers were of the view that these were likely to be resolvable following any resolution to permit and prior to the issuing of any planning permission, in the event that members were minded to issue a refusal, as currently unresolved matters of concern, they would more appropriately need to be included. For the reasons set out in more detail within this report, the position in respect of these issues remains unchanged (i.e. that officers are satisfied that, in principle, they are capable of appropriate resolution in due course but that, as things currently stand, they are unresolved, and if a formal decision on the application were to be issued at this particular moment in time, a refusal on these points would be appropriate).

Following that meeting, however, and at the request of the applicants, the decision notice was not issued so as to enable further discussions with key stakeholders and officers in light of concerns expressed by Members when the application was considered by the Planning Committee. The applicants subsequently indicated that they were minded to amend the application in order to attempt to address Members' concerns, and requested that the application be reconsidered by the Committee. They also advised that, should Members resolve to grant planning permission at the Planning Committee meeting of 8 April 2014, they would not submit an appeal against the non-determination of the application. This request to reconsider the application was considered by the Planning Committee at its meeting of 11 March 2014 where it was resolved that the previous resolution to refuse the application of December 2013 not be confirmed and that the application be reconsidered at a future meeting of the Committee.

The application has now been amended, and now proposes, in particular, that the number of dwellings accessed via Woodcock Way be limited to 30, and an increased contribution towards enhanced connectivity between the site and the town centre (with a figure of up to £400,000 now proposed).

2. Publicity

No neighbours have been notified.

Press Notice published 29 May 2013

3. Consultations

Ashby De La Zouch Town Council consulted 7 May 2013

County Highway Authority consulted 31 July 2013

Highways Agency- Article 15 development consulted 31 July 2013

Environment Agency consulted 8 July 2013

LCC Development Contributions consulted 25 September 2013

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 25 March 2014

Severn Trent Water Limited consulted 8 May 2013

Head of Environmental Protection consulted 8 May 2013

Natural England consulted 8 May 2013

NWLDC Tree Officer consulted 8 May 2013

County Archaeologist consulted 8 May 2013

LCC ecology consulted 8 May 2013

Airport Safeguarding consulted 8 May 2013

NWLDC Conservation Officer consulted 8 May 2013

NWLDC Urban Designer consulted 8 May 2013

English Heritage- Ancient Monument consulted 8 May 2013

County Planning Authority consulted 8 May 2013

LCC Development Contributions consulted 8 May 2013

Development Plans consulted 8 May 2013

Head Of Leisure And Culture consulted 8 May 2013
 Manager Of Housing North West Leicestershire District Council consulted 8 May 2013
 Police Architectural Liaison Officer consulted 8 May 2013
 LCC/Footpaths consulted 8 May 2013
 Highways Agency- Article 15 development consulted 8 May 2013
 National Forest Company consulted 8 May 2013
 South Derbyshire District Council consulted 8 May 2013
 Coal Authority consulted 8 May 2013
 DEFRA consulted 8 May 2013
 LCC Fire and Rescue consulted 8 May 2013
 FRCA (MAFF)- loss of agricultural land consulted 8 May 2013
 Head Of Street Management North West Leicestershire District Council consulted 8 May 2013
 Coal Authority consulted 8 July 2013

4. Summary of Representations Received

Ashby de la Zouch Civic Society objects on the following grounds:

- The Local Planning Authority's evidence at the Holywell Spring Farm public inquiry provided that the development of both the Holywell Spring Farm and Money Hill sites would increase the total housing provision in Ashby de la Zouch to 1,800 dwellings, placing a considerable infrastructure burden on the town, notably in terms of sustainable drainage
- Core Strategy sustainability appraisal only supported 1,450 houses for Ashby de la Zouch - approval would far exceed this target and negatively impact on sustainability of both Ashby and Coalville
- Proposals unbalance housing and employment provision, especially with the closure of the Arla dairy, resulting in commuting out of the town, contrary to the NPPF
- Unsustainable access arrangements by virtue of facing the development away from the town
- Unsustainable proposed bus route by virtue of routing via the A511
- Traffic flows at major junctions will exceed capacity without adequate mitigation
- Key pedestrian link to the town centre is weak and undeliverable due to its incompatibility with the existing adjacent HGV business
- No appropriate assessment by the applicant and relies on the developer contributions scheme for permission to connect to the sewer - due to previous approvals, there is only capacity for 100 dwellings in Ashby de la Zouch at the Packington Sewage Treatment Works (STW), not the 605 proposed

The Civic Society has also written to Members of the Planning Committee raising the following concerns:

- Accessing 575 dwellings via the bypass would exceed the 400 recommended to be conditioned by the Local Highway Authority and a second roundabout would be needed
- Refusal would not be contrary to the relevant Highway Authorities' advice - the Local Highway Authority and Highways Agency do not support the proposals in that the County Council does not support 575 dwellings off one roundabout and the Highways Agency has issued a TR110 Direction preventing determination prior to February 2014
- Officers are ignoring the advice of the Local Highway Authority and the District Council's Urban Designer and a Secretary of State Direction
- Upgrade to Ivanhoe Way to provide a multimodal link to the town centre is neither designed nor deliverable
- Proposals for other development as suggested by the applicants are not part of the proposals under consideration
- Proposals are unsustainable

- Existing traffic problems do not justify additional development without mitigation
- New school, surgery and extra care facility are key facilities to support the development's sustainability but may be provided at Holywell Spring Farm instead
- Due to previous approvals, there is only capacity for 100 dwellings in Ashby de la Zouch at the Packington Sewage Treatment Works, not the 605 proposed
- Scheme cannot deliver the required infrastructure whilst remaining viable

Further to the amendment of the scheme in March 2014, the **Ashby de la Zouch Civic Society**, together with the **Nottingham Road Action Group** comments as follows:

- Recent County Highway Authority traffic census for Nottingham Road indicates a 5% increase since September 2011, resulting in frequent lengthy queues
- Core Strategy housing allocation for Ashby to 2031 has already been met
- If Money Hill site *has* to be developed, access arrangements must minimise the traffic impact on Nottingham Rd and Wood St whilst providing connectivity to the town centre - Members agreed unanimously at the December 2014 Planning Committee that the application as it stood did not
- Whilst the applicants' "new information" addresses some of residents' concerns, the fundamental issue of inadequate access remains, as the application states that the 575 dwellings not served by Woodcock Way would be accessed from a single point of access (one roundabout on the A511 bypass), far exceeding the 6C's Design Guide
- In an attempt to address the concerns the applicants have prepared a draft masterplan for the development of the wider site (with a total of 1,500 dwellings, community facilities and employment land) which proposes vehicular access at six points but genuine concerns remain over those accesses' deliverability
- Development as currently proposed only includes for two accesses and with the promise of a financial contribution towards improved (but as yet unproven) links with the town centre
- Residents fear that occupants of the 1470 dwellings accessed via A511 would press for the same access rights to Nottingham Road as the 30 located to the other side of the rising bollard
- Not clear how the proposed estate road network would be modified to effectively and forever "block off" all road connections between the "lucky 30" accessed via Woodcock Way and the wider estate
- Woodcock Way link completely unnecessary anyway as the Money Hill Consortium's commitment to vehicular links from North Street and Smisby Road would resolve access to the wider estate for buses and emergency vehicles alike
- Remaining concerns with the 605 application can be addressed through suitable conditions being attached its approval
- Woodcock Way should only ever be used to access dwellings (as opposed to non-residential development)
- Even with widening, the proposed right turn lane into Woodcock Way would leave Nottingham Road too narrow to accommodate three lanes safely and will make notorious "Grammar School bend" more dangerous
- Proposed widening of Woodcock Way / double yellow lines are unnecessary given the reduced scale of development via Woodcock Way now proposed, and the opportunities to route buses and emergency service vehicles through the alternative proposed accesses
- Although residents have grave concerns over the cumulative impact on the town's fragile infrastructure of a circa 60% increase in the number of dwellings, they also recognise the ongoing absence of both an up to date Local Plan and a demonstrable 6 year housing land supply for the District, and its potential consequences
- On balance, residents believe that, with the addition of all the conditions suggested to

protect Nottingham Road and Woodcock Way, Money Hill can be developed sustainably, and that these conditions provide a basis for the early approval of the 605 application whilst collaborative work continues on the masterplan for the wider site.

The Civic Society / Nottingham Road Action Group suggest the following conditions be attached to any planning permission granted:

- No construction work to commence on the application until such time as a masterplan for the wider site has been permitted
- No more than 30 of the new dwellings accessed via Woodcock Way
- No use of Woodcock Way to access non-residential uses
- No use of Woodcock Way for bus access to Nottingham Road
- No emergency access to the wider site via Woodcock Way
- No alterations to the existing Woodcock Way carriageway
- No use of Woodcock Way for construction vehicles
- The "green wedge" between existing houses and the proposed development to be planted prior to construction starting

Ashby de la Zouch Town Council objects on the following grounds:

- Exacerbation of traffic problems on Nottingham Road and the Ashby bypass
- Site is not a sustainable development in terms of the NPPF - it will provide housing for commuters, will cause severe traffic problems and, although claiming to be close to the town centre, provides shops and other services already found in the town centre
- Will materially affect the character of the town
- Previous application for 130 houses with access via Woodcock Way is confusing and should be withdrawn by the developers

Coal Authority has no objections subject to conditions

English Heritage recommends that the Local Planning Authority determines the application in accordance with advice previously given and in accordance with the advice of the County Archaeologist and the District Council's Conservation Officer

Environment Agency has no objections subject to conditions

Highways Agency directs that planning permission not be granted in view of unresolved issues relating to the potential impacts on the A42 trunk road

Leicestershire County Council Archaeologist has no objections subject to conditions

Leicestershire County Council Education Authority requests provision of a primary school or a financial contribution in respect of the primary sector of £1,756,776.25, a financial contribution in respect of the high school sector of £1,081,508.29, and a financial contribution in respect of the upper school sector of £1,110,487.18.

Leicestershire County Council Library Services Development Manager requests a developer contribution of £32,800

Leicestershire County Council Ecologist has no objections subject to conditions

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

Leicestershire County Council County Planning Authority advises that the Mineral Planning Authority has no information to support or refute the applicants' conclusions that the coal seams are unlikely to be of interest for future surface mining, and advises that the Coal Authority be consulted

Leicestershire County Council Rights of Way Officer has no objections subject to conditions securing the upgrading and diversion of various rights of way in the vicinity of the site

Leicestershire Fire and Rescue Service has no objections

Leicestershire Police requests a policing contribution of £203,187

National Forest Company has no objections subject to conditions and planning obligations

Natural England has no objections subject to conditions

NHS England (Leicestershire and Lincolnshire Area) requests a healthcare contribution of £201,878.28

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

Severn Trent Water has no objections subject to conditions

South Derbyshire District Council has no objections

Third Party representations

359 representations have been received, together with an online petition containing 28 signatures, raising the following concerns:

- Carriageways and footways of Nottingham Road / Wood Street too narrow for current traffic flows and have a poor safety record
- Exacerbation of existing queuing / congestion issues, particularly at peak times
- Woodcock Way junction on a blind bend / accident black spot close to a school
- Woodcock Way too narrow for increased use generated by the proposed development or for bus use
- Previous application for new housing off Woodcock Way refused on appeal on highway safety issues
- North West Leicestershire Local Plan Inquiry Inspector indicated additional access from Woodcock Way would be inappropriate
- Transport Assessment ignores committed developments elsewhere and the proposed Wood Street / Upper Church Street junction traffic lights
- Transport Assessment based on a one day snapshot when no significant queuing took place
- A511 and its junctions with Nottingham Road and the A42 would be overwhelmed by additional traffic
- Additional sewage generated greater than the residual headroom available at Packington Sewage Treatment Works
- Adverse impact on viability of Market Street due to trade being drawn towards the new retail / community development and by visitors being deterred by traffic congestion
- Unsustainable for residents of the new development to drive to the town centre (a round trip of up to 8.5 / 9km)
- Premature ahead of the Core Strategy Examination in Public

- No further shops required in Ashby de la Zouch - Market Street already full
- Medical centre proposed on the Holywell Spring Farm site
- Vehicular access should be via the A511 or the town centre only
- Adverse impact of traffic on congestion and safety on Smisby Road / Derby Road
- Insufficient infrastructure (including schools, healthcare, and highway network capacity)
- Noise / vibration
- Pollution
- Insufficient parking provision in Ashby de la Zouch
- Loss of agricultural land
- Impact on wildlife / habitat
- Insufficient employment opportunities for new residents
- Adverse impact on historic character / heritage assets
- Previous application (13/00041/OUTM) should be withdrawn
- Increased use of public footpath linking the site with Wood Street
- Increased unauthorised parking on / obstruction of the public footpath linking the site with Wood Street which is also a private drive
- Medical centre should not be relocated from the town centre due to accessibility concerns, particularly for the elderly
- Insufficient parking for proposed medical centre
- Congestion will lead to late / missed appointments at the proposed medical centre
- Brownfield sites should be used in preference to greenfield ones
- Loss of green space
- Flooding
- Contrary to Leicestershire County Council Highways standards
- Inaccurate assumptions in Transport Assessment / traffic modelling
- A masterplan for the proposals are required
- House building being undertaken in the area more quickly than required
- Poor strategic planning
- Lack of consultation
- Poor design quality
- Adverse impact on water quality
- Reduced efficiency / effectiveness of A511 Ashby bypass
- Proposed access arrangements would create a ghetto
- Anti-social behaviour / impact on law and order
- County Highway Authority advice is incorrect, including in respect of the extent of any improvement works requested in respect of public right of way O90, and the impact on traffic volumes using Wood Street and Nottingham Road
- Application should not be reconsidered following the previous resolution to refuse
- Two junctions on to the A511 would double the expense
- Any limitation to 30 dwellings accessed via Woodcock Way would need to be secured by a covenant or by-law
- No need for Woodcock Way entrance if access also available via A511, Ivanhoe Way and the dairy
- Should be no access via Woodcock Way
- Existing school should be expanded in preference to the construction of the proposed new school
- Wood Street link should be guaranteed to be available, and made suitable for two-way vehicular access
- Unsustainable location in terms of means of access

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."

"24 Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require 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 proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale."

"26 When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer

choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made."

"28 Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings..."

"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."

"38 For larger scale residential developments in particular, planning policies should promote a mix of uses in order to provide opportunities to undertake day-to-day activities including work on site. Where practical, particularly within large-scale developments, key facilities such as primary schools and local shops should be located within walking distance of most properties."

"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."

"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..."

"120 To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.... Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner."

"121 Planning policies and decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;...
- ...- adequate site investigation information, prepared by a competent person, is presented."

"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..."

"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 majority of the site falls outside of Limits to Development as defined in the adopted North West Leicestershire Local Plan.

Policy S2 provides 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 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 E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplains of, amongst others, the Gilwiskaw Brook.

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 R1 provides that shopping and related development (such as financial and professional services and food and drink uses) will be permitted within Coalville and Ashby de la Zouch Town Centres, on allocated sites, and in existing or proposed local shopping areas. New retail development outside these areas will only be permitted where it can be shown that a number of criteria would be satisfied.

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 Ashby de la Zouch.

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

North West Leicestershire District Council Play Area Design Guidance SPG

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

Ashby de la Zouch Conservation Area Appraisal and Study SPG

The south western part of the application site abuts the Ashby de la Zouch Conservation Area. The Ashby de la Zouch Conservation Area Appraisal and Study 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.

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 majority of 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. As explained further below, however, as a consequence of the Council currently being unable to demonstrate a five-year supply of housing land, Policy S3 can no longer be considered an up-to-date policy in the context of paragraph 49 of the NPPF as it is a general policy that constrains the supply of housing.

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.

As with Policy S3, however, Policy H4/1 being a policy for the supply of housing, can no longer be considered up-to-date due to the inability of the Council to demonstrate a five-year supply of housing land.

Whether or not this site would be considered "appropriate" is a matter of judgement. Insofar as the site's location is concerned, and whilst it is, for the most part, outside Limits to Development, it is considered to be well related to the existing built up area of the town.

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.

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 recently published 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". Therefore the Council would not, in these circumstances, be able to rely on either Policy S3 or Policy H4/1 as they are "relevant policies" for the purposes of NPPF paragraph 49. Whilst members have previously been advised, on the basis of the Stephenson's Green High Court decision that Policy S3 should not be considered to be a relevant policy for the supply of housing and that, accordingly, the policy should not be considered to be out of date, a recent judgement from the most senior Judge in the Administrative Court (who is also a specialist Planning Judge) has qualified the position taken by the Judge in the Stephenson's Green case as a result of which it is no longer appropriate to rely on the latter decision.

In *South Northamptonshire Council -v- Secretary of State for Communities and Local*

Government (10 March 2014) Mr Justice Ouseley, considering the meaning in Paragraph 49 of the NPPF of policies "for the supply of housing", said this:

"46. That phraseology is either very narrow and specific, confining itself simply to policies which deal with the numbers and distribution of housing, ignoring any other policies dealing generally with the location of development or areas of environmental restriction, or alternatively it requires a broader approach which examines the degree to which a particular policy generally affects housing numbers, distribution and location in a significant manner.

47. It is my judgement that the language of the policy cannot sensibly be given a very narrow meaning. This would mean that policies for the provision of housing which were regarded as out of date, nonetheless would be given weight, indirectly but effectively through the operation of their counterpart provisions restrictive of where development should go. Such policies are the obvious counterparts to policies designed to provide for an appropriate distribution and location of development. They may be generally applicable to all or most common forms of development, as with EV2, stating that they would not be permitted in open countryside, which as here could be very broadly defined. Such very general policies contrast with policies designed to protect specific areas or features, such as gaps between settlements, the particular character of villages or a specific landscape designation, all of which could sensibly exist regardless of the distribution and location of housing or other development".

Thus, whilst e.g. Green Wedge or Gap policies may not be caught by Paragraph 49, policies such as S3 and H4/1 that generally restrict development outside of settlement boundaries in open countryside clearly are. In these circumstances Members must be advised to consider both S3 and H4/1 as not being up-to-date policies. In any event, 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 could have been attributed to any conflict with Policy S3 in the overall planning balance.

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 the relevant sections 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, has the potential to perform well in terms of need to travel and the movement towards a low carbon economy subject to the provision of suitable pedestrian and cycle linkages to nearby services.

In terms of the proposed residential element of the development, it is considered that there is a strong case for permitting the development, particularly given the need to demonstrate a 5 year (plus buffer) supply of housing land. In this regard, the weight to be attributed to this issue

needs to take into account the likely five year housing land supply contribution provided by the application; on the basis of the District Council's housing trajectory contained within the former draft submission Core Strategy, 100 units would be anticipated to be delivered by 2017/18, with a further 50 by 2018/19.

The issue of housing land supply does not affect the associated non-residential development forming part of the proposals in the same way, although it is noted that there is an obligation to provide for the needs of business within the NPPF, and it is also accepted that, to a degree, much of the associated development is appropriate in principle, given the need to deliver such development in association with new major residential development.

Conclusions in respect of the Principle of Development

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 majority of 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, and including Local Plan Policy S3, a policy designed to protect the countryside for its own sake. For reasons which have been outlined above, however, this Policy cannot be considered as being up-to-date in the context of Paragraph 49 of the NPPF.

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 20% buffer) as required by the NPPF, which is considered to be a material consideration of some significance (albeit regard also needs to be had to the extent of the contribution that this site would be likely to make within the next five years).

Thus, overall, the proposed development of the site is considered acceptable in principle.

Detailed Issues

In addition to the issues of the principle of development, consideration of other issues relevant to the application (and including those addressed within the Environmental Statement) is set out in more detail below.

Means of Access, Highways and Transportation Issues

As set out in the introduction above, the application is in outline with all matters reserved save for the access insofar as it relates to the vehicular access points into the site (and including the principal route through the site connecting the A511 with Woodcock Way (albeit with no through route for "general" traffic)).

In terms of the applicants' proposals for *vehicular* access, the application as previously considered by the Planning Committee proposed that, initially, the Phase 1 residential development (130 dwellings) plus the proposed health and community centres would access the site via Woodcock Way but that, following implementation of the later phases of development

(and including the balance of the 605 dwellings), the extent of the development proposed to be accessed from this direction would be reduced to 30 dwellings plus the proposed health and community centres. However, following the amendment to the scheme in March 2014, it is now proposed that this maximum number of dwellings would be limited to 30 immediately.

The remainder of the "access" matters (i.e. including circulation routes through the site itself) are reserved for subsequent approval, albeit routes through the site are indicated on the illustrative masterplan.

As set out in the summary of representations above, the County Highway Authority has not raised objection to the application, subject to conditions. However, one of these conditions requires the limitation of the number of dwellings accessed via either of the two vehicular accesses to no more than 400 whereas, as set out above, the intention is for all but 30 of the proposed dwellings (i.e. 575) to be accessed via the A511 junction. There are a number of other issues arising out of the County Highway Authority's comments, and these are set out in more detail below. At the time of preparing this report, the updated views of the County Highway Authority to reflect the proposed amendments had not been received (although, based on its previous comments, its stance would seem unlikely to be changed in respect of the number of dwellings accessed via Woodcock Way given that the maximum of 30 dwellings via this route would be unchanged from the "eventual" position originally suggested by the applicants). Any further comments received will be reported on the Update Sheet.

Woodcock Way Access:

The proposed access arrangement at Woodcock Way includes for the upgrading of the existing priority junction to a ghost island junction, the widening of Woodcock Way to provide a 6m carriageway width, and a Traffic Regulation Order on both sides of Woodcock Way between its junctions with Nottingham Road and Lockton Close (to protect the turning movements of an 8.8m bus).

The County Highway Authority advises that, based on a survey carried out on behalf of the County Council on 18 July 2013, measured 85th percentile speeds on Nottingham Road within the vicinity of Woodcock Way were recorded as 36.8mph north east bound and 34.6mph south west bound. In accordance with the County Highway Authority's adopted highway design guidance (6Cs Design Guide), visibility requirements for a new access junction based on the 85th percentile measured speeds are 65m (73m for a bus route); 73m visibility splays are achievable at this location in both directions within highway land.

The County Highway Authority also advises that the 6Cs Design Guide states that the minimum carriageway width for internal roads within new developments is 6.75m for up to 1,000 dwellings and that the width of Woodcock Way is proposed to be widened to 6m along its length, which is hence below the minimum width of 6.75m. However, the County Highway Authority notes that Woodcock Way itself is not a "new" development, and the bus route is proposed to be operated by a bus 8.8m in length (i.e. a "midi" bus). The County Highway Authority confirms that submitted vehicle tracking has demonstrated that a bus of this size is able to access and egress Woodcock Way and its junction with Nottingham Road, although tracking of the "left in" movement shows encroachment into the ghost island junction on Nottingham Road, and the opposing lane on Woodcock Way. Whilst, it is understood, that the applicants do not dispute this point, they comment that, based on the proposed bus route (as set out in more detail under Bus Provision below), buses would not normally be expected to undertake this particular manoeuvre.

The County Highway Authority advises that the applicant has subjected the submitted proposals

for this junction to an independent stage 1 Road Safety Audit which has raised the issue of adequate stacking space within the right turn lane. The County Highway Authority reports that the applicants' response is that, notwithstanding the safety audit issue, the submitted junction will nevertheless operate within capacity, hence no issue would be likely to arise. However, it should be noted that this assessment is based on (the previously proposed) 130 dwellings and a healthcare facility only; whilst the community centre appears to have been excluded, it is understood that the flows likely to be generated by that particular use are likely to be insignificant.

Insofar as the capacity of this junction is concerned, the County Highway Authority confirms that the submitted Picady assessment is agreed, and that it is agreed (as noted above) that this junction will operate within capacity. Again, however, this is based on 130 dwellings and the health centre only. Therefore, notwithstanding that imposing the County Highway Authority's suggested limitation of 400 dwellings on the A511 access would not be the development for which the applicants had applied, this also appears to raise issues regarding the ability to impose such a condition in any event given that the imposition of such a condition would result in a *minimum* of 205 dwellings accessing the site via Woodcock Way (i.e. because there would be a maximum of 400 via the A511), which is a scenario that has not been tested at this junction.

A511 Access and Internal Link Road

The proposed access arrangement at the A511 Ashby bypass includes for a new roundabout junction with a "free flow link" on the A511 south east bound (i.e. a separate lane whereby vehicles travelling south east on the A511 past the site could bypass the new site entrance roundabout; vehicles travelling in the opposite direction would need to negotiate the roundabout regardless).

The proposed access arrangement also includes for an internal link road into the site. This internal link road is designed to a minimum carriageway width of 6.75m for purposes of providing access to the proposed primary school and for use as a bus route.

The County Highway Authority advises that no levels information, cross sections, details of structures over watercourses, design speed details etc. have been submitted to the Highway Authority at this stage. As such, the County Council advises that it is not possible to confirm that the link road is deliverable on the proposed alignment. Insofar as the determination of the application is concerned, however, whilst the County Highway Authority has flagged up that such a link may not in fact be able to be delivered, it is not considered that this in itself would be an overriding reason not to permit the application (i.e. it would be open to the Local Planning Authority to grant planning permission; if it subsequently transpired that the applicants were unable to implement their permission, it would be open to them to apply for an alternative scheme).

The County Highway Authority notes that the applicant has subjected the submitted proposals for this junction to an independent stage 1 Road Safety Audit which has raised issues in respect of the continuation of footway / cycleway provision on the A511 and the internal link road. Whilst the County Highway Authority suggests that this could be addressed at detailed design stage, it would appear that the extent to which this would be possible may be dictated by the extent of the changes necessary to address the junction safety issues (i.e. the application has included details of this element of the access for consideration at the outline stage so, if the Local Planning Authority were to permit the application, the junction as shown on the submitted plans would be approved). Nevertheless, it is noted that no objection is raised and, should any further

changes be required by Leicestershire County Council as part of other approval processes (e.g. Section 38 or 278 approvals), the developers may need to address the requirement for any such changes to also be permitted for the purposes of planning permission (for example, by way of an application for a non material or minor material amendment of the planning permission if applicable).

In terms of the junction capacity on the proposed A511 roundabout access, the County Highway Authority confirms that the submitted Arcady assessment, based on 575 dwellings accessed via the A511, is agreed. The assessment predicts a worst case queue length of 10 passenger car units on the A511 north west bound arm between 17:45 and 18:00. It is noted that no objection has been raised by the County Highway Authority in terms of this impact, and it would seem unlikely that a queue of this magnitude would (when having regard to the test in Paragraph 32 of the NPPF) be considered to have severe impacts, and would not appear likely to have a significant effect on the safe and efficient functioning of the A511 as a bypass and strategic route.

Other Junction Capacity Issues

In addition to the proposed site access capacities as outlined above, the County Highway Authority has also provided comments on two further key junctions in the vicinity, as follows:

A511 / A42 roundabout junction (A42 Junction 13):

The County Highway Authority confirms that the submitted Linsig assessment is agreed. However, it advises that the assessment is only based on a "with mitigation" scenario, and it is not therefore possible to determine the impact of the development at this junction.

In terms of mitigation of this junction, this is one of a number of junctions that the District Council and County Council have been seeking, in conjunction with the Highways Agency, to include within a contributions strategy primarily in respect of the accommodation of anticipated growth in the Coalville area. At the present time, the Highways Agency (on behalf of the Secretary of State for Transport) has issued a TR110 Direction preventing the Local Planning Authority from permitting the application pending the resolution of unresolved issues in respect of the impacts on Junction 13 of the A42. It is understood from the Agency that it is of the view that, in principle, an appropriate solution is achievable (and likely to be by way of the formulation of an appropriate contributions mechanism) but, until such time as that is resolved, its Direction must remain in place. Whilst the Highways Agency has previously indicated that a sum of £130,982 towards mitigation could be appropriate (and the applicants are agreeable to this), given the need for any contribution to have regard to other developments elsewhere in the District, the extent of any contribution (if such an approach were acceptable to the Agency) would need to be resolved in due course, having regard to the tests for contributions as set out in the NPPF and CIL Regulations. On this basis, whilst a solution to this issue seems achievable and there would seem to be potential for the Highways Agency's Direction to be removed, the Local Planning Authority would, at this time, be unable to issue any planning permission. Nevertheless, there appears to be no overriding reason why the Planning Committee cannot *resolve* to grant permission subject to this issue being concluded to the Highways Agency's satisfaction (and the TR110 Direction hence being removed and any additional conditions required by the Agency imposed). Alternatively, however, if Members were minded to refuse the application, reference to this issue in the reason(s) for refusal would, (as per the resolution made at the December 2013 Planning Committee) be considered appropriate.

Wood Street / Upper Church Street signalised junction:

This junction has been assessed based on the signalised junction to be delivered in association

with development at Leicester Road, Ashby; the County Highway Authority confirms that the submitted Linsig assessment is agreed.

Committed Development

The County Highway Authority advises that the submitted Transport Assessment has considered the following committed development:

Leicester Road - 258 dwellings

Smisby Road - 125 dwellings

Holywell Spring Farm - 400 dwellings

Whilst other developments including Aldi, Ivanhoe Business Park and Lounge are not included directly as committed development, the County Highway Authority is content that these are likely to be adequately covered in terms of general background growth predictions.

Issues Relating to the Limitation to 400 dwellings from a Single Point of Access / Bus Gate Issues

As set out above, the application is in outline with some elements of access reserved. Therefore, other than the principal link between the two vehicular points of access, internal layout is a reserved matter. However, the supporting information submitted with the application includes for provision of a bus gate which would restrict vehicular access off Woodcock Way in accordance with the scenario outlined above. In particular, the applicants advise that a bus rising bollard (bus gate) would be built to adoptable standards and would conform to any additional requirements imposed by the emergency services. They advise that they could either introduce a transponder that adhered with the emergency services' standards, or alternatively provide an override code / key to allow the bollard to be dropped by the emergency services. In the event that the bollard was required to be lowered by the emergency services, the applicants confirm that this would provide unrestricted emergency access to the site from Woodcock Way and the link to the A511. They also advise that there would be at least two further emergency routes into the estate (both secured by padlocked gates / bollards), one also accessed via Woodcock Way, and one via the existing access to Moneyhill Farm.

The County Highway Authority confirms that it is of the view that there is no highway justification for the inclusion of the bus gate, and notes that its inclusion by the applicants is understood to be on the grounds of the residential amenity of occupiers of existing properties on Woodcock Way. Based on the fact there is no *highway* justification for the bus gate, the County Highway Authority has questioned its deliverability in that the implementation of a bus gate on the adopted public highway would require the introduction of a Traffic Regulation Order which, in turn, would require justification in highway terms; any Traffic Regulation Order would be subject to public consultation. In response to these concerns, the applicants advise that the internal road layout would be built to an adoptable standard but would not be offered for adoption (i.e. would remain private) until such time as the bus gate had been implemented. Furthermore, they suggest, new residents would be informed of the proposals at the time of purchase and would therefore not have reason to object.

Notwithstanding this position, however, the County Highway Authority remains concerned in that the proposal for the internal layout to remain in private ownership until such time as the bus gate is implemented could result in a scenario whereby the developer did not enter into an Agreement under Section 38 of the Highways Act, roads were not built to an adoptable standard, and the Highway Authority was subsequently petitioned under Section 37 of the Highways Act by residents to adopt the internal road network. This, the County Highway Authority comments, could result in a significant financial cost to the Highway Authority to both

"make good" and maintain the internal road network. Furthermore, the County Highway Authority notes, if the roads were adopted prior to the implementation of the bus gate, this would not resolve the issue of there being no highway justification for its implementation as already set out above. As an alternative scenario, the County Highway Authority suggests that a situation could arise whereby the developer entered into a Section 38 Agreement with the Highway Authority, the internal layout received technical approval and was inspected during construction but with a clause in the Agreement stating that the internal network would not be adopted until such time as the bus gate had been implemented and residents' concerns satisfactorily addressed. However, the County Highway Authority comments that, at this outline application stage, there is not (and can not be) any commitment from the applicant to this approach. Therefore, the County Highway Authority advises that its concerns remain, and would also be raised again at any subsequent reserved matters stage.

As already set out, the scheme as proposed would result in a development including a total number of dwellings accessed via the A511 junction greater than the maximum 400 that is acceptable under the Local Highway Authority's 6Cs Design Guide. On this basis, the County Highway Authority advises that an additional point of vehicular access to the site would need to be provided for connectivity and for emergencies. Whilst emergency access is indicated on the illustrative material submitted with the application (i.e. via the two principal routes into the application site, with the "through" access function being provided for emergency vehicles via a bus gate), the County Highway Authority notes that this does not form part of the application and, furthermore, confirmation would be required from the emergency services that this provision would be adequate for a development of this size. Whilst the emergency services are not a statutory consultee insofar as the Local Planning Authority is concerned (i.e. it is the role of the Local Highway Authority to provide highway safety advice), it is understood that it is common practice for applicants to liaise with emergency services direct on emergency access issues. As far as officers are aware, no such liaison has been undertaken but the Local Planning Authority has, nevertheless, forwarded details of the proposals to the County Highway Authority's emergency service contact (within Leicestershire Police) who has no objection in principle to the use of a rising bollard as proposed; any additional comments have been received from the other services whom Leicestershire Police have also notified. Whilst the County Highway Authority expresses concern over the proposed arrangements, it is understood that there are three principal issues regarding this concern: (i) access of more than 400 dwellings off a single point of access would conflict with the County Highway Authority's adopted 6Cs standard; (ii) directing / "facing" the majority of development "away" from the town is not good practice in terms of encouraging sustainable travel patterns; and (iii) the suitability of the proposed emergency access has not been demonstrated. However, it is understood that the concerns over "general" accessibility and conflict with the 6Cs Design Guide are not considered to represent an overriding problem, and no objection is raised as of such. Insofar as the emergency access is concerned, it is understood that, on the basis that no objections were raised by the emergency services, the County Highway Authority would be generally satisfied with the application in this regard (albeit the above comments in respect of future adoption etc. would still need to be taken into account by the development at any future reserved matters stage). However, as set out above, officers do not consider that a condition limiting any single access to no more than 400 dwellings would be appropriate.

Travel Plan

The County Highway Authority confirms that the submitted Travel Plan Framework is agreed.

Bus Provision

The submitted Transport Assessment includes for a diverted bus service between Ashby town centre and the development site. This shows a route whereby buses would turn left at the Nottingham Road / A511 roundabout, proceed north westerly along the Ashby bypass, turn left into the application site, drive through it, and then turn right out of Woodcock Way back onto Nottingham Road towards the town centre. The Applicant has submitted information (a letter from Macpherson Coaches) to the County Highway Authority indicating that that operator would be willing to operate such a service and, as such, the County Highway Authority is satisfied that the applicants have demonstrated that a bus service is deliverable. The imposition of a condition requiring a scheme of new / diverted bus services has been recommended by the County Highway Authority.

Public Rights of Way / Connectivity of the Site

The County Highway Authority notes that the submitted Transport Assessment includes for improvements to a number of existing rights of way to provide connections both within the site and to the surrounding area, and contributions in respect of this are sought by the County Council. It is considered that these improvements would be necessary to ensure that the site is adequately accessible by pedestrians and cyclists, not only to the town centre, but also to other nearby development (including employment sites to the east).

In terms of town centre connectivity, the most direct route between the site and the centre is via the existing right of way O89 which crosses the south eastern and southern areas of the application site and, to the south west, connects the site to North Street. Whilst the illustrative information also suggests the use of right of way O90 (which connects to Wood Street, the issues surrounding which are discussed in more detail under Neighbours' and Future Occupiers' Amenities below), O89 would be the shortest connection to the town centre (if taken to be the core town centre shopping area as defined in the adopted North West Leicestershire Local Plan).

Whilst the applicants did not consider that it was entirely necessary having regard to other means of connection, they nevertheless offered a unilateral undertaking which would have provided for a financial contribution of £336,657 for the District Council to use for the enhancement of connections between the site and the town centre. It was reported to the December 2013 Planning Committee that, whilst the precise nature of such measures would need to be determined at a later date, such measures could (if possible) have included for improvements to the existing North Street right of way connection which, at present, is narrow and / or unsurfaced in places, and passes through a yard forming part of an employment use, all of which are considered to diminish its attractiveness as a pedestrian route; it was also noted that the route is not presently suitable at all for cycle use. The December 2013 Planning Committee report also suggested that, if improvement of this route were however not possible, appropriate improvements to other links between the site and town centre would also be appropriate measures towards which the contribution could be used. Notwithstanding the applicants' previously indicated view on this matter, the officer view remains that a contribution to secure accessibility improvements between the application site and the town centre would be necessary, and would continue to meet the relevant CIL Regulation and NPPF tests (set out in more detail later in this report) and, as such, should be attributed weight as a material consideration in the determination of this application.

Further to the resolution of the December 2013 Planning Committee, the applicants have sought to amend the application in this regard. They comment that: *"Significantly, [the application] proposes the upgrade of the Ivanhoe Way between the application site and North Street and*

that "Notwithstanding this, the applicant recognises the ambition of the Planning Committee to further enhance connectivity within the wider area and has committed to fund an objective assessment of public transport connectivity and permeability within Ashby. It has also committed to provide funding (up to £400,000) towards enhancements to connectivity and permeability should any be identified as being required within the study."

By way of clarifying this proposal, the applicants confirm that the reference above to the application proposing upgrade of the Ivanhoe Way relates to the improvement of existing rights of way as set out under Other Transport Contributions below. They further advise that the figure of "up-to £400,000" represents the applicants' proposed revised contribution towards sustainable transport enhancements (and is instead of the previously proposed £336,657). They suggest that *"The way in which the pool of funding is spent depends on the outcome of the objective assessment of public transport connectivity and permeability within Ashby. It isn't calculated on the basis of any particular proposals, nor do we yet know how it may be used, as this will depend on the outcome of the assessment. It is important that the assessment is objective and as such we anticipate that it would:*

- *Be commissioned by the Council;*
- *Seek to establish the quality of public transport (pedestrian, cycle and bus) connectivity and permeability within Ashby, taking account of committed, proposed and potential future development and advise on enhancements that could be made to the overall network;*
- *Be undertaken as soon as possible; and*
- *Form the basis for the use of the funding proposed from the Money Hill proposals and other development proposals that may come forward."*

They also suggest that *"The findings of the assessment wouldn't feed into the current development proposals, but are capable of being taken into account in future proposals."*

As such, the applicants are proposing that it would be open to the Local Planning Authority to seek to use the £400,000 as a contribution towards assessing existing public transport connectivity and permeability within the town, and to then use the remainder of the contribution as a means of improving linkage between the site and town centre, with the funding being used on a project(s) identified as most beneficial within the study which the applicants would fund.

Other Transportation Contributions

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

- Submission / approval of a construction traffic routing agreement so as to ensure that all construction traffic associated with the development does not use unsatisfactory roads to and from the site.
- A total contribution of £105,651 towards the upgrading and surface improvements of various Public Rights of Way routes which lead to/from the development site so as to encourage new residents generated by the development to travel by sustainable means as follows:
 - (i) Surface improvements to footpath O89 between North Street and footpath O90 (£37,495) (save for any separate improvements to accessibility potentially provided under the separate connectivity improvements as set out above)
 - (ii) Surface improvements to footpath O89 between Plantagenet Way and proposed footway/cycle track through the development (£28,670)
 - (iii) Surface improvements to bridleway O92 north of Featherbed Lane, between footpath O89 and O91 (£25,046)

- (iv) Legal and advertising costs for the conversion of footpath O89 to bridleway between Resolution Road and bridleway O92 (£2,000)
- (v) Legal and advertising costs for the diversion of footpath O91 between Plantagenet Way and bridleway O92 (£2,000)
- (vi) Provision of a cycle ramp to existing concrete steps to connect bridleway O92 to existing cycle facilities on the A511 (£10,440)
 - A contribution of £11,674.00 for the upgrade of the two bus stops on Nottingham Road nearest the development to include raised access kerbs, and information display cases at both stops and a passenger shelter at the bus stop on the southern side of Nottingham Road so as to encourage use of alternative modes to the private car
 - One Travel Pack per dwelling/employee to inform new residents/employees from first occupation what sustainable travel choices are available in the surrounding area (these can be provided by the County Council at a cost of £52.85 per pack/dwelling)
 - Two six-month bus passes per dwelling to encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour (these can be provided by the County Council at a cost of £325 per pass)
 - Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development so as to ensure effective implementation and monitoring of the site wide Travel Plan submitted in support of the Planning Application.
 - A contribution of £11,337 towards iTrace monitoring (transportation monitoring software) so as to enable Leicestershire County Council to provide support to the appointed Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure that Travel Plan outcomes are being achieved, and to take responsibility for any necessitated planning enforcement.
 - A contribution of £5,000 for Leicestershire County Council to draft, consult upon, and implement a no waiting Traffic Regulation Order on Woodcock Way so as to restrict on-street parking within the vicinity of the proposed access, thus enabling an 8.8m bus to manoeuvre freely, and in the interests of highway safety

Access, Highways and Transportation Conclusions

In summary, in respect of the access and transportation issues, whilst the County Highway Authority's comments raise a number of issues, the County Council does not object to the proposed development, and is content that its concerns can be addressed by way of conditions.

As set out above, the application now proposes that a maximum of 30 dwellings would be accessed via Woodcock Way, hence there would be up to 575 accessed via the A511 Ashby Bypass. Whereas the County Highway Authority advises that it would be unacceptable to access more than 400 dwellings off a single point of access, and whilst the County Highway Authority is of the view that there is no apparent highway justification for limiting the numbers of dwellings accessing via Woodcock Way in the manner proposed, the form of development proposed were such a condition imposed to ensure that the 6Cs standard were met would be a different form of development from that which has been applied for. Furthermore, it would appear that the impact of accessing at least 205 dwellings via Woodcock Way (which would be the result of such a condition) has not been modelled and, hence, its impacts have not been demonstrated.

