

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 10 June 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 6 May 2014.	3 - 14
4. PLANNING APPLICATIONS AND OTHER MATTERS	
Report of the Head of Regeneration and Planning.	15 - 18



Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	13/00959/OUTM: Residential development for up to 42 dwellings (Outline - details of access included) Land At Spring Lane/Normanton Road Packington Ashby De La Zouch	PERMIT Subject to a Section 106 Agreement	19 - 52
A2	13/01002/OUTM: Erection of 30 dwellings, including 8 affordable homes (Outline - access included) Land South Of Normanton Road Packington Ashby De La Zouch Leicestershire	PERMIT Subject to a Section 106 Agreement	53 - 88
A3	13/00141/OUTM: Development of up to 450 residential dwellings and reinstatement of 1.1km of associated canal, provision of public open space and vehicular, emergency and footpath access (Outline application - All matters reserved except access) Land At Measham Waterside Burton Road Measham Derby	PERMIT Subject to a Section 106 Agreement	89 - 126
A4	14/00309/FULM: Use of land for the operational use of military and civilian "off Road Vehicles" (Including tanks, Armoured fighting vehicles, Heavy duty vehicles and off-road 4x4's) along with provision of 3.0 metre high straw bunds (Revised Scheme) Measham Lodge Farm Gallows Lane Measham Swadlincote	PERMIT	127 - 148
A5	14/00188/FUL: Erection of two detached dwellings with garaging 18 Meadow Lane Coalville Leicestershire LE67 4DL	PERMIT	149 - 160
A6	14/00020/FUL: Proposed change of use of retail unit and offices to four residential dwellings 64 High Street Measham Swadlincote Derby	PERMIT	161 - 172

MINUTES of a meeting of the PLANNING Committee held in the Council Chamber, Council Offices, Coalville on TUESDAY, 6 May 2014

Present: Councillor D J Stevenson (Chairman)

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

In Attendance: Councillors R D Bayliss, A Bridges, N Clarke, D De Lacy, T J Pendleton, J Ruff and L Spence

Officers: Mrs V Blane, Mr C Elston, Mr D Hughes, Mr J Knightley, Mr J Mattley, Mr A Mellor and Mrs R Wallace

74. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor J Legrys.

75. DECLARATION OF INTERESTS

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

Councillors D Howe and D Everitt declared that they had been lobbied without influence in respect of item A3, application number 13/00335/OUTM and item A4, application number 11/01054/FULM.

Councillor R Woodward declared that he had been lobbied without influence in respect of item A1, application number 14/00047/FUL, item A3, application number 13/00335/OUTM and item A7, application number 14/00219/FUL.

Councillor J Geary declared that he had been lobbied without influence in respect of item A3, application number 13/00335/OUTM, item A4, application number 11/01054/FULM, item A7, application number 14/00219/FUL and item A9, application number 14/00102/FUL.

Councillor R Johnson declared that he had been lobbied without influence in respect of item A3, application number 13/00335/OUTM, item A5, application number 13/00818/OUTM and item A7, application number 14/00219/FUL. He also declared a non pecuniary interest in item A4, application number 11/01054/FULM as a member of Hugglescote and Donington Le Heath Parish Council.

Councillor T Neilson declared that he had been lobbied without influence in respect of item A3, application number 13/00335/OUTM, item A4, application number 11/01054/FULM and item A9, application number 14/00102/FUL.

Councillor R Adams declared that he had been lobbied without influence in respect of item A3, application number 13/00335/OUTM, item A4, application number 11/01054/FULM, item A5, application number 13/00818/OUTM and item A6, application number 13/00991/OUTM.

Councillor M B Wyatt declared that he had been lobbied without influence in respect of item A1, application number 14/00047/FUL, item A3, application number 13/00335/OUTM, item A4, application number 11/01054/FULM and item A7, application number 14/00219/FUL. He also declared a non pecuniary interest in item A11, application number 14/00151/FULM as a business owner at Belvoir Shopping Centre.

Councillor G A Allman, J Houlton and G Jones declared that they had been lobbied without influence in respect of item A3, application number 13/00335/OUTM. They also declared a non pecuniary interest in item A3, application number 13/00335/OUTM as members of Ashby de la Zouch Town Council.

Councillor J G Coxon declared that he had been lobbied without influence in respect of item A3, application number 13/00335/OUTM and item A7, application number 14/00219/FUL. He also declared a non pecuniary interest in item A3, application number 13/00335/OUTM as a member of Ashby de la Zouch Town Council.

Councillor T Gillard declared that he had been lobbied without influence in respect of item A3, application number 13/00335/OUTM and item A7, application number 14/00219/FUL.

Councillor M Specht declared that he had been lobbied without influence in respect of item A3, application number 13/00335/OUTM, item A4, application number 11/01054/FULM, item A5, application number 13/00818/OUTM, item A6, application number 13/00991/OUTM, item A7, application number 14/00219/FUL and item A9, application number 14/00102/FUL.

Councillor J Bridges and N Smith declared that they had been lobbied without influence in respect of item A3, application number 13/00335/OUTM.

Councillor D J Stevenson declared that he had been lobbied without influence in respect of item A3, application number, 13/00335/OUTM and item A10, application number 12/00390/VCU.

76. MINUTES

Consideration was given to the minutes of the meeting held on 8 April 2014.

It was moved by Councillor G Jones, seconded by Councillor R Adams and

RESOLVED THAT:

The minutes of the meeting held on 8 April 2014 be approved and signed as a correct record.

77. 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.

The Chairman announced that item A2, application number 13/00249/OUTM had been withdrawn by the applicant and therefore would not be considered at the meeting.

78. A1 14/00047/FUL: DEMOLITION OF EXISTING DWELLING AND ERECTION OF 7 NO. DWELLINGS

242 Melbourne Road Ibstock Coalville Leicestershire

The Senior Planning Officer presented the report to Members.

Councillor J Ruff, Ward Member, addressed the Committee. She explained that as there had been numerous objections from local residents, she was speaking as their representative. She stated that the application had changed very little from when it was previously considered and Plot One was still overbearing. As the development was small it would not contribute to any of the services within the village, local schools would be

affected and the heritage of the village would be lost. She explained that a main concern was that the development was close to two roundabouts and it would increase the amount of traffic on an already busy road. She was happy with the change to the access as the previous proposal was dangerous but she felt that the proposed change from one to two bungalows was not appropriate for the site. She urged Members to refuse the application.

Mr S Freakley, objector, addressed the Committee. He thanked the developer for listening to the concerns regarding the access but he now felt that the current driveway was only built for one bungalow, so the proposal for two bungalows was inappropriate. He believed that the proposed pedestrian access would take away the privacy of neighbouring properties and could lead to anti social behaviour and littering, just like the local green. He also stated that the proposal for refuse collection was not appropriate due to the lack of space for leaving the bins at the kerb side.

Mr C Lawrence, agent, addressed the Committee. He assured Members that the proposal was for a good scheme that included a controlled pedestrian access, onsite parking, careful consideration of layout and landscaping, and no vehicular impact on Linden Close. He stressed that there was a need for bungalows in the area. He concluded that the developer had worked thoroughly with officers to get to this stage and urged Members to endorse the officer's recommendation to permit.

Councillor R Woodward commented that he had seconded the motion to defer the application at the previous meeting due to concerns regarding access and the closeness of the development to the neighbouring property's secondary windows. He stated that he would prefer to defer the application once again so that a better scheme could be achieved but if this was not possible he could not support approval. On the advice of the Head of Regeneration and Planning, the Chairman reported that if the application was deferred the applicant would likely appeal against non-determination, therefore Members should make a decision on the application.

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

Councillor M Specht referred to the report regarding the distance to neighbouring properties being acceptable but he felt by looking at the photographs of the site it was obvious that the development would be overbearing, therefore he did not agree with the report.

Councillor J Bridges asked if the distance to neighbouring properties was something that could be negotiated with the applicant if the Committee were to approve the application. The Head of Regeneration and Planning explained that this would not be possible as it was a full application and he could not see any way of further improvement.

Councillor T Neilson concurred with the comments made by Councillor R Woodward regarding the secondary windows of the neighbouring property as he did not approve of having a wall two metres away from windows that let in light.

Councillor J Geary stated that the secondary windows of the neighbouring property might be the only light source to the top of the stairs and approving this would take that away. The Head of Regeneration and Planning confirmed that a landing area was not a living space so it was not necessary to have windows for light.

The motion was put to the vote and LOST.

The Chairman then asked for an alternative proposal with sufficient planning grounds.

Councillor R Woodward moved that the application be refused on the grounds that it was overbearing and therefore contrary to Planning Policy E3. It was seconded by Councillor M Specht.

RESOLVED THAT:

The application be refused on the grounds that it was contrary to Planning Policy E3.

- 79. 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

As the application had been withdrawn from the agenda by the applicant, it was not considered.

- 80. 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

The Principal Planning Officer presented the report to Members.

Councillor R D Bayliss, Ward Member, addressed the Committee. He stated that he could marginally accept the proposal for social housing provisions but his main concern was the access off the A511 and Woodcock Way, especially as the improvement to junction 13 of the A42 was yet to be resolved. He stated that he understood that national policy influenced decisions made by the Committee and that Ashby was willing to take some of the burden for housing development but he stressed that it needed to be done under the Council's terms.

Ms M Tuckey, Parish Councillor, addressed the Committee. She reported that the Parish Council had discussed this development on five occasions, received two presentations from the developer and have objected each time the application had come to the Planning Committee. She highlighted that the main concerns were traffic implications and the proposed drainage strategy. She went on to list each time the application had been to the Planning Committee and how the Parish Council had objected. She concluded that the Highways Authority recently conducted a two week traffic assessment in Ashby and the result was a five percent increase in traffic flow since September 2011, the increase in traffic from the proposed development would only cause a further increase.

Mr M Ball, objector, addressed the Committee. He stated that the traffic levels through the town had increased in recent years due to businesses and new homes, and there were many accidents at the Grammar school. He stressed that another link road out of the town was urgently needed but this had not been proposed in any of the conditions. He added that he felt a full highway review should be undertaken as it was not appropriate to have the access to such a large development from the one island at the A511. He also believed that the access from Woodcock Way should be ruled out all together. He

concluded that local residents had campaigned against the development from the start due to access concerns and asked Members to refuse the application.

Mr R Sutcliffe-Smith, agent, addressed the Committee. He reported that the developer had tried to address all concerns raised by the local residents and had continued to engage with both local residents and officers. He explained that the access on Woodcock Way had been restricted and the access from the A511 was achievable. He concluded that there was an opportunity to create something special on the site and the proposed scheme was future proof.

Councillor G Jones asked for confirmation that the access on Woodcock Way could be restricted to 30 units as proposed. The Head of Regeneration and Planning confirmed that this could be conditioned as part of the planning permission.

Councillor T Neilson commented that the development had now been discussed on a number of occasions and it had not really moved forward. He stated that he was not against the development of the site in principle but the scheme needed to be right for Ashby. He referred to condition five which mentioned a master plan for the whole of the site and asked for a definition of the whole of the site. The Principal Planning Officer referred to the plan within the report and explained that the whole application site was outlined in red.

Councillor T Neilson commented that the developer had proposed highway contributions for Ashby but not specified what they would be used for. He asked for further details as it was difficult to make a decision without anything in writing. The Head of Regeneration and Planning reported that there were a number of offsite improvements proposed but the details had not yet been worked up. Once the application had been approved in outline form the Section 106 contributions could be used to obtain specific plans.

Councillor J Bridges referred to condition 32 and asked if more specific wording could be used to restrict the Woodcock Way access to 30 units as it was currently very open. After some discussion over the planning terms used and the preference to have clearer wording in layman's terms, the Principal Planning Officer confirmed that more specific wording could be used as well as the condition requested by Councillor G Jones.

Councillor G A Allman reported that the Town Council still had major concerns and he felt that the application was still muddled with unresolved matters. For those reasons he moved that the application be refused. It was seconded by Councillor J G Coxon. On the advice of the Head of Regeneration and Planning, it was agreed that the original reasons for refusal when the application was previously considered be used.

After further discussion regarding whether the proposed cul-de-sac off Woodcock Way should be removed as a reason to refuse as Members were happy with the condition to restrict the access, it was decided to leave it as one of the original reasons for refusal.

RESOLVED THAT:

The application be refused on the grounds of unacceptable access in terms of connections to the town centre and vehicular access to Woodcock Way, adverse impacts on the operation of Junction 13 of the A42 and the under provision of affordable housing.

- 81. 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

The Principal Planning Officer presented the report to Members.

Ms K Tudor, Parish Councillor, addressed the Committee. She stated that the report still did not clarify the concerns of the Parish Council and that the contributions offered were not enough. She felt that play areas were desperately needed in the area not green spaces as proposed and the contributions should be spent locally not at the Hermitage Leisure Centre. She concluded that contributions were necessary for the Hugglescote crossroads but not for the Community Centre to be demolished.

Mr R Spurr, objector addressed the Committee and listed the following concerns:

- The development would add an unacceptable amount of traffic to the Hugglescote crossroads and the traffic assessment used was 18 months old, so not up to date.
- He believed that under Planning Policy S3, the application was not sustainable.
- The development had very little affordable housing.
- The MPPF and other Planning Policies stated that the land was only to be used as a last resort.
- Great crested newts were established on the site.

Mr R Spurr added that as the contribution from Leicestershire Constabulary had been reduced, the money should be used for children and adult play. He concluded by urging the Members to refuse the application.

Mr G Phillipson, applicant, addressed the Committee. He stated that he had lived in the area for 48 years and was the Chairman of the Thomas Harley Charity which owned 70 percent of the application site. He explained the background of the Charity and identified where the money was currently donated to. He concluded that if the application was approved the charity would benefit greatly and would be able to continue its good work.

Councillor R Johnson stated that he had looked at the merits of the application but was very disappointed that the developer had not engaged with the Parish Council in the last three years as they had promised. He referred to the Localism Act which stated that a developer should consult with the Parish Council as well as local residents and details of this should be included within the application when considered by the District Council, he believed the developers had not been transparent by not consulting. He then stated the following concerns:

- The original proposals were for 43 affordable homes, which was under the Council's recommended percentage. The current application did not have any affordable homes within the development which was not acceptable, especially as the Council's website specifically refers to affordable housing in the District.
- He believed the land should be protected as there were great crested newts in the area and it is of high agricultural quality.
- There had been many objections to the application including Andrew Bridgen MP, Campaign to Protect Rural England and the Donington and Hugglescote Action Group.
- He believed the development was not sustainable as the nearest supermarket was over a mile away, the local school was two miles away, plus there were no bus routes or a doctor's surgery.
- The transport assessment was out of date as it was 18 months old and the Hugglescote crossroads was already overused, especially as other applications had been approved that would also have an impact.

- Out of all of the new homes built in the District, 51 percent were in the Hugglescote and Donington le Heath area.

Councillor R Johnson urged Members to refuse the application as the developer had not engaged, plus the documents on the website were not up to date.

Councillor J Geary raised concerns on the lack of affordable housing as they were desperately needed in the villages, also with other applications being permitted without any affordable housing there was a danger of setting a precedent. He referred to a recent article published which highlighted that developers were using viability of affordable housing in developments as an excuse to not include them in applications and he felt that Members could not let this continue. He also raised highway concerns as he believed that the opinion of the Highway Authority was a grey area. He felt that the development would have an adverse impact on Hugglescote cross roads and the Council was selling off affordable housing for a highway improvement with no details available. It was his opinion that the Council seemed to get this wrong and therefore could not support the application.

Councillor R Johnson moved that the application be refused on the grounds that it was contrary to Planning Policies E3 and E4, failure to comply with the Localism Act due to lack of engagement and the lack of affordable homes.

The motion was put to the vote and LOST.

The chairman then put the officer's recommendation to the vote.

RESOLVED THAT:

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

82.

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

The Senior Planning Officer presented the report to Members.

Councillor N Clarke, objector, addressed the Committee. He stated that the Highway Authority used a formula to calculate the traffic impact which resulted in 80 more vehicular movements on an already busy road, yet they still raised no objections which he found hard to believe. He also added that the Highway Authority were aware of the dangerous junction at Bardon Road as the plan was to close off the access once the link road was built, unfortunately that may never happen. He reported that the original proposal was for ten percent of affordable housing but the new proposals did not allow for any due to it being unviable, Councillor N Clarke asked for evidence of this. He expressed concerns that if developments were continuously approved with no affordable housing, it would be impossible to reduce the amount of housing benefit being claimed which was rising.

Councillor T Neilson moved that the application be refused on the grounds of highway safety and the lack of affordable housing. The proposal was not seconded.

The Chairman clarified that the application had already been approved previously and that Members were being asked to consider the variation of affordable housing not the full

application. The Planning and Development Team Manager confirmed this to be the case.

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

RESOLVED THAT:

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

83. 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

The Senior Planning Officer presented the report to Members.

Ms S Morrell, objector, addressed the Committee. She confirmed that she lived at 188 Bardon Road and that she did not receive an initial consultation letter. She explained that the proposed access was dangerous due to vehicles turning right onto Bardon Road and raised concerns at the lack of affordable housing. She concluded that she felt that the noise and dust from the building works would be disruptive to the neighbouring properties.

Mr J Deakin, applicant, addressed the Committee. He stated that the developer had a strong commitment to developing the District and the proposal conformed to the South East Coalville development brief. He reported that the development had a number of benefits including employment opportunities, contributing to the development plan and contributing to highway infrastructure. He concluded that although there were viability concerns regarding affordable housing, the developer was prepared to make contributions to affordable housing in the area.

Councillor M B Wyatt commented that there was already highway congestion in the area which was a problem and he could not justify voting in favour of the application. He therefore moved that the application be refused on the grounds that it was outside the limits of development and local knowledge of highway safety. It was seconded by Councillor T Neilson.

In response to a question from Councillor J Bridges, the Senior Planning Officer reported that the full viability reasons for affordable housing had not yet been received; this would be required before planning permission was officially given.

Councillor J Geary reported that it was likely that Bardon Quarry was increasing its output by 25 percent which would mean an increase in traffic movements too. He believed local residents would not be impressed if the Committee approved the application. The Chairman reminded Members that the Committee could not rely on speculative information when consideration applications.

Councillor M Specht stated that he could not see any reason to refuse the application.

Councillor M B Wyatt requested a recorded vote; therefore the vote was as follows:

For the motion:

Councillors R Adams, R Johnson, J Geary, T Neilson, R Woodward and M B Wyatt (6).

Against the motion:

Councillors G A Allman, J Bridges, J G Coxon, D Everitt, T Gillard, J Houl, G Jones, N Smith, M Specht and D J Stevenson (10).

Abstentions:

Councillor D Howe (1).

The motion was LOST.

The Chairman then put the officer's recommendation to the vote.

RESOLVED THAT:

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

84.

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

The Senior Planning Officer presented the report to Members.

Ms L Marjoram, objector, addressed the Committee. She raised the following concerns:

- Members have been told that the development was sustainable because it was inside the Coalville Urban Area when in reality it was not sustainable as there were no local shops in the vicinity and a mile away from the nearest bus stop.
- She felt that the roof height of the bungalows was too high and would be overbearing on the neighbouring properties. Approving the application could set a precedent for back garden development.
- Plot 1 was too close to the other plots and she reminded Members that they could choose to remove the plot.
- The granite on the site had not been properly investigated.
- The refuse collection arrangements had not been resolved as a refuse vehicle would not be able to access the road.

Councillor R Woodward stated that even though the proposal was for single storey units, they were still as high as the previous proposals for two storeys; he felt the height was an issue. He did not believe that the development was sustainable as the nearest bus stop was some distance away which meant people would rely on their own vehicles instead. He also felt that the proposed pitched roofs were unacceptable. Councillor R Woodward moved that the application be refused on the grounds that it was not sustainable, overbearing and flooding concerns. It was seconded by Councillor T Gillard.

Councillor D Everitt also expressed concerns regarding the height of the proposed development.

Councillor G Jones commented that he could not see any issues with the application.

Councillor T Gillard asked if the Committee could use Planning Policy H4/1 as grounds for refusal as it was referred to within the report. The Planning and Development Team Leader explained that Planning Policy H4/1 was out of date but it was still necessary to make reference to it within the report, therefore he advised that it was not an appropriate ground for refusal. The Head of Regeneration and Planning recommended that the Committee used Planning Policies E3 and E4 as grounds for refusal. The mover and seconder agreed.

RESOLVED THAT:

The application be refused on the grounds that the development was contrary to Planning Policies E3 and E4.

- 85. A8**
14/00196/FUL: ERECTION OF TWO DETACHED DWELLING ALONE WITH DETACHED GARAGES AND ASSOCIATED ACCESS WORKS
 30 Clements Gate Diseworth Derby DE74 2QE

The Senior Planning Officer presented the report to Members.

Although the agent had registered to speak, he declined the opportunity to address the Committee.

The officer's recommendation was moved by Councillor D J Stevenson and seconded by Councillor T Gillard.

RESOLVED THAT:

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

- 86. A9**
14/00102/FUL: 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
 Halfway House 65 Church Street Donisthorpe Swadlincote

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

Mr P Taylor, on behalf of Ms N Whitehouse who had been taken into hospital, addressed the Committee. He explained that the nature of the public house had changed over the past four years with five to ten outside events each year which has meant noise disturbance for Ms Whitehouse. She now has to spend the night away from her home during the events due to the level of noise, swearing and anti social behaviour. Ms Whitehouse had no objections to the play area or car park as her main concerns were for the beer garden as it would mean a loss of privacy and noise disruption.

Mr P Riley, applicant, addressed the Committee. He clarified that he had held five events in the last four years and had never received any noise complaints from the neighbouring residents. He explained that the events were designed for families and the accusations of anti social behaviour and swearing were not true.

Councillor J Bridges commented that during the site visit he could see that there was a 10 metre distance from the neighbours to the sound barrier and this was acceptable. He felt that the public house would bring life back into the village and was in support.

Councillor R Woodward commented that he felt lots had been done by the applicant to protect the neighbours from any noise disturbance.

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

RESOLVED THAT:

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

- 87. A10**
12/00390/VCU: 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.
46 Bardon Road Coalville Leicestershire LE67 4BH

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

Councillor J Geary moved that the application be refused on the grounds that it was contrary to Planning Policies E3 and E4. It was seconded by Councillor R Woodward. The motion was put to the vote and LOST.

The Chairman then put the officer's recommendation to the vote.

RESOLVED THAT:

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

- 88. A11**
14/00151/FULM: DEMOLITION OF EXISTING TOILET BLOCK, PROVISION OF NEW
ENTRANCE CANOPY, NEW PAVING AND OTHER EXTERNAL ALTERATIONS
INCLUDING CHANGES TO THE PEDESTRIAN CROSSING
Coalville Market Belvoir Shopping Centre Coalville Leicestershire

The officer's recommendation was moved by Councillor R Woodward and seconded by Councillor J Bridges.

RESOLVED THAT:

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

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 7.10 pm

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APPENDIX B

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

10 June 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.

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Residential development for up to 42 dwellings (Outline - details of access included)

Report Item No
A1

Land At Spring Lane/Normanton Road Packington Ashby De La Zouch

Application Reference
13/00959/OUTM

Applicant:
K Goodwin And B Moseley

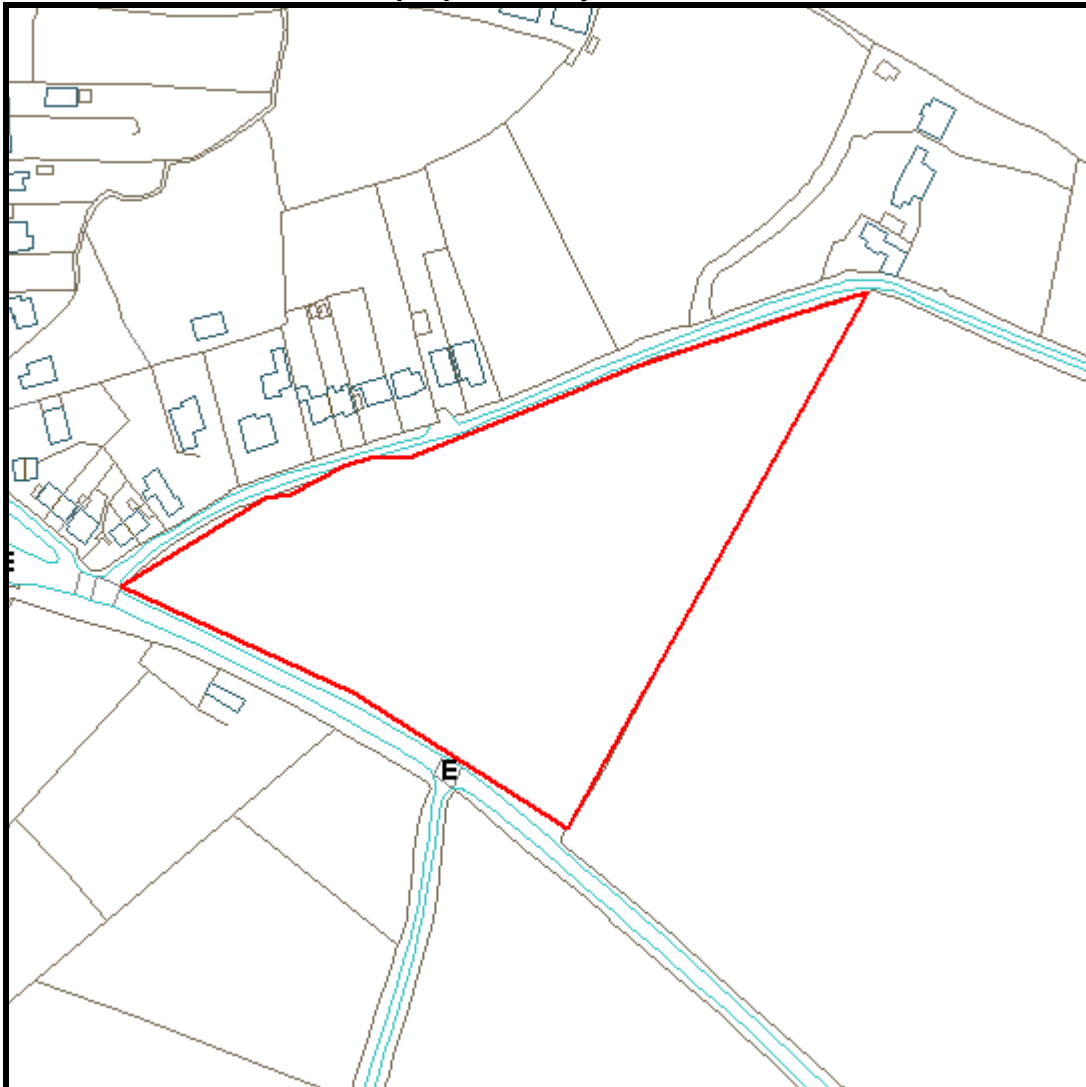
Date Registered
26 November 2013

Case Officer:
Hannah Exley

Target Decision Date
25 February 2014

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application falls to be determined by the Planning Committee as the application has been called in by Councillor Smith due to concern about access and the location of the site outside the settlement boundary.

Proposal

Outline planning permission is sought for the erection of 42 residential units including affordable housing and provision of sustainable urban drainage on a triangular piece of land at the corner of Spring Lane and Normanton Road, Packington. The site is 2.2 hectares and currently used as pasture land and is situated on the south-eastern side of the settlement to the north side of Normanton Road. The application site is bordered on two sides by public highways and by open fields. The nearest residential properties are located to the east and north of the site, and are sited on the opposite side of Spring Lane facing the proposed development site.

The application is in outline at this stage with details of means of access included for consideration. Vehicular access into the site would be off Normanton Road and the centre point of the access would be approximately 90m from the junction with Spring Lane. Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application.

Consultations

Members will see from the main report below that objections have been received, including from Packington Parish Council, with 73 letters being received from members of the public including FLOAT (Packington Flood Action Team). The objections cover several different issues, broadly but not exclusively relating to eg. the principle and sustainability of the proposal, adequacy of existing services/infrastructure, highway safety, impact on nearby residents and the character of the settlement, flood risk and drainage and impact on the historic environment and ecology.

The County Highway Authority initially objected on two grounds in relation to the sustainability of the site's location and absence of footways and street lighting in the vicinity of the site which in conjunction with additional vehicular movements would introduce additional dangers to road users. Following the submission of additional information the Highway Authority has withdrawn the reasons for refusal. Leicestershire Police also advises that policing is not included within the submitted Heads of Terms and, therefore, it raises a formal objection to the application on sustainability grounds and because the development is unacceptable without the necessary policing contribution.

Planning Policy

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

Whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, as the Council cannot currently demonstrate a five-year supply of deliverable housing sites, its release for housing is considered suitable as Packington is a sustainable location for the level of development proposed for the site and the proposal would not result in a

significant increase in housing development within the village.

The proposed development would be acceptable in terms of density, impact on countryside, the character of the area and the historic environment, impact on trees, residential amenities, transportation and highway safety issues, flood risk and drainage, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services.

The proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

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

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

MAIN REPORT

1. Proposals and Background

The application falls to be determined by the Planning Committee as the application has been called in by Councillor Smith due to concern about access and the location of the site outside the settlement boundary.

Outline planning permission is sought for the erection of 42 residential units including affordable housing and provision of sustainable urban drainage on a triangular piece of land at the corner of Spring Lane and Normanton Road, Packington. The site is 2.2 hectares and is currently used as pasture land and is situated on the south-eastern side of the settlement to the north side of Normanton Road. The application site is bordered on two sides by public highways and by open fields on the other. The nearest residential properties are located to the east and north of the site, and are sited on the opposite side of Spring Lane facing the proposed development site.

The application is in outline at this stage with details of means of access included for consideration. Vehicular access into the site would be off Normanton Road and the centre point of the access would be approximately 90m from the junction with Spring Lane. The formation of the new access would require the removal of approximately 20m of existing hedgerow along Normanton Road.

Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application.

The outer boundaries of the site are predominantly occupied by mature hedgerows interspersed with trees. There are four existing vehicular access gates around the perimeter of the site with one off Normanton Road opposite the junction with Red Burrow Lane, one at the northern tip of the site off Spring Lane and two others along the western boundary off Spring Lane; one being adjacent to the existing stable buildings. The site is separated into four paddock areas by a hedgerow extending in a north-easterly direction across the site from Normanton Road and by post and rail fencing.

Land levels across the site rise in a north easterly direction with the lowest land levels being in the south western corner of the site at the junction of Spring Lane/Normanton Road and are highest at the northern tip of the site. Between these two points of the site, there would be an increase in land levels by up to 4.8 metres. Between the south eastern and the northern tip of the site, there would be an increase in land levels by up to 1.1 metre.

The site lies within the catchment area of the River Mease Special Area of Conservation. The Packington Conservation Area lies approximately 275 metres to the west of the site/ 200m to the north west of the site and the nearest listed building is the Grade 2 listed Packington House lying approximately 30 metres to the north. There are no protected trees on the site. There are no relevant planning history records for the site.

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraph 10(b) of Schedule 2 to the Regulations it has been concluded that this proposal does not constitute EIA development under the 2011 Regulations as its impacts, both on its own and cumulatively with the other major housing proposal to the southern side of Normanton Road (13/01002/OUTM)

are not considered to be significant and can be considered as part of the planning application.

2. Publicity

25 no. neighbours have been notified (Date last notified 16 May 2014)

Site Notice displayed 12 December 2013

Press Notice published 11 December 2013

3. Consultations

Packington Parish Council consulted 2 December 2013

National Forest Company consulted 16 May 2014

LCC Development Contributions consulted 16 May 2014

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 16 May 2014

NWLDC Tree Officer consulted 16 May 2014

County Highway Authority consulted 16 May 2014

Police Architectural Liaison Officer consulted 16 May 2014

County Archaeologist consulted 13 February 2014

LCC ecology consulted 13 February 2014

Manager Of Housing North West Leicestershire District Council consulted 13 February 2014

NWLDC Urban Designer consulted 16 May 2014

LCC ecology consulted 16 May 2014

Manager Of Housing North West Leicestershire District Council consulted 16 May 2014

Environment Agency consulted 3 December 2013

Severn Trent Water Limited consulted 3 December 2013

Head of Environmental Protection consulted 3 December 2013

Natural England consulted 3 December 2013

NWLDC Conservation Officer consulted 3 December 2013

English Heritage- Ancient Monument consulted 3 December 2013

Building Control - NWLDC consulted 3 December 2013

Head Of Leisure And Culture consulted 3 December 2013

Police Architectural Liaison Officer consulted 3 December 2013

Development Plans consulted 13 December 2013

Highways Agency- Article 15 development consulted 4 February 2014

4. Summary of Representations Received

Statutory Consultees

Packington Parish Council raises objection on the following grounds:

The site in question is a greenfield area and should be protected. If there is to be any development in the area, brownfield sites should be considered and greenfield sites should remain undeveloped. In addition, this particular location and proposed development is pushing the outer limits of Packington the wrong way.

Agreement to this application would open the flood gates to other greenfield sites being used for development which is not good planning, as how could further applications be refused if this one is granted. The proposal is unwarranted and inappropriate and would mean an increase of 15% to the size of the village. As it is, the school is at capacity regarding the space that there is available to them, and, therefore, there is no room to accommodate further numbers.

Currently, public transport is not adequate in Packington and consultation is underway for this to

be cut further, and, therefore, there will be an increase in car usage and more traffic.

In addition, there are issues with the access and road safety and drainage and flooding are a concern.

The County Highway Authority initially recommended refusal on two grounds:

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

(ii) Normanton Road lacks both footways and street lighting in the vicinity of the site. The development will introduce additional vehicular, pedestrian and cycle movements on Normanton Road to and from the new access position, including in the winter months in the hours of darkness. The proposal would introduce additional dangers to road users.

Following submission of additional information the County Highway Authority has withdrawn both reasons for refusal and has no objections subject to conditions and Section 106 requirements.

Highways Agency has no objections.

The Environment Agency has no objections subject to conditions.

Natural England has no objections subject to a River Mease developer contribution being secured in accordance with the River Mease Developer Contribution Scheme.

