

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 5 December 2017
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454512)

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

The Council is aware that planning applications may be controversial and emotive for those affected by the decisions made by this Committee. However all persons present are reminded that the Council will not tolerate abusive or aggressive behaviour towards staff or other visitors attending this meeting and anyone behaving inappropriately will be required to leave the meeting and the building.

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

AGENDA

Item		Pages
1.	APOLOGIES FOR ABSENCE	
2.	DECLARATION OF INTERESTS	
	Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
3.	MINUTES	
	To confirm and sign the minutes of the meeting held on 7 November 2017	3 - 8
4.	PLANNING APPLICATIONS AND OTHER MATTERS	
	Report of the Head of Planning and Regeneration.	9 - 12



Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	17/01237/OUT : Proposed agricultural workers dwelling (outline - means of access for approval) Barn Farm Babelake Street Packington Ashby De La Zouch Leicestershire LE65 1WD	Refuse	13 - 30
A2	17/01575/OUT: Erection of one detached, self build dwelling with detached double garage and formation of new access (access and layout included) Land Off Redburrow Lane Normanton Road Packington Leicestershire	Refuse	31 - 44

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 7 NOVEMBER 2017

Present: Councillor J Bridges (in the Chair)

Councillors R Adams, R Canny, J Cotterill, J G Coxon, D Everitt, D Harrison, J Houlton, R Johnson, G Jones, J Legrys, P Purver, V Richichi, N Smith (Substitute for Councillor D J Stevenson), M Specht and M B Wyatt

In Attendance: Councillors R D Bayliss and T J Pendleton

Officers: Mr C Elston, Mr J Knightley, Mrs M Meredith, Mr J Newton and Miss S Odedra

46. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R Boam and D J Stevenson.

47. DECLARATION OF INTERESTS

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

Councillors J G Coxon, J Houlton and G Jones declared a non-pecuniary interest in items A1 and A2, application numbers 17/01159/FUL and 17/01133/FUL, as members of Ashby Town Council.

Councillor R Johnson declared a non-pecuniary interest in item A3, application number 17/01441/NMA, as Chairman of Hugglescote and Donington le Heath Parish Council.

48. MINUTES

Consideration was given to the minutes of the meeting held on 3 October 2017.

The minutes were moved by Councillor J Coxon and seconded by Councillor M Specht.

Councillor J Legrys requested an amendment to the minutes and requested that the word 'amendment' in the penultimate paragraph on the third page of the minutes be replaced with the word 'motion'. He stated that he had not moved an amendment to the motion at that time but had moved a separate motion and therefore the wording was technically incorrect and therefore he objected to the wording. He added that the paragraph also referred to speaking to the Monitoring Officer however his understanding was that advice had been sought from the Deputy Monitoring Officer.

The Chairman clarified that the Deputy Monitoring Officer had sought advice from the Monitoring Officer and therefore he believed this point to be correct.

The Chairman requested that Councillor J Legrys put his amendment in writing to enable officers to look into this matter further. He stated that the minutes would be amended if Councillor J Legrys' comments were correct.

Councillor J Legrys raised a point of order and formally proposed that the word 'amendment' be changed to 'motion' in the minutes. The motion was seconded by Councillor M B Wyatt.

Councillor D Harrison stated that he could not recall whether this point was accurate as there had been a lot of debate and therefore he could not vote on this.

Councillors J Hoult, G Jones and N Smith stated that they were absent from the last meeting.

The Chairman stated that Councillor J Legrys' comments had been duly noted, however the points raised needed to be verified with the voice recording as the officer these comments related to was not present. The minutes would be amended in accordance with Councillor J Legrys' comments if they were verified with the voice recording.

Councillor J Legrys stated that he did not agree with this approach and sought advice from the Legal Advisor as an amendment to the minutes had been formally proposed and seconded.

The Monitoring Officer advised members that the paragraph that Councillor J Legrys sought to amend was the advice given by the Deputy Monitoring Officer to the meeting rather than Councillor J Legrys' statement, which had been captured earlier in the minutes.

Councillor J Legrys reiterated that at the meeting he had put forward a separate motion to defer the application which had been refused, however the word 'amendment' was used throughout the debate despite his protests. He added that he did not dispute that this was what the advice given by the Deputy Monitoring Officer however he objected to the use of the word 'amendment'.

The Monitoring Officer reminded members that consideration was being given to the accuracy of the minutes and there appeared to be agreement that the advice from the Deputy Monitoring Officer and the statement made by Councillor J Legrys had been recorded correctly.

Councillor J Legrys stated that he felt the word 'amendment' was not the intention of his proposition at the meeting and therefore there needed to be an explanation in the minutes. He suggested this matter be put to the vote.

Councillor M Specht stated that he fully concurred with the comments made by Councillor J Legrys.

The Chairman then put the motion to the vote and it was

RESOLVED THAT:

Subject to the above amendment, the minutes of the meeting held on 3 October 2017 be approved and signed by the Chairman as a correct record.

49. PLANNING APPLICATIONS AND OTHER MATTERS

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

50. 17/01159/FUL: ERECTION OF EXTENSION (B2 AND B8 USE) TO EXISTING BUILDING (B1, B2 AND B8 USE)

The Principal Planning Officer presented the report to members.

Councillor R D Bayliss, ward member, addressed the meeting. He stated that the business park was one of the finest developments of its sort that he had seen. He explained that the development had been driven by the developers themselves, the planning brief and the urban design policies, resulting in a first rate modern industrial development which provided a wonderful working environment. In his view the proposals

within the application were contrary to the council's own policies, specifically the development brief, and permitting the development would by inference allow further applications of a similar nature and would destroy the Council's urban design policies. He urged members to refuse the application.

Mr M Evans, objector, addressed the meeting. He stated that the proposals were the polar opposite of the design brief which sought to secure a high quality development whilst minimising its visual impact. He said that the approach to Unit C was purposely kept clear to achieve a high end business park feel, to allow units to sit in isolation and to retain the openness of the site. He added that this would be lost should the application be permitted. He called upon members to reject the proposals.

Mr P Eaton, applicant, addressed the meeting. He explained that an extension to the unit was required to support growth in his business. He added that as the owner of the building he did not wish to spoil the business park. He did not plan to build on the whole of the service yard, which he had not used as a courtesy to his neighbours, and the roof would be set 1m lower than the existing structures. He explained that the same architect was being used to ensure that the design and materials for the proposed development were identical to the current building on site.

Councillor J Hoult moved that the application be refused, as it would set a precedent. This was seconded by Cllr M Specht. Cllr J Hoult went on, and stated that he could not support the proposals as it would spoil the estate and other developers would want to extend in a similar manner

The Head of Planning and Regeneration reminded members that it was an established planning principle that each case was determined on its own merits, and whilst setting a precedent may be a concern, this could not be taken into account in determining the application.

In response to a question from Councillor N Smith, the Principal Planning Officer advised that there would be no change to existing employment levels.

Councillor D Everitt stated that in his view the design of commercial developments was just as important as residential developments. He felt that the status quo ought to be maintained.

Following advice from the Head of Planning and Regeneration on the reasons for refusal, it was moved by Councillor J Hoult that the application be refused on the grounds that the proposals would represent over intensification of the plot and would detract from the open feel of the wider estate. The motion was seconded by Councillor M Specht.

Councillor J Legrys suggested that an additional reason for refusal, that visibility splays would be inadequate, be added. The Head of Planning & Regeneration pointed out that the highway authority had not objected to the application, and advised against using it as a refusal reason.

Councillor G Jones stated that as a local Town Councillor he was very proud of what had been achieved in Ashby de la Zouch in recent years and that he did not like to prevent the expansion of businesses. However he felt he had to support the comments made in respect of spoiling the working environment and over intensification of the whole site. He concluded that he could not support the officer's recommendation.

In response to a question from Councillor V Richichi, the Principal Planning Officer referred to the update sheet, and advised that the design brief was intended to guide the initial development of the site and was not an ongoing document which governed the

future design of estate. He stated that little weight, if any, should be afforded to this document.

Councillor D Harrison felt that the proposals blended in well and that the Committee should be flexible by supporting people who invested in the area. He stated that he supported the officer's recommendation as all business would like to eventually expand and thus, the Committee should retain an open mind to such applications.

R Canny emphasised the importance of design. She appreciated the needs of the business for more space however commented that once the extension was built, the design of the whole area was permanently changed. She suggested relocation of the business be considered as an alternative.

Councillor M Specht commented that the design brief may be out of date, however the development had been built in accordance with the design brief. He commended the design of the existing development and felt that he could not support the proposals as they interfered with the street scene. He stated that had the proposed development been to the rear of the existing development or to its side, he would have been able to support the application.

Councillor N Smith commented on the cost of relocating a business and felt that refusing the application would send the wrong message to people considering setting up a business in North West Leicestershire. He could not see anything wrong with the proposed development given that the same architect and materials were being used as those for the existing building.

Councillor J Legrys expressed support for the motion to refuse the application as he felt very strongly that policies should be accorded with. He made reference to the outstanding design and layout of the site. He commented that he disliked the idea that the proposed development would block out the street scene to people arriving at the site.

The motion to refuse the application was then put to the vote and it was

RESOLVED THAT:

The application be refused on the grounds that the proposals represented over intensification of the site and the loss of the open feel of the estate.

51. 17/01133/FUL : SUB-DIVISION OF RESIDENTIAL PLOT, AND ERECTION OF ONE DETACHED DWELLING.

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

Mr J Kenny, objector, addressed the meeting. He stated that the proposals were out of character with the surrounding dwellings, the proposed dwelling was narrower than neighbouring dwellings and views would be altered by the scale and massing of the proposal due to its proximity to the junction. He added that the front garden of number 9 would be used for car parking, the proposals would significantly affect the privacy of the neighbouring dwelling and were contrary to policy H7 of the adopted local plan.

