

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Wednesday, 9 May 2018
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 10 April 2018	3 - 8
4. PLANNING APPLICATIONS AND OTHER MATTERS	
Report of the Head of Planning and Infrastructure.	9 - 12

Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	17/01424/FULM: Residential development of up to 144 dwellings (Outline - all matters reserved) and erection of an extension to existing theatre to provide a cafe/visitor centre/rangers' office, installation of a play area, public realm works, landscaping and car parks (full) Snibston Discovery Park Ashby Road Coalville Leicestershire LE67 3LN	PERMIT subject to S106 Agreement	13 - 36
A2	16/01191/OUTM: Self and custom build residential development consisting of 30 plots with a new access and supporting infrastructure (outline - access and layout included) Land Off Hepworth Road Woodville Swadlincote Derbys	PERMIT subject to S106 Agreement	37 - 50
A3	18/00095/OUT: Erection of detached dwelling (outline access and layout included) Land Opposite Lower Farm House Netherseal Road Chilcote Derby	REFUSE	51 - 72
A4	18/00257/FUL: Alterations to existing access and erection of holiday lodge Lavender House 80 Snarestone Road Appleby Magna Swadlincote Derby DE12 7AJ	REFUSE	73 - 82
A5	17/01607/FUL: Proposed two storey and single storey extensions to existing C2 Care Home Lyndhurst Lodge 87 Burton Road Ashby De La Zouch Leicestershire LE65 2LG	PERMIT subject to S106 Agreement	83 - 92

MINUTES of a meeting of the PLANNING Committee held in the Council Chamber, Council Offices, Coalville on TUESDAY, 10 April 2018

Present: Councillor D J Stevenson (Chairman)

Councillors R Boam, J Bridges, R Canny, J Cotterill, J G Coxon, D Everitt, D Harrison, J Hoult, R Johnson, G Jones, J Legrys, P Purver, V Richichi and M Specht

In Attendance: Councillors J Geary, T J Pendleton, A C Saffell and N Smith

Officers: Mr C Elston, Mr J Mattley, Mrs M Meredith, Mr J Newton, Miss S Odedra and Ms E Overton

83. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R Adams and M B Wyatt.

84. DECLARATION OF INTERESTS

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

Councillor V Richichi declared a non-pecuniary interest in item A2, application number 17/01575/OUT, as a friend and neighbour of the applicant.

Councillors J G Coxon, J Hoult and G Jones declared a non-pecuniary interest in item A5, application number 18/00043/VCU, as members of Ashby Town Council.

Members declared that they had been lobbied without influence as follows:

Item A1, application number 18/00049/FUL – Councillors R Canny, J Cotterill, D Harrison, P Purver, M Specht and D J Stevenson.

Item A2, application number 17/01575/OUT – Councillors J Cotterill, J Legrys, M Specht and D J Stevenson.

Item A3, application number 17/01810/FUL – Councillors R Canny, R Johnson, J Legrys, P Purver, M Specht and D J Stevenson.

Item A4, application number 18/00218/FUL – Councillors J Cotterill, J Legrys and M Specht.

85. MINUTES

Consideration was given to the minutes of the meeting held on 13 March 2018.

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

RESOLVED THAT:

The minutes of the meeting held on 13 March 2018 be approved and signed by the Chairman as a correct record.

86. PLANNING APPLICATIONS AND OTHER MATTERS

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

87. A1
18/00049/FUL: CHANGE OF USE FROM A SHOP (CLASS A1) TO A HOT FOOD TAKEAWAY (CLASS A5); INSTALLATION OF EXTRACTION/VENTILATION EQUIPMENT AND OTHER EXTERNAL ALTERATIONS
 10 Bondgate Castle Donington Derby DE74 2NS

Officer's Recommendation: PERMIT

The Planning Officer presented the report to members and read a letter received from Andrew Bridgen MP highlighting the objections raised by local residents and urging members to take these into account.

Councillor T Saffell, ward member, addressed the meeting, outlining his opposition to the application on the basis that the application would reduce A1 use in the central area and would result in a clustering of takeaways. He expressed concerns regarding the lack of parking provision, highway safety and that the proposals would not be in keeping with a conservation area.