Severn Trent Water has no objection subject to conditions. STW has also confirms that there is capacity at the Packington Treatment Works to accommodate the proposed development.

County Ecologist initially recommended that the application be refused on the grounds of inadequate information about protected species and are plants. Following the submission of additional information, the County Ecologist has withdrawn their objection and has no objections subject to conditions.

County Archaeologist has no objections subject to conditions.

English Heritage advises that when having regard to statutory provisions, English Heritage does not need to be notified of the application.

NWLDC Affordable Housing Enabler advises that 30 percent of the dwellings proposed on the site will need to be affordable housing.

NWLDC Urban Designer considers that the indicative proposals offer the opportunity for Building for Life to be met in any future Reserved Matters application.

Council's Tree Officer: finds the submitted tree survey acceptable and makes a number of recommendations about landscaping of the site along and the level of information that would be required for a detailed application.

NWLDC Environmental Protection has no environmental observations and raises no objection.

National Forest Company advises that 20 percent of the site area should be woodland planting and landscaping and this will need to be secured through the S106 agreement.

NHS England have requested a contribution of £14,065.29 towards the Ashby Health Centre.

Leicestershire County Council - Highway Transportation & Waste Management Authority has not made a request for a contribution towards civic amenity sites.

Leicestershire County Council Library Services Development Manager have requested a contribution of £2760 towards additional resources at Ashby de la Zouch library.

Leicestershire County Council Local Education Authority have requested a contribution of £78,655.15 for the high school sector as there would be a deficit of 37 pupil places (5 created by the development) within high schools within a 3 mile walking distance of the site. A contribution of £80,762.70 is also sought for the upper school sector as there would be a deficit of 58 pupil places (5 created by the development) within upper schools within a 3 mile walking distance of the site.

No contribution is sought for the primary school sector as there currently an overall surplus for the area of 7 places when taking into account primary schools within a 2 mile radius of the site.

Leicestershire Police have requested a contribution of £20,795.00. Leicestershire Police also advises that policing is not included within the submitted Heads of Terms and therefore it raises a formal objection to the application on sustainability grounds and because the development is unacceptable without the necessary policing contribution.

No responses had been received from the Council's Leisure team at the time of writing this report.

Third Party Representations:

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

72 letters of neighbour representation have been received, raising objection on the following grounds:

STRATEGIC PLANNING

- concern about the level of schemes in other settlements within the District as a whole and the cumulative impact of this needs to be assessed;
- concern that the absence of a Core Strategy is being used as a free for all in planning applications but this does not make the site any more sustainable;
- there are more suitable brownfield sites within the village which could be developed to meeting housing requirements;
- there are more sustainable settlements within the District that should be considered for housing before Packington;
- there are two applications for residential development outside the village envelope and an assessment of the cumulative impact of these developments needs to be undertaken;
- the proposal in addition to the additional housing on the other side of Normanton Road are disproportionate to the size of the settlement;
- local people should plan the future of their community and they should decide where and

- how much development is needed;
- development should be spread across all the sustainable villages;
- undeveloped sites with planning permission in more sustainable places should be developed first;
- the proposal would not bring new employment to the area as most of the occupiers would commute to other settlements for work;
- people will have to travel outside the settlement to access services;
- Packington has 283 dwellings within the village boundary and another 49 dwellings would result in a 17% increase in the number of dwellings in the village which is significant for the village and is a disproportionate number for one site and the housing should be distributed more evenly throughout the settlement;
- development proposals for Ravenstone were spread over three sites and no-one site represented such a large increase in a single place as proposed here;

PRINCIPLE

- the site falls outside the limits to development and therefore, is contrary to policy;
- the land is agricultural and is a greenfield site which is not suitable for development;
- there is no need for market housing;

FLOOD RISK AND DRAINAGE

- there is already a flooding problem in the area at the junction of Normanton Road and Heath Lane, especially in the gardens on Heather Lane;
- there are springs dotted along Spring Lane and site is already waterlogged/floods (and can be dangerous in the winter when the standing water freezes);
- the Gilwiskaw Brook frequently floods into the gardens of properties on Mill Street and Homecroft Drive when it rains and the proposal will only increase surface water run-off and make this worse;
- local pasture land is saturated and developing the land will only increase surface-water run-off and increase the risk of flooding;
- a small pond on the site will be insufficient to prevent flooding;
- the River Mease (SAC) needs to be protected by restricting development that places demands on the already stretched sewage works;

INFRASTRUCTURE

- there is no capacity in the local primary school meaning that residents would need to take children outside the village by bus or car;
- there is no capacity within the secondary schools in Ashby;
- the local bus service is very limited and currently under review so may be reduced further, which would make residents of the development dependent on their private cars to reach services and work places outside the village;
- there is no capacity in the local GP surgeries in Ashby and Measham meaning that residents would need to travel further to see a doctor;
- for shopping needs, it is likely that residents of the development will use cars to travel rather than public transport or walking;
- inadequate infrastructure makes the site unsustainable;
- the proposal would not bring employment/social benefits to the village and the new dwellings will likely be occupied by commuters;
- the electricity supply to Packington is inadequate and the proposal will put a further strain on this service;
- water pressure within Packington is already low and the proposal will only exacerbate his problem;
- existing services within the village are at the upper end of the identified walking

distances and the site is on the least attractive side of the settlement for those wanting to access Ashby by foot or by cycle;

HIGHWAYS

- additional traffic generation and parking within the village;
- unsuitable access near a dangerous corner where there are no footpaths and poor lighting;
- dangers to pedestrians, especially school children walking where there are no pavements and crossing roads which are already busy and used by speeding motorists;
- the site access is close to multiple busy road junctions and additional vehicle movements will only make the existing situations worse;
- the proposal with the other development proposed would result in seven vehicular accesses within approximately 200 yards;
- inadequate provision for pedestrians and cyclists;
- Egress from Red Burrow Lane and Spring Lane are already difficult within limited visibility and increased traffic on Normanton Road will only exacerbate this;
- the site is poorly located for access to the village centre and major routes out of the village (A42/A511) which will increase traffic passing through the village,
- access to the A42 at Measham Road is already dangerous as five roads meet at this junction and the proposal will only make the existing situation worse;
- Normanton Road is already used as a short cut between the A511 and the A42 which generates additional traffic within the village;
- the adjoining highways are also already used daily by agricultural vehicles to/from local farms and vehicles visits the campsite at Hill Farm;
- any highway improvements proposed as part of the scheme would serve the proposed development not the village;
- the proposed uncontrolled pedestrian crossing to Spring Lane would extend in front of the access to an existing dwelling;
- the site plan does not show an extension to No.1 Spring Lane and therefore, is out of date;
- the proposed uncontrolled pedestrian crossing in front of No.1 Spring Lane will be unworkable;
- concern about whether adequate visibility can be obtained from the proposed access in the direction of Normanton le Heath given the vertical alignment of the road and the speed of traffic travelling in the village;
- concern that the proposed access, along with that proposed on the opposite side of the road as part of the other proposal for residential development could be dangerous;
- pedestrian access points are shown to Spring Lane which has no footways and so pedestrian share the carriageway with vehicles which is dangerous for road users;
- vehicles travel at high speeds along Spring Lane (which is narrow and has poor visibility in places) and introducing additional pedestrians onto it from the site will increase conflict between vehicles (including large farm vehicles and trail bikes) and pedestrians and create dangers to road users;

CHARACTER

- the development would alter the appearance and character of the village;
- the proposal will affect the views of the village on approach from Normanton le Heath;
- the scale of the development would be disproportionate to the size of the settlement;
- concern that the proposal would set a precedent for further development around the perimeter of the village;
- additional housing should be spread more evenly through the village on smaller sites to reflect the way villages grow organically and incrementally;

- views into the village will be dominated by housing;
- planning policy requires that the planning system should recognise the intrinsic character and beauty of countryside;
- a development of 49 houses of relatively uniform design in one large open site would be out of scale with the form and rural character and appearance of the village that has developed organically and incrementally over time;
- concern that 2.5 storey dwellings on rising land away from the village would be overly prominent and out of character with the scale and form of properties on Spring Lane;

RESIDENTIAL AMENITIES

- overlooking of and loss of privacy to properties on Spring Lane;
- the hedgerow along Spring Lane is not an adequate screen for the development in the winter months when the foliage is gone;
- concern that existing hedgerows will be removed which would further adversely affect neighbouring amenities;
- loss of sunshine to No. 1 Spring Lane;
- loss of views;

HISTORIC ENVIRONMENT

- impact on the Conservation Area;
- the site is important to the setting of the Grade II listed Packington House;

ECOLOGY/TREES

- the site supports nature and wildlife;
- a local wildflower planting initiative has been implemented around Spring Lane and is attracting wildlife;
- destruction of hedgerows and woodlands is a loss;
- planting as compensation for the landscape lost is little compensation;
- if permission is granted, the existing hedgerows around the site should be retained;

OTHER

- the village is already under threat of the HS2 which will cause disturbance and additional traffic within the village;
- additional homes within 1km of the HS2 route;
- noise and pollution;
- adversely affect rural lifestyle;
- local views should be taken into account (localism);
- concern about additional units being added at the detailed design stage should permission be granted;
- distress and upheaval for local residents, especially during the construction phase;
- an Environmental Statement is required given the location and context of the development;
- 30% affordable housing should be secured in line with the SPD as there is no viability argument to justify reducing in;
- the average agricultural land classification is an unconvincing argument as arable land is adjacent to the site;
- previous applications around Spring Lane have been rejected in the past;
- the supporting information is vague;
- both applications should be considered together;
- neighbours were not notified of significant changes.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

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

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

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

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

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

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

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

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

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

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

authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

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

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

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

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

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

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

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

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

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

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

- opportunities to incorporate biodiversity in and around developments should be encouraged..."

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

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

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

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

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

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

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

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

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

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

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

North West Leicestershire Local Plan:

The East Midlands Regional Plan (RSS8) has now been revoked and therefore no longer forms

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

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

Policy 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.

Policy E4 seeks to achieve good design in new development.

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

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

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

Policy 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 and circulation and servicing arrangements.

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

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

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

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

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

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

Policy L22 provides that major new development will only be permitted where adequate provision is made for open space for formal recreation use.

Other Guidance

Submission Core Strategy

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

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

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

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

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

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

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

The Technical Guidance to the National Planning Policy Framework - March 2012 provides additional guidance relating to flooding.

National Planning Practice Guidance - March 2014 supplements the policies in the NPPF. The Guidance does not change national planning policy but offers practical guidance as to how such policies should be applied.

NWLDC SPD for Affordable Housing - January 2011

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.

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

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

6. Assessment

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

Principle of Development

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

In terms of the Local Plan, the site lies outside the Limits to Development, and 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 proposal would be contrary to the adopted Development Plan, therefore, in determining the application, regard must be had to other material considerations, including other policies, such as other Development Plan policies and national policies.

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

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

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, it is located adjacent to the existing built up area of the settlement and would not result in isolated development in the countryside.

In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to meet this need. Given the need to provide significant areas of housing land as set out below, it is considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan.

Housing Land Supply

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

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". 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.

Sustainability

In terms of the sustainability of the site, Packington provides a range of day to day facilities, i.e. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites. 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) and serves Measham, Ashby de la Zouch, Atherstone and Nuneaton with a total of 11 buses running per day. The County Council has confirmed that the No.7 service will not be serving Packington going forward due to the No.19 service (Burton to Ashby) now providing an hourly service between Ashby and Measham via Packington from 0746 hrs to 1711 hrs Monday to Saturday.

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

Bus Stop (outside the Bull and Lion pubic house) - 450 metres
 Primary School - 600m
 Shop - 750m
 Open Space (Measham Road playing field/play area) - 640 metres
 Village Hall - 750 metres
 Public House - 450 metres

The application site is well related to the services/facilities within the village, being within 800 metres (preferred maximum walking distance) of all of the above-mentioned services listed above. The existing highway network within Packington comprises of quiet residential streets and on this basis, it is considered that the quality of the walking experience would be high, which is likely to encourage walking in this location. Furthermore, in order to provide continuous

and improved connections to and from the site, it is proposed to construct a new 2 metre footway on the northern side of Normanton Road, extending from the site access up to the junction with Spring Lane to link the site with existing footway network. The level of services available within the village is considered to be reasonable for a rural village, although the public transport connectivity is considered to be relatively poor.

Ashby de la Zouch is located approximately 2.3km walking distance from the centre of the site, where amongst other services retail, secondary education, a library and GP surgeries can be found. There would be continuous footways available to facilitate pedestrian access to this nearby market town. Furthermore, it is considered that the short distance involved and the relatively low traffic flow along the routes available and local gradients, would encourage cycling. Indeed, the distance between the site and Ashby de la Zouch would also be within the average trip length for cycling (as outlined above).

Given the scale of the development, and when taking into account the site on the southern side of Normanton Road (totalling 72 dwellings), it is not considered that the proposal would result in unsustainable demands on local services and facilities, and contributions have been sought to provide additional capacity within schools, the library and a GP surgery at Ashby de la Zouch, to improve the recreational facilities within the village and to provide bus passes/travel packs and improve bus stops. There is nothing to suggest that the public house and shop would be adversely affected by an increase in residents and it may be the case that additional residents could support and sustain these and other services/facilities.

The site is equally well related to services when compared with the site on the southern side of Normanton Road. However, it is considered that on balance that and a reason for refusal on the grounds of Packington not being sustainable location for the level of development proposed for this site on an individual basis and cumulatively with the other site off Normanton Road could not be justified, in particular having regard to the other material considerations set out in this report.

Scale of Development and Cumulative Impacts

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

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 that 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 342 properties in the village of Packington within its main built up area. This proposal for 42 dwellings would represent a 12.2% increase in the number of dwellings within the village. The 42 proposed dwellings alongside the 5 new dwellings built since 2006 and the outstanding commitments for 1 dwelling would equate to a 14% growth in the village since 2006. Therefore, the proposed development on its own, and with additional dwellings/commitments, would represent a lower level of growth than that for North West Leicestershire as a whole. As such it is considered that the proposal would not result in a significant increase in housing development within the village.

Loss of Agricultural Land

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. Whilst the site is currently in use as pasture land, the development of the site would result in an

irreversible loss to a 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 greenfield land (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The supporting information accompanying the application indicates that the site would not be classified as BMV agricultural land. The Agricultural Land Classification maps indicate that the site falls within Class 3 but do not specify whether the land would fall within a 3a (BMV) or 3b (not BMV) classification.

If considering the scenario that the land is potentially BMV land, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in loss of between 20 and 50ha, and those of 50ha and above respectively). The site is approximately 2.2 hectares in size. It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process, which in this case would be small in scale but irreversible as there are no areas of open space/landscaping that would be large enough to accommodate an agricultural use in the future.

Nevertheless, if the site were to fall within Class 3a, it is not considered that the proposed development would sit 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 potential agricultural land quality issue is not sufficient to suggest that planning permission should be refused, particularly given the relatively limited extent of the potential loss (i.e. 2.2ha).

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 in the adopted Local Plan and its development for housing would therefore be contrary to 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.

The site is equally well related to services when compared with the site on the southern side of Normanton Road. However, it is considered that on balance that and a reason for refusal on the grounds of Packington not being sustainable location for the level of development proposed for this site on an individual basis and cumulatively with the other site off Normanton Road could not be justified, in particular having regard to the other material considerations set out in this report, including the need for the District to release land for housing to ensure the provision and maintenance of a five year supply of land (with a 20% buffer) and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF) is an important material consideration.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to economic growth associated with the proposed development in terms of jobs and the creation of new households, coupled with the role played in contributing to housing land supply, its proximity to services/facilities, the provision of affordable housing and contribution towards play area provision and the inclusion of appropriate contributions to local services would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment. Having regard to all of the above in the overall balance, it is considered that the proposal would be a sustainable form of development, and, therefore the proposed development of the site is acceptable in principle.

Access and Highway Safety

All matters are reserved for subsequent approval except for access. 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).

The Highways Agency has no objection in relation to impact on the strategic highway network (M42/A42).

Concerns have been raised by local residents including the speeds of traffic, the suitability and capacity of the village road network to cope with the traffic generated by this and the other major housing schemes currently proposed, increased potential for conflict between vehicles and between vehicles and pedestrians, the adequacy of visibility from the proposed access and other nearby road junctions, the close proximity of the proposed access to a number existing road junctions and a sharp bend in the road and the proximity of the proposed access to that of the other proposed development on the opposite side of the road.

The County Highway Authority initially objected on two grounds relating to the site being in an unsustainable location and secondly, due to Normanton Road having inadequate footway and street lighting provision to accommodate the additional vehicular, pedestrian and cycle movements to and from the proposed access that would be generated by the proposed development.

Following submission of additional information concerning sustainability, an amended plan showing the provision of a new footway link and confirmation that street lighting details would be provided at the Reserved Matters stage (should permission be granted), the County Highways Authority has withdrawn its reasons for refusal relating to these matters. If approved, the County Highways Authority recommends that the proposal is subject to conditions and contributions to be secured in a legal agreement which are considered in a separate section below. The former of the Highway Authority's objections relating to sustainability is addressed earlier in this report.

Access to the proposed development site would be provided by a new single point of access off Normanton Road. The other existing vehicle access points off Spring Lane and Normanton Road would be closed. The access would be provided approximately 85 metres to the south east of the existing access at Spring Lane and 120 metre visibility splays would be achieved in both directions.

The County Highways Authority is satisfied that visibility can be provided in accordance with the guidance contained in the '6 C's Design Guide' taking into consideration the speed of vehicles in

both directions. The County Highways Authority has also confirmed that the proposed access has appropriate junction separation from other existing junctions and notwithstanding the bend, forward visibility to a right turning vehicle is appropriate. With regard to concerns about the location of the other proposed access opposite the site, the County Highways Authority has confirmed that spacing between the two proposed accesses is appropriate and so the proposal would not lead to demonstrable harm to highway safety.

The County Highways Authority has advised that when having regard to the generally lightly trafficked nature of the road network in Packington, and given that traffic would be greatly dispersed before it reached junctions on the network that are at, or approaching their capacity being exceeded, queuing and congestion in the peak hours is unlikely to be of any concerns as part of an assessment of the impact of the proposed traffic from the two residential schemes currently proposed on either side of Normanton Road, either alone or in combination. Therefore, the County Highways Authority raises no concerns in relation to the proposal on its own or in combination with the development proposed opposite adversely affecting the capacity of the village road network. The proposal is considered acceptable for the purposes of T3 and T8 of the Local Plan.

Based on the above it is considered that the proposal would not result in a severe impact on highway safety and as such it is considered that a highway safety reason for refusal could not be sustained in this case.

Neighbours' and Future Occupiers' Amenities

As set out above, the site is proposed to be accessed via Normanton Road. Located on the south eastern edge of the settlement, this area of Packington is not heavily populated with residential dwellings and, therefore, it is not considered that the increased traffic using local roads generally as a result of the proposed development would lead to unacceptable impacts on residents' amenities. It is accepted that vehicles travelling towards the Ashby and Measham, as well as the A42 and A511 would pass through the village. In coming to this conclusion it is noted that the Council's Environmental Protection Team raise no objections to the proposed development in terms of noise or pollution.

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 42 units could not be provided on the site in a manner which would not adversely impact upon neighbouring residential amenities.

Design

The proposed scheme has been assessed by the District Council's Urban Designer, and rated in accordance with CABI's new Building for Life criteria which scores on the basis of red/amber/green rather than being a point based scoring system. The Council's Urban Designer reviewed the original proposals and considered that the indicative layout would fail to meet the Building for Life criteria. The Council's Urban Designer has been involved in extensive discussions with the applicant during the course of the application and a revised indicative layout plan has been submitted. The Council's Urban Designer considers that the amended indicative proposals establish good design principles for the layout of the proposed development, orientation of dwellings, arrangement of streets and spaces, neighbourhood connections and landscaping. The Urban Designer considers that subject to Building for Life 12 (BfL12) being used as a reference tool and assessment tool for the design development and assessment of any future Reserved Matters application, the scheme would offer a good standard of design as measured by BfL12 and would comply with the relevant Development

Plan policies and advice in the NPPF.

Concern has been raised about the development including 2.5 storey dwellings. It is considered that the scale of the proposed units would need to be carefully assessed at the reserved matters stage, should permission be granted, as the use of 2.5 storey units as indicated in the Design and Access Statement may not be appropriate in this location.

Density

The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances. Local Plan Policy H6 provides that residential development should meet a minimum density of 30 dwellings per hectare within locations well served by public transport and accessible to services. 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 Local Plan, still be relevant.

The proposal results in a density of 19 dwellings per hectare for the whole site but clearly the net density would be lower when factoring in the landscaping, buffer zones, SUDS etc that would also need to be provided on-site.

When having regard to those parts of the site that would not be developed for housing or directly associated uses, along with the existing density of the surrounding area and the location of the development on the edge of the settlement, it is considered that a reduced density in comparison to that advised in Local Plan Policy H6 is acceptable in this instance.

Character of the Area and Visual Impact

The application has been accompanied by limited information regarding the existing landscape and character and how the development would assimilate into its environs. The indication is that these details would be provided at the Reserved Matters stage should permission be granted. Nonetheless, these matters are pertinent to considerations at the outline stage and should be assessed.

Packington is located within an undulating agricultural landscape and site, along with the adjoining arable fields provide the rural setting for the village when travelling along Normanton Road. The proposed site is located within a natural hollow within the landscape as land rises towards the east/north-east away from the settlement. The triangular site is bordered on all sides by mature hedgerows interspersed with trees and, therefore, is afforded some existing natural screening. The site appears as a self-contained field (separated into paddocks) and does not form part of a larger parcel of land.

Development on the site would be most immediately visible from Normanton Road and Spring Lane (including public vantage points and private dwellings) which abut the site. Longer distance views of the site are available from public footpaths to the south of the village where land levels rise. However, the application site abuts the settlement boundary and development on the site would be viewed against the backdrop of existing development which (with the exception of a few properties) extends approximately half way across the north western site boundary along Spring Lane. Furthermore, the site is nestled within a hollow in the landscape which, along with existing landscaping would help mitigate against the visual impact of built development on this site.

When having regard to the proximity of the site to existing development and the settlement boundary, the topography of the surrounding landscape, existing soft landscaping and the scope for mitigation in the detailed layout, design and landscaping of the scheme, it is considered that, 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.

The development of the site for housing would extend built development within the settlement up to the south eastern boundary of the site and, therefore, consideration would need to be given to enhancing soft landscaping in this area to reinforce the boundary. Land levels are at their highest adjacent to the eastern boundary and therefore, the siting, height and design of built development within the vicinity of this boundary would also need to be carefully considered at the detailed design stage.

Overall, therefore, subject to a Section 106 to secure National Forest planting, 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 for the purposes of Policies E4 and H7 of the Local Plan and the provisions of the NPPF.

Historic Environment

The Packington Conservation Area lies approximately 275 metres to the west of the site/ 200m to the north west of the site and the nearest listed building is the Grade 2 listed Packington House lying approximately 30 metres to the north. The Conservation Area and listed building are designated heritage assets as defined in the NPPF. The site may also contain buried archaeological remains (discussed in the archaeology section below) and these would also form a heritage asset.

The site is well separated from the Conservation Area by intervening residential development. The site would not be highly visible within views of or from the Packington Conservation Area, although it is acknowledged that some glimpses of the site would be available within views along Heather Lane/Normanton Road. When having regard to the distances involved and the nature of the intervening twentieth century development, it is not considered that the development of the site for housing would adversely affect the setting of the Packington Conservation Area.

Packington House lies to 30 metres to the north of the site and has the following listing description:

House of late C18 and early C19. Red brick with brick dentilled eaves and plain tile roof with end stacks. Twin span, one of each date. The present entrance front, the earlier, is of 3 storeys, Flemish bond, stone coped gables, and 3 sashes: 3/3 2nd floor and 6/6 below. Stucco lintels and stone sill bands. Early C20 bay to left of central simple doorcase and canopy with part glazed 6-panelled door and overlight. 3 storey 1 window extension to right: attic 4/8 sash with casements below. 1 storey extension to left. The rear front is of 3 storeys of 4 windows grouped vertically in projecting brick sections. 3/6 sashes, flat lintels, to 2nd floor, and 6/6 cambered lintels, below. Stone sills. Centre right section has round arched doorcase: tripartite with narrow 3-pane light either side of 4-panelled door. Right end rendered; on left end extension with casements.

The proposal would not affect the built fabric of this listed building but consideration needs to be given to the impact of the proposed development on the setting of Packington House. The building's setting is compromised somewhat to the immediate north by the presence of a modern two-storey dwelling but to the south and south east (including the application site), the

rural setting of Packington House survives. The Conservation Officer advises that the proposal would be unlikely to affect the setting of the Conservation Area but development on the site could affect the rural setting of the nearby Grade II listed building; Packington House. However, given the outline nature of the proposal, there may be potential for the impact to be reduced in the detailed design of the layout. Therefore, any detailed design proposals for the site would need to have due regard to the potential impact of development on the setting of this listed building. The application site narrows to a point at its most northern point opposite Packington House which would naturally constrain built development towards the north of the site. When having regard to the need to provide on-site tree planting and the triangular shape of the site, it is considered that the site is capable of accommodating the amount of development proposed without adversely affecting the setting of this heritage asset. Indeed the indicative layout shows how the proposed development could be separated from the listed building through the provision of tree planting at the northern tip of the site.

It is therefore considered that the proposal could be harmful to the significance of the heritage assets but that this would be unlikely to involve substantial harm or total loss of significance for the reasons set out above. Therefore the proposals amount to less than substantial harm to the significance of the heritage assets and would not result in significant detriment to the special architectural or historic interest, character or setting of the nearby listed building and would not adversely affect the character and appearance of the Conservation Area, thereby sustaining the significance of these heritage assets.

Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal, including securing its optimum viable use. The harm to the heritage assets is in this case considered on balance to be outweighed by the provision of 42 new homes to contribute to the District's housing land supply (which is currently at less than five year supply) which includes affordable homes, contributions towards improving capacity within existing public services and under the River Mease DCS which will improve the quality of the River Mease SAC.

Archaeology

Paragraph 129 of the NPPF requires local authorities to identify and assess the particular significance of heritage assets that may be affected by a proposal, and this assessment should inform the consideration of the impact of the proposal on a heritage asset in order to avoid or minimise conflict between the heritage assets conservation and any aspect of the proposal.

The Leicestershire and Rutland Historic Environment Record (HER), indicates that the development area lies in an area of archaeological interest, immediately adjacent to the medieval and post-medieval historic settlement core of Packington. Appraisal of the HER indicates that little or no previous archaeological investigation has been undertaken within the development area or in its vicinity, consequently, in the absence of site specific information, the County Archaeologist advises that it is difficult to evaluate the archaeological potential of the development site.

An appraisal of available aerial photographs suggests the presence or former presence of ridge and furrow earthworks within the site, indicating the site lies within the former extent of the openfield system that would have surrounded Packington through much of the medieval and post-medieval periods. The County Archaeologist advises that this indicates that the area has a low potential for significant medieval or later archaeological remains.

The villages of Leicestershire and the wider English Central Midlands, appear to have evolved alongside their open field systems, during the later 1st millennium AD, the earliest reference to

Packington comes from the Domesday Book (late 11th century), at which point it is in the possession of the St Mary's Abbey, Coventry. The village name, however, indicates an earlier Anglo-Saxon origin for the settlement, at a time when the landscape seems to have comprised a more dispersed scatter of hamlets and farmsteads. It is possible that elements of this earlier landscape survive with the application area. It should also be underlined that in the absence of evidence to the contrary, the presence of earlier Roman or prehistoric archaeological remains cannot be dismissed.

Buried archaeological evidence spanning the period from the prehistoric to the earliest evolution of the village (potential yet unidentified heritage assets) could be present within the development area. Paragraph 141 of the NPPF states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development. Therefore, the County Archaeologist has no objections to the proposal subject to the imposition of conditions for an appropriate programme of archaeological mitigation in order to safeguard any important archaeological remains potentially present on the site. Subject to conditions, it is considered that the proposal would comply with the provisions of the NPPF.

Trees

The ecological assessment accompanying the application includes an arboricultural assessment of the site. There are 17 trees on the site and although none are protected by a Tree Preservation Order, 16 of the trees on the site have been identified as high quality specimens. A single ash tree along the Spring Lane boundary of the site has been identified as unsuitable for retention due to its poor health and condition. The trees are interspersed within the hedgerows which occupy the three boundaries of the site. The Council's Tree Officer has been consulted on the application and concurs with the assessment of trees on the site. The proposed means of access into the site would not affect the high quality trees within the site and it is considered that the site is of sufficient size to enable the site to be developed for 42 dwellings without adversely affecting the trees on the site.

Drainage and Flood Risk

Concerns have been raised by residents in relation to the capacity of the local drainage network and the proposal contributing to existing flooding problems in the area.

The site lies within Flood Zone 1 and as it is over one hectare in size, a Flood Risk Assessment (FRA) has been submitted. The FRA considers the location of existing watercourses and tributaries, the contours of the land and surrounding land uses and concludes that there are no potential sources of flooding to the land that can be identified. With regard to flooding from the land, the FRA provides that the land does not cause flooding elsewhere at the present time as surface water is contained and absorbed to some extent and there is natural attenuation of flows towards the nearest brook. However, it is noted that without measures to attenuate and restrict flows, residential development could potentially increase the risk of flooding downstream. The FRA concludes that a Sustainable Urban Drainage System (SUDS) will be designed and incorporated in the layout of the proposed development at the Reserved Matters stage (should permission be granted), to ensure that the post development surface water run-off will not exceed that from the present use of the land, within the current required parameters.

The Environment Agency have been consulted on the application and considers the development to be at low risk of flooding and has no objections to the proposal subject to a condition concerning surface water drainage based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development.

Severn Trent Water has no objections subject to a condition relating to drainage details. Consideration of the capacity of STW's treatment works is set out below in the section relating to impact on the River Mease SAC. Natural England has no objections to the application proposals.

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

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. A tributary to the River Mease lies approximately 60m metres to the west of the site. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

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

Local concern has been raised about the capacity of Severn Trent Water's receiving treatment works at Packington to accommodate the proposed development. The flows from the new dwellings need to be taken into account against the existing headroom at Packington. At March 2013, the capacity was available for 1076 dwellings but this is reduced by the number of dwellings that have already received a permit from Severn Trent Water and/or are under construction, and by the number of dwellings that have been granted planning permission. Taking these into account the capacity available at the treatment works is reduced. However, Severn Trent Water has advised that there is capacity available at Packington Treatment Works to accommodate the proposed development, especially given the impending closure of the Arla site in Ashby which will add approximately 1900 additional houses to the headroom figure in the 2013 capacity report, and as such raise no objection to the proposal.

When having regard to the existing use of the site, the proposal for 42 dwellings would increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS. The application proposes that foul drainage would be dealt with via the mains sewer system and confirms that the applicant will pay the required contribution under the DCS.

However a condition requiring that only a mains connection is used at the site would be required as the use of other means for foul drainage discharge could adversely affect the SAC. The site is 60 metres from the nearest tributary to the River Mease and therefore, there is unlikely to be

any direct impact on its channel and banks as it is separate from the site. It is proposed that surface water from all elements of the proposal will discharge into a sustainable urban drainage scheme on site to ensure that unnecessary water volume does not go to the sewage treatment plant and this can be required by condition. A condition requiring that only a mains connection is used at the site would also be required as the use of other means for foul drainage discharge could adversely affect the SAC.

Subject to the imposition of conditions concerning the storage and disposal of surface water run-off from the site, the Environment Agency are satisfied with the proposal. Natural England has no objections in relation to impact on the SAC/SSSI subject to a condition. Therefore, it can be ascertained that the erection of 42 dwellings on the site will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Protected Species/Ecology

The application submission was accompanied by an Ecological Assessment which found no evidence of protected species on the site or using the site, and therefore, concludes that the development of the site would have no adverse effect on protected species within the immediate and wider area.

The County Ecologist has been consulted on the application and originally raised objection to the proposal on the grounds of insufficient information about bats and the location of a locally rare plant on the site. Following a request for additional information, details of building and tree inspections for bats have been provided, along with details of the location of the rare plant and agreement that this will be retained. The County Ecologist has, subject to conditions, withdrawn the earlier objection to the proposal.

The County Ecologist has no concerns about the development in principle as there is a substantial buffer zone shown between the hedgerow occupying the eastern boundary of the site and built development, along which there are opportunities for habitat creation. In the absence of such a buffer, the hedgerows value as a linear wildlife corridor and habitat would be eroded, along with its landscape value. No objections are raised subject to the imposition of conditions in respect of the conservation of the rare plant (Deadly Nightshade), the timing of vegetation removal, provision of a buffer zone and appropriate landscaping species being selected.

The site lies within the catchment of the River Mease Special Area of Conservation (SAC) and consideration of the potential impacts of the development on this designated site have already been covered in the section above.

Natural England raises no objection to the proposed scheme. Therefore, subject to the imposition of suitably-worded conditions the submitted scheme is considered acceptable in ecological terms.

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.

Healthcare

NHS England have sought £14,065.29 towards the costs of providing additional accommodation at Ashby Health Centre for additional patients arising from the development (30 dwellings). The North Street Practice currently has capacity to manage additional patients based on the current patient ratio split between the two practices. The applicant has confirmed their agreement to pay this developer contribution.

Libraries

Leicestershire County Council is seeking a contribution of £2760 to provide additional capacity at Ashby de la Zouch Library, which is the nearest library. The applicant has confirmed their agreement to pay this developer contribution. LCC has been re-consulted following the reduction in the number of dwellings proposed and any revised comments will be reported to Members via the update sheet.

Education

Leicestershire County Council is seeking the following contributions to provide additional places at the nearest schools where there is no capacity:

- a contribution of £78,655.15 is sought for the high school sector as there would be a deficit of 37 pupil places (5 created by the development) within high schools within a 3 mile walking distance of the site.
- a contribution of £80,762.70 is sought for the upper school sector as there would be a deficit of 58 pupil places (5 created by the development) within upper schools within a 3 mile walking distance of the site.