Mr T Mastin, agent, addressed the meeting. He stated that the application comprised much revised proposals taking into account the concerns raised by the planning authority and would provide useful additional housing for Ashby de la Zouch, benefitting Grange Close. He highlighted the reduction in the eastern elevation, improving the outlook, the smaller footprint which was now relative to the site and the retention of the large garden. He stated that much of site would remain in use as a residential garden space. He added that the original features of Grange Close would be matched. He stated that the design

accorded with Leicestershire County Council's 6CS design guidance however, he acknowledged the remaining concerns in respect of highways safety. He advised that he had met Councillor G Jones on site, who had agreed that the removal of the existing mature hedge would improve highway safety by increasing visibility.

Councillor M Specht commended the inspector's report on the previous application for 2 flats on the site. He moved that the application be refused on the grounds that the proposals were contrary to Policies E1, E3 and E4 of the submitted local plan as the proposals were detrimental to the amenities of nearby dwellings, did not respect the character of its surroundings and would spoil the open nature of the of the estate. He added that the inspector had made particular reference to corner plots and retaining the open character of the estate.

The motion was seconded by Councillor G Jones. He made reference to the increase in density of a busy corner plot and the amount of elderly people on the estate.

Councillor N Smith referred to the concerns raised in the update sheet relating to the underpinning of neighbouring dwellings. The Planning and Development Team Manager confirmed that construction related issues were subject to other legislation such as building regulations and, as such, the concerns raised were not material planning considerations.

Councillor J G Coxon stated that he did not support development on the corner plot and the proposals were not in keeping with the estate. He felt that the builders would have put a house on the corner originally, had that been what was intended.

Councillor D Everitt felt that the site was not large enough to accommodate the proposals, and houses were too small.

Councillor J Hoult felt that the proposals represented overdevelopment of the site. He confirmed that a new house had been granted planning permission between numbers 11 and 15. He considered that the area was dense development.

Councillor J Legrys felt that it would be difficult to insert a dwelling on the site whilst retaining neighbour amenities and the existing street scene. He believed the existing building line should be maintained and that proposals represented over intensification of the site. He stated that he could not support the proposals, as it was a bog standard application for a garden build.

The motion to refuse the application was put to the vote and it was

RESOLVED THAT:

The application be refused on the grounds that the proposals were contrary to Policies E1, E3 and E4 of the submitted Local Plan.

Councillor M B Wyatt left the meeting at 5.33pm.

52. 17/01441/NMA: NON MATERIAL AMENDMENT TO RESERVED MATTERS APPROVAL REF 15/00357/REMM (OUTLINE PLANNING PERMISSION REF 14/00354/OUTM) TO ALLOW FOR THE REMOVAL OF CHIMNEYS TO PLOTS 90-92 AND 93-95 AND THE INSTALLATION OF CHIMNEYS TO PLOTS 37, 71, 72, 98, 101 AND 104

The Principal Planning Officer presented the report to members.

Councillor R Johnson questioned the applicant's statement that it would not now be possible to add chimneys to those dwellings previously granted permission due to the timber construction. He felt that the applicant should prove this as the design of the development had already been agreed. He questioned whether the council wasted its time agreeing the design of a development only for it to be changed by the developer for reasons which lacked supporting evidence. . In his opinion, the amendment would spoil the streetscape. He banged his fists on the desk, and said that he felt that it was wrong for developers to agree the design and subsequently change it.

In response to questions from Councillor M Specht, the Principal Planning Officer advised that the chimneys were all brick built rather than fibre glass construction, and were purely aesthetic. Councillor M Specht said that chimneys would be a fire risk further down the line. It was subsequently confirmed that the chimneys were cosmetic, and not functional.

Councillor J Legrys stated that the officer's report did not provide all of the facts, and complained that Members were provided with reports between 7 and 10 days in advance. He did not consider that gave him enough time to familiarise himself with proposals, or to ask questions about them. He commented that the developer must have known about the structural stability of the buildings at the time the design was agreed. He added that many developers were using lightweight fibreglass chimneys and he saw no reason to make this change.

Councillor V Richichi said he feared that the officer's recommendation should be supported as he considered this to be a minor amendment. He expressed his dislike of the proposals, however, as he preferred dwellings to have chimneys. He said he had been told to go with recommendations to permit Bardon Grange.

It was moved by Councillor J G Coxon, seconded by Councillor D Harrison and

RESOLVED THAT:

The non-material amendment be agreed in accordance with the recommendation of the Head of Planning and Regeneration.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 5.47 pm

APPENDIX B

**Report of the Head of Planning and Regeneration
To
Planning Committee
5 December 2017**

PLANNING & DEVELOPMENT REPORT



PLANNING COMMITTEE FRONT SHEET

1. Background Papers

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

2. Late Information: Updates

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

3. Expiry of Representation Periods

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

4. Reasons for Grant

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

5. Granting permission contrary to Officer Recommendation

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

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

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

6 Refusal contrary to officer recommendation

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

7 Amendments to Motion

An amendment must be relevant to the motion and may:

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

as long as the effect is not to negate the motion

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

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

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

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

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

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

8 Delegation of wording of Conditions

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

to the Head of Planning and Regeneration.

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

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

Proposed agricultural workers dwelling (outline - means of access for approval)

**Report Item No
A1**

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

**Application Reference
17/01237/OUT**

**Applicant:
Wathes**

**Date Registered:
25 August 2017**

**Case Officer:
Adam Mellor**

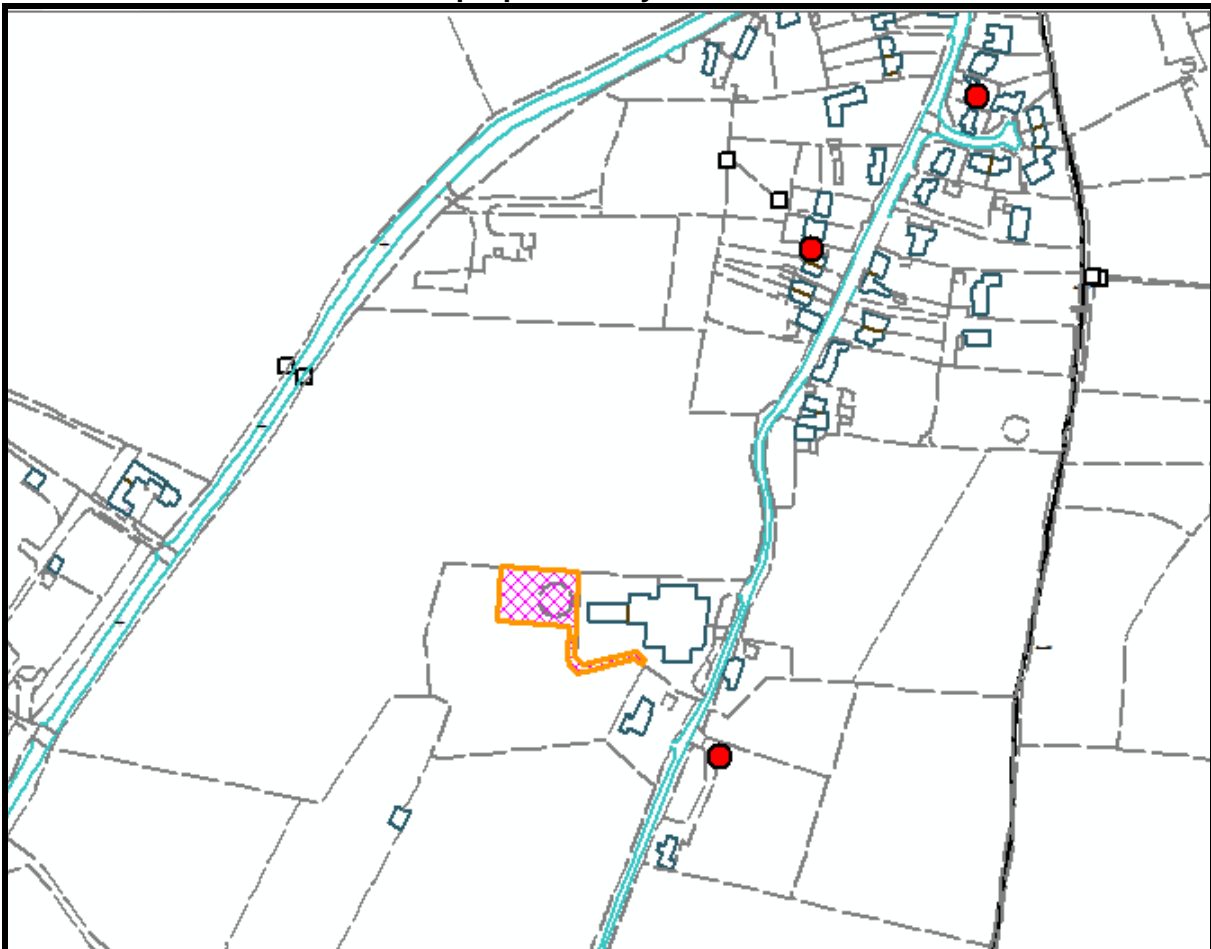
**Consultation Expiry:
17 November 2017**

**Recommendation:
REFUSE**

**8 Week Date:
20 October 2017**

**Extension of Time:
None Agreed**

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS

Call In

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

Proposal

Outline planning permission is sought for the erection of an agricultural workers dwelling at Barn Farm, Babelake Street, Packington with the means of access for approval at this stage. The 0.12 hectare sized site is situated on the western side of Babelake Street and is outside the defined Limits to Development.

Consultations

Five representations have been received from third parties which support the development proposals. The views of Packington Parish Council are to be submitted by 29th November 2017 and will accordingly be reported to Members via the update sheet. All other statutory consultees, with the exception of the Environment Agency, Natural England and Severn Trent Water whose comments are awaited, have raised no objections subject to the imposition of conditions on any consent granted.