As discussed, there appear to be three principal issues regarding the County Highway Authority's concern: (i) access of more than 400 dwellings off a single point of access would conflict with the County Highway Authority's adopted 6Cs standard; (ii) directing / "facing" the majority of development "away" from the town is not good practice in terms of encouraging sustainable travel patterns; and (iii) the suitability of the proposed emergency access has not

been demonstrated. In terms of (i) above, this point is accepted, although, it is also considered that some form of harm arising from this non-compliance needs to be demonstrated. Whilst (ii) is accepted, and it is agreed that, by ensuring that the majority of car journeys must be made via the bypass, residents may be more likely to work / shop etc further afield than in the town centre, this needs to be balanced against the other (residential amenity) issues that could result by way of accessing additional numbers of dwellings via Woodcock Way. Insofar as (iii) is concerned, the County Highway Authority has not specifically confirmed its satisfaction with the proposed emergency access solution, although it accepts that, in principle, an appropriate solution could be found by the applicants, and would not object subject to the support of the emergency services; Leicestershire Police had indicated that, in principle, the applicants' solution would be appropriate in this regard. However, having regard to the role of the Local Highway Authority as the relevant statutory consultee, it is otherwise accepted that there appears to be no particular basis for refusing the application on the grounds of the emergency access issue. As set out above, the County Highway Authority has requested the imposition of a condition limiting access off either point of access to no more than 400 dwellings but, as discussed, the imposition of such a condition would not be considered appropriate having regard to its impact on the nature of the proposals in that this would result in a scheme different to that to which the application relates (and would result in an intensity of use of the Woodcock Way junction which has not been tested / modelled).

It is also noted that the Highways Agency has issued a Direction preventing issuing of a planning permission at this present time. Until such time as the Highways Agency can be satisfied that there would be no unacceptable (and unmitigated) impacts on the safe and efficient functioning of the strategic highway network (and, in particular, at Junction 13 of the A42), it would be inappropriate to release the site for development and, indeed, the Direction prevents the Local Planning Authority from so doing. Nevertheless, it is considered that any resolution to permit could be framed in such a way as to allow the development to proceed if and when the Highways Agency's concerns had been resolved.

Subject to the satisfactory resolution of the issues affecting Junction 13 of the A42, and on the basis that no significant concerns regarding the proposed emergency access arrangements are raised by the emergency services, therefore, the proposed development is considered acceptable in respect of access and transportation issues.

Landscape and Visual Impact

The development has been assessed in terms of its landscape and visual effects both during and after construction. The Environmental Statement identifies the elements of the site and its surroundings that are important in terms of landscape resources and landscape character, and the extent to which these would be affected by the proposals. In terms of other evidence in respect of the landscape and visual impacts, it is noted that the District Council's Settlement Fringe Assessment, undertaken on behalf of the Council as part of its Core Strategy evidence base considered the application site as part of a wider area between Ashby de la Zouch and the A511 north east of the town, identifying that the eastern part of the application site is a sensitive landscape, but that the site had potential to achieve mitigation in keeping with its landscape character. In particular, it suggested that the wider study area *"..is a large site that rises to a high point along the A511. It is prominent in views from the countryside to the south where the higher ground is visible above large warehouse development. It would be difficult to develop the site, particularly the higher ground without increasing the scale and prominence of the settlement within the wider landscape to the south. It would be difficult to retain the views towards Ashby Castle and St Helens Church. Development on the lower ground close to the settlement edge could be accommodated provided it appeared as a dispersed edge set within*

trees and had an advanced and established woodland structure to reduce the scale and frequency of built form within the view. Carefully sited woodland could help to reduce the prominence of built form particularly within the western part of the site." For the reasons set out in more detail below, and having regard to the conservation / heritage issues considered elsewhere in this report, it is considered that the submitted scheme generally accords with these principles.

In its description of the site and its landscape characteristics, the Environmental Statement suggests that the topography of the application site means views are contained by surrounding urban form within the lower levels of the site, whilst on the higher land along the northern boundary of the site views are contained by the A511. It suggests that the gently sloping nature of the site, towards the central area and associated watercourse along with the A511 to the north, and the urban edges of Ashby to the south, east and west means that the application site is very well contained and generally screened from surrounding areas beyond the first line of residences and commercial buildings bordering the site. It indicates that it is possible to view the application site from elevated locations to the north (A511), properties bordering the site to the west, south and east, and from further afield (including from the Ivanhoe Way and Corkscrew Lane).

In terms of mitigation, the Environmental Statement states that key aspects of the design that were particularly informed by the landscape assessment include:

- Reflecting the landscape, ecological and historic character of the area when designing green infrastructure (e.g. tree species selection)
- "Capturing" on-site green infrastructure features wherever possible - consolidating and adding to them (e.g. trees, hedgerows and water features)
- Exploiting "borrowed" landscape assets on adjoining sites (e.g. visually prominent trees and countryside views)
- Achieving a high quality interface between the built environment and its wider landscape setting (e.g. housing to face on to green space)
- Avoiding fragmentation of green infrastructure across development sites (e.g. achieving connectivity for landscape, ecological, recreation and public access benefits)
- Consolidating green space into large areas, capable of accommodating forest-scale trees (e.g. Oak, Ash, Lime)
- Designing green space to achieve sustainable, cost effective, long-term management (e.g. using an annual residents' charge and/or commuted sums for green space management).

The Environmental Statement considers the impacts on six principal viewpoints, assessing the impact, and taking into account the proposed mitigation. In terms of these impacts (expressed in the context of magnitude, significance and "valency" respectively), their predicted significance is as follows :

Construction Phase: (Magnitude:Significance:Valency)

High:Moderate:Adverse 1, Medium:Moderate:Adverse 1, High:Major-Moderate:Adverse 1, Medium-Low:Moderate:Adverse 2, Low:Slight:Adverse 1

Year 1 (following construction):

High:Moderate:Adverse 1, Medium:Moderate:Adverse 1, High:Major-Moderate:Adverse 1, Medium-Low:Moderate:Adverse 2, Low:Slight:Adverse 1

Year 15:

Medium:Moderate-Slight:Adverse 1; Low:Slight:Neutral 3, Medium:Moderate:Adverse 1, Negligible:Minimal:Neutral 1

Whilst there would clearly be some adverse impacts both during and immediately following construction of the development, it is considered that, having regard to the scale of development and the need for the Local Planning Authority to permit developments of significant scale to meet its housing land supply obligations, the impacts would not be so unacceptably severe. In terms of the longer term impacts, as set out in the Environmental Statement, the extent of harm would be expected to reduce over time as mitigation planting matured, such that, whilst there would inevitably be *changes* to the character of the area in this regard (and particularly in respect of the site itself), the adverse impacts would be limited.

A separate lighting assessment has been provided, assessing the impact of proposed external lighting to the proposed development, including car park lighting, general façade lighting and pathway lighting to the proposed non-residential buildings (such as the proposed health centre, primary school, community centre and retail development). The assessment indicates that the proposed development would be designed in adherence to relevant lighting design guidance. The assessment suggests that following this approach would achieve sufficient lighting for comfort and safety requirements without creating excessive, unwanted light spill or façade brightness (and thus avoiding perceived intrusion to neighbouring properties or harm to ecological interests).

The application is also accompanied by arboricultural supporting information, including an arboricultural implications report. There are no trees within the application site subject to a Tree Preservation Order (TPO). Whilst the arboricultural implications report indicates that some tree / hedgerow removal would be required in order to facilitate the proposed development, this suggests that the loss of the trees in question would not have a significant or severe impact on the local landscape. In this regard it is noted that the trees assessed include those which would appear likely to be required to be removed to enable the site access to be formed but, on balance, these losses would not be considered unacceptable, with the majority of vegetation proposed to be removed falling within retention categories C and below. Insofar as other trees within the site are concerned, their removal would need to be considered in more detail at the reserved matters stage(s). However, in principle, there appears to be no reason why development of the site would necessarily result in unacceptable loss of vegetation.

Overall, it is accepted that, whilst a site of considerable size, by virtue of the topography of the surrounding area, it is not particularly visible from further afield, thus assisting in limiting the visual impact of the proposed development. When taking this into account, together with the proposed mitigation, it is considered that the landscape and visual effects of the proposed development would be acceptable.

Drainage, Ecology and the River Mease SAC

The Environmental Statement includes assessment of the flood risk, drainage and ecological implications of the proposed development and, having regard to the site's location within the catchment of the River Mease Special Area of Conservation (SAC), the impacts on water quality of the Mease. These issues are considered in more detail below.

Flood Risk and Drainage

The Environmental Statement includes a Flood Risk Assessment (FRA) and Drainage Strategy, which set out how the site is proposed to be drained, and assess the existing flood risk to the site along with any resulting flood risk associated with the proposed development.

Insofar as river flooding is concerned, save for a small section where the site boundary includes

the existing farm access emerging near Northfields which crosses the Gilwiskaw at this point, the application site lies within Flood Zone 1 (i.e. low probability - less than 1 in 1,000 year probability of flooding in any one year); the Environmental Statement indicates that there is no record of any flooding of the site from the Gilwiskaw Brook. The NPPF and its Technical Guidance set out the relevant requirements in respect of the Sequential Test, and indicate that the Local Planning Authority's Strategic Flood Risk Assessment will provide the basis for applying this test. Having regard to the site's location within Flood Zone 1, it is considered that the proposed development passes the Sequential Test. Whilst, as set out above, part of the site appears to fall outside of Zone 1 (and within Zone 3), having regard to the extent of this (approximately 30sqm) and the fact that no built development would be likely to take place in this area, it is not considered that any further consideration of the sequential test would be necessary.

In terms of surface water run-off, the FRA indicates that the greatest flood risk to the proposed development itself would arise from surface water flooding due to the increase in hard standing and that the Money Hill Brook, into which the application site currently drains into, is near capacity and that, during high intensity rainfall events, surface water ponding is sometimes experienced towards the southern section of the site. The proposed surface water drainage strategy would, the FRA suggests, improve upon current conditions, therefore reducing this ponding.

In terms of proposed mitigation of these impacts, the developers' proposed surface water strategy consists of a series of retention basins connected by open swales or pipes which convey the surface water from the proposed development into the Money Hill Brook and onwards to the Gilwiskaw Brook, with maintenance of swales and culverts under roads carried out by a management company. The supporting information indicates that the majority of surface water run-off would leave the site via the Money Hill Brook, with a smaller proportion of the site leaving via the Falstaff Brook to a second drainage point at Fairfax Close; all surface water would drain across the site and discharge from it by gravity. The supporting information also provides that the retention basins are assumed to be dry, but that there would be potential to create a further wetland area utilising reed beds or meadow grasses in these areas to provide both contamination treatment for run-off water and an improved ecological environment, and that the contamination treatment has the potential to reduce phosphate levels in the water discharged from the site which would ultimately be discharged to the River Mease. It provides that highways drainage would be collected by gullies parallel to the road which would be subject to future adoption by the County Highway Authority; these would drain to the nearest open swale or pipe into the appropriate retention basin. The strategy also indicates that the measures would ensure that there would be no increase in surface water run-off from the current estimated run-off rate (4.01 l/s/Ha). On this basis, there would appear to be no reason why the proposed development would lead to increased run-off rates (and, hence, discharge to the relevant watercourses), and would therefore not be likely to result in any exacerbation of existing flooding issues within the vicinity of the site and further downstream. The Environment Agency and Severn Trent Water raise no objections to the proposed development in this regard subject to the imposition of appropriate conditions.

Insofar as foul sewage is concerned, the supporting information indicates that the development would connect into the existing combined sewer in Nottingham Road. The site would gravity drain to a pumping station located in the south west of the site at a topographical low point; from here the foul flows would be pumped to a high point in the south west corner where it would discharge via a new gravity sewer into the existing combined sewer in Nottingham Road. Again, no objections are raised by the relevant statutory consultees. Given its location within Ashby de la Zouch, the site's foul drainage would discharge to the Packington sewage treatment works;

Severn Trent Water has however confirmed that there is sufficient capacity in the sewerage system and at the Packington sewage treatment works for the proposed development. The issues relating to the River Mease SAC are addressed in more detail below.

Ecological Issues

The submitted Environmental Statement includes a detailed assessment of the ecological implications of the proposed development on various receptors of ecological value. In addition to the anticipated impacts, mitigation measures are also proposed.

The Environmental Statement provides that the closest statutorily designated site of nature conservation interest to the application site is approximately 2km from the site (being the Lount Meadows Site of Special Scientific Interest (SSSI)). Also relevant is the River Mease SAC and SSSI, 2.6km approx. from the site, the impacts on which are considered in more detail below; no adverse impacts are however anticipated in terms of either of these designated sites. In terms of non-statutory designation, the existing "Green Lane" route (following the line of Right of Way O92, a Parish level site), the Environmental Statement suggests minimising direct access onto the Parish level site so as to reduce any impact.

In terms of the various ecological features / habitat identified, these include arable, semi-improved grassland, hedgerows, scrub and wooded areas. The Environmental Statement suggests that, of these, the hedgerows and wooded areas are of the greatest interest, but that these are, in the main, proposed to be retained and / or enhanced under the illustrative scheme, with any losses compensated for elsewhere within the development. There are, the Environmental Statement advises, 44 hedgerows within the site, albeit the majority are "gappy" and relatively species poor (i.e. dominated by only one or two species). The two principal wooded areas are considered to be relatively small, and include a range of species.

Insofar as the effects upon wildlife are concerned, the following conclusions are reached within the Environmental Statement:

Bats: No bat roosts have been recorded within the application site. Bat activity surveys completed have recorded low levels of common species foraging and commuting along the boundary features of the application site. The Environmental Statement suggests that the enhancement of existing habitats and the provision of new landscape planting would provide enhanced foraging opportunities for bats and would maintain connectivity across the application site and to the wider area. Artificial bat boxes to provide a net increase in roosting opportunities post-development are also proposed.

Badger: No direct evidence indicating use of the site has been found.

Dormice: No direct evidence indicating use of the site has been found, nor are the habitats within the site considered particularly suitable.

Birds: Based on the surveys undertaken, the habitats present, and the site's size, the Environmental Statement indicates that it is not considered to be of any special ornithological interest, albeit any clearance of suitable habitat should nevertheless be undertaken outside the breeding season; bird boxes are also proposed to be provided.

Water Vole and Otter: No direct evidence indicating use of the site has been found, nor are the habitats within the site considered particularly suitable.

Great Crested Newts: The Environmental Statement advises that there are no ponds located

within the application site, nor immediately adjacent to the application site. The closest pond is located approximately 95 metres from the application site, which is beyond the maximum dispersal distance of newts. The Environmental Statement suggests that, whilst newts can disperse up to 500 metres through suitable terrestrial habitat from their breeding pond, surveys completed on ponds within the wider area recorded no Great Crested Newts.

Reptiles: Some parts of the site are considered to have some potential to support common reptile species due to the lack of formal management they receive; however, no reptiles were recorded during the surveys undertaken.

Invertebrates: The application site is expected to support a range of common invertebrate species but the Environmental Statement provides that there is no evidence to suggest that any protected or notable species are likely to be present.

No other protected species are considered likely to be present, having regard to the findings of the Environmental Statement.

In addition to those mitigation measures set out above (e.g. maximising of feature retention), the Environmental Statement indicates that habitat mitigation would be provided by way of, amongst others, protection of existing features during construction and provision of buffer zones and checking of vegetation prior to removal. Subject to such mitigation and other enhancement, the Environmental Statement indicates that the overall impacts would be positive at the local - national level and would be of minor - moderate significance. The proposed mitigation measures would, it suggests, ensure no net loss in biodiversity terms and enhancements would aim to increase the overall biodiversity of the application site.

The County Ecologist and Natural England have been consulted in respect of the application and raise no objections subject to conditions. Under Regulation 53 of the Habitat Regulations 2010, activities which would otherwise contravene the strict protection regime offered to European Protected Species under Regulation 41 can only be permitted where it has been shown that the following three tests have been met:

- The activity must be for imperative reasons of overriding public interest or for public health and safety;
- There must be no satisfactory alternative; and
- The favourable conservation status of the species in question must be maintained.

Whilst these tests would need to be applied by Natural England at the appropriate time in respect of any required licence submission, it is nevertheless considered appropriate to also have regard to them at this stage in respect of the planning process. In this case, it is considered that the tests would be met as (i) for the reasons set out under Principle of Development above, it is considered that the site needs to be released for the proper operation of the planning system in the public interest; (ii) the works affecting the protected species would be necessary to enable the development to proceed in a logical / efficient manner; and (iii) the proposed mitigation measures would satisfactorily maintain the relevant species' status.

Subject to the imposition of suitably-worded conditions, therefore, the submitted scheme is considered acceptable in ecological terms, and would provide suitable mitigation for the habitat affected, as well as appropriate measures for biodiversity enhancement.

River Mease Special Area of Conservation (SAC)

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC),

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

Waste water from Ashby de la Zouch drains into the River Mease which, as referred to above, is a Special Area of Conservation. The Packington sewage treatment works discharges in to the river and, as at March 2012, it was estimated by Severn Trent Water that the works had headroom (i.e. available capacity within the terms of the permit agreed by the Environment Agency) to accommodate 1,218 dwellings. However, the Water Quality Management Plan (WQMP) for the SAC (see below) clarifies that, whilst there may be volumetric headroom or capacity available for new development within the specific limits of the existing wastewater treatment work consents that discharge to the River Mease, the availability of such headroom is reliant on the WQMP being in place.

As referred to above, a long term Water Quality Management Plan for the River Mease SAC was finalised in June 2011 with a primary purpose to reduce the levels of phosphate within the River Mease SAC, to enable the Conservation Objectives for the SAC to be met, and an adverse effect upon the SAC avoided. The main objective of the WQMP is that the combined actions will result in a reduction in phosphate in the River Mease to no more than 0.06mg/l.

One of the actions of the WQMP was to establish a developer contribution framework in accordance with planning obligations best practice to be known as a Developer Contribution Scheme (DCS). The DCS was agreed in November 2012 and developer contributions will fund a programme of actions to restore and provide new benefits to the River Mease. The contribution scheme provides a mechanism through which new development which increases phosphorous load to the river will mitigate the negative effects of development, as part of the overall package of reductions being delivered through the wider WQMP and the permit modifications identified through its review. It confirms that new development that contributes to the scheme will not conflict with the overall objectives and purposes of the WQMP.

In terms of residential development, developers will have to contribute based on the exact size and sustainability of the dwellings since these factors determine the levels of Phosphate output per unit. As such, homes which are built to the new sustainable homes standards will pay a lower contribution. A separate calculation is provided for in respect of non-residential development.

The WQMP is entirely concerned with reducing levels of phosphate to enable the conservation objectives target to be met. It is therefore directly connected with and necessary to the management of the River Mease SAC. As such, both the plan itself and the Developer Contribution Scheme are excluded from the assessment provisions of the Habitats Regulations.

The Environmental Statement assesses the impacts of the proposed development on the River Mease, and including in respect of those in terms of noise, recreational / visual disturbance, air quality and light pollution, as well as the hydrological impacts. Mitigation proposed in respect of the impacts on the River Mease include implementation of the applicants' Construction Environmental Management Plan. The applicants have also confirmed that they are agreeable to making a DCS contribution, and estimate that the contributions made would total £134,310 (albeit the precise amount payable would be contingent upon the precise nature of the

development proposed at the reserved matters stage(s) in terms of number of dwellings, bedrooms and Code for Sustainable Homes level insofar as the residential element of the proposals are concerned, and the estimated increased phosphorous loading to the river associated with the proposed non-residential development). As such, and subject to the implementation of appropriate obligations, the proposals would comply with the relevant planning policies and the Habitats Regulations. On the basis of the applicants' proposed payment to the DCS, the Environment Agency has no objection to the proposals. For its part, Natural England advises that the proposed development would be unlikely to have a significant effect on the interest features for which the SAC has been classified, and that an Appropriate Assessment would not be required.

On this basis, it is accepted that the proposed development would not have an adverse impact on water quality (nor would there be any other impacts on other aspects of the SSSI / SAC), and the development is acceptable on this basis, subject to the implementation of the mitigation identified, secured by way of conditions and Section 106 obligations as appropriate.

Historic Environment

The submitted Environmental Statement includes a detailed assessment of the archaeology and historic environment implications of the proposed development. The Environmental Statement indicates that the site itself does not contain any Scheduled Monuments, listed buildings or Conservation Areas, but there are Grade II listed buildings in close proximity (existing properties on Wood Street, the closest four of which are assessed in more detail in the Environmental Statement) as well as the Ashby de la Zouch Conservation Area which abuts the site. The Environmental Statement also considers the impacts on other designated heritage assets including Ashby Castle (a Scheduled Monument and Grade I listed building) and the Parish Church of St Helen (listed Grade II*).

In terms of the effects upon these designated assets, the Environmental Statement concludes that the development would have the following impacts during construction:

- Ashby Castle: Neutral
- Parish Church of St Helen: Neutral
- Wood Street dwellings (4 no.): Neutral
- Ashby de la Zouch Conservation Area: Low magnitude, minor (significance) impact

The impact on the Conservation Area would be, the Environmental Statement indicates, an indirect, minor effect caused by the introduction of modern development into the immediate setting of the Conservation Area and a consequent marginal alteration to the townscape extent; no mitigation is proposed. No post-completion mitigation is also proposed given the findings of the construction stage impacts. The findings of the Environmental Statement in this matter are generally accepted, and it is noted that the detailed design of the proposed development in the areas of the site closest to the Conservation Area would need to be considered at the reserved matters stage(s) (and the setting of the Conservation Area would be a material consideration in the determination of any such application(s)). The District Council's Conservation Officer is of the view that, whilst the proposals would significantly alter the boundary of the historic settlement of Ashby, they would not have a significant impact on designated heritage assets, nor would they harm their immediate setting and, as such, no objection is raised. For its part, English Heritage comments that, whilst the supporting documents identify no harm upon the significance of the castle as a result of this development, this may be something of an over simplification but, nevertheless, English Heritage has not identified substantial harm in this case. Whilst English Heritage disagrees with some of the applicants' assertions regarding the

importance of the defensive views / tactical surveillance from the castle when it was designed, the view out to Money Hill does not, English Heritage advises, appear to be an axis with particular special significance over and beyond being part of the landscape that was visible around town from the tower, and no objection is raised in this regard.

In terms of non-designated heritage assets, a number of sites (including those of archaeological interest) are considered in the Environmental Statement, with the potential impacts on four of those in particular assessed as having potential impacts. Two of these fall within the application site, namely a "findspot" indicative of potential for prehistoric background activity in the vicinity of the proposed A511 vehicular access and an area of earthwork ridge and furrow within five fields towards the south eastern part of the site. Insofar as the "findspot" is concerned, the Environmental Statement indicates that there would be a low magnitude adverse impact but that its significance would be negligible; for the ridge and furrow, the impact is identified as medium magnitude adverse of minor significance. The Environmental Statement comments in respect of the ridge and furrow that this asset survives in an incomplete state, and that it is not of sufficient quality or significance to require preservation in situ (although localised areas would be preserved within areas of public open space). In respect of the ridge and furrow issue, the County Archaeologist notes that the submitted archaeological Desk Based Assessment suggests that these remains are poorly preserved and incomplete, attributing to them significance at a local level. The County Archaeologist advises that Ashby de la Zouch appears to have been substantially enclosed by 1601, although an Act of Parliament for the enclosure of fields and several commons was passed in 1768; given that the 1735 estate plan appears to show most of the field boundaries within the development area, this would suggest, he advises, that the current site was enclosed prior to the Enclosure Act. Regarding the quality of the earthworks, based purely on aerial photographic evidence and LIDAR (a remote sensing technology) data, he advises that the surviving earthworks appear reasonably intact, forming a coherent set of lands / furlongs, abutting a stream course to the north and the historic town and a former warren to the south. The County Archaeologist strongly recommends that significant attention is given to accommodating these features within any development scheme; he is of the view that they have a strong local significance and their sensitive treatment within the context of the wider development would accord well with paragraph 131 of the NPPF. The County Archaeologist notes that the current development details (i.e. the illustrative Masterplan) offer only an indication of the intended uses, but that development impacts are likely to include foundations, services and landscaping associated with the planned residential, commercial, industrial and infrastructure elements of the scheme. He advises that archaeological remains, where they occur and survive, are likely to be close to the existing ground surface; consequently, the proposals are likely to have a destructive impact where they coincide with those deposits. In view of this, he recommends that the application is approved subject to conditions for an appropriate programme of archaeological mitigation, commencing with and initial phase of fieldwalking and trial trenching. A note to applicant is also recommended so as to ensure that the layout of the scheme proposed at any future reserved matters stage seeks to accommodate the site's ridge and furrow features. Insofar as its advice in respect of the ridge and furrow is concerned, English Heritage is of the view that the significance of the ridge and furrow is a material consideration which the Local Planning Authority needs to weigh against the benefits of development and alternatives, and when considering the layout of the development in relation to the town (and also the contribution made by the ridge and furrow to the setting to the conservation area). English Heritage advises that such features are highly characteristic of the Midlands landscape and support the setting of the Conservation Area by way of giving a sense of the relationship between town and fields in the medieval and early modern period. English Heritage is of the view that these particular earthworks are of at least local interest in their own right, and in their historic landscape context can be seen to support the significance of the Conservation Area. It also advises that the water carrying and storage capacity of extant

ridge and furrow should be born in mind in the context of their contribution to land drainage. Overall, however, English Heritage recommends that the application be determined in accordance with the advice of the County Archaeologist and, on this basis, no objections are raised.

Overall, in respect of heritage issues, whilst still outline, there would appear to be no overriding reason why the proposed development could not be designed in a manner so as to maximise retention of features of interest (and, in particular, the existing ridge and furrow) and, on this basis, is considered acceptable in heritage terms, subject to appropriate layout solutions being proposed at the reserved matters stage(s).

Air Quality

There are no Air Quality Management Areas (AQMAs) within close proximity of the site (the closest being at Coalville), but the Environmental Statement nevertheless assesses the impacts on dust, particulates and nitrogen oxides associated with the construction and post-construction phases of the proposed development. The Environmental Statement considers likely effects in two principal categories: dust, particulates and nitrogen oxides during the construction phase, and road traffic during the operational phase. The Environmental Statement suggests that, subject to the implementation of appropriate mitigation measures, impacts on local air quality would be negligible.

Insofar as the impact of the construction phase is concerned, the Environmental Statement indicates that the main effects during this stage are likely to be dust deposition and elevated particulate concentrations from construction dust, including from activities such as site preparation, earthworks, materials handling, construction of temporary roads, movement of construction traffic, construction of infrastructure and buildings, and disposal of waste. However, the Environmental Statement sets out a range of mitigation measures which ought to be employed / incorporated within the Construction Environmental Management Plan and, subject to these, indicates that the risk can be reduced to medium or low.

In terms of the operational phase of the development, and the resulting impacts arising from changes to traffic, the Environmental Statement provides that the predicted pollutant concentrations at the selected receptors indicate that annual mean nitrogen dioxide concentrations are predicted to be well below the air quality objective of 40 micrograms per cubic metre ($\mu\text{g}/\text{m}^3$) at all receptors (with the highest being $31.1\mu\text{g}/\text{m}^3$ in 2028, an increase of $0.3\mu\text{g}/\text{m}^3$ over the no development scenario, and with the greatest increase over the no development scenario being an increase of $0.6\mu\text{g}/\text{m}^3$, taking the total in that location to $19.6\mu\text{g}/\text{m}^3$). It also assumes from these results that the hourly mean nitrogen dioxide objective would be met at all receptors and for all assessment scenarios as the annual mean is less than $60\mu\text{g}/\text{m}^3$. All of the predicted increases in nitrogen oxide are assessed as having a magnitude of either "imperceptible" or "small", with significance of the effect being defined as "negligible".

Insofar as particulates are concerned, none of the receptor locations are anticipated to experience any increase of more than $0.1\mu\text{g}/\text{m}^3$ over the 2028 no development scenario with the results indicating that annual mean concentrations are forecast to be well below the objective of $40\mu\text{g}/\text{m}^3$ at all receptors and for all assessment scenarios (the highest figure being $19.2\mu\text{g}/\text{m}^3$, albeit in a location where no increase would be predicted in 2028 over and above the no development scenario).

Overall in terms of air quality, therefore, the proposed development would not be expected to result in any significant harm to air quality (either during or post construction), and the

development is considered acceptable in air quality terms; no objections in respect of air quality issues have been raised by the District Council's Environmental Protection team.

Neighbours' and Future Occupiers' Amenities

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

Construction Noise

The submitted Environmental Statement does not contain detailed analysis of the nature of construction noise but states that, following dialogue with the District Council's Environmental Protection team any associated impacts could be adequately dealt with by way of appropriate conditions relating to hours of construction, with time limits of 0800 - 1800 on Mondays to Fridays, 0800 - 1300 on Saturdays and no working on Sundays / public holidays suggested. Hours of construction conditions are not routinely applied to planning permissions as this is a matter generally controlled under separate (environmental protection) legislation. Nevertheless, this matter would, in effect, be one of the measures controllable under a condition relating to approval of precise details of mitigation identified in the Environmental Statement; other mitigation is also suggested in respect of the development which could also be secured in this way. No objections are raised by the District Council's Environmental Protection team in respect of this issue.

Suitability of the Site for Residential Development

The Environmental Statement considers the suitability of the site for residential development in noise climate terms, having regard to how it is affected by current noise sources (including noise emanating from nearby roads and the operation of nearby commercial / industrial type uses). In respect of the issue of road traffic noise, the applicants' assessment indicates that the impacts on proposed dwellings' occupants would be imperceptible during the daytime, and minor at night.

However, insofar as the impacts of nearby commercial uses are concerned, the Environmental Statement identifies potential impacts from the nearby United Biscuits warehouse (and principally due to HGV manoeuvring to the rear of that unit); the Environmental Statement assumes the closest proposed residential units would be approximately 95m from the noise source. In terms of mitigation, the Environmental Statement suggests that an extension of the existing acoustic screen in this location would be appropriate. For its part, the District Council's Environmental Protection team raises no objections subject to the implementation of this mitigation.

Other Residential Amenity Impacts

In addition to the noise climate issues identified above, however, are the issues of potential disturbance from vehicular movements to and from (and, potentially, within) the site. In this regard it is noted that, on the basis of the illustrative masterplan, there would appear to be limited areas where internal access roads would be likely to be proposed to the rear of existing dwellings. Nevertheless, regard would need to be had to that issue when devising any reserved matters proposals. Insofar as this outline stage is concerned, however, of particular relevance are the additional comings and goings likely to be generated along the proposed Woodcock Way access (serving up to 30 dwellings plus the health and community centres) which would be likely to lead to some increased levels of disturbance to adjacent properties fronting onto

Woodcock Way. Whilst there would be an increased use of the Woodcock Way / Nottingham Road junction, it is not considered that material impacts on amenity of other properties in the vicinity of this junction would arise in this respect (nor along Nottingham Road / Wood Street generally in terms of traffic-related impacts). Insofar as the impacts on existing residents of Woodcock Way are concerned, whilst there would be a not insignificant increased use of this route by vehicles (at least until such time as the access arrangements were reconfigured so as to access more units via the A511 as suggested by the applicants) leading to a material change to the existing situation, use of estate roads of this nature to access developments of this scale is not an unusual scenario and, whilst a change would inevitably result, it is not considered that the impacts of the resulting conditions would be so adverse as to warrant a refusal of the application.

Also of relevance are the likely impacts on amenity of properties in the vicinity of likely pedestrian and cycle routes serving the site. In this regard, whilst it is considered that, given the location of the site in relation to existing pedestrian routes / public rights of way, and based on the illustrative material submitted with the application, there would be likely to be increased use of these routes, these elements of the access are reserved matters, and do not form part of the outline application. As such, these are more issues for the reserved matters stage. Having said this, however, in principle, it is considered that there would be no overriding reason why unacceptably adverse impacts from use of routes indicated on the illustrative masterplan would necessarily arise were the development to proceed in the manner indicated. Particular concern has also been raised over the potential increased unauthorised use of a private drive off Wood Street by users of the proposed development, particularly given the applicants' indication that this private drive would act as a non-vehicular link to the site (as it is also a public right of way at present). At present there are no measures on site preventing unauthorised use of this drive (and, say, to prevent its use for unauthorised parking by users of the public footpaths accessed via it) and, in this sense, there would not necessarily be any change, save in respect that there could be increased use of the public rights of way over and above the existing situation. In principle, it is not considered that this issue would be one which would render the development unacceptable; nevertheless, it is a matter which would more properly be considered at any future reserved matters stage (which would be the relevant stage to consider means of access other than those applied for under this application) if this route were indeed included as a proposed link to the site, and including consideration of whether any measures (e.g. physical measures or signage, say) could be provided so as to minimise any potential increased unauthorised vehicular use.

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves, whilst an illustrative masterplan has been submitted, all matters except part access are reserved for subsequent approval. The illustrative masterplan indicates that built development would be located adjacent to a number of residential properties to areas to the north west, south west and south east of the application site, including properties on Money Hill, Allison Close, Wood Street, Nottingham Road and Plantagenet Way. Clearly, careful consideration would need to be given to any detailed proposals for these and other areas of the site submitted at the reserved matters stage(s) so as to ensure that an appropriate relationship between existing and proposed dwellings were provided. However, there is no reason to suggest that the eventual form of development proposed at the reserved matters stage(s) would necessarily result in undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, acceptable in this regard.

Loss of Agricultural Land

Part of the site is currently in active agricultural use 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. The Environmental Statement includes an assessment of the agricultural quality of the 43.6ha application site, suggesting the following distribution of land quality:

Grade 2:	0.5ha (1%)
Grade 3a:	37.5ha (86%)
Grade 3b:	3.0ha (7%)
Urban:	2.6ha (6%)

On this basis, 87% of the application site (38ha) would be BMV, and primarily incorporating the southern sections of the site (mainly Grade 3a) and the area through which the A511 access would pass (Grade 2). In terms of assessing the significance of this loss, the Environmental Statement has regard to accepted practice of classifying the impact as "moderate" where loss of between 20 and 50ha of BMV would result (with "slight" and "major" impacts defined as those resulting in loss of less than 20ha and more than 50ha respectively). It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process. The Environmental Statement also classifies the significance of the impact as "moderate adverse". In support of the proposals, the Environmental Statement argues that, although the development involves the loss of BMV, it is important to consider that the land quality across the study area is typical of the surrounding area, and that there are some areas where sites of a similar size could comprise of a far higher amount of BMV, hence its release would not be unacceptable.

Also relevant is the extent to which change of use of the BMV land is irreversible. Whilst the submitted masterplan is illustrative only, it is noted that it indicates that a proportion of the areas identified as BMV 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.

Nevertheless, in terms of agricultural land quality, 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. Also, and as pointed out within the Environmental Statement, the quality of land within the application site, whilst primarily BMV, is not untypical of the surrounding area and, as such, if the Local Planning Authority is required to release significant areas of land within the Ashby de la Zouch area, it would seem likely that this would need to include significant proportions of BMV land. DEFRA has been consulted on this issue, but no response has been received.

Geotechnical Issues and Land Contamination

The applicants have undertaken a non-intrusive Geo-environmental and Geotechnical Desk Study, and the Environmental Statement assesses the potential impacts of the proposed development to various receptors, including residents of the proposed development, controlled waters, flora and fauna and the built environment; mitigation, and including more detailed ground investigations, is recommended. Nevertheless, the Environmental Statement concludes that it is anticipated that there will be no significant residual effects related to land quality and remediation. The District Council's Environmental Protection team raises no objection to the application in this regard subject to conditions, and the proposals are considered acceptable in this regard.

The Environmental Statement and other supporting documents also consider the impacts of coal on the proposed development of the site. In terms of the potential risk from former workings, supporting information provided on behalf of the applicants (and based on Coal Authority data) indicates that, whilst parts of the site have the potential to be underlain at shallow depth by coal seams, there are no records of any underground workings within the site (albeit the potential for unrecorded workings could not be ruled out). In terms of surface workings, a small area of the site is understood to have been worked in the 1940s to a depth of approximately 12 metres. Insofar as potential risk from these former workings is concerned, the supporting information suggests that this would be likely to be limited to the standard of the restoration work (i.e. how well they were backfilled), but that, given the length of time since the site was worked, any settlement of the backfill would probably have now ceased (albeit there is no means of confirming this). Also, there remains a possibility of accumulated gas, but this could be established by drilling of exploratory boreholes, and any risk eliminated by the inclusion of protective measures. For its part, the Coal Authority considers that the supporting documentation is sufficient for the purposes of the planning system and meets the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development, and raises no objections subject to the imposition of an appropriate condition.

In terms of the potential for further mineral workings to take place on the site, the applicants' supporting information indicates that, although it is likely that two coal seams may underlie the southern part of the site at shallow depths, these are very thin in nature and hence unlikely to be economically viable for future exploitation by surface mining methods. Given that no concerns are raised by the Coal Authority in respect of this issue, Leicestershire County Council in its capacity as Mineral Planning Authority raises no objections.

Proposed Main Town Centre Uses

The proposal includes for retail space as part of two new local centres (comprising A1 retail stores selling convenience goods of 100sqm floorspace in the proposed northern district centre and 460sqm in the proposed southern district centre), and the planning application is accordingly supported by information in respect of the sequential test. This supporting information has been assessed on behalf of the Local Planning Authority by planning consultants with a retail specialism. [Given the scale of the proposed retail development (which falls below the 2,500sqm threshold set out in the NPPF), no supporting information in respect of retail impact is required].

In terms of the findings of the Local Planning Authority's consultants, these can be summarised as follows:

- The applicant states that the site is edge-of-centre. The District Council's consultants consider that this is not clear cut as the site is extensive and the proposed northern district centre would be considerably further than 300 metres from the Core Shopping

Area of Ashby de la Zouch

- The applicants' assertions that the use is provided for in [the then emerging] Core Strategy Policy CS37 are not concurred with, nor that the proposed retail floorspace is (as suggested by the applicants) not a main town centre use
- The area of search, in and around the town centre, is considered to be reasonable and appropriate
- It is agreed that it is necessary to conduct a search for sites that are capable of accommodating approximately 500sqm of retail floorspace
- In terms of the sequential sites considered (including eight alternative sites in Huntingdon Court, Market Street, Rushton's Yard, Bath Street and Kilwardby Street), it is agreed that none of these appear to be available or suitable as alternatives to the application site - in coming to this conclusion, the Council's consultants have borne in mind that the stated purpose of the proposed convenience retail floorspace is to provide "top-up" shopping facilities within the application site (and, therefore, that none of the vacant units in the town centre would be suitable in terms of meeting this location-specific requirement)

On the basis of the above, therefore, whilst some elements of the submitted retail supporting information is not accepted, the District Council's consultants conclude that the applicants have satisfied the NPPF's sequential test requirements and, as such, it is considered that the proposed development would be acceptable in retail / town centre policy terms, and would not adversely affect the vitality and viability of the town centre.

Design

The proposed scheme is outline only, with all matters other than part access reserved for later consideration. The proposal has been assessed by the District Council's Urban Designer and was also, prior to the application's submission, subject to Design Review by OPUN (the Architecture and Design Centre for the East Midlands). In its comments on the pre-application Design Review, OPUN's Panel was of the view that the main issues that needed to be addressed were the provision of strong, legible and safe connections to the town centre (and between the two phases of the development), the provision of a strong and simplified street hierarchy supported by green links / infrastructure, the strengthening the site entrance / sense of arrival from the Nottingham Road direction, and the potential relocation of the community facilities (and including a possible "village green") to a location that would be well located, accessible and visible. The Panel also felt that further clarification regarding the identity and character of the development to be created was required, making more of the landscape context as a "driver" for the design, including the National Forest, existing hedgerows, trees and the topography of the site, so as to enable the creation of an even stronger landscape strategy, and including the provision of a range of green / open spaces that would be well integrated into the development.

The scheme has also been assessed by the District Council's Urban Designer who had advised that there were some strategic design issues raised by OPUN (and by the Local Planning Authority at the pre-application stage) that required resolution if he was to be able to support the application. In summary, he advised that these unresolved issues would affect the Building for Life report for this scheme and related to:

- "- *Character and identity - the need for a stronger sense of identity driven by landscape and the need for the development to have a clear idea whether or not it was part of Ashby. There is a real opportunity here to capitalise on the site's location in the National Forest.*

- *Stronger connections between the two phases of development and Ashby are required. The key connection between the town centre and the development is weak and must be stronger and more direct if it is to be well used and attractive. Currently it appears as an after thought. For example, why not have a strong, tree lined, well lit pedestrian and cycle way that enters the development and forms a strong 'backbone' for the development linking to other principal spaces? This would help to stitch the development to the existing urban fabric, something that also needs reconsideration.*
- *Location of facilities*
- *Response to topography and the opportunity to better integrate SUDS into the development in addition to a series of linear/multi-use spaces along the valley.*
- *The lack of a suitable gateway to the development from the north."*

In response, the applicants have expressed concern over the timing of the comments, but have responded as follows:

Character and Identity:

The applicants consider they have achieved this objective, particularly in relation to the National Forest context, and that character was strengthened in the proposal as a response to the Design Review, including a restructure to allow landscape and sustainable drainage principles to take priority. This is now, they consider, implicit in the proposals and includes structural woodland belts which integrates into the National Forest beyond the site, enhanced hedgerows retaining nature corridors, meadows, wetland areas and a series of squares and greens.

Stronger Connections:

The applicants consider that they have ensured that the crossings of the brook between phases 1 and 2 are enhanced, including two street crossings and three additional pedestrian crossings. They accept that town centre pedestrian connections are weak, but propose that pedestrian routes linking to the town centre (including existing Right of Way O89 linking the site to North Street) are well lit, resurfaced and useable by cycles. They suggest that the existing adjacent industrial uses are likely to relocate over time, thus enabling the District Council's Urban Designer's aspiration for tree lines along the route to be provided in the future.

Location of Facilities:

The applicants consider that it should be recognised that the proposed on-site facilities are not local centre uses specific to a self-contained neighbourhood, but town centre uses with strong associations serving the people of Ashby de la Zouch. They therefore consider that the location of facilities within the proposal close to and associated with the town centre is the better solution.