No contribution is sought for the primary school sector as there is currently an overall surplus for the area of 7 places when taking into account primary schools within a 2 mile radius of the site. The applicant has confirmed their agreement to pay this developer contribution. LCC has been re-consulted following the reduction in the number of dwellings proposed and any revised comments will be reported to Members via the update sheet.

Play Area/Open Space

Under the District Council's Play Area Supplementary Planning Guidance, on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 42 dwellings are proposed, this would require a play area of not less than 840 square metres. No on-site children's play area is proposed as part of this proposal and instead it is proposed to make a contribution towards the existing open space at the recreation ground off Measham Road of £1235 per dwelling (£51,870), which would allow the Parish Council some flexibility as to how the money is spent. The applicant has confirmed their agreement to the payment of a developer contribution.

The Council's SPG regarding children's play areas specifies that a commuted sum may be acceptable for sites that are within a reasonable walking distance of 400 metres. The distance to the existing play area/recreation ground is around 640 metres, which would be in excess of the 400 metres walking distance as suggested in the SPG. However, guidance in Building for Life indicates that a point should be awarded for community facilities (such as play areas) being within a short distance (defined as 800 metres), and the proposals would satisfy this criterion. Taking into account the alternative distance recommended under Building for Life (which the Council has adopted as a design quality indicator), it is considered that a commuted sum

towards upgrading and improving the existing play area in the village would be acceptable in this instance. An obligation relating to management plans for any open space, landscaping and SUDS to ensure that the land is properly established, maintained and managed in the future would also be required.

Affordable Housing

Under the Council's Affordable Housing SPD, 30% affordable housing is required on sites of 5 dwellings or more, and this would equate to 12.6 dwellings for the current proposal. The applicant is proposing that 10 of the dwellings be affordable, which would just fall short of the requirements of the SPD. The Council's Strategic Housing Team have been consulted on the application and have advised that they are satisfied with the reduced provision in this case, on the basis that the affordable housing provision includes two single storey units (two-bed) and they are provided as affordable rented properties.

Highways Contributions

The County Highway Authority has also requested the following contributions to encourage sustainable travel to and from the site, achieve modal shift targets, and reduce car use:

- (i) Travel Packs - to inform new residents from first occupation what sustainable travel choices are in the surrounding area;
- (ii) Six-month bus passes, two per dwelling (2 application forms to be included in Travel Pack and funded by the developer) - to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car;
- (iii) Improvements to the two nearest bus stops (including raised and dropped kerbs to allow level access) - to support modern bus fleets with low floor capabilities - £3263.00 per stop;
- (iv) Information display cases at the two nearest bus stops - to inform new residents of the nearest bus services in the area - £120.00 per display.
- (v) contribution towards equipping the nearest bus stop(s) and suitable bus route with Real Time Information (RTI) system.

The Highway Authority has previously advised that the contributions are related to the new development as they seek to make bus services more attractive and encourage their use by future residents of the development, and to encourage behavioural shift in terms of travel choice at an early stage before car use becomes ingrained. Furthermore, the Highway Authority has considered that development would not be acceptable without these measures, as without them there is likely to be less use of buses and more car journeys. Consequently the development will be less sustainable, congestion on the network would increase, and the policies in LTP3 would not be complied with. Although the bus service is proposed to be reduced, a final decision has not been taken and in any case a bus service would still be available.

The Highway Authority also requests agreement of a construction traffic route which is considered to be necessary in this case given the site's proximity to residential areas and the village centre and that although existing weight restrictions are in place they would not prevent HGVs from passing through the village to access the site itself. The County Highways Authority also advises that the routing agreement will enable the Authority to prevent construction traffic from using unsuitable routes in the interests of highway safety. LCC has been re-consulted following the reduction in the number of dwellings proposed and any revised comments will be reported to Members via the update sheet.

River Mease DCS

A contribution under the River Mease DCS is required (as outlined earlier in the report) but an exact figure for the contribution cannot be determined at this stage (although the maximum

amount would be £14,868) as the number of bedrooms in each dwelling would not be finalised until reserved matters stage.

Leicestershire Police Contribution

The Police have identified that there is a lack of capacity in their existing infrastructure to accommodate the population growth and associated demands occasioned by the development which means that it is necessary for the developer of the site to provide a contribution so that this situation may be remedied. A contribution of £17,824 has been requested which would be divided between the following functions: -

- Start-up equipment
- Vehicles
- Additional radio call capacity
- PND additions
- Additional call handling
- ANPR
- Mobile CCTV
- Additional premises
- Hub equipment

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 (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 very 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.

National Forest Company

The applicants propose making on-site planting (or a combination of on and off-site planting) and there is scope at the reserved matters stage to ensure that this extends to 20% of the site area (which would need to equate to a total of 0.4 hectares). The National Forest Company welcomes the proposed National Forest Planting and other proposed habitat creation. This would be secured by a Section 106 agreement.

Other Contributions

No requests for contributions have been received from the Council's Leisure team and the County Council has advised that a contribution towards civic amenity sites is not required.

Summary

Overall, it is considered that the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development. The applicant has agreed to all of the above obligations in principle and the legal agreement would be negotiated following any resolution to grant planning permission. The District Council would continue negotiations with consultees and the applicants to ensure the appropriate level of contributions that have been sought could be secured through a S106 agreement.

Other Matters

The site lies approximately 800 metres to the east of the proposed route of HS2. Any potential adverse effects on residents would be expected to be limited due to mitigation measures to be included in the HS2 design having regard to the need to protect nearby dwellings. However, it is considered that only limited weight can be attributed to HS2 as a material planning consideration at this stage in HS2's development. The Government is currently consulting on the proposed Phase 2 (i.e. West Midlands to Manchester and Leeds) connections, and the route is not fixed at this time; Phase 2 is not currently subject to the safeguarding mechanism which applies to the Phase 1 (London to West Midlands) section.

In respect of the concerns raised in the letters of representation that have not been addressed above, impacts on views and lifestyle, the capacity of the electricity supply and broadband networks are not planning matters that can be taken into account in the determination of planning applications. Matters relating to noise and disturbance during construction works are covered by separate Environmental Health legislation. Other sites will be affected by a different set of circumstances and it is a fundamental tenet of the planning system that every application is determined on its own merits. If any further applications are submitted for the site then they will also be considered on their own merits. Consideration is given to all policies set out in the Local Plan and the NPPF when assessing planning applications.

Conclusions

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). Packington is a sustainable location for the level of development proposed for this site and the proposal would not result in a significant increase in housing development within the village.

It is considered that the site is of sufficient size to accommodate the number of units proposed, without resulting in any significant adverse effects on the character of the area and the historic

environment, trees and ecology, residential amenities, highway safety issues, flood risk, drainage or the River Mease SAC/SSSI, and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services.

The proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION, PERMIT, subject to the signing of the Section 106 Agreement and the following condition(s):

- 1 Outline Permission
- 2 Submission of Reserved Matters
- 3 Reserved Matters to include finished floor levels/ground levels
- 4 Reserved Matters to include buffer zones of at least 5m from natural vegetation along the boundaries of the site which except for the proposed vehicular access point is to be retained
- 5 Approved plans
- 6 REM landscaping to include an ecological/landscape management plan
- 7 REM accompanied by a further Building for Life assessment
- 8 Retention of hedgerows
- 9 Details of surface water disposal including SUDS
- 10 Mains sewer system only
- 11 Tree Protection including protective fencing to RPA of trees/hedgerows to be retained on/overhanging the site, design and method statement for any works taking place within RPA and requirement for there to be no storage within areas of protective fencing.
- 12 Restriction on times for destruction and removal of vegetation (bird breeding)
- 13 Biodiversity management plan
- 14 Conservation of the Deadly Nightshade
- 15 Programme of archaeological work
- 16 Completion of archaeological site investigation and post investigation assessment
- 17 Off-site works to Normanton Rd (footways and street lighting) and gateway village entry

- treatment
- 18 Visibility splays
- 19 Access details and surfacing
- 20 Highway drainage
- 21 Obstructions to vehicular access - 7m set back distance
- 22 Access gradient
- 23 Construction traffic site management plan
- 24 No vehicular access from Spring Lane
- 25 Closure of existing accesses

Notes to applicant

- 1 Positive and proactive statement
- 2 County Highways Authority notes:
 - works in the highway
 - LCC Lead Local Flood Authority- SUDs
 - permits/agreements under the Highways Act
 - Section 38 agreement
 - highway boundary
 - CBR tests
- 3 The footpath link on the southern side of Normanton Road does not form part of the application submission and therefore, is not a requirement of this permission.
- 4 Advise of the County Ecologist dated 09 December 2013
- 5 Bats and breeding birds advisory notes
- 6 Coal Authority notes.
- 7 The Council's Urban Designer recommends a note to applicant to highlight that there would be an expectation from the Local Planning Authority that the scheme draws inspiration from the positive and distinctive characteristics of the village through layout, form and appearance (including materials). Consideration must also be afforded to the setting of the nearby listed building, key views into the site, the relationship of the site to Spring Lane and to softening the eastern boundary where it meets the open countryside beyond to avoid an abrupt end to built form within the village. The indicative layout of the outline application should inform future design development as these establish key design principles for the layout of the development, building orientation, structural landscaping and street types.

**Erection of 30 dwellings, including 8 affordable homes
(Outline - access included)**

**Report Item No
A2**

**Land South Of Normanton Road Packington Ashby De La
Zouch Leicestershire**

**Application Reference
13/01002/OUTM**

Applicant:

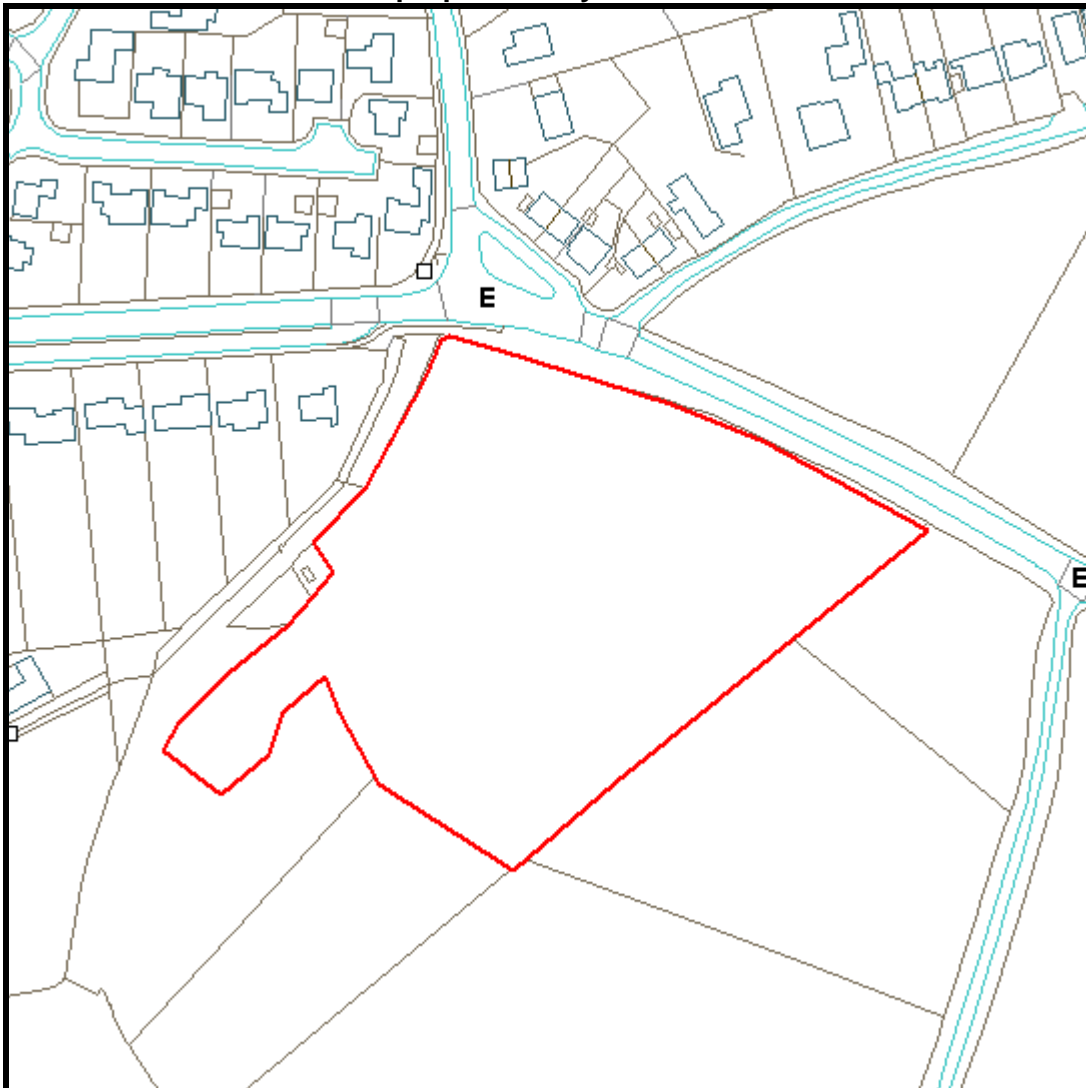
**Date Registered
30 December 2013**

**Case Officer:
Hannah Exley**

**Target Decision Date
31 March 2014**

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

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is reported to the Planning Committee to enable the cumulative impact of the development, along with another current proposal to be assessed. It is also considered to be a matter of local concern.

Proposal

Outline planning permission is sought for the erection of 30 residential units including affordable housing and provision of a sustainable urban drainage system. The site is 1.49 hectares and is currently in agricultural/equestrian use and is situated on the south-eastern side of the settlement to the southern side of Normanton Road. The application site is bordered by a public highway to the north, open fields to the east and south and by residential development to the west. The western boundary of the site abuts a stream, which is a tributary of the River Mease.

The application is in outline at this stage with details of means of access included for consideration. Vehicular access into the site would be off Normanton Road and the centre point of the access would be approximately 15m from the junction with Spring Lane which lies opposite the site. Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application.

Consultations

Members will see from the main report below that objections have been received, including from Packington Parish Council, with 71 letters being received from members of the public including FLOAT (Packington Flood Action Team). The objections cover several different issues, broadly but not exclusively relating to eg. the principle and sustainability of the proposal, adequacy of existing services/infrastructure, highway safety, impact on nearby residents and the character of the settlement, flood risk and drainage and impact on the historic environment and ecology.

No objections have been received from any of the statutory bodies consulted on the application.

Planning Policy

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

Whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, as the Council cannot currently demonstrate a five-year supply of deliverable housing sites, its release for housing is considered suitable as Packington is a sustainable location for the level of development proposed for the site and the proposal would not result in a significant increase in housing development within the village.

The proposed development would be acceptable in terms of density, impact on the countryside, character of the area and the historic environment, impact on trees, residential amenities, transportation and highway safety issues, flood risk and drainage, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services.

The proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

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

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

MAIN REPORT

1. Proposals and Background

The application is reported to the Planning Committee to enable the cumulative impact of the development, along with another current proposal to be assessed. It is also considered to be a matter of local concern.

Outline planning permission is sought for the erection of 30 residential units including affordable housing and provision of sustainable urban drainage system. The site is 1.49 hectares and is currently in agricultural/equestrian use and is situated on the south-eastern side of the settlement to the southern side of Normanton Road. The application site is bordered by a public highway to the north, open fields to the east and south and by residential development to the west. There is also existing residential development opposite the site fronting Normanton Road and Spring Lane. The western boundary of the site abuts a stream, which is a tributary of the River Mease.

The application is in outline at this stage with details of means of access is included for consideration. Vehicular access into the site would be off Normanton Road and the centre point of the access would be approximately 15m from the junction with Spring Lane which lies opposite the site. The formation of the new access would require the removal of some of the existing hedgerow along Normanton Road. The indicative layout shows that 17m of hedgerow would need to be removed to provide both the vehicular access and a continuous footpath link from the site up to Heather Lane.

Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application.

The northern and eastern boundaries of the site are predominantly occupied by mature hedgerows interspersed with trees. The western boundary of the site which abuts the stream is occupied by more informal groupings of tree/hedgerow planting. The site forms part of a larger field which is separated into three areas by post and rail fencing, and therefore, the southern boundary of the application site is currently open. The southern boundary of the wider field (which is occupied by hedgerow planting interspersed with trees) lies approximately 90m to the south of the application site when excluding the proposed balancing pond. There are currently two existing vehicular accesses to the site off Normanton Road.

Land levels across the site rise in a north easterly direction with the lowest land levels being in the south western corner of the site and the highest at the northern eastern corner of the site adjacent to Normanton Road. Between these two points of the site, there would be an increase in land levels by up to 3 metres. Along the site frontage, there would also be an increase in land levels by 3m from west to east.

The site lies within the catchment area of the River Mease Special Area of Conservation and a tributary of the River Mease follows the western boundary of the site. The Packington Conservation Area lies approximately 200 metres to the west of the site/ 180m to the north west of the site and the nearest listed building is the Grade 2 listed Packington House lying approximately 300 metres to the north. There are no protected trees on the site.

Planning History Summary:

12/00733/FUL - Erection of 'Agricultural Style' building to provide secure storage and formation

of new access (Permitted)

10/00976/FUL - Erection of stables and covered way for keeping of horses and change of use of the land for keeping of horses (Permitted)

03/00301/FUL - Erection of stables and field shelter including change of use of field for keeping of horses (Permitted)

99/0174 - Change of use of land to a tennis club involving the erection of a pavilion, formation of three hardsurfaced courts and car parking and access onto Normanton Road (Refused for reasons relating to the poor physical relationship between the site and the settlement, impact on the character/amenities of the area and concern about precedent)

93/00589 - Erection of one dwelling (in the north western corner of the site) (Outline) (Refused for reasons relating to the development being beyond the settlement boundaries, impact of character/amenities of the area and highway safety) (Appeal lodged and dismissed)

81/0391 - Erection of single storey dwelling (Outline) (Refused for reasons relating to the development being beyond the settlement boundaries, impact of character/amenities of the area, highway safety and concern about precedent) (Appeal lodged and dismissed)

77/1504 - Erection of one dwelling (Outline) (Refused for reasons relating to the development being beyond the settlement boundaries, impact of character/amenities of the area, highway safety and concern about precedent)

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraph 10(b) of Schedule 2 to the Regulations it has been concluded that this proposal does not constitute EIA development under the 2011 Regulations as its impacts, both on its own and cumulatively with the other major housing proposal to the southern side of Normanton Road (13/01002/OUTM) are not considered to be significant and can be considered as part of the planning application.

2. Publicity

29 no. neighbours have been notified (Date of last notification 14 May 2014)

Site Notice displayed 21 January 2014

Press Notice published 22 January 2014

3. Consultations

Packington Parish Council consulted 6 January 2014

County Highway Authority consulted 17 March 2014

Environment Agency consulted 14 January 2014

Severn Trent Water Limited consulted 14 January 2014

Head of Environmental Protection consulted 14 January 2014

Natural England consulted 14 January 2014

NWLDC Tree Officer consulted 14 January 2014

County Archaeologist consulted 14 January 2014

LCC ecology consulted 14 January 2014

NWLDC Urban Designer consulted 14 January 2014

LCC Development Contributions consulted 14 January 2014

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 14 January 2014

Development Plans consulted 14 January 2014

Head Of Leisure And Culture consulted 14 January 2014

Manager Of Housing North West Leicestershire District Council consulted 14 January 2014

Police Architectural Liaison Officer consulted 14 January 2014

LCC ecology consulted 11 March 2014

National Forest Company consulted 14 May 2014

County Planning Authority consulted 23 May 2014
Highways Agency- Article 15 development consulted 4 February 2014

4. Summary of Representations Received

Statutory Consultees

Packington Parish Council raises objection on the following grounds:

- site is unsuitable, located outside the settlement boundary and would be a physical intrusion that would be detrimental to the character and beauty of the village;
- the site is continually waterlogged in winter and the proposal will exacerbate flooding problems in the area;
- the proposal is too large and would be out of keeping with the village;
- concern about highway safety including pedestrian safety, junction congestion, speeding incoming traffic from Normanton le Heath, proximity of existing and proposed road junctions;
- impacts on the SSSI Gilawiskaw Brook which is 3-400m away and its tributary which runs alongside the site;
- concern about the capacity of the local sewerage treatment works to accommodate the development;
- more traffic and pollution and inadequate public transport serving the settlement;
- concern about the capacity of local primary and secondary schools to accommodate the development;
- the Localism Bill says that 'Local people should plan the future of their community and they should decide how much development is needed' and this proposal has raised concerns from many residents and an action committee has been set up to object to the proposal;
- it is not a sustainable development and will detract from the village;
- growth within the village should be small-scale development across a number of sites.

The County Highway Authority considers that the site does have a reasonable level of services within a convenient walking distance and Ashby de la Zouch is relatively accessible by cycling. No objection is raised subject to conditions and Section 106 requirements.

Highways Agency has no objections.

The Environment Agency has no objections subject to conditions.

Natural England has no objections subject to conditions and a River Mease developer contribution being secured in accordance with the River Mease Developer Contribution Scheme.

Severn Trent Water no comments have been received. Any comments received will be reported to Members via the update sheet.

County Ecologist initially raised concern about the adequacy of information submitted with respect to badgers and trees with bat potential. Following the provision of additional information, the County Ecologist has removed her initial objection to the proposal.

County Archaeologist has no objections subject to conditions.

NWLDC Affordable Housing Enabler advises that they are satisfied with the level of affordable housing being proposed subject to a specified housing type and tenure being agreed. The applicant's agent has confirmed agreement to these specifications.

NWLDC Urban Designer is satisfied that the indicative layout as shown would meet the requirements of Building for Life 12 and, that the site could be developed in line with local design policies and advice in the NPPF.

Council's Tree Officer: Following the submission of a tree survey and revised plans the Council's Tree Officer raises concern about the impact of the proposed vehicular access on frontage trees.

NWLDC Environmental Protection has no environmental observations and raises no objection.

National Forest Company advises that 20 percent of the site area should be woodland planting and landscaping unless an off-site planting developer contribution is agreed and this will need to be secured through the S106 agreement.

NHS England have requested a contribution of £10,093.91 towards the Ashby Health Centre.

Leicestershire County Council - Highway Transportation & Waste Management Authority has not made a request for a contribution towards civic amenity sites.

Leicestershire County Council Library Services Development Manager have requested a contribution of £2140 towards additional resources at Ashby de la Zouch library.

Leicestershire County Council Local Education Authority have requested a contribution of £62,566.60 for the high school sector as there would be a deficit of 28 pupil places (4 created by the development) within high schools within a 3 mile walking distance of the site. A contribution of £64,243.06 is also sought for the upper school sector as there would be a deficit of 119 pupil places (4 created by the development) within upper schools within a 3 mile walking distance of the site. No contribution is sought for the primary school sector as there currently an overall surplus for the area of 8 places when taking into account primary schools within a 2 mile radius of the site.

No responses had been received from the Council's Leisure team or Leicestershire Police at the time of writing this report.

Third Party Representations:

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

71 letters of neighbour representation have been received, raising objection on the following grounds:

STRATEGIC ISSUES:

- the absence of a core strategy is being used as a free for all in planning applications and there needs to be a cumulative impact assessment of all the recent development proposals for housing in the village/district to review the potential impacts of the proposed developments in the area;
- it should be for the local strategic planning process to determine future policy on the location of housing land supply and not speculative development;
- growth should be in-line with that envisaged in the Core Strategy for rural settlements;
- concern about the level of schemes in other settlements within the District as a whole

- and the cumulative impact of these need to be assessed;
- there are more suitable brownfield sites within the village which could be developed to meeting housing requirements;
- there are more sustainable settlements within the District that should be considered for housing before Packington;
- there are two applications for residential development outside the village envelope and an assessment of the cumulative impact of these developments needs to be undertaken;
- the proposal in addition to the additional housing on the other side of Normanton Road are disproportionate to the size of the settlement;
- local people should plan the future of their community and they should decide where and how much development is needed;
- development should be spread across all the sustainable villages;
- undeveloped sites with planning permission in more sustainable places should be developed first;

PRINCIPLE:

- the site falls outside the limits to development and therefore, is contrary to policy;
- the land is agricultural and is a greenfield site which is not suitable for development;
- brownfield sites within the village should be considered before greenfield sites are developed;

SUSTAINABILITY:

- insufficient infrastructure meaning that residents will need to commute out of the village to reach services and facilities (secondary schools, doctors, shopping);
- notwithstanding the close proximity of the bus stop to the site, public transport provision is limited to and from the village both in terms of frequency and destinations;
- the proposal will increased carbon footprint of the village;
- there are no job opportunities in the village and the development of the site would not bring employment to the area and therefore, the properties would attract commuters;
- the site is not big enough to provide much needed investments in the schools and health services in the village but cumulatively the developments may be and, this should be considered.
- the development would not accord with the sustainability objectives of the NPPF;
- the Highways Report incorrectly states that Packington has a few shops but it has one on High Street;
- there is no capacity in the local primary school meaning that residents would need to take children outside the village by bus or car;
- there is no capacity within the secondary schools in Ashby;
- the local bus service is very limited and currently under review so may be reduced further, which would make residents of the development dependent on their private cars to reach services and work places outside the village;
- there is no capacity in the local GP surgeries in Ashby and Measham meaning that residents would need to travel further to see a doctor;
- inadequate infrastructure makes the site unsustainable;
- the proposal would not bring employment/social benefits to the village and the new dwellings will likely be occupied by commuters;
- should permission be granted, developer contributions should be sought for additional school, healthcare and recreation facilities;
- the electricity supply to Packington is inadequate and the proposal will put a further strain on this service;
- water pressure within Packington is already low and the proposal will only exacerbate this problem;

NEED:

- the site offers minimal social housing;
- there is no need for affordable housing to be provided;
- the suitability of the proposed affordable housing is queried;

FLOODING AND DRAINAGE:

- the proposal will increase surface water run-off and exacerbate existing flooding problems in the area, especially in the gardens off Heather Lane where residents have to use sandbags around their properties;
- there is a watercourse in close proximity of the site which already floods in heavy rain and concern is raised about increased surface-water run-off from the site which will contain hardsurfaced areas;
- if approved, previous flood defence work will be undermined;
- the development would use agricultural land;
- local pasture land is saturated and developing the land will only increase surface-water run-off and increase the risk of flooding;
- the proposal would put a strain on the existing local sewerage works;
- a lake on the site would make very little difference;
- concern about the whether the level of attenuation required to offset the development is achievable and therefore, will make existing flooding problems worse;
- concern about impact on the River Mease SAC and SSSI as the Gilwiskaw Brook which is a tributary of the River Mease runs through the village;
- concerns about the impact on the River Mease SAC/SSSI given the limited capacity of the existing local treatment works;

DESIGN/VISUAL AMENITIES:

- the development will negatively affect the appearance of the village on approach from Normanton le Heath, as well as the character of the village due to the current size of the village in relation to the proposed development;
- the views of the village from the north is also likely to be blighted in the future by the HS2 development;
- the proposal would change the rural nature of the village and would be out of scale and character with the village;
- the proposal would make a 16% increase upon the current size of the village;
- organic growth of infill plots within the settlement would be more appropriate;
- green planting to offset the landscape that will be lost would be little compensation and would take years to mature;
- whilst unwelcome, the extension of the village in this location is more acceptable visually than the proposed Spring Lane development which would overlook existing properties;
- the design of the properties should reflect the variety of housing that exist within the village and contributes to its character;

HIGHWAY SAFETY:

- the development is on the opposite side of the village to access local services and also those in Ashby and Measham and will result in increased traffic going through the village;
- additional road traffic volumes from the development will compound existing road and pedestrian safety issues associated with the A511 at rush hour, the Junction at the end of Measham Road, and the junctions with Spring Lane and Redburrow Lane where visibility is already poor and at the bottom of Normanton Road where there is a narrow and dangerous bend in the road;

- increased traffic volumes due to poor bus service;
- local roads are poorly lit, unsuitable and dangerous for increased traffic due to narrow sections, on-street parking and blind bends and vehicles already travel in excess of the speed limit;
- additional traffic creates dangers for vulnerable pedestrians, eg children
- the proposal will make existing rat-running problems worse and increase dangers to road users;
- if permitted, the developer should pay for traffic calming measures within the village;
- concern about the safety of an increased number of pedestrians crossing Normanton Road;
- close proximity of the access to an existing junctions is dangerous;
- a cumulative assessment of the highway implications of the various proposed residential development should be undertaken;
- lack of pedestrian footways to enable the safe passage of pedestrians from the site to the village;
- additional dangerous from construction traffic;
- additional conflict with agricultural traffic, as well as camping/caravan traffic;
- egress from Red Burrow Lane and Spring Lane are already difficult within limited visibility and increased traffic on Normanton Road will only exacerbate this;
- the site is poorly located for access to the village centre and major routes out of the village (A42/A511) which will increase traffic passing through the village,
- access to the A42 at Measham Road is already dangerous as five roads meet at this junction and the proposal will only make the existing situation worse;
- Normanton Road is already used as a short cut between the A511 and the A42 which generates additional traffic within the village;
- the adjoining highways are also already used daily by agricultural vehicles to/from local farms and vehicles visiting the campsite at Hill Farm;
- any highway improvements proposed as part of the scheme would serve the proposed development not the village;
- unsuitable access near a dangerous corner where there are no footpaths and poor lighting;
- the proposal with the other development proposed would result in seven vehicular accesses within approximately 200 yards;
- a new footway is proposed within the highway on land within the ownership of LCC and any requirements for the development should be accommodated within the site;
- a traffic survey is required;
- there are already difficulties parking in High Street;

ECOLOGY:

- a local wildflower planting initiative has been implemented within the vicinity of the site and is attracting wildlife;
- loss of hedgerows/tree planting;

HISTORIC ENVIRONMENT:

- the proposal would be contrary to Policy E9 due to its impact on the Packington Conservation Area;

RESIDENTIAL AMENITIES:

- No.1 Spring Lane is sited at the junction with Normanton Road and is the property that will be most affected by the two proposals for residential development off Normanton Road due to its corner position as it will be surrounded by new housing and be affected by traffic noise;

OTHER:

- concern that approval would set a precedent for further development;
- the development would cause stress and upheaval to local residents, particularly those neighbouring the site;
- upheaval and distress to the local community;
- is it correct that an environmental statement is not required?;
- the application does not have regard to the well-being of residents but is centred on developer profits;
- loss of agricultural land;
- planning permission should only be granted agricultural land that is classified grade 3;
- both applications for housing development in Packington should be considered at the same time and their cumulative impacts should be assessed;
- noise and disturbance during construction and from additional traffic generally;
- concern about changes to the number of dwellings proposed in any subsequent reserved matters applications, should permission be granted;
- neighbours were not notified of significant changes.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

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

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

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

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

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

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

permission unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"173. Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of

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

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

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

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

North West Leicestershire Local Plan:

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

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

Policy 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.

Policy E4 seeks to achieve good design in new development.

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

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

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

Policy 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 and circulation and servicing arrangements.

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

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

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

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

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

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

Policy L22 provides that major new development will only be permitted where adequate provision is made for open space for formal recreation use.

Other Guidance

Submission Core Strategy

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

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

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

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

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

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

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

The Technical Guidance to the National Planning Policy Framework - March 2012 provides additional guidance relating to flooding.

National Planning Practice Guidance - March 2014 supplements the policies in the NPPF. The Guidance does not change national planning policy but offers practical guidance as to how such policies should be applied.

NWLDC SPD for Affordable Housing - January 2011

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.

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

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

6. Assessment

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

Principle of Development

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

In terms of the Local Plan, the site lies 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.

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

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

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

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, it is located adjacent to the existing built up area of the settlement and would not result in isolated development in the countryside.

In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to meet this need. Given the need to provide significant areas of housing land as set out below, it is considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan.

Housing Land Supply

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

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". 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.

Sustainability

In terms of the sustainability of the site, Packington provides a range of day to day facilities, i.e. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites. 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) and serves Measham, Ashby de la Zouch, Atherstone and Nuneaton with a total of 11 buses running per day. The County Council has confirmed that the No.7 service will not be serving Packington going forward due to the No.19 service (Burton to Ashby) now providing an hourly service between Ashby and Measham via Packington from 0746 hrs to 1711 hrs Monday to Saturday.

In terms of distance to amenities, the Institute of Highways and Transportation (IHT) document 'Providing for Journeys on Foot' details the distance of 800 metres is considered to be the

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

Bus Stop (outside the Bull and Lion pubic house) - 450 metres
 Primary School - 600m
 Shop - 750m
 Open Space (Measham Road playing field/play area) - 640 metres
 Village Hall - 750 metres
 Public House - 450 metres

The application site is well related to the services/facilities within the village, being within 800 metres (preferred maximum walking distance) of all of the above-mentioned services listed above. The existing highway network within Packington comprises of quiet residential streets and on this basis, it is considered that the quality of the walking experience would be high, which is likely to encourage walking in this location. Furthermore, in order to provide continuous and improved connections to and from the site, the indicative layout shows a new footway on the southern side of Normanton Road, extending from the site access up to the junction with Heather Lane to link the site with existing footway network. The level of services available within the village is considered to be reasonable for a rural village, although the public transport connectivity is considered to be poor.

Ashby de la Zouch is located approximately 2.3km walking distance from the centre of the site, where amongst other services retail, secondary education, a library and GP surgeries can be found. There would be continuous footways available to facilitate pedestrian access to this nearby market town. Furthermore, it is considered that the short distance involved and the relatively low traffic flow along the routes available and local gradients, would encourage cycling. Indeed, the distance between the site and Ashby de la Zouch would also be within the average trip length for cycling (as outlined above).

Given the scale of the development, and when taking into account the site on the northern side of Normanton Road (totalling 72 dwellings), it is not considered that the proposal would result in unsustainable demands on local services and facilities, and contributions have been sought to provide additional capacity within schools, the library and a GP surgery at Ashby de la Zouch, to improve the recreational facilities within the village and to provide bus passes/travel packs and improve bus stops. There is nothing to suggest that the public house and shop would be adversely affected by an increase in residents and it may be the case that additional residents could support and sustain these and other services/facilities.