Planning Policy

The application site is outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan (2017). The application has also been assessed against the relevant policies in the adopted Local Plan (2017), the NPPF and other relevant guidance.

Conclusion

It is considered that there is no agricultural justification for a permanent workers dwelling on the site and therefore compliance with criterion (a) of Policy S3 of the adopted Local Plan would not be achieved. On this basis the proposal can only be considered as a dwelling to which there are no special circumstances attached.

The application site is a greenfield site situated outside the defined Limits to Development with the proposed development adversely affecting and diminishing the present open character of the environment in which it would be set, and would represent an incongruous encroachment of development into the rural environment which should be protected for its own sake. As a result of this the development would fail to protect or enhance the natural environment, contrary to the environmental strand of sustainability enshrined within the NPPF, as well as Paragraph 17 of the NPPF, and Policies S2 and S3 of the adopted Local Plan. Furthermore Policy S2 of the adopted Local Plan identifies that in Packington the limited amount of growth which would take place will be within the Limits to Development. It is also the case that the economic viability of the farming enterprise which is undertaken would be significantly compromised by the construction of a dwelling which could not be sustained by the business at this time. The proposal would therefore not be economically sustainable.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE.

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

MAIN REPORT

1. Proposals and Background

Outline planning permission is sought for the erection of an agricultural workers dwelling with means of access for approval at Barn Farm, Babelake Street, Packington. The 0.12 hectare sized site is situated on the western side of Babelake Street and is outside the defined Limits to Development. The surrounding area is predominately rural in nature, being defined by open countryside and paddocks, with the main settlement of Packington being to the north east.

A previous outline application for the erection of one self-build dwelling was refused by the Planning Committee on the 7th June 2017 under application reference 17/00284/OUT. The reasons for refusal were based on the site being outside the defined Limits to Development as well as design implications associated with the provision of a cramped and constrained form of development that was discordant and incongruous with the pattern of development on Babelake Street given the spaciousness afforded to dwellings.

This revised application now seeks outline planning permission for the erection of an agricultural workers dwelling which, on the basis of the indicative layout plan, would be set to the north-west of Barn Farm Bungalow and to the immediate west of the existing agricultural buildings on the site. Also whilst scale is not for approval at this stage the indicative elevation detail suggests that the dwelling would be two-storey in height.

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

In order to support the agricultural justification for the dwelling a farm business appraisal and financial test statement have been submitted. A design and access statement and River Mease SAC statement have also been submitted in support of the application. During the course of the application additional information has been submitted by the applicant in respect of the agricultural business which is to be undertaken.

The only other recent application was associated with an agricultural prior notification for the erection of an agricultural storage building (ref: 14/00270/AGP) where no objections were raised on the 23rd April 2014.

2. Publicity

9 neighbours notified.

Site Notice displayed 17 September 2017.

Press Notice published Leicester Mercury 20 September 2017.

3. Summary of Consultations and Representations Received

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

NWLDC - Independent Agricultural Planning Advisor - Mr A Coombe advises that there is no functional need or financial justification for an agricultural workers dwelling on the site.

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

Leicestershire County Council - Archaeology has no objections.

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

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

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

NWLDC - Environmental Protection has no objections.

Packington Parish Council a consultation response from the Parish Council is expected on the 29th November 2017 and will be reported to Members on the update sheet.

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

Third Party Representations

Five representations have been received from third parties which support the proposal with the comments raised summarised as follows: -

- Barn Farm is a family run business that has been a viable and sustainable business for over a hundred years.
- The farm provides services and produce for many other local businesses and as a rural business it should be supported and encouraged to grow.
- The farm has maintained growth over the years by investing in plant and livestock and in order to sustain the growth it is imperative that the applicant's son is present on the site at all times.
- The siting of the dwelling will fit well with the existing farm buildings whilst still allowing the subsequent growth of the farming business.
- The applicants are looking to rent land from other farms in the area due to the substantial growth in their business.
- This proposal will not result in the loss of productive agricultural land in the same way that conversion of agricultural buildings on other sites on Babelake Street has done.
- The applicants cannot be expected to move from their family home on retirement.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

- Paragraph 10 (Achieving sustainable development);
- Paragraph 14 (Presumption in favour of sustainable development);
- Paragraph 17 (Core planning principles);

Paragraph 28 (Supporting a prosperous rural economy);
Paragraphs 32, 34 and 39 (Promoting sustainable transport);
Paragraphs 49, 50 and 55 (Delivering a wide choice of high quality homes);
Paragraphs 57, 60, 61 and 64 (Requiring good design);
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);
Paragraphs 118, 120 and 121 (Conserving and enhancing the natural environment);
Paragraph 141 (Conserving and enhancing the historic environment); and
Paragraphs 203 and 206 (Planning conditions and obligations).

Adopted North West Leicestershire Local Plan (2017)

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

Policy S1 - Future Housing and Economic Development Needs;
Policy S2 - Settlement Hierarchy;
Policy S3 - Countryside;
Policy D1 - Design of New Development;
Policy D2 - Amenity;
Policy IF4 - Transport Infrastructure and New Development;
Policy IF7 - Parking Provision and New Development;
Policy En1 - Nature Conservation;
Policy En2 - River Mease Special Area of Conservation;
Policy En3 - The National Forest;
Policy En6 - Land and Air Quality;
Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;
Policy Cc2 - Water - Flood Risk; and
Policy Cc3 - Water - Sustainable Drainage Systems.

Other Policies

National Planning Practice Guidance

In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The NPPG does not change national policy but offers practical guidance as to how such policy is to be applied. It is noted that the NPPG contains a section in respect of Self-Build.

6Cs Design Guide (Leicestershire County Council)

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

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

Circular 06/2005 sets out that local planning authorities should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system.

Good Design for North West Leicestershire Supplementary Planning Document - April 2017.

Self-Build and Custom Housebuilding Act 2015.

Housing and Planning Act 2016.

River Mease Water Quality Management Plan - August 2011.

The River Mease Developer Contributions Scheme (DCS).

The Community Infrastructure Levy Regulations.

5. Assessment

Principle of Development and Sustainability

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 Local Plan (2017) which was adopted by Full Council on the 21st November 2017.

The application site lies outside the defined Limits to Development within the adopted Local Plan, with new dwellings not being a form of development permitted in the countryside by Policy S3. It is, however, recognised that Policy S3 does support agricultural development including agricultural workers dwellings (criterion (a)). Policy S2 of the adopted Local Plan also advises that Packington is a Sustainable Village where the limited amount of growth which will take place will be within the defined Limits to Development. In a recent appeal decision at Normanton Road, Packington (Application Reference: 15/010501/OUT and Appeal Reference: APP/G2435/W/17/3168722) the Inspector did not consider there was a current or pressing need for the Council to review the Limits to Development as outlined in the adopted Local Plan.

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

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

In terms of social sustainability Packington provides a range of day to day facilities, e.g. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites. Ashby De La Zouch is also located around 1.7km from the site, where a wider range of services can be found. Whilst there is no footway along this part of Babelake Street, it has a relatively low traffic flow with verges and footways being available further along the road. Furthermore, there are several public footpaths leading off the road linking to the village and National Forest plantations, and the road is used by cyclists, walkers and horse riders from the nearby Champneys Spa and stables. On this basis there are opportunities to walk to the village from the site along a route which is already in use by pedestrians and other non-car users. Therefore, it is considered that occupiers of the dwelling would not necessarily be dependent on the private car in order to access basic services with the proposed dwelling assisting in sustaining the available services in the village which is a key intention of Paragraphs 28 and 55 of the NPPF.

From an environmental sustainability perspective it is noted that the application site is agricultural land which would be classed as greenfield land. The site is also outside the defined Limits to Development on the Proposals Map to the adopted Local Plan and would therefore be assessed against the criteria of Policy S3 of the adopted Local Plan. Such a policy is considered to be supported by the principles of the NPPF and the ministerial letter from Brandon Lewis of the 27th March 2015 urging Inspectors to protect the intrinsic beauty of the countryside.

As outlined above the proposed development would result in the loss of agricultural land. Best and Most Versatile (BMV) agricultural land is defined as that falling within Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The ALC maps indicate that the site falls within Classes 2 (Very Good) and 3 (Good to Moderate) and whilst the NPPF does not suggest that the release of a smaller BMV site is acceptable, the magnitude of loss of agricultural land is considered to be low where less than 20 hectares of BMV would be lost. Therefore, given the relatively limited extent of the potential loss of the site (0.12 hectares), it is considered that this is not sufficient to sustain a reason for refusal against Paragraph 112 of the NPPF in this case.

In the assessment of the previous application at Barn Farm (reference 17/00284/OUT) it was highlighted that the proposal dwelling was not an *"agriculturally tied dwelling"* and as such no consideration was given to this matter in the assessment of that application. However, this application now proposes the provision of an agricultural workers dwelling and in the context of Policy S3 of the adopted Local Plan it is acknowledged that criterion (a) would support the provision of such a dwelling outside the defined Limits subject to the compliance with criteria (i) to (vi) outlined in this Policy. Paragraph 55 of the NPPF also highlights that 'isolated' dwellings should be avoided in the countryside unless there are special circumstances such as *"the essential need for a rural worker to live permanently at or near their place of work in the countryside."*

To support the application a farm business appraisal and financial test statement have been submitted which indicate that the farming operation undertaken relates to livestock (both cattle and sheep) and that three partners are currently involved in the agricultural business (the applicant's and their son) who own 100 acres of land (80 acres owned by the farming partnership and the other 20 acres let under a 1986 Agricultural Holdings Act Tenancy). All partners are employed part time in the business but due to the imminent retirement of the applicant's their son will take up working full time in the business subject to accommodation being available.