Topography:

The applicants consider that they have provided opportunities for interpreted SUDS and have provided a series of linear / multi-use spaces along the valley and, as a result of the OPUN Design Review, the landscape section of the proposal has been greatly expanded, an approach they consider is supported by the National Forest, the County Council's Rights of Way officer, and the Environment Agency.

Northern Gateway:

The applicants consider that there is ample opportunity for an appropriate entrance from the north to be provided, and that this could be secured by way of a suitable condition.

On this basis, whilst there appear to be unresolved concerns in respect of design, and whilst an entirely satisfactory form of development has not at this time been formulated, the view is taken

that there still nevertheless appear to be significant opportunities to provide for a robust design solution in this case. As such, whilst further work is clearly required in respect of this issue as the scheme evolves, it is not considered that approval of the outline application would unacceptably fetter the prospects of achieving a sound design approach and, on balance, it is not considered that this, in itself, warrants refusal of the application. In response to the applicants' comments, the District Council's Urban Designer agrees with the applicants' suggestion regarding a condition in respect of the Northern Gateway, and further suggests that conditions in respect of a Design Code and Building for Life also be attached to any approval. Whilst it is considered that a condition in respect of the Northern Gateway along the lines suggested by the applicants would not necessarily be required (i.e. given the outline nature of the application), it is nevertheless considered appropriate to attach a Note to Applicant advising of the Local Planning Authority's expectations at the reserved matters stage. Subject to this, it is considered that, in principle, it has been demonstrated that an appropriate form of design could be provided at the reserved matters stage(s) and, on balance, the design-related concerns are considered to have been addressed to a satisfactory degree at this outline stage.

Other Matters

Developer Contributions and Development Viability

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 proposed infrastructure and other developer contributions / Section 106 obligations are as set out in the preceding sections of this report (including in respect of accessibility / transportation and the River Mease DCS) and as listed below.

Notwithstanding the various contributions proposed by the applicants (and sought by consultees), the applicants do not propose to make a full affordable housing contribution (the content of which is set out in more detail below). In proposing this, they point to what they suggest is an "overprovision" of contributions in respect of education and connectivity between the site and the town centre (the issue of the need to improve pedestrian and cycle connections to the town are discussed above under Means of Access, Highways and Transportation Issues; education matters are set out in more detail below). The contribution offered in respect of enhanced connectivity is £400,000, proposed by the applicants to be used by the District Council for the enhancement of connections between the site and the town centre (and including the funding of a study in respect of connectivity within the town generally). As set out in more detail under Education below, based on the Local Education Authority's "usual" contribution requirements for a development generating the number of pupils anticipated, a contribution to the primary school sector of £1,756,776.25 would usually be required. However, in this case, having regard to the scale of the development, the applicants had agreed the provision of a new school with the Local Education Authority, the cost of which, the applicants advised, would be £4.5m (i.e. approximately £2.74m more).

In effect, the applicants have argued that, because they are proposing to pay an "additional"

sum (i.e. the £2.74m plus the £400,000), it is appropriate to reduce contributions elsewhere to reflect this and, in this regard, are proposing a reduced affordable housing contribution (a *minimum* of approximately 10% instead of the policy-compliant 30%) (albeit the final position in respect of primary education remains to be clarified by the Local Education Authority). The applicants also argue that this would render the overall contributions (expressed in terms of cost per dwelling) comparable with other developments elsewhere.

As set out under Relevant Planning Policy above, the NPPF requires that development of sites identified in an Authority's plan should not be subject to such a scale of obligations that their ability to be developed viably is threatened. At the time of preparing this report, whilst the applicants suggest that reduced contributions would be appropriate, no detailed evidence has been submitted indicating that such contributions would threaten viability or prevent provision of competitive returns to the landowners / developers; it also appears to be the case that the applicants are not only suggesting that the contributions sought would render the proposed development unviable, but also that the case for reduced contributions is based on comparison with other developments elsewhere in the District.

Until such time as evidence in the form of a viability appraisal had been undertaken indicating that such measures would threaten viability as set out in Paragraph 173 of the NPPF, it is not considered that it would be appropriate to agree to reduced affordable housing contributions. Nevertheless, it is not considered that there is an overriding reason why this scenario could not be assessed on the assumption that evidence for the assumed figures can subsequently be provided (and be robustly assessed on behalf of the Local Planning Authority) in due course.

In terms of the argument relating to comparative contributions with other developments, however, whilst it is noted that any contributions would need to be fairly and reasonably related in scale and kind to the development, it would not be considered appropriate to just accept the proposed affordable housing "reduction" on the basis of a comparison of the average amount per dwelling to other developments elsewhere where land values and returns may be very different. Any detailed viability assessment would need to be based on a set of assumptions of development value and costs agreed with the Local Planning Authority's advisors (likely to be the District Valuer), and including private residential and affordable housing development values, commercial values, build costs, infrastructure costs, developer contributions, fees, finance costs, profit levels and land value.

In terms of the relevant contributions, the following conclusions are reached:

Affordable Housing

Under the provisions of the District Council's Affordable Housing SPD, a site of this scale in Ashby de la Zouch requires a minimum affordable housing contribution of 30% (i.e., for a development of total number 605 dwellings, 182 affordable units (rounded up to the nearest whole number of units, in accordance with the SPD)). As set out above, however, the development is proposed to provide a reduced proportion of affordable housing.

Insofar as property and tenure mix are concerned, the District Council's Affordable Housing Enabler advises that the following mix had previously been agreed with the developers as acceptable, and with a tenure mix of 65% affordable rented and 35% intermediate housing:

- 1 bed - 31%
- 2 bed - 51%
- 3 bed - 15%
- 4 bed - 3%

In terms of the proposed reduced contribution, following discussions with the District Council's Strategic Housing team regarding the property / tenure mix of the affordable housing contribution, the applicants propose the provision of a minimum of 10% of the dwellings to be affordable (61 units minimum). The application as submitted included for this contribution to be solely in the form of the proposed 60 unit extra care facility but, following amendment, the applicants advise that, *if* a 10% contribution can be demonstrated as being the maximum viable, the following is proposed:

- 15 affordable "extra care" homes (as part of a wider 60 unit extra care scheme, the remainder of which would be open market flats)
- 46 units as "general needs" affordable housing (i.e. "conventional" affordable housing - houses, flats etc.)

Notwithstanding this proposed contribution, however, the District Council's Affordable Housing Enabler expresses concern over the ability to implement such a proposal in that it may not be possible to attract a Registered Provider to take on 15 affordable units in what will essentially be a 60 unit private care scheme. In view of this, a "fallback" position is also proposed whereby, if no Registered Provider can be found, the contribution would be 61 units as "general needs" affordable housing. [NB These figures would need to be increased in the event that a higher level of contribution was found to be viable by the District Valuer.]

As set out above, the above scenario is considered acceptable by the District Council's Strategic Housing team solely on the basis that the scheme is otherwise unviable and, generally, there is concern that the proposed reductions in contributions to render the development viable are focussed on the affordable housing contribution. This is considered to be an entirely reasonable concern, and there would clearly be implications of a reduced contribution towards affordable housing in order to secure the development's viability which would represent a departure from the Council's current affordable housing policies. In terms of the impacts, it should be noted that a significant housing need already exists within the District. The last housing needs study for the District which was 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 is 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. 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 securing a reduced level of contribution in this instance would not, on the face of it, 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:

- (i) The Government's support for Local Planning Authorities taking a proportionate approach to developer contributions and viability so as to enable development to come forward;
- (ii) 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; and
- (iii) The fact that, whilst the contribution that this development would make would fall below that which would usually be secured in terms of affordable housing, the scheme would nevertheless still make a significant contribution to the affordable stock (in numbers terms, at least 61 units) and that, should the development not take place due to viability concerns, no affordable housing contribution would be made at all.

Government guidance as set out in the recently issued Planning Practice Guidance advises that, where an applicant is able to demonstrate that a planning obligation would cause a development to be unviable, the Local Planning Authority should be flexible in seeking planning obligations, and that affordable housing contributions in particular should not be sought without regard to individual scheme viability. However, it also clarifies that the NPPF provides that, where safeguards are necessary to make a particular development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development. Whilst the scheme would provide for an affordable housing contribution below that which would normally be required by the relevant policy, (and, hence, there would be concerns regarding whether the development would constitute sustainable development (and, in particular, in terms of its social dimension)), this needs to be considered in the context of the approach taken in the NPPF and Planning Practice Guidance and, on balance, it is considered that the proposals would be acceptable in this regard.

On balance, therefore, whilst the contribution proposed would be substandard vis-à-vis the current affordable housing standards set out in the District Council's SPD, should the applicants be able to demonstrate to the District Valuer's satisfaction that the contribution proposed is the maximum that could be provided (or, if higher than 10%, the applicants also provide this), it is considered that the overall amount of affordable housing proposed would be appropriate in this case, and when balanced against all other viability considerations. If, however, agreement in terms of the figures could not be reached (i.e. that a higher contribution was found as viable by the District Valuer and the applicants were not agreeable to making that level of contribution), this matter may need to be considered further by the Planning Committee. Should Members be minded to permit the application, given the under-provision of affordable housing vis-à-vis the adopted Affordable Housing SPD, it would be considered appropriate to 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. Alternatively, however, and as per the Highways Agency issues set out above, if Members were minded to refuse the application, reference to this issue in the reason(s) for refusal would (as per the resolution made at the December 2013 Planning Committee) be considered appropriate given that, at this time, it has not been demonstrated that the scheme cannot support a 30% affordable housing contribution.

Transportation and Accessibility Contributions

These are as set out under Means of Access, Highways and Transportation Issues above.

Education

The applicants had proposed to provide a site and construct a new 210 pupil capacity primary school, to be provided prior to the occupation of 300 dwellings on the site; the applicants advised that the cost of such a facility had been costed at approximately £4.5m.

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

Primary School Requirements:

This site falls within the catchment area of Ashby Church of England Primary School. The school has a net capacity of 315 and 540 pupils are projected on roll should this development proceed, a deficit of 225 places (of which 79 are existing and 146 would be created by this development). There are three other primary schools within a two mile walking distance of the development, namely Ashby Willesley Primary School (with a surplus of 23 places), Ashby Hill

Top Primary School (with a deficit of 1 place) and Woodcote Primary School (with a deficit of 126 places). When taking these into account, there would be an overall deficit in the primary sector of 329 pupil places, and the 146 pupil places created by the development could not therefore be accommodated at nearby schools.

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 £1,756,776.25. The Local Education Authority advises that a financial contribution would normally be used to accommodate the capacity issues created by the proposed development (by, for example, remodelling or extending the existing facilities at the local catchment school which, in this case, would be Ashby Church of England Primary School). However, the County Council also advises that there is insufficient capacity within the nearby schools to accommodate the additional 147 pupils generated by the proposed development and, as it is not considered possible to extend any of the local primary schools within the vicinity of the development proposal to accommodate all of the additional pupils generated by the proposed development, a new school (or first phase thereof) would be required within the site of the development. Leicestershire County Council advises therefore that the education contribution would be likely to be a non financial contribution to provide suitable land for a new school of 1.5ha, together with the costs of providing the infrastructure (e.g. hall, offices, staff room) for a 210 place school. The County Council has advised that the option is available for the developer to either (i) provide the site and build the school; or (ii) make a financial contribution representing the cost of the provision of the new primary school. However, the County Council has also advised that the commuted sum figure generated from the development (i.e. £1,756,776.25) would not be sufficient to provide a new school and, therefore, the County Council has sought further clarification from the applicants in respect of the funding strategy.

In respect of the building's design etc., it is understood that the Local Education Authority would be content for this matter to be addressed at the reserved matters stage. In response the applicants had advised (as set out above) that the primary school has been costed at approximately £4.5m but if, for whatever reason, the developers did not provide the school, then the County Council had requested a fall back mechanism (i.e. that the developer would pay a contribution equal to the amount of the new school). Having regard to the recent resolution to permit a scheme of residential development at Holywell Spring Farm (which also includes for a new school; application ref. 13/00486/OUTM), the County Council has suggested that, on the basis that two new schools would be unlikely to be required, were the proposed development on the Money Hill site also to be permitted, the Local Education Authority would need to consider which of those development sites would be likely to be most appropriate for a new school taking account of current pupils and possible future development sites.

Overall, therefore, it is understood that the County Council is in effect advising that (i) were a "normal" contribution to provide for expansion of an existing school possible, the sum required would be £1,756,776.25. However, in this instance, given the scale of expansion required, there is no opportunity to do this (unless the school at the Holywell Spring Farm were to be built). As such, unless a contribution towards that school is made (together with any associated costs of securing the necessary land for expansion etc.), a new on-site school would be required (which could then, for example, accommodate increases to capacity from this and other sites). For their part, however, the applicants now advise that they understand the County Council's position to be that the primary contribution would be the sum of £1,756,776.25 regardless (with a site for a school on the Money Hill development safeguarded), and that this contribution would be combined with that secured from the Holywell Spring Farm site, with the only remaining issue being whether the Money Hill or Holywell Spring Farm site would be the location of the proposed new school. It is not clear how this would work in terms of delivering a school in the

event, say, that the Money Hill development progressed but the Holywell Spring Farm one did not (i.e. the £1,756,776.25 sum would not, on its own, be sufficient to deliver the school). At the time of preparing this report, clarification from Leicestershire County Council on its final position was awaited, however, and any further comments on this matter will hence be reported on the Update Sheet.

High School Requirements:

The site falls within the catchment area of Ivanhoe College. The College has a net capacity of 949 and 1,042 pupils are projected on roll should this development proceed; a deficit of 93 places (of which 32 are existing and 61 would be created by this development). The Local Education Authority advises that there are no other high schools within a three mile walking distance of this development. The 61 deficit places created by this development can therefore not be accommodated at nearby schools and, in order to provide the additional high school places anticipated by this development, the County Council requests a contribution for the high school sector of £1,081,508.29. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Ashby Ivanhoe College. The applicants have confirmed that they are agreeable to making this contribution.

Upper School Requirements:

The site falls within the catchment area of Ashby School. The school has a net capacity of 1,841 and 1,915 pupils are projected on roll should this development proceed; a deficit of 74 places (of which 13 are existing and 61 are created by this development). The Local Education Authority advises that there are no other high schools within a three mile walking distance of this development. In order to provide the additional upper school places anticipated by the proposed development, the County Council requests a contribution for the upper school sector of £1,110,487.18. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Ashby School. The applicants have confirmed that they are agreeable to making this contribution.

River Mease Special Area of Conservation (SAC) Contributions

As set out above, the applicants propose to make contributions as per the schedule set out in the District Council's Developer Contribution Scheme (DCS). As set out, the applicants have estimated a contribution of £134,310 would be payable, although the precise amount payable would need to be based upon the precise nature of the development proposed at the reserved matters stage(s).

Play and Public Open Space

The supporting documents proposed development would provide for significant areas of open space / green infrastructure, including on-site children's play facilities with a local play area designed to cater for younger age ranges from toddler to approximately 12 year olds and, in the wider landscape, informal play spaces and play "stations" created as part of the overall landscape structure. The Design and Access Statement also suggests that educational play items and interpretation boards would be provided to encourage engagement with local wildlife, ecology and the history of the area. The details of the areas of open space would need to be addressed as part of the reserved matters, but there appears to be no reason in principle why the detailed scheme could not provide for appropriate play areas in accordance with the District Council's Play Area Design Guidance Note SPG.

The submitted illustrative masterplan indicates the provision of significant areas of open space

throughout the site, including to its northern, eastern and southern boundaries (and including areas of open space separating proposed built development from existing dwellings on Woodcock Way, Lockton Close, Bosworth Close and Plantagenet Way), and through a central swathe of it. The applicants confirm that the proposals would, overall, provide for public open space of 14.3 hectares (and equating to approximately 33% of the site as a whole).

In terms of future management of the open space, under the usual procedures provided for in the District Council's Play Area Design Guidance Note Supplementary Planning Guidance, this would normally be conveyed to the Town Council for future adoption / maintenance as the relevant open space authority. At this stage, the applicants have not determined whether they intend to do this or, instead, convey the relevant areas to a management company. It is considered that this issue could be addressed via the detailed negotiations on the Section 106 agreement (and including with Ashby de la Zouch Town Council; the Town Council has not however provided any detailed comments on this aspect of the application).

In terms of recreational open space / sports pitches, whilst no detailed, separate, provision appears to have been made in respect of youth / adult type facilities in accordance with the SPG, there would appear to be no overriding reason why this could not be adequately accommodated as part of the overall open space contribution as and when the detailed proposals were progressed.

Whilst, on the basis of the information submitted with the application, the details in respect of play appear to be limited at this stage, it is nevertheless considered that the proposed development has the potential to provide for an overall acceptable solution in terms of public open space facilities, subject to detailed resolution in due course.

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, and the National Forest Company notes that the illustrative proposals exceed the minimum National Forest woodland planting and open space standard of 30% of the site area. The National Forest Company raises a number of detailed issues in respect of the proposed planting strategy, but there appears to be no overriding reason why such measures could not be satisfactorily accommodated within the proposed development at the reserved matters stage. The proposals are therefore considered appropriate in this regard, particularly when considered in the context of the conclusions reached under Children's Play and Public Open Space above.

Library Services

A contribution is proposed to be made by the developer for library services in accordance with the requirements of Leicestershire County Council (initially calculated by the County Council at £32,800, but subject to amendment depending on the detailed breakdown of dwelling types to be erected on the site).

Healthcare

In respect of healthcare contributions, the application includes for the erection of a 2,000sqm health centre (including 1,200sqm GP area, 150sqm pharmacy and 400sqm future expansion space), together with parking area (80 spaces); the applicants advise that these proposals have been formulated in consultation with the former PCT. The supporting documents advise that access to the new health centre would be provided via two principal routes; vehicular access

would be provided from Woodcock Way, together with a secondary car park to the north of the proposed health centre, which would be located on the northern side of the proposed bus gate (i.e. served from the proposed A511 access). The documents also confirm that pedestrian linkages would also be provided from North Street, along an upgraded Ivanhoe Way.

In terms of the form of the proposed contributions, the intention is to either deliver the health centre as set out above or, alternatively, make a financial contribution of £201,878.28 as per the contribution request from the NHS. In support of the financial contribution request, the NHS advises that the development would result in an increased patient population of approximately 1,452, and that these additional residents of the proposed housing development would access healthcare in the two existing Ashby Health Centre and North Street surgeries (resulting in approximately 1,220 and 232 new patients respectively). Whilst the North Street practice is understood to have sufficient capacity, the Ashby Health Centre does not. The NHS advises that this practice has been identified as a priority for primary care premises investment, and that NHS England is supporting a new surgery for the practice, with the ability to be extended to meet the needs arising from the proposed Money Hill development.

In addition to the proposed health centre forming part of these proposals, the scheme for which a resolution to permit was made on the Holywell Spring Farm site also includes for such a facility. It is understood that there is only likely to be a requirement for one additional health centre and, in effect, the proposed contribution would ensure that, were the current development permitted, there would be a choice for the NHS / surgery as to where to develop the new health centre (i.e. Holywell Spring Farm, Money Hill (or, potentially, somewhere else)). The NHS confirms, however, that it is satisfied with the approach suggested by the developer (i.e. to either build the centre, or contribute towards its construction elsewhere) in that this would enable a flexible approach to be taken as the proposals to provide the additional facilities progress. It is also considered by officers that such an approach would allow for the sensible delivery of essential services regardless of which developments are eventually delivered within the Ashby de la Zouch area, and would meet the relevant legal and policy tests for obligations as set out in the CIL Regulations and NPPF. Whilst the applicants' resubmissions indicated amendments to the proposed healthcare contributions having regard to the resolution to permit the Holywell Spring Farm development (and the submission of a more recent, full, application for a new medical centre on that site (ref. 14/00080/FULM), the NHS's requirements in this regard remain, in effect, unchanged in that, at this time, there can be no certainty that that facility would be built (and, if it was, whether that would be prior to the occupation of dwellings on the Money Hill site).

Community Hall

As set out above, it is the applicants' intention to provide a community hall as part of the development which, they advise, was a facility requested by members of the public during the public consultation exercise. The applicants anticipate that this community hall could accommodate activities such as Scouts, Guides, yoga and / or a community film club. This community hall would, they advise, be part of a cluster of mixed uses forming a civic space. This space will, they argue, be highly accessible from the town centre, with a pedestrian and cycle entrance and would be a short-distance from a new bus linkage to be created through the site. A new landscaped pocket park would form a new gateway feature to the square. The applicants advise that they have had strong interest from the local Scout group in the building which would be 410sqm in terms of floorspace, and would be provided upon the occupation of the first 130 homes, with the ownership of the building transferred by way of a "Community Asset Transfer".

The proposed facility would, it is considered, represent an appropriate component of the

development, providing a necessary community facility as part of the wider area of growth to the north of the town.

Contributions sought by Leicestershire Police

Leicestershire Police requests a developer contribution of £203,187 in respect of policing as set out in the consultation response above. The contribution sought comprises:

Start up equipment / training	£25,456
Vehicles	£17,073
Additional radio call capacity	£1,240
Police National Database	£786
Additional call handling	£1,414
ANPR	£8,222
Mobile CCTV	£1,500
Additional premises	£146,286
Hub equipment	£1,210

With regard to the acceptability of police contributions per se, 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. It is expected that this Opinion will be received shortly.

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 the amount, if any, of such contribution would be determined by the Council having regard to all relevant considerations including any issues of viability that may be raised. Should the inclusion of policing contributions, when considered alongside other contributions, render a scheme unviable (or more unviable if already so), then a judgement will need to be made as to which (or which proportion of) contributions are most required in order to deliver a viable development which is still acceptable in overall planning terms

Overall, in terms of planning obligation issues, however, 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, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development.

Conclusions

As set out above, the site is considered suitable in principle for the proposed development. Whilst the majority of the site is outside Limits to Development and, therefore, would be contrary to existing National and Development Plan policies designed to protect the countryside from unnecessary development, regard also needs to be had to other material considerations and, not least, the requirement to demonstrate and maintain a five year supply of housing land as set out in the NPPF. Whilst the majority of the site is located outside of Limits to Development as defined in the adopted Local Plan, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, benefit from a presumption in favour of such development as set out in that document.

In terms of technical issues affecting the proposed development, whilst the majority of the conclusions as set out in the applicants' Environmental Statement are accepted, a number of issues have been raised by the Local Highway Authority in respect of access and transportation. However, no objections are raised by the Local Highway Authority subject to the imposition of conditions. Whilst it is not considered that the recommended condition in respect of limiting vehicular access to no more than 400 dwellings from each point of access would be appropriate, it is nevertheless considered that the omission of such a condition would not render the development unacceptable in accessibility or highway safety terms. The scheme is considered to be acceptable in terms of other technical issues such that there appear to be no other reasons to prevent the site's development.

Whilst the proposed development would, for viability reasons, be unlikely to be able to support the full range of infrastructure requirements necessary to accommodate the development, the applicants are proposing to address this by way of making a reduced contribution to affordable housing as detailed in the report above. Whilst this would result in a reduced affordable housing contribution, on the assumption that the extent of the reduction vis-à-vis the usual requirement applicable to the Ashby de la Zouch area could be demonstrated as being the minimum reduction necessary to render the development viable, an appropriate contribution would nevertheless be considered to be made, and it is therefore recommended that outline planning permission be granted, subject to the Local Planning Authority's advisors (i.e. the District Valuer) being satisfied with the applicants' evidence in this regard. It is noted that the affordable housing "offer" relates to a *minimum* of 10%; hence if the District Valuer's findings indicate that a higher contribution can in fact be provided, it is recommended that the relevant Section 106 obligations secure this higher amount (up to a maximum of the policy-compliant 30% level).

RECOMMENDATION- PERMIT, subject to the withdrawal of the Secretary of State for Transport's TR110 Direction dated 31 January 2014, subject to Section 106 Obligations, subject to the following conditions, and subject to any additional conditions as directed by the Secretary of State for Transport:

- 1 Save for the details of vehicular access into the site from Woodcock Way and the A511, details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for the relevant phase (as defined under Condition 5 below) shall be submitted to and approved in writing by the Local Planning Authority before any development begins in respect of the relevant phase.

Reason - This permission is in outline only.

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access (save for the details of vehicular access into the site from Woodcock Way and the A511), appearance, landscaping, layout, and scale shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

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

- 3 Application for approval of the reserved matters for the relevant phase (as defined under Condition 5 below) 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 for that phase to be approved.

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

- 4 The proposed development shall be carried out strictly in accordance with the following plans:
- Site location plan (020 Rev J 21.03.2013)
 - Parameters plans (021 Rev K 2.07.2013, 023 Rev J 21.03.2013, 024 Rev J 21.03.2013 and 025 Rev J 21.03.2013)
 - Site Access plans (04 Rev D and 06 Rev F)

Reason - To determine the scope of this permission.

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

Reason - To ensure that the development of the site (including where undertaken in a phased manner) takes place in a consistent and comprehensive manner, and to ensure that the proposed development delivers the proposed residential and non-residential development at the appropriate time.

- 6 A total of no more than 605 dwellings shall be erected.

Reason - To define the scope of this permission.

- 7 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as precise details of all means of mitigation measures as set out in the Environmental Statement, including timetables for their provision, have been submitted to and agreed in writing by the Local Planning Authority. The measures shall be implemented in accordance with the approved details and timetables unless in accordance with any variation first agreed in writing by the Local Planning Authority.

Reason - To ensure the development and associated impacts take the form envisaged in the Environmental Statement.

- 8 No development shall commence on the site until such time as a Design Code for the entirety of the site has been submitted to and agreed in writing by the Local Planning Authority. The Design Code shall substantially accord with the principles and parameters described and illustrated in the Design and Access Statement, and demonstrate compliance with Building for Life 12 (or any subsequent replacement standard issued by the Design Council / CABE or any successor organisation). The development shall thereafter be carried out in accordance with the agreed details, or in accordance with any amendment to the Design Code subsequently agreed in writing by the Local Planning Authority.

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

- 9 Notwithstanding the submitted details, no work shall commence on site until such time as intrusive site investigation works in respect of potential risks to the proposed development arising from former coal mining operations together with precise details of any required mitigation and a timetable for its implementation have been submitted to and agreed in writing by the Local Planning Authority. Where the agreed details indicate that mitigation is required, the development shall be carried out strictly in accordance with the agreed mitigation and timetable.

Reason - To ensure the safe development of the site.

- 10 The development hereby permitted shall not be carried out other than in strict accordance with the submitted Flood Risk Assessment (FRA) dated 14 March 2013, ref. 031052 (ES Appendix 14-1) and Drainage Strategy Revision 01, Dated 20 March 2013, ref. 031052 (ES Appendix 14 -2) and the following mitigation measures detailed within the FRA:
- Limiting the discharge rate for surface water run-off and provision of surface water attenuation storage on the site, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site - FRA sections 6.0 and 7.4, and Drainage Strategy sections 3.1, 5.1, 7.1 to 7.3.6;
 - Management of Silt and the prevention of pollution of the watercourse during the construction phase - FRA section 7.3;
 - Provision of safe access and egress within the site - FRA section 7.2; and
 - Finished floor levels - FRA section 7.1
- Unless any alternative programme is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as the mitigation measures have been fully implemented.

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

- 11 Notwithstanding the submitted details, nor Condition 7 above, no development shall commence on the site until such time as a surface and foul water drainage scheme for the site (or, in the case of phased development, for the relevant phase of the site), based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the agreed details and timetable. The scheme shall include:
- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;
 - Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (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 20% for commercial, 30% for residential (for climate change) critical rain storm;
 - Detailed design (plans, cross, long 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 on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.
- No development shall be carried out, nor any part of the development brought into use at any time unless in accordance with the agreed scheme and timetable.

Reason - To prevent the increased risk of flooding, to improve and protect water quality, to improve habitat and amenity, and to ensure the development is provided with a satisfactory means of drainage.

- 12 The development hereby permitted shall not be commenced until such time as a scheme to detail each individual watercourse crossing (including pedestrian footbridge and vehicular crossings) and demonstrating that no raising of ground levels, nor bridge soffit levels as set will result in elevated flood levels, and that there will be no loss of flood plain storage due to the provision of any new crossing of the Money Hill Brook, has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Environment Agency and Lead Local Flood Authority (LLFA). The scheme shall include, but not be exclusive of:
- Limiting the number of crossings of the Money Hill Brook, and removal / upgrade of any existing crossings;
 - Crossings to be provided as clear span bridges or arches in preference to any culverting (including the upgrading of existing crossings, where upgrading is required or proposed);
 - Bridge soffits set a minimum of 600mm above the modelled 100 year plus 20% (for climate change) flood level applicable at the crossing site;
 - Bridge abutments set back beyond the top of the natural bank of the watercourse;
 - Where necessary, culverts designed in accordance with CIRIA C689 (including up sizing

- to provide a free water surface and natural bed), and to have a minimum width / length of culvert essential for access purposes;
 - Provision of compensatory flood storage for all ground levels raised within the 100 year flood plain applicable at any crossing sites, including proposed location, volume (calculated in 200mm slices from the flood level) and detailed design (plans, cross, and long sections) of the compensation proposals;
 - Compensatory flood storage provided before (or, as a minimum, at the ground works phase) of the vehicle bridge and any other crossing construction;
 - Detailed designs (plans, cross, long sections and calculations) in support of any crossing;
 - Details of how the scheme shall be maintained and managed after completion; and
 - A timetable for the relevant works.
- The scheme shall be fully implemented and subsequently maintained 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 in consultation with the Environment Agency and LLFA.

Reason - To avoid adverse impact on flood storage, to reduce the risk of flooding to the proposed development and future occupants, to reduce the risk of flooding to adjacent land and properties, to improve and protect water quality, to improve habitat and amenity, and to ensure future maintenance of the surface water drainage system.

- 13 No development shall commence on the site until such time as a construction working method statement to cover all watercourse works (including pedestrian and vehicular crossings and any other works within 8 metres of any watercourse) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme (or any amended method statement subsequently submitted to and agreed in writing by the Local Planning Authority).

Reason - To protect local watercourses from the risk of pollution.

- 14 Notwithstanding the submitted details, nor Condition 7 above, no development (save for demolition works) shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a further Risk Based Land Contamination Assessment has been submitted to and agreed in writing by the Local Planning Authority. The Risk Based Land Contamination Assessment shall identify all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination at the site and shall be carried out in accordance with:
- BS10175:2011+A1:2013 Investigation of Potentially Contaminated Sites Code of Practice;
 - BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and,
 - CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.

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

- 15 If, pursuant to Condition 14 above, any unacceptable risks are identified in the Risk

Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004, and the Verification Plan (which shall identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action) shall be prepared in accordance with the requirements of Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010, and CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004. If, during the course of development, previously unidentified contamination is discovered, development shall cease on the affected part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. No work shall recommence on that part of the site until such time as a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be undertaken in accordance with the agreed details and thereafter be so maintained.

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

- 16 None of the development hereby permitted shall be brought into use until such time as a Verification Investigation for the relevant part of the site has been undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme relevant to either the whole development or that part of the development. No part of the development (or, in the case of phased development, no part of the relevant phase) shall be brought into use until such time as a report showing the findings of the Verification Investigation has been submitted to and agreed in writing by the Local Planning Authority. The Verification Investigation Report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
 - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
 - Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
 - Contain Test Certificates of imported material to show that it is suitable for its proposed use;
 - Demonstrate the effectiveness of the approved Remedial Scheme; and
 - Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

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

- 17 There shall be no infiltration of surface water drainage into the ground at any time other than in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason - To protect controlled waters receptors.

- 18 Unless any alteration is first agreed in writing by the Local Planning Authority, the development hereby permitted shall be undertaken strictly in accordance with the submitted Outline Construction Environmental Management Plan (Revision 01, March 2013, ref. 031052).

Reason - To minimise the environmental impacts of the development during construction.

- 19 Notwithstanding the submitted details, nor Condition 7 above, no development shall commence on the site until such time as a timetable for the undertaking of updated surveys in respect of badger 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 mitigation measures and a timetable for such mitigation where appropriate) have been submitted to and agreed in writing by the Local Planning Authority, and the development shall thereafter be undertaken strictly in accordance with the agreed mitigation measures and timetable.

Reason - In the interests of nature conservation.

- 20 No hedgerows, trees or shrubs shall be removed during the months of March to August inclusive unless first agreed in writing by the Local Planning Authority. Should nesting birds be found during construction work, all work within 5 metres of the nest shall cease immediately, and shall not resume until such time as the young have left the nest.

Reason - In the interests of nature conservation.

- 21 Notwithstanding the submitted details, nor Condition 7 above, the first reserved matters application in respect of the development (or, in the case of phased development, the first reserved matters application in respect of the relevant phase) shall be accompanied by full details of all measures proposed in respect of the enhancement and / or management of the ecology and biodiversity of the area, including proposals in respect of future maintenance and a timetable for the implementation of the relevant measures. 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 - In the interests of nature conservation and to ensure the development contributes to the meeting of BAP and LBAP priorities.

- 22 Notwithstanding the submitted details, all reserved matters applications for the erection of dwellings shall include full details of the proposed dwellings' anticipated level of achievement in respect of criteria / sub-categories contained within the Code for Sustainable Homes. 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 environmental integrity of the scheme is secured.

- 23 Notwithstanding the submitted details, all reserved matters applications for the erection

of non-residential development shall include full details of the proposed buildings' anticipated level of achievement in respect of criteria / sub-categories contained within the Building Research Establishment's Environmental Assessment Method (BREEAM). No building shall be brought into use until such time as an assessment of the building has been carried out by a registered BREEAM assessor and a BREEAM Certificate has been issued for the relevant building certifying that the relevant BREEAM Level has been achieved.

Reason - To ensure the environmental integrity of the scheme is secured.

- 24 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking or re-enacting that Order), the total gross floorspace of uses falling within Class A1 of that Order shall not exceed 560 square metres at any time, nor shall the total gross floorspace of any single retail unit exceed 460 square metres at any time, unless planning permission has first been granted by the Local Planning Authority.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, for the avoidance of doubt, to ensure satisfactory control over the impact of the development on nearby centres, and to comply with Policy R1 of the North West Leicestershire Local Plan.

- 25 The first reserved matters application submitted pursuant to this permission (or, in the case of phased development, the first reserved matters application in respect of the relevant phase) shall include a detailed Archaeological Mitigation Strategy for the respective area(s). The Strategy shall be based upon the results of a programme of exploratory archaeological fieldwalking and trial trenching undertaken within the relevant area(s) in accordance with a Written Scheme of Investigation (WSI) first submitted to and agreed in writing by the Local Planning Authority. Both the WSI and final Strategy shall include an assessment of significance and research questions, and:
- The programme and methodology of site investigation, recording and post-investigation assessment (including the initial fieldwalking and 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; and
 - A detailed timetable for the implementation of all such works / measures
- Unless any alternative measures are first agreed in writing by the Local Planning Authority, no development shall take place at any time other than in accordance with the agreed Written Scheme of Investigation, Strategy and timetable.

Reason - To ensure satisfactory archaeological investigation and recording.

- 26 Notwithstanding the submitted details, nor Conditions 1, 2 and 7 above, no development shall commence on the site until such time as a scheme of structural landscaping to the A511 (indicating species, densities, sizes and numbers of proposed planting both within and outside of the application site, as appropriate, together with all existing trees and

hedgerows on the land including details of those to be retained, and those to be felled / removed), together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. No development shall be undertaken or occupied at any time unless all measures specified in the agreed scheme required to be implemented by the relevant stage / phase have been undertaken in full.

Reason - In the interests of amenity, and to ensure that the development is appropriate in this National Forest setting.

- 27 Notwithstanding the submitted details, nor Conditions 1, 2 and 7 above, no development shall commence on the site until such time as details specifying which of the proposed tree protection measures shown on drawing no. SJA TPP 12139-02a are proposed to be implemented in respect of the construction of the proposed accesses / roads (together with a timetable for their implementation) have been submitted to and agreed in writing by the Local Planning Authority. No development shall be undertaken at any time unless all of the agreed protection measures relating to the relevant stage / phase are in place. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand, unless any alteration is first agreed in writing by the Local Planning Authority.

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

- 28 Save for any works associated with the formation of the access as shown on drawing no. 06 Rev F, no development shall commence on site until such time as the A511 site access junction as shown on drawing no. 06 Rev F has been provided in full and is available for use by vehicular traffic.

Reason - To provide vehicular access to the site, including for construction traffic, in the interests of highway safety, and to comply with policy T3 of the North West Leicestershire Local Plan.

- 29 No part of the development hereby permitted shall be brought into use until such time as the site access junction at Woodcock Way as shown on drawing no. 04 Rev D has been provided in full and is available for use by vehicular traffic.

Reason - To provide vehicular access to the site, connectivity to the town centre, in the interests of road safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 30 No development shall commence on the site until such time as a scheme for the provision of a new or diverted bus service serving the development, and providing a connection between the site and Ashby de la Zouch town centre, has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall include hours of operation, service frequencies, routing and provision of necessary on and off site infrastructure (including pole and flag, bus shelter, raised kerbs and information display cases). The scheme shall include any works / measures required for the initial implementation of the scheme, together with a phased programme for the implementation of any measures required by the scheme as the development progresses. No more than 30 dwellings shall be occupied within the application site until such time as the whole of the approved scheme is fully operational.

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

- 31 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.

- 32 No more than 30 dwellings shall be occupied within the application site until such time as the link road between the A511 and Woodcock Way as shown on drawing no. 06 Rev F has been provided in full and is available for use by vehicular traffic.

Reason - To allow for bus penetration through the site so as to ensure that adequate steps are taken to provide a choice in mode of travel to and from the site.

Plus any additional conditions recommended / directed by the Highways Agency / Secretary of State for Transport

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 Your attention is drawn to the attached report of the Coal Authority.
- 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 attached report of the Highways Agency.
- 6 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highways and transportation matters.
- 7 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer.
- 8 Your attention is drawn to the attached report of Leicestershire County Council's Principal Planning Archaeologist. The applicant is advised that the issues raised should be taken into account in the formulation of the detailed scheme at the reserved matters stage(s), and including the need to accommodate existing ridge and furrow features within that scheme.
- 9 Your attention is drawn to the attached report of Natural England.
- 10 Your attention is drawn to the attached report of the National Forest Company; the applicants are advised to have regard to the advice provided when formulating the detailed proposals at the reserved matters stage(s).

- 11 The applicants are advised that the Local Planning Authority will expect any associated reserved matters application to demonstrate compliance with Building for Life 12 and, in particular, to include have regard to the provision of a suitable gateway to the site from the A511.
- 12 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
- 13 For the avoidance of doubt, all references within phases of development within the conditions above should be construed as being those phases of development to be set out and agreed pursuant to Condition 5.
- 14 This decision is in accordance with the resolution of the Planning Committee of 6 May 2014 and is subject to a Section 106 Obligation.

**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
A4**

Land Off Frearson Road Coalville Leicestershire LE67 2XA

**Application Reference
11/01054/FULM**

**Applicant:
Bloor Homes East Midlands Division**

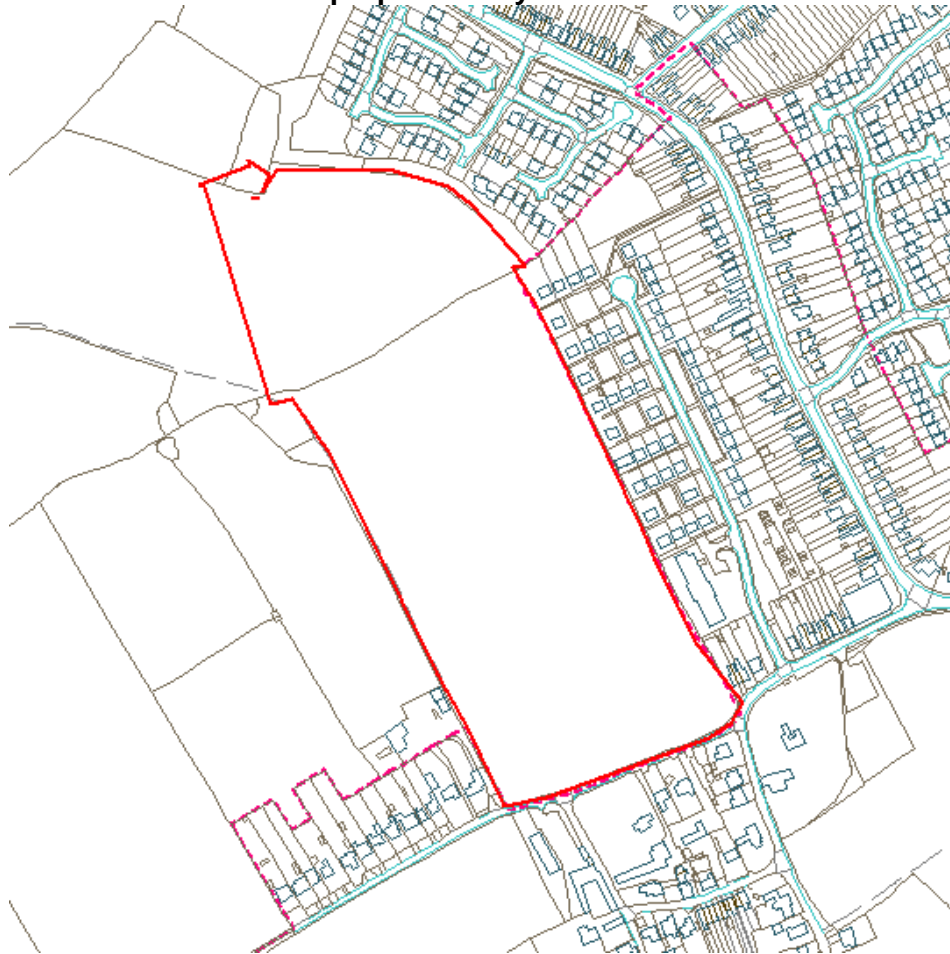
**Date Registered
6 December 2011**

**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



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

Executive Summary of Proposals and Recommendation

Proposal

This application seeks 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. Insofar as developer contributions are concerned, appropriate contributions to infrastructure would be made so as to mitigate the impacts of the proposals on local facilities, albeit with no contribution to affordable housing proposed so as to ensure the development remains viable whilst making appropriate contributions to highways and transportation and other 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 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.