The site is equally well related to services when compared with the site on the northern side of Normanton Road. On balance, it is considered that and a reason for refusal on the grounds of Packington not being sustainable location for the level of development proposed for this site on an individual basis and cumulatively with the other site off Normanton Road could not be justified, in particular having regard to the other material considerations set out in this report.

Scale of Development and Cumulative Impacts

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

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 that 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 342 properties in the village of Packington within its main built up area. This proposal for 30 dwellings would represent an 8% increase in the number of dwellings within the village. The 30 proposed dwellings alongside the 5 new dwellings built since 2006 and the outstanding commitments for 1 dwelling would equate to a 10.5% growth in the village since 2006. Therefore, the proposed development on its own, and with additional dwellings/commitments, would represent a lower level of growth than that for North West Leicestershire as a whole. As such it is considered that the proposal would not result in a significant increase in housing development within the village.

When considered cumulatively with the other major housing proposal for the village reported earlier on this agenda (a maximum of 72 dwellings), this would equate to a 21% increase in new dwellings within the village, which would represent a higher level of growth anticipated for the villages than proposed across the District as a whole in the GL Hearn Study. When taking into account new dwellings/commitments this growth increases to 22.5% and 22.8% respectively.

Whilst the level of growth is lower than District-wide figure, it is higher than that envisaged for smaller settlements within the Core Strategy. However, when having regard to the sustainability credentials of Packington and its close relationship with Ashby, it is considered that this level of cumulative development (growth) for Packington is considered acceptable. Members are advised that the level of growth is not dissimilar to that recently approved at Appleby Magna. Packington has a similar level of services within the village but is also well related to Ashby de la Zouch where more services can be found.

Loss of Agricultural Land

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. Whilst the site is currently in use as pasture land, the development of the site would result in an irreversible loss to a 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 greenfield land (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The agent has confirmed that the land would be assigned to Class 3b and therefore, would not be classified as BMV agricultural land. The Agricultural Land Classification maps indicate that the site falls within Class 3 but do not specify whether the land would fall within a 3a (BMV) or 3b (not BMV) classification.

If considering the scenario that the land is potentially BMV land, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in loss of between 20 and 50ha, and those of 50ha and above respectively). The site is approximately 1.49 hectares in size. It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process, which in this case would be small in scale but irreversible as there are

no areas of open space/landscaping that would be large enough to accommodate an agricultural use in the future.

Nevertheless, if the site were to fall within Class 3a, it is not considered that the proposed development would sit 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 potential agricultural land quality issue is not sufficient to suggest that planning permission should be refused, particularly given the relatively limited extent of the potential loss (i.e. 1.49ha).

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 in the adopted Local Plan and its development for housing would therefore be contrary to 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.

The site is equally well related to services when compared with the site on the northern side of Normanton Road. However, it is considered that on balance that and a reason for refusal on the grounds of Packington not being sustainable location for the level of development proposed for this site on an individual basis and cumulatively with the other site off Normanton Road could not be justified, in particular having regard to the other material considerations set out in this report, including the need for the District to release land for housing to ensure the provision and maintenance of a five year supply of land (with a 20% buffer) and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF) is an important material consideration.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to economic growth associated with the proposed development in terms of jobs and the creation of new households, coupled with the role played in contributing to housing land supply, its proximity to services/facilities, the provision of affordable housing and contribution towards play area provision and the inclusion of appropriate contributions to local services would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment. Having regard to all of the above in the overall balance, it is considered that the proposal would be a sustainable form of development, and, therefore the proposed development of the site is acceptable in principle.

Access and Highway Safety

All matters are reserved for subsequent approval except for access. 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).

The Highways Agency has no objection in relation to impact on the strategic highway network (M42/A42).

Concerns have been raised by local residents including the speeds of traffic, the suitability and capacity of the village road network to cope with the traffic generated by this and the other major housing schemes currently proposed, increased potential for conflict between vehicles and between vehicles and pedestrians, the adequacy of visibility from the proposed access and other nearby road junctions, the close proximity of the proposed access to a number existing road junctions and a sharp bend in the road and the proximity of the proposed access to that of the other proposed development on the opposite side of the road.

The County Highway Authority has been consulted on the application and raised no objections subject to conditions and contributions to be secured in a legal agreement which are considered in a separate section below.

Access to the proposed development site would be provided by a new single point of access off Normanton Road. The other existing vehicle access at the junction of Heather Lane and Normanton Road would be closed. The access would be provided approximately 24 metres to the south east of the existing access at Spring Lane and full visibility splays would be achieved in both directions due to the depth of the highway verge at this point.

The County Highways Authority is satisfied that visibility can be provided in accordance with the guidance contained in the '6 C's Design Guide' taking into consideration the speed of vehicles in both directions. The County Highways Authority has also confirmed that the proposed access has appropriate junction separation from other existing junctions. With regard to concerns about the location of the other proposed access opposite the site, the County Highways Authority has confirmed that spacing between the two proposed accesses is appropriate and so the proposal would not lead to demonstrable harm to highway safety.

The County Highways Authority has advised that when having regard to the generally lightly trafficked nature of the road network in Packington, and given that traffic would be greatly dispersed before it reached junctions on the network that are at, or approaching their capacity being exceeded, queuing and congestion in the peak hours is unlikely to be of any concerns as part of an assessment of the impact of the proposed traffic from the two residential schemes currently proposed on either side of Normanton Road, either alone or in combination. Therefore, the County Highways Authority raises no concerns in relation to the proposal on its own or in combination with the development proposed opposite adversely affecting the capacity of the village road network. The proposal is considered acceptable for the purposes of T3 and T8 of the Local Plan.

Based on the above it is considered that the proposal would not result in a severe impact on highway safety and as such it is considered that a highway safety reason for refusal could not be sustained in this case.

Neighbours' and Future Occupiers' Amenities

Located on the south eastern edge of the settlement, this area of Packington is not heavily populated with residential dwellings and, therefore, it is not considered that the increased traffic using local roads generally as a result of the proposed development would lead to unacceptable impacts on residents' amenities. It is accepted that vehicles travelling towards the Ashby and Measham, as well as the A42 and A511 would pass through the village. In coming to this conclusion it is noted that the Council's Environmental Protection Team raise no objections to the proposed development in terms of noise or pollution.

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 30 units could not be provided on the site in a manner which would not adversely impact upon neighbouring residential amenities.

Design

The proposed scheme has been assessed by the District Council's Urban Designer, and rated in accordance with CABI's new Building for Life criteria which scores on the basis of red/amber/green rather than being a point based scoring system. The Council's Urban Designer reviewed the original proposals and considered that the indicative layout would fail to meet the Building for Life criteria. The Council's Urban Designer has been involved in extensive discussions with the applicant during the course of the application and a revised indicative layout plan has been submitted. The Council's Urban Designer considers that the amended indicative proposals establish good design principles for the layout of the proposed development, orientation of dwellings, arrangement of streets and spaces, neighbourhood connections and landscaping. The Urban Designer considers that subject to Building for Life 12 (BfL12) being used as a reference tool and assessment tool for the design development and assessment of any future Reserved Matters application, the scheme would offer a good standard of design as measured by BfL12 and would comply with the relevant Development Plan policies and advice in the NPPF.

Density

The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances. Local Plan Policy H6 provides that residential development should meet a minimum density of 30 dwellings per hectare within locations well served by public transport and accessible to services. 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 Local Plan, still be relevant.

The proposal results in a density of 23.4 dwellings per hectare for the whole site but clearly the net density would be lower when factoring in the landscaping, buffer zones, SUDS etc that would also need to be provided on-site.

When having regard to those parts of the site that would not be developed for housing or directly associated uses, along with the existing density of the surrounding area and the location of the development on the edge of the settlement, it is considered that a reduced density in comparison to that advised in Local Plan Policy H6 is acceptable in this instance.

Character of the Area and Visual Impact

The application has been accompanied by limited information regarding the existing landscape and character and how the development would assimilate into its environs. The indication is that these details would be provided at the Reserved Matters stage should permission be granted. Nonetheless, these matters are pertinent to considerations at the outline stage and should be assessed.

Packington is located within an undulating agricultural landscape and the site, along with the adjoining arable fields provide the rural setting for the village when travelling along Normanton Road, as well as forming part of the edge to the village's main built up area. The proposed site is located within a dip in the landscape as land rises towards the east away from the settlement.

The site forms part of a larger field and to the rear of the application site, land levels drop in a south westerly direction before rising again in the fields beyond. The site is bordered on three sides by mature hedgerows interspersed with trees and, therefore, is afforded some existing natural screening. The southern boundary is currently open but the southern boundary of the wider field of which the site forms part is occupied by a mature hedgerow interspersed with trees which provides some natural screening, albeit at a lower level than the application site.

The site is most prominent in views from Normanton Road, Heather Lane and the southern end of Spring Lane. The site is currently well screened along the highway boundary but glimpses of the site (and the open countryside beyond) are available through the two vehicular access points along the site's frontage where there is a break in the hedgerow. Glimpses of the site are also available from Redburrow Lane to the east of the site (which is on higher ground) where there are breaks in the hedgerow, although the site would be separated from Redburrow Lane by a field. Longer distance views of the site are available from public footpaths to the south of the village where land levels rise. The existing properties fronting Heather Lane are also visible from the footpath network to the south of the site.

The site and its boundary treatments are important elements of the setting and approach to the village. Hedgerows/trees form strong boundaries and most of the frontage hedgerow along Normanton Road could be retained, which would assist with screening the development. The boundary hedgerows, which create a strong sense of enclosure to the site and form an important part of the character of the village and the layout could be designed to ensure they are not significantly adversely affected.

Development would be prominent in views from the public footpaths to the south of the site due to the lack of boundary treatment and land levels. However, some screening is provided by other intervening landscaping and is it considered that the layout could be designed to ensure that a landscaping strip is provided along the southern edge of the site to provide screening for the development and soften the edge of the built development on the site.

Some of the hedgerow/trees along the site's frontage would be lost to allow for the formation of the vehicular access, therefore, opening up views into the site and making development on the site more prominent in immediate views from within the village.

The application site abuts the settlement boundary and development on the site would be viewed against the backdrop of existing development or adjacent to existing built development and therefore, would not appear an isolated development in the countryside. The extent of the application site (excluding the balancing pond area) would relate reasonably well to the rear boundaries of existing residential properties fronting Heather Lane, although it is accepted that the development of the site for housing would have a more built up appearance than the current rear gardens of these properties.

Whilst the site contributes to the form and setting of the village and its semi-rural character in this location, in close and long range views the sensitivity of the site is limited, as it is effectively a large open field with no particularly distinctive characteristics.

Therefore having regard to all of the above considerations (including the proximity of the site to existing development and the settlement boundary, the topography of the surrounding landscape, existing soft landscaping and the scope for mitigation in the detailed layout, design and landscaping of the scheme), whilst there would be moderate and localised harm to the countryside it is considered that it would be limited and not be so significantly detrimental to justify a reason for refusal based on the proposal resulting in an adverse impact on the

character of this locality and the countryside.

Overall, therefore, subject to a Section 106 to secure National Forest planting, 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 for the purposes of Policies E4 and H7 of the Local Plan and the provisions of the NPPF.

Historic Environment

The Packington Conservation Area lies approximately 200 metres to the west of the site/ 180m to the north west of the site and the nearest listed building is the Grade 2 listed Packington House lying approximately 300 metres to the north. The Conservation Area and listed building are designated heritage assets as defined in the NPPF. The site may also contain buried archaeological remains (discussed in the archaeology section below) and these would also form a heritage asset.

The site is well separated from the Conservation Area by intervening residential development. The site would not be highly visible within views of or from the Packington Conservation Area, although it is acknowledged that some glimpses of the site would be available within views along Heather Lane/Normanton Road. When having regard to the distances involved and the nature of the intervening twentieth century development, it is not considered that the development of the site for housing would adversely affect the setting of the Packington Conservation Area.

Packington House lies to 300 metres to the north of the site and has the following listing description:

House of late C18 and early C19. Red brick with brick dentilled eaves and plain tile roof with end stacks. Twin span, one of each date. The present entrance front, the earlier, is of 3 storeys, Flemish bond, stone coped gables, and 3 sashes: 3/3 2nd floor and 6/6 below. Stucco lintels and stone sill bands. Early C20 bay to left of central simple doorcase and canopy with part glazed 6-panelled door and overlight. 3 storey 1 window extension to right: attic 4/8 sash with casements below. 1 storey extension to left. The rear front is of 3 storeys of 4 windows grouped vertically in projecting brick sections. 3/6 sashes, flat lintels, to 2nd floor, and 6/6 cambered lintels, below. Stone sills. Centre right section has round arched doorcase: tripartite with narrow 3-pane light either side of 4-panelled door. Right end rendered; on left end extension with casements.

The proposal would not affect the built fabric of this listed building but consideration needs to be given to the impact of the proposed development on the setting of Packington House. The building's setting is compromised somewhat to the immediate north by the presence of a modern two-storey dwelling but to the south and south east, the rural setting of Packington House survives. Any detailed design proposals for the site would need to have due regard to the potential impact of development on the setting of this listed building.

The application site is separated from the listed building by Normanton Road, Spring Lane and a triangular piece of land. Both the application site and the field opposite (which is also being considered for residential development) are bordered by mature hedgerows interspersed with trees. When having regard to the distances involved, the topography of the land and the intervening vegetation, it is considered that the site is capable of accommodating the amount of development proposed without adversely affecting the setting of this heritage asset. Furthermore, it is also considered that the proposal either alone or in combination with the proposed development on the northern side of Normanton Road (also being considered by Members) would not adversely affect the setting of this heritage asset.

It is therefore considered that the proposal could be harmful to the significance of the heritage assets but that this would be unlikely to involve substantial harm or total loss of significance for the reasons set out above. Therefore, the proposals amount to less than substantial harm to the significance of the heritage assets and would not result in significant detriment to the special architectural or historic interest, character or setting of the nearby listed building and would not adversely affect the character and appearance of the Conservation Area, thereby sustaining the significance of these heritage assets.

Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal, including securing its optimum viable use. The harm to the heritage assets is in this case considered on balance to be outweighed by the provision of 30 new homes to contribute to the District's housing land supply (which is currently at less than five year supply) which includes affordable homes, contributions towards improving capacity within existing public services and under the River Mease DCS which will improve the quality of the River Mease SAC.

Archaeology

Paragraph 129 of the NPPF requires local authorities to identify and assess the particular significance of heritage assets that may be affected by a proposal, and this assessment should inform the consideration of the impact of the proposal on a heritage asset in order to avoid or minimise conflict between the heritage assets conservation and any aspect of the proposal.

The Leicestershire and Rutland Historic Environment Record (HER), indicates that the proposed development lies in an area of potential archaeological interest, adjacent to the medieval and post-medieval historic settlement core of Packington. Whilst appraisal of the HER indicates that little or no previous archaeological investigation has been undertaken within or in the vicinity the development area, the peripheral situation of the site, supported by consideration of aerial photographic evidence indicates that the site lies within the open fields surrounding the historic village.

Appraisal of available aerial photographs suggests the presence or former presence of ridge and furrow earthworks within the site, indicating the site lies within the former extent of the openfield system that would have surrounded Packington through much of the medieval and post-medieval periods. The County Archaeologist advises that this indicates that the area has a low potential for significant medieval or later archaeological remains.

The villages of Leicestershire and the wider English Central Midlands, appear to have evolved alongside their open field systems, during the later 1st millennium AD, the earliest reference we have to Packington comes from the Domesday Book (late 11th century), at which point it is in the possession of the St Mary's Abbey, Coventry. The village name, however, indicates an earlier Anglo-Saxon origin for the settlement, at a time when the landscape seems to have comprised a more dispersed scatter of hamlets and farmsteads. It is possible that elements of this earlier landscape survive with the application area. It should also be underlined that in the absence of evidence to the contrary, the presence of earlier Roman or prehistoric archaeological remains cannot be dismissed

Buried archaeological evidence spanning the period from the prehistoric to the earliest evolution of the village (potential yet unidentified heritage assets) could be present within the development area. Paragraph 141 of the NPPF states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development. Therefore,

the County Archaeologist has no objections to the proposal subject to the imposition of conditions for an appropriate programme of archaeological investigation and recording in order to safeguard any important archaeological remains potentially present on the site. Subject to conditions, it is considered that the proposal would comply with the provisions of the NPPF.

Trees

An arboricultural report has been provided during the course of the application, which considers the implications of the development of the site on 7 trees along the site frontage around the proposed access position. All but one of these trees are located outside the boundaries of the site, within the public highway. The tree within the site (identified as T1) lies to the west of the proposed access position and is identified as being in poor condition with limited life expectancy. The remaining six trees (T2-T7) are located just outside the site within the highway and are identified as trees of low to moderate condition with two (T5 and T6) being unsuitable for retention due to structural defects.

The current vehicular access to the site comprising a hardsurfaced splayed track lies between trees T3 and T4 and therefore, to some extent, the roots of these trees will already have been affected by these works. The proposed access position would require the removal of tree T3 and would encroach into the root protection areas of trees T2 and T4 where the root protection zone extends outside the canopy of the tree and the highway construction works would be required under/close to the canopy of the tree. All of these trees are identified within the submitted tree survey as being in moderate physiological condition with a life expectancy of 20 years.

None of the trees that would be affected are formally protected by a Tree Preservation Order and therefore, could be removed by the County Highways Authority (the current land owners) at any time. There is potential for the access/highway works to affect the trees but the extent to which this would affect their life expectancy is unknown.

Notwithstanding alterations to the indicative layout to show how pedestrian access could be amended to reduce works in the highway, the Council's Tree Officer raises concern about the loss of tree T3 and the potential impacts arising from proposed access upon trees T2 and T4. However, the concerns of the Tree Officer have to be weighed against other material considerations and, whilst there would be some 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 potential loss of/harm to unprotected trees is not sufficient to suggest that planning permission should be refused.

Drainage and Flood Risk

Concerns have been raised by residents in relation to the capacity of the local drainage network and the proposal contributing to existing flooding problems in the area.

The site lies within Flood Zone 1 and as it is over one hectare in size, a Flood Risk Assessment (FRA) has been submitted. With regard to flooding of the land, the FRA provides that as the site is not at risk of fluvial flooding in storm events up to 1 in 100 years which means that the site has an estimated annual probability of flooding of less than a 0.1% chance in any given year and is appropriate for development. Hydraulic modelling also shows that the development on the site would be located beyond the extents of flood zones 2 and 3 for the watercourse flowing adjacent to the site. The vulnerability of the development to flooding from all other sources, such as pluvial, sewerage, groundwater and artificial water bodies has been assessed

and found to pose only a low risk to the development, subject to mitigation measures being implemented.

With regard to flooding from the land, the FRA provides that the primary flood risk generated by the new development is most likely to be the risk posed to others by surface water run-off. The exiting site is greenfield with no hardsurfaced areas and does not benefit from an existing surface water drainage network. Therefore, surface water conveys overland towards the watercourse flowing alongside the western boundary of the site. The proposed development of the site would include impermeable areas, which would generate larger flows and volumes of run-off. Therefore, it is recommended that surface water drainage arrangements for any development on the site should be such that the volumes and peak flows of surface water leaving the site are no greater than greenfield rates of run-off. The FRA provides that the development would mimic surface water flows from the undeveloped site and discharge post development flows into the watercourse adjacent to the site. Drainage on the site would be designed in accordance with sustainable principles and attenuation will store flows up to the 1 in 100 year (+30% climate change allowance) event and limit outflows to Greenfield discharge rates.

The Environment Agency have been consulted on the application and considers the development to be at low risk of flooding and has no objections to the proposal subject to a condition concerning surface water drainage based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. They have also advised that there should be no raising of ground levels or the storage of materials within the 100 year flood plain extent and that there should be no buildings, structures or alterations to ground levels within 4m of the top of the bank of any watercourse,

Severn Trent Water has been consulted on the application but no comments have been received. A chasing request has been made and should any comments be received, they will be reported to Members via the update sheet. Consideration of the capacity of STW's treatment works is set out below in the section relating to impact on the River Mease SAC. Natural England has no objections to the application proposals.

Given the lack of objection from the Environment Agency it is considered that a reason for refusal relating to flood risk and capacity of the drainage system could be not justified.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. A tributary of the River Mease runs alongside the western boundary of the site and the River Mease itself is within 200m of the site. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

The River Mease Water Quality Management Plan (WQMP) has been drawn up to ensure there is no adverse impact on the SAC from further development and includes an action to establish a developer contribution framework to fund a programme of actions to restore and provide new benefits to the river. The River Mease Developer Contribution Scheme (DCS) has been produced to meet this action of the WQMP so that the costs of improving the quality of the water

in the river are met by potential developers. The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS has been assessed against and is considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations, which are also set out at paragraph 204 of the NPPF.

Local concern has been raised about the capacity of Severn Trent Water's receiving treatment works at Packington to accommodate the proposed development. The flows from the new dwellings need to be taken into account against the existing headroom at Packington. At March 2013, the capacity was available for 1076 dwellings but this is reduced by the number of dwellings that have already received a permit from Severn Trent Water and/or are under construction, and by the number of dwellings that have been granted planning permission. Taking these into account the capacity available at the treatment works is reduced. However, it has been confirmed that there is capacity available at Packington Treatment Works to accommodate the proposed development, especially given the impending closure of the Arla site in Ashby which will add approximately 1900 additional houses to the headroom figure in the 2013 capacity report, and as such raise no objection to the proposal.

When having regard to the existing use of the site, the proposal for 30 dwellings would increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS. The application proposes that foul drainage would be dealt with via the mains sewer system and confirms that the applicant will pay the required contribution under the DCS.

However a condition requiring that only a mains connection is used at the site would be required as the use of other means for foul drainage discharge could adversely affect the SAC. The western boundary of the site abuts a stream which feeds into the Gilwiskaw Brook which is a tributary of the River Mease and as shown on the indicative layout, there is sufficient space within the site to accommodate the proposed number of dwellings with a 5m buffer zone along the western boundary between properties and the stream in order to prevent any direct impact on its channel and banks. The Environment Agency has confirmed that there should be a 4m buffer from the top of the bank of the stream where no new buildings or raising of levels should occur, and therefore, this would need to be controlled by condition.

It is proposed that surface water from all elements of the proposal will discharge into a sustainable urban drainage scheme on site to ensure that unnecessary water volume does not go to the sewage treatment plant and this can be required by condition. Subject to the imposition of conditions concerning the storage and disposal of surface water run-off from the site, the Environment Agency are satisfied with the proposal.

Natural England has no objections in relation to impact on the SAC/SSSI subject to a condition. Therefore, it can be ascertained that the erection of 30 dwellings on the site will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Protected Species/Ecology

The application submission was accompanied by an Ecology Report which found no evidence of protected species on site but noted that some of the larger trees around the site may offer potential roost sites for bats and may require further survey work if they are to be removed/pruned. The report found that an inspection of the newer building on the eastern side of the site may also be required prior to demolition works and recommended that works involving the removal of vegetation/buildings that may be potential nesting sites for breeding

birds should be undertaken outside the breeding season. The report also concluded that the eastern section of the hedgerow fronting the site was found to meet the criteria for a Local Wildlife Site (LWS) but the grassland on the site would not meet LWS criteria.

The County Ecologist has been consulted on the application and initially raised concern about the lack of consideration given to badgers within the Ecology Report. The applicant's ecological consultant has since confirmed that although not mentioned specifically within the report, they were included within the field survey and as no signs of badger use were found on the site and covered in the report by the phrase 'no evidence of other protected species was found on the site'. The County Ecologist is satisfied that no further badger surveys are required at this time but as they are known within the vicinity of the site, an updated badger survey should be provided prior to development commencing on site.

The County Ecologist has raised concern about the removal of trees which may have bat roosting potential. The agent has advised that two of the trees recommended for removal within the arboricultural report which have deadwood and decay present, have potential for roosting bats. The consulting ecologist advises that a precautionary bat survey would need to be undertaken prior to the felling of the trees to ensure that protected species are not adversely affected by the development. Should the further survey demonstrate that there would be a loss of bat habitat, the agent has suggested a condition requiring the creation of additional habitat as mitigation.

The County Ecologist has been consulted on this issue but a response had not been provided at the time of writing this report. Any comments received will be reported to Members via the update sheet.

The site lies within the catchment of the River Mease Special Area of Conservation (SAC) and consideration of the potential impacts of the development on this designated site have already been covered in the section above.

Natural England raises no objection to the proposed scheme. Therefore, subject to the imposition of suitably-worded conditions the submitted scheme is considered acceptable in ecological terms.

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.

Healthcare

NHS England have sought £10,093.91 towards the costs of providing additional accommodation at Ashby Health Centre for additional patients arising from the development. The North Street Practice currently has capacity to manage additional patients based on the current patient ratio split between the two practices. No issues have been raised with regard to the cumulative impacts on healthcare provision of the proposal and the other major housing application for Packington reported elsewhere in this agenda. The applicant has confirmed their agreement to pay this developer contribution.

Libraries

Leicestershire County Council is seeking a contribution of £2140 to provide additional capacity at Ashby de la Zouch Library, which is the nearest library. The applicant has confirmed their agreement to pay this developer contribution. LCC has been re-consulted following the reduction in the number of dwellings proposed and any revised comments will be reported to Members via the update sheet.

Education

Leicestershire County Council is seeking the following contributions to provide additional places at the nearest schools where there is no capacity:

- a contribution of £62,566.60 is sought for the high school sector as there would be a deficit of 28 pupil places (4 created by the development) within high schools within a 3 mile walking distance of the site.
- a contribution of £64,243.06 is sought for the upper school sector as there would be a deficit of 119 pupil places (4 created by the development) within upper schools within a 3 mile walking distance of the site.

No contribution is sought for the primary school sector as there is currently an overall surplus for the area of 13 places when taking into account primary schools within a 2 mile radius of the site. The applicant has confirmed their agreement to pay this developer contribution.

LCC has been re-consulted following the reduction in the number of dwellings proposed and their comments are awaited. Furthermore, the District Council has sought to clarify the position in terms of any cumulative impact from the two major housing schemes considered on this Agenda to ensure any resulting school deficit could be met through an appropriate financial contribution. Any revised comments will be reported to Members via the update sheet.

Play Area/Open Space

Under the District Council's Play Area Supplementary Planning Guidance, on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 30 dwellings are proposed, this would require a play area of not less than 600 square metres. No on-site children's play area is proposed as part of this proposal and instead it is proposed to make a contribution towards the existing open space at the recreation ground off Measham Road of £1235 per dwelling (£37,050), which would allow the Parish Council some flexibility as to how the money is spent. The applicant has confirmed their agreement to pay this developer contribution.

The Council's SPG regarding children's play areas specifies that a commuted sum may be acceptable for sites that are within a reasonable walking distance of 400 metres. The distance to the existing play area/recreation ground is around 640 metres, which would be in excess of the 400 metres walking distance as suggested in the SPG. However, guidance in Building for Life indicates that a point should be awarded for community facilities (such as play areas) being within a short distance (defined as 800 metres), and the proposals would satisfy this criterion. Taking into account the alternative distance recommended under Building for Life (which the Council has adopted as a design quality indicator), it is considered that a commuted sum towards upgrading and improving the existing play area in the village would be acceptable in this instance. An obligation relating to management plans for any open space, landscaping and SUDS to ensure that the land is properly established, maintained and managed in the future would also be required.

Affordable Housing

Under the Council's Affordable Housing SPD, 30% affordable housing is required on sites of 5 dwellings or more, and this would equate to 9 dwellings for the current proposal. The applicant is proposing that 8 of the dwellings be affordable, which would just fall short of the requirements of the SPD. The Council's Strategic Housing Team have been consulted on the application and have advised that they are satisfied with the reduced provision in this case, on the basis that the affordable housing provision includes two single storey units (two-bed), there are no age restrictions attached to these properties and they are provided as affordable rented properties.

Highways Contributions

The County Highway Authority has also requested the following contributions to encourage sustainable travel to and from the site, achieve modal shift targets, and reduce car use:

- (i) Travel Packs - to inform new residents from first occupation what sustainable travel choices are in the surrounding area;
- (ii) Six-month bus passes, two per dwelling (2 application forms to be included in Travel Pack and funded by the developer) - to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car;
- (iii) Improvements to the two nearest bus stops (including raised and dropped kerbs to allow level access) - to support modern bus fleets with low floor capabilities - £3263.00 per stop;
- (iv) Information display cases at the two nearest bus stops - to inform new residents of the nearest bus services in the area - £120.00 per display.
- (v) contribution towards equipping the nearest bus stop(s) and suitable bus route with Real Time Information (RTI) system.

The Highway Authority has previously advised that the contributions are related to the new development as they seek to make bus services more attractive and encourage their use by future residents of the development, and to encourage behavioural shift in terms of travel choice at an early stage before car use becomes ingrained. Furthermore, the Highway Authority has considered that development would not be acceptable without these measures, as without them there is likely to be less use of buses and more car journeys. Consequently the development will be less sustainable, congestion on the network would increase, and the policies in LTP3 would not be complied with.

The Highway Authority also requests agreement of a construction traffic route which is considered to be necessary in this case given the site's proximity to residential areas and the village centre and that although existing weight restrictions are in place they would not prevent HGVs from passing through the village to access the site itself. The County Highways Authority also advises that the routing agreement will enable the Authority to prevent construction traffic from using unsuitable routes in the interests of highway safety. The applicant has confirmed their agreement to the requested developer contributions/requirements. LCC has been re-consulted following the reduction in the number of dwellings proposed and any revised comments will be reported to Members via the update sheet.

River Mease DCS

A contribution under the River Mease DCS is required (as outlined earlier in the report) but an exact figure for the contribution cannot be determined at this stage (although the maximum amount would be £10,620) as the number of bedrooms in each dwelling would not be finalised until the reserved matters stage.

National Forest Company

The application site extends to 1.49ha and the National Forest Planting Guidelines require 20% of the site area to be for woodland planting and landscaping. This would equate to an area of 0.29ha and would need to be secured through a Section 106 agreement as either on-site, off-site or by way of a financial contribution equating to £5,800. The applicant's agent has confirmed agreement to the inclusion within a S106 agreement of a requirement for the provision of planting as set out by the National Forest Company.

Other Contributions

No requests for contributions have been received from Leicestershire Police, the Council's Leisure team and the County Council has advised that a contribution towards civic amenity sites is not required.

Summary

Overall, it is considered that the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development. The applicant has agreed to all of the above obligations in principle and the legal agreement would be negotiated following any resolution to grant planning permission. The District Council would continue negotiations with consultees and the applicants to ensure the appropriate level of contributions that have been sought could be secured through a S106 agreement.

Other Matters

The site lies approximately 800 metres to the east of the proposed route of HS2. Any potential adverse effects on residents would be expected to be limited due to mitigation measures to be included in the HS2 design having regard to the need to protect nearby dwellings. However, it is considered that only limited weight can be attributed to HS2 as a material planning consideration at this stage in HS2's development. The Government is currently consulting on the proposed Phase 2 (i.e. West Midlands to Manchester and Leeds) connections, and the route is not fixed at this time; Phase 2 is not currently subject to the safeguarding mechanism which applies to the Phase 1 (London to West Midlands) section.

In respect of the concerns raised in the letters of representation that have not been addressed above, impacts on views and lifestyle, the capacity of the electricity supply and broadband networks are not planning matters that can be taken into account in the determination of planning applications. Matters relating to noise and disturbance during construction works are covered by separate Environmental Health legislation. Other sites will be affected by a different set of circumstances and it is a fundamental tenet of the planning system that every application is determined on its own merits. If any further applications are submitted for the site then they will also be considered on their own merits. Consideration is given to all policies set out in the Local Plan and the NPPF when assessing planning applications.

Conclusions

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). Packington is a sustainable location for the level of development proposed for this site and the proposal would not result in a significant increase in housing development within the village.

It is considered that the site is of sufficient size to accommodate the number of units proposed, without resulting in any significant adverse effects on the character of the area and the historic environment, trees and ecology, residential amenities, highway safety issues, flood risk, drainage or the River Mease SAC/SSSI, and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services.

The proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION, PERMIT, subject to the signing of the Section 106 Agreement and the following condition(s):

- 1 Outline permission
- 2 Submission of Reserved Matters
- 3 Reserved Matters to include finished floor levels/ground levels
- 4 Reserved Matters to include buffer zones of at least 5m from natural vegetation along the boundaries of the site which except for the proposed
- 5 Approved plans
- 6 REM landscaping to include an ecological/landscape management plan
- 7 Updated badger survey (pre-commencement)
- 8 Bat survey of all felled trees
- 9 REM accompanied by a further Building for Life assessment
- 10 Retention of hedgerows
- 11 Details of surface water disposal including SUDS
- 12 Construction management statement for the site (pollution management) to protect the River Mease
- 13 Development in accordance with FRA and specified mitigation measures
- 14 No raising of ground levels or storage within 100 year floodplain
- 15 No buildings (including sheds, cycle storage or garages), structures (including gates,

- walls and fences) or raising of ground levels within 4m of the top of any bank of any river/watercourse
- 16 Mains sewer system only
 - 17 Tree Protection including protective fencing to RPA of trees/hedgerows to be retained on/overhanging the site, design and method statement for
 - 18 Restriction on times for destruction and removal of vegetation (bird breeding)
 - 19 Bat survey of trees to be felled
 - 20 Programme of archaeological work
 - 21 Completion of archaeological site investigation and post investigation assessment
 - 22 Off-site works to Normanton Rd (footways and street lighting) and gateway village entry treatment
 - 23 Access details and surfacing
 - 24 Highway drainage
 - 25 Obstructions to vehicular access - 7m set back distance
 - 26 Access gradient
 - 27 Construction traffic site management plan
 - 28 Closure of existing accesses

Notes to applicant

- 1 Positive and proactive statement
- 2 County Highways Authority notes:
 - works in the highway
 - LCC Lead Local Flood Authority- SUDs
 - permits/agreements under the Highways Act
 - Section 38 agreement
 - highway boundary
 - CBR tests
- 3 Advice of the County Ecologist
- 4 Bats and breeding birds advisory notes
- 5 Coal Authority notes.
- 6 The Council's Urban Designer recommends a note to applicant to highlight that there would be an expectation from the Local Planning Authority that the scheme draws inspiration from the positive and distinctive characteristics of the village through layout, form and appearance (including materials). Consideration must also be afforded to the setting of the nearby listed building, key views into the site, the relationship of the site to Normanton Road and to softening the boundaries where it meets the open countryside beyond to avoid an abrupt end to built form within the village. The indicative layout of the outline application should inform future design development as these establish key

- 7 design principles for the layout of the development, building orientation, structural landscaping and street types.
Advice of the Environment Agency dated 31 January 2014.