Stocking levels on the farm as of the 3rd November 2017 are stated by the planning agent to be as follows: -

- 240 breeding ewes;
- 8 rams/teasers;
- 150 ewe lambs;
- 150 store lambs to be sold in early spring (aged 6 - 7 months); and
- 40 bucket reared calves.

It is also the case that the farming enterprise will acquire an additional 27 acres of land and that by 2018/2019 the flock of sheep will be increased to 340 breeding sheep which will graze on the additional land. A TB isolation unit would also be established on the holding once the son is involved in the farming business on a full time basis.

It has also been highlighted that the existing dwelling on the site (Barn Farm Bungalow) could not be utilised by the applicant's son as following their retirement the applicant's would remain in this property and therefore the planning agent has highlighted that regard should be had to two high court decisions (Keen vs Secretary of State [1996] 71 P. & C.R. 543 and JR Cussons vs The Secretary of State [2008] EWHC 443 (Admin)) which have held that it is the right of an existing occupant to remain in their family home and that it is unreasonable to require them to vacate it or share it with another family, the Keen case concluding that: *"it was unreasonable and/or perverse for the Inspector to conclude that the admitted and identified need for accommodation for a full time stockman should be met by the appellant and his wife moving out of the matrimonial home to give it over to that worker or sharing the home with that worker and any family that he or she might have."*

As part of the consideration of the application the Council has engaged an Independent Agricultural Planning Advisor (IAPA) to review the submitted information, including that which has been provided by the agent during the course of the application, and has made an assessment based on guidance contained within the NPPF as well as Annex A of Planning Policy Statement 7 (PPS7) which, whilst superseded by the guidance contained within the NPPF, still acts as a relevant and useful guide in assessing the need for an agricultural workers dwelling (previously assessed in Paragraph 3 of the above Annex). The reports prepared by the IAPA have concluded the following: -

"Paragraph 3 (i) of the Annex indicates there needs to be a clearly established existing functional need" - IAPA calculates that the standard labour requirement for the livestock would be less than one full-time person, and 1.1 full-time persons allowing for the proposed T.B. isolation unit in the future."

"Paragraph 3 (ii) of the Annex states "The need relates to a full-time worker, or one who is primarily employed in agriculture, and does not relate to part-time requirement." - IAPA states as the unit is part-time and will remain part time, the proposed standard labour requirement being less than a full-time worker, this criteria is not satisfied."

"Paragraph 3 (iii) of the Annex states "The unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so" - IAPA states the proposed agricultural dwelling must be financed by the farming enterprise after the deduction of all costs including labour and a notional rent on the owned land. For a permanent dwelling on a holding the farming enterprise is required to have been established for at least three years, and have been profitable in at least one of the last three years, and that profit must be capable of paying a mortgage on the cost of the proposed dwelling after the deduction of all other costs such as labour, and rent etc, irrespective of what funds the applicant has available from any other source. The profit in the year ended 31st March 2017 in this case is only capable of paying almost the minimum wage for the person Mr Large maintains is full-time. It could not sustain the cost of the proposed dwelling, or a notional rent on the owned land. The enterprise is therefore financially unviable."

"Paragraph 3 (iv) of the Annex states "The functional need could not be fulfilled by another existing dwelling on the unit, or any other accommodation in the area which is suitable and available for occupation by the workers concerned" - IAPA states the existing dwelling known as Barn Farm Bungalow is occupied by the applicant's who are due to retire from the farm business and intend to continue to reside in the existing dwelling. I accept that if they do retire from the farm business than Barn Farm Bungalow although it is suitable would not be available in accordance with the Keen case. I therefore consider that the limited essential need/functional

need for a part-time worker could not be fulfilled by Barn Farm Bungalow as although suitable it would not be available. There are 11 dwellings available to buy and one to rent within the village of Packington at the moment one of which is only £50,000 more expensive than building a dwelling on the holding. The cost of a dwelling within the area which is not subject to an agricultural occupancy condition does not have to be sustained by the farming enterprise as is the case for an agriculturally tied dwelling on the farm."

"Paragraph 3 (v) of the Annex states "Other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied" - IAPA considers this is a planning criteria, and it will not affect the agricultural needs of the unit."

In conclusion the IAPA has advised that *"there is no agricultural support for the proposed new dwelling as the holding is currently part-time, and is unable to sustain the cost of the proposed dwelling in the long-term. In addition, there are dwellings in the village of Packington on the market for sale or to rent which are both suitable and available, and capable of fulfilling the existing essential/functional needs of this enterprise."* It has also been stated by the IAPA that *"the projected income for future years on the proposed system of farming is not relevant to an application for a permanent dwelling, as these applications are assessed on past performance, not on budgets and projections which are only accepted in applications for temporary dwellings for temporary periods under paragraph 12(iii) of Annex A to PPS7,"* and that *"I do not accept that a part-time holding which is unable to sustain the cost of the proposed new dwelling can justify a permanent dwelling at this time. I consider the current application is clearly premature, and any agricultural need should be established on the holding for a period of three years, to show the holding to be financially viable, and capable of sustaining the cost of the proposed new dwelling before any application for a permanent dwelling is approved."*

The planning agent has stated that in respect of the particular points raised by the IAPA, namely (i), (ii) and (iv), there are no dwellings within Packington for sale or let which would be commensurate with the needs of the applicant (a four bed dwelling of around 180 square metres) and that the dwelling would be a self-build project which would reduce the cost in comparison to buying an existing dwelling, it is also stated that the dwelling should be within sight and sound of the farmstead. The planning agent also remains of the view that there is a functional need for a full-time worker due to the calculations of the IAPA suggesting that the requirement would be 0.99 of a full-time person (although this is not stated by the IAPA) and 1.11 with the TB isolation unit being established.

In terms of potential alternative accommodation for the applicant's son it is considered that insufficient information has been submitted to demonstrate that no suitable accommodation is available within Packington, or within 1 mile of the site, which would meet the need for an agricultural worker. Nor has any information being provided on any equity the applicant, or their son, may have which may assist in purchasing an existing property in the settlement (i.e. whether the current family home of the applicant's son could be sold in order to assist in the purchase of an existing dwelling in Packington).

In response to the point associated with a dwelling being within 'sight and sound' of the farmstead the IAPA has advised that there are at least six appeal decisions which have concluded that this is not the case and that any functional need could be fulfilled by a dwelling in the area. As such this matter would not be of significant relevance in the overall planning balance.

While there is a functional need for an agricultural worker, this is currently less than one full time person and in this respect it is considered that the application is premature as should the farm

business operate in the future as outlined in the supporting information from the planning agent and be successful than it is likely that a functional need would be demonstrated at that stage. At this time, however, it is not possible to conclude that there is a functional need for an agricultural workers dwelling on the site nor is there any mechanism through the planning process to secure the potential improvements in farming practices which have been suggested by the planning agent which may well support an agricultural workers dwelling in the future.

In any event the functional need is only one side of the assessment with a financial test also being of importance and in this respect the former PPS 7 stated: *"New permanent accommodation cannot be justified on agricultural grounds unless the farming enterprise is economically viable. A financial test is necessary for the purpose, and to provide evidence of the size of a dwelling which the unit can sustain."* Whilst the business has seen a steady increase in profits since 2015 (the start of the financial figures which have been provided) the level of profit would only cover the minimum wage paid to a worker and consequently would not be at a level which would sustain the cost of a dwelling of the scale identified (even as a 'self-build' project) without substantially undermining the viability of the agricultural enterprise. In this respect, and as considered above, the application for a permanent agricultural workers dwelling on the site appears premature. Given such a circumstance it would usually be the case that an applicant would seek a temporary permission for a unit on the site which could be lived in until such time as it was demonstrated that the profits of the enterprise could sustain the cost of a permanent dwelling but no such case has been submitted in this instance. It is, however, noted that the applicant's son has advised that temporary accommodation would not be feasible given that he has three young children one of which has a serious health condition. Whilst sympathetic to this situation, personal circumstances rarely outweigh material planning considerations particularly in the context that the scale of the dwelling proposed to be constructed would currently seriously undermine the viability of the agricultural enterprise as well as the fact that it is considered an inadequate justification has been provided as to why an existing dwelling in the settlement would not meet the needs of the applicant.

Whilst there is no reference in the adopted Local Plan to self-build dwellings, there is policy support for such dwellings in the NPPF, and also in the Self-Build and Custom Housebuilding Act 2015, and the Housing and Planning Act 2016. There are currently 62 people on the Council's self-build register with it being noted that the applicants have not registered an interest in such a project. One self-build dwelling has been granted in the Packington area to date. Given the above it is recognised that a self-build dwelling would provide social and economic benefits, although given that only one such dwelling is proposed, these benefits would be limited. Furthermore in the overall economic balance it is considered that the undermining of the farming enterprise in order to fund the construction of the agricultural workers dwelling which could not be sustained by the farming enterprise at this time would not weigh in favour of the development being sustainable and would significantly outweigh the aspect of the dwelling being a self-build project.

On the basis of the above, there is currently no justification for a permanent agricultural workers dwelling on the site and therefore the proposal would not accord with criteria (a) of Policy S3 of the submitted Local Plan or Paragraph 55 of the NPPF.

It would also be important to assess the implications the development would have on the rural landscape and in this respect Paragraph 17 of the NPPF highlights that planning decisions should seek to *"recognise the intrinsic character and beauty of the countryside."* The environmental role of sustainability should also contribute to protecting and enhancing our natural, built and historic environment; and, as part of this, help to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate

change including moving to a low carbon economy. Such sentiments are echoed in Policy S3 of the adopted Local Plan.