Mr A Sowter, parish councillor, addressed the meeting. He emphasised the amount of local concern and contested the figures in the assessment regarding the number of takeaway establishments in the local centre. He also expressed concerns regarding highway safety, the lack of parking provision, air quality issues and overall impact upon the conservation area.

Mr N Kernahan, objector, addressed the meeting. He expressed concerns regarding the lack of onsite parking, the adverse impact upon traffic and highway safety and the blanket approach to the conservation area. He felt that the application should be refused on the grounds that the premises had not been vacant for 6 months in accordance with policy EC12. He highlighted the significant amount of public opposition to the proposals and urged members to visit the site at an appropriate time before making a decision.

Mr F Sykes, agent, addressed the meeting. He sought to address the concerns raised and highlighted the lack of objections from the Environmental Health department and the Highways Authority. He suggested that a condition to reduce the opening hours could be added to reduce the impact upon residential amenity.

Members had regard to the acoustic report, the lack of objection from the Environmental Health department and the Highways Authority and the high level of public opposition to the proposals.

Councillor J Legrys moved that the application be permitted in accordance with the officer's recommendation. This was seconded by Councillor G Jones.

Councillor M Specht requested that a condition be added to restrict the opening hours as suggested. The mover and seconder of the motion agreed to the condition being added.

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

RESOLVED THAT:

Subject to amended conditions relating to opening hours, the application be permitted in accordance with the recommendation of the Head of Planning and Infrastructure. The wording of the conditions to be delegated to the Head of Planning and Infrastructure.

88. 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

Officer's Recommendation: REFUSE

Having declared an interest, Councillor V Richichi left the meeting prior to consideration of this item and took no part in the discussion or voting thereon.

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

Councillor N Smith, ward member, addressed the meeting. He expressed the views of local residents that the proposed new dwelling was not required due to the proximity of the applicant's existing dwelling to the site, and that the application was contrary to the adopted local plan.

Mr A Pearson, parish councillor, addressed the meeting. He stated that the parish council objected to the proposals in accordance with the issues raised by the officers. He pointed out the proximity of the applicant's current dwelling to the application site.

Mrs S Goodwin, applicant, addressed the meeting. She stated that the purpose of the application was to protect her ponies whose welfare had been threatened by an adjacent development which meant that a 24 hour presence was required. She explained that the bloodlines in her stud were valuable and should be protected and she therefore urged members to support the application.

When determining the application, members had regard to the impact of the existing neighbouring development, the needs of the animals, the self-build aspect of the proposals and the fact that the application site was outside the limits to development in the adopted local plan.

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

RESOLVED THAT:

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

89. A3
17/01810/FUL: ERECTION OF A DETACHED DWELLING WITH ASSOCIATED PARKING AND LANDSCAPING FOLLOWING THE DEMOLITION OF STUDIO/STORAGE BUILDING

Cherry Orchard 1 Hollow Road Breedon On The Hill Derby DE73 8AU

Officer's Recommendation: PERMIT

The Principal Planning Officer presented the report to members.

Mr J Morrison, parish councillor, addressed the meeting, expressing the view of the parish council that there were no public benefits associated with the application and the proposals failed to enhance or preserve the conservation area.

Mr N Marchini, applicant's agent, addressed the meeting, highlighting the changes to the proposal which sought to address the concerns raised at the previous committee. He highlighted that there were no objections from Heritage England to the proposals.

Members had regard to the height and pitch of the roof and the lack of objections from the statutory bodies.

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

RESOLVED THAT:

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

- 90. A4**
18/00218/FUL: CHANGE OF USE TO SIX BEDROOM, TEN PERSON HMO (SUI GENERIS) INCLUDING SINGLE STOREY REAR EXTENSION
 17 Derby Road Kegworth Derby Leicestershire DE74 2EN

Officer's Recommendation: REFUSE

The Principal Planning Officer presented the report to members.

Mr M Hawksworth, parish councillor, addressed the meeting. He expressed concerns regarding the loss of neighbour amenity, inadequate waste disposal facilities and the lack of parking provision.

Ms T Pegg, applicant, addressed the meeting, highlighting the number of adjacent dwellings which were already operated as HMOs under permitted development rights. She advised that the maximum occupancy at any time would be 9 residents due to room size requirements. She added that the property would be difficult to utilise as a family dwelling due to the current lack of parking. She highlighted that there were no objections from the Highway Authority or the Environmental Health department.