Development of up to 450 residential dwellings and reinstatement of 1.1km of associated canal, provision of public open space and vehicular, emergency and footpath access (Outline application - All matters reserved except access)

Report Item No
A3

Land At Measham Waterside Burton Road Measham Derby

Application Reference
13/00141/OUTM

Applicant:
Measham Land Company Limited

Date Registered
25 February 2013

Case Officer:
Sarah Worrall

Target Decision Date
27 May 2013

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Proposal

The development proposal is unchanged from the previous report to Planning Committee at its meeting of 1 October 2013. The following report is an update for Planning Committee on the S106 negotiations and a copy of the original report to Committee is attached as an addendum for information. At that time the District Valuer found a policy compliant proposal to be viable, notwithstanding the applicant/agents position of a policy compliant scheme not being viable.

Consultations

No further consultations have taken place other than with the District Valuer following submission of additional confidential viability information by the applicant.

Planning Policy

There has been a change in policy since the application was considered on 1 October 2013 in that the Submission Core Strategy was withdrawn by Full Council on 29 October 2013. The Core Strategy indicated that land to the west of Measham village centre would be developed for residential use in addition to reinstatement of part of the Ashby Canal.

Conclusion

The recommendation of approval of the proposed development should be maintained, subject to further negotiations with the District Valuer and applicant/agent in relation to viability issues. Negotiations between parties since 1 October 2013 have led to a further review of the policy compliant scheme where all S106 contributions, as set out in the original report, have been considered along with revised and updated information from the agent. On 21 May 2014 the District Valuer confirmed that a fully policy compliant scheme would **not** be viable, but a partially compliant scheme may be compliant. It should be noted that the developer is agreeable to including a review clause within a S106 agreement in order to revisit other issues such as affordable housing, health and education at such a time as the scheme comes forward. As such, there are three options for Members to consider at this time which are set out below:

RECOMMENDATION A :- THAT PLANNING PERMISSION FOR A PARTIALLY POLICY COMPLIANT SCHEME BE APPROVED SUBJECT CONDITIONS AS PER THE OCTOBER COMMITTEE REPORT AND UPDATE SHEET AND SUBJECT TO FURTHER NEGOTIATIONS IN RELATION TO S106 CONTRIBUTIONS and that Delegated powers be authorised in order for Officers to negotiate proportionate figures for contributions sought, other than the canal reinstatement, Burton Road roundabout provision and the River Mease SAC contribution which should be provided in full.

RECOMMENDATION B :- THAT PLANNING PERMISSION FOR A PARTIALLY POLICY COMPLIANT SCHEME BE APPROVED SUBJECT CONDITIONS AS PER THE OCTOBER COMMITTEE REPORT AND UPDATE SHEET AND, to include contributions for the canal reinstatement, Burton Road roundabout provision, the River Mease SAC contribution, and the provision of open space.

RECOMMENDATION C :- THAT THE APPLICATION BE REFUSED ON THE GROUNDS THAT THE DEVELOPER IS NOT AGREEABLE TO THE S106 REQUIREMENTS AND, THEREFORE, THE PROPOSAL DOES NOT REPRESENT SUSTAINABLE DEVELOPMENT.

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 and the original report which is attached.

MAIN REPORT

1. Proposals and Background

This is an outline application for the erection of up to 450 dwellings, reinstatement of 1.1km of associated canal, provision of public open space, footpath access, an emergency access off High Street, and a new access with roundabout off Burton Road. All matters, except access, are reserved for subsequent approval.

An indicative masterplan drawing has been submitted as part of the application which includes the current application site (Measham Waterside) as well as the adjacent site which the applicant calls the Measham Wharf site. Whilst the masterplan drawing indicates the applicant's vision for the site it is indicative only. For clarity, it should be noted there is no separate application for the Measham Wharf site at this time. This application is purely in relation to residential development and associated highways and canal infrastructure works.

The site is some 19.4 hectares in size, and is predominantly agricultural land which slopes downwards from west to east and north to south. The application site also includes the former Picture House Youth Club site which fronts High Street, and the Meer Bridge off Burton Road which is a Grade II Listed structure. The site is bound at the western side by the A42, to the north by residential development off Rosebank View and Hart Drive, to the east by residential development on Chapel Street and the physical boundary of High Street, open space to the south east and residential development on Burton Road to the south.

Following various discussions between the applicant/agent, District Valuer and District Council, further viability information was submitted by the agent on 11 February 2014 which submits that the scheme would be viable on the basis of financial contributions for the canal reinstatement and the River Mease Developer Contribution Strategy. Further costing information was submitted on 28 April 2014 and various discussions have taken place between the District Valuer and the agents.

2. Publicity

No further publicity has been required as the proposal has not changed and the matters for discussion relate to S106 contributions and the viability of the site in relation to these.

3. Consultations

No further consultation, other than with the District Valuer, has been required as the proposal has not changed and the matters for discussion relate to S106 contributions and the viability of the site in relation to these.

4. Summary of Representations Received

The District Valuer confirms that due to changes in Quarterly costs and additional information submitted by the agent a policy compliant scheme is not viable. However, the District Valuer indicates that a partially compliant scheme would be viable and suggests that sensitivity testing be undertaken to establish the viable position.

5. Planning Policy

The planning policy in relation to the NPPF and the Adopted Local Plan as set out in the original report as attached is still relevant to this update. However, the Submission Core Strategy policies are not since the document was withdrawn on 29 October 2013. Notwithstanding this issue, the site is included within the 2014 Strategic Housing Land Availability Assessment (SHLAA).

In terms of the Adopted Local Plan, and as set out in the original report to Committee, the site lies outside the Limits to Development of Measham. Adopted Local Plan Policy S3 applies to countryside sites which lie outside Limits to Development, and sets out criteria for development in the countryside which does not include residential development. However, the current situation with the District Council's 5 year housing land supply has to be taken into consideration. Since the District Council does not have a 5 year housing land supply (with 20% buffer) Policy S3 cannot be considered up to date in the context of Paragraph 49 of the NPPF in terms of it being a general policy that constrains the supply of housing. Furthermore, the development of the section of canal would, in principle, be acceptable development in the countryside since it would be for leisure and recreation use.

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

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

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

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, it is located adjacent to the existing built up area of the settlement and would not result in isolated development in the countryside.

In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to meet this need. Given the need to provide significant areas of housing land as set out below, it is considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan.

Housing Land Supply

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

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". 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 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.

Sustainability

In terms of the sustainability of the site, the application site is well related to the existing wide range of services/facilities within the village of Measham. The distance to the nearest bus stop

from the centre of the site is 800m and the distance to the nearest bus stop from the site access is 890m. The primary school is within walking distance of the site (some 770m), and the local shopping area including Post Office and Health Centre is some 540m from the site, so also within walking distance (preferred maximum walking distance is 800m). There would be open space on the application site and public footpaths would be maintained, diverted and/or introduced within the development to ensure connectivity between the site and the existing village.

In addition, reinstatement of a section of the Ashby Canal is also proposed as part of the application which would provide for leisure and recreation opportunities in addition to economic regeneration and heritage opportunities. As such, it is considered that the site is a sustainable location for the level of development proposed.

Other Issues

The matters of design, heritage, residential amenity, highways, River Mease, drainage, ecology and ground stability are addressed in the original report and remain unchanged.

High Speed 2 (HS2) is not a material planning consideration at this time.

S106 requirements

The scheme was presented to Planning Committee in October 2013 with a recommendation to permit subject to conditions, and subject to a S106 agreement in relation to library facilities, highways matters, leisure facilities, River Mease SAC Developer Contribution Scheme (DCS), affordable housing, implementation of the canal, and Open Space/National Forest Planting and Conservation Management Plans i.e. a policy compliant scheme.

The applicant/agent had submitted that the scheme was not viable with all contributions and a partially compliant scheme was put forward which included the canal provision and the River Mease SAC DCS contribution. However, the District Valuer, on behalf of the District Council, advised that a policy compliant scheme was viable and, as such, the recommendation was made as per the preceding paragraph.

Following the October Planning Committee further discussions took place between parties and the applicant/agent submitted additional information setting out their position in relation to the viability situation (February 2014) and, following discussions with the District Valuer, additional background information on costings was submitted (April 2014). The District Council instructed the District Valuer to advise on the position put forward by the applicant/agent and to advise in relation to the viability of the scheme.

On 21 May 2014 the District Valuer reported back to the District Council that a fully policy compliant scheme was not viable at the site. Following further discussions between the District Council and the District Valuer after that date the District Valuer has indicated that a partially compliant scheme would be viable and has suggested that sensitivity analysis and testing be undertaken to establish which combination of S106 requirements would be viable.

It should be noted that the developer is agreeable to including a review clause within a S106 agreement in order to revisit other issues such as affordable housing, health and education at such a time as the scheme comes forward.

It should also be noted that further correspondence was received from the agent on 29 May

2014 in relation to the viability situation. The agent advises that their client (the applicant) is of the view that further negotiations with the District Valuer will not lead to an agreement between the parties as to the content of a S106 agreement and that the application should either be approved as a partially policy compliant scheme (with canal and River Mease contributions) or refused.

Conclusion

The withdrawal of the Submission Core Strategy has changed the planning policy situation but not in any significant way which would result in a change to the recommendation to approve the application. All other matters, other than the S106 issue, remain the same as previously considered in October 2013.

On 21 May 2014 the District Valuer confirmed that a fully policy compliant scheme would **not** be viable, but subsequently indicated that a partially compliant scheme may be compliant. The agent's comments of 29 May 2014 are noted. Notwithstanding those comments, there are three valid options for the proposal for Members to consider at this time and these are set out below:

RECOMMENDATION A :- THAT PLANNING PERMISSION FOR A PARTIALLY POLICY COMPLIANT SCHEME BE APPROVED SUBJECT TO CONDITIONS AS PER THE OCTOBER COMMITTEE REPORT AND UPDATE SHEET, AND SUBJECT TO FURTHER NEGOTIATIONS IN RELATION TO S106 CONTRIBUTIONS and that Delegated powers be authorised in order for Officers to negotiate proportionate figures for contributions sought, other than the canal reinstatement, Burton Road roundabout provision and the River Mease SAC contribution which should be provided in full.

RECOMMENDATION B :- THAT PLANNING PERMISSION FOR A PARTIALLY POLICY COMPLIANT SCHEME BE APPROVED SUBJECT TO CONDITIONS AS PER THE OCTOBER COMMITTEE REPORT AND UPDATE SHEET, AND to include contributions for the canal reinstatement, Burton Road roundabout provision, the River Mease SAC contribution, and the provision of open space.

RECOMMENDATION C :- THAT THE APPLICATION BE REFUSED ON THE GROUNDS THAT THE DEVELOPER IS NOT AGREEABLE TO THE S106 REQUIREMENTS AND, THEREFORE, THE PROPOSAL DOES NOT REPRESENT SUSTAINABLE DEVELOPMENT.

OCTOBER 2013 REPORT

Executive Summary

Call In

The application has not been called in but is brought before Planning Committee on the grounds of local concern.

Proposal

This is an outline application for the erection of up to 450 dwellings, reinstatement of 1.1km of associated canal, provision of public open space, footpath access, an emergency access off High Street, and a new access with roundabout off Burton Road. All matters, except access, are reserved for subsequent approval.

Consultations

Members will note that representations from local residents have been made. In terms of those issues raised, all statutory consultees are satisfied that there are no matters that have not been satisfactorily addressed or cannot otherwise be satisfied by way of condition with the exception of Natural England whose additional comments are outstanding at the time of writing this report. Any further advice will be reported on the Update Sheet.

Planning Policy

The site is a Greenfield site located outside the Limits to Development of the sustainable village of Measham, and is also situated within the River Mease SAC catchment area. The Submission Core Strategy identifies the site for residential and other development. Also relevant are the District's housing land requirements, and the need (as set out in the National Planning Policy Framework) to demonstrate a five year land supply particularly in light of the recent planning appeal decision for the site off Moira Road, Ashby.

Conclusion

The report below indicates that the site is a Greenfield site, and is outside Measham's defined Limits to Development as identified in the Adopted Local Plan and therefore development in the countryside. However, the Submission Core Strategy identifies the site as an area of growth to support Measham's role as a Rural Centre.

Appropriate contributions to infrastructure could also be made to enable local facilities to absorb the impact of the proposed development. A viability report has been submitted in relation to the proposed development as the applicant submits that the scheme is not viable if any additional costs over the new roundabout, emergency access, canal uplift funds and River Mease SAC Developer Contribution Scheme are required. However, the report and other background information has been assessed by the District Valuer which concludes that the scheme is viable with all financial contribution requests.

As such, whilst the proposed development would not comply with countryside policies of the Adopted Local Plan or Submission Core Strategy, the site is identified in the Submission Core Strategy as an area for growth. Benefits of the proposal including the reinstatement of 1.1km of canal and contributions to infrastructure also have to be considered. In this particular instance it is concluded that the benefits of the proposal outweigh the fact that the proposal would form development in the countryside outside Limits to Development of Measham and, on this basis, the application is recommended for approval subject to a legal agreement relating to all financial

contributions and construction phasing. Should the applicant or agent subsequently advise they are not agreeable to entering into a legal agreement to secure all financial contributions due to viability issues, it is recommended that the right to defer the matter for reconsideration at a future Planning Committee meeting is reserved.

RECOMMENDATION: PERMIT SUBJECT TO CONDITIONS AND S106 AGREEMENT

MAIN REPORT

1. Proposals and Background

This is an outline application for the erection of up to 450 dwellings, reinstatement of 1.1km of associated canal, provision of public open space, footpath access, an emergency access off High Street, and a new access with roundabout off Burton Road. All matters, except access, are reserved for subsequent approval.

An indicative masterplan drawing has been submitted as part of the application which includes the current application site (Measham Waterside) as well as the adjacent site which the applicant calls the Measham Wharf site. Whilst the masterplan drawing indicates the applicant's vision for the site it is indicative only. For clarity, it should be noted there is no separate application for the Measham Wharf site at this time. This application is purely in relation to residential development and associated highways and canal infrastructure works.

A number of documents have been submitted as part of the application including a Design and Access Statement, Heritage Statement, Statement of Community Involvement, Flood Risk Assessment, Tree Survey, Landscape and Visual Assessment, Ecological Survey, Archaeological Desk Based Assessment, Noise Assessment, Preliminary Ground Investigation (Phase 1), Landfill Ground Investigation and Preliminary Remediation Strategy, Coal Mining Risk Assessment Report, Transport Assessment and a Travel Plan Framework.

A confidential Viability Report with no background information has also been submitted. Additional confidential information pertaining to this has been submitted during the application process at the request of the District Valuer which has undertaken an assessment of the viability information on behalf of the District Council.

Additional information was requested by Natural England which was received, but Natural England advised it still did not satisfy its concerns. At the time of writing this report Natural England is assessing further information submitted by the agent on 3 September 2013. Any further comments will be reported on the Update Sheet.

The site is some 19.4 hectares in size, and is predominantly agricultural land which slopes downwards from west to east and north to south. The application site also includes the former Picture House Youth Club site which fronts High Street, and the Meer Bridge off Burton Road which is a Grade II Listed structure. The site is bound at the western side by the A42, to the north by residential development off Rosebank View and Hart Drive, to the east by residential development on Chapel Street and the physical boundary of High Street, open space to the south east and residential development on Burton Road to the south.

History

There is no planning history for the application site as a whole. However, an outline application 99/0365 was submitted for residential development on a 1 hectare site just off High Street, but the file on this was closed in August 2000 as additional information which had been requested had not been submitted.

An application was submitted in relation to the former Picture House Youth Club site in relation to a satellite dish which was approved in 1990.

2. Publicity

217 residents notified by letter

Site notices (x 6) posted on 25 March 2013 at various locations adjacent to the site boundaries and/or adjacent to Public Rights of Way.

Press Notice published 2013 in the Leicester Mercury

3. Consultations

Measham Parish Council consulted 6 March 2013
County Highway Authority consulted 12 March 2013
Environment Agency consulted 12 March 2013
Severn Trent Water Limited consulted 12 March 2013
Head of Environmental Protection consulted 12 March 2013
Natural England consulted 12 March 2013
NWLDC Tree Officer consulted 12 March 2013
County Archaeologist consulted 12 March 2013
LCC ecology consulted 12 March 2013
Airport Safeguarding consulted 12 March 2013
NWLDC Conservation Officer consulted 12 March 2013
NWLDC Urban Designer consulted 12 March 2013
County Planning Authority consulted 12 March 2013
LCC Development Contributions consulted 12 March 2013
NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 12 March 2013
Building Control - NWLDC consulted 12 March 2013
Head Of Leisure And Culture consulted 12 March 2013
Manager Of Housing North West Leicestershire District Council consulted 12 March 2013
Police Architectural Liaison Officer consulted 12 March 2013
LCC/Footpaths consulted 12 March 2013
Highways Agency- Article 15 development consulted 12 March 2013
Coal Authority consulted 12 March 2013
County Planning Authority consulted 17 June 2013
English Heritage- Ancient Monument consulted 28 March 2013
National Forest Company consulted 3 April 2013

4. Summary of Representations Received

Measham Parish Council - no comments received on the proposal;

Leicestershire County Council Public Footpaths - no objection subject to the Public Rights Of Way being diverted within the site and alternative routes being made available during construction works;

Leicestershire County Council Highways Authority - no objection subject to conditions and planning obligations;

Leicestershire County Council Ecologist - no objection subject to conditions;

Leicestershire County Council Civic Amenity - no financial requirement is sought at this time as Lount CA has capacity for the size of the proposed development;

Leicestershire County Council Education - no financial requirement is sought as High and Upper School sectors for the locality are in surplus capacity (Ibstock Community College and

Ashby School respectively). However, £1,306,693.08 is sought for the Primary School Sector Requirement since there is a net deficit of 108 pupils between Measham Church of England Primary School which is at deficit and Oakthorpe Primary School which is at capacity. The contribution would be used at Measham Church of England Primary School;

Leicestershire County Council Libraries - a financial contribution of £28,530 would be sought to mitigate the impact of the development on local library services;

Leicestershire County Council Planning - the potential to extract coal from within the site should be assessed prior to the determination of the planning application to ensure that any viable mineral resources are recovered where practicable and acceptable to do so.

English Heritage - no objection but attention is drawn to the ridge and furrow site and the County Archaeologist should be consulted.

National Forest - no objection subject to a legal agreement ensuring delivery of the canal in association with the proposed development, and subject to conditions relating to open space aspects including sustainable drainage schemes, habitat creation, submission of a waymarking strategy and a construction method statement to protect retained habitats from construction.

Natural England - No objection to connecting to the mains sewer system subject to River Mease SAC Water Quality Management Plan Developer Contribution Scheme. Objection to the impact of the canal (management and maintenance) on the River Mease SSSI and SAC. Any comments in relation to additional information will be reported on the Update Sheet;

Environment Agency - no objection subject to conditions;

Severn Trent Water - no objection subject to surface and foul water drainage condition;

The Coal Authority - No objection subject to condition;

NWLDC Environmental Protection (land contamination) - no comments received at the time of writing the report;

NWLDC Environmental Protection (noise pollution) - no objection subject to conditions relating to mitigation measures as per the SLR report;

NWLDC Tree Officer - no objection in principle, subject to conditions relating to a detailed landscaping scheme and survey, and the submission and implementation of a tree protection plan should the application be approved;

NWLDC Housing Enabling Officer - No objections subject to 95 affordable rented homes and 40 intermediate homes (varied bedroom numbers within each);

NWLDC Leisure Services - No objection subject to £495,000 towards the capital redevelopment of Measham Leisure Centre which would be used by the population generated by the proposed development;

Leicestershire Constabulary - objects to the planning application if there is no consideration of the necessary Policing contribution of £152480;

Leicester, Leicestershire and Rutland NHS - The cost of providing additional accommodation

for 1080 patients in the form of an extension to Measham Medical Unit would be £178,711.92 and this is requested as a planning obligation;

21 representations have been received from local residents in relation to the proposal, 14 by individual submission and 7 through a feedback form. Full copies of comments are available for Members information on the application file. The comments can be summarised as follows:

Positive Representations

- Not against the development in principle as it will include the reinstatement of part of the Ashby Canal;
- The development will bring Measham back to life;

Representations expressing concerns

Impact on Measham and locality

- The character of Measham village will be destroyed, it is currently a quaint village;
- There is no need for development on countryside and agricultural land;
- Build homes where they are needed instead of in an area of natural beauty;
- Reduce the house numbers and increase the green space;
- It should be a smaller development around the canal basin and the fields should be left for nature conservation, wooded area and a nature trail for residents to enjoy;
- Would welcome a smaller development to include the canal wharf, local amenities and a smaller residential area around the wharf;
- Increasing the population by such a big volume may reduce the quality of life for many current residents since there is high unemployment in the area;
- The current economic climate doesn't warrant a development of this size in the village, and there is not much interest in other development in Measham - dwellings have been approved on Bosworth Road;
- The old Picture House should be incorporated into the scheme

Highways

- The development will cause too much traffic on already busy and badly surfaced roads;
- Chapel Street is a partly unadopted road and is too narrow to accept any traffic from the High Street to the development site;
- Chapel Street should not be used for an emergency access;
- An increase on traffic on Chapel Street could adversely impact on our drains, sewers and pipes on this section of the street;
- The location for the emergency access is directly adjacent to our boundary (Springfield Cottage, Chapel Street) and will cause disturbance and loss of privacy;
- Public rights of way would be diverted away from the hedgerows and wildlife;
- Public rights of way will be lost;

Other Infrastructure issues

- How will schools and Doctors cope with the added population?;
- What shops will be proposed?;
- New shops should not cause existing shops to go out of business;

Residential Amenity

- There will be increased disturbance from comings and goings;
- There will be overlooking of dwellings on Chapel Street and Rosebank View;
- Houses could be built close to the boundary of dwellings on Hart Drive and could cause overlooking;
- Development would be overbearing to the bungalows on Hart Drive;
- There will be an increase in noise, light, ground and air pollution in the National Forest area;

Canal, Flooding and River Mease SAC

- The site slopes and may cause drainage problems and increase flooding to properties on Chapel Street - we already get run-off from the field;
- A short stretch of canal will be of no use and no benefit;
- The canal should be linked;
- How will the canal be maintained?;

Ecology and Archaeology

- The site is bordered to the north by an old hawthorn hedge - this should be retained as it is the natural nesting place for wildlife and may have a preservation order on it;
- The site has a considerable range of wildlife - mammals, amphibians and insects;
- The canal route is planned through an ancient ridge and furrow site - the archaeological report doesn't mention this so is flawed;

Other

- Loss of view over the field;
- Devaluation of property;
- HS2 will go through the site so people won't buy the houses. It is unfair that houses built within 120m of the line can claim compensation;
- The rights of people who vote for MPs and Councillors should be considered.

5. Relevant Planning Policy

Relevant Planning Policy

The following planning policy is considered relevant to the determination of this planning application.

National Planning Policy Framework (NPPF)

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 sections 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."

Paragraph 17 states that within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning should:

- be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up to date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;
- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- 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;
- support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
- contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in the Framework;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions

- (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

"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."

"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."

"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..."

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

- the desirability of sustaining and enhancing the significant 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. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. ... Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments ... should be wholly exceptional."

"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."

"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

The following saved policies of the North East Leicestershire Local Plan are considered to be in compliance with the requirements of the National Planning policy Framework and are therefore afforded weight in the determination of this application.

Policy S3 advocates a presumption against new development in the countryside.

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 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 F1 states that new development within the boundaries of the National Forest should demonstrate a high quality of site layout, building design and choice of materials, in order to reflect local architecture and its Forest setting.

Policy F2 requires appropriate landscaping and planting schemes taking into account the existing landscape character of the site and its surroundings, the level of planting proposed, site constraints, scale type and the value of development.

Policy F3 requires that the implementation of agreed landscaping and planting schemes for new development will be secured through planning condition, the negotiation of a planning agreement, or a combination of both.

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.

Submission Core Strategy (April 2012)

The District Council considered its response to the Pre-Submission Core Strategy consultation and suggested changes at its meeting of 26 March 2013. The Council resolved, amongst others, to agree the recommended significant changes, to note the delegated minor changes, to agree to a period of consultation on the significant changes, and to agree to submit the Core Strategy to the Secretary of State as soon as possible following consultation. The following Submission Core Strategy policies are considered relevant and, given the stage that the draft Strategy has reached, should be afforded some (but not full) weight in the determination of this application:

Policy CS1 provides that provision will be made for at least 9,700 new homes (an average of 388 per annum) in the District over the period 2006 to 2031.

Policy CS7 provides that new development, including new facilities and services will be directed to the most sustainable locations in accordance with the settlement hierarchy set out in that policy.

Policy CS8 provides for the protection of the countryside, and requires that appropriate development in the countryside should be of a scale and environmental impact that is compatible with the character of its rural location.

Policy CS15 provides that sufficient land will be allocated to ensure the overall housing provision of at least 9,700 dwellings over the period 2006-2031.

Policy CS16 provides that all housing developments should be of a good standard of design and have a layout and built form that makes efficient use of land and complements the built form and character of the area in which it is situated, and that proposals for sites of 0.3ha or above should have a minimum net density of 30 dwellings per hectare.

Policy CS17 provides that the District Council will seek a mix of housing types, sizes and tenures in all new housing development.

Policy CS18 provides, amongst others, that a proportion of affordable housing will be provided on eligible sites.

Policy CS21 provides that all new residential development will have to demonstrate how it satisfies the Council's place-making principles:

Policy CS22 provides that new development will be supported by the provision of new or improved physical, social and green infrastructure needed to enable the amount of development proposed for the area.

Policy CS23 requires new development to maximise the efficient use of existing transport facilities in the district as it looks to a lower carbon future.

Policy CS24 requires new development to minimise carbon dioxide and other greenhouse gas emissions.

Policy CS25 provides that new residential developments will be expected to achieve the highest level technically and financially viable under the Code for Sustainable Homes.

Policy CS26 provides that new development will be directed towards areas at the lowest risk of

flooding within the District.

Policy CS32 provides that new development should contribute to the protection and improvement of the natural environment.

Policy CS33 requires the water quality of the River Mease SAC to be improved.

Policy CS34 requires that heritage assets, and their setting, will be protected and conserved.

Policy CS41 sets out the proposed development strategy to support Measham's role as a Rural Centre. This includes making provision for at least 440 more homes by 2031 to the north west of Measham and a Masterplan should set out the proposed uses and relationships, additional infrastructure provision requirements in respect of local services and facilities, measures to reinstate the Ashby Canal, and consideration of the coalfield legacy and groundwater source protection.

6. Assessment

Principle of Development

The application site lies in the countryside, outside the Limits to Development of Measham so would be unacceptable under Adopted Local Plan Policy S3 which presumes against development in the countryside. In terms of housing policies, Adopted Local Plan Policy H4/1 seeks to direct housing development across the district in a sequential manner and small scale infill development within Limits to Development of Measham may, in principle, be acceptable but not large scale development outside Limits to Development.

In addition, four policies of the Submission Core Strategy are of relevance to the scheme:

- CS7: *Location of Development*
- CS8: *Countryside*
- CS15: *Distribution of Housing*
- CS41: *Measham*

The proposal would not be contrary to the countryside policy of the Submission Core Strategy since that document indicates the application site as being an area of growth to support the role of Measham as a Rural Centre under Policy CS41. Policy CS41 submits that at least 440 more homes should be provided to the north west of Measham by 2031.

Part B of CS7 notes that, after Coalville Urban Area, most of the remaining housing and employment development will be located within Rural Centres (of which Measham is one). Policies CS15 and CS42 complement one another on that issue. CS15 requires that '*at least 550 dwellings*' are to be provided during the Plan period at Measham. The Core Strategy figures are based on the residual method of calculation for housing land supply and but it should be noted that this has not been tested through Examination of the Core Strategy. Furthermore, it is a material consideration that a recent Planning Inspectorate decision for a housing development at land off Moira Road, Ashby concluded that the District Council could not demonstrate a 5 year housing land supply (5YHLS) and should calculate this using the Sedgfield approach and on top of that provide a 20% buffer for housing land supply.

On this basis, the District Council's most recent calculations indicate that the Council is only

able to demonstrate a supply of 4.33 years which represents a significant shortfall vis-à-vis the requirements of the NPPF.

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". The Council would not, in these circumstances, be able to rely on adopted Local Plan Policy S3 (Limits to Development) as, being a policy constraining the supply of housing land, it would be considered to be out of date.

Notwithstanding the above, the positive aspects of the scheme also need to be considered. If approved, the scheme would provide a community facility and potential regeneration catalyst in the form of a stretch of reinstated canal, and other infrastructure. The delivery of the canal segment and infrastructure would need to be ensured through a S.106 agreement.

Overall, whilst development of the site would be contrary to Adopted Local Plan countryside policy, that policy is currently out of date the site is an area identified for growth in the Submission Core Strategy and would include reinstatement of part of the canal and other infrastructure.

Design and Conservation Issues

The application is made in outline only with all matters, other than access, reserved for subsequent approval so there are no details of the proposed housing development. The indicative masterplan is for information only and illustrates the applicant's vision for the site.

In terms of conservation there are various designated heritage assets to consider. Firstly, the impact of the proposed access on the Grade II Listed Meer Bridge on Burton Road and, secondly, the impact of the emergency access route onto the High Street which is within the Measham Conservation Area and in the vicinity of Listed Buildings on the High Street.

The proposed roundabout access from Burton Road would be set to the south east of Meer Bridge and would not detract from the setting of that bridge which forms part of a Public Right of Way, and would continue to do so as part of this proposal.

The emergency access onto High Street would utilise the existing access at the former Picture House Youth Club site. Whilst LCC Highways would require the emergency access on to High Street to be implemented and available for use by the first occupation of the development, the Authority has confirmed, after much negotiation, that width for two way passing vehicles would be required only along parts of that access. As such, the access onto High Street could be kept as a single width access with adjacent footpath which would be in scale and character with existing accesses off High Street which are, historically, narrow due to modes of transport of those times and would have no adverse impact on the designated heritage asset. Substantive negotiations took place in relation to this matter since a two vehicle width access would appear incongruous in the streetscene and would not be appropriate in the conservation setting.

On this basis the proposed main and emergency accesses would have no adverse impact on the character or setting of designated heritage assets in accordance with the requirements of the NPPF, and Submission Coe Strategy CS34.

Residential Amenity Issues

As stated above, the application is made in outline only with all matters, other than access, reserved for subsequent approval so there are no details of the proposed housing development. It is apparent from representations made on the scheme that local residents who live close to the site are concerned about overlooking, overshadowing and overbearing impact as a result of the scheme due to the layout shown on the indicative masterplan. To clarify, the indicative masterplan is for information only and illustrates the applicant's vision for the site. Should this application be approved, details of siting, layout and appearance would be dealt with at a reserved matters application stage. However, there is no reason why a scheme could not be designed so that the amenities of existing residents were not adversely affected.

A noise assessment has been submitted as part of the application in relation to the impact of the noise from the A42 at the north west boundary on any proposed residential development. Mitigation measures including a bund at this boundary are proposed in order to protect the amenities of any future occupiers of the site and it is recommended that appropriate conditions be attached to a decision notice should the application be approved.

Highways

Notwithstanding the comments of local residents, no emergency access is proposed between the site and Chapel Street. An existing footpath link would be maintained at that point.

Substantive pre-application, and during application, discussions have taken place between the agent and Leicestershire County Council Highways in relation to the accesses to the site. The proposed access arrangements are shown on WSP's drawing number RP-0001 Rev B. Full details of the Burton Road roundabout, which would form the main access to the site, have been submitted and proposals also include a link with a bridge and bus stop provision nearby. It would be a raised roundabout with a bridge over the proposed canal in order for boats to move underneath, and to allow adequate headroom under the bridge along the canal towpath. The emergency access, required at first occupation of the development, would be single width at the High Street and would utilise the existing access to the former youth club site as outlined in the Design and Conservation section above.

The Highway Authority has no objection subject to conditions and S106 contributions.

River Mease SAC, Drainage and Ecology

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The 2010 Habitat Regulations sets 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. It should be noted that the scale of the development is not one which warrants an Environmental Impact Assessment to be undertaken.

A long term Water Quality Management Plan (WQMP) 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.

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.

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 Environment Agency advises that it has no objection to the proposal subject to the Mease Developer Contribution Scheme being in place to allow a DCS payment to be made to mitigate for the increased foul effluent resulting from the development.

In addition, surface water issues are considered in the Flood Risk Assessment submitted as part of the application. The Environment Agency advises that the proposed development would meet the requirements of the NPPF if measures set out in the Flood Risk Assessment are implemented and secured by way of planning condition. Conditions are recommended by the Agency and it is recommended that these be attached to any permission should the application be approved.

The applicant has confirmed that it is agreeable to making a DCS contribution. As such, the proposal would comply with the National, Regional and Local planning policies and the Habitats Regulations.

In terms of ecology, it is noted that the County Ecologist is satisfied with the information submitted as part of the application but recommends conditions be attached to a decision should the application be approved. These would relate to reassessing for the presence of badgers if no development has taken place by then, and to the provision of wildlife corridors and habitat enhancement including bat boxes.