The proposed site would be detached from the Limits to Development and comprises an agricultural field which is visually linked with further agricultural land beyond its northern, southern and western boundaries with such boundaries being predominately defined by low level hedges and post and wire fencing (mature trees are also present to the northern boundary). This open and undeveloped environment is considered to be its defining characteristic and therefore contributes positively to the character and appearance of the local landscape. Whilst set in close proximity to the existing agricultural buildings a residential development, combined with its associated infrastructure, would diminish this present open character by urbanising the site and would represent an incongruous encroachment into the rural environment particularly given that the western side of Babelake Street remains largely undeveloped and the development in itself would extend the extent of the current built environment further in a western direction away from the highway. The development would also be prominent when viewed from public footpath O66, set to the north of the site, particularly given the gaps in the boundary vegetation which exist and this would further compound its visual implications to the undeveloped and open nature of the surrounding rural environment.

Whilst the harm identified above could have been outweighed by the need for an agricultural workers dwelling on the site in the absence of any justification for this, as concluded above, the proposal can only be considered as a dwelling with no associated benefits for the purposes of this assessment.

The agent has stated that the applicant has a strong local connection with Packington and therefore the dwelling would meet a 'Local Need', there are no policies within the NPPF or adopted Local Plan which would attach any weight to a potential 'Local Need' for dwellings. As a consequence no consideration is given to this matter in the assessment particularly given the conflict with National and Local Plan policies as set out above.

To conclude, as the site is outside the defined Limits to Development the development would conflict with the settlement hierarchy and strategic housing aims of Policy S2 of the submitted Local Plan. Furthermore, as set out above, significant harm would arise from the impact on the rural character and visual amenities of the countryside which would conflict with Policy S3 of the adopted Local Plan as well as a fundamental principle of the NPPF by virtue of its failure to protect or enhance the natural environment. It is also the case that, at this time, the economic viability of the farming enterprise would be significantly compromised by the construction of a dwelling which could not be sustained by the enterprise. The resulting environmental and economic harm from these impacts would significantly and demonstrably outweigh the social and economic benefits associated with the provision of a self-build dwelling. Therefore it is considered, overall, that the proposal does not constitute sustainable development.

Impact on the Character and Appearance of the Streetscape and Density

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1, as well as the Council's Adopted Good Design for NWLDC SPD, but also Paragraphs 57, 60 and 61 of the NPPF.

At present the application site is an open agricultural field with land levels which rise from east to west and south to north. The western side of Babelake Street beyond Barn Farm remains largely undeveloped with the equestrian uses which exist, and only other existing dwelling (no.

43), being contained to the eastern side of the highway. Barn Farm Bungalow and no. 43 Babelake Street both present their principal elevations to the highway but are set at differing proximities to Babelake Street.

Layout was submitted for approval under application reference 17/00284/OUT but as part of the consideration of this application this matter is reserved, as such only the principle of development (as discussed above) and vehicular access (as discussed below) are for consideration.

As outlined above both Barn Farm Bungalow and no. 43 Babelake Street are orientated to address the highway, as would the dwelling to be constructed under application references 16/00612/OUT and 17/00174/REM on the opposite side of Babelake Street, but their proximity to the highway varies. In terms of the application site it would be detached from the highway, given its setting to the west of the existing agricultural buildings, and whilst this is the case it is considered that the differing proximity of dwellings to Babelake Street in the area would ensure that this position would not have a sufficiently detrimental impact on the character and appearance of the streetscape as to warrant a refusal of the application.

In respect of the indicative layout this identifies that the dwelling would be orientated so as to present its principal (front) elevation to the south rather than towards the highway which is the general characteristic of dwellings in the area. Whilst set in close proximity to the agricultural buildings there would appear to be no reason as to why the dwelling could not be orientated in a manner which would be consistent with the established character of the streetscape but as the layout is not for approval at this stage it is considered that such an issue would be addressed in the assessment of any reserved matters application should outline consent be granted.

Application reference 17/00284/OUT was refused on design grounds on the basis that the size of the application site resulted in a density of development which was discordant and incongruous to the character and appearance of the streetscape due to a dwelling appearing cramped and constrained in relation to the spaciousness afforded to other properties on Babelake Street. The density of development proposed under application reference 17/00284/OUT was 20 dwellings per hectare, based on the site area of 0.5 hectares, and it is now proposed that the site area would be 0.12 hectares which would result in a density of development of 8.3 dwellings per hectare. It was outlined in the Committee report associated with 17/00284/OUT that Barn Farm Bungalow has a density of 10 dwellings per hectare, no. 43 Babelake Street has a density of 14.3 dwellings and the new dwelling on the eastern side of Babelake Street (permitted under application references 16/00612/OUT and 17/00174/REM) has a density of 5.2 dwellings per hectare. On the basis of the density now proposed it is considered that any dwelling progressed at the reserved matters stage, should outline permission be granted, would integrate into the environment in which it is set due to the spaciousness afforded to the plot.

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

Notwithstanding the principle objection to this proposal outlined above, it is considered that a suitable layout, scale and appearance of development could be progressed under a reserved matters application which would be compliant with the aims of Policy D1 of the adopted Local Plan as well as Paragraphs 57, 60 and 61 of the NPPF.

Accessibility

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

The proposed vehicular access is situated on a relatively straight stretch of Babelake Street within a 30mph zone. It was previously outlined, in the consideration of application reference 17/00284/OUT, that the applicant's son is mainly responsible for the running of the farm and at present he has to travel between 2 to 3 times a day from his current residence in Donisthorpe in order to carry out this work. It is intended that the agricultural workers dwelling would house the applicant's son with the applicants remaining in their current property (Barn Farm) and assisting their son with the running of the farm. On this basis it is considered that any additional movements on Babelake Street from the new dwelling would be off-set by the removal of vehicle movements by the applicant's son between the site and Donisthorpe and consequently there would be no significant increase in vehicular movements on Babelake Street which would be considered to be of severe detriment to highway safety.

It is, however, acknowledged that the suitability of the proposal under application reference 16/00612/OUT (on the eastern side of Babelake Street) was on the basis that a condition was imposed to ensure that the dwelling was not severed from the use of the site for the keeping of horses in order to prevent an increase in vehicular movements. Given that the proposal relates to the provision of an agricultural workers dwelling it is considered that a similar condition could be imposed, should outline consent be granted, to tie the proposal to the existing farming operation on the site.

In respect of the access arrangements it is proposed that an existing access to the farmyard and agricultural buildings would be used to serve the dwelling. In order to make the access suitable for the movement of vehicles in connection with the dwelling and farming operation it is considered that there would need to be some alterations to its gradient and its width so as to ensure that vehicles could enter and exit the site in a slow and controlled manner as well as to ensure that vehicles could pass each other clear of the highway. It is considered that improvements in this respect could be conditioned with the increase in the width not resulting in the provision of an over-engineered access given that it would be unlikely to impact on the existing roadside vegetation. The vehicular access, as it exists, also has a sufficient level of visibility so as to ensure a vehicle could exit the site in a safe manner with the space available within the site ensuring that a vehicle could manoeuvre and exit the site in a forward direction.

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

It is intended that the proposed dwelling would have four bedrooms and consequently it would be expected that a minimum of three off-street parking spaces should be provided. Whilst the indicative site layout plan only shows two off-street parking spaces it is considered that this layout is not for approval at this stage and therefore a relevant condition could be imposed indicating that a minimum of three off-street parking spaces would be required. This matter could then be given further consideration at the reserved matters stage, should outline permission be granted, when the layout was presented. Compliance with Policy IF7 of the adopted Local Plan and Paragraph 39 of the NPPF would therefore be achieved at that stage.

Neighbours' and Future Occupants' Amenities

An indicative layout plan has been supplied in support of the application which shows that the site is set to the north-west of Barn Farm (which is within the ownership of the applicants).

The indicative layout supplied outlines that the dwelling would be orientated so as to face in a southern direction and that it would be set over 55 metres from the north-western (rear) elevation of Barn Farm. Such a separation distance would ensure that no adverse overbearing or overshadowing impacts would arise to the amenities of Barn Farm. The position of windows would be determined under any reserved matters application, should the outline application be supported, when the appearance and scale was known and at that stage it could be ensured that no adverse overlooking impacts would arise to Barn Farm.

In establishing an acceptable relationship with Barn Farm at the reserved matters stage it could also be ensured that the amenities of any future occupants are adequately protected with the separation distance identified above ensuring that no significant impacts are likely to arise in this respect.

The Council's Environmental Protection Team have raised no objections to the application and given the intended use of the dwelling for an agricultural worker, which would be conditioned accordingly on any permission granted, it is considered that any occupant would be familiar with the noise and smells associated with an agricultural operation and as such this relationship would not cause them any significant concern.

Overall, therefore, the development would accord with the principles of Policy D2 of the adopted Local Plan as well as Paragraph 123 of the NPPF.

Ecology

The application site is an agricultural field marked by ridge and furrow. This feature could be used by a European Protected Species (EPS) or national protected species. As EPS may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Conservation of Habitats and Species Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions.

The County Council Ecologist has raised no objections as whilst they recognise that the agricultural land may be species rich the application site only relates to a small part of the overall field which lies in close proximity to the existing agricultural buildings and, as such, it is likely to be disturbed on a regular basis which impacts on its ecological value. On this basis the County Council Ecologist advises that a grassland or ecological survey would not be required in support of the application.

It has, however, been advised by the County Council Ecologist that a condition should be imposed to ensure that the hedge to the northern boundary of the site is retained given that it is a native-species hedgerow. The landscaping on the site would be a matter to be assessed at the reserved matters stage and consequently it would be ensured that the hedgerow is maintained as part of the consideration of such an application.

Overall the proposal would accord with Policy En1 of the adopted Local Plan as well as Paragraph 118 of the NPPF and Circular 06/05.

Landscaping

Landscaping on the site is mainly confined to its boundaries and as such it could be ensured at the reserved matters stage that any layout of the development did not impact on the integrity of this existing landscaping. It would also be possible to secure additional planting as part of the landscaping proposals presented at the reserved matters stage should outline permission be granted.