The application was reported to the Planning Committee meeting of 4 February 2014 where it was resolved to defer the application so as to allow further negotiations in relation to developer contributions.

Further to that deferral, the applicants have given consideration to the possibility of amending the application by way of providing for a contribution towards affordable housing, and have engaged with officers from the District Council's Housing and Planning teams in order to discuss a range of potential on-site affordable housing contributions. However, following further consideration of their position, the applicants have now requested the application be determined as currently submitted (i.e. with no affordable housing contribution, and as per the approach as reported to the Planning Committee meeting of 4 February 2014).

2. Publicity

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

Press Notice published 21 December 2011

Site Notices posted 25 January 2012

3. Consultations

Hugglescote & Donington Le Heath consulted 9 December 2011

NWLDC Urban Designer 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 Urban Designer consulted 27 June 2012
 English Heritage- Ancient Monument 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

The Parish Council advises that, as long-term aims and related to the transfer of the existing lease of the Ashburton Road Recreation Ground between the District Council and the Harley Trust, it would be seeking 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 a replacement Community Centre
However, for the purposes of the current application, the Parish Council confirms that it is requesting a contribution of £1,400 per dwelling towards off-site youth and adult play, and £1,000 per dwelling towards provision of new facilities

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
 - 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
 - There are a handful of sites in North West Leicestershire where Great Crested Newts have been recorded in large numbers in the last 10 years so the importance of this site should not be underestimated - recent surveys in North West Leicestershire with historic records of Great Crested Newts show that many Great Crested Newt populations have been lost
 - Numbers of Great Crested Newts are continuing to decline locally and nationally - a year-long study commissioned by Natural England revealed that they are now uncommon
 - The Great Crested Newt survey data is now more than two years old so up to date surveys would need to be undertaken between March and June before development can be allowed
 - The Great Crested Newt survey data is likely to have understated the population size as when surveys were undertaken two of the ponds dried out in early June
 - Lighting, noise pollution and disturbance from the housing development are likely to have an adverse impact on a number of species, particularly Great Crested Newts, bats and other nocturnal wildlife - the possible impact on these has not been fully assessed
 - An area for a future housing development has been allocated immediately to the west of this development in the North West Leicestershire Local Plan - the cumulative effect of these two developments will further squeeze wildlife in this area as there will be further loss of habitat / additional disturbance and needs to be taken into consideration when determining this application.
 - The Natural Environment and Rural Communities Act 2006 places a duty on public bodies including Local Authorities to have regard to the requirements of biodiversity in carrying out their functions.

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

90 representations (and including from the Donington and Hugglescote Action Group and copy comments lodged with the County Highway Authority) 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
- Transport Assessment does not include consideration of other sites (including Standard Hill / Highfield Street (ref. 12/00007/OUTM) and the two Ravenstone applications resolved to be permitted by the Planning Committee on 7 January 2014 (refs. 13/00626/OUTM and 13/00780/OUTM))
- Section 106 contributions does not guarantee that monies will be specifically used to improve congestion at Hugglescote Crossroads and is not CIL compliant - sufficient monies will not be found and the contribution eventually refunded to Bloor Homes when the project does not proceed
- Site is unsustainable - only three of the Council's own eight facility categories are met by the site
- Application should be refused on sustainability grounds as per the scheme at Lower Packington Road, Ashby de la Zouch (ref. 13/00694/OUTM) and as per the recommendation in respect of the site at Normanton le Heath which was also on the February 2014 Planning Committee agenda (13/00913/OUT)
- Application vigorously opposed by CPRE and the Leicestershire and Rutland Wildlife Trust as they consider it will be ecologically damaging to Great Crested Newts
- Great Crested Newt mitigation proposed not feasible nor will protect newts as most newts are not currently located within the application site and areas of public open space not suitable or large enough for foraging newts
- Newt survey out of date
- Potential impact on parking if yellow lines were to be introduced
- Land should be transferred to adjacent residents for use as landscaping / residential curtilage

Andrew Bridgen MP advises that he has been contacted by several local residents regarding the application and understands that objections have been made by the Campaign to Protect Rural England (CPRE) Leicestershire and that the land is of high agricultural quality. Given that the proposals would be contrary to the adopted Development Plan and given the questions over its sustainability, he asks Members to give careful consideration as to whether they deem this to be an appropriate site for development.

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."

"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. As explained further below, however, as a consequence of the Council currently being unable to demonstrate a five-year supply of housing land, Policy S3 can no longer be considered an up-to-date policy in the context of paragraph 49 of the NPPF as it is a general policy that constrains the supply of housing.

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.

As with Policy S3, however, Policy H4/1 being a policy for the supply of housing, can no longer be considered up-to-date due to the inability of the Council to demonstrate a five-year supply of housing land.

Whether or not this site would be considered "appropriate" is a matter of judgement. 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.

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 recently published 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". Therefore the Council would not, in these circumstances, be able to rely on either Policy S3 or Policy H4/1 as they are "relevant policies" for the purposes of NPPF paragraph 49. Whilst members have previously been advised, on the basis of the Stephenson's

Green High Court decision that Policy S3 should not be considered to be a relevant policy for the supply of housing and that, accordingly, the policy should not be considered to be out of date, a recent judgement from the most senior Judge in the Administrative Court (who is also a specialist Planning Judge) has qualified the position taken by the Judge in the Stephenson's Green case as a result of which it is no longer appropriate to rely on the latter decision.

In *South Northamptonshire Council -v- Secretary of State for Communities and Local Government* (10 March 2014) Mr Justice Ouseley, considering the meaning in Paragraph 49 of the NPPF of policies "for the supply of housing", said this:

"46. That phraseology is either very narrow and specific, confining itself simply to policies which deal with the numbers and distribution of housing, ignoring any other policies dealing generally with the location of development or areas of environmental restriction, or alternatively it requires a broader approach which examines the degree to which a particular policy generally affects housing numbers, distribution and location in a significant manner.

47. It is my judgement that the language of the policy cannot sensibly be given a very narrow meaning. This would mean that policies for the provision of housing which were regarded as out of date, nonetheless would be given weight, indirectly but effectively through the operation of their counterpart provisions restrictive of where development should go. Such policies are the obvious counterparts to policies designed to provide for an appropriate distribution and location of development. They may be generally applicable to all or most common forms of development, as with EV2, stating that they would not be permitted in open countryside, which as here could be very broadly defined. Such very general policies contrast with policies designed to protect specific areas or features, such as gaps between settlements, the particular character of villages or a specific landscape designation, all of which could sensibly exist regardless of the distribution and location of housing or other development".

Thus, whilst e.g. Green Wedge or Gap policies may not be caught by Paragraph 49, policies such as S3 and H4/1 that generally restrict development outside of settlement boundaries in open countryside clearly are. In these circumstances Members must be advised to consider both S3 and H4/1 as not being up-to-date policies. In any event, 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 could have been attributed to any conflict with Policy S3 in the overall planning balance.

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, and including Local Plan Policy S3, a policy designed to protect the countryside for its own sake. For reasons which have been outlined above, however, this Policy cannot be considered as being up-to-date in the context of Paragraph 49 of the NPPF.

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 provision of a new Parish Council owned facility for the conduct of its business; 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. Whilst, following the previous deferral of the application, the applicants have considered a reduction in developer contributions such as the transportation infrastructure contribution in order to allow for an element of affordable housing, the applicants are concerned as to whether a reduction in, for example, this contribution, could result in additional transportation concerns; the County Highway Authority raises no objection to the application, but this is on the basis that an appropriate contribution towards transportation infrastructure is made.

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 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.

Following the deferral of the application at the February 2014 Planning Committee meeting, the applicants have engaged with housing and planning officers with a view to establishing whether any affordable housing contribution could in fact be made; in particular, discussions have taken place seeking to determine what form an on-site contribution could make (i.e. in terms of number, size and tenure of any affordable dwellings provided as part of the development). In addition, the applicants have undertaken initial calculations seeking to demonstrate the impact of, for example, approximately 5% and 10% on-site contributions on the viability of the scheme (and, hence, the likely reductions to other contributions). These indicate that significant reductions to other contributions would be required to accommodate the affordable housing; in the case of a 5% contribution, the figures indicate that the contribution could be made but with, for example, the transportation infrastructure contribution being reduced from £846,000 to £49,510. However, as set out above, the applicants have nevertheless confirmed that they wish to have the application determined as submitted, and these potential alternative viability figures have not therefore been assessed independently by the District Valuer.

As a result of the applicants' confirmation that they do not now intend to amend the application, therefore, the position (and, hence, officer recommendation) remain unchanged from that reported to the Planning Committee in February 2014. Government guidance as set out in the recently issued Planning Practice Guidance advises that, where an applicant is able to demonstrate that a planning obligation would cause a development to be unviable, the Local Planning Authority should be flexible in seeking planning obligations, and that affordable housing contributions in particular should not be sought without regard to individual scheme viability. However, it also clarifies that the NPPF provides that, where safeguards are necessary to make a particular development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development. Whilst the negotiations that have taken place subsequent to the February 2014 Planning Committee have not resulted in an amended scheme to include for a contribution towards affordable housing, and whilst the concerns regarding whether the development would constitute sustainable development (and, in particular, in terms of its social dimension) remain, this needs to be considered in the context of the Local Planning Authority's own policy (which has been

adopted since the publication of the NPPF) which indicates that the District Council will consider relaxing its normal affordable housing requirements where necessary in viability terms, so as to prioritise firstly highway infrastructure investment and secondly all other essential infrastructure; the Policy also clearly anticipates that, in certain circumstances, this may result in no affordable housing being provided in order to meet the prioritised contribution requirements. As such, notwithstanding the adverse impacts of the scheme's failure to accommodate any affordable housing, it is accepted that the submission accords with 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 and, on balance, would not be unacceptable.

Should Members be minded to permit the application, 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 applicants have confirmed that they are agreeable to making the contribution sought.

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. It is expected that this opinion will be received shortly.

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 the amount, if any, of such contribution would be determined by the Council having regard to all relevant considerations including any issues of viability that may be raised. Should the inclusion of policing contributions, when considered alongside other contributions, render a scheme unviable (or more unviable if already so), then a judgement will need to be made as to which contributions or proportions thereof are most required in order to deliver a viable development which is still acceptable in overall planning terms

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, unless otherwise required by a condition of this permission:
 - Site location plan (EMS.2198_05-4 C) deposited with the Local Planning Authority on 1

June 2012

- 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.

- 39 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on the site until such time as precise details of all proposed waste / recycling bin collection points 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 enable the safe and efficient collection of household waste, 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 heating and production of carbon monoxide.
- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

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

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

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

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

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

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

- 3 Your attention is drawn to the attached report of Severn Trent Water 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 6 May 2014 and is subject to a Section 106 Obligation.

This page is intentionally left blank

Residential development of up to 135 dwellings including the demolition of 138,140 and 142 Bardon Road along with new access and highway improvements to Bardon Road and associated open space and landscaping (Outline - All matters other than part access reserved)

Report Item No
A5

Land Rear Of 138 Bardon Road Coalville Leicestershire

Application Reference
13/00818/OUTM

Applicant:

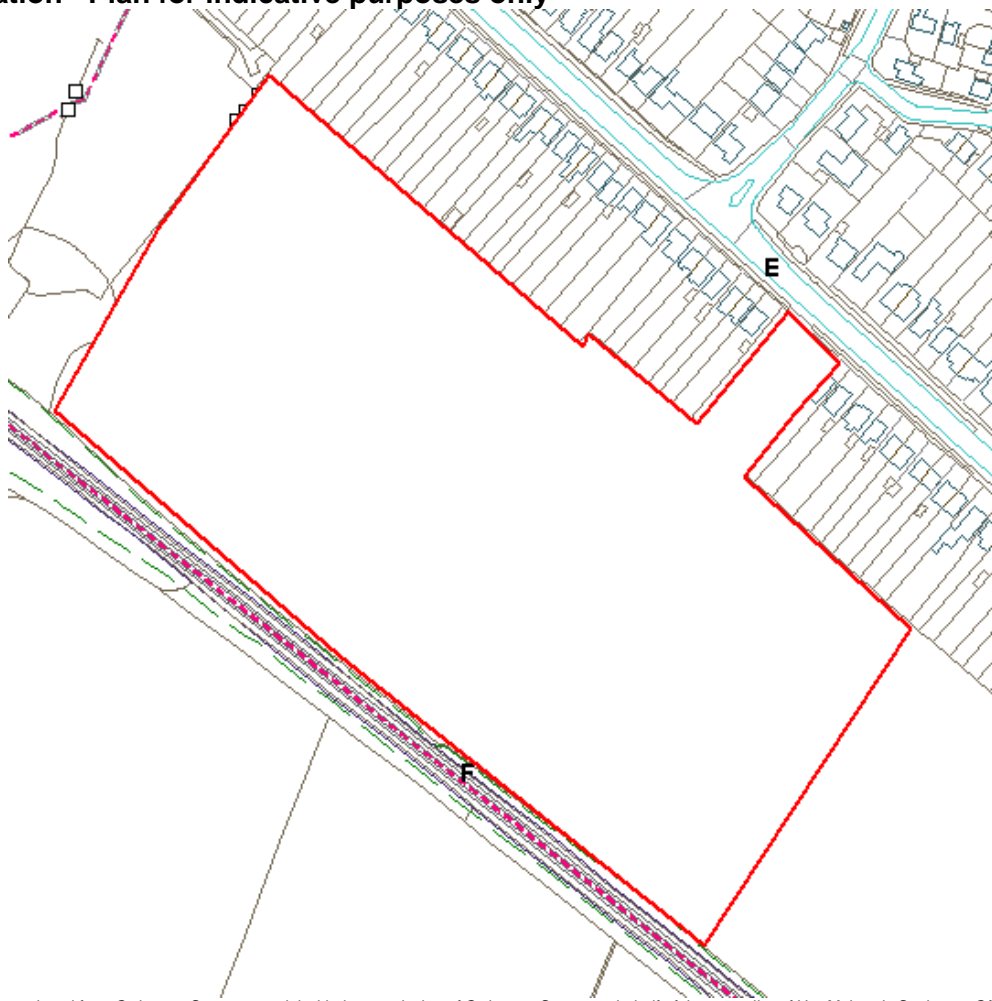
Date Registered
16 October 2013

Case Officer:
James Mattley

Target Decision Date
15 January 2014

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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

Executive Summary of Proposals and Reasons for Approval

Proposal

This application seeks outline planning permission for residential development of up to 135 dwellings including the demolition of 138,140 and 142 Bardon Road along with new access and highway improvements to Bardon Road and associated open space and landscaping. The application is identical to planning application 13/00218/OUTM that was refused at the Planning Committee in September 2013 on highway safety grounds based on the local knowledge of the Local Planning Authority.

This application was heard at the Planning Committee in December 2013 where it was resolved to grant planning permission subject to the signing of a legal agreement once a formal viability appraisal had been carried out. The report at this time stated that: *"regardless of the outcome of the viability assessment work, they would anticipate that a minimum contribution of 10% (affordable housing) would be provided."*

The applicants have now undertaken their viability appraisal which indicates that the scheme would not be able to afford to pay any contribution towards affordable housing when having regard to the range of other contributions requested on the site. This is considered to be a material change to the application and, therefore, it is being brought back to the Planning Committee.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals (and including from the neighbouring Hugglescote and Donington le Heath Parish Council); no other objections are raised by statutory consultees.

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

Whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, such general policies that restrain the supply of housing are to be considered as not up-to-date given the inability of the Council to demonstrate a five-year supply of deliverable housing land. Thus the site's release for housing is considered suitable and will contribute towards meeting the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Having regard to this and the sites 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 relatively well connected to existing development, given its access immediately to Bardon Road, and its connectivity could potentially be further improved

once the connection to the Bardon link road has been provided. The applicants are agreeable to providing a financial contribution towards the capital cost of delivering this connection.

The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. The development is considered to be acceptable in terms of access issues and this has been ratified by an independent transport consultant. The scheme is considered to be acceptable in terms of 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.

It is therefore recommended that outline 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, 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

Outline planning permission is sought for a residential development of up to 135 dwellings including the demolition of 138,140 and 142 Bardon Road along with new access and highway improvements to Bardon Road and associated open space and landscaping. The site measures 6.18 hectares and is located to the south of existing properties along Bardon Road. Whilst all matters other than part access are reserved for subsequent approval, an illustrative masterplan has been submitted showing the proposed dwellings, together with a central area of children's play and landscaping and on site National Forest planting.

Vehicular access is proposed onto Bardon Road and would necessitate the demolition of 138, 140 and 142 Bardon Road. The proposal includes a new right hand turn lane on Bardon Road in order to access the development. Existing residential development is located to the north of the site, the land to the south of the site is subject to proposed residential development. The National Forest Railway line is located adjacent to the southern boundary of the site. The proposed Bardon link road would be located to the north-west of the application site and the applicants are agreeable to providing a contribution for the capital cost of constructing an access road from the application site to the new Bardon link road.

The previous planning application on the site (13/00218/OUTM), which is identical to the current planning application, was called to the Planning Committee by Councillor Specht due to local concern and highway issues. That application was refused at the Planning Committee in September for the following reason:

Policy T3 of the North West Leicestershire Local Plan requires development to make adequate provision for vehicular access, circulation and servicing arrangements. The proposed scheme is considered by the Local Planning Authority, based on its local knowledge, to be unacceptable from a highway safety perspective and, therefore, would not be in accordance with Policy T3 of the Local Plan.

The applicants have appealed against this planning decision and a hearing date is expected in July 2014.

This application was heard at the Planning Committee in December 2013 where it was resolved to grant planning permission subject to the signing of a legal agreement once a formal viability appraisal had been carried out. The report at this time stated that: *"regardless of the outcome of the viability assessment work, they would anticipate that a minimum contribution of 10% (affordable housing) would be provided."*

The applicants have now undertaken their viability appraisal which indicates that the scheme would not be able to afford to pay any contribution towards affordable housing when having regard to the range of other contributions requested on the site. This is considered to be a material change to the application and, therefore, it is being brought back to the Planning Committee.

2. Publicity

157 neighbours have been notified (Date of last notification 2 January 2014)

Press Notice published 30 October 2013

3. Consultations

Hugglescote And Donington Le Heath Parish Council consulted 22 October 2013
 County Highway Authority consulted 23 October 2013
 Environment Agency consulted 23 October 2013
 Severn Trent Water Limited consulted 23 October 2013
 Head of Environmental Protection consulted 23 October 2013
 Natural England consulted 23 October 2013
 NWLDC Tree Officer consulted 23 October 2013
 County Archaeologist consulted 23 October 2013
 LCC ecology consulted 23 October 2013
 Airport Safeguarding consulted 23 October 2013
 NWLDC Urban Designer consulted 23 October 2013
 HM Railway Inspectorate consulted 23 October 2013
 Highways Agency- affecting trunk road consulted 23 October 2013
 LCC Development Contributions consulted 23 October 2013
 NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 23 October 2013
 DEFRA consulted 23 October 2013
 Development Plans consulted 23 October 2013
 Head Of Leisure And Culture consulted 23 October 2013
 Manager Of Housing North West Leicestershire District Council consulted 23 October 2013
 Police Architectural Liaison Officer consulted 23 October 2013
 National Forest Company consulted 23 October 2013
 FRCA (MAFF)- loss of agricultural land consulted 23 October 2013
 LCC Fire and Rescue consulted 23 October 2013
 Network Rail consulted 23 October 2013

4. Summary of Representations Received

Environment Agency has no objection subject to the inclusion of relevant conditions.

Highways Agency has no objection to the planning application subject to the inclusion of relevant conditions.

Hugglescote and Donington Le Heath Parish Council note that the application site is located within a neighbouring parish but does not support the application due to the access and exit arrangements.

Leicestershire County Council Ecologist states that the ecologist report is satisfactory and raises no objections to the proposal subject to conditions.

Leicestershire County Council Highway Authority states that it cannot be demonstrated that there are any highway safety implications associated with this proposal and raises no objections subject to conditions and obligations.

Leicestershire County Council Highway Transportation & Waste Management Authority requests a developer contribution of £9,381 in order to mitigate the impact on civic amenity waste facilities in the local area.

Leicestershire County Council Library Services Development Manager requests a contribution of £7,730.

Leicestershire County Council Local Education Authority requests a contribution of £36,297.03.

Leicestershire Police requests a contribution of £55,174.

National Forest Company welcomes the level of strategic landscaping and raises no objection to the proposed condition subject to the inclusion of relevant planning conditions.

NHS England (Leicestershire and Lincolnshire Area) requests a developer contribution of £22,945.72.

North West Leicestershire District Council Environmental Health has no objections subject to the recommendations contained within the submitted noise report.

North West Leicestershire District Council Contaminated Land Officer has no objections subject to relevant conditions.

The following consultees have not responded to the current application but the comments that they made for planning application 13/00218/OUTM have been repeated.

Leicestershire Fire and Rescue Service has concerns regarding the design of internal roads within the development.

Leicestershire County Council Archaeologist raises no objection to the proposal subject to the imposition of archaeology conditions.

Natural England supports the recommendations made in the submitted ecology report and raises no objections to the proposed development.

Network Rail has no objection in principle to the development subject to a number of requirements including a developer contribution of £8,500 towards improvement works at an existing level crossing.

Severn Trent Water has no objection to the proposal subject to the inclusion of drainage conditions.

Third party representations:

A total of 17 representations have been received which object to the application on the following grounds:

- _ The proposal will increase traffic along Bardon Road which cannot cope with the amount of traffic that already uses it;
- _ The access arrangements are unsafe and there have already been accidents along Bardon Road;
- _ No dwelling should be allowed to be built unless the Bardon Link Road has been constructed;
- _ Traffic calming measures should be provided;
- _ Proposal would bring further traffic through smaller streets such as Botts Way and Waterworks Road;
- _ Existing traffic calming measures are ineffective;
- _ The proposal would create a staggered crossroads with the Botts Way junction;
- _ The proposed right turn lane will conflict with the existing right turn filter lane;
- _ Traffic from the proposed development should be forced to turn left;

- _ No mention of how traffic will be able to turn right when exiting the proposed development;
- _ Construction vehicles would struggle to leave the site given the volume of traffic along Bardon Road;
- _ No traffic calming on Botts Way which will become a rat run should this development be approved;
- _ Proposal would result in increased pedestrian traffic crossing Bardon Road;
- _ The local infrastructure and services cannot cope with additional housing;
- _ This proposal has already been refused planning permission once;
- _ Proposal would bring further noise pollution and vibration;
- _ Plans do not take into account the views of local residents;
- _ Vehicles exiting the site will illuminate habitable rooms and infringe on privacy;
- _ The proposal has unacceptable drainage arrangements;
- _ The proposal would impact upon existing flood plain;
- _ Proposal would lead to increased air pollution;
- _ The proposal would not be well related to the wider south-east Coalville area;
- _ The indicative masterplan shows back gardens on new properties butting up to the rear of existing gardens and many of these gardens have access directly onto the application site;
- _ Dwellings would be located in close proximity to the existing railway line serving Bardon Quarry;
- _ Proposal would result in suburban development with no suitable access to the natural environment;
- _ The site is sectioned off from the wider Pegasus area by the railway line that would prevent interaction and the sharing of amenities between the sites;
- _ New residents would be reliant on the private car;
- _ Impact upon ecology.

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 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."

"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)

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.

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.

South East Coalville Development Brief

A Development Brief for the South East Coalville Strategic Development Area has been prepared by consultants on behalf of the developers' consortium with interests in the land in conjunction with the Local Planning Authority, and including input from other professional consultants, stakeholders and members of the local community, in order to inform the process of planning and development of land at South East Coalville.

The draft Development Brief was considered by the District Council's Cabinet at its meeting of 23 July 2013 where it was resolved that the production of the Development Brief for South East Coalville be noted, that regard be had to the Development Brief when negotiating on and

determining planning applications in the South East Coalville Broad Location, and that the Development Brief form part of the evidence base for the [then] submission Core Strategy.

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.

6. Assessment

The only amendment to the proposal since it was heard at the December Planning Committee relate to developer contributions. Therefore changes and updates have been made to the 'Principle of Development', 'Means of Access and Transportation', 'Developer Contributions' and 'Conclusions' sections of this report and all other sections remain unchanged (but have been included for completeness).

Principle of Development

In terms of the principle of development, 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. 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 area and included within the South East Coalville Draft Development Brief. In terms of the sustainability credentials of the site, the site is located the following (approximate) distances away from a range of services:

- Newsagent - 320 metres
- Petrol Station (with shop) - 500 metres
- Post Office - 1000 metres
- Broom Leys Primary School - 850 metres
- Newbridge High School - 1400 metres

Co-Op Mini Supermarket - 1000 metres
 Bus Stop - 150 metres

The 29/29A bus service provides a regular bus service (runs every 30 minutes) and would be located in close proximity to the site access which would allow future residents an alternative to using a private car. In addition, within approximately 2km walking distance of the site are a range of shops and services located in Coalville Town Centre as well as potential employment destinations such as Bardon Industrial Estate, Whitwick Business Park and Bardon Hill Quarry. The application site is located in fairly close proximity to the range of services/facilities listed and would also be in close proximity to other services and facilities that are proposed to be provided in the future as part of the wider South-East Coalville area. Taking these matters into account, it is considered that the site would be located within a sustainable area.

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 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 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 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 (based on the "Sedgefield" approach and a 20% buffer) which represents a shortfall in relation to 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". Therefore the Council would not, in these circumstances, be able to rely on either Policy S3 or Policy H4/1 as they are "relevant policies" for the purposes of NPPF paragraph 49. Whilst members have previously been advised, on the basis of the Stephenson's Green High Court decision that Policy S3 should not be considered to be a relevant policy for the supply of housing and that, accordingly, the policy should not be considered to be out of date, a recent judgement from the most senior Judge in the Administrative Court (who is also a specialist Planning Judge) has qualified the position taken by the Judge in the Stephenson's Green case as a result of which it is no longer appropriate to rely on the latter decision.

In *South Northamptonshire Council -v- Secretary of State for Communities and Local Government* (10 March 2014) Mr Justice Ouseley, considering the meaning in paragraph 49 of the NPPF of policies "for the supply of housing", said this:

"46. That phraseology is either very narrow and specific, confining itself simply to policies which

deal with the numbers and distribution of housing, ignoring any other policies dealing generally with the location of development or areas of environmental restriction, or alternatively it requires a broader approach which examines the degree to which a particular policy generally affects housing numbers, distribution and location in a significant manner.

47. It is my judgement that the language of the policy cannot sensibly be given a very narrow meaning. This would mean that policies for the provision of housing which were regarded as out of date, nonetheless would be given weight, indirectly but effectively through the operation of their counterpart provisions restrictive of where development should go. Such policies are the obvious counterparts to policies designed to provide for an appropriate distribution and location of development. They may be generally applicable to all or most common forms of development, as with EV2, stating that they would not be permitted in open countryside, which as here could be very broadly defined. Such very general policies contrast with policies designed to protect specific areas or features, such as gaps between settlements, the particular character of villages or a specific landscape designation, all of which could sensibly exist regardless of the distribution and location of housing or other development".

Thus, whilst e.g. Green Wedge or Gap policies may not be caught by Paragraph 49, policies such as S3 and H4/1 that generally restrict development outside of settlement boundaries in open countryside clearly are. In these circumstances Members must be advised to consider both S3 and H4/1 as not being up-to-date policies. In any event, 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 could have been attributed to any conflict with Policy S3 in the overall planning balance.

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, 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.

One of the main principle issues with the application is whether this proposal would be well connected and has a functional relationship with existing and proposed development in the area, particularly as the applicants have not joined the consortium of developers that are working on a masterplan for the wider area. In relation to this matter, the indicative masterplan shows that the main access point to the development would be from Bardon Road but the indicative layout would not prevent the adjacent land being developed and the applicants have agreed to provide the capital cost of constructing an access road from the application site to the new link road (when the link road has been constructed). This would help to ensure that the

proposal links in with the wider south east Coalville Area. It is further noted that the indicative masterplan also includes a possible future pedestrian connection from the site to the land to the south of the railway line. In addition, the applicants have confirmed that they would not include any ransom strips either side of the development. Whilst this would not strictly be a planning matter it could be controlled to some extent by an obligation in the legal agreement to ensure that there is unfettered access to the land to the east and west of the application site. Indeed, this has been requested by the County Highway Authority and the applicants are agreeable to this obligation.

It is clear that the proposed future connection between the application site and the proposed Bardon link road would not be provided immediately (as the applicants do not control the land and the link road has yet to be constructed) and it is unclear as to whether the proposed pedestrian link over the railway is deliverable. These matters impact on whether the scheme can be considered to be well connected and have a functional relationship with both existing and proposed development in the area. However, the pedestrian link over the railway is not included in the current South East Coalville Draft Development Brief and, on this basis, it is difficult to argue that this is essential to make the proposed development acceptable in planning terms. Therefore, it is considered that refusal of the scheme on this basis would not be warranted; particularly as the reserved matters scheme could be designed for this link to connect into the site should Network Rail (or any other body) decide to construct a pedestrian bridge over/under railway line. On the basis of these matters, it is considered the scheme would be relatively well connected to existing development, given its access immediately to Bardon Road, and its connectivity could potentially be further improved to proposed development should the connection be provided to the Bardon Link Road.

Policy E6 of the existing local plan states that development will not be permitted where it would prejudice the comprehensive development and proper planning of a larger area of land of which the site concerned forms part. Taking into account the range of measures proposed, such as the agreement that there would be no ransom strips included as part of the development, it is not considered that the granting of this planning application would impact on the comprehensive planning of the wider south east Coalville area and, therefore, the scheme is considered to be compliant with Policy E6 of the Local Plan.

The range of infrastructure expected to be delivered to accommodate growth in the south-east Coalville area includes a range of measures, contributions to various of which are proposed (such as off-site highway works), and are as set out in the relevant sections below. It is clear that this application on its own could not provide for the full range of infrastructure but it would contribute towards some of the measures and more importantly, it would not prevent the full range of measures being provided as part of the comprehensive planning for the wider area.

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, and including Local Plan Policy S3, a policy designed to protect the countryside for its own sake. For reasons which have been outlined above, however, this Policy cannot be considered as being up-to-date in the context of Paragraph 49 of the NPPF.

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.

Means of Access and Transportation

All matters are reserved for subsequent approval except for access (insofar as vehicular access into and out of the site is concerned). The points of access proposed show vehicular access via a new junction to Bardon Road. Whilst the illustrative layout shows internal access roads and pedestrian links through the site, these would be a matter for the reserved matters stage(s) (although their impact on the overall potential accessibility and connectivity of the site still ought to be considered).

The application is accompanied by a Transport Assessment as well as a Travel Plan. The Transport Assessment indicates that, in the applicants' consultants' opinion, the development is located within a comfortable walking distance of a range of local amenities. It also comments that there are several existing bus services operating from Coalville Town Centre to the north of the site with bus stops in close proximity along Bardon Road. The County Highway Authority advises that various measures to encourage public transport use should be secured by way of a Section 106 obligation.

The Transport Assessment also concludes that the development would exacerbate existing capacity issues at the following junctions:

- A511 Hoo Ash Roundabout;
- A511 Thornborough Road Roundabout;
- A511 Whitwick Road/Hermitage Road Roundabout;
- A511 Broom Leys Road Signals;
- A511 Bardon Road/Bardon Roundabout
- Hugglescote Crossroads

However, the assessments presented in the report demonstrate that the impact on these junctions is minor and, therefore, no off-site junction improvements are considered to be justified. The County Highway Authority do not disagree with these findings in the Transport Assessment.

Other mitigation proposals outlined in the Transport Assessment and Travel Plan include various measures designed to encourage walking / use of public transport by residents. The relevant measures are included within the County Highway Authority's requested contribution / Section 106 requirements below:

1. A Construction Traffic Routeing Agreement to be submitted to and approved in writing by the Leicestershire County Council. During the period of construction, all traffic to and from the site shall use the agreed route at all times.

Justification: To ensure that all construction traffic associated with the development does not

use unsatisfactory roads to and from the site.

2. One Travel Pack per dwelling; can be provided through LCC at a cost of £52.85 per pack/dwelling. If not supplied by LCC, a sample Travel Pack shall be submitted to and approved in writing by LCC.

Justification: To inform new residents from first occupation what sustainable travel choices are available in the surrounding area.

3. Two six-month bus passes per dwelling; can be provided through LCC at an average cost of £325.00 per pass.

Justification: To encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour from first occupation.

4. Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development.

Justification: To ensure effective implementation and monitoring of the site wide Travel Plan submitted in support of the Planning Application.

5. An iTrace monitoring fee of £6000.00.

Justification: To enable Leicestershire County Council to provide support to the appointed Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure that Travel Plan outcomes are being achieved, and to take responsibility for any necessitated planning enforcement.

6. A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council.

Justification: To accommodate the wider growth in Coalville, including the impact from this development, as per NWLDC Cabinet Report dated 15 January 2013 entitled 'Delivering growth and prosperity in Coalville'.

7. A contribution towards the design and construction of a vehicular connection between the application site and the Bardon link road.

Justification: To accommodate the wider growth in Coalville, including the impact from this development, as per NWLDC Cabinet Report dated 15 January 2013 entitled 'Delivering growth and prosperity in Coalville'.

8. The downgrading of the vehicular access to Bardon Road to pedestrian/cycle/emergency use only following the opening of the Bardon link road between Bardon Road/Stephenson Way and the connection to the application site and including that connection.

Justification: To accommodate the wider growth in Coalville and in the interests of highway safety to prevent traffic rat running to avoid the proposed signalised junction at Bardon Road/Stephenson Way.

9. Unfettered access to the land to the immediate east and west of the application site so

as not to prejudice future development of these land parcels, including for vehicular access to the Bardon link road.

Justification: To accommodate the wider growth in Coalville.

In respect of the proposed access arrangements, the County Highway Authority comments that the proposed access arrangement include for a ghost island junction on Bardon Road which has been subjected to an independent Stage 1 Road safety Audit. No road safety issues were identified and, on this basis, the County Highway Authority raises no highway safety objections to the proposed access arrangements. It is noted that the application was refused at the Planning Committee in September 2013 on highway safety grounds and the applicants have appealed this decision. On learning that the appeal had been lodged, the Local Planning Authority sought independent advice from a transport consultant on the acceptability of the access arrangements. The transport consultant has assessed the design of the site access junction against the DMRB standards and has found to comply in most respects. Whilst some concerns were originally expressed regarding the ability of the junction to accommodate HGVs this has now been addressed following the submission of swept path analysis and is not raised as an issue in the Stage 1 RSA. The Stage 1 RSA has also been reviewed and the transport consultant concurs with its conclusions. The overall conclusions of the independent transport consultant are that, *"The TA and access arrangements have been assessed in relation to highway safety and no significant concerns have been identified"*.

The County Highway Authority notes that this application is in outline only and, therefore, the proposed indicative internal layout as shown on the submitted Indicative Masterplan has not been checked in terms of its suitability for adoption by the Highway Authority (and would need to include various details including traffic calming measures). However, it is not clear from the submitted masterplan how the indicative alignment of the proposed internal access road would allow for connection to the proposed Bardon link road. This would need to be addressed at the reserved matters stage and suitable notes to applicant are recommended in respect of this.

The County Highway Authority require that a vehicular connection should be provided between the application site and the proposed Bardon link road. This vehicular connection should be available for use at the same time as the Bardon link road and the applicant should contribute to the design and construction of this connection. As stated previously, this could be secured by a suitably worded legal agreement. The County Highway Authority also require that at such time as the Bardon link road between Bardon Road/Stephenson Way and the vehicular connection to the application site and the connection itself is available for use by vehicular traffic, the proposed vehicular access at Bardon Road should be downgraded to a pedestrian/cycle/emergency access only. This is required on highway safety grounds to prevent traffic 'rat running' through the site to avoid the proposed signalised junction at Bardon Road/Stephenson Way. The applicants are agreeable to paying this contribution subject to undertaking future viability assessment work.

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 be likely to need to contribute towards the proposed Bardon Grange link (i.e. linking the allocated housing site on land north of Grange Road with the A511 Stephenson Way), and an appropriate contribution of £600,000 has been calculated. The applicants are agreeable to paying this contribution subject to undertaking future viability assessment work.

As set out in more detail under Affordable Housing below, in order to accommodate this sum 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 no affordable housing would in fact be achievable whilst enabling the scheme to remain viable. This matter is discussed in more detail in the 'Developer Contributions' section of this report.

The contribution sum proposed towards off-site highway infrastructure would, it is considered, represent a reasonable and essential contribution towards 'kick starting' 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. This scheme is also likely to be one of the first to contribute towards prioritising highway infrastructure contributions in accordance with the cabinet resolution of June 2013. Separate contributions are also proposed in respect of other highways works which would be required to accommodate this development.

The Highway Agency has been consulted on the application and considers that the proposed development is not expected to have a material impact on the closest strategic route (M1 motorway). To reiterate, the County Highway Authority raise no highway safety objections to the proposed scheme subject to the inclusion of relevant conditions and obligations. Taking these matters into account, therefore (and including the applicants making an appropriate contribution towards transportation infrastructure), the proposed development is considered acceptable in terms of Means of Access and Transportation issues.

Neighbours' and Future Occupiers' Amenities

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves are concerned, this would need to be assessed at the reserved matters stage(s); notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 135 units could not be provided on the site in a manner which would not adversely impact upon neighbours' amenities.

In terms of the impacts on existing and future occupiers the main issues are considered to be that of air quality, vibration and noise arising predominantly from Bardon Road and the nearby railway line. The application is accompanied by a Noise, Vibration and Air Quality Assessment.

With regard to road noise, the new dwellings located along the north eastern site boundary (closest to Bardon Road) would be most affected and there would need to be sound reduction mitigation carried out to ensure that noise standards are satisfied. Appropriate sound reduction can be achieved by the use of thermal double glazing to these units and passive acoustic ventilators can be installed to allow for windows to open on those properties that are located closest to Bardon Road. With regards to railway noise impacting on future occupiers, dwellings located on the southern boundary would also have to use similar sound reduction mitigation to ensure that appropriate noise standards are reached.

In terms of additional traffic noise affecting existing properties, the main area of concern would be the section of access directly onto Bardon Road. The indicative proposals indicate that there are potentially four dwellings proposed to the west of this access road and these would screen some of the existing dwellings and gardens from vehicles using the new access. There are no dwellings proposed on the indicative masterplan on the other side of the access but the erection of a 1.8 metre high acoustic barrier would ensure against any significant noise impacts.

With regards to railway vibration, the submitted report indicates that given the low incidence of train movements coupled with the low likelihood of complaint that no specific vibration control measures would be required to the proposed dwellings. In terms of air quality issues, the site is not located within the Coalville Air Quality Management Area. The report concludes that there would be no significant change to the air quality adjacent to Bardon Road and, therefore, it is not considered that the proposal would cause significant air quality issues to either existing or proposed dwellings.

On the basis of the mitigation measures proposed (which can be secured by way of planning conditions), the Environmental Services Manager has no objections and it is not considered that the proposal would result in significant adverse impacts on health or quality of life. Accordingly, the requirements Policy E3 of Local Plan are considered to have been met by the scheme and the proposal would not conflict with paragraph 123 of the NPPF.

A letter of objection has stated that vehicles exiting the site would illuminate habitable rooms and infringe on privacy. As already stated it is considered that the proposed new dwellings and acoustic barrier would protect properties to the south of Bardon Road. In terms of vehicles headlights shining into properties over the road from vehicles exiting the site this would be no different to the existing situation from vehicles exiting Botts Way (located around 50 metres away). Taking this into account, and that the Council's Environmental Services Manager does not raise concerns surrounding this matter, then this is not considered to be a significant issue that would warrant a reason for refusal.

Design

The proposed scheme has been assessed by the District Council's Urban Designer, and rated in accordance with CABE's new Building for Life criteria which scores on the basis of red/amber/green rather than a points based scoring system. The Council's Urban Designer has reviewed the proposals and considers that the scheme offers the potential to perform well against Building for Life. Given the outline nature of the application, and the scope that the Urban Designer considers there to be for building on the scores achieved thus far on the illustrative layout at the reserved matters stage(s), the Urban Designer raises no objection to the scheme.

However, he advises that, a key challenge for any future reserved matters application relates to the creation of character and how a place with a local or otherwise distinctive character can be created by drawing influence from the positive and distinctive characteristics of the local area and/or the National Forest. It would be possible to draw from selected local characteristics in terms of building form and materials without resorting to a pastiche approach, combining these with a strong landscape character and in turn create a locally distinctive or National Forest inspired identity.

Therefore, whilst the scheme is not sufficiently advanced to be assessed fully against Building for Life, it is considered that it has been demonstrated that, in principle, an appropriate scheme could be secured at the reserved matters stage(s), and would comply with the relevant Development Plan policies and advice in the NPPF.

Density

Local Plan Policy H6 provides that, for sites of 0.3 hectares and above, residential development should meet a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services, and a minimum density of 30 dwellings per hectare elsewhere. The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances. The former advice in PPS3 provided that net dwelling density includes those site areas which will be developed for housing and directly associated uses, including access roads within the site, private garden space, car parking areas, incidental open space and landscaping and children's play areas. Whilst this has now been superseded in the NPPF the methodology contained within it for working out net dwelling density would, in the absence of any other guidance in the NPPF or the Local Plan, still be relevant.

The application site area is given as 6.18 hectares and the maximum of 135 dwellings proposed by the developers would therefore equate to a maximum density of 21.8 dwellings per hectare, which would fall short of the requirements set out in Policy H6. However, when considering that significant parts of the site would be taken up by the creation of strategic landscape and habitat areas and public open space, the net dwelling density would be in the region of 32 dwellings per hectare. This is considered to be an acceptable density in relation to the advice in Policy H6 of the Local Plan. In coming to this conclusion it is also recognised that the Council's Urban Designer raises no objection to the density and layout of the development on the site.