The indicative masterplan indicates green boundaries and soft and hard landscaping throughout the scheme. The proposals would maintain and establish green corridors within the site, and at its boundaries, to ensure that wildlife links between habitats would be maintained as advocated by Natural England, the County Ecologist and the National Forest Company. The proposed access would involve the removal of a prominent Black Poplar on Burton Road. The Black Poplar is one of Britain's rarest native timber trees and is identified as a priority species in the Leicestershire Local Biodiversity Action Plan. However, the access could not be situated at any other point on Burton Road and whilst the loss of the tree would be regrettable, it would not be of such significance to warrant the refusal of the scheme.

The site is within the National Forest and should be subject to National Forest planting guidelines which comprise 20% of the area to be woodland planting and landscaping for housing sites over 0.5 hectares. The National Forest Company is satisfied that this could be achieved on the site with the level of development proposed, since the indicative masterplan

shows how the requirements could be met.

Archaeology

The Masterplan drawings indicate development over a wider area than that which forms part of this current planning application. In terms of the current application the canal route would be situated within the route area previously approved by Central Government under a Transport and Works Order which was sought by Leicestershire County Council. The current application site excludes an existing area of land where ridge and furrow is evident.

Ground stability

A coal risk assessment report and a Phase 1 site investigation report have been submitted as part of the application. The Coal Authority confirms it has no objection to the proposal subject to condition.

The County Council has raised concerns about the protection of mineral resources. However, the area has already been subject to historic coal extraction and is bordered by residential development to the north, east and west and is unlikely that mineral extraction could take place at the site without significant adverse impacts on the residential amenities of occupiers of those dwellings. It is noted that the County Council did not object to the Core Strategy proposal for housing development at the site.

Viability of the scheme

The application includes a confidential viability report for consideration as the developer is of the view that the scheme is not viable with additional infrastructure costs over and above the canal, access and River Mease DCS costs. The District Valuer was instructed to act on behalf of the District Council and requested background information details not all of which have been forthcoming. On that basis the District Valuer has assessed the viability report making certain assumptions based on current market situations and has concluded that the scheme is viable with all costs.

Should the applicant not be agreeable to meeting the financial contribution requests, or alternatively, find themselves in dispute with the District Valuer in relation to the matter, the District Council would reserve the right to negotiate between the applicant/agent and officers and, should significant disagreements emerge, also reserve the right to report the matter back to Members for further consideration.

Developer contributions

Circular 05/2005 sets out the Government's policy in respect of planning obligations. In particular, it provides in Annex B Paragraph B5 that "A planning obligation must be:

- (i) relevant to planning;
- (ii) necessary to make the proposed development acceptable in planning terms;
- (iii) directly related to the proposed development;
- (iv) fairly and reasonably related in scale and kind to the proposed development; and
- (v) reasonable in all other respects.

In addition to the above policy tests, the Community Infrastructure Levy (CIL) Regulations 2010 provide a legislative requirement that an obligation must meet tests (ii), (iii) and (iv) above which is also advocated in the Draft 2012 CIL Regulations.

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

LCC Libraries - £28,530 would be sought towards facilities at Measham Library on Thorpe Road, Measham based on the following formula for library facilities contributions: 450 x 3/4/5 bed houses/apartments @ £63.41 per unit

LCC Highways - To comply with Government guidance in NPPF the following contributions would be required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use :

- Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack, index linked).
- 6 month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at average £325.00 per pass (index linked) - NOTE it is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate).
- New/Improvements to 2 nearest bus stops on Burton Road (including raised and dropped kerbs to allow level access); to support modern bus fleets with low floor capabilities. At £3263.00 per stop (index linked).
- 2 new bus shelter at nearest bus stop; to provide high quality and attractive public transport facilities to encourage modal shift. At £4,908.00 per shelter (index linked).
- 2 new flag and pole at cost of £145 per site (index linked).
- Information display cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display (index linked).
- Contribution towards equipping the nearest suitable bus route with Real Time Information (RTI) system; to assist in improving the nearest bus service with this facility, in order to provide a high quality and attractive public transport choice to encourage modal shift.
Total RTI contribution = £3900.00 (index linked)
- £300 per: ETM (Electronic Ticket Machine) upgrade cost, for nearest suitable bus service, X 12 buses (based on PVR data for Arriva 85 Bus service) = £3600.00
- £150 per: Information Point sign (non-electronic display), X 2 number of signs =£300

Justification of the proposed bus stop: Making improvements to the proposed bus stop location in relation to the site and create waiting environment and accessibility to bus service, to encourage modal shift.

The Travel Plan which is required to achieve the defined outcomes in the Travel Plan to ensure that the proposed development is satisfactorily assimilated into the transport network. This approach is considered to be consistent with Government guidance in the National Planning Policy Framework, the CIL Regulations 2011, and the County Council's Local Transport Plan 3;

A monitoring fee of £6000 (index linked) to enable Leicestershire County Council to provide support to the developers Travel Plan Co-ordinator; audit annual Travel Plan performance reports to ensure Travel Plan outcomes are being achieved and for it to take responsibility for any necessitated planning enforcement. Appointment of a Travel Plan Co-ordinator is required from first occupation and for a period to 5 years after completion of the development.

Justification: To ensure effective implementation and monitoring of the site Travel Plan submitted in support of the Planning Application.

LCC Education - This site falls within the catchment area of Measham Church of England

Primary School. The School has a net capacity of 240 and 353 pupils are projected on roll should this development proceed; a deficit of 1113 pupil places (of which 5 are existing and 108 are created by this development). There is one other primary school within a two mile walking distance of the development. Oakthorpe Primary School has a projected surplus of 3 pupil places, giving an overall deficit in the primary sector of 1110 pupil places. There are therefore no primary places available for children from the development and a claim for an education contribution in this sector is justified.

In order to provide the additional primary school places anticipated by the proposed development, the County Council requests a contribution for the primary school sector of £1,306,693.08. Based on the table above, this is calculated the number of deficit places created by the development (108) multiplied by the DFE cost multiplier in the table above (£12,099.01) which equals £1,306,693.08.

This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Measham Church of England Primary School. The contribution would be spent within 5 years of receipt of final payment.

No contribution would be required for High School or Upper School facilities.

The County Council requests would help mitigate the impact of the development, and would meet the Circular policy tests and are CIL compliant. It should be noted that the developer requested a change to the notional housing mix being used in the viability assessment at the end of August 2013 and which was agreed with officers, including the Housing Enabling Officer, at the start of September. Leicestershire County Council has been reconulted on the revised notional mix and confirms that the revision will alter the above library and education requests and that they will endeavour to report with revised conclusions as soon as possible. Any further details submitted will be reported on the Update Sheet.

Leicestershire Constabulary - A Policing contribution is requested, for the sum of £152480 with a breakdown as follows:

Start up equipment	£19106
Vehicles	£12699
Additional radio call capacity	£1147
PND additions	£585
Additional call handling	£1052
ANPR	£5426
Mobile CCTV	£1000
Additional premises	£110565
Hub equipment	£900
Total	£152480

NWLDC Head of Leisure and Culture - requests £1,100 per unit (450 x £1,100 = £495,00) towards the upgrade of existing leisure facilities. This request would help mitigate the impact of the development on existing leisure facilities.

River Mease WQMP DCS - cost per unit in relation to phosphate mitigation measures. This request would help mitigate the impact of the development on the River Mease, and would meet the Circular policy tests and is CIL compliant.

Clauses relating to affordable housing, a trigger point for the retail unit to ensure construction, and Open Space/National Forest Planting and Conservation Management Plans would also need to be included as part of any S106 legal agreement. These aspects are relevant to the proposal and would help mitigate the impact of the development, would meet the Circular policy tests and are CIL compliant.

Should the applicant or agent subsequently advise they are not agreeable to entering into a legal agreement to secure all financial contributions due to viability issues, it is recommended that the right to defer the matter for reconsideration at a future Planning Committee meeting is reserved.

Other Issues

Devaluation of property and loss of view are not material planning considerations. Whilst the preferred route for the High Speed 2 train route has been issued by Central Government for consultation, it is not yet a material planning consideration and cannot be considered as part of this application.

Conclusion

The application site lies in the countryside, outside the Limits to Development of Measham as defined on the Adopted Local Plan Proposals map. The proposed development would result in housing development contrary to the Local Plan but in accordance with the Submission Core Strategy as the application site is an area of growth for residential development in the latter document. A new access off Burton Road would be created to serve the development, and an emergency access would be linked to High Street at the existing former Youth Club site and would be in accordance with the requirements of Policies T3 and T8 of the Adopted Local Plan. The scheme would link to the main sewer and the applicant is agreeable to contribution to the River Mease SAC WQMP DCS. As such, there would be no adverse impact on the River Mease SAC. Ecological, Coalfield and ground instability issues have been addressed, subject to conditions.

As such, the proposed development would not comply with countryside policy of the Adopted Local Plan, but that policy is currently out of date as the Council cannot demonstrate a Sedgfield approach plus 20% buffer calculated 5 year housing land supply. Furthermore, the development would comply with the housing and Measham related Submission Core Strategy polices and national planning guidance. In addition, the benefits of the proposal, including the provision of part of the Ashby Canal and infrastructure, have to be considered in relation to the 5 year housing land supply shortfall issues. In this particular instance it is concluded that the benefits of the proposal along with current policy considerations, in light of the absence of a 5 year housing land supply, outweigh the issue that the proposal would form development in the countryside outside Limits to Development of Measham. On this basis, the application is recommended for approval.

As noted earlier in this report, should the applicant not be agreeable to meeting the financial contribution requests, or alternatively, find themselves in ongoing dispute with the District Valuer in relation to the matter, the District Council would reserve the right to negotiate between the applicant/agent and officers and, should significant disagreements emerge, also reserve the right to report the matter back to Members for further consideration.

RECOMMENDATION - PERMIT subject to the following condition(s) and subject to a S106

agreement in relation to library facilities, highways matters, leisure facilities, River Mease SAC WQMP DCS, affordable housing, implementation of the canal, Open Space/National Forest Planting and Conservation Management Plans and other items arising above - also subject to Natural England final comments which have not been received at the time of writing this report and to the developer being agreeable to the S106 financial contributions:

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

- 2 Approval of the details of the layout, scale, appearance, and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason- This permission is in outline with details of access only.

- 3 *Plans for approval to be listed on the Update Sheet as further information on the emergency access may be forthcoming at the time of writing this report.*

- 4 Notwithstanding the submitted details, no development shall commence on site until representative samples of the materials to be used in all external surfaces have been submitted to and agreed in writing with the Local Planning Authority. The works shall be undertaken in accordance with the approved details and maintained as such.

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

- 5 Notwithstanding the details submitted on indicative Masterplan drawings or Landscaping plans no development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping, including details of landscaping for the bund at the western boundary. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a five year period from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

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

- 6 No work shall commence on the site until such time as a scheme for protecting the existing trees and hedgerows, identified as being retained, during the construction process has been submitted to and approved by the Local Planning Authority and implemented to its satisfaction. The scheme shall include measures to protect the

working area within Root Protection Areas. Such protection as is agreed shall be maintained during the course of development.

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

- 7 No work shall commence on the site until such time as a scheme for protecting the existing trees and hedgerows, identified as being retained, during the construction process has been submitted to and approved by the Local Planning Authority and implemented to its satisfaction. The scheme shall include a full tree schedule and appropriate tree retention categories and measures to protect the working area within Root Protection Areas. Such protection as is agreed shall be maintained during the course of development.

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

- 8 No works shall commence on site until such a time as a scheme indicating proposed finished floor levels of all buildings and the relationship of such to the existing dwellings surrounding the site, and the base and top levels of the canal, has been submitted to and approved by the Local Planning Authority and the development shall be constructed in accordance with the agreed levels.

Reason- To safeguard the privacy and amenities of the occupiers of adjoining properties and in the interest of visual amenities.

- 9 No development shall commence until a scheme for the insulation of the buildings(s)/erection of barriers against the transmission of noise and vibration from the A42 has been submitted to and agreed in writing with the Local Planning Authority. All works shall be fully implemented in accordance with the approved scheme before occupation, and shall be maintained as such in perpetuity.

Reason- In the interest of residential amenities.

- 10 No development shall commence on site until a full and detailed site investigation and assessment confirming the location and condition of any coal mine entries has been carried out, at the developer's expense, and submitted to the Local Planning Authority. In the event that the site investigations confirm the need for remedial works to treat the mine entries, and/or any other mitigation measures to ensure the safety and stability of the proposed development, no development shall commence on site until details of such works have been submitted to and agreed in writing by the Local Planning Authority and implemented at the site.

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

- 11 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use

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

the risk of pollution.

- 12 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 30th January 2013, Ref: 120616/R001/issue 2 and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the 100 year plus 30% for residential, 20% for commercial (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. Section 4.0.

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/disposal of surface water from the site.

- 13 No development approved by this planning permission shall take place until such time as a scheme to demonstrate the surface water drainage has been submitted to, and approved in writing by, the local planning authority.

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 30% for Residential 20% for Commercial (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 Residential 20% for Commercial (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, both on and off site.

- 14 No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:
all previous uses
potential contaminants associated with those uses
a conceptual model of the site indicating sources, pathways and receptors
potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason- To ensure that the proposed development does not cause pollution of controlled waters receptors.

- 15 No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reasons- To ensure protection of controlled waters receptors.

- 16 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons- To protect controlled waters receptors.

- 17 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reasons- To prevent pollution of controlled waters receptors.

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

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

- 19 Prior to the first occupation of any dwelling hereby permitted, the proposed development shall comply with the design standards of the Leicestershire County Council as contained in its current design standards document (6CsDG). Such details must include parking and turning facilities, access widths, gradients, surfacing, signing and lining (including that for cycleway and shared use footway/cycle ways) and visibility splays and be submitted for approval by the local Planning Authority in consultation with the Highway Authority before development commences.

Note: Your attention is drawn to the requirement contained in the Highway Authority's current design guide to provide Traffic Calming measures within the new development.

Reason- To ensure a satisfactory form of development and in the interests of Highway safety.

- 20 Prior to the occupation of the development, an access off Burton Road, a roundabout junction and link (as generally shown on WSPs, drawing number RP-001 Rev. B) shall be completed to the satisfaction of the Highway Authority.

Reason- To ensure adequate form of access to cater for the traffic generated by the development joining Burton Bridge Road and in the interests of general highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 21 The emergency access road is required to withstand the weight of 12.5 Tons for a standard Fire Appliance and width for two way passing vehicles.
- a) Prior to the commencement of any part of the development hereby permitted, detailed design of the proposed emergency access link with access onto High Street shall be submitted to and approved in writing by the Local Planning Authority.
- b) Prior to first occupation of the development, the approved junction and emergency access link shall be provided in full and available for use.

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

- 22 The gradient of any private access drive shall not exceed 1:12 for the first 6 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.

- 23 No walls, planting or fences shall be erected or allowed to grow on the Highway boundary exceeding 0.9 metres in height above the level of the adjacent carriageway.

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

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

Reason- In the interests of pedestrian safety.

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

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

- 26 The car parking and any turning facilities shown within the curtilage of each dwelling shall be provided before the dwelling is occupied and shall thereafter permanently remain available for such use.

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.

- 27 Before the first occupation of any dwelling, car parking provision shall be made within the development site on the basis of 2 spaces for a dwelling with up to three bedrooms and 3 spaces for a dwelling with four or more bedrooms. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.

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

- 28 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 2 metres control radii at its junction with the adopted road carriageway. The access drive once provided shall be so maintained at all times.
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 is so bounded on both sides, additional 0.5 metre strips will be required on both sides.

Reason- To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

- 29 Any shared private drive serving more than 5 but no more than 25 dwellings shall be a minimum of 4.8 metres wide for at least the first 5 metres behind the Highway boundary and have 6 metres kerbed radii at its junction with the adopted road carriageway. The access drive once provided shall be so maintained at all times.
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 is so bounded on both sides, additional 0.5 metre strips will be required on both sides.

Reason- To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

- 30 Any garage doors shall be set back from the Highway boundary a minimum distance of 5 metres for sliding or roller/shutter doors, 5.6 metres for up-and-over doors or 6 metres for doors opening outwards and thereafter shall be so maintained.

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

- 31 No part of the development, its supports or foundations shall be positioned in, on, over, upon, or within any part of the public highway. The buildings are to be setback 0.5m from the highway to provide clearance from windows opening outwards and surface water drainage pipes from the roof within the curtilage of the property.

Reason- In the general interests of Highway safety.

- 32 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.

- 33 No development shall take place until a strategy of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The approved development shall be implemented in accordance with the approved strategy prior to the use of the building commencing.

Reason- To ensure that the principles of sustainable drainage are incorporated into this proposal.

- 34 Before the development commences, swept path analyses shall be submitted for refuse vehicle and approved by the Local Planning Authority (LPA) in consultation with the Highway Authority.

Reason- To ensure that large vehicles can manoeuvre within the carriageway without the overhang of vehicle being danger to pedestrians.

- 35 Before the development commences, details of the routing of construction traffic shall be submitted to and approved by the Local Planning Authority (LPA) in consultation with the Highway Authority. During the period of construction, all traffic to and from the site shall use the agreed route at all times unless otherwise agreed in writing by the LPA.

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

- 36 No part of the development as approved shall be brought into use until details of a Residential Travel Plan has been submitted to and agreed in writing by the Local

Planning Authority.

The Plan shall address the travel implications of the use of the whole site as if the development approved were to have been fully completed and occupied.

The Plan shall specify facilities and with measurable output and outcome targets designed to:

- Reduce single occupancy vehicle use, reduce vehicular travel at peak traffic times and reduce vehicle emissions for journeys made for all purposes to and from the developed site,
- Increase the choice and use of alternative transport modes for any journeys likely to be made to and from the developed site and, in particular, to secure increases in the proportion of travel by car sharing, public transport use, cycling and walking modes and the use of IT substitutes for real travel,
- Manage the demand by all users of the developed site for vehicle parking within and in the vicinity of the developed site.

The Plan shall also specify:

- The on-site Plan implementation and management responsibilities, including the identification of a Travel Plan Co-ordinator,
- The arrangements for regular travel behaviour and impact monitoring surveys and Plan reviews covering a period extending to at least one year after the last unit of development is occupied or a minimum of 5 years from first occupation, whichever will be the longer.
- The timescales or phasing programmes for delivery of the Plan's proposals and for the achievement of the specified output and outcome targets, and
- Additional facilities and to be implemented if monitoring shows that the Plan's targets are not likely to be met, together with clear trigger dates, events or threshold levels for invoking these measures.

The Plan, once agreed, shall be implemented in accordance with the approved details, and thereafter, the implementation of the proposals and the achievement of targets of the Plan shall be subject to regular monitoring and review reports to the LPA and, if invoked, to the implementation of the specified additional measures.

Note: The plan shall make provision for relevant surveys, review and monitoring mechanisms, targets, timescales, phasing programmes and on-site management responsibilities. It shall be implemented and subject to regular review in accordance with the above approved details.

Reason- To ensure that adequate steps are taken to achieve and maintain reduced travel, traffic and parking impacts and to provide and promote use of more sustainable transport choices to and from the site in order to relieve traffic and parking congestion, promote safety, improve air quality or increase accessibility in accord with Section 4: 'Promoting Sustainable Transport' of the NPPF 2012.

- 37 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, geophysical survey 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 geophysical survey, 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.

Notes to applicant

- 1 Planning permission/or approval of reserved matters (delete as appropriate) 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 As of April 6th April 2008 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £85.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

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Use of land for the operational use of military and civilian "off Road Vehicles" (Including tanks, Armoured fighting vehicles, Heavy duty vehicles and off-road 4x4's) along with provision of 3.0 metre high straw bunds (Revised Scheme)

**Report Item No
A4**

Measham Lodge Farm Gallows Lane Measham Swadlincote

**Application Reference
14/00309/FULM**

**Applicant:
Tank Mania Limited**

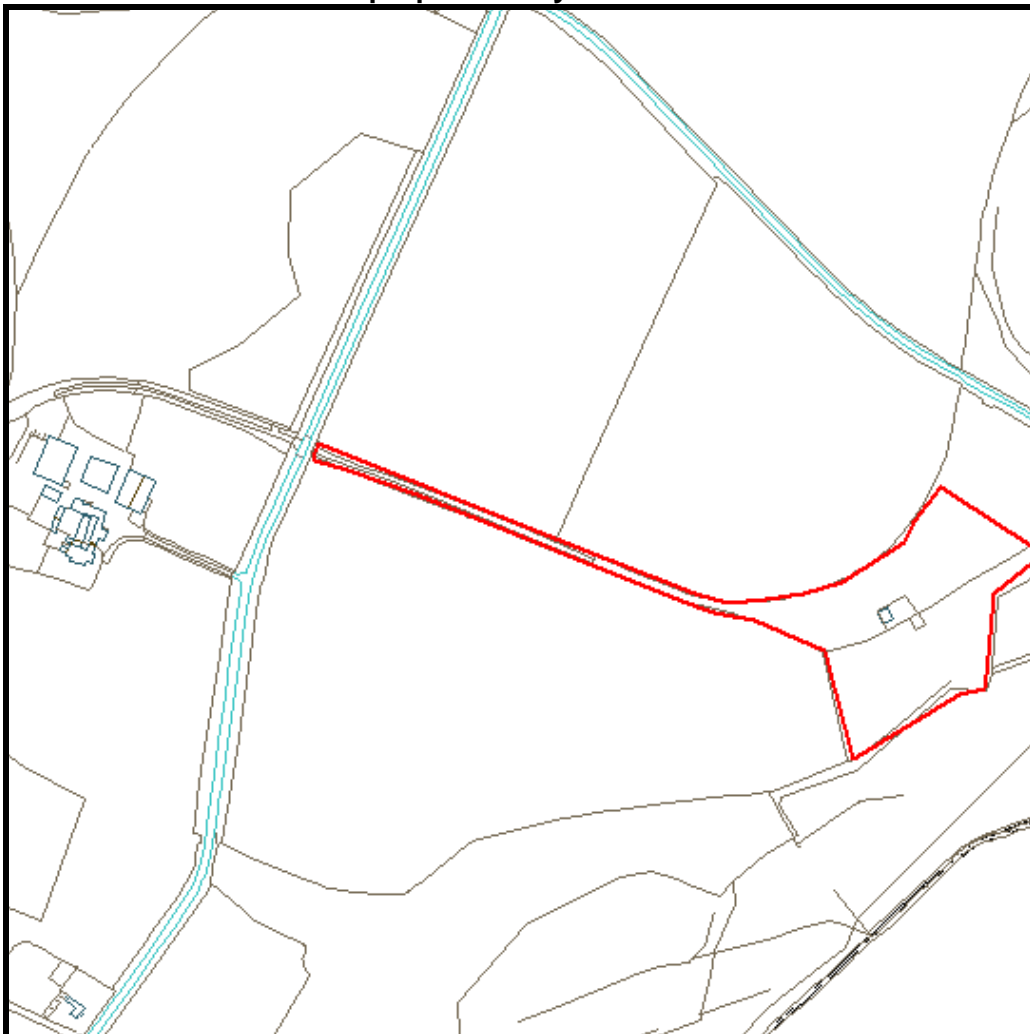
**Date Registered
4 April 2014**

**Case Officer:
Adam Mellor**

**Target Decision Date
4 July 2014**

**Recommendation:
PERMIT**

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

This application has been brought to Planning Committee as it is considered necessary for the committee to assess the potential economic benefits of the development against the potential noise implications for nearby residential properties.

Proposal

The application proposes that an area of 2.2 hectares would be used for the operational use of military and civilian "off road vehicles" which would include tanks, armoured fighting vehicles and off-road 4 x 4's. The original use of the site commenced in approximately 2002 - 2003 with two enforcement investigations being carried out in relation to the unauthorised use of the land which are referenced 08/00218/UD, which was closed on the 12th April 2011, as well as 11/00272/UD, which resulted in an enforcement notice being issued on the 1st August 2012. The main difference between this application and the application previously considered, referenced 13/00290/FULM, is that straw bale bunds would be provided and the operations on the site would be carried out in accordance with a management plan.

Consultation

A collective representation to the application has been received from the occupants of Nos. 1 - 4 Bosworth Grange and Valley Farmhouse, as well as individual responses from the occupants of Nos. 1 and 3 Bosworth Grange objecting to the application. Measham Parish Council has no objections, subject to the public footpath being maintained, and all other statutory consultees have no objections.

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 countryside and the use would be considered one which would fall within the leisure and recreational sector of Policy S3, as such the principle of the development would be accepted. Although the site is detached from Measham it is considered that the guidance contained within Paragraph 28 of the NPPF would offer support to the development proposal which would be one which could not be located within an urban environment due to the operations undertaken. It is also considered that the development would not conflict with the principles of Policies L2 and L3 of the Local Plan, given the amount of land which would be required to undertake the use as well as the placement of built structures in close proximity to mature vegetation on the site which borders the public footpath to reduce their visual impact.

In the circumstances that the Councils Environmental Protection team are satisfied with the operational noise assessments submitted in support of the application, as well as the management plan, and that these would satisfactorily mitigate the overall noise impacts on neighbouring properties it is considered that subject to appropriate conditions on any consent the proposal would not have a significantly detrimental noise impact on neighbours and as such would accord with the principles of Paragraph 123 of the NPPF and Policy E3 of the Local Plan.

Given the fact that the operations undertaken on the site have altered the appearance of the

landscape in this particular area, coupled with the fact that the Minorca Opencast and Hansons Brickworks also exist within the surrounding area, it is considered that the proposal would not have an adverse impact on the visual appearance of the landscape or character of the rural environment. The buildings on site are also situated in close proximity to mature vegetation in order to reduce their visual impact and the straw bales provided to mitigate the level of noise generated from the site would also not appear 'out of place' in a rural environment. In these circumstances the development would accord with the principles of Paragraphs 61 and 75 of the NPPF as well as Policies E4 and F1 of the Local Plan.

The County Council Highways Authority and County Council Footpaths Officer consider that the development would not have an adverse impact on the safe usage of both the highway and rights of way, subject to the imposition of relevant conditions to improve the existing access, and as such it is considered that the development would not cause significant conflict with Paragraphs 32 and 75 of the NPPF as well as Policies T3 and T8 of the Local Plan.

In the circumstances that the County Council Ecologist and Natural England raise no objections to the proposed use, following the receipt of the revised great crested newts survey, it is considered that the proposal would not cause significant conflict with Paragraph 118 of the NPPF and Circular 06/05. It can be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important features of the River Mease SAC, or any other features of special scientific interest of the River Mease SSSI which would ensure compliance with Paragraph 118 of the NPPF; the 2010 Habitats Regulations and Circular 06/05.

Existing landscaping would be retained on the site which would ensure compliance with Policies E2, E7, F1, F2 and F3 of the Local Plan. The provision of notices along the transport corridor advising that military vehicles utilise the route will also not prejudice the safe movement of pedestrians, cyclists or horse riders and as such the development would not conflict with Policy T14 of the Local Plan. It is also considered that the level of noise generated would not result in a significant impact on the 'tranquillity' of the Ashby Canal, given the other noisy uses the canal would bypass, as well as the fact that the use of the site would not prejudice the re-opening of this waterway. In these circumstances the development would not conflict with Policy T16 of the Local Plan. It is therefore recommended that the application be permitted.

RECOMMENDATION - PERMIT, subject to receipt of no contrary observations from the County Council Ecologist and Natural England, 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. Background and Proposal

Planning permission is sought for the operational use of military and civilian "off-road vehicles" (including tanks, armoured fighting vehicles, heavy duty vehicles and off-road 4x4s) along with provision of 3.0 metre high straw bunds (revised scheme) at Measham Lodge Farm, Gallows Lane, Measham. The site in question is situated on the south-eastern side of Gallows Lane on the opposite side of the road to Measham Lodge Farm and has a vehicular access direct from Gallows Lane. The site lies outside the defined limits to development in the North West Leicestershire Local Plan with the surrounding area being predominately rural although residential properties do exist within the vicinity of the site. Public footpath P85 also runs through the application site.

Members may recall that a previous application for the retention of the use, referenced 13/00290/FULM, was refused at the Planning Committee meeting of the 12th November 2013 as it was considered contrary to Paragraph 123 of the NPPF and Policy E3 of the Local Plan, due the noise impacts on neighbours, as well as Paragraph 118 of the NPPF and Circular 06/05, due to insufficient ecological information being provided to assess the impacts on Great Crested Newts.

The application proposes that an area of 2.2 hectares would be used for the operational use of military and civilian "off road vehicles" which would include tanks, armoured fighting vehicles and off-road 4 x 4's. It is indicated in the supporting information that the experience offered is *"a realistic soldier experience riding/driving military vehicles with instructions on military driving for groups, parties, individuals and youngsters using 'mini-tanks;' combat fatigues and helmets provided, camouflage cream applied; detailed briefing including Health & Safety followed by syndicate grouping with army training on a variety of vehicles, mess tins and army style food and tea provided."* The original use of the site commenced in approximately 2002 - 2003 with two enforcement investigations being carried out in relation to the unauthorised use of the land which are referenced 08/00218/UD, which was closed on the 12th April 2011, as well as 11/00272/UD, which resulted in an enforcement notice being issued on the 1st August 2012.

Four portable buildings which have dimensions of 10.0 metres by 3.0 metres, one of which contains the toilet block, are also situated on the land and would be used in connection with the continuation of the use.

In order to address the refusal of the previous application the application now proposes that 3.0 metre high straw bunds would be provided on a 126.0 metre section of the south-eastern boundary as well as a 52.0 metre section of the eastern boundary. A management plan is also provided specifying the hours of operation as well as various works which would be undertaken on the site to reduce the noise output (i.e. one vehicle in operation on the site at anyone time, exhausts being repositioned and through checks being undertaken on the vehicles).

A design and access statement, phase 1 habitat survey, operational noise assessment and statement assessing the impacts of the development on the integrity of the River Mease Special Area of Conservation (SAC) have also been submitted in support of the application.

Following the receipt of the comments of the County Council Ecologist, Natural England and the Council's Environmental Protection Team an additional Great Crested Newts survey and revised management plan have been received with revised consultation being undertaken with the interested bodies.

A previous application for planning permission 95/0507/P for the re-excavation and watering of canal was approved on the 23rd August 1995.

2. Publicity

9 No neighbours have been notified (Date of last notification 28 April 2014)

Site Notice displayed 1 May 2014

Press Notice published 16 April 2014

3. Consultations

Measham Parish Council consulted 9 April 2014

County Highway Authority consulted 11 April 2014

Environment Agency consulted 11 April 2014

Severn Trent Water Limited consulted 11 April 2014

Head of Environmental Protection consulted 11 April 2014

Natural England consulted 11 April 2014

County Archaeologist consulted 11 April 2014

LCC ecology consulted 11 April 2014

LCC/Footpaths consulted 11 April 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.

Environment Agency has no objections subject to relevant notes to the applicant being attached to any decision granted.

Leicestershire County Council - Ecology object to the application as the phase 1 habitat survey submitted is the same as that previously considered under application reference 13/00290/FULM. The County Ecologist has been reconsulted on the revised ecological information submitted and any comments will be reported to the Planning Committee on the Update Sheet.

Leicestershire County Council - Highways outlines that the Local Authority should consider their response to application reference 13/00290/FULM where no objections were raised subject to appropriate conditions being imposed on any consent granted.

Leicestershire County Council - Rights of Way has no objections due to works being undertaken to ensure the safety of pedestrians utilising the public footpath (P85).

Measham Parish Council has no objections subject to the development not impacting negatively on public footpath P85 as well as the operation of the business being conducted in strict accordance with the management plan.

Natural England in the circumstances that the phase 1 habitat survey submitted is the same as that previously considered under application reference 13/00290/FULM, Natural England object to the application on the basis that the impacts on Great Crested Newts has not been satisfactorily addressed. Natural England has been consulted on the revised ecological information provided and any comments will be reported to the Planning Committee on the

Update Sheet.

NWLDC - Environmental Protection initially identified that the management plan supplied needed to amend the hours of operation as well as provide information on how the straw bunds would be maintained. Following a discussion with the applicant, and receipt of a revised management plan, the Council's Environmental Protection team have no objections subject to relevant conditions to restrict the hours of operation as well as to ensure that the business operates in accordance with the management plan provided. Should a statutory noise nuisance be established by the business whilst operating in compliance with the management plan then Environmental Protection will be able to take action in accordance with their own legislation.

NWLDC - Cultural Services Officer has no objections subject to the public footpath (P85) being unaffected by the operation of the site as well as the placement of the straw bunds.

Severn Trent Water has no objections subject to the imposition of a drainage condition on any consent granted.

Third Party Representations

A collective representation to the application has been received from the occupants of Nos. 1 - 4 Bosworth Grange and Valley Farmhouse, as well as individual responses from the occupants of Nos. 1 and 3 Bosworth Grange, objection to the application on the following grounds: -

- The straw wall/bunds will make no difference to the level of noise emitted from the site in view of the topography of the land which slopes towards the properties at Bosworth Grange;
- The noise assessments undertaken were totally unrepresentative as they did not run the vehicles in the same manner as when paid customers utilise the vehicles or the audible noise caused by customers;
- The business will not be viable unless it operates on a Saturday and Sunday and as such this will have a greater impact on the amenities of neighbours;
- Bunds will be ineffective due to the topography of the site as well as the presence of a gap along the eastern boundary;
- Cumulative noise from the operations of Minorca, Tank Mania and the works on the Ashby Canal will result in significant detriment to the amenities of the occupants of Bosworth Grange;
- Change in the direction of the exhaust pipe will result in more noise being emitted from the vehicles;
- Use of windsock would not be sufficient in controlling where operations would be undertaken on the site given that the wind direction can change all the time which would restrict operations at certain points during their progress;
- A Supreme Court Judgement regarding a motor racing development (Fenland Tigers Coventry v Lawrence) outlined that noise nuisance should be defined by the increase over background levels rather than noise readings (LAeq1hr) where an intermittent noise is spread out over a long period thereby diluting its effect and Bosworth Grange would be considered an area of natural tranquillity given the levels of background noise;

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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 7 indicates that the planning system needs to perform a number of roles which include, amongst others, an economic role which means contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

Paragraph 17 indicates that in decision making planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings as well as 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 18 indicates that the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths;

Paragraph 19 outlines that 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;

Paragraph 28 outlines that 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, amongst other things:

- 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;
- Support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres;

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 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 75 outlines that planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails;

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

Paragraph 123 indicates that planning policies and decisions should aim to, amongst other things:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established;
- Identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason;

Paragraph 187 identifies that Local Planning Authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area;

Paragraph 203 indicates that 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;

Paragraph 206 states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable precise and reasonable in all other respects;

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 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 requires new development to respect the character of its surroundings;

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 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 T14 presumes against development which would be likely to impair the continuity of disused railway lines, which have potential for re-use as transport corridors, including pedestrian footpaths, bridleways and cycle routes and informal recreation corridors;

Policy T16 presumes against development which would prejudice the re-opening of Ashby Canal. It also provides that, in the event of the canal being reopened, development outside Limits to Development will only be permitted where it is strictly ancillary to the use of the canal as a navigable waterway;

Policy L2 provides that in cases where it can be demonstrated that a rural location is necessary, and subject to Policy L3 below, planning permission will be granted for informal recreation facilities, and land extensive recreational uses whether formal or informal, on the fringes of built up areas and elsewhere outside the defined Limits to Development;

Policy L3 sets out the criteria for determining applications for development on recreational sites outside Limits to 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

The Habitat Regulations

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs) and the key issues relating to protected species;

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;

River Mease Water Quality Management Plan - August 2011

This plan draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition;

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 of Development

The site is located within the countryside and, as such, permission for new development would not normally be granted unless it is for certain uses as set out in Policy S3 of the adopted North West Leicestershire Local Plan. The proposed use of the land for the 'operational use of military and civilian off-road vehicles' would be considered to be a form of leisure or recreational development and as such would accord with the criteria of acceptable development under Policy S3.