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

RESOLVED THAT:

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

- 91. A5**
18/00043/VCU: ERECTION OF FOUR BUNGALOWS AND ASSOCIATED INFRASTRUCTURE WITHOUT COMPLYING WITH CONDITIONS 2, 4 AND 10 OF PLANNING PERMISSION 16/01224/FUL TO REMOVE THE SIDE (SOUTH WESTERN) WINDOW TO PLOT 4 AND INSTALL A SUN PIPE TO PLOT 4'S ROOF, TO INSTALL SOLAR PANELS TO THE ROOFS OF THE FOUR BUNGALOWS AND AMEND BOUNDARY TREATMENTS AND SOFT LANDSCAPING
 Site At Staley Avenue Ashby De La Zouch Leicestershire LE65 2PP

Officer's Recommendation: PERMIT

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

Mr Richard Pegler, objector, addressed the meeting. He urged members to take into consideration the hedgehog street initiative and the need to allow the free movement of hedgehogs when considering the proposed boundary treatments.

Members were mindful of the fact that the council as a responsible landlord were required to provide a secure boundary and including holes for hedgehogs would render the boundary insecure.

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

RESOLVED THAT:

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

92. TO CONSIDER THE MAKING OF A TREE PRESERVATION ORDER ON LAND AT WILLESLEY PARK GOLF CLUB ASHBY DE LA ZOUCH

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

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

RESOLVED THAT:

The Tree Preservation Order be confirmed.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 6.16 pm

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APPENDIX B

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

9 May 2018

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.

Residential development of up to 144 dwellings (Outline - all matters reserved) and erection of an extension to existing theatre to provide a cafe/visitor centre/rangers' office, installation of a play area, public realm works, landscaping and car parks (full)