Landscape and Visual Impact

The application has been accompanied by a landscape and visual impact assessment.

The site is not protected by any national landscape designations. The application site is located

on the south eastern edge of Coalville and would be confined between existing residential properties fronting onto Bardon Road and the railway embankment along the south west boundary. The surrounding landscape is characterised by large industrial development and Bardon Quarry as well as plans for further housing development to the south of the railway line in addition to the already approved Bardon Grange scheme. Taking into account the nature of the surrounding area, the report indicates that the landscape is low/medium sensitivity to the type of development proposed and could absorb suitably designed development without causing any significant detrimental harm to the wider landscape.

The visual impact assessment considers the impacts of the proposed development from a total of eight viewpoints, including points in the immediate vicinity of the application site, as well as from more distant viewpoints. In terms of the anticipated impacts on public views, the most significant effects would be limited to properties on Bardon Road whose rear gardens back onto the site and a public footpath close to the north-west boundary of the site. However, the visual impact arising from the proposal would be at worst moderate and slightly adverse respectively.

These conclusions are considered reasonable, and it is accepted that, subject to appropriate landscaping, the visual impacts of the proposals would be reasonable and that, notwithstanding the site's location outside Limits to Development, unacceptable impacts on the amenities of the surrounding area would not be likely to arise. Overall, therefore, and subject to an appropriate form of development being proposed at the reserved matters stage(s), it is considered that the landscape and visual effects of the proposed development are acceptable.

Ecology and Trees

The application is supported by an ecological appraisal. This concludes that the site is dominated by poor semi-improved grassland, scrub and ornamental communities of negligible nature conservation value along with some mature trees and hedges.

The appraisal concludes that there are no statutory designated sites within or in close proximity to the site boundary, the closest non-statutory designated sites are located 50m to the west and 208m to the north and would be highly unlikely to be affected by the proposed development. The site is considered to be of low biodiversity value. Some of the habitats provide interest to wildlife, in particular the trees provide potential habitats for invertebrates, nesting birds and other wildlife. It is noted that the majority of the trees on the site would be retained as part of the proposal. The hedgerows are considered to be of low to moderate nature conservation and some of these would be cut through and some would be completely lost in order to provide the access into the site. The report accepts that this hedgerow loss would result in a minor negative impact but this can be compensated for through the use of suitable planting within the area of public open space.

In response to the application, Leicestershire County Council's ecologist considers that the report is satisfactory and no species or habitats of more than local significance were identified. The ecologist considers that the indicative masterplan is good in terms of protection of existing habitat feature and enhancements and the two SUDS features have the potential to provide wetland/marshy grassland habitats. Overall, the Leicestershire County Council's ecologist raises no objections subject to the inclusion of relevant planning conditions.

For its part, Natural England does not consider, subject to conditions, that protected species or landscapes would be impacted upon. Natural England makes suggestions in relation to nature conservation enhancements, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes, which would need to be addressed at the reserved matters stage.

As noted above, the majority of the trees on the site would be retained as part of the proposal and the Council's Tree Officer raises no objection to the proposal. The tree officer notes that a TPO tree (T1 Hawthorn) within the curtilage of 138 Bardon Road would be removed but this is not a prime specimen and mitigation planting at the proposed entrance would offset its loss. A tree protection plan is recommended as a condition and recommendations for the layout of dwellings are suggested in relation to the submission of future reserved matters applications.

Therefore, subject to the imposition of suitably-worded conditions and notes to applicant the submitted scheme is considered acceptable in ecological terms and in terms of the impact upon trees.

Flood Risk and Drainage

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

It is proposed that the surface water drainage system for the proposed development will be split into two separate eastern and western systems due to the topology of the site. This drainage strategy would result in the creation of two attenuation ponds in the south-west corner of the site and a separate attenuation pond in the south-east corner of the application site.

In terms of foul water drainage, this would also be split into two separate systems. The eastern system would drain via gravity to the south east of the application site where it would be pumped via a rising main to a Severn Trent Water sewer in Bardon Road. The western system would drain via gravity to the west of the application site where it would be pumped via a rising main to a Severn Trent Water sewer in Bardon Road. In order to facilitate the flows in Bardon Road, it is understood that Severn Trent Water would undertake some minor improvement works to the existing Bardon Road pumping station to increase available capacity. It is also understood, due to the wider development proposals in the area, Severn Trent Water consider it likely they would need to provide a new foul gravity sewer to the west of the development site which would drain south and, therefore, Severn Trent Water would look to remove the pumping station on site and enable the site to drain by gravity to this new sewer line.

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

Developer Contributions

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

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

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

Regulations 2010.

The relevant developer contributions are listed below.

Affordable Housing

The development originally proposed to provide 20% of the scheme as affordable housing (i.e. 27 units, assuming the construction of the maximum 135 dwellings as proposed). In terms of tenure split, the District Council's Affordable Housing Enabler advises that a tenure split of 79% social rented and 21% intermediate housing will be sought.

However, in response to the Cabinet report referred to above in respect of the prioritisation of transportation infrastructure over affordable housing, no affordable housing is now proposed to be provided. As set out above, the applicants have undertaken viability calculations, and 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.

Government guidance as set out in the recently issued Planning Practice Guidance advises that, where an applicant is able to demonstrate that a planning obligation would cause a development to be unviable, the local planning authority should be flexible in seeking planning obligations, and that affordable housing contributions in particular should not be sought without regard to individual scheme viability. However, it also clarifies that the NPPF provides that, where safeguards are necessary to make a particular development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development. Whilst there are some concerns regarding whether the development would constitute sustainable development (and, in particular, in terms of its social dimension), this needs to be considered in the context of the Local Planning Authority's own policy (which has been adopted since the publication of the NPPF) which indicates that the District Council will consider relaxing its normal affordable housing requirements where necessary in viability terms, so as to prioritise firstly highway infrastructure investment and secondly all other essential infrastructure; the Policy also clearly anticipates that, in certain circumstances, this may result in no affordable housing being provided in order to meet the prioritised contribution requirements. As such, notwithstanding the adverse impacts of the scheme's failure to accommodate any affordable housing, it is accepted that the submission accords with 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 and, on balance, would not be unacceptable.

Should Members be minded to permit the application, 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.

Transportation Contributions

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

- _ A Construction Traffic Routeing Agreement;
- _ One Travel Pack per dwelling; can be provided through LCC at a cost of £52.85 per

pack/dwelling. If not supplied by LCC, a sample Travel Pack shall be submitted to and approved in writing by LCC;

_ Two six-month bus passes per dwelling; can be provided through LCC at an average cost of £325.00 per pass;

_ Improvements to one bus stop on Bardon Road (including raised and dropped kerbs to allow level access) at a cost of £3263.00;

_ Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development;

_ An iTrace monitoring fee of £6000.00;

_ A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council;

_ A contribution towards the design and construction of a vehicular connection between the application site and the Bardon link road;

_ The downgrading of the vehicular access to Bardon Road to pedestrian/cycle/emergency use only following the opening of the Bardon link road between Bardon Road/Stephenson Way and the connection to the application site and including that connection;

_ Unfettered access to the land to the immediate east and west of the application site so as not to prejudice future development of these land parcels, including for vehicular access to the Bardon link road.

The applicants are agreeable to making the majority of these contributions but state that the requirement for free bus passes must be based on formal application for those passes (i.e. not simply handed out to all 135 households).

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 Coalville Broom Leys Primary School. The School has a net capacity of 595 pupils and 598 pupils are projected on roll should this development proceed; a deficit of 3 places (a surplus of 27 is existing and a deficit of 3 is created by this development). There are four other primary schools within a two mile walking distance of the development and the 3 deficit places created by this development can therefore not be accommodated at nearby schools. In order to provide the additional primary school places anticipated by the proposed development the County Council request a contribution of £36,297.03. The applicant's are agreeable to making this contribution.

High School Requirements:

The site falls within the catchment area of Castle Rock High School. The school has a net capacity of 600 pupils and 529 pupils are projected on roll should this development proceed; a surplus of 71 places after taking into account the 13 pupils created by this development. Therefore, no education contribution is requested in respect of the High School sector.

Upper School Requirements:

The site falls within the joint catchment area of Coalville King Edward V11 Science and Sport College. The College has a net capacity of 1193 pupils and 1103 pupils are projected on roll should this development proceed; a surplus of 90 places after taking into account the 13 pupils created by this development. Therefore, no education contribution is requested in respect of the Upper School sector.

Play and Public Open Space

The indicative masterplan shows that provision is proposed to be made for 0.78ha of public open space on site that would be located centrally and includes a children's equipped play area. Taking into account the overall size of the recreation area, a suitable sized children's equipped play area could be provided at the reserved matters stage. Therefore, the proposal is considered to be in accordance with Local Plan Policy L21 and the Play Area Design Guidance SPG.

In terms of the range of equipment necessary, for developments of this number of dwellings, Local Plan Policy L22 and the District Council's SPG requires that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity, as well as a "kickabout" area. In addition, formal recreation open space (e.g. sports pitches) should also be provided for. Whilst no on-site "kickabout" area is proposed, the applicants are of the view that they are nevertheless providing for a significant on-site contribution to what they consider to be both formal and informal public open space within the development as a whole. As set out under Landscape and Visual Impact above, the total proportion of the site proposed to be given over to green space (excluding private gardens) is in the order of approximately one third of the total application site and, having regard to this, the overall contribution of public open space is considered acceptable. In this regard, whilst the full requirements of the District Council's SPG would not be met, it is accepted that, in view of the design approach employed in this case, the applicants' proposals are appropriate in terms of provision of formal public open space.

However, the Council's Leisure Service team consider that an off-site contribution would be applicable in this instance and request a developer contribution of £135,000. The leisure request is, at the current time, not sufficiently evidenced nor based on an assessment of capital project expenditure that would be required as a direct result of this development. Therefore, it is concluded that the leisure request cannot be considered CIL compliant, and will therefore not be secured by the Section 106 Agreement. The Council's Leisure Service team has been asked to provide more details on their submitted request and any response will be reported to members on the update sheet.

National Forest Planting

The applicants propose 1.2ha of strategic landscaping which is considered to meet the National Forest Company's Planting Guidelines. The National Forest Company welcomes the commitment to meet the planting guidelines and requests that the reserved matters application(s) show significant areas of tree planting, which along with the retained trees, would help create a wooded character to the development. Subject to the inclusion of relevant conditions which include, amongst other things, tree protection measures, drainage and management plans the National Forest Company raise no objection to the proposed development.

Civic Amenity

The nearest civic amenity site is located at Coalville and residents of the proposed development are likely to use this site. Therefore, a civic amenity contribution of £9381 is requested.

Library Services

The proposed development on Bardon Road is within 1.7km of Coalville Library and the proposal would impact on local library services in respect of additional pressures on the

availability of local library facilities. Therefore, a library contribution of £7890 is requested.

Healthcare

NHS England (Leicestershire and Lincolnshire Area) requests a developer contribution of £22,945.72 based upon a contribution commensurate to the anticipated increased population arising from this development. The applicants are agreeable to making this contribution.

Network Rail

Network Rail consider that the proposed development could potentially increase the use of an existing level crossing (Bardon Hill No.1) and that improvement works should be carried out to improve the safety of this level crossing. A developer contribution of £8,500 is sought in respect of this matter. The applicants have considered this request and state that the crossing has no relationship to the proposed development. The proposals provide no direct link to this route and in order to access the crossing a pedestrian would need to walk around 750m from the centre of the site. They estimate that the site would generate around 50 walking trips per day and most of these would be consumed by trips to the schools and local amenities. Based on the fact the crossing and public footpath provides access to no facilities it seems unlikely this will be used to any significant degree.

On the basis of the information submitted, it is not clear how the requests are directly associated with the proposed housing scheme and not clear as to why, if not provided, this would make the scheme unacceptable in planning terms. Therefore, it is not considered that the requested contributions comply with Regulation 122 of the CIL Regulations, and it would therefore not be lawful for such contributions to be taken into account as a reason for granting planning permission.

Contributions sought by Leicestershire Police

Leicestershire Police requests a developer contribution of £55,174 in respect of policing as set out in the consultation response above. This money is requested in relation to staff, equipment, , police vehicles, improving force communications and database capacity, CCTV, contribution towards vehicles and extension to premises in Coalville, Enderby and Loughborough.

With regard to the acceptability of police contributions, 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 the requests in this case 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 the proposed policing contribution would meet with the CIL tests at this particular time. Should Counsel advise that Leicestershire Police requests (such as this) are CIL compliant then the principle of requiring such contributions to be secured by way of S.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 Circular 05/2005 and the CIL Regulations and are in accordance with paragraph 204 of the NPPF which states that planning obligations should only be sought where they are 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.

Other

The proposal would result in the demolition of three properties along Bardon Road but the dwellings are not considered to be of such amenity value that they should be retained. It is noted that the indicative masterplan includes for a replacement dwelling (specified as a feature building) along Bardon Road and the design of this dwelling would need to be assessed at the reserved matters stage.

Letters of objection have been received raising concern that the proposal would result in increased levels of pedestrian traffic crossing Bardon Road. The County Highway Authority do not consider this to be a significant issue. It is also noted that an existing pedestrian crossing is located around 150 metres to the east of the site access which would allow for the safe crossing of pedestrians.

In terms of issues with construction vehicles accessing and exiting the site, the County Highway Authority request a condition in relation to a construction management plan as well as a construction traffic routing agreement that would have to be included within the legal agreement. Subject to these matters it is considered that issues regarding construction vehicles would be adequately addressed and, in any case, this construction traffic would be temporary in nature.

With regards to neighbour concerns raised but not addressed above, issues regarding property values, financial compensation, private access and maintenance are not planning matters and, therefore, should not be considered in the determination of this planning application. The application specifies that the proposal would relate to a residential scheme of up to 135 dwellings; the precise number of dwellings would be specified at the reserved matters stage(s). The proposed children's play area would be available to the wider community.

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 as defined in the adopted Local Plan, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, benefit from a presumption in favour of such development as set out in that document.

The scheme is considered to be relatively well connected to existing development, given its access immediately to Bardon Road, and its connectivity could potentially be further improved once the connection to the Bardon link road has been provided. The applicants are agreeable to providing a financial contribution towards the capital cost of delivering this connection.

The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. The development is considered to be acceptable in terms of access issues and this has been ratified by an independent transport consultant. Whilst the proposed development would, for viability reasons, be unlikely to be able to support the full range of infrastructure requirements necessary to accommodate the development (and, in particular, the necessary improvements to local transportation infrastructure), the applicants are proposing to address this by way of making a reduced contribution to affordable housing, 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, thus ensuring that appropriate infrastructure contributions are made. Whilst this would result in a reduced affordable housing contribution, an appropriate contribution would nevertheless be made, when having regard to the approach taken in the District Council's financial contributions priorities policy. It is therefore recommended that outline planning permission be granted.

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

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

Reason - This permission is in outline only.

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

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

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

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended), and to accord with the requirements of the Local Planning Authority's emerging policy relating to developer contributions.

- 4 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
- Site location plan (5195_L_101_A) deposited with the Local Planning Authority on 16 October 2013;
 - Proposed site access arrangements (20337_03_002) deposited with the Local Planning Authority on 16 October 2013.

Reason - To determine the scope of this permission.

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

Reason - To ensure that the development of the site (including where undertaken in a phased manner) takes place in a consistent and comprehensive manner.

- 6 A total of no more than 135 dwellings shall be erected.

Reason - To define the scope of this permission.

- 7 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 for the disposal of foul and surface water drainage has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented as approved.

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.

- 8 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated March 2013, Ref: 20337/PH/03-13/3318 undertaken by M-EC and the following mitigation measures detailed within the FRA:

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 - Sections 7.0, 8.0 and 9.0

(specifically Paragraphs 7.3, 8.6 (Table 2), 8.7, 9.3 to 9.5 and 9.7 to 9.10);

Provision of compensatory flood storage for any raising of land currently below 151.45m AOD - Paragraphs 6.10 and 9.14, and as outlined on Drawing No. 20337 02 003 revision F;

Finished floor levels are set no lower than 151.55m above Ordnance Datum (AOD) - Paragraphs 6.11 and 9.13. Please Note: The Environment Agency recommend internal finished floor levels are set a minimum of 600mm above the predicted flood level of 151.45m, at 152.05m AOD.

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

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

- 9 Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall also include:

- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.
- Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

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

- 10 No development approved by this planning permission shall take place until such time as a scheme to provide compensatory flood storage on a like for like level basis, has been submitted to, and approved in writing by, the local planning authority. The scheme shall

be fully implemented at the ground works phase of the development, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason - To prevent an increase in the risk of flooding to the proposed development, adjacent properties, land and infrastructure.

- 11 No development shall take place until a construction working method statement to cover the compensatory flood storage works has been submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority.

Reason - To ensure against significant risks of damage to water dependent species and habitat and to diffuse pollution of the water environment arising from ground works.

- 12 No development shall commence on the site until such time as a programme of archaeological work, commencing with an initial phase of geophysical survey and trial trenching, has been detailed within a Written Scheme of Investigation first 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 (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; and
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation

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

Reason - To ensure satisfactory archaeological investigation and recording, and to comply with the NPPF.

- 13 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) at any time after 1 May 2015 unless, within a period of not more than two years prior to the commencement of development, a survey of badgers present on and using the site has been undertaken and the results (together with precise details of any associated mitigation measures and a timetable for their implementation) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with any agreed mitigation measures and timetable.

Reason - In the interests of nature conservation, and to comply with the NPPF.

- 14 No work shall commence in respect of the erection of any dwelling until such time as precise details of all measures proposed in respect of protection of occupiers of the relevant dwelling from noise (based on the conclusions contained in Paragraph 8 of the 'Noise, Vibration and Air Quality Assessment') and a timetable for their implementation have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in full in accordance with the agreed details, and in accordance with the agreed timetable.

Reason - To ensure that occupiers of the proposed dwellings are protected from noise, in the interests of amenity.

- 15 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 site specific tree protection plan has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be carried out in accordance with the agreed details.

Reason - As the existing tree protection measures are not considered satisfactory and to ensure that existing trees are adequately protected during construction in the interests of the visual amenities of the area.

- 16 Save for any works associated with the formation of the access as shown on M-EC drawing no. 20337_03_002 rev B, no development shall commence on the site until such time as the Bardon Road site access junction as shown on M-EC drawing no. 20337_03_002 rev B has been provided in full and is available for use by vehicular traffic.

Reason - To provide vehicular access to the site, including for construction traffic, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 17 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 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 associated with the development does not lead to on-street parking problems in the area.

- 18 Notwithstanding the submitted Residential Travel Plan, 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 measures to reduce the amount of single occupancy car journeys to/from the site, including a timetable for their implementation, has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in accordance with the submitted details and timetable.

Reason - To ensure that adequate steps are taken to provide a transport choice/a choice in

mode of travel to/from the site.

- 19 All reserved matters applications for the erection of dwellings shall include full details of the proposed dwellings' anticipated level of achievement in respect of criteria / sub-categories contained within the Code for Sustainable Homes. 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 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.

- 20 The first reserved matters application in respect of the matter of landscaping shall provide for an ecological / landscape 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. 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 the nature conservation value of the site in line with National planning policy and to provide for an appropriate form of development.

Notes to applicant

- 1 This is an Outline application with all matters (except access) reserved. Therefore, the suitability of the proposed indicative internal layout has not been checked in terms of its suitability for adoption by the Highway Authority.

The Applicant should be advised to refer to Leicestershire County Council's adopted highway design guidance 'The 6C's Design Guide'. Table DG1 of that Guide provides details of the general geometry of internal residential roads, including design speed, and the criteria for shared surfaces.

- 2 All works within the limits of the public highway shall be carried out to the satisfaction of the Highway Area Manager (telephone 0116 305 2202).
- 3 The Developer will be required to enter into an Agreement with the Highway Authority under s278 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 s278 Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
- 4 C.B.R tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements.
- 5 All street furniture or lining that requires relocation or alteration shall be carried out entirely at the expense of the Developer, who shall first obtain separate consent of the Highway Authority.
- 6 If you intend to provide temporary directional signing to your proposed development, you must ensure that prior approval is obtained from the County Council's Area Manager for the size, design and location of any sign in the highway. It is likely that any sign erected in the highway without prior approval will be removed.

Before you draw up a scheme, the Area Manager's staff (telephone 0116 305 2104) will

be happy to give informal advice concerning the number of signs and the locations where they are likely to be acceptable.

- 7 Provision of on-site affordable housing (level to be agreed)
- National Forest Planting
 - Financial contribution in respect of healthcare
 - Financial contribution in respect of education
 - Financial contribution in respect of libraries
 - Financial contribution in respect of civic amenity
 - Provision / maintenance of a children's play area
 - Provision of travel packs to first occupiers of the new dwellings
 - Provision of bus passes to first occupiers of the new dwellings
 - Improvements to the nearest bus stop
 - Construction traffic routeing
 - Appointment of a travel plan co-ordinator
 - An 'i-trace' monitoring fee
 - Off-site highway infrastructure contributions
 - Contribution towards the design and construction of a link road between the application site and the Bardon link road
 - Unfettered access to the land to the immediate east and west of the application site
 - Downgrading of the Bardon Road access following the opening up and connection being established to the Bardon link road
 - Section 106 monitoring
- 8 At the reserved matters stage, the Local Planning Authority and County Highway Authority would expect the internal access roads to be compatible with the proposed Bardon link road. At this stage it is anticipated that the main highway through the site would have to be re-positioned further to the south along the western boundary.
- 9 The Council's Urban Designer advises the following:
- That any future RM will be required to meet 'Building for Life 12', i.e. secure 12 green indicators.
 - That any future RM application adheres to the Development Framework submitted (Figure 10, Design and Access Statement, p.30) guided by the street typology characteristics detailed on pages 35-39 of the submitted Design and Access Statement.
 - That sufficient budget provision is allocated for hedgerow boundary treatments to all plots, allowing for a strong landscape character to be established throughout the development.
 - That the trees along the main street network are arranged to create a formal avenue, with trees semi-mature standard planted, i.e. min height 5.5m and girth of 25-30cms. The applicant will be expected to consult with the Council's Tree Officer at an early stage when preparing any future reserved matters application.
- 10 In relation to Condition 11 the Environment Agency would expect the method statement to cover the following requirements:
- _ timing of works;
 - _ methods used for all channel, bankside water margin works;
 - _ machinery (location and storage of plant, materials and fuel, access routes, access to banks etc);
 - _ protection of areas of ecological sensitivity and importance
 - _ site supervision

- 11 Under the terms of the Land Drainage Act 1991, the prior written consent of Lead Local Flood Authority (Leicestershire County Council) is required for any proposed works affecting the flow of any ordinary watercourse or to any existing or proposed structure forming part of the ordinary watercourse drainage system.
- 12 The 1200mm and 900mm diameter culverts and 750mm diameter surface water sewers may need trash or security screens installing as part of this development. Any such screens should be designed in accordance with the Trash Screen Guidance 2009 (available from the EA on request).
- 13 According to the OS map the head of a watercourse lies adjacent to the railway at grid reference SK 43868 13098, the Environment Agency therefore recommend further investigations are undertaken at this location, because should an additional culvert exist passing from the site underneath the railway, then this may provide an alternative discharge point for surface water from the eastern part of the site.
- 14 During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.
- 15 It is recommended that the installation of fittings that will minimise water usage such as low, or dual, flush WC's, spray taps and economical shower-heads in the bathroom are installed. Power showers are not recommended as they can consume more water than an average bath. Water efficient versions of appliances such as washing machines and dishwashers are also recommended. For outdoors consider installing a water butt, or even a rainwater harvesting system, to provide a natural supply of water for gardens. Simple treatment systems exist that allow rainwater to be used to supply WC's within the home. Following the above recommendations will significantly reduce water consumption and associated costs when compared to traditional installations. Rainwater harvesting utilises a free supply of fresh water and reduces the cost to the environment and the householder.
- 16 In relation to condition 20, it is recommended that details of biodiversity enhancements (such as roosting opportunities for bats and/or the installation of bird nest boxes) are included.
- 17 Your attention is drawn to the comments of Network Rail in their e-mail response of 25 April 2013 15:38.
- 18 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).

This page is intentionally left blank

Residential development of up to 90 dwellings (Outline - all matters other than part access reserved)

Report Item No
A6

Land To The West Of 164- 222 Bardon Road Coalville
Leicestershire

Application Reference
13/00991/OUTM

Applicant:
Mr John Deakin

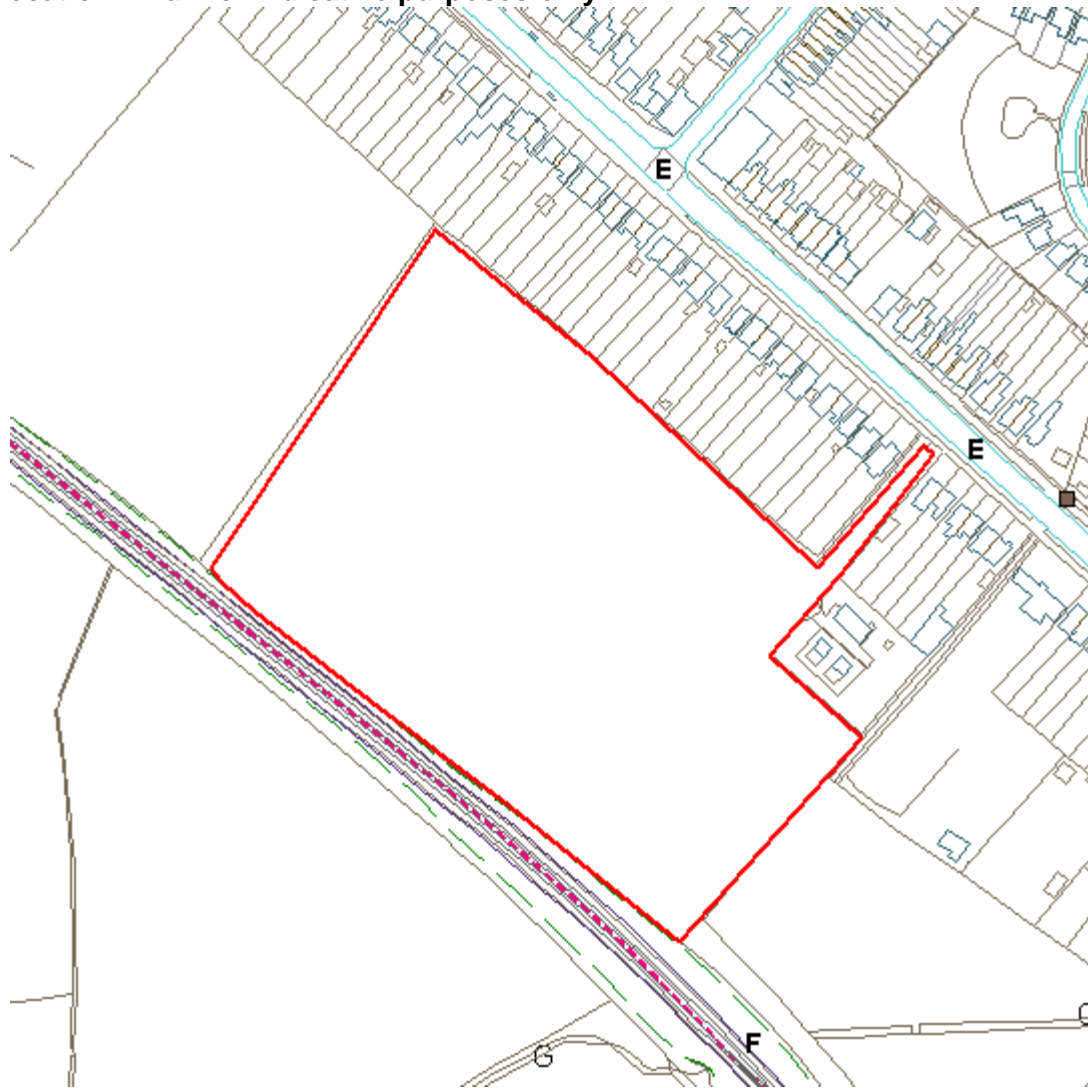
Date Registered
29 November 2013

Case Officer:
James Mattley

Target Decision Date
28 February 2014

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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

Executive Summary of Proposals and Reasons for Approval

Proposal

This application seeks outline planning permission for residential development of up to 90 dwellings along Bardon Road. All matters are reserved for future approval apart from the access into the site from Bardon Road.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals (and including from the neighbouring Hugglescote and Donington le Heath Parish Council); no other objections are raised by statutory consultees.

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

Whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, such general policies that restrain the supply of housing are to be considered as not up-to-date given the inability of the Council to demonstrate a five-year supply of deliverable housing land. Thus the site's release for housing is considered suitable and will contribute towards meeting the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Having regard to this and the sites location adjacent to the existing settlement and its associated services, the proposed development would, overall (and notwithstanding the reduction in 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 relatively well connected to existing development, given its access immediately to Bardon Road, and its connectivity could potentially be further improved once the connection to the Bardon link road (through the Barwood site) has been provided. The applicants are agreeable to providing a financial contribution towards the capital cost of delivering this connection.

The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. The development is considered to be acceptable in terms of access 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 a reduction to affordable housing so as to ensure the development remains viable whilst making appropriate contributions to highways and transportation infrastructure.

It is therefore recommended that outline 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, 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

Outline planning permission is sought for a residential development of up to 90 dwellings. The site measures 3.6 hectares and is located to the south of existing properties along Bardon Road. Whilst all matters other than part access are reserved for subsequent approval, an illustrative masterplan has been submitted showing the proposed dwellings, together with public open space, landscaping, on site National Forest planting and an area designated as a 'village square'.

Vehicular access is proposed onto Bardon Road via the upgrading of an existing access point. The proposal includes a new right hand turn lane on Bardon Road in order to access the development. Existing residential development is located to the north of the site, the land to the south of the site is subject to proposed residential development. The National Forest Railway line is located adjacent to the southern boundary of the site. The illustrative masterplan indicates that the application site would link in with the adjacent site that has a resolution to grant planning permission under reference 13/00818/OUTM.

The application has not been called in by any Councillor but is reported to planning committee as a legal agreement is required.

2. Publicity

51 neighbours have been notified (Date of last notification 12 December 2013)

Press Notice published 18 December 2013

3. Consultations

Hugglescote And Donington Le Heath Parish Council
 County Highway Authority
 Environment Agency
 Severn Trent Water Limited
 Head of Environmental Protection
 Natural England
 NWLDC Tree Officer
 County Archaeologist
 LCC ecology
 DEFRA
 NWLDC Urban Designer
 LCC Development Contributions
 Leicester, Leicestershire And Rutland Facilities Managme
 Development Plans
 Head Of Leisure And Culture
 Manager Of Housing North West Leicestershire District Council
 Police Architectural Liaison Officer
 LCC/Footpaths
 Highways Agency- affecting trunk road
 HM Railway Inspectorate
 Network Rail
 LCC Fire and Rescue
 National Forest Company

4. Summary of Representations Received

Environment Agency has no objection subject to the inclusion of relevant conditions and notes to applicant.

Highways Agency has no objection to the planning application.

Hugglescote and Donington Le Heath Parish Council notes that the application site is located within a neighbouring parish but does not support the application due to the access and exit arrangements and due to the proximity of the application site to the mineral line.

Leicestershire County Council Archaeologist raises no objection to the proposal subject to the imposition of archaeology conditions.

Leicestershire County Council Ecologist states that the ecologist report is satisfactory and raises no objections to the principle of the application. However, objections are raised to the proposed illustrative planning layout.

Leicestershire County Council Footpath Officer raises concerns over an increased use of the existing public footpath that crosses the railway line and requests that it be diverted within the application site.

Leicestershire County Council Highway Authority states that they have no objection subject to the inclusion of relevant planning conditions and legal obligations.

Leicestershire County Council Highway Transportation & Waste Management Authority requests a developer contribution of £6,396 in order to mitigate the impact on civic amenity waste facilities in the local area.

Leicestershire County Council Library Services Development Manager requests a contribution of £74,890.

Leicestershire County Council Local Education Authority does not request a contribution.

Leicestershire Fire and Rescue Service does not wish to comment at this stage as the application is only at the outline stage.

Leicestershire Police requests a contribution of £35,371.

Natural England state that the nearby SSSI's do not represent a constraint in determining this application and advises the Local Planning Authority to consider standing advice in relation to protected species.

National Forest Company welcomes the level of strategic landscaping and raises no objection to the proposed development subject to the inclusion of relevant planning conditions and notes to applicant.

Network Rail has no objection in principle to the development subject to a number of requirements including a developer contribution of £15,000 towards improvement works at an existing level crossing.

NHS England (Leicestershire and Lincolnshire Area) requests a developer contribution of

£15,033.40.

North West Leicestershire District Council Environmental Health has no objections subject to the recommendations contained within the submitted noise report.

North West Leicestershire District Council Contaminated Land Officer has no objections subject to relevant conditions.

Severn Trent Water has no objection to the proposal subject to the inclusion of drainage conditions.

Third party representations:

A total of two representations have been received which object to the application on the following grounds:

- _ already live on a very busy and noisy road and do not wish for further development behind;
- _ Bardon Road will become a traffic jam.

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.

The policies of the North West Leicestershire Local Plan as set out in more detail in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application. In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The NPPG does not change National Policy but provides practical guidance as to how such policies should be applied.

The following 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."

"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)

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.

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.

South East Coalville Development Brief

A Development Brief for the South East Coalville Strategic Development Area has been prepared by consultants on behalf of the developers' consortium with interests in the land in conjunction with the Local Planning Authority, and including input from other professional consultants, stakeholders and members of the local community, in order to inform the process of planning and development of land at South East Coalville.

The draft Development Brief was considered by the District Council's Cabinet at its meeting of 23 July 2013 where it was resolved that the production of the Development Brief for South East Coalville be noted, that regard be had to the Development Brief when negotiating on and determining planning applications in the South East Coalville Broad Location, and that the Development Brief form part of the evidence base for the [then] submission Core Strategy.

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.

6. Assessment

Principle of Development

In terms of the principle of development, 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. 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 area and included within the South East Coalville Draft Development Brief. In terms of the sustainability credentials of the site, the site is located the following (approximate) distances away from a range of services:

Newsagent - 200 metres
 Petrol Station (with shop) - 300 metres
 Post Office - 1300 metres
 Broom Leys Primary School - 1000 metres
 Newbridge High School - 1600 metres
 Co-Op Mini Supermarket - 1100 metres
 Bus Stop - 50 metres

The 29/29A bus service provides a regular bus service (runs every 30 minutes) and would be located in close proximity to the site access which would allow future residents an alternative to using a private car. In addition, within approximately 2km walking distance of the site are a range of shops and services located in Coalville Town Centre as well as potential employment destinations such as Bardon Industrial Estate, Whitwick Business Park and Bardon Hill Quarry. The application site is located in fairly close proximity to the range of services/facilities listed and would also be in close proximity to other services and facilities that are proposed to be provided

in the future as part of the wider South-East Coalville area. Taking these matters into account, it is considered that the site would be located within a sustainable area.

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 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 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 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 (based on the "Sedgefield" approach and a 20% buffer) which represents a shortfall in relation to 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". Therefore the Council would not, in these circumstances, be able to rely on either Policy S3 or Policy H4/1 as they are "relevant policies" for the purposes of NPPF paragraph 49. Whilst members have previously been advised, on the basis of the Stephenson's Green High Court decision that Policy S3 should not be considered to be a relevant policy for the supply of housing and that, accordingly, the policy should not be considered to be out of date, a recent judgement from the most senior Judge in the Administrative Court (who is also a specialist Planning Judge) has qualified the position taken by the Judge in the Stephenson's Green case as a result of which it is no longer appropriate to rely on the latter decision.

In *South Northamptonshire Council -v- Secretary of State for Communities and Local Government* (10 March 2014) Mr Justice Ouseley, considering the meaning in paragraph 49 of the NPPF of policies "for the supply of housing", said this:

"46. That phraseology is either very narrow and specific, confining itself simply to policies which deal with the numbers and distribution of housing, ignoring any other policies dealing generally with the location of development or areas of environmental restriction, or alternatively it requires a broader approach which examines the degree to which a particular policy generally affects housing numbers, distribution and location in a significant manner.

47. It is my judgement that the language of the policy cannot sensibly be given a very narrow meaning. This would mean that policies for the provision of housing which were regarded as out of date, nonetheless would be given weight, indirectly but effectively through the operation of their counterpart provisions restrictive of where development should go. Such policies are the obvious counterparts to policies designed to provide for an appropriate distribution and

location of development. They may be generally applicable to all or most common forms of development, as with EV2, stating that they would not be permitted in open countryside, which as here could be very broadly defined. Such very general policies contrast with policies designed to protect specific areas or features, such as gaps between settlements, the particular character of villages or a specific landscape designation, all of which could sensibly exist regardless of the distribution and location of housing or other development".

Thus, whilst e.g. Green Wedge or Gap policies may not be caught by Paragraph 49, policies such as S3 and H4/1 that generally restrict development outside of settlement boundaries in open countryside clearly are. In these circumstances Members must be advised to consider both S3 and H4/1 as not being up-to-date policies. In any event, 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 could have been attributed to any conflict with Policy S3 in the overall planning balance.

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 a reduction in 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, 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.

One of the main principle issues with the application is whether this proposal would be well connected and has a functional relationship with existing and proposed development in the area. In relation to this matter, the indicative masterplan shows that the main access point to the development would be from Bardon Road but the indicative layout would not prevent the adjacent land being developed. This could be controlled to some extent by an obligation in the legal agreement to ensure that there is unfettered access to the land to the east and west of the application site. Indeed, this has been requested by the County Highway Authority and the applicants are agreeable to this obligation.

It is clear that the proposed future connection between the application site and the proposed Bardon link road (through the Barwood site) would not be provided immediately (as the applicants do not control the land and the link road has yet to be constructed). However, it is considered the scheme would be relatively well connected to existing development, given its access immediately to Bardon Road, and its connectivity could potentially be further improved to proposed development should the connection be provided to the Bardon Link Road.

Policy E6 of the existing local plan states that development will not be permitted where it would prejudice the comprehensive development and proper planning of a larger area of land of which

the site concerned forms part. Taking into account the range of measures proposed, including unfettered access to the land to the east and west, it is not considered that the granting of this planning application would impact on the comprehensive planning of the wider south east Coalville area and, therefore, the scheme is considered to be compliant with Policy E6 of the Local Plan.

The range of infrastructure expected to be delivered to accommodate growth in the south-east Coalville area includes a range of measures, contributions to various of which are proposed (such as off-site highway works), and are as set out in the relevant sections below. It is clear that this application on its own could not provide for the full range of infrastructure but it would contribute towards some of the measures and more importantly, it would not prevent the full range of measures being provided as part of the comprehensive planning for the wider area.

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, and including Local Plan Policy S3, a policy designed to protect the countryside for its own sake. For reasons which have been outlined above, however, this Policy cannot be considered as being up-to-date in the context of Paragraph 49 of the NPPF.

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.

Means of Access and Transportation

All matters are reserved for subsequent approval except for access (insofar as vehicular access into and out of the site is concerned). The points of access proposed show vehicular access via the upgrading of an existing access onto Bardon Road. Whilst the illustrative layout shows internal access roads and pedestrian links through the site, these would be a matter for the reserved matters stage(s) (although their impact on the overall potential accessibility and connectivity of the site still ought to be considered).

The application is accompanied by a Transport Assessment as well as a Travel Plan. The Transport Assessment indicates that, in the applicants' consultants' opinion, the development is located within a comfortable walking distance of a range of local amenities. It also comments that there are several existing bus services operating from Coalville Town Centre to the north of the site with bus stops in close proximity along Bardon Road. The County Highway Authority advises that various measures to encourage public transport use should be secured by way of a Section 106 obligation.

The Highway Authority has reviewed the Transport Assessment submitted in support of the application, which examined the impact at the following junctions:

- Bardon Road/Site Access
- A511 Bardon Road/Botts Way
- A511/Bardon Road
- A511/Birch Tree

The County Highway Authority conclude that as the development is relatively small with reasonably low development flows there are no significant impacts on the network. As such, any mitigation would be so minor that it would not be cost effective to pursue. The Highway Authority is therefore content to accept that specific mitigation is not required, but that a contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council is sought instead.

Other mitigation proposals outlined in the Transport Assessment and Travel Plan include various measures designed to encourage walking / use of public transport by residents. The relevant measures are included within the County Highway Authority's requested contribution / Section 106 requirements below:

1. A Construction Traffic Routeing Agreement to be submitted to and approved in writing by the Leicestershire County Council. During the period of construction, all traffic to and from the site shall use the agreed route at all times.

Justification: To ensure that all construction traffic associated with the development does not use unsatisfactory roads to and from the site.

2. One Travel Pack per dwelling; can be provided through LCC at a cost of £52.85 per pack/dwelling. If not supplied by LCC, a sample Travel Pack shall be submitted to and approved in writing by LCC.

Justification: To inform new residents from first occupation what sustainable travel choices are available in the surrounding area.

3. Two six-month bus passes per dwelling; can be provided through LCC at an average cost of £325.00 per pass.

Justification: To encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour from first occupation.

4. Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development.

Justification: To ensure effective implementation and monitoring of the site wide Travel Plan submitted in support of the Planning Application.

5. An iTrace monitoring fee of £6000.00.

Justification: To enable Leicestershire County Council to provide support to the appointed Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure that Travel Plan outcomes are being achieved, and to take responsibility for any necessitated planning enforcement.

6. A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council.

Justification: To accommodate the wider growth in Coalville, including the impact from this

development, as per NWLDC Cabinet Report dated 15 January 2013 entitled 'Delivering growth and prosperity in Coalville'.

7. A contribution towards the design and construction of a vehicular connection between the application site and the Bardon link road.

Justification: To accommodate the wider growth in Coalville, including the impact from this development, as per NWLDC Cabinet Report dated 15 January 2013 entitled 'Delivering growth and prosperity in Coalville'.