The site lies 1440 metres to the south-east of the settlement of Measham and there are no bus stops close to the site, although a frequent bus service would be available in Measham, and no public footways along Gallows Lane. As a result those travelling to and working at the site are likely to be heavy reliant on the private car.

However Paragraph 28 of the NPPF advocates the importance of supporting *"sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors,"* particularly where these needs are *"not met by existing facilities in rural service centres."* The continued use of the site for the proposed purposes would not be an appropriate fit within a built environment, given the amount of land required for the use as well as potential relationships with residential properties, and in the circumstances that the development would provide local employment, diversify the rural recreational and leisure economy and users/employees of the business could still access services in Measham it is considered that it would constitute a sustainable form of development which would not conflict with the core principles of the NPPF. Furthermore, regardless of its location, people are still likely to visit the site predominately by car given the fact that the land use would be best suited to a rural location.

In terms of Policies L2 and L3 of the Local Plan it is considered that a rural location would be necessary for the pursuit of this type of recreation/leisure use given the amount of land which would be required to carry out the functions of the business as well as the fact that the use would not be easily adapted into a built environment. It is also considered that the retention of portable buildings on the site would be ancillary to the recreational/leisure use carried out. In terms of criteria (b) and (c) of Policy L3 it is considered that the portable buildings are located next to an area of dense vegetation with borders public footpath P85 and whilst they are presently white two have been painted green and black, camouflage colours, in order to assist in 'assimilating' the development into a rural environment. It is considered that a planning condition could secure the painting of the remaining two portable buildings and in the circumstances that the site is bordered by dense mature vegetation it is considered that the retention of these structures would not have a sufficiently adverse impact on the rural environment. Public footpath P85 also runs through a dense vegetation corridor adjacent to these structures and although some views would be established it is considered that no substantial views beyond or within the site would be impacted on due to the present boundary treatments and the overall scale of these structures. As such the proposals would not substantially conflict with the principles of Policies L2 and L3 of the Local Plan.

Residential Amenity

The nearest residential properties to the site, bar Measham Lodge Farm where the military and civilian off-road vehicles are stored, are those at Bosworth Grange which lie 225 metres to the south-east of the site and Coronet House, Gallows Lane which lies 610 metres to the south-west of the site.

Given the nature of the proposal, and the scale of the retained portable buildings, there would be no adverse overbearing, overshadowing or overlooking impacts on the amenities of neighbours with the main concerns relating to noise.

It is acknowledged that the retention of the use would provide economic benefits to the District and would promote the leisure and recreational uses advertised by the National Forest, given the unique nature of the activity offered and the substantial interest from television companies, this benefit would need to be weighed against the harm caused by the noise generated when the activity is operational.

In reviewing the findings of the operational noise assessment submitted in support of previous application reference 13/00290/FULM the Council's Environmental Protection team outlined that *"a modelling assessment to show the barrier calculations for all areas of the site so as to achieve a level of 50dBA 16hour LAeq in the rear gardens of Bosworth Grange."* Should be provided and that *"this assessment must not include background noise associated with Minorca or the Sunday Market."* The hours of operation of the use were to be restricted on the basis of the operations of Minorca and only one tank would be operational on the site at one time. The findings of the revised assessment concluded that *"the potential 3m bund/barrier located to the south of the eastern turning loop would reduce noise levels from armoured vehicles movements by up to 0.8 dB in garden areas of properties at Bosworth Grange. The potential bund/barrier located along the southern boundary of the site would reduce noise levels by up to 0.7 dB. If both bunds/barriers were installed, noise levels could be reduced by up to 1.6 dB."* These revised findings were considered to accord with World Health Organisation Guidelines on Community Noise and were therefore deemed acceptable subject to the other matters raised being addressed. Given the changes that were required to the application, i.e. to provide bunds, a decision to refuse application reference 13/00290/FULM was made.

The objections raised to the current application have critically evaluated the operational noise

assessment provided, which is the same as that originally provided (dated July 2013), which have raised concerns over the findings, as a result of this the Council's Environmental Protection team were consulted to provide advice on the suitability of the development. As part of the application, the applicant has also submitted a management plan which identifies that the hours of operation would be 10:00 - 19:00 Monday to Friday, 10:00 - 17:00 Saturday and 10:00 - 16:00 Sunday (no operations would be carried out on Bank Holidays), a wind sock would be provided on the site to obtain wind direction and should this wind be towards Bosworth Grange then only part of the 'lower' course can be used, only one tank would be utilised on the site and the exhausts would be repositioned so it points downwards.

In commenting on the submitted management plan the Council's Environmental Protection team raised concerns that it had not taken into account the current Minorca planning application, and its associated hours of operation, as well as the fact that it did not include information on how the straw bund would be maintained. It was also concluded that any planning permission granted would not preclude the use causing a statutory noise nuisance under the Environmental Protection Act 1990 to neighbouring properties and should this occur the only option would be for the use to cease.

Following a meeting with the applicant and the Council's Environmental Protection team, a revised management plan has been received which specifies that the hours of operation would now be 10:00 - 18:00 Monday to Friday, 10:00 - 16:00 Saturday and 10:00 - 16:00 Sunday (no operations would be carried out on Bank Holidays), with the straw bund being checked on a monthly basis, every two weeks in adverse weather, and any defects being repaired expediently to ensure that its mitigation properties are not diminished. The Council's Environmental Protection team have no objections to this revised management plan subject to a relevant condition being imposed on any consent to ensure the development operates in accordance with the management plan. It is again, however, concluded that any planning permission granted would not preclude the use causing a statutory noise nuisance under the Environmental Protection Act 1990 to neighbouring properties and should this occur the only option would be for the use to cease.

Although acknowledging that the use would operate on hours and days outside of those of the Minorca development, as well as those associated with the construction of the Ashby Canal, the Council's Environmental Protection team is satisfied that the mitigation measures proposed and hours of operation specified would not result in a significantly detrimental impact on the amenities of neighbouring properties to justify a refusal of the application. Should the use also be conducted in accordance with the recommendations of the management plan then it is believed that it would not constitute a statutory noise nuisance. Should the site not operate in accordance with the management plan, and it is ascertained that it constitutes a statutory noise nuisance, then relevant action can be taken under the Environmental Protection Act 1990 with the likely conclusion being that the operations cease as all other mitigation measures have been exhausted.

It is considered that the hours of operation could be conditioned accordingly and the management plan would also be conditioned as the precise measures which the Environmental Protection team wished to be controlled, i.e. one tank operating at a time and maintenance of the straw bund, are considered enforceable.

With regards to the area around Bosworth Grange being an area of 'tranquillity' it is considered that the NPPF indicates that decisions should *"aim to protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason."* Although it is noted that the operations associated with Minorca and the

construction of Ashby Canal are temporary their operations generate noise with the canal itself generating noise from users once it is completed. The Hansons brickworks also lie to the east of the site which will generate noise within the area. It is also noted that the area around Bosworth Grange is not recognised as an Area of Particular Attractive Countryside (as defined by Policy E22 on the North West Leicestershire Proposals Map) which are areas of the District which might exhibit the qualities considered to contribute to the 'tranquillity' of a place. Given that the area is not 'prized' for its recreational and amenity value and 'noisy' operations are conducted in the vicinity of Bosworth Grange it is considered that it would not be designated a 'tranquil' area in accordance with the guidance contained within the NPPF.

Overall, therefore, whilst officers are sympathetic to the concerns raised by the residents of Bosworth Grange in respect of noise it is considered that the mitigation measures undertaken have resulted in the noise impacts being reduced to a level which would not impact adversely on the occupants amenities to an extent which would justify a refusal. In these circumstances support is given to a use which would be economically beneficial to the District as a whole as it would not cause significant conflict with Paragraph 123 of the NPPF and Policy E3 of the Local Plan.

Impact on the Rural Environment and Streetscape

The unauthorised use has been conducted from the site since at least 2008 and as a result the landscape has been altered by the continued activity of tanks driving around a set course. Although the landscape has been impacted upon by this activity, it is considered that its general condition would not be to the overall detriment of the rural character of the surrounding area given the operations undertaken on land within the vicinity of the site such as the Minorca Open Cast Mining site, to the north, and the Hansons brickworks to the south-west. The mature vegetation which exists to the boundaries of the site would also assist in screening the land from the streetscape and as such it would not be substantially prominent from this domain. Although public footpath P85 runs through the site it is noted that it is bordered by mature vegetation, on both sides, which would negate substantial views of the landform by users. In any case the landform would not restrict views out of the site to prominent landforms or features and as such the enjoyment of the footpath by its users would not be compromised significantly to justify a reason for refusal particularly in the circumstances that the footpath network within the vicinity of the site would lead its users pass the Hansons brickworks which has a greater visual impact on the landscape than the proposal.

As considered within the 'Principle of Development' section of the report the retention of the portable buildings on the site would not have a sufficiently detrimental impact on the character and appearance of the wider landscape or streetscape particularly in the circumstances that a planning condition could be attached to any consent ensuring that the buildings are painted green and black in order to assimilate the buildings into the rural environment. Any views established from public footpath P85 would also not be adversely impacted on by virtue of them not restricting views beyond the site given the structure's scales. The provision of the straw bunds would also not have a significantly adverse visual impact on the rural environment given that it would not be uncommon to see straw bails on agricultural land and there would be less visual harm from this method of noise attenuation than others (i.e. acoustic fencing).

On this basis the development would not conflict with Paragraphs 61 and 75 of the NPPF or Policies E4 and F1 of the Local Plan.

Highway and Rights of Way Safety

The County Council Highways Authority and County Rights of Way Officer have no objections to the development.

The applicant has indicated to the County Highways Authority that any vehicles utilising the public highway are road legal, drivers have good visibility, road crossings are done under supervision, mud is swept on a daily basis and the vehicles are fitted with rubber tracks to avoid damage to the road. On the basis of this information the County Highways Authority are satisfied that the proposal could be made safe by virtue of improvements to the vehicular accesses and as such these works are to be conditioned accordingly to improve highway safety. In the circumstances that Paragraph 32 of the NPPF outlines that *"development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe;"* it is considered that the improvements to the vehicular accesses would ensure that the safety of road users was preserved in accordance with Policy T3 of the Local Plan.

It has also been requested, by the County Highways Authority, that a condition requiring a surfaced car park for 15 vehicles is provided to prevent on-street parking issues and the imposition of this condition would ensure that the development accords with Policy T8 of the Local Plan.

The County Council Rights of Way Officer indicated, in the consideration of previous application reference 13/00290/FULM, that various works needed to be undertaken to ensure the safe usage of public footpath P85 and following a site meeting with the applicants on the 23rd May 2013 these works have been undertaken and subsequently maintained. In the circumstances that these works have been carried out it is considered that the public footpath can be safely used which would ensure compliance with Paragraph 75 of the NPPF.

Ecology

The County Council Ecologist and Natural England have maintained an objection to the application on the basis that the Phase 1 Habitat Survey submitted does not adequately address the impacts on Great Crested Newts. A Great Crested Newts survey report has been submitted in support of the application and this has concluded that this protected species is absent from the site with the habitat suitability index for ponds being relatively low which indicates a poor potential for the presence of Great Crested Newts. The County Council Ecologist and Natural England have been reconsulted on the revised survey and their comments will be reported accordingly to Members on the Planning Committee Update Sheet.

Impact on the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI)

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to Paragraph 118 of the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewerage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

The River Mease Water Quality Management Plan (WQMP) has been drawn up to ensure there is no adverse impact on the SAC from further development and includes an action to establish a developer contribution framework to fund a programme of actions to restore and provide new benefits to the river. The River Mease Developer Contribution Scheme (DCS) has been produced to meet this action of the WQMP so that the costs of improving the quality of the water

in the river are met by potential developers. The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS has been assessed against and is considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations, which are also set out at paragraph 204 of the NPPF.

The application indicates that foul drainage would be dealt with via a sealed tank beneath the toilet block which would be emptied approximately once a month, although the applicant has identified that this tank has only been emptied once in the last three years. A sealed tank would hold all the effluent from the toilet block and would not discharge into the ground. The sealed tank would need to be emptied regularly, although this would be dependent on the amount of overall usage of the site, with the effluent being taken to a sewerage treatment works. Severn Trent Water has confirmed that none of the Severn Trent Water treatment works in the SAC accept waste from licensed waste collectors and this arrangement will continue in perpetuity. The management of the non-mains drainage would also be dealt with by the Environment Agency as the 'competent authority' under the Environmental Permit system although any failures of the system would not result in detriment to the integrity of the River Mease SAC given that it is more than 100 metres from the river and as such any effluent would be sufficiently diluted by this time.

Surface water run-off from the site would continue as existing and given the distance to the River Mease SAC (200 metres) it is considered that surface water run-off would have no adverse impacts on its integrity although notes to the applicant would be attached to any consent to make them aware of the requirements of the Environment Agency and the condition suggested by Natural England to control pollutants from the vehicles would also be imposed to limit the implications of this type of run-off contaminating the surface water run-off. Whilst an environmental permit would be required for the storage of fully depolluted and un-depolluted vehicles on the site there is nothing to suggest that a permit would not be issued and the Environment Agency would be responsible, as part of the issuing of the permit, to ensure that the integrity of the River Mease SAC would be preserved.

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

Other Matters

The site is situated within the National Forest and in the circumstances that the existing mature landscaping on the site would be maintained as part of the development proposals it is considered that the retention of the use would not conflict with the principles of Policies E2, E7, F1, F2 or F3 of the Local Plan. Additional landscaping on the site could be conditioned on any consent should it be deemed necessary.

It is noted that the access track into the site runs along a route which has the potential to be re-used as a transport corridor, including pedestrian footpaths, bridleways and cycle routes and informal recreation corridors, however it is considered that the retention of the activity would not prejudice the potential use of the track by pedestrians, cyclists or horse riders in the circumstances that suitable notices have been installed along the route to make people aware of the movement of military vehicles along the route. As such the development would not substantially conflict with Policy T14 of the Local Plan.

The route of Ashby Canal appears to follow the route of public footpath P85 and as such it is

likely that at some point in the future the canal would dissect through the operational site of Tank Mania. At present it is considered that the use, which has previously operated from the site, would not prejudice the re-opening of Ashby Canal given that it is likely that the developers of the canal will be in a position to acquire the land once the development is to be progressed. In terms of the noise of the use impacting on the 'tranquillity' of the canal it is considered that the measures undertaken to reduce noise, as outlined in the submitted management plan, would not result in a sufficiently detrimental impact on the canal with it being noted that the canal route will also bypass the Hansons brickworks which, in itself, would generate a significant level of noise. In these circumstances there would not be a significant conflict with Policy T16 of the Local Plan

Summary Reasons for Granting Planning Permission

The site is located within the countryside and the use would be considered one which would fall within the leisure and recreational sector of Policy S3, as such the principle of the development would be accepted. Although the site is detached from Measham it is considered that the guidance contained within Paragraph 28 of the NPPF would offer support to the development proposal which would be one which could not be located within an urban environment due to the operations undertaken. It is also considered that the development would not conflict with the principles of Policies L2 and L3 of the Local Plan, given the amount of land which would be required to undertake the use as well as the placement of built structures in close proximity to mature vegetation on the site which borders the public footpath which would reduce their visual impact.

In the circumstances that the Councils Environmental Protection team are satisfied with the operational noise assessments submitted in support of the application, as well as the management plan, and that these would satisfactorily mitigate the overall noise impacts on neighbouring properties it is considered that subject to appropriate conditions on any consent the proposal would not have a significantly detrimental noise impact on neighbours and as such would accord with the principles of Paragraph 123 of the NPPF and Policy E3 of the Local Plan.

Given the fact that the operations undertaken on the site have altered the appearance of the landscape in this particular area, coupled with the fact that the Minorca Opencast and Hansons Brickworks also exist within the surrounding area, it is considered that the proposal would not have an adverse impact on the visual appearance of the landscape or character of the rural environment. The buildings on site are also situated in close proximity to mature vegetation in order to reduce their visual impact and the straw bales provided to mitigate the level of noise generated from the site would also not appear 'out of place' in a rural environment. In these circumstances the development would accord with the principles of Paragraphs 61 and 75 of the NPPF as well as Policies E4 and F1 of the Local Plan.

The County Council Highways Authority and County Council Footpaths Officer consider that the development would not have an adverse impact on the safe usage of both the highway and rights of way, subject to the imposition of relevant conditions to improve the existing access, and as such it is considered that the development would not cause significant conflict with Paragraphs 32 and 75 of the NPPF as well as Policies T3 and T8 of the Local Plan.

In the circumstances that the County Council Ecologist and Natural England raise no objections to the proposed use, following the receipt of the revised great crested newts survey, it is considered that the proposal would not cause significant conflict with Paragraph 118 of the NPPF and Circular 06/05. It can be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important features of the River Mease SAC, or any other features of special scientific interest of

the River Mease SSSI which would ensure compliance with Paragraph 118 of the NPPF; the 2010 Habitats Regulations and Circular 06/05.

Existing landscaping would be retained on the site which would ensure compliance with Policies E2, E7, F1, F2 and F3 of the Local Plan. The provision of notices along the transport corridor advising that military vehicles utilise the route will also not prejudice the safe movement of pedestrians, cyclists or horse riders and as such the development would not conflict with Policy T14 of the Local Plan. It is also considered that the level of noise generated would not result in a significant impact on the 'tranquillity' of the Ashby Canal, given the other noisy uses the canal would bypass, as well as the fact that the use of the site would not prejudice the re-opening of this waterway. In these circumstances the development would not conflict with Policy T16 of the Local Plan. It is therefore recommended that the application be permitted.

RECOMMENDATION - PERMIT, subject to receipt of no contrary observations from the County Council Ecologist and Natural England, and subject to the imposition of 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 carried out in strict accordance with the Site/Location Plan (1:2500), 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 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order) the land identified on the Site/Location Plan (1:2500), received by the Local Authority on the 4th April 2014, shall only be used for the operation of military and civilian "off road vehicles" (including tanks, armoured fighting vehicles and off-road 4x4's) in connection with the leisure function operated from the site and for no other purpose whatsoever.

Reason - other uses would be harmful to the amenities of the area.

- 4 The use, hereby permitted, shall only operate between the hours of 10:00 - 18:00 Monday to Friday, 10:00 - 16:00 on Saturday and 10:00 - 16:00 on Sunday with no operations on Bank Holidays.

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

- 5 The use of the site shall be carried out in strict accordance with the specifications outlined in the Tank Mania Management Plan of 2014 (and revised on 15th May 2014), received by the Local Authority on the 15th May 2014, unless an alternative Management Plan is first submitted to and agreed in writing by the Local Planning Authority. Should an alternative Management Plan be agreed then the use of the site shall be carried out in strict accordance with its specifications.

Reasons - in the interests of preserving the amenities of neighbouring residential properties.

- 6 The use, hereby permitted, shall not operate until the three cabins and toilet block on the site, as identified on the Site/Location plan (1:2500) received by the Local Authority on the 4th April 2014, have been painted in 'camouflage' colours (dark green and black) unless an alternative colour scheme is first submitted to and agreed in writing by the Local Planning Authority.

Reasons - to reduce the impacts of the development on the visual amenities of the surrounding environment.

- 7 The development hereby approved shall only use a sealed tank within the toilet block as identified on the Site/Location plan (1:2500), received by the Local Authority on the 4th April 2014, for its foul drainage discharge.

Reason - any other means of dealing with foul discharge could have an adverse impact on the River Mease Special Area of Conservation.

- 8 The means of drainage for surface water run-off from the structures shall be provided in strict accordance with that detailed within the 'River Mease Impact Statement,' received by the Local Authority on the 4th April 2014, which shall provide for a non-mains scheme. The development shall be undertaken in accordance with the approved scheme and once provided the drainage scheme shall be retained at all times as per the approved scheme unless otherwise agreed in writing by the District Council.

Reason - to ensure that the development, either alone or in combination, would not have a significant effect on the internationally important interest features of the River Mease Special Area of Conservation, or any of the features of special scientific interest of the River Mease Site of Special Scientific Interest.

- 9 Prior to being discharged into the ground, surface water or soakaway system, all surface water run-off from the parking areas and routes taken by the military vehicles shall be passed through an oil/petrol interceptor and silt trap designed and constructed to have a capacity and details compatible with the areas of the site being drained.

Reason - to prevent pollution of the water environment.

- 10 The use, hereby permitted, shall not operate until a scheme of access improvements to the access on the east side of Gallows Lane have been implemented and shall compromise the following: -
- Widening to a minimum of 4.25 metres wide for at least the first 15.0 metres behind the highway boundary;
 - 6.0 metre kerb radii on both sides;
 - Surfacing with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 15.0 metres behind the highway boundary;
 - Removal of the existing gates, any new vehicular access gates, barriers, bollards, chains or other such obstructions erected shall be set back a minimum distance of 15.0 metres behind the highway boundary and shall be hung so as to open inwards only; Once provided, the access shall thereafter be permanently maintained.

Reason - to ensure that the use does not compromise highway safety or result in damage to the Public Highway.

- 11 The use, hereby permitted, shall not operate until a scheme of access improvements to the access on the west side of Gallows Lane shall be implemented and shall compromise the following: -
- Widening to a minimum of 4.25 metres wide for at least the first 15.0 metres behind the highway boundary;
 - Surfacing with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 15.0 metres behind the highway boundary;
 - Removal of the existing gates, any new vehicular access gates, barriers, bollards, chains or other such obstructions erected shall be hung so as to open inwards only; Once provided, the access shall thereafter be permanently maintained.

Reason - to ensure that the use does not compromise highway safety or result in damage to the Public Highway.

- 12 The use, hereby permitted, shall not operate until details of a surfaced car park to accommodate 15 vehicles has been submitted to and approved in writing by the Local Planning Authority. The car park approved shall then be provided and marked out prior to the first use of the site and shall thereafter be retained for this purpose for visitors to the development.

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.

- 13 No external lighting or floodlighting shall be installed without the prior written approval of the Local Planning Authority.

Reason - in the interest of the visual amenities of the locality.

- 14 The use, hereby permitted, shall not operate until details of advisory notes to be erected for the benefit of pedestrians and drivers of military vehicles on public footpath P85, where the military vehicles would cross the route, shall be submitted to and approved by the Local Authority, in conjunction with the County Highways Authority, in writing. Once agreed the signs shall be installed in accordance with the approved details and shall thereafter be so retained.

Reason - in the interests of the safety of users of the public footpath network.

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 A public footpath/bridleway crosses the site and this must not be obstructed or diverted

- without obtaining separate consent from Leicestershire County Council.
- 3 C.B.R. Tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Highways Manager.
- 4 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" (Htd) at www.leics.gov.uk/Htd.
 For other minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.
- 5 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).
- 6 The highway boundary is the hedge fronting the premises and not the edge of the carriageway/road.
- 7 The applicant company will continue to be responsible for ensuring that free access can be exercised safely along footpath P85 at all times and that no disturbance to the surface occurs without the consent of the Highway Authority having been obtained. If it is necessary for any works to take place within the confines of the public right of way, the applicant should notify the Rights of Way Inspector for the area, Mr.S.Daniels, who can be contacted either by telephoning 0116 305 0001 or emailing highwayscustomerservices@leics.gov.uk. Any damage that may be caused to the surface of the footpath as a direct result of the activities associated with the proposed use of the land, would be the responsibility of the applicant company to repair at its own expense to the satisfaction of the Highway Authority.
- 8 The applicant company will not be entitled to erect any additional structures either of a temporary or permanent nature across the route of footpath P85 without the written consent of the Highway Authority having been obtained. Unless a structure has been authorised by the Council, it constitutes an unlawful obstruction of the right of way and the County Council would be obliged to require its immediate removal.
- 9 The Environment Agency advises that all precautions must be taken to avoid discharges and spills to the ground. For advice on pollution prevention measures, the Applicant should refer to the guidance found on the following government website <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>. Sufficient measures should be put in place to ensure any surface water on site which could contain high levels of suspended solids is prevented from entering any nearby ditches and watercourses.
 The driving activities of heavy vehicles over the land in all conditions will cause ponding and wash from standing water and mobilisation of sediment. This type of water and sediment is highly polluting to the ecology of watercourses if it reaches them. Of most concern is the River Mease SAC, which is only approximately 200m away. Although we accept that the recommendation in the ecological report by Wildlife Consultants (15 June 2013) of securely fencing the southern area of the site with a robust fence should mitigate for this issue, we suggest 'restricted area' signage being used as well. We note the 'River Mease Impact Statement' submission in respect to no direct discharges to the River Mease SAC. Although our mapping does not indicate any surface water drains from the site to the River Mease SAC, an awareness of this potential negative impact should be taken into account in the operation and surface water management of the site, which will either 'pond-up' or 'run-off' depending on topography (although no topography or surface water management/flow direction has been provided) of the site.
 It should be ensured that wide vegetated margins next to the 'tank track' routes or outer

boundaries (such as fencing off the southern boundary) are maintained to filter water washed from them by vehicles or after heavy rainfall when too much water has accumulated on the tracks that needs a run-off or soakaway route. Appropriate vegetated buffer strips or swale/catch ditches should be dug adjacent to the tracks, allowing sediments to settle out so water infiltrates to ground. Ditches, either existing or new, that move water from the site, but are not shown on any mapping, should not be used to drain any poor quality/sediment loaded surface water towards the River Mease SAC.

- 10 The Environment Agency advises that if end of life (ELV's, scrap) vehicles are brought onto the site an Environmental Permit, issued by the Environment Agency will be required. This permit, along with associated legislation, requires that certain issues must be addressed. These would include such matters as an impermeable surface for all dismantling activities, bunded storage for waste liquids, hardstandings for the storage of all depolluted ELV's and appropriate storage for lead acid batteries. All vehicles must be de-polluted as soon as practicable after they arrive on site (1 - 2 days max). Further details of the requirements can be obtained by contacting the Environment Agency. There is an application fee for the permit and an annual subsidence charge. The site must be overseen by a technical competent manager (TCM) who is required to obtain a relevant qualification (EPOC) within 4 weeks of the permit being issued. This would then allow the TCM up to 12 months to obtain a full qualification. There is a fee for this. If after the permit has been issued it is no longer required then it would have to be formally surrendered. There is also a fee to surrender a permit. The site would also be required to register as a hazardous waste producer and if the applicant collects the end of life vehicles themselves they would have to be registered as a waste carrier. You can register both these at the Environment Agency. Please note there is a fee for this. The delivery and removal of ELV's would require consignment/transfer notes to be completed.
- 11 The Environment Agency advises that we note the additional ecological survey report and its recommendations and agree that due to the current and previous activities carried out at the site, any ecological interest there, if activities continue, will be low, although the un-disturbed grassland boundary margins, hedges and trees may provide some interest for birds, invertebrates and small mammals, as identified in the survey on the eastern side of the site, which should be maintained as a restricted/refuge area.
- 12 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.

- 13 As of April 6th April 2008 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.

Erection of two detached dwellings with garaging

Report Item No
A5

18 Meadow Lane Coalville Leicestershire LE67 4DL

Application Reference
14/00188/FUL

Applicant:
Mr D Drury

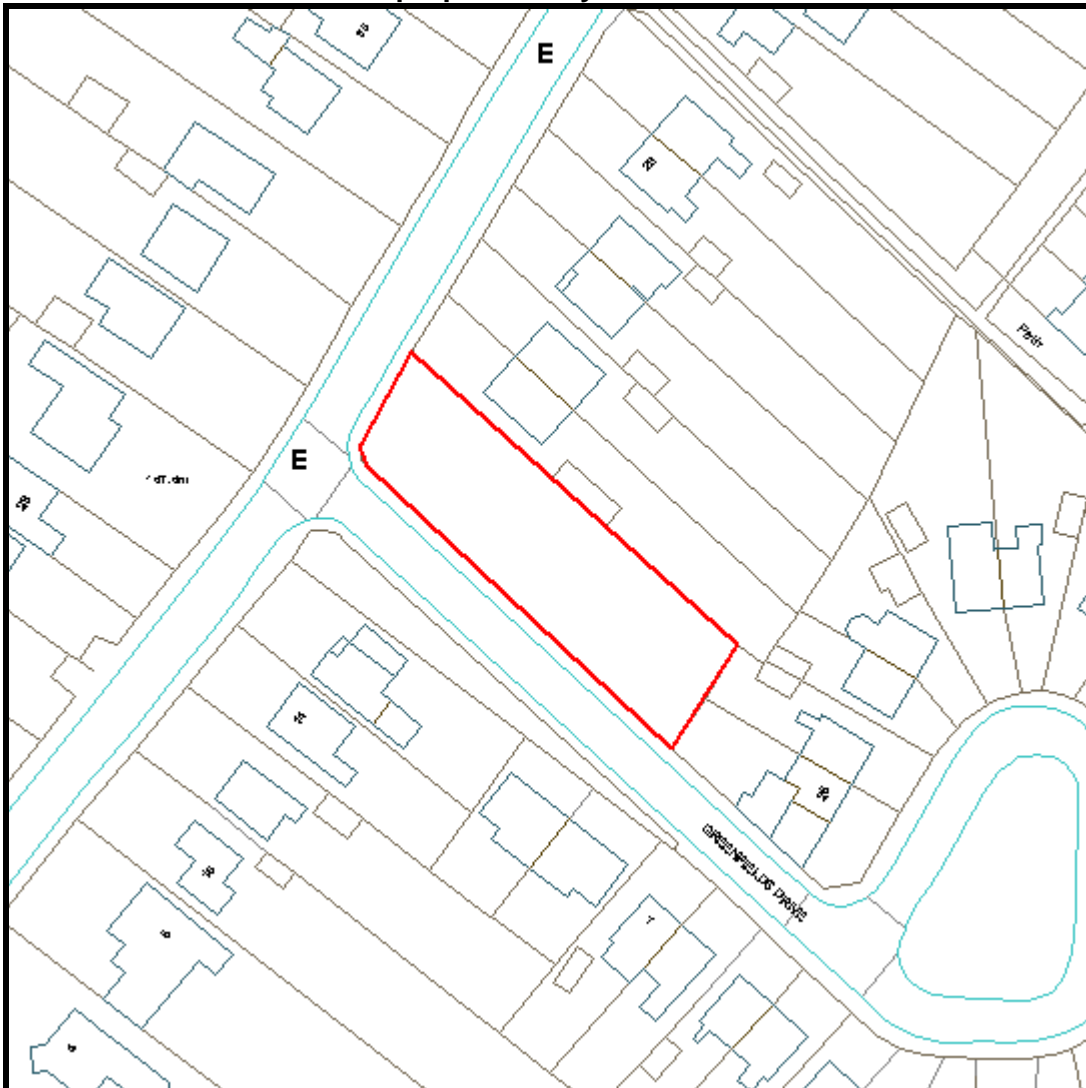
Date Registered
4 March 2014

Case Officer:
James Mattley

Target Decision Date
29 April 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

Call In

The application falls to be determined by the Planning Committee as the application has been called in by Councillor Wyatt as part of the DEL1 process.

Proposal

Planning permission is sought for the erection of two linked detached dwellings with garaging on land within the rear garden of No.18 Meadow Lane, Coalville. The subject property is a detached two storey dwelling, situated on the south-eastern side of Meadow Lane, east of the junction with Greenfields Drive. The site is located in a predominantly residential area with dwellings surrounding the site. The subject property is located within Limits to Development.

Consultations

A total of 32 objections have been received from surrounding neighbours. No other objections have been received from any other statutory consultees.

Planning Policy

The application site lies within the limits to development and in a sustainable settlement where the principle of residential dwellings are considered to be acceptable. Also material to the determination of the application and the weight that can be attached to these policies is the supply of housing in the context of the National Planning Policy Framework (NPPF).

Conclusion

The site is located in a sustainable settlement and the principle of the development is considered to be acceptable. The proposed development would be acceptable in terms of the residential amenities of existing and future occupiers, and would provide for an appropriate form of design that would be in keeping with the locality. The proposal would be acceptable in relation to highway safety subject to appropriate planning conditions. The scheme would not result in significant impacts upon protected species and there would be no flood risk or drainage issues. There are no other relevant material planning considerations that indicate planning permission should not be granted.

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 two linked detached dwellings with garaging on land within the rear garden of No. 18 Meadow Lane, Coalville. The subject property is a detached two storey dwelling, situated on the south-eastern side of Meadow Lane, east of the junction with Greenfields Drive. The site is located in a predominantly residential area with dwellings surrounding the site. The subject property is located within Limits to Development.