**Report Item No
A1**

**Snibston Discovery Park Ashby Road Coalville Leicestershire
LE67 3LN**

**Application Reference
17/01424/FULM**

**Applicant:
Mrs Jasdeep Dave**

**Date Registered:
9 October 2017**

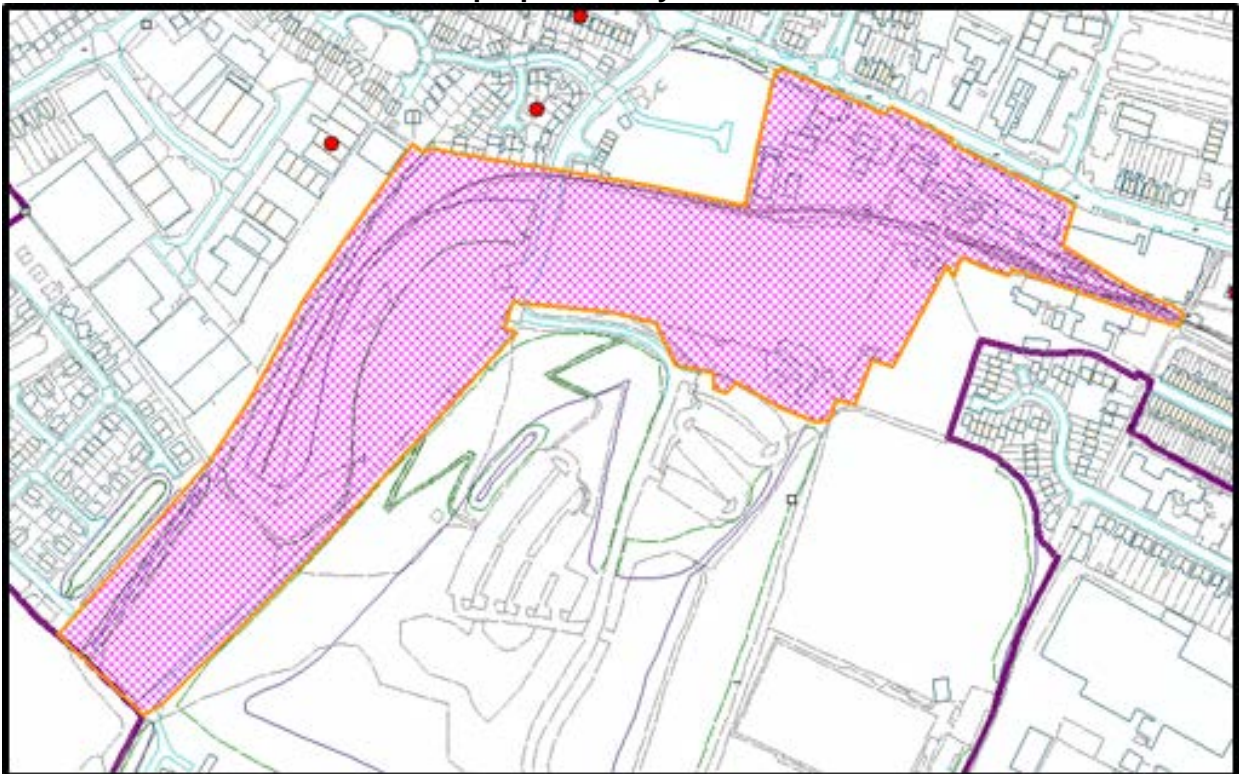
**Case Officer:
James Knightley**

**Consultation Expiry:
3 April 2018**

**Recommendation:
PERMIT subject to S106 Agreement**

**8 Week Date:
8 January 2018**
**Extension of Time:
16 February 2018**

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application is referred to the Planning Committee for a decision on the basis that the proposals raise issues that, in the opinion of the Strategic Director of Place, ought to be referred to the Planning Committee for determination.

Proposal

This is a hybrid application for the provision of additional facilities for use in association with the adjacent Country Park (including the erection of an extension to the existing Century Theatre to form a café / visitor centre / ranger office) and for residential development (up to 144 dwellings).

Consultations

Objections had been received from a number of statutory consultees but, as set out in the report, most issues raised have now been addressed.

Planning Policy

The application site is partly within and partly outside Limits to Development in the adopted North West Leicestershire Local Plan (with the majority of the area proposed for housing falling outside Limits to Development).

Conclusion

The development within those parts of the site falling within Limits to Development is considered acceptable in principle, and subject to being satisfactory in other respects (such as in terms of design, protection of heritage assets, and highway safety) is considered acceptable. Whilst the majority of the proposed residential development would be located outside Limits to Development, and whilst a full contribution towards transportation infrastructure is (for viability reasons) not proposed to be made, weight can be attributed to other benefits of the scheme (and including those in respect of heritage matters) and, overall, the harm arising from the residential element and any shortfall in respect of transportation infrastructure is considered to be outweighed by the scheme's benefits.

RECOMMENDATION:-

PERMIT, SUBJECT TO SECTION 106 AGREEMENT AND CONDITIONS

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

MAIN REPORT

1. Proposals and Background

This is a "hybrid" application (i.e. part full and part outline) submitted by Leicestershire County Council, seeking planning permission on a site of 9.7ha forming part of the former Snibston Colliery (and, subsequently, the former Snibston Discovery Park) for various works associated with the operation of the adjacent Country Park, together with the erection of up to 144 dwellings.

The full element of the application relates to the eastern part of the site (in the area adjacent to a number of former colliery structures) and, following amendment, proposes the erection of an extension to the Century Theatre to provide a café, visitor centre and ranger office with welfare facilities, together with installation of a play area, public realm enhancements, hard and soft landscaping and car parking. This part of the site would be accessed via the existing (currently closed) Ashby Road access (and including some alterations to existing walls, and refurbishment of the existing gates).

The outline element of the application provides for the erection of up to 144 dwellings on 5.8 hectares of land within the western part of the site, including the front part of the site of the former Discovery Park building, and car parking areas to the western side of Chiswell Drive, located adjacent to existing residential development and the Ravenstone Road industrial estate. All matters are reserved in respect of the outline element of the application (although illustrative plans have been received showing a potential layout, and indicating that the residential development would be accessed via Chiswell Drive).

The applicant advises that the intentions behind the proposals include regeneration of the former colliery through provision of public access and heritage interpretation, and the enhancement of the adjacent Country Park by the provision of the additional facilities on the colliery site. Other enhancement works are also proposed to be undertaken by Leicestershire County Council in respect of the Country Park, but do not form part of this application (and, in some cases, would appear to be permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015).