8. The downgrading of the vehicular access to Bardon Road to pedestrian/cycle/emergency use only following the opening of the Bardon link road between Bardon Road/Stephenson Way and the connection to the application site and including that connection.

Justification: To accommodate the wider growth in Coalville and in the interests of highway safety to prevent traffic rat running to avoid the proposed signalised junction at Bardon Road/Stephenson Way.

9. Unfettered access to the land to the immediate east and west of the application site so as not to prejudice future development of these land parcels, including for vehicular access to the Bardon link road.

Justification: To accommodate the wider growth in Coalville.

In respect of the proposed access arrangements, the County Highway Authority comments that the proposal includes for a ghost island junction, with access taken from the existing track between No 208 and 214 Bardon Road. The proposal has been subjected to an independent Stage 1 Road Safety Audit. Four issues were identified which have been addressed/considered to the satisfaction of the Highway Authority and, on this basis, the County Highway Authority raises no highway safety objections to the proposed access arrangements.

The County Highway Authority notes that this application is in outline only and, therefore, the proposed indicative internal layout as shown on the submitted Indicative Masterplan has not been checked in terms of its suitability for adoption by the Highway Authority (and would need to include various details including traffic calming measures). However, it is not clear from the submitted masterplan how the indicative alignment of the proposed internal access road would allow for connection to the proposed Bardon link road. This would need to be addressed at the reserved matters stage and suitable notes to applicant are recommended in respect of this.

The County Highway Authority require that a vehicular connection should be provided between the application site and the proposed Bardon link road. This vehicular connection should be available for use at the same time as the Bardon link road (and connection to the link road from the Barwood site) and the applicant should contribute to the design and construction of this connection. The County Highway Authority also require that at such time as the Bardon link road between Bardon Road/Stephenson Way and the vehicular connection to the application site (through the Barwood site) and the connection itself is available for use by vehicular traffic, the proposed vehicular access at Bardon Road should be downgraded to a pedestrian/cycle/emergency access only. This is required on highway safety grounds to prevent traffic 'rat running' through the site to avoid the proposed signalised junction at Bardon Road/Stephenson Way. The applicants are agreeable to paying this contribution subject to undertaking future viability assessment work.

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 be likely to need to contribute towards the proposed Bardon Grange link (i.e. linking the allocated housing site on land north of Grange Road with the A511 Stephenson Way), and an appropriate contribution of £450,000 has been calculated. The applicants are agreeable to paying this contribution subject to undertaking future viability assessment work.

As set out in more detail under Affordable Housing below, in order to accommodate this sum 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 some initial calculations (which would need more detailed independent assessment 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 the quantum of affordable housing would need to be reduced so as to render the scheme viable.

Whilst there would be officer concerns in respect of a number of applications for major development in Coalville without full assessment in accordance with the recently agreed approach towards infrastructure provision, it is accepted in this case that, given that all other matters are now essentially resolved, the Local Planning Authority is now in a position wherein it can make a reasoned assessment of the application. The sum proposed would, it is considered, represent a reasonable and essential contribution towards 'kick starting' 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. This scheme is also likely to be one of the first to contribute towards prioritising highway infrastructure contributions in accordance with the cabinet resolution of June 2013. Separate contributions are also proposed in respect of other highways works which would be required to accommodate this development.

The Highway Agency has been consulted on the application and considers that the proposed development is not expected to have a material impact on the closest strategic route (M1 motorway). To reiterate, the County Highway Authority raise no highway safety objections to the proposed scheme subject to the inclusion of relevant conditions and obligations. Taking these matters into account, therefore (and including the applicants making an appropriate contribution towards transportation infrastructure), the proposed development is considered acceptable in terms of Means of Access and Transportation issues.

Neighbours' and Future Occupiers' Amenities

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves are concerned, this would need to be assessed at the reserved matters stage(s); notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 90 units could not be provided on the site in a manner which would not adversely impact upon neighbours' amenities.

In terms of the impacts on existing and future occupiers the main issues are considered to be that of air quality, vibration and noise arising predominantly from Bardon Road and the nearby railway line. The application is accompanied by a Noise and Air Quality Assessment.

With regard to road and railway noise, appropriate sound reduction can be achieved by the use of specialist glazing and passive acoustic ventilators to certain plots. However, the precise mitigation measures would need to be detailed at the reserved matters stage once the precise location of the plots is established.

In terms of additional traffic noise affecting existing properties, the main area of concern would be the section of access directly onto Bardon Road. However, given that this access road is already used by vehicles and subject to any additional boundary treatments that are considered necessary at the reserved matters stage it is considered that the additional impact would not be significant.

With regards to railway vibration, the submitted report indicates that given the low incidence of train movements coupled with the low likelihood of complaint that no specific vibration control measures would be required to the proposed dwellings. In terms of air quality issues, the site is not located within the Coalville Air Quality Management Area. The report concludes that there would be no significant change to the air quality adjacent to Bardon Road and, therefore, it is not considered that the proposal would cause significant air quality issues to either existing or proposed dwellings.

On the basis of the mitigation measures proposed (which can be secured by way of planning conditions), the Environmental Services Manager has no objections and it is not considered that the proposal would result in significant adverse impacts on health or quality of life. Accordingly, the requirements Policy E3 of Local Plan are considered to have been met by the scheme and the proposal would not conflict with paragraph 123 of the NPPF.

Design

The proposed scheme has been assessed by the District Council's Urban Designer, and rated in accordance with CABE's new Building for Life criteria which scores on the basis of red/amber/green rather than a points based scoring system. The Council's Urban Designer has reviewed the proposals and has some concerns over the illustrative layout that has been

submitted as part of the application. These concerns include issues regarding parking provision, garden sizes, lack of tree lined principle routes and limited space to plant hedgerows alongside plots.

The comments have been raised with the applicants and they consider that all of these matters would be addressed as part of the reserved matters application and stress that the layout submitted with this outline application is illustrative only. Suitable notes to applicant can be provided to the applicant to indicate that the design concerns would need to be addressed as part of any future reserved matters application(s).

Therefore, whilst the scheme is not sufficiently advanced to be assessed fully against Building for Life, it is considered that an appropriate scheme could be secured at the reserved matters stage(s), and would comply with the relevant Development Plan policies and advice in the NPPF.

Density

Local Plan Policy H6 provides that, for sites of 0.3 hectares and above, residential development should meet a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services, and a minimum density of 30 dwellings per hectare elsewhere. The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances. The former advice in PPS3 provided that net dwelling density includes those site areas which will be developed for housing and directly associated uses, including access roads within the site, private garden space, car parking areas, incidental open space and landscaping and children's play areas. Whilst this has now been superseded in the NPPF the methodology contained within it for working out net dwelling density would, in the absence of any other guidance in the NPPF or the Local Plan, still be relevant.

The application site area is given as 3.6 hectares and the maximum of 90 dwellings proposed by the developers would therefore equate to a maximum density of 25 dwellings per hectare, which would fall short of the requirements set out in Policy H6. However, when considering that significant parts of the site would be taken up by the creation of strategic landscape and habitat areas and public open space, the net dwelling density would be in the region of 34 dwellings per hectare. This is considered to be an acceptable density in relation to the advice in Policy H6 of the Local Plan.

Landscape and Visual Impact

The application has not been accompanied by a landscape and visual impact assessment but this matter is addressed in the submitted Design and Access Statement.

The site is not protected by any national landscape designations. The application site is located on the south eastern edge of Coalville and would be confined between existing residential properties fronting onto Bardon Road and the railway embankment along the south west boundary. The surrounding landscape is characterised by large industrial development and Bardon Quarry as well as plans for further housing development to the south of the railway line in addition to the already approved Bardon Grange scheme. Taking into account the nature of the surrounding area, it is considered that the landscape could absorb suitably designed development without causing any significant detrimental harm to the wider landscape.

Subject to appropriate landscaping, the visual impacts of the proposals would be reasonable

and that, notwithstanding the site's location outside Limits to Development, unacceptable impacts on the amenities of the surrounding area would not be likely to arise. Overall, therefore, and subject to an appropriate form of development being proposed at the reserved matters stage(s), it is considered that the landscape and visual effects of the proposed development are acceptable.

Ecology and Trees

The application is supported by an ecological appraisal. The appraisal concludes that there are no statutory designated sites within or in close proximity to the site boundary. However, adjacent to the site, is the Coalville Scrubby Grassland which is a proposed Local Wildlife Site. This is considered to be important at the local level and, therefore, during construction no access should be allowed into this area and fencing should be installed along this boundary.

There are limited trees or hedges within the body of the application site although they are found on the site boundary. The mineral railway which borders the site and connects the site to the wider landscape to the west supports trees and secondary broad leaved woodland. The ecology report concludes that the trees and woodland along the mineral railway would be protected during construction to prevent damage to roots during construction.

In response to the application, Leicestershire County Council's ecologist considers that the report is satisfactory and no species or habitats of more than local significance were identified. However, the ecologist considers that the illustrative layout is not satisfactory as it shows back gardens and in some cases buildings going right up the railway line to the south. This is an important wildlife corridor, currently partly wooded, and the houses and properties are considered to be too close. The ecologist states that the layout must be reconfigured to allow a reasonable buffer alongside this railway line and the tree line and there should be no gardens or buildings under the trees and in the branch 'drop-zone'. Similar concerns have also been made by the Council's Tree Officer. Whilst the concerns of the County Ecologist and the Council's tree officer are noted, the submitted plan is illustrative only and these issues can be satisfactorily resolved at the reserved matters stage. It is also noted that the applicants have stated that they would address these matters as part of any reserved matters application(s).

For its part, Natural England does not consider, subject to conditions, that protected species or landscapes would be impacted upon. Natural England makes suggestions in relation to nature conservation enhancements, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes, which would need to be addressed at the reserved matters stage.

Therefore, subject to the imposition of suitably-worded conditions and notes to applicant the submitted scheme is considered acceptable in ecological terms and in respect of the impact upon trees.

Flood Risk and Drainage

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

The illustrative layout indicates that a balancing lagoon would be positioned in the south-east corner of the site. The submitted FRA indicates that there is a local watercourse to the south of the site which is controlled by a culvert under the railway embankment. If this were to become

blocked it could result in localised flooding to the south of the site and, therefore, the FRA recommends that any new dwellings within the site are elevated to a certain level. This could be secured by a suitably worded condition.

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

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 listed below.

Affordable Housing

The Council's SPD on affordable housing indicates that for developments of this scale in Coalville 20% of the units should be provided as affordable housing (i.e. 18 units, assuming the construction of the maximum 90 dwellings as proposed). In terms of tenure split, the District Council's Affordable Housing Enabler advises that a tenure split of 70% affordable rented and 30% intermediate housing would be sought.

However, in response to the Cabinet report referred to above in respect of the prioritisation of transportation infrastructure over affordable housing, this would now appear likely to be reduced, as the applicants would need to provide an off-site highway contribution. The applicants originally indicated that, regardless of the outcome of the viability assessment work, they would anticipate that a minimum contribution of 10% affordable housing on-site would be provided. However, the developers have now indicated that an off-site contribution of £100,000 is proposed. The applicants have been asked to provide information as to why an off-site contribution is now being offered. They have indicated that their viability appraisal is still being prepared but at this stage, given the findings of the Barwood appraisal (also being considered at this Planning Committee), they would anticipate that 10% would prove to be too prohibitive and an offsite contribution is more viable for the development as a whole than on site provision.

An off-site contribution of £100,000 would fall below the minimum contribution the District Council's Affordable Housing SPD seeks to secure from new housing development in Coalville but, for the reasons as set out under Means of Access and Transportation above, it is accepted that some sites are likely to result in reduced contributions of Affordable Housing provision. The Council's Housing Officer has been consulted on the revised contribution which now seeks to provide an off-site rather than an on-site contribution. Whilst no response has been received at the time of writing this report, any response will be reported on the update sheet. Having regard to the approach suggested in the emerging Priorities for Developer Financial Contributions for

infrastructure provision relating to Major Residential Development Proposals in and around Coalville policy, and given the under-provision of affordable housing vis-à-vis the adopted Affordable Housing SPD, it would be considered appropriate to limit the implementation period of any planning permission granted accordingly.

Should Members be minded to permit the application, 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.

Transportation Contributions

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

- _ A Construction Traffic Routeing Agreement;
- _ One Travel Pack per dwelling; can be provided through LCC at a cost of £52.85 per pack/dwelling. If not supplied by LCC, a sample Travel Pack shall be submitted to and approved in writing by LCC;
- _ Two six-month bus passes per dwelling; can be provided through LCC at an average cost of £325.00 per pass;
- _ Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development;
- _ An iTrace monitoring fee of £6000.00;
- _ A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council;
- _ A contribution towards the design and construction of a vehicular connection between the application site and the Bardon link road;
- _ The downgrading of the vehicular access to Bardon Road to pedestrian/cycle/emergency use only following the opening of the Bardon link road between Bardon Road/Stephenson Way and the connection to the application site and including that connection;
- _ Unfettered access to the land to the immediate east and west of the application site so as not to prejudice future development of these land parcels, including for vehicular access to the Bardon link road.

The applicants are agreeable to making these contributions.

Education

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

Primary School Requirements:

The site falls within the catchment area of Coalville Broom Leys Primary School. The School has a net capacity of 595 pupils and 590 pupils are projected on roll should this development proceed; a surplus of 5 places after taking into account the 22 pupils generated by this development. An education contribution will therefore not be requested for this sector.

High School Requirements:

The site falls within the catchment area of Castle Rock High School. The school has a net capacity of 600 pupils and 526 pupils are projected on roll should this development proceed; a surplus of 74 places after taking into account the 9 pupils created by this development. Therefore, no education contribution is requested in respect of the High School sector.

Upper School Requirements:

The site falls within the joint catchment area of Coalville King Edward V11 Science and Sport College. The College has a net capacity of 1193 pupils and 1115 pupils are projected on roll should this development proceed; a surplus of 78 places after taking into account the 9 pupils created by this development. Therefore, no education contribution is requested in respect of the Upper School sector.

Play and Public Open Space

The indicative masterplan shows that provision is proposed to be made for 0.92ha of public open space on site (0.35ha of formal public open space and 0.57ha of informal open space) that would be located centrally and includes a children's equipped play area. Taking into account the overall size of the recreation area, a suitable sized children's equipped play area could be provided at the reserved matters stage. Therefore, the proposal is considered to be in accordance with Local Plan Policy L21 and the Play Area Design Guidance SPG.

National Forest Planting

The applicants propose 0.92ha of open space which has the potential to meet the expected National Forest planting on-site of 20%. The National Forest Company welcomes the commitment to meet the planting guidelines and requests that the reserved matters application(s) show significant areas of tree planting which would help create a wooded character to the development. Subject to the inclusion of relevant conditions the National Forest Company raise no objection to the proposed development.

Civic Amenity

The nearest civic amenity site is located at Coalville and residents of the proposed development are likely to use this site. Therefore, a civic amenity contribution of £6396 is requested. The applicants are agreeable to making this contribution.

Library Services

The proposed development on Bardon Road is within 2.0km of Coalville Library and the proposal would impact on local library services in respect of additional pressures on the availability of local library facilities. Therefore, a library contribution of £4890 is requested. The applicants are agreeable to making this contribution.

Healthcare

NHS England (Leicestershire and Lincolnshire Area) requests a developer contribution of £15,033.40 based upon a contribution commensurate to the anticipated increased population arising from this development. The applicants are agreeable to making this contribution.

Network Rail

Network Rail consider that the proposed development could potentially increase the use of an existing level crossing (Bardon Hill No.1) and that improvement works should be carried out to improve the safety of this level crossing. A developer contribution of £15,500 is sought in respect of this matter. The proposals are located in close proximity to this route and the proposals could lead to an intensification of use of this crossing. Taking this matter into account, and that this matter is also raised by the Leicestershire County Council Footpaths Officer, it is considered that the request made by Network Rail would be CIL compliant. The applicants are agreeable to making this contribution.

Contributions sought by Leicestershire Police

Leicestershire Police requests a developer contribution of £35,371 in respect of policing as set out in the consultation response above. This money is requested in relation to staff, equipment, police vehicles, improving force communications and database capacity, CCTV, contribution towards vehicles and extension to premises in Coalville, Enderby and Loughborough.

With regard to the acceptability of police contributions, 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 the requests in this case 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 the proposed policing contribution would meet with the CIL tests at this particular time. Should Counsel advise that Leicestershire Police requests (such as this) are CIL compliant then the principle of requiring such contributions to be secured by way of S.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 Circular 05/2005 and the CIL Regulations and are in accordance with paragraph 204 of the NPPF which states that planning obligations should only be sought where they are 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.

Other

The County Footpath Officer has requested that the public footpath (that falls outside of the application site) is diverted within the application site in order to enable a new footbridge over the National Forest railway line. This request is not considered reasonable or necessary although it is noted that the applicants have agreed to provide £15,500 in order to improve the safety of the existing level crossing.

Conclusions

Whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, such general policies that restrain the supply of housing are to be considered as not up-to-date given the inability of the Council to demonstrate a five-year supply of deliverable housing land. Thus the site's release for housing is considered suitable and will contribute towards meeting the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Having regard to this and the sites location adjacent to the existing settlement and its associated services, the proposed development would, overall (and notwithstanding the reduction in 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 relatively well connected to existing development, given its access immediately to Bardon Road, and its connectivity could potentially be further improved once the connection to the Bardon link road (through the Barwood site) has been provided. The applicants are agreeable to providing a financial contribution towards the capital cost of delivering this connection.

The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. The development is considered to be acceptable in terms of access 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 a reduction to affordable housing so as to ensure the development remains viable whilst making appropriate contributions to highways and transportation infrastructure.

It is therefore recommended that outline planning permission be granted.

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

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

before any development begins in respect of the relevant phase.

Reason - This permission is in outline only.

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

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

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

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended), and to accord with the requirements of the Local Planning Authority's emerging policy relating to developer contributions.

- 4 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
 - Site location plan (EMS.2473-001) deposited with the Local Planning Authority on 29 November 2013;
 - Proposed site access arrangements (ADC1010/001) deposited with the Local Planning Authority on 29 November 2013.

Reason - To determine the scope of this permission.

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

Reason - To ensure that the development of the site (including where undertaken in a phased manner) takes place in a consistent and comprehensive manner.

- 6 A total of no more than 90 dwellings shall be erected.

Reason - To define the scope of this permission.

- 7 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 for the disposal of foul and surface water drainage (based on sustainable drainage principles) has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be

implemented as approved.

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.

- 8 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated November 2013 undertaken by EWE Associates Ltd and the mitigation measures contained within Section 5 of the FRA. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

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

- 9 No development shall commence on the site until such time as a programme of archaeological work, commencing with an initial phase of geophysical survey and trial trenching, has been detailed within a Written Scheme of Investigation first 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 (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; and
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation

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

Reason - To ensure satisfactory archaeological investigation and recording, and to comply with the NPPF.

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

details, and in accordance with the agreed timetable.

Reason - To ensure that occupiers of the proposed dwellings are protected from noise and vibration, in the interests of amenity.

- 11 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 site specific tree protection and retention plan has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be carried out in accordance with the agreed details.

Reason - As the existing tree protection measures are not considered satisfactory and to ensure that existing trees are adequately protected and retained during construction in the interests of the visual amenities of the area.

- 12 Save for any works associated with the formation of the access as shown on ADC Infrastructure Drawing No. ADC1010/01, no development shall commence on the site until such time as the Bardon Road site access junction as shown on ADC Infrastructure Drawing No. ADC1010/01 has been provided in full and is available for use by vehicular traffic.

Reason - To provide vehicular access to the site, including for construction traffic, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 13 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 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 associated with the development does not lead to on-street parking problems in the area.

- 14 Notwithstanding the submitted Residential Travel Plan, a scheme of measures to reduce the amount of single occupancy car journeys to/from the site, including a timetable for their implementation, shall be submitted to and approved in writing by the Local Planning Authority before development commences on site. The measures shall be implemented in accordance with the submitted details and timescales, unless otherwise agreed in writing with the Local Planning Authority.

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

- 15 All reserved matters applications for the erection of dwellings shall include full details of the proposed dwellings' anticipated level of achievement in respect of criteria / sub-categories contained within the Code for Sustainable Homes. 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 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 The first reserved matters application in respect of the matter of landscaping shall provide for an ecological / landscape 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. 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 the nature conservation value of the site in line with National planning policy and to provide for an appropriate form of development.

- 17 No development (except any demolition permitted by this permission) shall commence on site until Further Risk Based Land Contamination Assessment (as recommended by section 4 of RSK Environment Limited report Bardon Road, Coalville Preliminary Risk Assessment Project No. 301316 dated OCTOBER 2013) has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

- BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
- BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)
- BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
- The Verification Plan shall be prepared in accordance with the requirements of:
- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
 - CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

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

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

- 18 Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
 - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
 - Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
 - Contain Test Certificates of imported material to show that it is suitable for its proposed use;
 - Demonstrate the effectiveness of the approved Remedial Scheme; and
 - Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

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

Notes to applicant

- 1 This is an Outline application with all matters (except access) reserved. Therefore, the suitability of the proposed indicative internal layout has not been checked in terms of its suitability for adoption by the Highway Authority.

The Applicant should be advised to refer to Leicestershire County Council's adopted highway design guidance 'The 6C's Design Guide'. Table DG1 of that Guide provides details of the general geometry of internal residential roads, including design speed, and the criteria for shared surfaces.

- 2 All works within the limits of the public highway shall be carried out to the satisfaction of the Highway Area Manager (telephone 0116 305 2202).
- 3 The Developer will be required to enter into an Agreement with the Highway Authority under s278 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 s278 Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
- 4 C.B.R tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements.
- 5 All street furniture or lining that requires relocation or alteration shall be carried out entirely at the expense of the Developer, who shall first obtain separate consent of the Highway Authority.
- 6 If you intend to provide temporary directional signing to your proposed development, you must ensure that prior approval is obtained from the County Council's Area Manager for the size, design and location of any sign in the highway. It is likely that any sign erected in the highway without prior approval will be removed.

Before you draw up a scheme, the Area Manager's staff (telephone 0116 305 2104) will be happy to give informal advice concerning the number of signs and the locations where they are likely to be acceptable.

7 A Section 106 agreement would be required and would need to include the following:

- National Forest Planting
- Financial contribution in respect of healthcare
- Financial contribution in respect of education
- Financial contribution in respect of libraries
- Financial contribution in respect of civic amenity
- Financial contribution in respect of affordable housing
- Financial contribution in respect of improving the safety of the level crossing
- Provision / maintenance of a children's play area
- Provision of travel packs to first occupiers of the new dwellings
- Provision of bus passes to first occupiers of the new dwellings
- Construction traffic routeing
- Appointment of a travel plan co-ordinator
- An 'i-trace' monitoring fee
- Off-site highway infrastructure contributions
- Contribution towards the design and construction of a link road between the application site and the Bardon link road
- Unfettered access to the land to the immediate east and west of the application site
- Downgrading of the Bardon Road access following the opening up and connection being established to the Bardon link road
- Periodic review of viability
- Section 106 monitoring

8 At the reserved matters stage, the Local Planning Authority and County Highway Authority would expect the internal access roads to be compatible with the proposed Bardon link road and the adjacent Barwood site.

9 The illustrative layout is not acceptable and the following issues would need to be resolved at the Reserved Matters stage:

- That any future RM will be required to meet 'Building for Life 12', i.e. secure 12 green indicators.
- That sufficient budget provision is allocated for hedgerow boundary treatments to all plots, allowing for a strong landscape character to be established throughout the development.
- Additional parking provision, wider car parking spaces (in places) and ensuring that remote parking is addressed.
- Garden sizes should be equal to the footprint of the dwelling.
- A tree lined principle route should be provided through the site. These trees should be arranged to create a formal avenue, with trees semi-mature standard planted, i.e. min height 5.5m and girth of 25-30cms. The applicant will be expected to consult with the Council's Tree Officer at an early stage when preparing any future reserved matters application.
- Additional spaces should be provided to allow for hedgerow treatments to front boundaries.

- A buffer should be provided alongside the railway line and there should be no gardens or buildings under the trees and in the branch 'drop-zone'.
- 10 In relation to condition 16, it is recommended that details of biodiversity enhancements (such as roosting opportunities for bats and/or the installation of bird nest boxes) are included.
- 11 Your attention is drawn to the comments of Network Rail in their e-mail response of 27 January 2014 09:07.
- 12 Your attention is drawn to the comments of the Environment Agency in their e-mail response of 4 February 2014 10:23.
- 13 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).

Erection of three no. single storey detached dwellings and
one no. two-storey dwelling and associated garaging

Report Item No
A7

191 Loughborough Road Whitwick Coalville Leicestershire

Application Reference
14/00219/FUL

Applicant:
Mr S Hall

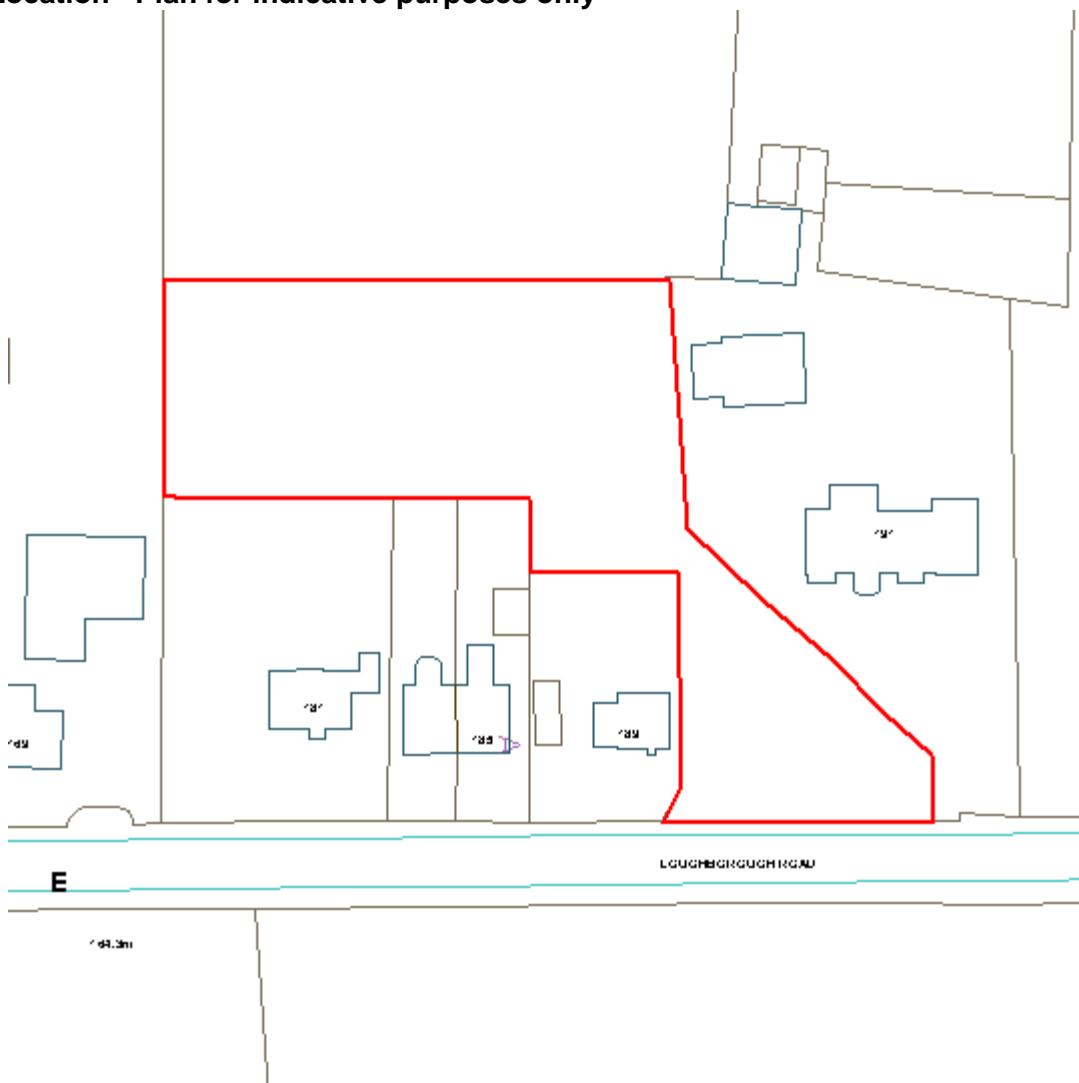
Date Registered
3 March 2014

Case Officer:
Adam Mellor

Target Decision Date
28 April 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application has been brought to the Planning Committee at the request of Councillor Woodward due to the site's location not being sustainable.

Proposal

The application seeks to obtain planning permission for the erection of three no. single storey detached dwellings and one no. two-storey detached dwelling and associated garaging on 0.325 hectares of land that currently forms part of the gardens and paddock land to No. 191 Loughborough Road, Whitwick. The application site is positioned to the north of Loughborough Road, to the west of its junction with Swannymote Road, and comprises land to the south and north-west of the dwelling at No. 191, as well as land to the north of the dwellings at Nos. 181 - 189 Loughborough Road. The existing property at No. 191 (which is within the applicant's ownership but not within the application site) is a two-storey dwelling set back from the highway by approximately 33.0 metres. The neighbouring dwellings at Nos. 181 - 189 comprise of two-storey detached and semi-detached dwellings that follow a building line much closer to the highway at approximately 10.0 metres.

Consultations

204 letters of representation have been received objecting 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, the general principles of the National Planning Policy Framework (NPPF) as well as Circular 06/05 and relevant supplementary planning guidance.

Conclusion

The site is located within the limits to development where the principle of residential development would be acceptable and Whitwick would be considered a sustainable settlement for new development given that it would fall within the Coalville Urban Area. The loss of part of the residential garden to No. 191 would also not impact adversely on the streetscape or surrounding area given the amenity area retained and the fact that the land is not protected open space or countryside. On this basis the development would accord with Paragraphs 14, 49 and 53 of the NPPF. Although the density of the scheme would be below that recommended within current planning policy it is important to factor into any assessment good design, landscaping and association with other forms of development and as such it is considered that the density proposed would be acceptable and would accord with Policy H6 of the Local Plan.

The provision of single storey properties to the rear of those properties fronting onto Loughborough Road, and east of No. 169, would ensure that the development as a whole would not have a significantly detrimental overbearing, overshadowing or overlooking impact on the amenities of existing residents. An acceptable relationship with the existing property on the site (No. 191) would also be maintained and the units themselves would have an acceptable relationship with each other which would ensure compliance with Policy E3 of the Local Plan. The movement of vehicles on the internal access road would also not result in sufficient noise detriment to neighbouring properties, given the limited amount of vehicular movements which would be associated with the dwellings, and as such the development would not conflict with Paragraph 123 of the NPPF.

It is considered that the proposed dwellings would be read in conjunction with their relationship

with No. 191 and as such their floor areas would not be out of keeping with the surroundings with the single storey dwellings having a floor area not too dissimilar to No. 169 (a single storey dwelling). In the circumstances that built forms of development also exist which do not directly front onto Loughborough Road, as well as the fact that their single storey nature would ensure that they would be suitably screened by built forms fronting Loughborough Road, it is considered that the development would also not have a sufficiently detrimental impact on the character and appearance of the surrounding area or streetscape. In these circumstances the development would accord with Paragraphs 57, 60 and 61 of the NPPF and Policies E4, F1 and H7 of the Local Plan.

The proposed access road into the site has been considered acceptable by the County Highways Authority and given that sufficient off-street parking would be provided it is considered that the scheme would accord with Policies T3 and T8 of the Local Plan.

No ecological species would be adversely affected which would ensure compliance with Paragraph 118 of the NPPF and Circular 06/05. The integrity of the protected trees would be retained and a landscaping scheme would be conditioned as part of any consent to ensure compliance with Policies E7, F1, F2 and F3 of the Local Plan. The drainage solution for the site would be agreed with Severn Trent Water and Building Regulations and any solution agreed would be on the basis that it would not exacerbate any localised flooding issues, as such the development would not conflict with Paragraph 103 of the NPPF. It is also anticipated that there would be no land contamination or land instability issues associated with the site which will ensure compliance with Paragraphs 120 and 121 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. Proposals and Background

Planning permission is sought for the erection of three no. single storey detached dwellings and one no. two-storey dwelling and associated garaging on 0.325 hectares of land that currently forms part of the gardens and paddock land to No. 191 Loughborough Road, Whitwick. The application site is positioned to the north of Loughborough Road, to the west of its junction with Swannymote Road, and comprises land to the south and north-west of the dwelling at No. 191, as well as land to the north of the dwellings at Nos. 181 - 189 Loughborough Road. The existing property at No. 191 (which is within the applicant's ownership but not within the application site) is a two-storey dwelling set back from the highway by approximately 33.0 metres. The neighbouring dwellings at Nos. 181 - 189 comprise of two-storey detached and semi-detached dwellings that follow a building line much closer to the highway at approximately 10.0 metres.

The site is located on the northern edge of the village of Whitwick. Loughborough Road comprises of a mix of detached and semi-detached two-storey dwellings on both sides of the road. The properties on the southern side of Loughborough Road do not extend as far east as those on the northern side, and opposite the application site to the south of Loughborough Road lies an area of open land defined in the North West Leicestershire Local Plan as being an area of particularly attractive countryside and outside limits to development. The application site is located within the defined limits to development with the northern boundary abutting the line of the defined limits. To the north of the site lies Cademan Wood, an area also defined on the Local Plan Proposals Map as an area of particularly attractive countryside.

The majority of the site currently comprises areas of open lawn and hard standing with minimal landscaping within the front amenity area to No. 191 (to the south of the dwelling) and open grassed paddock to the north-west of No. 191. Along the highway boundary (southern boundary) are a number of substantial trees of which three (Beech, Lime and Sycamore) are protected by Tree Preservation Order (TPO) 430. A new vehicular access to No. 191 would be constructed and a private access drive would be formed through the site to access the dwellings.

It is noted that the application is a revised scheme of an application refused by the planning committee on the 12th November 2013 (Ref: 12/01094/FUL), contrary to Officer recommendation, on the basis that it was considered contrary to Policies E3 and E4 of the North West Leicestershire Local Plan.

The scheme to be assessed as part of this application would consist of the following: -

Unit 1 would be situated to the east of No. 189 Loughborough Road, with a projection of 3.2 metres beyond this properties northern (rear) elevation, and would have a width of 10.79 metres by 6.29 metres and use of a pitched gable ended roof with an eaves height of 4.60 metres and overall height of 7.50 metres. A single storey projection would project 2.25 metres from the western (side) elevation of the dwelling with a length of 5.85 metres and use of a mono-pitched roof with an eaves height of 2.40 metres and overall height of 4.40 metres. It is indicated on the floor plans that the dwelling would provide an entrance hallway, washroom, utility room, sitting room, study, store, wood store and open plan kitchen/dining area at ground floor level and three bedrooms, dressing room, en-suite and family bathroom at first floor level for the occupants.

Unit 2 would be situated to the north-west of No. 191 and north of No. 189 and would have an overall width of 14.84 metres by 14.29 metres in length along the eastern (side) and 11.47 metres on the western (side) and use of a pitched gable ended roof with an eaves height of 2.50

metres and overall height of 5.90 metres. It is indicated on the floor plans that the dwelling would provide an entrance hallway, three bedrooms, washroom, en-suite, dining area, sitting room, utility room, pantry and breakfast kitchen area for the occupants.

Unit 3 would be situated to the north-west of No. 191 and to the north of Nos. 183, 185 and 189 and would have a width of 17.09 metres by 11.47 metres in length along the eastern (side) and 8.99 metres on the western (side) and use of a pitched gable ended roof with an eaves height of 2.95 metres and overall height of 6.05 metres. It is indicated on the floor plans that the dwelling would provide an entrance hallway, three bedrooms, three en-suites, a study, washroom, dining area, sitting room, utility room and breakfast/kitchen area for the occupants.

Unit 4 would be situated to the north-west of No. 191, north of No. 181 and north-east of No. 169 and would have an overall width of 17.09 metres by 14.95 metres in length and use of a pitched gable ended roof with an eaves height of 2.60 metres and overall height of 5.50 metres. It is indicated on the floor plans that the dwelling would provide an entrance hallway, three bedrooms, two en-suites, a bathroom, washroom, utility room, sitting room, dining area and breakfast/kitchen area for the occupants.

Units 2, 3 and 4 would also have detached garages which would have dimensions of 5.84 metres in length by 5.84 metres in width and use of pitched hipped roofs with eaves heights of 2.75 metres and overall heights of 5.90 metres.

An ecological scoping survey and tree report have been submitted in support of the application.

The planning history of the site is as follows

- 97/00354/FUL - Erection of ground and first floor extensions to dwelling - Approved 11th June 1997;
- 03/00276/FUL - Erection of a single storey rear extension and alterations - Approved 10th April 2003;
- 12/00292/FUL - Erection of four no. two-storey (with habitable accommodation in the roof space) dwellings and associated garaging - Withdrawn 16th July 2012.

2. Publicity

11 No neighbours have been notified (Date of last notification 10 March 2014).

Site Notice displayed 31 March 2014

3. Consultations

Whitwick Parish Council consulted 10 March 2014
County Highway Authority consulted 11 March 2014
Severn Trent Water Limited consulted 11 March 2014
Head of Environmental Protection consulted 11 March 2014
NWLDC Tree Officer consulted 11 March 2014
LCC ecology consulted 11 March 2014

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.

Leicestershire County Council - Ecology has no objections although requests that the supplementary report submitted in support of application reference 12/01094/FUL is provided.

Leicestershire County Council - Highways has no objections subject to the imposition of conditions on any planning consent.

NWLDC - Environmental Protection has no objections.

NWLDC - Tree Officer has no objections.

Severn Trent Water has no objections or comments to make on the application.

Whitwick Parish Council no representation received to date.

Third Party Representations

204 No. individual letters of objection have been received which are summarised as follows: -

- 194 No. letters across four different letter templates;
- 4 No. from the occupants of 169 Loughborough Road;
- 2 No. from the occupants of 181 Loughborough Road;
- 1 No. from the occupant of 183 Loughborough Road;
- 1 No. from the occupant of 185 Loughborough Road;
- 2 No. from the occupants of 189 Loughborough Road;

The objections raised are summarised as follows: -

- Development contravenes Policy H4/1, Paragraph 53 of the NPPF and borders areas of SSI and APAC;
- This is the least sustainable part of the village because of its proximity to services;
- There is a surface water drainage problem due to the rock and substrata elements of this land and due to the large masses of concrete, roads and paving involved in the development surface water should be piped into the mains drainage surface water disposal system;
- Refuse storage/collection has not been accommodated on the site;
- Single storey properties are still too high;
- Impact on surrounding countryside is unacceptable;
- Development will be overbearing and oppressive due to overdevelopment of the site;
- Elevated position of the site results in detriment to the visual amenities of the surrounding area;
- Development on the site will set a precedent for similar forms of development further along Loughborough Road;
- Foul sewerage disposal system for the site will require a pump so that it can be delivered uphill to the relevant sewer, this may result in noise detriment to amenities;
- There will be a loss of countryside in conflict with Paragraph 17 of the NPPF;
- Development will not contribute to any of the local amenities such as play areas, schools and the transport network but will impose on all of these;
- Hours of works will need to be restricted;
- Access arrangements are unsafe and cause highway safety issues to pedestrians and highway users;
- The design of the dwellings is out of keeping with the local area;
- Position of the dwellings in relation to neighbouring properties will cause overlooking implications;

- Relationship between Unit 1 and No. 191 Loughborough Road remains unacceptable and would cause overlooking impacts;
- Position of Unit 1 will result in pressures for the trees protected by a Tree Preservation Order (TPO) to be removed;
- A larger survey of the ground conditions needs to be submitted to ensure the dwellings can be constructed;
- Use of lights on dwellings will result in impacts on amenities as well as wildlife.

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.

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 35 outlines that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to:

- accommodate the efficient delivery of goods and supplies;
- give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
- create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
- incorporate facilities for charging plug-in and other ultra-low emission vehicles; and
- consider the needs of people with disabilities by all modes of transport;

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 53 outlines local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area;

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;

Paragraph 120 outlines that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution should be taken into account. Where a site is affected by contamination or land instability issues, responsibility for securing safe development rests with the developer and/or landowner;

Paragraph 121 outlines that planning policies and decisions should also ensure that, amongst other things:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;

Paragraph 123 outlines that planning policies and decisions should aim to avoid noise from giving rise too significant adverse impacts on health and quality of life as a result of new development;

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;

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;

National Planning Practice Guidance

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

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 relating to the release of land for housing states that a sequential approach should be adopted, which reflects the urban concentration and sustainability objectives underpinning national policies. These are outlined as criteria (a) to (f) and the application site would fall within criterion (c) allocated and other appropriate land within Coalville. The second section of the policy goes on to outline a set of criteria relating to the sustainability of the location.

However, policy H4/1 represents 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 which states 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. As the Council cannot at the current time demonstrate a five year supply of deliverable housing sites it could not rely on Policy H4/1 as a reason for refusal. Regardless of this issue the sustainability credentials of the scheme would still need to be assessed against the NPPF.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. Whilst the site is situated on the periphery of the limits to development the distance of the dwellings to the services and facilities within the Whitwick Local Centre is considered to be acceptable and as such would not preclude the use of other forms of transport in order to access these services. The proposal for the erection of four new residential dwellings is, therefore, considered to score well against the sustainability advice in the NPPF.

As part of the land constitutes residential garden associated with No. 191, Paragraph 53 of the NPPF would be of relevance which outlines that inappropriate development of residential gardens should be resisted where there is the potential that development would cause harm to the local area. The implications of the development to the character and appearance of the streetscape and surrounding area (as discussed in more detail below) would not be sufficiently detrimental to justify a refusal of the proposal given the fact that the development would be to the rear of the properties fronting onto Loughborough Road (Nos. 181, 183, 185, 189). A sufficient amenity area to the existing property would also be retained and as the dwelling is not protected, nor is the land protected open space or countryside it is considered that the principle of the development would not conflict with the aims of Paragraph 53.