The two new detached dwellings, which would each have three bedrooms, would be accessed from Greenfields Drive and would each benefit from two car parking spaces; one within a garage unit and one car parking space in front of the garage.

Amended plans have been received during the course of the application to address officer concerns regarding overlooking and overbearing impacts. The amended details now show that Unit 1 would measure 6.5 metres in depth, 8.5 metres in width and would have a pitched roof measuring 5.0 metres in height to the eaves and 8.0 metres in height to the ridge. Unit 2 would be the same size as Unit 1 but would also benefit from a single storey rear extension that would measure 3.8 metres in length, 3.7 metres in width and would have a pitched roof measuring 2.9 metres in height to the eaves and 4.5 metres in height to the ridge. The garage block would measure 6.4 metres in length, 7.1 metres in width and would have a pitched roof measuring 2.9 metres in height to the eaves and 4.9 metres in height to the ridge.

No relevant planning history found.

2. Publicity

8 no. neighbours have been notified (Date of last notification 14 April 2014)

Site Notice displayed 7 March 2014

3. Consultations

County Highway Authority
 Severn Trent Water Limited
 NWLDC Tree Officer
 LCC ecology

4. Summary of Representations Received

County Ecologist has no comments or objections to this application.

County Highway Authority has no objections but offers standing advice in relation to car parking, visibility splays, set-back distances, surfacing, drainage and gradient.

Severn Trent Water has no objection to the proposal.

A total of 27 letters of representation have been received which object to the application on the following grounds:

- _ trees have been removed from site;
- _ dwellings immediately fronting the road are not in keeping with the surrounding area;
- _ proposal would lead to overlooking, overshadowing and overbearing impacts on numerous

neighbours;

- _ the level of off-street car parking is inadequate as the garages are unlikely to be used for parking;
- _ proposal would lead to on-street car parking;
- _ access arrangements are unsafe and unacceptable;
- _ Greenfields Drive is already congested in the morning and the afternoon due to Broomleys School;
- _ plot is too small to adequately and safely accommodate two dwellings;
- _ development would be out of character with the surrounding area which is characterised by large plots and long driveways and gardens;
- _ the dwellings would not benefit from a sufficient level of amenity space;
- _ development contravenes the Council's Development Guidelines;
- _ the site constitutes greenfield land;
- _ the downstairs windows on the proposed dwelling contain a large obscured glass window;
- _ there is no boundary separating the shared driveway;
- _ although planning permission was granted for two dwellings across the road that site was bigger and the circumstances differ;
- _ there would be disruption and inconvenience from the building work;
- _ should the application be approved then the hours of construction should be controlled given the size of the site;
- _ the rear garden areas of surrounding properties are frequently used and would be impacted upon;
- _ the purpose of roof lights is unclear and they should be removed;
- _ should planning permission be granted then permitted development rights should be removed.

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 (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.

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 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 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.

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 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) i.e. allocated housing 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. The settlement of Coalville benefits from a range of local services and is readily accessible via public transport. The proposal for the erection of two new residential dwellings is, therefore, considered to score well against the sustainability advice in the NPPF.

The site is currently used as garden land, which is excluded from the definition of previously developed land set out in the NPPF, and therefore effectively constitutes a greenfield site. The NPPF states that decisions should encourage the effective use of land by re-using land that has been previously developed and that Local Planning Authorities should consider the use of policies to resist inappropriate development of residential gardens. The background to this issue is that in January 2010 the Government's Chief Planner (dated 19 January 2010) wrote to Local Planning Authorities to advise that garden land would no longer be considered previously developed land. This included an Annex which stated, amongst other things that, "where the clear strategy to deliver housing on preferred sites is demonstrably working, then authorities may consider a policy to prevent development on gardens. Alternatively authorities could consider a policy which would set out clearly the circumstances in which garden development will be acceptable". The Council at the present time cannot demonstrate a 5 year supply of deliverable housing land and does not have a specific policy that prevents development on gardens. As such a reason for refusal on the basis of the loss of part of the residential garden could not be justified in this instance particularly as the proposed development would be in keeping with the character of the area.

Residential Amenity

Consideration has been given to the impact of the development on surrounding residential properties. The most immediately affected dwellings would be 18 Meadow Lane (the host dwelling), 20 Meadow Lane, 25 Greenfields Drive and 26 Greenfields Drive.

In terms of the impact upon No.20 Meadow Lane, this is a two storey detached dwelling located off Greenhill Road. There would be a distance of around 19 metres between the rear corner of Unit 1 and the rear corner of this dwelling. At this distance it is not considered that there would be any impacts upon the main dwellinghouse. In terms of overbearing and overshadowing impacts, the two storey built development would be around 8.3 metres away from the boundary with this property and at this distance it is not considered that severe overbearing or overshadowing impacts would arise. It is considered that the main issue with regard to the scheme is with regard to overlooking issues towards the rear amenity area of No.20. The property benefits from a rear garden of some 40 metres in length although the site visit revealed that the bottom of the garden appears to be a well-used with greenhouses and a summerhouse.

The original plans that were submitted as part of the application included for a two storey rear element that would have resulted in a first floor bedroom window around 4.8 metres away from the rear boundary with 20 Meadow Lane. Such a relationship would have caused significant overlooking impacts and would not have been acceptable in relation to Policy E3 of the Local Plan. The height of the original garage (5.72 metres) in close proximity to the boundary with this dwelling would also have served to cause some overbearing and overshadowing impacts upon the rear amenity space of this dwelling. However, the amended plans have removed the first floor rear extension element from Unit 2 and have lowered the height of the garage to 4.94 metres and these alterations are considered to reduce the overlooking, overshadowing and overbearing impacts. Nevertheless, it is recognised that the main first floor rear windows to both dwellings would be around 8.3 metres away from the rear boundary with this dwelling and the occupiers of this dwelling consider this distance as inadequate to prevent significant overlooking issues. The Council can no longer rely on the standards contained in its former Development Guidelines (which suggested back-to-back distances of 22 metres and, therefore, rear garden lengths of 11 metres) and instead needs to take into account similar relationships in the area, the size of the garden being affected in relation to the overall garden size, the distance to the boundary and any other material considerations.

It is apparent that a very similar relationship (albeit possibly worse) exists directly opposite the application site and was granted planning permission in 2001 under planning application reference 01/01203/FUL. This application proposed two dwellings within the rear garden area of No.14 Meadow Lane and these dwellings have rear gardens measuring only 8.0 metres in length. Given that the Local Planning Authority has already found a similar relationship to be acceptable, it is not considered that the current application could be refused on overlooking issues.

With regards to the impact upon No's 25 and 26 Greenfields Drive, Unit 2 would be located in fairly close proximity to the boundary with these dwellings. The original plans that were submitted as part of the application included for a two storey rear element that would have resulted in a first floor bathroom window around 5.5 metres away from the boundary with these properties. Although this window could have been obscure glazed, it would still have led to perceived overlooking impacts and would not have been acceptable in relation to Policy E3 of the Local Plan. Amended plans have now been secured which have removed the first floor element from the extension to Unit 2. Taking this into account, including that Unit 2 would not have any side windows facing towards No's 25 and 26 Greenfields Drive, then it is not considered that any significant overlooking issues would occur to the occupiers of these dwellings. In terms of overbearing and overshadowing impacts there would be some impacts upon the rear amenity areas to these dwellings but given the orientation any impacts would be limited to latter parts of the day and, on this basis, the impacts are not considered to be so severe as to warrant a refusal of the application.

No.18 Meadow Lane is the host dwelling but it is still considered necessary to assess whether the proposed scheme would result in any significant overbearing, overshadowing or overlooking impacts upon the occupiers of this dwelling. There would be a distance of at least 14 metres between the rear elevation of No.18 and the side elevation of Unit 1. Given this distance, the orientation between the two properties and that Unit 1 would not contain any side windows, it is not considered to result in any significant overlooking, overbearing or overshadowing impacts upon the occupiers of this dwelling.

It is noted that further extensions to either property could result in impacts upon surrounding residential properties and, therefore, if planning permission is granted for this proposal it would be necessary to remove permitted development rights.

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. Given that the proposal relates to the erection of only two dwellings it is not considered to cause exceptional amenity harm and any statutory nuisances could be dealt with under separate legislation.

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

Design

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

Properties along Meadow Lane are predominantly large detached dwellings set within long linear plots with the main dwellinghouse set back from the road whilst properties along Greenfields Road are predominantly semi-detached set within smaller plots with the main dwellinghouse set back from the road. The proposed dwellings would not be set back from the road and would be positioned in close proximity to the back of the pavement but it is not considered that this would be so detrimental to the visual amenity of the surrounding area as to warrant a refusal of the application.

Letters of objection consider that the rear garden sizes are too small in relation to the surrounding area and that the site is too small to accommodate the development. However, the proposed scheme includes for two car parking spaces per plot and rear gardens that are around 8.3 metres in length. The rear garden sizes are similar to those granted planning permission in 2001 under planning application reference 01/01203/FUL. Overall, it is considered the site can satisfactorily accommodate two dwellings with the associated amenity space and parking provision.

The proposed dwellings would be constructed in red brickwork, UPVC/timber windows and

doors and a tiled roof. It would be necessary to apply planning conditions with regard to the materials to ensure that they are appropriate in relation to the surrounding area.

The inclusion of obscure glazed windows on the ground floor front elevation is not a common arrangement but the applicant's agent has confirmed that a feature glazing pattern would be installed. This could be controlled through a suitably worded planning condition.

Overall, the design, appearance and scale of this proposal is considered to be acceptable and would not be completely out of character with the surrounding area and is not considered to conflict with Policy E4 and H7 of the Local Plan or the advice in the NPPF.

Highway Safety

The County Highway Authority has been consulted on the application and has no objections but offers standing advice in relation to car parking, visibility splays, set-back distances, surfacing, drainage and gradient. These matters could all be controlled through suitably worded planning conditions.

A number of letters of objection have been received in relation to the safety of the new access off Greenfields Drive and the lack of visibility that would be available from vehicles reversing out of the proposed driveway. Additional discussions have taken place with the County Highway Authority who confirm that the access arrangements and pedestrian/vehicular visibility splays are acceptable given the layout proposed and the limited speed of traffic along this stretch of road.

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

In terms of car parking on the site, each 3 bedroomed dwelling plot would have access to two car parking spaces. The garages would be built in accordance with the internal dimensions recommended in the County Council's 6C's document which would ensure that they are large enough to accommodate a vehicle. The proposed parking arrangements provide an average of 2.0 car parking spaces per dwelling which is over and above the required level of 1.5 spaces per dwelling in the Local Plan. Whilst this level of car parking is over and above the level required by the Local Plan, it is noted the County Highway Authority raises no objections to the level of car parking and the submitted layout is acceptable in this regard. On this basis, the level of car parking is considered to be acceptable.

Concerns have been expressed about the level of car parking, the use of the road for parking in association with the nearby school and poor pedestrian visibility. The concerns of neighbouring residents in relation to highway safety are recognised. However, the County Highway Authority has no objections to the proposed development subject to relevant highway conditions. Therefore, it is not considered that the proposal would conflict with highway safety policies T3 and T8 in the Local Plan, the advice in the NPPF or the advice contained in the County Council's 6C's document.

Other

The previous removal of trees from the site would not have required planning permission as the trees were not protected by TPO and the site is not within the Conservation Area.

The Development Guidelines which were adopted as Supplementary Planning Guidance (SPG) in North West Leicestershire contained advice regarding, amongst other things, the design and scale of house extensions, the size of rear gardens and distances between existing and proposed development. However, as Policy H17 is not a saved policy then the guidelines no longer carry any statutory weight in the determination of planning applications.

There is no formal demarcation between the proposed car parking spaces but it is unclear as to why this is an unacceptable relationship and a similar example exists on Greenfields Drive.

Conclusion

The site is located in a sustainable settlement and the principle of the development is considered to be acceptable. The proposed development would be acceptable in terms of the residential amenities of existing and future occupiers, and would provide for an appropriate form of design that would be in keeping with the locality. The proposal would be acceptable in relation to highway safety subject to appropriate planning conditions. The scheme would not result in significant impacts upon protected species and there would be no flood risk or drainage issues. There are no other relevant material planning considerations that indicate planning permission should not be granted.

The District Council's decision to grant planning permission arose following careful consideration of the development plan and all other relevant considerations.

Therefore, it is recommended that full planning permission be granted, subject to and relevant planning conditions.

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. 14.100.05 A deposited with the Local Planning Authority on 14 April 2014;
 Drawing No. 14.100.06 A deposited with the Local Planning Authority on 14 April 2014;
 Drawing No. 14.100.07 A deposited with the Local Planning Authority on 14 April 2014;
 Site location plan deposited with the Local Planning Authority on 4 March 2014;
 Drawing No. 14.100.02 deposited with the Local Planning Authority on 4 March 2014;
 Drawing No. 14.100.01 deposited with the Local Planning Authority on 4 March 2014.

Reason - to determine the scope of this permission.

- 3 No development shall commence on site until representative samples of the materials to

be used in all external surfaces (including the feature glazing) has been submitted to and agreed in writing with the Local Planning Authority. The works shall be undertaken in accordance with the approved details.

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

- 4 Notwithstanding the provisions 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) none of the dwelling(s) hereby permitted shall be enlarged, improved or altered unless planning permission has first been granted by the Local Planning Authority.

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

- 5 The boundary treatments, as shown on drawing number HMD/PD/0271/01 Rev B shall be implemented before the dwelling is occupied.

Reason - to preserve the amenities of the locality.

- 6 Before first use of the development hereby permitted, visibility splays of 2.4 metres by 33 metres shall be provided at the junction of the access with Greenfields Drive. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

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

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

Reason - in the interests of pedestrian safety.

- 8 Before first occupation of any dwelling hereby permitted, car parking provision for the benefit of the proposed dwellings shall be made for each dwelling on the basis of 2 spaces for each dwelling. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.

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

- 9 Before first occupation of any dwelling, 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.)

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

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

- 11 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.

Notes to applicant

- 1 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).
- 2 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).
- 3 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.

Proposed change of use of retail unit and offices to four residential dwellings

Report Item No
A6

64 High Street Measham Swadlincote Derby

Application Reference
14/00020/FUL

Applicant:

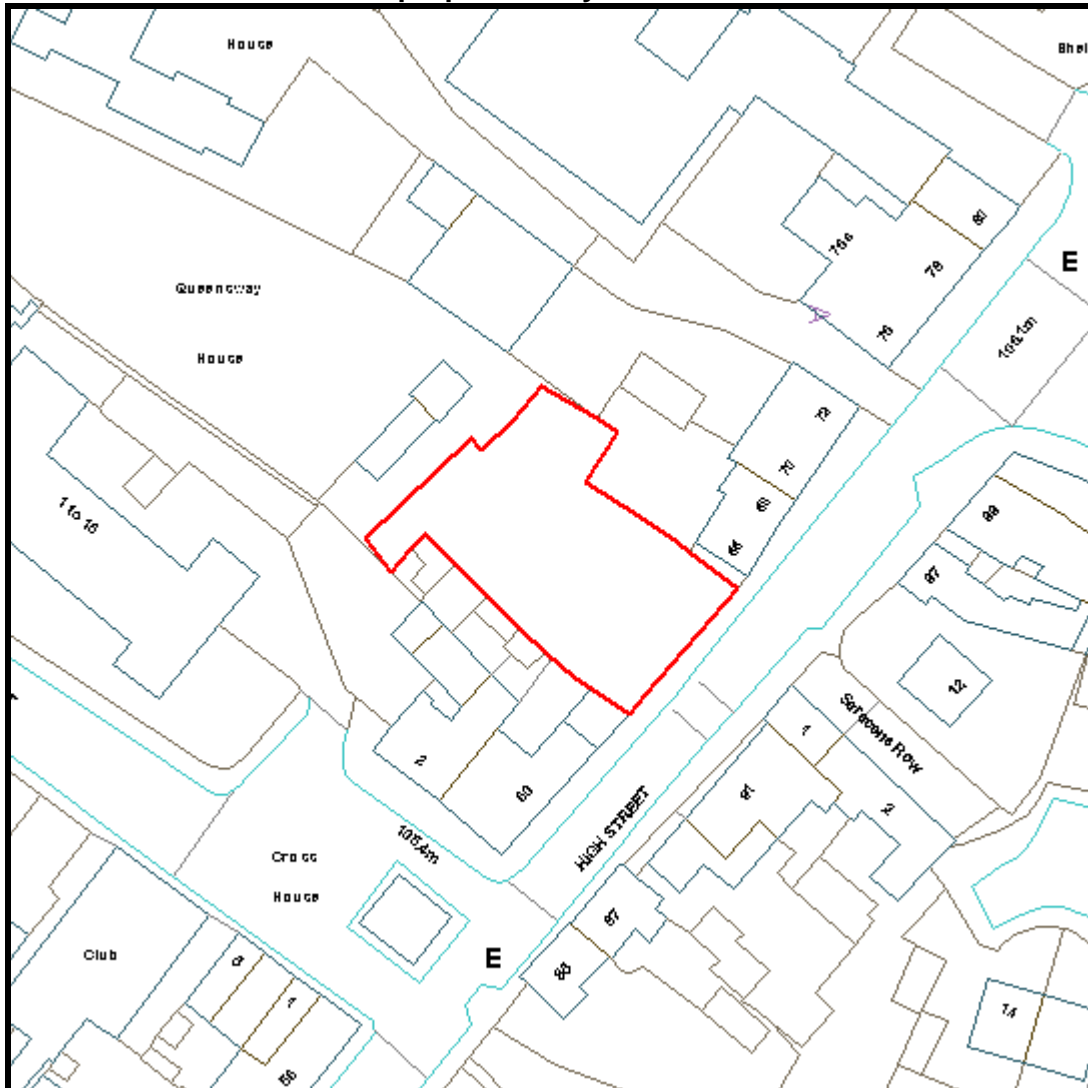
Date Registered
6 January 2014

Case Officer:
Joe Mitson

Target Decision Date
3 March 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application has been brought to the Planning Committee at the request of Councillor Neilson as a matter of public concern.

Proposal

The application seeks permission for a change of use of the retail unit and offices into four residential properties.

Consultations

Members will see from the main report below that an objection has been received in respect of the proposals from the Parish Council and concerns raised by occupiers 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 the loss of retail units, highway safety, visual and residential amenity.

Conclusion

Although policy R19 seeks to maintain the unit for retail purposes a convincing case has been made to demonstrate such a use is unlikely to recommence. As such a change of use to dwellings, in an area of mixed use, is on balance considered acceptable. The proposals would be visually acceptable and would have a satisfactory relationship with neighbouring properties, subject to conditions. In addition, the objection of the Highway Authority has been overcome and the proposal complies with relevant local and national planning policies.

RECOMMENDATION - PERMIT SUBJECT TO THE SIGNING OF A SECTION 106 AGREEMENT AND THE FOLLOWING CONDITION(S).

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 a retail unit and offices to four residential units. Each unit would have accommodation over two floors with a terrace provided at the ground floor. The proposed external alterations would mostly comprise changes to the fenestration to the ground floor front elevation to replace the shop fronts with a door and window for each unit and a covered terrace to the rear. A total of 6 parking spaces, together with turning space and a shared amenity space and bin store would be provided to the rear.

There is no relevant history on the site although the site to the north-west has approval for affordable housing.

2. Publicity

25 no. Neighbours have been notified (Date of last notification 16 January 2014)

Site Notice displayed 16 January 2014

Press Notice published 29 January 2014

3. Consultations

Measham Parish Council consulted 16 January 2014

Environment Agency consulted 23 April 2014

Natural England consulted 23 April 2014

County Highway Authority consulted 7 April 2014

Severn Trent Water Limited consulted 16 January 2014

Head of Environmental Protection consulted 16 January 2014

NWLDC Conservation Officer consulted 16 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.

Measham Parish Council: object on the grounds of unsatisfactory access onto High Street, insufficient parking for the dwellings, concerns about access for the construction/alteration of the properties for vehicles and materials and the proposals are not in conformance with the conservation area.

Highway Authority: originally objected to the scheme and recommended refusal on the grounds of the access details, the intensification of the use of the access and inadequate parking and turning provision. Following the submission of further information the Highway Authority has lifted the objection and recommends conditional approval.

Severn Trent Water Ltd.: no objection subject to a condition.

NWL Environmental Protection: no observations.

Third Party Representations One letter received raising the following: 66-68 High Street has right of access along the passageway between 64 and 66 High Street. This access needs to be available during building works and after the works have been completed. At the moment the

plans leave the access available to us. The "Site Block Plan" submitted shows the boundary between our properties (to the southeast of the proposed drying area). This appears to be too far to the southeast when compared with the land registry entry for our property.

One letter of concern on the grounds that although some consideration has been given to the overall look of the street the developments shared assembly area is marked on the plan, right up to the boundary, this wall is not a party wall and seeks clarification on the plan for the boundaries, a first floor window on the adjacent property looks onto the development site and do not wish to be overlooked, concerned about cars going in and out with difficult visibility especially close to a pedestrian crossing.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

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

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

- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity;
- support the transition to a low carbon future in a changing climate;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
- take account of and support local strategies to improve health, social and cultural wellbeing.

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

The sections of the NPPF that are relevant to this application are:

- 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;
- 6 - Delivering a Wide Choice of High Quality Homes through the provision of a mix of housing and being responsive to local circumstances and needs;
- 7 - Requiring Good Design through seeking high quality and inclusive design for all, effectively connecting people and places and refusing poor design;
- 8 - Promoting Healthy Communities through facilitating social interaction and creating healthy, inclusive communities, delivering recreational and cultural facilities and guard against the loss of

valued facilities;

- 10 - Meeting the Challenge of Climate Change, Flooding and Coastal Change through reducing greenhouse gas emissions, providing resilience to the impacts of climate change and supporting renewable and low carbon energy;
- 11 - Conserving and Enhancing the Natural Environment by protecting and enhancing landscapes, minimising the impact on biodiversity and recognising the benefits of ecosystem services.

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 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 T3 relates to highway standards.

Policy T8 relates to parking standards.

Policy H6 relate to housing density.

Policy H7 relates to housing design.

Policy R1 relates to central shopping areas.

Policy R16 relates to the use of upper floors.

Policy R19 relates to local centre uses.

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

The Habitat Regulations

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs) and the key issues relating to protected species;

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;

River Mease Water Quality Management Plan - August 2011

This plan draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition;

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

The site is located within the Limits to Development and subject to retail policies contained in the Local Plan. Policy S2 accepts the principle of development, policy R16 states supports the use of upper floors for, amongst other things, residential use and policy R19 states ground floor frontages within local shopping centres will only be used for, amongst other things, A2, A3 and D1 provided certain criteria are met.

As such the change of use of the upper floors from office and storage associated with the previous use to residential is acceptable in principle. However, a residential use of the ground floors would be contrary to Policy R19.

To address that issue a letter from Hartley's has been submitted as part of the application. This confirms the estate agents have been involved in the marketing of the property for the established use following formal instructions in November 2012 for sale and letting. No offers for its continued use as commercial premises from either perspective purchasers or potential tenants have been received despite a number of price reductions. The property has been offered via an email launch to over 200 matched applicants of which none have shown any interest. They state there are other vacant and better positioned commercial premises available for rent or purchase in more favourable locations and can only see interest in this part of High Street from home owners or tenants and conclude the property would benefit from the potential development into residential properties.

This part of High Street has a mixed use with some commercial and some residential properties. Although Policy R19 seeks to preserve the retail and commercial use of ground floors in the locality this policy is a number of years old and since the adoption of the Local Plan the economy and the retail sector have changed significantly. The majority of the retail and commercial operations take place further along High Street and this part is not dominated by retail. Furthermore, the unit has been marketed for over a year without any interest for commercial uses and the application is supported by the estate agent who provides an overview of this property and the wider local situation. On balance it is considered a non-retail use can be supported on the ground floor and that the loss of the retail element would not significantly undermine the vitality or viability of the retail centre of the town.

Design and Visual Impact

The building plays a major visual role in the street scene occupying a prominent location on High Street and comprising a significant footprint. The upper floor of the façade has been largely maintained; however, the ground floor has an unsatisfactory shop front. This detracts from the building, street scene and character and appearance of the conservation area. The proposal to remove the shop front and to instate vertical emphasis sash windows with headers

to match those on the upper floors is welcome, subject to a condition relating to the use of matching bricks, bonding, mortar etc. to be used.

The side and rear elevations of the building are less successful with a large flat roof projection at ground floor level. This is to be retained with ground floor terraces added to the rear elevation. However, this part of the building is not easily open to public view and does not detract from the street scene or conservation area. Other than the façade elevation alterations are limited and would not adversely affect the building. An amendment to the access door (on the right hand side of the façade) could be achieved to ensure the door retains the service character of the original. The proposal therefore complies with policy E4. There were no objections to the proposals from the Council's Conservation Officer.

Residential Amenity

The approved use of the building, retailing, has ceased. However, this would have resulted in an impact on the amenity of occupiers of neighbouring properties through noise, disturbance, deliveries and comings and goings. It is considered in terms of use the proposed residential use would be compatible with the surrounding uses.

The façade of the building fronts onto High Street and the properties to the east are separated by the highway and themselves front onto the public highway. To the south there is a dwelling which has a blank gable to the side, a brick boundary wall and an outbuilding running along the boundary. Ground floor windows in the proposed conversion would therefore look towards these walls with little impact on amenity. However, the existing two first floor side facing windows would be maintained with the front most accommodating a bathroom window (which could be obscure glazed) and the second accommodating a bedroom window. This could have oblique views over the neighbouring garden. The Agent has however confirmed that this window could be obscure glazed. A fully obscure glazed window may not be ideal in terms of the amenity of future occupiers of the room as it would be the only window. However, partial obscure glazing to mitigate overlooking could be achieved with clear glazing above which would not overlook the neighbouring site. This could be the subject of a condition on any approval.

To the rear there is a large area of hardstanding that would be retained for parking, turning and shared amenity space. This would ensure a significant area of approximately 20 metres would separate the host building and the rear boundary and further to the first floor rear facing windows. The proposal would not therefore impact upon the approved housing scheme to the rear.

To the north the host dwelling has no boundary between the access from High Street and the neighbouring property. However, no additional openings are proposed on this elevation and the relationship is considered acceptable with rear facing bedroom windows forming a traditional relationship between properties.

Furthermore, the rear shared amenity space, parking and turning area and access would not have an undue adverse impact on the amenities of neighbouring properties. The proposal therefore complies with policy E3.

Highway Safety

The dwellings would be served by the existing vehicular access to the south of the building onto High Street. To the rear the site would provide six parking spaces and a turning area.

The Highway Authority originally recommend refusal on the grounds that the proposal would lead to additional turning traffic using an access onto a 30mph road where the horizontal

alignment and the proximity to neighbouring boundaries are such that visibility is restricted and the turning manoeuvres would be an additional source of danger to road users. The proposal would lead to an intensification of the access that is substandard in width and would be likely to lead to vehicles waiting within the highway in order to enter the site which would affect the free flow of traffic. The access also lacks adequate visibility splays especially for pedestrians. The development would fail to provide appropriate off street parking which could lead to indiscriminate parking on the street which would be detrimental to the free flow of traffic. In addition, the proposal would fail to provide appropriate turning facilities within the site which would be likely to lead to vehicular reversing manoeuvres onto High Street which would lead to additional dangers for highway users.

The Agent was made aware of these issues and submitted a Highway Review of the application. This considered the available visibility splays for vehicles and pedestrians, carried out a swept path analysis of the proposed parking area and calculated trips associated with the consented use and compared this with trips generated by the proposed dwellings.

The report states that, using the 6Cs Design Guide, the available visibility splays of the access are in excess of the minimum required. It notes that the guidance recommends pedestrian visibility splays of 2 metres by 2 metres are provided. Given the position of the buildings this cannot be achieved; however, the report points out that in Manual for Streets regarding visibility along the street edge "the absence of wide visibility splays at private drives will encourage drivers to emerge more cautiously. Consideration should be given to whether this will be appropriate taking into account the following: the frequency of vehicle movements, the amount of pedestrian activity and the width of the footway".

The report argues that the driveway will only serve four dwellings and the frequency of vehicles emerging from the access would be very low; consequently the guidance of Manual for Streets should be taken into account. The available visibility splay is 1.4 metres by 1.4 metres and the report notes this is only slightly below the recommended splays. The report also notes Manual for Streets consider other factors to take into account. These include the speed and volume of traffic on the street and the possibility of vehicles turning around within the property. The report states that given the vehicles can turn around within the site, the low quantum of traffic associated with the development and the grouping together of parking spaces into one access, it is considered the access would operate satisfactorily.

The report states the swept path analysis assessment for the car parking has been carried out using an estate car and this shows the proposed car park layout of 4 bays can be accessed using this vehicle.

The report notes the premises has an approved A1 use which using TRICS could generate up to 62 vehicular trips in the peak hour. This compares with the proposed four dwellings generating a maximum of three vehicular trips in the peak hour. The report concludes that the conversion to residential purposes would provide an overall positive benefit as the traffic flows associated with the proposed use would be much lower than the corresponding vehicular trips associated with the approved retail use.

The Highway Authority has been re-consulted following receipt of this report who state the existing access is substandard in terms of width, visibility and pedestrian visibility. The Highway Authority would normally seek to resist a proposal that could lead to an intensification in use of a substandard access. The report submitted suggests there will be a reduction in the potential for traffic using the access. However, the nature of the access and the difficulties in manoeuvring into it would be very likely to discourage customers of a shop from using it. It is reasonable to

suggest that residents of the proposed dwellings would be much more likely to become familiar with and use the access. The Highway Authority also note that it is likely employees in connection with the retail use of the site would also use the access for parking and the conversion of the upper floor to residential could take place under permitted development rights. The Highway Authority conclude that the change of use is likely to lead to a reduction in disruption caused in the highway by deliveries by HGV's and in general the proposal would be likely to lead to a reduction in traffic and comings and goings. As such their objection is withdrawn and conditions are recommended.

It is considered that, although there are issues with the suitability of the access, a convincing case has been made to demonstrate that the level of use is likely to reduce and overall the proposal would have a benefit in terms of highway safety. As such the proposal is considered to comply with policies T3 and T8.

Ecology and Impact on the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI)

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to Paragraph 118 of the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewerage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

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

The proposal comprises a change of use to flats and the foul sewage would be discharged to the public sewer with connection to the existing drainage system. As a result of the change of use and intensification of the residential element foul drainage discharge from the site would significantly increase and the application would be subject to the requirements of the DCS. A legal agreement is proposed for the payment of a contribution in accordance with the DCS, along with the Council's monitoring fee. The applicant has confirmed acceptability of River Mease contributions.

A condition relating to the technical details of foul drainage is not required as the principle of connecting to the mains sewer has been established and the details of drainage are dealt with by separate legislation under the Building Regulations and by Severn Trent Water. However a condition requiring that only a mains connection is used at the site would be required as the use of other means for foul drainage discharge could adversely affect the SAC.

It has not been specified on the application submission how surface water run-off would be

managed and as such a condition would be imposed for this to be agreed given that surface water run-off should utilise an alternative means than the mains sewer.

Natural England has been consulted and advised if the development is undertaken in accordance with the submitted details it is not likely to have a significant effect on the interest features for which the SAC has been classified. The Authority is not therefore required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives. Therefore it can be ascertained that the change of use will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

RECOMMENDATION - PERMIT, subject to the signing of a Section 106 Agreement and the following condition(s);

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

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

- 2 The development shall be built strictly in accordance with the approved plans as follows:
Drawing no. 00:02, 00:03 and 00:04

Reason- To determine the scope of this permission.

- 3 Before development commences the following details shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these approved details:
 - Samples of the bricks to be used;
 - Details of the materials for the lintels and cills;
 - Drawings at a scale of not more than 1:20 providing details of the proposed windows and doors to include profiles, materials (timber to be used) and opening methods and details of the windows set in reveal;
 - Details of the mortar mix and technique and bonding of brick to be demonstrated in a one metre square sample panel;
 - Samples of the tiles to be used.

Reason: In the interests of visual amenity

- 4 Notwithstanding the details submitted details of the parking and turning facilities within the site shall be submitted to and approved in writing by the Local Planning Authority before development commences. The approved details shall be carried out as approved before first occupation of any dwelling hereby approved and shall thereafter not be obstructed and shall permanently remain available for parking and turning in connection with the use hereby approved. These details shall include 1.5 spaces per dwelling with spaces not less than 2.4 metres by 4.8 metres.

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

- 5 Any new or replacement windows or doors at ground floor level on the road frontage shall be of a type other than outward opening and shall be so maintained in perpetuity.

Reason: In the interests of the safety of users of the highway immediately adjacent to the front wall of the building

- 6 The development hereby approved shall only use the mains sewer for its foul drainage disposal.

Reason - any other means of dealing with foul discharge could have an adverse impact on the River Mease Special Area of Conservation.

- 7 Before the first occupation of any unit hereby approved details of the partial obscure glazing of the side facing bedroom window in the southern elevation and the full obscure glazing of the bathroom window in the side elevation shall be submitted to and approved in writing by the Local Planning Authority. The part of the window to be obscure glazed shall be glazed with obscure glass equal to or greater than Grade 3 level of privacy from the Pilkington Texture Glass range or the equivalent level provided by an alternative manufacture, which shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority.

Reason- to avoid the possibility of overlooking in the interests of preserving the amenities of residents.

- 8 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.

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

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

- 10 Before development commences on the site a detailed scheme for the boundary treatment of the site shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the dwelling is occupied.

Reason- to preserve the amenities of the locality.

- 11 No development shall commence until the details of the means of drainage for surface water run-off from the site, which shall provide for a non-mains scheme, have first been submitted to and agreed in writing by the Local Planning Authority. The development shall then be undertaken in accordance with the approved scheme and once provided the drainage scheme shall be retained at all times as per the approved scheme unless otherwise agreed in writing by the District Council.

Reason - to ensure that the development, either alone or in combination, would not have a significant effect on the internationally important interest features of the River Mease Special Area of Conservation, or any of the features of special scientific interest of the River Mease Site of Special Scientific Interest.

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. 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).