On this basis the proposal would accord with Policies En1 and En3 of the adopted Local Plan.

Impact on the River Mease Special Area of Conservation SAC/SSSI

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

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

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

Natural England previously advised, in the consideration of application reference 17/00284/OUT, that the Council should satisfy itself that there would be no harmful discharges of foul or surface water from the site into the River Mease or its tributaries (which includes the Gilwiskaw Brook). No representation has been received from the Environment Agency but it is noted that they did not object to the application associated with the dwelling constructed on the opposite side of Babelake Street (under application reference 16/00612/OUT) which proposed the use of a septic tank or cess-pool. The management of a package treatment plant would be dealt with by the Environment Agency as the 'competent authority' under the Environmental Permit system. Furthermore none of the Severn Trent Water (STW) treatment works in the SAC catchment area accept foul waste from licensed waste collectors, which STW have previously advised on and this arrangement is to continue in perpetuity. Given the distance from the site to the Gilwiskaw Brook (in excess of 232 metres) it is considered that the effluent discharged from the package treatment plant and any surface water drainage solution would not adversely impact on the SAC/SSSI. A condition could be imposed requiring discharge of surface water to a sustainable drainage system.

Therefore it can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Archaeology

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

Other Matters

The National Planning Practice Guidance (NPPG) sets out a hierarchy of preferred non-mains drainage solutions; firstly mains sewer, then a package treatment plant and lastly septic tanks, with no reference made to cesspools. The NPPG also advises that non-mains proposals should clearly set out the responsibility and means of operation and management of non-mains drainage systems, and the effects on amenity and traffic should be considered, due to the need for sludge to be removed by tankers, matters which also applicable to cesspools. Withdrawn Circular 03/99 also set out guidance for assessments of non-mains drainage proposals, which provides a useful tool. As identified above the proposed dwelling cannot connect to the mains sewer and consequently the second most preferable non-mains drainage solution (a package treatment plant) has been selected. It is considered that the use of such a system on this site would not set a precedent for non-mains drainage on other sites, given the circumstances, and consequently this solution would be acceptable.

Conclusion

It is considered that there is no agricultural justification for a permanent workers dwelling on the site and therefore compliance with criterion (a) of Policy S3 of the adopted Local Plan would not be achieved. On this basis the proposal can only be considered as a dwelling to which there are no special circumstances attached.

The application site is a greenfield site situated outside the defined Limits to Development with the proposed development adversely affecting and diminishing the present open character of the environment in which it would be set, and would represent an incongruous encroachment of development into the rural environment which should be protected for its own sake. As a result of this the development would fail to protect or enhance the natural environment, contrary to the environmental strand of sustainability enshrined within the NPPF, as well as Paragraph 17 of the NPPF, and Policies S2 and S3 of the adopted Local Plan. Furthermore Policy S2 of the adopted Local Plan identifies that in Packington the limited amount of growth which would take place will be within the Limits to Development. It is also the case that the economic viability of the farming enterprise which is undertaken would be significantly compromised by the construction of a dwelling which could not be sustained by the business at this time. The proposal would therefore not be economically sustainable.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reason;

- 1 Policy S2 of the adopted North West Leicestershire Local Plan (2017) outlines that whilst Packington is a Sustainable Village the limited amount of growth that is to take place will be within the Limits to Development. Policy S3 of the adopted North West Leicestershire Local Plan (2017) provides a presumption against residential development outside the Limits to Development, unless for special circumstances, with Paragraph 17 of the National Planning Policy Framework (NPPF) indicating that planning should recognise the intrinsic character and beauty of the countryside. Paragraph 7 of the NPPF also defines sustainable development which includes that the planning system needs to perform an environmental role by protecting and enhancing our natural environment and using natural resources prudently, amongst other things as well as an economic role by contributing to building a strong, responsive and competitive economy by, amongst other things, supporting growth and innovation at the right time. The proposed development being on a greenfield site would adversely affect and diminish the present open character of the environment resulting in significant harm to the character and rural appearance in which it would be set and would represent an unwarranted and incongruous intrusion into the countryside. As a consequence the development would fail to protect or enhance the natural environmental and would therefore not constitute sustainable development, contrary to the environmental strand enshrined within the NPPF. In addition the development would be contrary to Policies S2 and S3 of the adopted Local Plan (2017) and Paragraph 17 of the NPPF. The proposed agricultural workers dwelling could also not be sustained by the farming enterprise, at this time, and as a result the allowance of the dwelling would seriously undermine the viability of the enterprise contrary to the environmental strand of sustainability enshrined within the NPPF. In the absence of any agricultural justification for a dwelling on the site, at this time, the resulting harm from these impacts would significantly and demonstrably outweigh the social and other limited economic benefits, including the provision of a self-built dwelling, and therefore it is considered, overall, that the proposal does not constitute sustainable development.

Erection of one detached, self build dwelling with detached double garage and formation of new access (access and layout included)

Report Item No
A2

Land Off Redburrow Lane Normanton Road Packington
Leicestershire

Application Reference
17/01575/OUT

Applicant:
Mr And Mrs Keith Goodwin

Date Registered:
10 October 2017

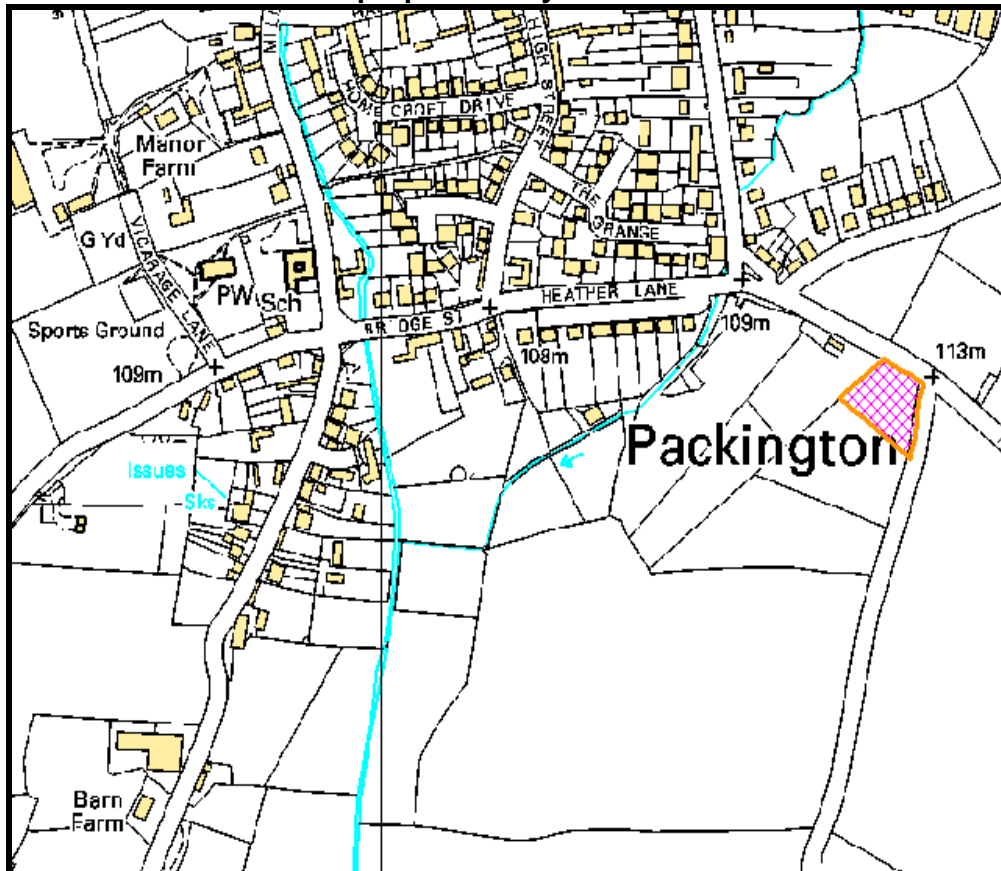
Case Officer:
Jenny Davies

Consultation Expiry:
15 November 2017

Recommendation:
REFUSE

8 Week Date:
5 December 2017
Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

Call In

The application is brought before Planning Committee as a previous application for a similar form of development on the site was considered by Planning Committee in March 2017.

Proposal

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

Consultations

One letter of objection and one letter of support have been received. Packington Parish Council objects to the proposal. There are no objections raised by other statutory consultees.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan (2017). The application has also been assessed against the relevant policies in the NPPF and the adopted Local Plan and other relevant guidance.

Conclusion

In conclusion, a reason for refusal on the basis of the proposal not being socially sustainable could not be justified, and the proposal would not result in any unacceptable impacts on the built or historic environment. There would also be limited social and economic benefits. However as the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of adopted Policy S2, and the proposal is not a form of development permitted in the countryside by adopted Policy S3. Furthermore as set out below, significant harm would arise from impact on the rural character and visual amenities of the countryside which would conflict with adopted Policy S3 and the NPPF. The resulting harm from these impacts would significantly and demonstrably outweigh the social and economic benefits, including the provision of a self-build dwelling, and would not be outweighed by the material consideration of the need for a dwelling on the site in connection with the existing stud use. Therefore it is considered, overall, that the proposal does not constitute sustainable development. It is therefore recommended that planning permission be refused.