Density

Policy H6 of the North West Leicestershire 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 0.33 hectares, the proposal would have a density of 12.12 dwellings per hectare. Whilst the density would fall below that advised in Policy H6 this policy also identifies that it is important to factor into any assessment the principles of good design as well as green space and landscaping requirements. In the circumstances that the Local Authority values good design in its approach to residential development and there would be a need to incorporate a strong landscaping scheme, given the site's setting within the National Forest, it is considered that the density proposed would represent an efficient use of the land. In these circumstances

the proposal would not substantially conflict with the principles of Policy H6 of the Local Plan as to warrant a refusal of the planning permission.

Residential Amenity

It is considered that the properties most immediately affected by the proposed development would be Nos. 181, 183, 185 and 189 Loughborough Road, two storey detached and semi-detached dwellings, situated to the south of the site and No. 169 Loughborough Road, a single storey detached dwelling, situated to the south-west of the site.

One of the reasons for the refusal of application reference 12/01094/FUL was based around Policy E3 of the Local Plan with the specific reason being as follows: -

"The proposal by virtue of its inappropriate scale and relationship with neighbouring properties would result in a development form which would have an adverse overbearing and overlooking impact on the existing amenities of neighbouring residents and as such to permit the proposal would be contrary to Policy E3 of the North West Leicestershire Local Plan."

It is noted that application reference 12/01094/FUL proposed one two-storey detached property and three one and half storey properties which had eaves heights between **3.9 metres** and **4.6 metres** and overall heights between **7.5 metres** and **7.9 metres**. This application proposes that one two-storey property would be provided along with three single storey properties which would have eaves heights between **2.5 metres** and **4.6 metres** and overall heights between **5.5 metres** and **7.5 metres**, the highest figures relating to the two-storey property.

With regards to the ridge heights it is noted on the submitted plans that No. 191 Loughborough Road has a ridge level of **179.03**, with the ridge level of No. 189 being **176.61**, No. 185 being **176.85**, No. 183 being **176.85**, No. 181 being **173.07** and No. 169 being **173.00**. The proposed dwellings would have ridge heights of **176.65 (Unit 1)**, **174.92 (Unit 2)**, **174.50 (Unit 3)** and **173.05 (Unit 4)**. The land rises upwards from west to east so the ridge levels rising from Plot 4 to Plot 1 would be in keeping with the topography of the land with it being noted that the ridge levels of Plots 2 to 4 would be over 4.0 metres lower than No. 191.

With regards to the distances between Units 2, 3 and 4 and the properties to the immediate south these would be as follows: -

- Front to rear elevation between Unit 2 and No. 189 Loughborough Road would be **26.8 metres** with Unit 2 being set **13.0 metres** from the northern (rear) boundary of No. 189;
- Front to rear elevation between Unit 3 and No. 185 Loughborough Road would be **27.8 metres** with Unit 3 being set **8.2 metres** from the northern (rear) boundary of No. 185;
- Front to rear elevation between Unit 3 and No. 183 Loughborough Road would be **33.6 metres** with Unit 3 being set **9.4 metres** from the northern (rear) boundary of No. 183;
- Side to rear elevation between Unit 4 and No.181 Loughborough Road would be **28.2 metres** with Unit 4 being set **6.0 metres** from the northern (rear) boundary of No. 181;
- Detached Garage to Unit 4 and rear elevation of No.181 Loughborough Road would be **24.8 metres** with the detached garage being set **0.6 metres** from the northern (rear) boundary of No. 181;

Unit 1 would be set **1.2 metres** from the eastern (side) boundary of No. 189 Loughborough Road and Unit 4 would be set **16.0 metres** from the north-eastern corner of No. 169 Loughborough Road with the detached garage being set **6.4 metres** from the same corner of No. 169. The detached garage serving Unit 2 would be set **15.4 metres** from the north-western corner of No. 189 Loughborough Road and **0.6 metres** from the northern (rear) boundary with a

distance of **12.0 metres** to the north-eastern corner of No. 185 Loughborough Road and **0.5 metres** to the eastern (side) boundary.

The District Council's Development Guidelines, which are now out-dated due to the forms of development which can now be constructed without planning permission, specifies that the distance between a principal window of a habitable room and the blank wall of an adjacent dwelling should be no less than 11.0 metres (in the case of a two-storey property and single storey property), that a rear elevation to rear elevation distance (or front elevation to rear elevation distance) should be no less than 22.0 metres with the distance between the rear/front elevation of a property and the rear boundary of an adjacent property being 11.0 metres. Although the Development Guidelines may be out-dated in many respects separation distances are still considered to be of relevance and conform to an accepted national standard.

Although accepting that the land levels rise from the rear elevations of those properties on Loughborough Road to the site, with No. 169 being set at a lower land level than the majority of properties, the fact that Units 2, 3 and 4 would be single storey dwellings with ridge levels below those properties on Loughborough Road directly to the south of the site would reduce their visual massing with the majority of the Plots having roofs which would slope away from the shared boundaries. In the circumstances that the distances achieved between Plots 2, 3 and 4 and the properties most immediately affected would be well in excess of those contained in the Council's Development Guidelines, even taking into account the differences in land levels, it is considered that a reason for refusal on the basis of a significantly detrimental overbearing or overshadowing impact could not be sustained in this instance given that the proposed relationships exist on numerous sites throughout the District. In terms of the distance between Units 3 and 4 and the rear boundaries of Nos. 181, 183 and 185 it is noted that they would be below the recommended 11.0 metres however as the dwellings are single storey the establishment of a boundary treatment, or landscaping, along the boundary would negate any significant overlooking impacts.

Unit 1 would project 3.2 metres beyond the two-storey part of the northern (rear) elevation of No. 189, 1.4 metre beyond an existing single storey rear extension, with the western (side) elevation of the single storey side extension being set 1.2 metres from the boundary and the main two-storey western (side) elevation being set 3.4 metres from the boundary. Given the overall projection of Unit 1 beyond the rear elevation of No. 189, as well as the distance of the two-storey element from the boundary, it is considered that it would not have a significantly detrimental overbearing or overshadowing impact on the occupant's amenities. Any views established from the first floor windows of Unit 1 would also be directed to the latter parts of the rear amenity area to No. 189 and as such there would not be a significant overlooking impact.

Unit 4 would be set 9.6 metres from the eastern (side) boundary of No. 169 and given the single storey nature of the property it is considered that there would be no adverse overlooking implications particularly given the amount of amenity space available to No. 169. Although No. 169 lies at a lower land level it is considered that the amendments made to the detached garage, in order to incorporate a hipped roof, would reduce the overbearing impacts on the occupant's amenities given that it would not be directly visible in views established from the property as well as the fact that No.169 benefits from a substantial rear amenity area.

With regards to the detached garage to Unit 2 it is considered that this would not impact adversely on the amenities of Nos. 185 and 189 Loughborough Road given that it would not be substantially dominate along the boundaries of these properties and the use of a hipped roof assists in reducing its visual massing. The structure would also be largely screened from No. 185 by the presence of a detached outbuilding.

Concerns have been expressed about the potential noise generated by vehicles utilising the access road, however, it is considered that the level of traffic generated by the occupants of Plots 2, 3 and 4 would not be significant and would not be too dissimilar to having a development on a corner site with a road running close to the dwelling and its rear garden, which was considered in an appeal to be an acceptable yardstick for an acceptable standard (Appeal Ref: APP/G2435/A/08/2065885/WF). It is considered that the level of noise generated by the three properties would not be sufficiently detrimental to the neighbouring amenities, particularly given the above appeal decision, and in the circumstances that a suitable landscaping and boundary treatment scheme could be agreed, which could include acoustic fencing, it is considered that this would further mitigate the impacts. A condition would also be imposed to ensure that any external lighting proposed for the road and parking areas for the dwellings would be agreed with the Local Planning Authority and any boundary treatments agreed would also prevent any significant overlooking implications from users of the proposed pavement.

With regards to the impacts on any future occupants of the residential properties it is considered that although the dwellings on Loughborough Road would be to the south of Units 2, 3 and 4 they would be situated a sufficient distance from the elevations of these dwellings to ensure that there is no adverse overbearing and overshadowing impacts. Given the aforementioned distances there would also be no adverse overlooking implications on these Units. In terms of Unit 1 it is considered that as this property would be set slightly further back than the rear elevation of No. 189 Loughborough Road there would be no adverse overlooking implications and the orientation of the dwelling to this property would also ensure there would not be any significantly detrimental overbearing or overshadowing impacts. No. 191 would be set 12.8 metres to the north-east of the rear elevation of Unit 1 and this distance, as well as the fact that it would not be directly behind the dwelling, would ensure that there would be no adverse overbearing or overshadowing impacts. Although a bay window exists on the front elevation of No. 191 at first floor level, within close proximity to the boundary with Unit 1, the rear amenity area has been designed so that there would be no direct overlooking impacts given that any view would be at an oblique angle, or directed towards the latter part of the rear amenity area should a view be established from the window in the western side of the bay window. In any case should this relationship be deemed inappropriate a condition could be imposed to ensure that the first floor bay window was obscured glazed and had a restricted opening given that it is within the applicant's control.

Units 1 and 3 would also not impact significantly on the amenities of No. 191 Loughborough Road given the position of these dwellings in relation to the existing dwelling as well as the position of habitable room windows not creating any overlooking implications.

The actual relationships between the Units would also be acceptable with a distance of 12.8 metres being maintained between the eastern (front) elevation of Plot 4 and the western (side) elevation of Unit 3 to ensure there would not be an adverse overlooking impact.

It is considered that a condition could be imposed on any consent to ensure that a bin store is provided near to the vehicular access of the site to ensure that bins/recycling containers are not distributed in the highway on collection days.

In terms of the objections raised over construction noise it is considered that this is an inevitable temporary, manifestation of any development project, which is not the concern of the planning system unless there would be exceptional amenity harm. When this is the case, a planning condition restricting hours is often applied but in this instance as Environmental Health has

raised no issues to the development in this regard, it is considered that the imposition of an hours condition would be unreasonable.

Overall the development would not significantly conflict 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 second reason for the refusal of the previous application reference 12/01094/FUL was as follows: -

"The proposal, by virtue of its inappropriate scale, design and layout of the dwellings and their positioning in respect of existing properties along the frontage of Loughborough Road, would result in a development form which would be out of keeping with the character and appearance of the surrounding environment and which would be visually incongruous when observed from public vantage points. Therefore, to permit the proposal would be contrary to Policy E4 of the North West Leicestershire Local Plan."

The application site is sloped with the land along the western boundary being lower than that along the eastern boundary by around 2.2 metres. Residential properties within the immediate vicinity of the site predominately front onto Loughborough Road with the two exceptions being Nos. 169 and 191 Loughborough Road and the dwellings generally consist of detached or semi-detached types. Nos. 183 and 185 Loughborough Road also exhibit high quality in their architectural design including the use of eaves detailing, painted stone headers, mid-course details and chimneys and the majority of properties are set back from the highway to allow off-street parking to be provided to the frontage.

Views of the development site would be established from the entrance to the site off Loughborough Road, although the protected trees and additional landscaping would be provided on either side of the access road, and public footpath O27 runs through Cademan Wood (to the north of the site) as well as between Nos. 121 and 127 Loughborough Road which lies 139.0 metres to the west of the site. Unit 1 reflects the design of the dwelling previously proposed under application reference 12/01094/FUL, which was altered due to the relationship with protected trees, and as such has a 'dual frontage' which would enhance its appearance when viewed from the site entrance and access road. The provision of a stone boundary wall along the site frontage and its continuation around the perimeter of Unit 1 would also respect the character of the surrounding area. Whilst the termination of a vista within the site would be of the detached garage to Unit 4 it is considered that the property itself would still be visible in any view established from the access road and in the circumstances that the position of the dwelling would be compromised by the relationship with neighbouring properties it is considered that this arrangement would be acceptable in this instance and would not compromise the scheme as a whole. The implications of the development on the enjoyment of people utilising public footpath O27 would also not be sufficiently detrimental given that any view established from the north would be of the dwellings fronting Loughborough Road and No. 191 and its

associated structures and as such this view would not be substantially altered by the provision of the proposed dwellings and the dwellings themselves would not restrict views onto significant features beyond the site when viewed from the west.

Although the dwellings themselves would not reflect the current building line of properties which, in the majority, front onto Loughborough Road it is considered that built forms of development exist behind these properties, such as Nos. 169 and 191 (and its associated outbuildings) Loughborough Road and the structures to the rear of No. 149 Loughborough Road, and in these circumstances it is considered that the provision of Units 2, 3 and 4 would not have a significantly detrimental impact on the character of the area to warrant a refusal of the application.

In terms of the implications of the development on the appearance of the surrounding area and streetscape it is considered that substantial woodland exists to the north and west of the site, which would restrict views from these areas. Units 2, 3 and 4 would now be single storey properties which would have ridge heights lower than those of the properties fronting onto Loughborough Road, with the exception of No. 169, and as such they would not be substantially prominent on the landscape. Some views of Unit 4 will be established from the street, due to the gap between Nos. 169 and 181, however the overall height of the dwelling and the detailing of the southern (side) elevation would ensure that it would not have a significantly detrimental impact on the streetscape or surrounding area to justify a refusal of the application.

The design of the properties themselves are considered to be acceptable and would include chimneys, eaves and verge detailing and use of headers, which would be in keeping with the positive characteristics of dwellings within the vicinity of the site, as well as timber porches, windows and doors to reinforce the National Forest identity of the dwellings. Although the dwellings would have a larger footprint than those dwellings fronting Loughborough Road it is considered that the dwellings on the site would be read in conjunction with their relationship with No. 191 Loughborough Road, which is larger than those properties on the frontage. The provision of single storey properties has also increased the footprint of Units 2, 3 and 4 but given the overall footprint of No. 169 (a single storey property) it is considered that the scale of the dwellings would be acceptable and would not impact significantly on the overall character and appearance of the area. The access road has also been amended to ensure that it would not be of an 'over-engineered' design which has enhanced the aesthetics of this element of this scheme.

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. It is considered that the new vehicular access to serve the site would improve the visibility achieved when looking in an eastern direction (towards the Swannymote Road junction) and sufficient space would exist at the entrance to the site to ensure that vehicles could pull clear of the highway whilst awaiting for another vehicle to

exit.

Areas have been provided within the site to allow for vehicles to manoeuvre so that they would exit in a forward direction and sufficient off-street parking would also be provided for each dwelling. Overall, therefore, the development would accord with the principles of Policies T3 and T8 of the Local Plan.

Ecology

The County Ecologist has raised no objections to the development on the basis of the findings of the ecological information provided in support of application reference 12/01094/FUL. The surveys concluded that the site is of low ecological value and primarily consisted of species poor grassland, formal lawned areas, a vegetable garden and a few semi mature orchard trees which do not offer roosting opportunities. It is also concluded that the topography of the site would ensure that the Grace Dieu and High Sharpley Site of Special Scientific Interest (SSSI) would not be adversely affected by run-off of excess waters or additional pollutants. On the basis of these findings no mitigation measures would be required. In the circumstances that protected species would not be adversely affected by the proposals it would ensure compliance with Paragraph 118 of the NPPF and Circular 06/05.

Landscaping and Impact on Trees

Three trees along the southern boundary of the site are protected by Tree Preservation Order (TPO) 430. The layout and scale of Unit 1 is the same as that previously considered acceptable under application reference 12/01094/FUL and as a result of this the Council's Tree Officer has no objections to the scheme given that the dwelling would be set a sufficient distance from the tree stems of the protected trees.

Paragraph 5.11 (1) (ii) of Tree Preservation Orders - A Guide to the Law and Good Practice outlines, amongst other things, that *"layouts may require careful adjustment to prevent trees from causing unreasonable inconvenience, leading inevitably to requests for consents to fell."* Further to this BS 5837:2012 ('Trees in Relation to Design, Demolition and Construction - Recommendations'), which has replaced BS 5837:2005 (Trees in Relation to Construction), indicates that *"layouts sited poorly in relation to retained trees, or the retention of trees of an inappropriate size or species may be resented by future occupiers and no amount of legal protection will ensure their retention or survival."* Although the retained trees are significant in stature, and are located to the south of Plot 1, it is considered that the distance achieved would be satisfactory in ensuring that the occupants amenities would not be adversely affected given that only one first floor habitable room window would face in the direction of the trees, which would also be served by a roof light. This relationship would therefore ensure that there would not be pressure on the trees to be removed.

Given that the trees would be retained and a condition could be imposed to request that a landscaping scheme be agreed it is considered that the development would accord with Policies E7, F1, F2 and F3 of the Local Plan.

Other Matters

It is noted that the application site and the properties within the vicinity of the site do not fall within a Flood Zone. In terms of the representations received relating to drainage issues associated with surface water run-off it is considered that the details of drainage would be dealt with under separate legislation (Building Regulations and Severn Trent Water) and as such any issues relating to how surface water run-off would be managed would be addressed at that time. In the circumstances that the site is not within a Flood Zone it is anticipated that any surface water run-off solution would not further exacerbate any localised flooding issue. As such the

development would not conflict with Paragraph 103 of the NPPF.

The Council's Environmental Protection team have raised no objections to the development with regards to ground contamination or land instability and given that the site does not fall within the Coal Mining Referral Area it is considered that the proposals would not lead to land instability issues to neighbouring properties which would ensure compliance with Paragraphs 120 and 121 of the NPPF. Should any future issue arise with regards to land stability then this would be a civil matter between the residential properties affected and the developers of the site.

There is no evidence to suggest that the 'blasting' of granite rock would be required to form the drainage channels and in any case this method of construction would be covered by separate legislation and would not form a material planning consideration. The implications of the development on property values and the right to a view are also not material considerations which can be taken into account in the determination of this application.

Planning applications are assessed on their own merits and as such the potential that a precedent could be set for similar developments within the surrounding area should the application be approved would not constitute a material consideration in the determination of this particular application.

Summary Reasons for Granting Planning Permission

The site is located within the limits to development where the principle of residential development would be acceptable and Whitwick would be considered a sustainable settlement for new development given that it would fall within the Coalville Urban Area. The loss of part of the residential garden to No. 191 would also not impact adversely on the streetscape or surrounding area given the amenity area retained and the fact that the land is not protected open space or countryside. On this basis the development would accord with Paragraphs 14, 49 and 53 of the NPPF. Although the density of the scheme would be below that recommended within current planning policy it is important to factor into any assessment good design, landscaping and association with other forms of development and as such it is considered that the density proposed would be acceptable and would accord with Policy H6 of the Local Plan.

The provision of single storey properties to the rear of those properties fronting onto Loughborough Road, and east of No. 169, would ensure that the development as a whole would not have a significantly detrimental overbearing, overshadowing or overlooking impact on the amenities of existing residents. An acceptable relationship with the existing property on the site (No. 191) would also be maintained and the units themselves would have an acceptable relationship with each other which would ensure compliance with Policy E3 of the Local Plan. The movement of vehicles on the internal access road would also not result in sufficient noise detriment to neighbouring properties, given the limited amount of vehicular movements which would be associated with the dwellings, and as such the development would not conflict with Paragraph 123 of the NPPF.

It is considered that the proposed dwellings would be read in conjunction with their relationship with No. 191 and as such their floor areas would not be out of keeping with the surroundings with the single storey dwellings having a floor area not too dissimilar to No. 169 (a single storey dwelling). In the circumstances that built forms of development also exist which do not directly front onto Loughborough Road, as well as the fact that their single storey nature would ensure that they would be suitably screened by built forms fronting Loughborough Road, it is considered that the development would also not have a sufficiently detrimental impact on the character and appearance of the surrounding area or streetscape. In these circumstances the development would accord with Paragraphs 57, 60 and 61 of the NPPF and Policies E4, F1 and

H7 of the Local Plan.

The proposed access road into the site has been considered acceptable by the County Highways Authority and given that sufficient off-street parking would be provided it is considered that the scheme would accord with Policies T3 and T8 of the Local Plan.

No ecological species would be adversely affected which would ensure compliance with Paragraph 118 of the NPPF and Circular 06/05. The integrity of the protected trees would be retained and a landscaping scheme would be conditioned as part of any consent to ensure compliance with Policies E7, F1, F2 and F3 of the Local Plan. The drainage solution for the site would be agreed with Severn Trent Water and Building Regulations and any solution agreed would be on the basis that it would not exacerbate any localised flooding issues, as such the development would not conflict with Paragraph 103 of the NPPF. It is also anticipated that there would be no land contamination or land instability issues associated with the site which will ensure compliance with Paragraphs 120 and 121 of the NPPF. The development therefore accords with the planning policies stated above.

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 numbers HMD/PD/0289/01; HMD/PD/0289/02; HMD/PD/0289/03; HMD/PD/0289/04; HMD/PD/0289/05 and the drawing titled 'Detached Double Garage (1:100),' received by the Local Authority on the 3rd March 2014, 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 No development shall commence on site until the positioning and treatment of utility boxes and details of rainwater goods including external finishes 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 - in the interests of neighbouring amenities and the visual amenities of the locality.

- 5 Notwithstanding the details shown on the approved plans, no development shall

commence on site until detailed drawings of the chimney stacks and 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.

- 6 Notwithstanding the details shown 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 (with the detailed design, height and brick bond for the boundary walls to a scale of 1:10 being provided, and including 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(s) 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.

- 7 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.

- 8 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.

- 9 No external lighting shall be installed to the access road or the driveways and parking and turning areas of the new dwellings unless details of the position, height and type of lights have first been submitted to and agreed in writing by the Local Planning Authority. The external lighting shall be installed and operated in accordance with the agreed scheme.

Reason - in the interests of residential amenities.

- 10 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, and the detached garages serving Plot 2 and 4, 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.

- 11 Before first occupation of any dwelling on the site the following shall be provided: -
- A drainage scheme within the site such that surface water does not drain into the public highway;
 - 1.0 metre by 1.0 metre pedestrian visibility splays to be provided on both sides of the access;
 - Visibility splays of 2.4 metres by 54.0 metres to the right hand side and by 85.0 metres to the left hand side at the junction of the access with Loughborough Road which shall be in accordance with the standards contained in the current County Council design guide;
 - 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 5.0 metres behind the highway boundary and shall be so maintained at all times;
 - Any shared private drives serving no more than a total of 5 dwellings shall be a minimum of 4.25 metres wide for at least the first 5 metres behind the highway boundary and have a drop crossing of a minimum size as shown in Figure DG20 of the 6CsDG at its junction with the adopted road carriageway. NOTE: If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it so bounded on both sides, additional 0.5 metre strips will be required on both sides;
- 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 within the pedestrian and visibility splays.

Reasons - to reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users; in the interests of pedestrian safety; 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; to reduce the possibility of deleterious material being deposited in the highway causing dangers to highway users; 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.

- 12 Off-street car parking and turning facilities shall be provided within the application site in accordance with the details shown on drawing number HMD/PD/0289/01, received by the Local Authority on the 3rd March 2014. The parking and turning areas shall be surfaced and marked out prior to the development being first brought into use, and shall thereafter be so maintained at all times.

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

- 13 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 10 metres behind the highway

boundary and shall be hung so as the open inwards only.

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

- 14 The gradient of the access drive shall not exceed 1:12 for the first 5 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.

- 15 The existing vehicular access to No. 191 that becomes redundant as a result of this proposal shall be closed permanently and the existing vehicular crossings reinstated in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority within one month of the new access being brought into use.

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

- 16 No development shall commence on site until protective fencing for the trees protected by Tree Preservation Order (TPO) 430 has been provided in accordance with the details specified on drawing number HMD/PD/0289/01, received by the Local Authority on the 3rd March 2014. The protective fencing 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 protected by Tree Preservation Order 430.

- 17 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 protected by Tree Preservation Order 430.

Notes to applicant

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. 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 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager - (telephone 0116 3050001).
- 4 Please be aware that Leicestershire County Council as Lead Local Flood Authority (LLFA) are currently not a statutory consultee to the planning process for drainage

matters. When Schedule 3 of the Flood and Water Management Act 2010 is implemented Leicestershire County Council will become the SuDs Approval Body (SAB) and also a statutory consultee of the planning process. You will need to contact Leicestershire County Council if you have an aspiration for us to adopt any SuDs features associated with the development. Please email roadadoptions@leics.gov.uk if you wish to discuss further.

- 5 The proposal is situated in excess of 45.0 metres from the highway. In order to cater for emergency vehicles the drive and turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
- 6 This planning permission does NOT allow the applicant to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, you are advised to visit the County Council website as follows: -
For 'major' accesses - see Part 6 of the "6Cs Design Guide (Htd) at www.leics.gov.uk/Htd.
For minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.
- 7 The highway boundary is the wall fronting the premises and not the edge of the carriageway/road.
- 8 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 3057198.
- 9 Any street furniture or lining that requires relocation or alteration shall be carried out entirely at the expense of the applicant, who shall first obtain the separate consent of the Highway Authority.
- 10 The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at www.coal.decc.gov.uk
Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires 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. Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or

at www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website www.coal.decc.gov.uk.

This page is intentionally left blank

Erection of two detached dwelling alone with detached garages and associated access works

Report Item No
A8

30 Clements Gate Diseworth Derby DE74 2QE

Application Reference
14/00196/FUL

Applicant:
Mr B Simpson

Date Registered
10 March 2014

Case Officer:
Adam Mellor

Target Decision Date
5 May 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought to the Planning Committee as the agent for the application is related to three serving councillors (Caroline Large, Charles Meynell and Richard Blunt).

Proposal

The application relates to the erection of two two-storey detached dwellings on 0.174 hectares of agricultural land adjacent to No. 30 Clements Gate which lies on the southern side of the street. A new vehicular access into the site would be provided along with relevant off-street parking provision and turning facilities. It is noted that the site is situated outside the defined limits to development as identified in the Local Plan.

Consultations

As a result of the consultation process two letters objecting to and seven letters supporting the development have been received with Long Whatton and Diseworth Parish Council having no objections in principle to the proposals. All other statutory consultees have no objections subject to appropriate conditions being imposed on any consent granted.

Planning Policy

It is considered that the development would accord with all relevant policies of the North West Leicestershire Local Plan, the general principles of the National Planning Policy Framework (NPPF) as well as Circular 06/05 and relevant supplementary planning guidance.

Conclusion

As set out in the main report above, whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, such general policies that restrain the supply of housing are to be considered as not up-to-date given the inability of the Council to demonstrate a five-year supply of deliverable housing land. Thus the site's release for housing is considered suitable and will contribute towards meeting the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Diseworth is a sustainable location for the level of development proposed for this site with it is also being recognised that the housing development would be relatively well related to existing development and as such would not result in isolated housing in the countryside. Taking these matters into account the principle of the development would be acceptable. There would be no conflict with Paragraph 112 of the NPPF given the amount of agricultural land which would be developed upon. The density of the scheme would also not cause significant conflict with Policy H6 of the Local Plan given the overall aims of this policy in achieving acceptable design solutions and retaining existing features of the site such as landscaping.

It is considered that the relationship between the proposed dwellings and the existing properties on Clements Gate and Langley Close would be acceptable and would not cause significant conflict in respect of Policy E3 of the Local Plan.

In respect of the design approach it is considered that the proposed dwellings have drawn upon the positive characteristics of dwellings which exist on Clements Gate, and within Diseworth as a whole, and as such would not impact negatively on the characteristics of the streetscape. The position of the dwellings in relation to the street and the design approach to Plot 2 would also result in a termination of the built environment with no greater encroachment into the open countryside than that established by the Langley Close development opposite and as such there would not be a sufficiently detrimental impact on the openness or appearance of the wider landscape particularly given that Langley Close is at a higher land level. The retention of

existing landscaping also improves the assimilation of the development into the rural environment. As such the proposal would accord with Paragraphs 57, 60, 61 and 64 of the NPPF and Policies E4 and H7 of the Local Plan.

The provision of two dwellings would not result in detriment to highway users given that an adequate vehicular access would be provided along with improvements to the carriageway in order to ensure that it is suitable to serve the proposed dwellings. Adequate off-street parking facilities would also be provided to ensure compliance with Paragraph 32 of the NPPF and Policies T3 and T8 of the Local Plan.

No objection to the development has been received from the County Ecologist and given that the vegetation would be retained it is considered that this would ensure compliance with Paragraph 118 of the NPPF and Circular 06/05. A suitable landscaping scheme would also be conditioned on any consent to ensure compliance with the aims of Policies E2 and E7 of the Local Plan. The particulars of any foul and surface water discharge from the site would be agreed with Severn Trent Water and under Building Regulations with any solution agreed being on the basis that it would not exacerbate any localised flooding issue, as such the development would not conflict with Paragraph 103 of the NPPF. It is also considered that the land would not result in land stability issues for neighbouring properties and conditions would be imposed to ensure that the land would be fit for purpose in accordance with Paragraphs 120 and 121 of the NPPF.

It is therefore recommended that the application be approved.

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 recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the erection of two detached dwellings along with detached garages and associated access works at 30 Clements Gate, Diseworth. The site of 0.17 hectares lies on the southern side of Clements Gate and is situated outside the defined limits to development as identified in the North West Leicestershire Local Plan. To the north of the site lies an affordable housing exception site (named Langley Close) which was granted planning permission in March 2010 under application reference 09/01145/FUL. The surrounding area consists of residential properties to the west, which vary in their type and design, and open countryside to the east.

The land is currently identified as pasture land and it is proposed that a new vehicular access would be formed off the currently unmade part of Clements Gate with an existing vehicular access into the field being closed. It is proposed that two two-storey detached dwellings would be provided which would have the following dimensions: -

Plot 1:

This property would have a width of 11.0 metres by 8.6 metres in length and use of a pitched gable ended roof with an eaves height of 5.5 metres and overall height of 9.3 metres. It is indicated on the floor plans that the dwelling would provide a lounge, dining area, breakfast/kitchen area, hall, cloak room, study and utility room at ground floor level and four bedrooms, two en-suites and a bathroom at first floor level for the occupants.

Plot 2:

This property would have a width of 10.6 metres by an overall length of 8.7 metres and use of a pitched gable ended roof with an eaves height of 5.2 metres and overall height of 8.2 metres. A front projecting two-storey gable would have an overall height of 7.7 metres. It is indicated on the floor plans that the dwelling would provide a lounge, kitchen, utility room, hall, cloak room and dining room at ground floor level and four bedrooms, two en-suites and a bathroom at first floor level for the occupants.

Both properties would be served by detached garages which would have dimensions of 6.0 metres by 6.0 metres and use of pitched gable ended roofs with eaves heights of 2.6 metres and overall heights of 5.2 metres.

A design and access statement and ecology report have been submitted in support of the application.

No previous planning history on the site was found.

2. Publicity

10 No neighbours have been notified (date of last notification 25 March 2014)

Site Notice displayed 31 March 2014

Press Notice published 9 April 2014

3. Consultations

Clerk To Long Whatton & Diseworth consulted 25 March 2014

County Highway Authority consulted 25 March 2014

Severn Trent Water Limited consulted 25 March 2014
 Head of Environmental Protection consulted 25 March 2014
 LCC ecology consulted 25 March 2014
 LCC/Footpaths consulted 25 March 2014

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.

Leicestershire County Council - Ecology has no objections subject to a condition requesting the retention of the boundary hedges.

Leicestershire County Council - Footpaths no representation received.

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

Long Whatton and Diseworth Parish Council has no objections although has raised concerns over development outside the defined limits to development as well as the standard of the highway.

NWLDC - Environmental Protection has no objections.

NWLDC - Environmental Protection (Land Contamination) has no objections subject to the imposition of conditions due to the historic use of the site as clay quarry and clay goods manufacture.

Severn Trent Water has no objections.

Third Party Representations

Two letters of representation have been received from the occupants of No. 6 Langley Close and No. 3 The Green raising concerns to the application for the following reasons:-

- Property in Diseworth is expensive and tends to be large with this impacting on the village as the majority of the pupils attending the village school come from outside of the village;
- Diseworth needs smaller, low-cost dwellings in order to address this increasing imbalance;
- There is a danger of creating a 'precedent' if 'agricultural land' adjoining properties is built upon;
- Allowing dwellings outside the defined limits to development will effect Diseworth as a small village and will make it easier for other developers to expand Diseworth by developing in these areas;
- Development will impact on the view from the front and rear of our property as views of the countryside will be lost.

Seven letters of representation have been received from the occupants of Nos. 4 and 9 Brookside, Nos. 11 and 18 Grimes Gate, 12 Shakespear Close, Paddock House, Chapel Lane, Osgathorpe and an unknown address supporting the application for the following reasons: -

- The proposed development has taken into account the need to use available space for additional homes in the village without impacting on the nature of the village;

- The development will not be intrusive to established houses and the design is in keeping with the older houses in the village;
- The development completes the ends stop to the row of properties on this side of the lane and would match nicely with the completed affordable housing opposite;
- Since the community housing has expanded the village in the direction of the motorway this new proposal would almost infill to match;
- The land is too small to have any agricultural use and the plot is ideal for a small scale development such as that proposed;
- Additional accommodation is required to ensure that community services such as the school, bus service, village hall and pub remain viable;
- The development would be lower than the recent affordable housing scheme opposite the proposed scheme and would not be obtrusive to views of the village from distance;

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.

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 indicates that planning should always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings; and take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;

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:

- 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;

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 55 indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are a group of smaller settlements, development in one village may support services in a village nearby. Local Planning Authorities should avoid isolated homes in the countryside unless there are special circumstances such as, amongst other things:

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 112 outlines that 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;

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

Paragraph 120 outlines that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account;

Paragraph 121 outlines that planning policies and decisions should also ensure that, amongst other things:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;

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 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 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 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

6C's Design Guide (Highways, Transportation and Development) - Leicestershire County Council

Paragraphs 3.171-3.176 set out the County Council's guidance in relation to parking standards for residential development. This document also provides further info in relation to motor cycle/cycle parking, the design of on/off-street parking and other highway safety/design matters;

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;

National Planning Practice Guidance

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

6. Assessment

Principle and Sustainability

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 outside the 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. As explained further below, however, as a consequence of the Council currently being unable to demonstrate a five-year supply of housing land, Policy S3 can no longer be considered an up-to-date policy in the context of Paragraph 49 of the NPPF as it is a general policy that constrains the supply of housing.

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted, which reflects the urban concentration and sustainability objectives underpinning national policies. These are outlined as criteria (a) to (f) and the application site would fall within criterion (f) in locations where appropriate in the context of the Local Plan. The second section of the policy goes on to outline a set of criteria relating to the sustainability of the location.

However, policy H4/1 represents 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 which states 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. As the Council cannot at the current time demonstrate a five year supply of deliverable housing sites it could not rely on Policy H4/1 as a reason for refusal. Regardless of this issue the sustainability credentials of the scheme would still need to be assessed against the NPPF.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The settlement of Diseworth benefits from a range of local services and is readily accessible via public transport due to its proximity to East Midlands Airport. The proposal for the erection of two new residential properties is, therefore, considered to score reasonably well against the sustainability advice in the NPPF.

Furthermore, it is considered that the development site would be reasonably well related to existing built development along Clements Gate, particularly given the expansion of the settlement following the provision of the affordable housing exception site to the north of the site which expands further into the rural environment than this proposal, and would not result in truly

isolated dwellings in the countryside.

Therefore, taking these factors into account, along with matters of five year housing land supply, it is considered that the principle of residential development on this site would be considered acceptable.

The supporting information outlines that the Ministry of Agriculture, Fisheries and Food (MAFF) Agricultural Land Classification for the land is Grade III which is described as *"land with moderate limitations which affect the choice of crops, timing and type of cultivations, harvesting or the level of yield."* It is considered that the amount of agricultural land retained beyond the site boundaries coupled with the relatively small site area would ensure that the development proposals would not cause conflict with Paragraph 112 of the NPPF.

Density

Policy H6 of the North West Leicestershire 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 0.174 hectares, the proposed development would have a density of 11.49 dwellings per hectare. Whilst this density would fall significantly below that advised in Policy H6, this policy also identifies that it is important to factor into any assessment the principles of good design as well as green space and landscaping requirements. In the circumstances that the Local Authority values good design in its approach to residential development, there would be a need to retain and reinforce the landscaping of the site and a suitable housing mix has been achieved, it is considered that the density proposal would represent an efficient use of the land in this instance, which reflects and is in keeping with the character of existing development within this part of Diseworth. In these circumstances the proposal would not substantially conflict with the principles of Policy H6 as to warrant a refusal of the planning permission.

The fact that the scheme would provide only four bedroom properties would also not justify a refusal of the application under Policy H6 given that only two dwellings are proposed.

Residential Amenity

It is considered that the properties most immediately affected by the proposed development would be No. 30 Clements Gate, a two-storey link detached property, situated to the west of the site (this property is in the ownership of the applicant) and No. 6 Langley Close, a two-storey detached property, situated to the north-east of the site.

No. 30 contains four windows in its eastern (side) elevation, all of which serve non-habitable rooms, and it is proposed that the western (side) elevation of Plot 1 would be set 3.0 metres from this elevation with no part of Plot 1 extending beyond the northern (front) or southern (rear) elevations of No. 30. In the circumstances that the windows in the eastern (side) elevation of No. 30 serve non-habitable rooms and, in any case, this property is in the ownership of the applicant it is considered that the position of Plot 1 would not impact adversely on the occupants amenities in terms of overbearing or overshadowing impacts. With regards to overlooking impacts it is considered that the windows in the southern (rear) elevation of Plot 1 would not provide a direct view onto the immediate rear amenity area of No. 30 and no windows are proposed in the eastern (side) elevation of Plot 1 which would ensure that there would be no adverse impacts. The relationship between No. 30 and Plot 1 would also be acceptable given

that any views out of the windows on the eastern (side) elevation of No. 30 would be onto the blank western gable of Plot 1 with no direct views onto the immediate rear amenity area and the amount of projection of No. 30 beyond the northern (front) and southern (rear) elevations of Plot 1 is not significant.

The southern (side) elevation of No. 6 Langley Close would be situated 26.0 metres from the northern (front) elevation of Plot 2 and this distance is considered sufficient in ensuring that the development would not have a sufficiently detrimental overbearing or overshadowing impact on the occupant's amenities. No windows exist in the southern (side) elevation of No. 6 and in any case the distance between the elevations would ensure that there would be no detrimental overlooking implications either into or onto the immediate rear amenity area of this property. This distance of No. 6 from Plot 2 would also provide an acceptable relationship between the developments.

A distance of 12.5 metres would exist between the eastern (side) elevation of Plot 1 and the western (side) elevation of Plot 2 with Plot 2 being set slightly further back from Clements Gate than Plot 1. It is considered that this distance and relationship would ensure that any future occupants would not be adversely impacted on in terms of overbearing and overshadowing impacts. With regards to overlooking impacts it is noted that Plot 2 would contain windows at first floor level (serving an en-suite and secondary window to a bedroom) in its western (side) elevation which would provide views towards the immediate rear amenity area of Plot 1. In these circumstances it is proposed that these windows be conditioned to be obscure glazed and have a restricted opening in order to protect future amenities although it is noted that any views, particularly from the secondary bedroom window, would be partially obscured by the presence of the detached garage to Plot 1 which would have an overall height greater than that of the windows.

In terms of the representation raised in respect of the loss of a view it is noted that the right to a view is not a material planning consideration which could be taken into account in an assessment of the application. In any case the development would not be visible in any direct views established from No. 6 Langley Close given that no windows exist in this property's southern (side) elevation.

Overall, therefore, the development would accord with 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 information provided in support of the application identifies that the land is relatively flat from east to west but falls gradually from north to south. Residential development in the area varies between detached dwellings on the southern side of Clements Gate and semi-detached and terraced properties on the northern side of the street with the majority of properties being two-storey. Clements Gate contains properties which are relatively modern as well as more traditional dwellings, which fall within the Diseworth Conservation Area, and the affordable housing exception scheme also exhibits quality in its external appearance. In summary the positive characteristics of the area are eaves detailing, cills and headers detailing, chimneys, timber framing, stone plinths and the use of brick or render. Dwellings are generally set back

from the highway on the latter part of Clements Gate and parking provision is predominately to the frontages of sites.

The dwellings would be set a similar distance from Clements Gate as No. 30, with Plot 2 being set further back than Plot 1, and this arrangement would ensure that they contribute positively to the appearance of the streetscape by providing a strong street frontage. The retention of the boundary hedges would also incorporate the development into the adjacent rural landscape and would not have the same urbanising impact should the hedges be removed and replaced with fencing. Additional landscaping would also help reinforce and assimilate the development into a natural environment. The adjacent affordable housing exception site has been developed in an 'L' shape in order to try and 'terminate' the development line of the village and the submitted scheme has tried to reflect this 'termination' by Plot 2 having a projecting two-storey gable and detached garage which assists in defining the built and natural environments. Although the provision of the detached garage to the frontage of Plot 2 would lead to the vehicles associated with this dwelling being visible on the streetscape it is considered that this would not be sufficiently detrimental to the visual amenities of the wider area or streetscape to justify a refusal of the application given that the majority of properties on Clements Gate already have vehicular parking to their frontages or within the highway. With regards to the visual implications to the wider area it is noted that tree planting exists along the southern (rear) boundary of the site and the residential scheme at Langley Close, as well as the remaining properties on Clements Gate, to the north of the site are at a higher land level and as such the residential development would be largely screened from any wider views.

Although public footpath L48 would run adjacent to the southern (rear) boundary of the site it is considered that views enjoyed from this footpath would not be adversely impacted due to any view in a northern direction already being impacted on by existing built forms.

In terms of the designs of the individual properties it is considered that they have drawn upon the positive characteristics of properties on Clements Gate and as a result would contribute positively to the character and appearance of the streetscape. This has been achieved by the incorporation of stone plinths, chimneys and timber framing as well as contrasts between brick and render.

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, 61 and 64 of the NPPF and Policies E4 and H7 of the Local Plan.

Highway Safety

The County Highways Authority has raised no objections to the development subject to conditions being placed on any grant of planning permission. It is considered that although this part of Clements Gate is not 'formal' highway, given its surface, a condition would be imposed on any consent to ensure that the roadway is provided with a suitable surface to provide adequate access for any future occupants with the new access into the site being closer to the 'made-up' part of Clements Gate than the existing access. The highway, and relevant access, is also considered to be of a sufficient width to allow the safe passage of vehicles and to ensure that no vehicle waits in the highway whilst another vehicle exits the site.