A separate planning application (ref. 18/00066/FUL) has also been submitted by Leicestershire County Council for the provision of a pedestrian / cycle path along part of the route of the former mineral line serving the colliery, and which would provide a connection (through this site) between Chiswell Drive and Belvoir Road (Oliver's Crossing).

2. Publicity

127 Neighbours have been notified.
Site Notice displayed 20 February 2018 and 17 October 2017
Press Notice published Leicester Mercury 14 February 2018.
Press Notice published Leicester Mercury 18 October 2017.

3. Summary of Consultations and Representations Received

Coal Authority has no objections subject to conditions

Coalville Heritage Society supports the proposals the subject of the planning application

Environment Agency has no comments

Historic England has no objections subject to conditions

Leicestershire County Council Archaeology has no objections subject to conditions

Leicestershire County Council Ecology has no objections subject to conditions

Leicestershire County Council Education Authority requests a financial contribution of £666,175.87.

Leicestershire County Council Highway Transportation & Waste Management Authority requests a civic amenity developer contribution of £9,415

Leicestershire County Council Library Services Development Manager requests a developer contribution of £4,350

Leicestershire County Council Lead Local Flood Authority has no objections subject to conditions

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

National Forest Company has no objections subject to conditions

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

Severn Trent Water has no objections subject to conditions

Snibston and Coalville Preservation Group supports the proposals the subject of the planning application

Theatres Trust has no objections

West Leicestershire Clinical Commissioning Group requests a healthcare contribution of £78,971.04

Third Party Representations

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

- Overlooking
- Loss of view
- Overshadowing
- Proposed dwellings should be single storey only
- Noise to proposed dwellings from adjacent employment sites

- Increased traffic
- Impact on wildlife
- Site should be reserved for leisure / recreational use
- Existing landforms should be retained
- Proposed access road should retain its existing rural feel

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2012)

The following sections of the National Planning Policy Framework (NPPF) are considered relevant to the determination of this application:

Paragraph 7 (Achieving sustainable development)
 Paragraphs 12 and 14 (Presumption in favour of sustainable development)
 Paragraph 17 (Core planning principles)
 Paragraphs 24 and 26 (Ensuring the vitality of town centres)
 Paragraphs 32 and 34 (Promoting sustainable transport)
 Paragraphs 47, 49 and 50 (Delivering a wide choice of high quality homes)
 Paragraphs 56, 57, 59, 61 and 64 (Requiring good design)
 Paragraphs 69, 70 and 73 ((Promoting healthy communities)
 Paragraphs 100, 101, 102 and 103 (Meeting the challenge of climate change, flooding and coastal change)
 Paragraphs 109, 118, 120, 121, 123 and 124 (Conserving and enhancing the natural environment)
 Paragraphs 128, 131, 132, 133, 134, 135 and 140 (Conserving and enhancing the historic environment)
 Paragraph 173 (Using a proportionate evidence base)
 Paragraphs 203 and 204 (Planning conditions and obligations)

Draft National Planning Policy Framework (2018)

In March 2018, the Ministry of Housing, Communities and Local Government commenced consultation on a draft revised NPPF. In view of the early stage of this consultation process, it is considered that only limited weight may be attached to the policies of the draft NPPF at this time, and greater weight should be attached to the 2012 version. Notwithstanding the limited weight to be attached at this stage, however, the following sections of the draft NPPF are considered relevant to the determination of this application:

Paragraphs 8, 11 and 12 (Achieving sustainable development)
 Paragraphs 48, 55 and 57 (Decision-making)
 Paragraphs 75 and 76 (Delivering a sufficient supply of homes)
 Paragraphs 87, 88 and 90 (Ensuring the vitality of town centres)
 Paragraphs 92 and 93 (Promoting healthy and safe communities)
 Paragraphs 108, 109, 110 and 111 (Promoting sustainable transport)
 Paragraphs 118 and 122 (Making effective use of land)
 Paragraphs 124, 126, 128 and 129 (Achieving well-designed places)
 Paragraphs 154, 157, 158, 161 and 163 (Meeting the challenge of climate change, flooding and coastal change)
 Paragraphs 168, 173, 176 and 178 (Conserving and enhancing the natural environment)
 Paragraphs 185, 188, 189, 190, 191, 192, 193 and 198 (Conserving and enhancing the historic

environment)

Further advice is provided within the MHCLG's Planning Practice Guidance.