RECOMMENDATION - THAT PLANNING PERMISSION BE REFUSED

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

MAIN REPORT

1. Proposals and Background

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

A planning application for a similar form of development (with the dwelling located on the north eastern corner of the site, a triple garage rather than a double garage and a stable block for use in connection with the existing stud use) (16/16/00888/OUT) was resolved to be refused at Planning Committee in March 2017 on the following grounds, although it was subsequently withdrawn before the decision notice was issued:

"Paragraph 7 of the National Planning Policy Framework (NPPF) defines sustainable development which includes that the planning system needs to perform an environmental role, including protecting and enhancing our natural environment and using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S3 of the adopted North West Leicestershire Local Plan and Policy S3 of the submitted North West Leicestershire Local Plan provide a presumption against non-essential residential development outside the Limits to Development. Policy S3 of the submitted Local Plan states that land identified as countryside will be protected for the sake of its intrinsic character and beauty. Policy S2 of the submitted Local Plan advises that in villages such as Packington a limited amount of growth will take place within the Limits to Development. The proposal would result in significant harm to the character and rural appearance of the locality and the proposal would appear as an unwarranted and incongruous intrusion into the countryside. As a consequence the development would fail to protect or enhance the natural environment and would not therefore constitute sustainable development, contrary to the environmental strand of sustainability enshrined within the NPPF. In addition, the development would be contrary to Paragraph 17 of the NPPF, Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan".

The dwelling would be located close to the western and northern boundaries, with the detached garage to the south of the dwelling, close to the western boundary. A new access from Redburrow Lane would be formed (in the same position as on the previous application), which would necessitate the removal of hedgerow, with a driveway laid through the site to provide parking and turning space and access to the garage. A field access to the adjacent paddock to the south would branch off the main access drive. Scale, appearance and landscaping have been reserved for future determination, although an indicative elevation drawing has been submitted. The precise dimensions of the proposal are available to view on the planning file.

The applicants currently operate a stud farm from the site and adjacent paddocks to the south and north off Normanton Road. Information has been provided to justify the proposed dwelling in relation to the stud use which is considered in detail in the assessment section of the report below. In summary the applicants advise that their quiet enjoyment of the stud activities carried out on the site and adjacent fields has been detrimentally affected by the planning decision to allow residential development for 30 dwellings on the adjoining field, due to noise from construction and noise from use of the dwellings and gardens once they are occupied, causing

disturbance to the ponies kept at the site. The applicants also advise that the stud's breeding programme appears to have been affected. Furthermore there is a need for security due to recent break-ins at the site and nearby land and impacts from loose dogs on livestock kept near to the site. The applicants' existing dwelling is too far from the site and the applicants already utilise all their own land to operate the stud. As such the applicant's advise that there is a functional need for a dwelling on the site to supervise the ponies, and that if a dwelling cannot be provided on the site then the stud would cease to operate, resulting in the loss of two jobs and loss of business for local farmers and businesses.

Additional information has also been submitted by the applicants as follows:

- the dwelling has been reduced in size and repositioned closer to the adjacent dwelling in response to concerns raised by Members;
- the dwelling would be self-build and the applicants are on the Council's self-build register;
- the dwelling would incorporate sustainable technology, e.g. ground/air source heat pumps, rainwater harvesting and waste water and filtration centre.

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

2. Publicity

15 Neighbours have been notified.

Site Notice displayed 22 October 2017.

Press Notice published Leicester Mercury 25 October 2017.

3. Summary of Consultations and Representations Received

Statutory Consultees

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

The proposed dwelling is outside the limits to development as defined in the North West Leicestershire Local Plan.

Leicestershire County Council Ecologist has no objections subject to conditions.

The Lead Local Flood Authority has no comments to make.

NWLDC Environmental Protection team has no environmental observations.

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

Third Party Representations

One letter of representation has been received which objects to the proposal on the following grounds:

- outside Limits to Development and contrary to the development plan;
- contrary to paragraph 55 of the NPPF as no exceptional circumstances associated with the

proposal;

- a self-build register indicating a need for self-build plots does not outweigh planning policy;
- adverse impacts on amenity of future residents due to a self-build dwelling being in close proximity to existing dwellings;
- application should be refused as contrary to countryside policy in the Local Plan.

One letter of representation has been received which supports the proposal on the following grounds:

- fair to allow completion of this tranche of land for development as it has been excluded in recent months;
- reduced footprint in keeping with planning requirements;
- dwelling would allow owner to command central position of their valuable ponies;
- impact from fireworks on animals;
- creates no further hazards to road users.

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

4. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

Paragraph 10 (Achieving sustainable development)

Paragraph 14 (Presumption in favour of sustainable development)

Paragraph 17 (Core planning principles)

Paragraphs 18 and 19 (Economic growth)

Paragraph 28 (Supporting a prosperous rural economy)

Paragraphs 32 and 35 (Promoting sustainable transport)

Paragraphs 47, 49, 50 and 55 (Delivering a wide choice of high quality homes)

Paragraphs 56, 57, 58, 60, 61 and 64 (Requiring good design)

Paragraph 69 (Promoting healthy communities)

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

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

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

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

Adopted North West Leicestershire Local Plan (2017):

The North West Leicestershire Local Plan forms the development plan and the following policies of the adopted Local Plan are relevant to this application:

Policy S1 - Future Housing and Economic Development Needs

Policy S2 - Settlement Hierarchy

Policy S3 - Countryside

Policy D1 - Design of New Development

Policy D2 - Amenity

Policy IF1 - Development and Infrastructure

Policy IF4 - Transport Infrastructure and New Development

Policy IF7 - Parking Provision and New Development

Policy EN1 - Nature Conservation
Policy EN2 - River Mease Special Area of Conservation
Policy EN3 - The National Forest
Policy HE1 - Conservation and Enhancement of North West Leicestershire's Historic Environment
Policy CC2 - Water - Flood Risk
Policy CC3 - Water - Sustainable Drainage Systems

Other Guidance

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
Self-Build and Custom Housebuilding Act 2015
Housing and Planning Act 2016
National Planning Practice Guidance 2014
The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations')
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)
River Mease Water Quality Management Plan - August 2011
The River Mease Developer Contributions Scheme (DCS)
The Community Infrastructure Levy Regulations 2010
6Cs Design Guide - Leicestershire County Council
Good Design for North West Leicestershire SPD - April 2017

5. Assessment

Principle of the Development

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, comprises the adopted North West Leicestershire Local Plan (2017).

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

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

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

In terms of social sustainability Packington provides a range of day to day facilities, e.g. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites, and there is a limited hourly public transport service. These services/facilities are within 800-1000m (preferred maximum walking distance) of the site. Ashby-de-la-Zouch is also located approximately 1.5km from the site, where a wider range of services can be found. To walk to these facilities from the site would involve a route along

Redburrow Lane and Normanton Road, including using the junction of both roads. Neither road has a footway or street lighting along the site boundaries although verges are available along both roads. A footway is required to be provided along part of the frontage to the adjacent Peveril Homes site, although this would not extend to the site boundary. Both roads are subject to a 60mph speed limit adjacent to the site, although the 30mph speed limit on Normanton Road is required to be moved closer to the site under the permission for the adjacent Peveril Homes site. An alternative route to the village is also available via a public footpath (located around 330 metres from the site) running from Redburrow Lane to Heather Lane. Whilst Redburrow Lane is single track it has a relatively low traffic flow and a verge is available. Furthermore, there are several public footpaths leading off the road, and the road is used by cyclists/walkers and horse riders from nearby stables.

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

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

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

The dwelling is proposed to be used in connection with an existing horse stud that is operated by the applicants from the site and nearby fields. The stud use primarily involves the grazing of horses, and therefore is considered to be an agricultural use for which planning permission is not required.

The applicants advise that the site and adjacent paddocks have been used for stud and breeding purposes for nearly 20 years and during that time there has been no significant disturbance to the ponies. However the applicants state that a dwelling is now required on the site due to noise resulting from construction of the 30 dwellings on the adjacent site causing disruption and disturbance to the ponies kept at the site, which will continue once these dwellings are occupied, from noise generated by use of the dwellings and their gardens. As a consequence there is the potential for the animals to severely injure themselves. Furthermore the applicants advise that the stud's breeding programme appears to have been impacted on by the construction of these dwellings, e.g. mares turned out with the stallion onto the site for the 2017 season are not in foal. The applicants are also concerned that the boundary hedgerow with the new dwellings that has been deliberately kept high as a protective screen forming a shelter for ponies will now be at risk of unauthorised cutting down, thereby exposing the site to greater levels of noise and disturbance. The applicants also advise that there is a need for a presence on the site due to recent break-ins on the site and nearby land, and the likelihood that loose dogs have resulted in death and injuries of livestock on adjacent land (and that foals could be affected by loose dogs).

The applicants also advise that they are unable to have visual contact with the ponies on the site from their existing dwelling (which they advise is approximately 15 minutes walk away) and so are unable to observe or react quickly to potential problems. Furthermore the applicants advise that the site and adjacent land form over 50% of the land utilised by the stud business, and works as an entity with the applicants' land and stables on Spring Lane, and that they own no other land to which they could re-locate their breeding and stud work.

As such the applicants advise that a dwelling is now required on the site to supervise the ponies over a 24 hour period, the dwelling forms an integral part of the applicants' stud business and there is a functional need for the dwelling on the site.

The applicants also advise that the loss of the fields for stud activities would mean the stud would cease to function, resulting in the loss of two part time jobs, the cessation of purchases of large quantities of fodder from local farmers and other purchases from local businesses and there no longer being a need to employ contractors to carry out work on the site.

If a dwelling is proposed to support a farm or rural business, whilst PPS7 has been cancelled, its Annex is still considered to provide a reasonable basis for an assessment in respect of the issues to be considered for such new dwellings. As greater level of information has been submitted as part of the current application in respect of the reasons why a dwelling is required on the site (than was submitted under the previous application), some weight is attached to the dwelling being essential in connection with the existing stud use for the reasons given by the applicant.

Whilst there is no reference in the adopted Local Plan to self-build dwellings, there is policy support for such dwellings in the NPPF, and also in the Self-Build and Custom Housebuilding Act 2015 and the Housing and Planning Act 2016. There are currently 62 people on the Council's self build register, including the applicants. One self-build dwelling has been granted in the Packington area since September 2016. Given the above it is recognised that a self-build dwelling would provide social and economic benefits, although given that only one such dwelling is proposed, these benefits would be limited in this case. There would also be limited economic benefits which would include local construction jobs, helping to maintain local services in the area and connection to the existing horse stud.