In terms of off-street parking requirements it is considered that the detached garages would be of a sufficient size to accommodate a vehicle and additional off-street parking would be provided to the frontage of these structures.

Overall, therefore, the development would not result in detriment to highway users or result in vehicles being parked within the highway and as such the proposal would accord with Paragraph 32 of the NPPF and Policies T3 and T8 of the Local Plan.

Ecology

The County Council Ecologist has raised no objections to the application on the basis of the findings of the ecology report given that no habitats or species of note were recorded. The boundary hedges are considered to be important due to them providing habitat opportunities and as such a condition would be imposed to ensure that these hedges are retained. Overall, therefore, the development would accord with the aims of Paragraph 118 of the NPPF and Circular 06/05.

Landscaping

The submitted plans indicate that a section of the existing hedgerow on the northern (front) boundary would need to be removed to accommodate the new vehicular access. Given the width of the access drive the amount of hedging removed would not be substantial and an existing access would be closed and the gap in-filled with new hedging along with the retention of the remainder of the hedgerow and the planting of trees. As no specific details on the landscaping have been provided it is considered reasonable to impose a landscaping condition to ensure that native species are planted. In conclusion, however, it is considered that the scheme would retain and provide adequate landscaping to ensure compliance with Policies E2 and E7 of the Local Plan.

Other Matters

The Council's Environmental Protection team have raised no objections to the development with regards to ground contamination or land instability subject to conditions and given that the site does not fall within the Coal Mining Referral Area it is considered that the proposals would not lead to land instability issues to neighbouring properties which would ensure compliance with Paragraphs 120 and 121 of the NPPF.

It is noted that the application site and the properties within the vicinity of the site do not fall within a Flood Zone. Details of drainage would be dealt with under separate legislation (Building Regulations and Severn Trent Water) and as such any issues relating to how surface water run-off would be managed would be addressed at that time, although the application submission indicates that surface water run-off would be directed to a soak-away. In the circumstances that the site is not within a Flood Zone it is anticipated that any surface water run-off solution would not further exacerbate any localised flooding issue. As such the development would not conflict with Paragraph 103 of the NPPF.

Planning applications are assessed on their own merits and as such the potential that a precedent could be set for similar developments within the surrounding area should the application be approved would not constitute a material consideration in the determination of this particular application. However, it is considered that there would be resistance to any future expansion to the east of the site given that this would be more prominent in the rural landscape than the proposed development, which is largely screened by Langley Close, and as such would cause conflict with Paragraph 17 of the NPPF which outlines that decisions should *"recognise the intrinsic character and beauty of the countryside."*

Summary Reasons for Granting Planning Permission

As set out in the main report above, whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, such general policies that restrain the supply of housing are to be considered as not up-to-date given the inability of the Council to demonstrate a five-year supply of deliverable housing land. Thus the site's release for housing is considered suitable and will contribute towards meeting the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Diseworth is a sustainable location for the level of development proposed for this site with it also being recognised that the housing development would be relatively well related to existing development and as such would not result in isolated housing in the countryside. Taking these matters into account the principle of the development would be acceptable. There would be no conflict with Paragraph 112 of the NPPF given the amount of agricultural land which would be developed upon. The density of the scheme would also not cause significant conflict with Policy H6 of the Local Plan given the overall aims of this policy in achieving acceptable design solutions and retaining existing features of the site such as landscaping.

It is considered that the relationship between the proposed dwellings and the existing properties on Clements Gate and Langley Close would be acceptable and would not cause significant conflict in respect of Policy E3 of the Local Plan.

In respect of the design approach it is considered that the proposed dwellings have drawn upon the positive characteristics of dwellings which exist on Clements Gate, and within Diseworth as a whole, and as such would not impact negatively on the characteristics of the streetscape. The position of the dwellings in relation to the street and the design approach to Plot 2 would also result in a termination of the built environment with no greater encroachment into the open countryside than that established by the Langley Close development opposite and as such there would not be a sufficiently detrimental impact on the openness or appearance of the wider landscape particularly given that Langley Close is at a higher land level. The retention of existing landscaping also improves the assimilation of the development into the rural environment. As such the proposal would accord with Paragraphs 57, 60, 61 and 64 of the NPPF and Policies E4 and H7 of the Local Plan.

The provision of two dwellings would not result in detriment to highway users given that an adequate vehicular access would be provided along with improvements to the carriageway in order to ensure that it is suitable to serve the proposed dwellings. Adequate off-street parking facilities would also be provided to ensure compliance with Paragraph 32 of the NPPF and Policies T3 and T8 of the Local Plan.

No objection to the development has been received from the County Ecologist and given that the vegetation would be retained it is considered that this would ensure compliance with Paragraph 118 of the NPPF and Circular 06/05. A suitable landscaping scheme would also be conditioned on any consent to ensure compliance with the aims of Policies E2 and E7 of the Local Plan. The particulars of any foul and surface water discharge from the site would be agreed with Severn Trent Water and under Building Regulations with any solution agreed being on the basis that it would not exacerbate any localised flooding issue, as such the development would not conflict with Paragraph 103 of the NPPF. It is also considered that the land would not result in land stability issues for neighbouring properties and conditions would be imposed to ensure that the land would be fit for purpose in accordance with Paragraphs 120 and 121 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 the site location plan, topographical study (1:500) and drawing numbers CGD.SEC.002; CGD.PL1.003; CGD.PL1.004; CGD.PL2.005; CGD.PL2.006; CGD.SBR.007 Revision A and CGD.GAR.008, received by the Local Authority on the 10th March 2014, 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 render and the window/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 No development shall commence on site until the positioning and treatment of utility boxes and details of rainwater goods including external finishes 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 - in the interests of neighbouring amenities and the visual amenities of the locality.

- 5 Notwithstanding the details shown on the approved plans, no development shall commence until detailed drawings of the chimney stacks, eaves/verge detailing and head and cills to the properties have been first 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.

- 6 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) 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 and once provided shall thereafter be so retained. The

approved hard landscaping scheme 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 as well as to provide suitable habitat for protected species.

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

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

- 8 Notwithstanding the submitted plans, nor Condition 2 above, before first occupation/use of the dwellings a detailed scheme for the boundary treatment of the site (including all walls, fences, gates, railings and other means of enclosure) shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be provided in full prior to the first occupation of any dwelling hereby approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.

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

- 9 Before first occupation of the development hereby permitted, the carriageway shall be surfaced with tarmacadam from the point at which the tarmacadam surfacing on Clements Gate terminates to a point past the proposed access to the development, in accordance with a scheme which shall first be submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Authority.

Reason - in the interests of highway safety.

- 10 Before first occupation of the development hereby permitted, a footway shall be provided to the satisfaction of the Highways Authority from the existing footway on Clements Gate to the point of the new access to the proposed development.

Reason - the highway fronting the site has no separate facility for pedestrians and the proposal would lead to an increase in pedestrian movement along the highway. The footway is therefore required for the safety of pedestrians.

- 11 Before first occupation of the development hereby permitted the following shall be provided: -
- Visibility splays of 2.4 metres by 43.0 metres shall be provided at the junction of the access with Clements Gate. These shall be in accordance with the standards contained in the current County Council Design Guide;
 - The car parking and turning facilities as shown on drawing number CGD.SBR.007

- Revision A, received by the Local Authority on the 10th March 2014;
- 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 5 metres behind the highway boundary;
 - Drainage shall be provided within the site such that surface water does not drain into the Public Highway;
 - The proposed shared private access drive shall be a minimum of 4.25 metres wide with 0.5 metre wide clear margins for at least the first 5 metres behind the highway boundary and have a drop crossing of a minimum size as shown in Figure DG20 of the 6CsDG at its junction with the adopted road carriageway.
- Once provided the above shall thereafter be so maintained with nothing growing above a height of 0.6 metres above ground level within the visibility splays.

Reasons - 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; to ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area; to reduce the possibility of deleterious materials being deposited in the highway (loose stones etc); to reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users; to ensure vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

- 12 The window serving the en-suite and bedroom at first floor level in the western (side) elevation of Plot 2 shall be glazed with obscure glass, to Pilkington Standard 3 or its equivalent, and non-opening, unless the opening part is more than 1.7 metres above the internal floor level of the room in which the window is installed, which once provided shall thereafter be so maintained in perpetuity.

Reason - in the interests of preserving the amenities of neighbouring properties.

- 13 No development shall commence on site until details of proposed site levels and finished floor levels of the proposed dwellings, which should be related to a fixed datum point off the site, have been submitted to and agreed in writing by the Local Planning Authority. Once agreed the development shall be carried out in accordance with the approved details.

Reason - to determine the scope of the permission and in the interests of residential amenity.

- 14 No development (except any demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
- BS10175:2011 + A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
 - BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);
 - BS 8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and

- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.
Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:
 - CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.
The Verification Plan shall be prepared in accordance with the requirements of:
 - Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
 - CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.
- If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

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

- 15 Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
 - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
 - Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
 - Contain Test Certificates of imported material to show that it is suitable for its proposed use;
 - Demonstrate the effectiveness of the approved Remedial Scheme; and
 - Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

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

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage 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 in Condition 11 above, it will be necessary to trim the hedge back to and maintain it at the highway boundary.
- 4 The highway boundary is the hedge fronting the premises and not the edge of the carriageway/road.
- 5 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, you are advised to visit the County Council website as follows: -
- For major accesses - see Part 6 of the "6Cs Design Guide" at www.leics.gov.uk/6csdg;
 - For other minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.
- 6 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.
- 7 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.

This page is intentionally left blank

Change of use to community play area and beer garden,
extension to existing car park, buffer zone, provision of post
and rail fencing and hedging and installation of external
lighting

Report Item No
A9

Halfway House 65 Church Street Donisthorpe Swadlincote

Application Reference
14/00102/FUL

Applicant:
Mr Peter Riley

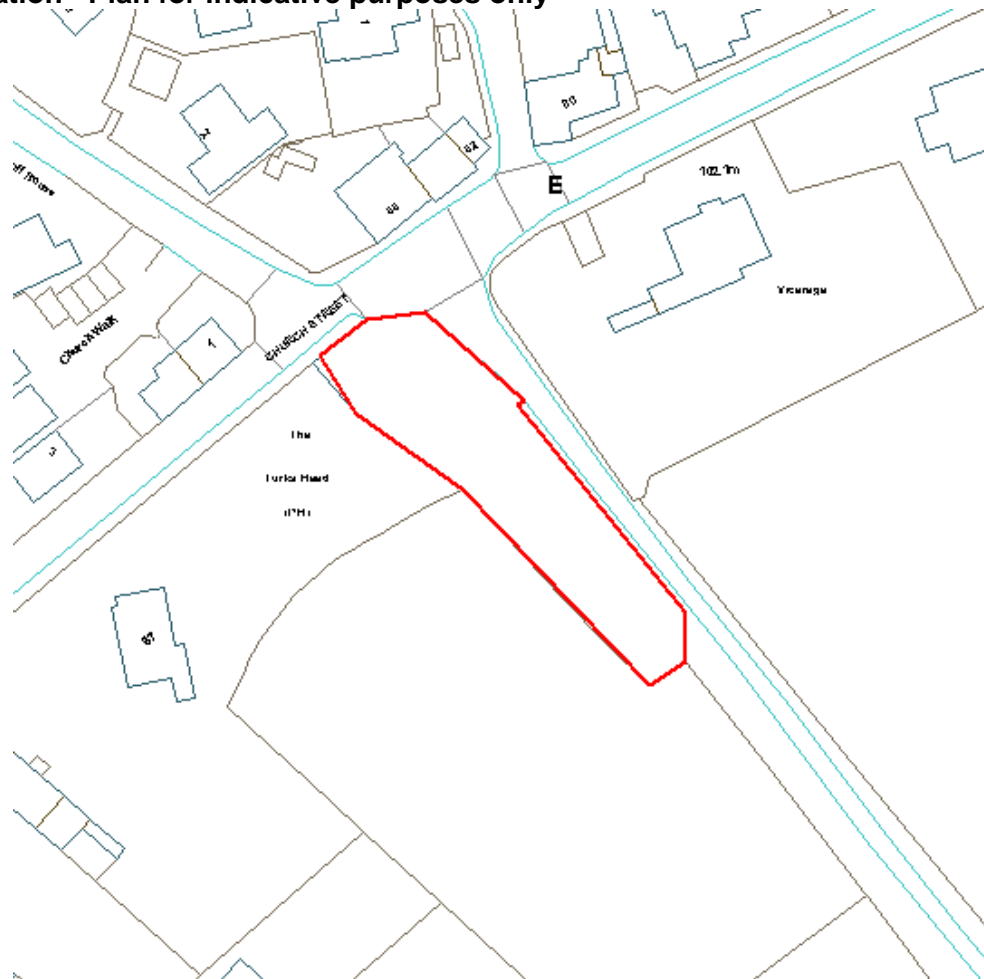
Date Registered
27 January 2014

Case Officer:
Joe Mitson

Target Decision Date
24 March 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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

Executive Summary of Proposals and Recommendation

Proposal

The application seeks permission for a change of use of land to a community play area and beer garden, extension to the existing car park and external lighting.

Consultations

Members will see from the main report below that an objection has been received in respect of the proposals from the occupier of a neighbouring property; no other objections are raised by the statutory consultees.

Planning Policy

The site is adjacent to the Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application however is the provision of community facilities and the rural economy.

Conclusion

The proposal is considered to be acceptable in terms of land use supporting an existing rural community facility and would lead to the expansion of the beer garden and the provision of a children's play area. The proposal would be well related to the existing building and site and with a suitable landscaping scheme would be well integrated into the edge of the settlement. Revisions to the scheme has reduced the potential impact on the residential amenities of occupiers of neighbouring properties and the relationship is now considered to be acceptable between existing and proposed land uses. No objection is raised in terms of highway safety or on the River Mease SAC/SSSi.

Recommendation:-

PERMIT SUBJECT TO THE IMPOSITION OF CONDITIONS.

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

MAIN REPORT

1. Proposals and Background

The application comprises the change of use of agricultural land to a community play area and beer garden, extension to existing car park and external lighting. The play equipment would comprise four pieces - a climbing frame, 'Spider monkey' playframe, 'Pony seesaw' and 'Spring motorbike'.

The application has been amended through the reduction of the area to be used for the proposal with a ten metre buffer now to be provided along the north-west and south-west boundaries. In addition the proposed walls and railings have been omitted to be replaced by timber post and railing fencing and hedging.

The application site is within the ownership of the Halfway Public House to the north-east. The Halfway House would operate the facility, stating within the Design and Access statement that there are no existing play facilities within the village. To the north-west is a residential property, 67 Church Street, with 'The Grange' further to the north-west. The garden of 67 bounds the site to the north and west. To the south are open fields, with an outbuilding to the south west. To the east is the existing car park to the pub.

Planning history comprises 07/00420/FUL which approved the erection of single storey extension to public house. 12/00707/OUT granted permission for the erection of a dwelling to the south of the pub.

2. Publicity

8 neighbours have been notified (Date of last notification 5 February 2014)

Site Notice displayed 5 February 2014

Press Notice published 12 February 2014

3. Consultations

Oakthorpe & Donisthorpe Parish Council consulted 5 February 2014

County Highway Authority consulted 5 February 2014

Head of Environmental Protection consulted 5 February 2014

Natural England consulted 5 February 2014

NWLDC Tree Officer consulted 5 February 2014

LCC ecology consulted 5 February 2014

NWLDC Conservation Officer consulted 5 February 2014

4. Summary of Representations Received

Oakthorpe and Donisthorpe Parish Council: no comments received.

Highway Authority: no objections subject to conditions.

Environmental Protection: concerns over the noise impact on the neighbouring property associated with the use of the play area and beer garden, the applicant should install a suitable acoustic barrier to prevent noise disturbance through a condition.

Natural England: no comments received.

Tree Officer: no comments received.

LCC Ecology: no comments received.

Third Party Representations

One letter received from an occupier of a neighbouring property objecting on the grounds that the paddock has a covenant on it precluding the consumption of alcohol, would be directly affected by the scale, noise, smell, oppressiveness and proximity as the development would be a few metres from the main living rooms and bedroom of the new dwelling approved at the outline stage, there have been noise issues from the pub from events held outside on the car park, the proposal is too large for the pub which only has seating inside for a limited number of people, the proposed layout is poor with the beer garden too far away from the pub and not visible from the main building, the playground is too far away from parental/pub supervision and children cannot access the community facility without going through the pub grounds/car park, impact on ecology, large sections of hedgerow would be removed and the paddock is a haven for wildlife, impact on archaeology. Have no objection in principle to community facilities; however the above concerns need to be addressed.

Following receipt of the revised plans the neighbour comments as follows: note the applicant's have addressed some of the issues in that the proposed wall is to be replaced by a post and rail fence with hedging but the amendments do not remotely deal with the issue of noise and disturbance or the potential visual impact of an acoustic fence. The area of land subject to the application is very close to the existing residential boundaries and to the proposed dwelling, these gardens are short in length and the principle ground floor room windows face the application site, in addition to first floor bedroom windows. The inclusion of the buffer zone will have no impact in reducing noise though it may provide a visual screen. The beer garden remains disproportionately large for this small village pub and the use will almost certainly cause noise and disturbance to nearby residents particularly at unsocial hours when background noise levels are at their lowest. The inclusion of an acoustic barrier is an interesting attempt to overcome the problem but in the absence of any detail this is meaningless. The objections are that regular events have taken place in the paddock over the last few years which have caused noise and disturbance, general rowdiness and bad language which have prevented the family using their garden, events have also taken place on the car park with a similar outcome, in summer windows cannot be kept open which is unreasonable, the introduction of an unlimited amount of people and consequent activity into a large beer garden will only exacerbate the above problems particularly in evenings and at night, there is no guarantee a barrier would work, although the play area is welcomed the location within a beer garden is not suitable. The proposal would undermine the attractiveness of the open approach to the village and the acoustic barrier would be prominent and incongruous.

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.

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:

- 4 - Promoting Sustainable Transport through reducing greenhouse gas emissions, achieving sustainable modes of transport, providing safe and suitable access for all and improving the transport network;
- 7 - Requiring Good Design through seeking high quality and inclusive design for all, effectively connecting people and places and refusing poor design;
- 11 - Conserving and Enhancing the Natural Environment by protecting and enhancing landscapes, minimising the impact on biodiversity and recognising the benefits of ecosystem services.

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

North West Leicestershire Local Plan:

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

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 the adequate provision of access and circulation.

Policy T8 relates to parking provision.

Policy L2 states where it can be demonstrated that a rural location is necessary permission can be granted for informal recreational facilities on the fringes of built up areas and elsewhere outside the Limits to Development.

Other Policies

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.

6. Assessment

Principle of Development

The proposal comprises the change of use of a field adjacent to the Limits to Development to a community play area, beer garden, extension to pub car park and the installation of external lighting. The application specifically proposes the removal of the hedgerow along the eastern boundary to facilitate the extension to the car park. The field would be levelled and re-grassed

with a post and rail fence along the southern boundary with a hawthorn hedge. The beer garden/play area would comprise the play equipment towards the southern boundary with seating and gazebos dotted around the remaining area. The play area would be available for use by local children throughout the day to provide a community facility to the village and would be sectioned off by a 1 metre timber fence. A ten metre buffer, to be free from use and development connected to the proposal, would be implemented along the north-western and south-western boundaries of the site.

In support of the application the Agent advises the field has been frequently used for functions and events relating to the public house and community events including the siting of a marquee, the use of the land for a longer period throughout the year as a beer garden would allow the community and public house to utilise the use of the land when the weather permits and enable the play area to be used all year round, the scheme would aid the long term viability of the pub, the village does not have a play area and the equipment would be available for use outside the hours of the pub but would be closed at 9pm. The application also includes the submission of 8 letters of support and a petition in support of the proposal signed by 109 people.

The site is beyond the Limits to Development but adjacent to the settlement boundary. Policy S3 seeks to restrict development in such locations; however recreation and community facilities can be supported in principle at such locations. Furthermore, policy L2 allows informal recreation facilities provided a rural location can be demonstrated as being necessary on the fringes of built up areas. As such the proposed land use, comprising play area, parking for the pub and associated facilities and the beer garden would provide community and recreational facilities for the community and the proposal can be supported in land use terms.

Design, Visual Impact and Heritage Issues

The proposal would extend the car park into the field and provide a children's play area and beer garden. The car park extension would be similar in appearance to the existing and with landscaping would not have a significant visual impact on the site or surroundings. The existing car park is relatively small and a larger parking area would be visually acceptable.

The play area would occupy a floor area of 19 metres by 16 metres which represents a relatively limited proportion of the overall field. The siting would be well related to the pub and car park and would be read as part of the overall facilities. Landscaping would reduce the visual impact and aid the assimilation into this rural edge site.

The beer garden would be sited adjacent to the play area and expanded car park and would comprise tables and seating on a grassed area. The site would be limited by the ten metre buffer areas along two boundaries and no objection is raised visually. The buffer area would include landscaping and an acoustic fence to produce a wildlife corridor.

The walls and railings originally proposed have been omitted from the scheme to be replaced with post and rail fencing and hedging. The specific details of these can be controlled by condition. Lighting is also proposed although this been amended as a result of the omission of the walls and railings. A condition to cover the detail and impact of the lighting can be imposed.

The site is in close proximity to listed buildings including the Vicarage and Church of St John and The Grange. However, none are immediately adjacent to the proposals and the setting of these buildings would not be harmed by the proposed development.

Residential Amenity

Although the site borders countryside to the south and south-east there are dwellings in the

vicinity including 67 Church Street, The Grange and The Vicarage. In addition, a dwelling has been approved in outline adjacent to The Grange. The proposal would take the pub facilities closer to the dwellings to the west and following discussions with Officer's a buffer zone of ten metres has been agreed along the northern and western boundaries. This area will include an acoustic fence, details of which can be controlled via a condition, and landscaping.

No objection was been raised by Environmental Protection to the original provided the acoustic barrier is installed. Since that consultation the application has been amended to incorporate the buffer which would further reduce the impact on neighbouring properties. Notwithstanding the objections received it is considered that although the proposals are likely to generate a greater level of noise and disturbance the revised plans together with the mitigation measures of landscaping and acoustic fence, would safeguard the residential amenities of occupiers of neighbouring properties.

Highway Safety

The proposal includes the expansion of the car park and the Highway Authority raise no objection subject to conditions relating to visibility splays and the surfacing and provision of the parking area.

Ecology

A report has been submitted as part of the application noting the proposal does not include the provision of toilet facilities, that the surface water run-off would be mitigated by constructing the extension of the car parking by utilising porous asphalt to prevent excess surface water run-off. The play area would be constructed with a green grasslock sunk into the ground to ensure the grass is hardwearing and rainwater would continue to soak through the ground to prevent any additional run-off. There would be no change to the existing grass.

It is therefore concluded the proposal would not have a negative impact on the River Mease.

An Ecological Assessment Report was submitted which concluded the proposed development would have no adverse effect on any protected species on site or in the immediate and wider local area. As such no mitigation measures are required.

RECOMMENDATION - PERMIT, subject to the following conditions:

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

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

- 2 The development shall be built strictly in accordance with the approved plans as follows:

R135 01 (car park extension and play area only)

A4 Land adjacent to The Grange, Church Street, Donisthorpe 1:2500 depicting the ten metre buffer zone and identifying the scope of the beer garden.

This permission does not convey approval for use of the buffer zone as part of the beer garden or play area or for the railings and walls.

Reason: To determine the scope of this permission

- 3 Before development commences on the site a landscaping scheme shall first be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in the first planting and seeding season following either the first occupation or the bringing into use of the development hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. The scheme shall have particular regard to the treatment of the site boundaries.

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

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

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

- 5 Before the commencement of development details of an acoustic barrier to prevent noise disturbance shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the location of the barrier, details of the noise mitigation measures and the design and appearance of the barrier. The approved barrier shall be installed prior to the first use of the beer garden or play area and shall thereafter remain as approved.

Reason: In the interests of residential amenity

- 6 Before the commencement of development, and notwithstanding the details submitted, details of external illumination shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these approved details which shall also include methods of shielding to ensure the illumination does not adversely impact on highway safety or residential amenity.

Reason: In the interests of residential amenity and highway safety

- 7 Before development commences on the site a boundary treatment scheme shall first be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the location, materials, design and dimensions of the boundary treatment and it is expected post and rail fencing together with native hedging shall feature. The approved scheme shall be implemented prior to the first use of the beer garden and play area hereby approved and shall thereafter be so maintained.

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

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

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

enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

- 9 Before first use of the development hereby permitted, visibility splays of 2.4 metres by 17 metres to the right hand side shall be provided at the junction of the access with Hall Lane; the visibility splay shall be so maintained in perpetuity and nothing within it shall be allowed to grow above a height of 0.9 metres above ground level.

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.

- 10 The use of the beer garden shall not take place outside the following hours: 0900 to 2300 Monday to Saturday and 0900 to 2230 Sundays and Bank Holidays.

Reason: In the interests of residential amenity

Notes to applicant

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was necessary in this instance to agree an acceptable 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).

This page is intentionally left blank

Variation of condition 2 of planning permission 08/00362/FUL to allow an increase in the number of caravans that can be stationed on the site at any one time to 5, of which 2 can be occupied as residential accommodation at anytime.

Report Item No
A10

46 Bardon Road Coalville Leicestershire LE67 4BH

Application Reference
12/00390/VCU

Applicant:
Mr James O' Connor

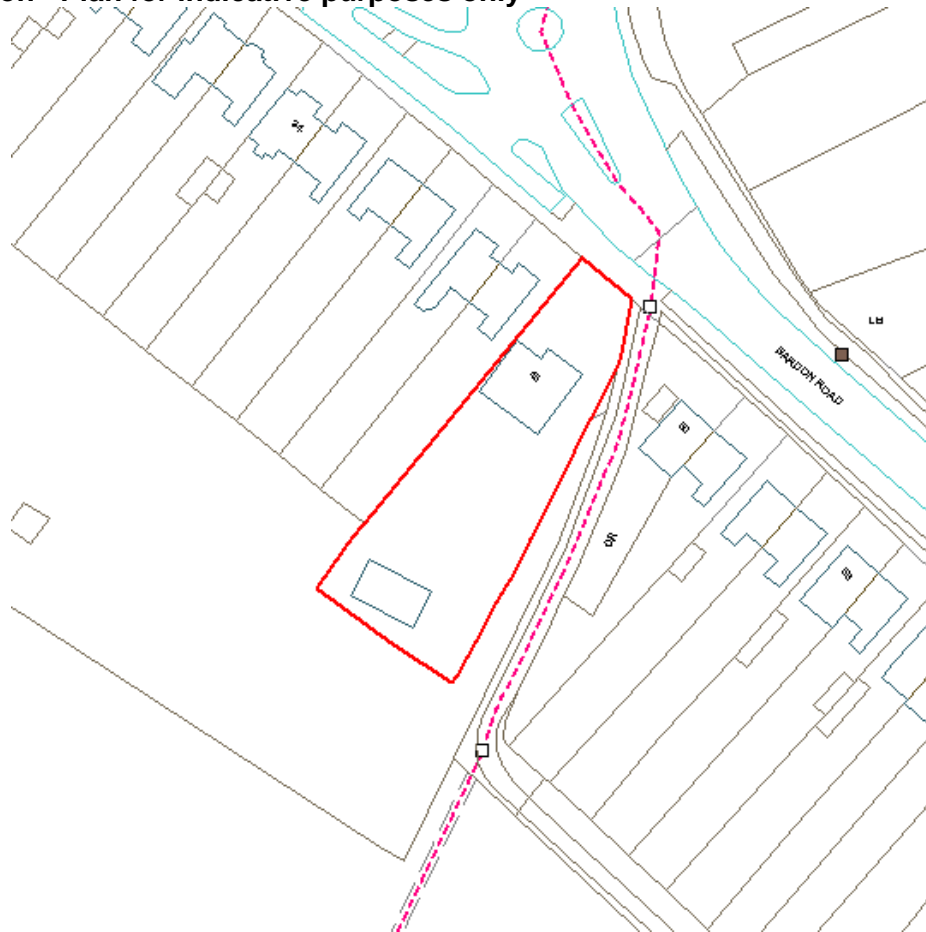
Date Registered
2 May 2012

Case Officer:
Joe Mitson

Target Decision Date
27 June 2012

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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

Executive Summary of Proposals and Recommendation

Proposal

The application comprises a variation of condition 2 of planning permission 08/00362/FUL to allow an increase in the number of caravans that can be stationed at the site at any one time to 5 of which 2 can be occupied as residential accommodation at any time.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals from the occupier of neighbouring properties; no other objections are raised by the statutory consultees.

Planning Policy

The site is within the Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application however is visual and residential amenity and highway safety.

Conclusion

The site has the benefit of permission for a mixed use of residential and caravan storage and the proposal seeks to increase the number of caravans stored from one to three. This is considered acceptable in terms of land use terms and would not have a significant impact on visual or residential amenity. Furthermore, no objection has been raised by the Highway Authority and conditions can be imposed relating to the access, parking and landscaping.

Recommendation:-

PERMIT SUBJECT TO THE IMPOSITION OF CONDITIONS.

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

MAIN REPORT

1. Proposals and Background

The application comprises a variation of condition 2 of planning permission 08/00362/FUL to allow an increase in the number of caravans that can be stationed at the site at any one time to 5 of which 2 can be occupied as residential accommodation at any time.

There is a detailed history on the site. The most relevant includes 08/00362/FUL which was allowed on appeal for a mixed use of the land as a single dwelling and as a caravan site. Condition 2 stated: "No more than 3 caravans shall be stationed on the site at any time, of which no more than 2 shall be occupied as residential accommodation at any time, and all caravans positioned on the site shall be capable of being lawfully towed on the public highway, without division into separate parts".

The application is retrospective.

2. Publicity

13 Neighbours have been notified (Date of last notification 4 May 2012)

Site Notice displayed 4 April 2012

3. Consultations

County Highway Authority
 Head of Environmental Protection
 County Highway Authority
 Head of Environmental Protection

4. Summary of Representations Received

Highway Authority: no objections, subject to a condition for a layout plan to be submitted showing adequate parking provision for the caravans.

Environmental Protection: no objections.

Two letters received objecting on the grounds that objections won't make any difference, the caravans will be visible from nearby dwellings, noise, questions how will it be monitored and work is carried out first without permission.

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.

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:

- 4 - Promoting Sustainable Transport through reducing greenhouse gas emissions, achieving sustainable modes of transport, providing safe and suitable access for all and improving the transport network;
- 7 - Requiring Good Design through seeking high quality and inclusive design for all, effectively connecting people and places and refusing poor design;
- 11 - Conserving and Enhancing the Natural Environment by protecting and enhancing landscapes, minimising the impact on biodiversity and recognising the benefits of ecosystem services.

National Planning Policy for Traveller Sites March 2012

The PPTS sets out the Government's policy for traveller sites. It should be read in conjunction with the National Planning Policy Framework. This is not detailed in this report as the proposal relates only to the storage of two additional caravans and does not relate to the creation of additional pitches.

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

North West Leicestershire Local Plan:

The 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:

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

Policy T8 relates to parking.

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.

6. Assessment

Principle

The site is within the limits to development and has the benefit of permission to change the use of the site to a mixed use as a single dwelling and a caravan site. This permission was granted under 08/00362/FUL on appeal subject to a number of conditions. These included C2 stating that no more than 3 caravans shall be stationed at any time with no more than 2 occupied for residential accommodation.

The proposal seeks to vary this condition to allow the stationing of a total of five caravans of which two would be residential. A plan has been submitted illustrating the layout of the site which depicts the applicant's tourer, two residential caravans and two stored caravans.

The condition was imposed in order to limit the use of the site to ensure the use remains compatible with surrounding uses and occupiers, to minimise the use of the access on the grounds of highway safety and to ensure the use of the site did not become over-intensive.

The proposal seeks to increase the number of caravans stored, but not be occupied, from one to three. They are sited adjacent to the footpath and away from the nearest residential properties. It is not considered the proposed increase would lead to significant negative impacts. The site is capable of accommodating the extra caravans and as they would only be stored there would be no significant increase in noise or disturbance or additional people residing on the site.

It is therefore concluded that the proposal would be acceptable in principle and would uphold the general thrust of the condition imposed at the appeal.

Design and Visual Impact

The proposed additional caravans are sited towards the rear of the site, well set back from the public highway to the north. The site is well landscaped and with the perimeter fencing views into the site are not easily available from the public realm. As a result the visual impact of the two additional caravans is limited. It is not considered, on balance, and notwithstanding the footpath adjacent, that the storage of the two extra caravans, have a significant impact of the visual amenities of the site and surroundings. The proposal therefore complies with policy E4.

Residential Amenity

The site has housing to the east and west with dwellings to the north set well back from the highway boundary and separated by Bardon Road. The dwellings to the east are separated by the footpath and the site of the additional caravans is to the rear portion of the site, a significant distance from the neighbouring dwellings. To the west the two additional caravans are separated by the approved three caravans and are on the far side of the site, away from the boundary.

Notwithstanding the objections raised, as the caravans would not be occupied it is not considered the siting only of two additional caravans would have an undue adverse impact on the residential amenities of occupiers of neighbouring properties. As such the proposal is considered to comply with policy E3.

Highway Safety

The site is accessed from Bardon Road and has an on-site turning area. The Highway Authority raise no objection subject to a condition relating to the provision of adequate parking on the site. It is considered the site could accommodate the five caravans, the turning area and adequate parking and therefore a condition is recommended to illustrate the parking to serve the two

occupied caravans and the dwelling.

On upholding the appeal the Inspector imposed a condition requiring a scheme designed to provide safe access to and egress from the site and on-site parking and turning. It appears this condition was not complied with and can be imposed on this current application.

It is therefore considered the proposal complies with policies T3 and T8.

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

- 1 The site shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller sites (2012) Annex 1 Glossary: Definition 1 and subject to the provisions of Condition 3 below.

Reason: To ensure the site continues to contribute towards the provision of accommodation for gypsies and travellers

- 2 No more than 5 caravans shall be stationed on the site at any time, of which no more than 2 shall be occupied as residential accommodation at any time, and all caravans positioned on the site shall be capable of being lawfully towed on the public highway, without division into separate parts.

Reason: To ensure the site remains compatible with the surroundings

- 3 The occupation of the site hereby permitted shall be carried on only by Mr Connors children, their partners and resident dependants. When the land ceases to be occupied by these residents the use hereby permitted shall cease and all caravans brought onto the land in connection with the use shall be removed.

Reason: In order to ensure the use of the site remains in the same use as the associated dwelling

- 4 The use shall cease and the caravans shall be removed from the site within 4 months of the date of this decision unless full details of the landscaping scheme have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in the first planting and seeding season following the approval of the scheme unless an alternative implementation programme has first been agreed in writing with the Local Planning Authority. The details shall include means of enclosure, car parking layouts, minor structures e.g. furniture, refuse or other storage units, lighting.

Reason: To ensure a satisfactory external appearance

- 5 This permission shall relate to the following plans: 1:1250 Location Plan received by the Local Planning Authority 20th June 2012 and A4 Site Plan 1:500, received by the Local Planning Authority 20th June 2012.

Reason: To determine the scope of the permission

- 6 Any trees or plants which within a period of 5 years 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 approval to any variation.

Reason: To ensure the landscaping scheme is adequately maintained

- 7 The use shall cease and the caravans shall be removed from the site within 4 months of the date of this decision unless full details of a scheme designed to provide safe access to and egress from the site, and on-site parking and turning, to serve the dwelling and caravans, has been submitted to and approved in writing by the Local Planning Authority. This scheme shall be implemented in accordance with a programme to be agreed in writing by the Local Planning Authority and shall thereafter be retained.

Reason: In the interests of highway safety

- 8 The existing perimeter fencing around the site shall be retained in its current form unless any variation is agreed in writing by the Local Planning Authority.

Reason: To protect the residential amenities of neighbouring properties and to ensure adequate boundary treatment

Notes to applicant

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. 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).

This page is intentionally left blank

Demolition of existing toilet block, provision of new entrance canopy, new paving and other external alterations including changes to the pedestrian crossing

**Report Item No
A11**

**Coalville Market Belvoir Shopping Centre Coalville
Leicestershire**

**Application Reference
14/00151/FULM**

**Applicant:
Ms Alison Balderson**

**Date Registered
10 March 2014**

**Case Officer:
James Mattley**

**Target Decision Date
9 June 2014**

**Recommendation:
PERMIT**

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

Proposal

Planning permission is sought for the demolition of existing toilet block, provision of new entrance canopy, new paving and other external alterations including changes to the pedestrian crossing at Coalville Market.

The application is to be determined by the Planning Committee as the application is submitted by the Council for its own development and objections have been received.

Consultations

Members will see from the report below that two letters of objection have been received from members of the public.

Planning Policy

The development is considered to comply with the relevant policies of the North West Leicestershire Local Plan as well as guidance contained within the National Planning Policy Framework.

Conclusion

The report below indicates that the scheme is considered to be acceptable in principle. The proposal would not adversely affect the character and appearance of the surrounding area, be significantly detrimental to highway safety or impact upon the amenities of nearby residents. On this basis it would accord with the development plan and all other material considerations. It is therefore recommended that the application be permitted.

RECOMMENDATION - PERMIT, subject to conditions.

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

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the demolition of existing toilet block, provision of new entrance canopy, new paving and other external alterations including changes to the pedestrian crossing at Coalville Market.

There would also be internal alterations to the market hall (that would not require planning permission) in order to provide public toilet facilities for those that would be lost as part of the demolition.

The application is to be determined by the Planning Committee as the application is submitted by the Council for its own development and objections have been received.

Pre-application advice has been carried out prior to the formal submission of this application.

2. Publicity

No neighbours have been notified

Site Notice displayed 19 March 2014

3. Consultations

County Highway Authority
Building Control

4. Summary of Representations Received

County Highway Authority has no formal comments to make as the proposed development lies outside the extents of the highway boundary.

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

- _ the alterations would not improve the market hall at all;
- _ proposal would be a waste of money;
- _ the market is in the wrong place.

5. Relevant Planning Policy

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

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. In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The NPPG does not change National Policy but provides practical guidance as to how such policies should be applied.

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

North West Leicestershire Local Plan

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

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

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.

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 Policies

6C's Design Guide (Highways, Transportation and Development) - Leicestershire County Council

Paragraphs 3.171-3.176 set out the County Council's guidance in relation to parking standards for residential development. This document also provides further info in relation to motor cycle/cycle parking, the design of on/off-street parking and other highway safety/design matters.

6. Assessment

Principle

The site is located within the Limits to Development as set out on the Proposals Map to the Local Plan where the principle of extensions and alterations to existing buildings are considered acceptable subject to impacts upon design, amenity, highway safety and any other material considerations. Although the site is located within the Central Shopping Area the proposed works would not alter the use of Coalville Market and it is not considered that there would be any conflict with retail policies.

Design

Consideration has been given to the design of the proposal and whether it would have an acceptable impact upon the character and appearance of the surrounding area.

The existing single storey flat roof public toilet block is not considered to make a positive contribution to the surrounding area. The removal of this building and its replacement with new paving is considered to be positive from a visual amenity perspective. The new paving and entrance canopy would provide for a more attractive arrival space for Coalville Market.

Conditions would be applied to any planning approval to ensure that the materials are appropriate for this visually prominent site. Overall, the design, appearance and scale of this proposal is acceptable and would not look out of keeping with the character and appearance of the surrounding area and is considered to be compliant with Policy E4 of the Local Plan.

Highway Safety

The proposal includes for the removal of the existing pedestrian markings and a new wider realigned crossing marked out on the site to provide a crossing point between Coalville precinct and the new paving area in front of Coalville Market. These alterations would appear to provide a safer crossing point. The County Highway Authority has no formal comments to make as the proposed development lies outside the extents of the highway boundary.

Taking all of the above into account, it is not considered that the proposal would conflict with highway safety policies T3 in the Local Plan or the advice contained in the County Council's 6C's document.

Residential Amenity

The site is not located in close proximity to any residential dwelling and, therefore, it is deemed that the development would not have any significant detrimental impact upon neighbouring residential amenities and is considered to be acceptable in relation to Policy E3 of the Local Plan.

Other Matters

Issues surrounding the existing market not being in the right place and the value for money of the proposed scheme are not material planning considerations and cannot be taken into account in the determination of this application.

Conclusion

The proposed works are located within the limits to development, would not impact with retail policies, and are considered to be acceptable in principle. The proposal is not considered to affect residential amenity in the area, have any significant detrimental design impacts or conflict with highway safety. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the Local Plan, in this case S2, E3, E4 and T8 and the advice contained in 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 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:

Drawing No. T3679_001-B deposited with the Local Planning Authority on 10 March 2013;

Drawing No. T3679_150-B deposited with the Local Planning Authority on 10 March 2013.

Reason - To determine the scope of this permission.

- 3 Prior to the commencement of any part of the development representative samples of the materials to be used in all external surfaces shall be submitted to and agreed in writing with the Local Planning Authority. The works shall be undertaken in accordance with the approved details.

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

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 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 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority on 01530 454666 for further details.

SECTION B- OTHER MATTERS

LIST OF APPLICATIONS FOR PLANNING COMMITTEE 6 May 2014

Section A – Planning Applications

Item	Reference	Details	Amend	Print	Sign	Sent
A1	14/00047/FUL					
A2	13/00249/OUT M					
A3	13/00335/OUT M					
A4	11/01054/FULM					
A5	13/00818/OUT M					
A6	13/00991/OUT M					
A7	14/00219/FUL					
A8	14/00196/FUL					
A9	14/00102/FUL					
A91	12/00390/VCU					
A92	14/00151/FULM					

Section B – Other Matters

Item	Reference	Details	Amend	Print	Sign	Sent
------	-----------	---------	-------	-------	------	------