It is considered that the proposal would not result in an 'isolated' dwelling, and as set out in more detail below, would not create any unacceptable impacts on the built or historic environment. There would also be limited social and economic benefits. However as the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of adopted Policy S2, and the proposal is not a form of development permitted in the countryside by adopted Policy S3. Furthermore as set out below, significant harm would arise from impact on the rural character and visual amenities of the countryside which would conflict with adopted Policy S3 and the NPPF. The resulting harm would significantly and demonstrably outweigh the social and economic benefits, including the provision of a self-build dwelling, and would not be outweighed by the material consideration of the need for a dwelling on the site in connection with the existing stud use. Therefore it is considered, overall, that the proposal does not constitute sustainable development.

Character and Visual Impact

The site is outside the Limits to Development under the adopted Local Plan. On this basis the proposal would be assessed against the context of Policy S3 of the adopted Local Plan and paragraph 17 of the NPPF which requires the planning system to recognise the intrinsic

character and beauty of the countryside.

The previous application for one dwelling on the site (16/00888/OUT) was resolved to be refused at Planning Committee in March 2017 on the grounds stated in the proposals section of this report, although it was subsequently withdrawn before the decision notice was issued:

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

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

An application for eight dwellings on land to the immediate north of the site (which is of a similar character to the application site, with hedgerows forming the boundaries and providing a soft edge to adjacent built up development), at the junction of Normanton Road and Spring Lane (15/01051/OUT), was refused in part on the grounds of being outside the Limits to Development and visual impact on the countryside, and was subsequently dismissed on appeal in July 2017 in part on the grounds of harm to the character and appearance of the countryside.

Therefore it is considered that the proposal would result in significant harm to the character and rural appearance of the locality and the proposal would appear as an unwarranted and incongruous intrusion into the countryside. As a consequence the development would fail to protect or enhance the natural environment and would be contrary to the environmental strand of sustainability set out within the NPPF. As such the development would be contrary to Paragraph 17 of the NPPF and Policy S3 of the adopted Local Plan.

Siting and Design

The proposal would result in a density of three dwellings per hectare. However the NPPF states that authorities should set their own approach to housing density to reflect local circumstances. This density is considered appropriate in this location.

There is variety in the scale and design of the dwellings on the adjacent site and in this part of the village and the footprint of the dwelling would give an opportunity to reflect local character

and distinctiveness. The site could accommodate all of the necessary requirements (private garden, parking/turning space) without being too cramped or resulting in over-development.

Whilst the orientation of the dwelling and garage appear to face into the site, as details of appearance are not included, the dwelling's and garage's detailed design, including opportunities to provide active elevations facing towards the roads, would be considered at the reserved matters stage. As such it is considered that the proposal would not be significantly contrary to the provisions of Policy D1 of the adopted Local Plan and the Council's Good Design SPD.

Historic Environment

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess. Reference should also be made to paragraphs 131 and 132 of the NPPF.

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

The setting of Packington House is somewhat compromised to the immediate north by the presence of a modern two-storey dwelling but its rural setting survives predominantly to the south and south east, but also to some extent to the west and south west due to the buffer of fields between the listed building and existing development on the edge of the village. There are views towards Packington House from Normanton Road on the approach to the site. However in these views the site would be set apart from Packington House with existing and new development on Spring Lane and on the southern side of Normanton Road forming part of this view, and from within the site vegetation screens views of the listed building. The Conservation Officer raises no objections. Given its distance from Packington House and the intervening screening from vegetation it is considered that the proposal would not adversely impact on the setting of the listed building and therefore complies with the NPPF and Policy HE1 of the adopted Local Plan.

Residential Amenities

The nearest new dwellings on the adjacent Peveril Homes site to the west would be Plots 7 and 8. The dwelling would be at least 12.5 metres from Plot 7, which has no side windows, and its rear garden, and at least 20 metres from Plot 8. The garage would be at least seven metres from Plot 7 and six metres from its garden, and at least 14 metres from Plot 8, with Plot 8's garden being located to the north and west of Plot 8. The hedgerow along the western boundary is understood to be within the applicants' ownership. Any impacts from a garage above single storey could be considered at reserved matters stage as this would be dependent on its detailed design. As such the dwelling and garage are unlikely to adversely impact on the occupiers of Plots 7 and 8 from overlooking, overshadowing or oppressive outlook. Use of the access drive/turning space and construction of the dwelling may result in some noise and disturbance. However it is not unusual for dwellings to be constructed on sites adjacent to existing dwellings, and it would not be reasonable to impose a condition restricting hours of construction given the scale of the proposal. No objections have been raised in respect of this

matter by the Council's Environmental Protection team, and in any case the Council has separate powers under the Environmental Protection Act. Given the submitted information regarding the operation of the stud and the distance from Plots 7 and 8, it is considered unlikely that any impacts would be significant from use of the access drive/parking and turning space. As such the proposal would comply with the provisions of Policy D2 of the adopted Local Plan.

Trees and Ecology

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

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

A survey of the northern and eastern boundary hedgerows found that whilst both hedgerows are species rich, neither can be identified as 'important' under the Hedgerow Regulations. The County Ecologist requests the imposition of planning conditions requiring the hedgerows to be protected during construction and subsequently retained. Whilst the County Ecologist also requests imposition of a condition relating to new hedgerows, given that landscaping matters are reserved for future consideration, such a condition cannot be imposed at this stage. The dwelling would be located at least five metres from the northern boundary which contains several oak trees, and the largest of these trees is located closest to the dwelling's side elevation. On this basis it is considered that trees and protected species would not be adversely affected by the proposal and the proposal complies with the Habitats Regulations 2010 and Policy EN1 of the submitted Local Plan.

Highway Safety

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

The Highway Authority previously advised that the northern splay would meet the 6Cs Design Guide requirement for splays of 33 metres in areas where speeds are between 21-25mph (as in this case), although the splay to the south falls slightly short (1.92 metres) of this requirement. However the Highway Authority stated that the vehicle speeds are evidenced to be low, and use of the access is expected to be similar to that associated with a single dwelling. As such, and in accordance with the Manual for Streets (MfS) guidance, the Highway Authority advised that it would be reasonable for visibility splays to be measured from a two metre set back behind the

highway where it is likely visibility achieved could be in excess of 33 metres. The visibility proposed would not therefore be considered unacceptable by the Highway Authority and not to a level where it would be considered that the residual cumulative impact of development was demonstrably severe in accordance with paragraph 32 of the NPPF. Given the above it is considered that a reason for refusal in respect of severe impact on highway safety and non-compliance with Policies IF4 and IF7 of the adopted Local Plan and paragraph 32 of the NPPF could not be justified in this case.

River Mease Special Area of Conservation

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

The River Mease Developer Contribution Scheme First and Second Development Windows (DCS1 and 2) have been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). Both DCS1 and DCS2 advise 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. Both DCS1 and DCS2 are considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations and paragraph 204 of the NPPF. There is no capacity available under DCS1 and so DCS2 was adopted by the Council on 20 September 2016.

The application proposes a cesspool (sealed tank that does not discharge into the ground and needs to be emptied of waste) with a capacity of 70,000 litres to deal with foul drainage discharge (as per the previous application).

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

Therefore it can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Other Matters

As noted above, the Environment Agency previously had no objections, although it commented that it does not accept the promotion or proliferation of cesspools as a viable long term sewerage option other than in exceptional circumstances. The National Planning Practice Guidance (NPPG) sets out a hierarchy of preferred non-mains drainage solutions; firstly mains sewer, then a package treatment plant and lastly septic tanks, with no reference made to cesspools.

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

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

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

Conclusion

In conclusion, a reason for refusal on the basis of the proposal not being socially sustainable could not be justified, and the proposal would not result in any unacceptable impacts on the built or historic environment. There would also be limited social and economic benefits. However as the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of adopted Policy S2, and the proposal is not a form of development permitted in the countryside by adopted Policy S3. Furthermore as set out below, significant harm would arise from impact on the rural character and visual amenities of the countryside which would conflict with adopted Policy S3 and the NPPF. The resulting harm from these impacts would significantly and demonstrably outweigh the social and economic benefits, including the provision of a self-build dwelling, and would not be outweighed by the material consideration of the need for a dwelling on the site in connection with the existing stud use. Therefore it is considered, overall, that the proposal does not constitute sustainable development. It is therefore recommended that planning permission be refused.

RECOMMENDATION, REFUSE for the following reason:

- 1 Paragraph 7 of the National Planning Policy Framework (NPPF) defines sustainable development which includes that the planning system needs to perform an environmental role, including protecting and enhancing our natural environment and using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S2 of the adopted North West Leicestershire Local Plan (2017) advises that in villages such as Packington a limited amount of growth will take place within the Limits to Development. Policy S3 of the adopted Local Plan (2017) sets out the types of development that will be supported outside the Limits to Development and also requires the appearance and the character of the landscape to be safeguarded and enhanced. As the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of Policy S2 of the adopted Local Plan (2017). The proposal is not a form of development permitted in the countryside under Policy S3 of the adopted Local Plan (2017). The proposal would also result in significant harm to the character and rural appearance of the locality and would appear as an unwarranted and incongruous intrusion into the countryside. As a consequence the development would fail to protect or enhance the natural environment, and would be contrary to Paragraphs 7 and 17 of the NPPF and Policy S3 of the adopted Local Plan (2017). The resulting harm from these impacts would significantly and demonstrably outweigh the social and economic benefits, including the provision of a self-build dwelling, and would not be outweighed by the material consideration of the need for a dwelling on the site in connection with the existing stud use. Therefore it is considered, overall, that the proposal does not constitute sustainable development.