Adopted North West Leicestershire Local Plan (2017)

The application site lies partly within and partly outside Limits to Development as defined in the adopted Local Plan (with that part of the site west of Chiswell Drive where the majority of the proposed housing would be located being outside Limits to Development); no other site-specific policies apply. The following adopted Local Plan policies are considered relevant to the determination of this application:

- Policy S3 - Countryside
- Policy D1 - Design of new development
- Policy D2 - Amenity
- Policy H4 - Affordable housing
- Policy H6 - House types and mix
- Policy Ec8 - Town and Local Centres: Hierarchy and Management of Development
- Policy Ec9 - Town and Local Centres: Thresholds for Impact Assessments
- Policy IF1 - Development and infrastructure
- Policy IF3 - Open space, sport and recreation facilities
- Policy IF4 - Transport infrastructure and new development
- Policy IF7 - Parking provision and new development
- Policy En1 - Nature 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 - Flood risk
- Policy Cc3 - Sustainable Drainage Systems

Other Policies

Good design for North West Leicestershire SPD

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

Leicestershire Highways Design Guide

5. Assessment

Principle of Development

Insofar as the principle of development is concerned, and in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2017). As set out under Relevant Planning Policy above, the eastern part of the site is within Limits to Development as defined in the adopted Local Plan, and the western part outside.

Given that the proposed works in the area adjacent to the former colliery buildings would be within Limits to Development, there would be no policy conflict in principle in respect of those works, subject to meeting other planning policy requirements (and including the other Local Plan policies listed under Relevant Planning Policy above).

Of particular relevance in this regard is the proposed introduction of what is defined in the NPPF as a main town centre use (i.e. the proposed café). As it would be within 300m of the town centre boundary as defined in the adopted Local Plan, the proposed café would be located in an edge of centre location. In this instance, the applicant argues that, whilst the proposed café would be a main town centre use for the purposes of Paragraph 24 of the NPPF, the café is proposed as a site-specific facility directly related to the use of the site and wider Country Park (and, in that sense, therefore, could not be more appropriately located in a sequentially preferable location better related to an existing town centre). The applicant also draws attention to the limited scale of the proposed café use, and argues that it would be proportionate to the aim of servicing demand created by the heritage and recreation offer on the site (and, hence, would be unlikely to draw custom away from the town centre). In view of the particular circumstances applicable in this case, it is accepted that the strict application of the sequential approach would not be appropriate in this case and, in reality, provision of a facility to serve the colliery and Country Park site within a town centre (or a better (sequentially) edge of centre) location would not be appropriate given the intentions of the project. It is also noted that, in view of the proposed floorspace of the café use (i.e. below 1,000sqm), an impact assessment under Local Plan Policy Ec9 or Paragraph 26 of the NPPF would not be required.

Insofar as the land outside Limits to Development (where residential development of this nature is not supported under Policy S3) is concerned, it is noted that 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 Local Authority is able to demonstrate a five year supply of housing (with 20% buffer) against the requirements contained in the adopted Local Plan. Having regard to this position, the policies of the Local Plan are not deemed out-of-date by virtue of Paragraph 49 of the NPPF (and, furthermore, are up-to-date in other respects given that the Local Plan has only recently been adopted). The approach established by *East Staffordshire Borough Council v Secretary of State for Communities and Local Government and Barwood Strategic Land II LLP* (and the subsequent Court of Appeal case *Barwood Strategic Land II LLP v East Staffordshire Borough Council and Secretary of State for Communities and Local Government*) provided that it is implicit from Paragraph 14 of the Framework that, where development proposals do not accord with the development plan, they should not be approved; Paragraph 12 states that proposed development that conflicts with an up-to-date Local Plan should be refused unless other material considerations indicate otherwise. In view of this, the scheme's clear conflict with Local Plan Policy S3 would indicate that the principle of that part of the proposed residential development outside Limits to Development would not comply with the policies of the adopted Local Plan.

It is also acknowledged that, whilst outside Limits to Development, the site is previously developed land, which the NPPF encourages the re-use of. In addition, those parts of the site being located within the countryside are not in an isolated location, and are adjacent to areas within Limits to Development. Given this, and the relatively enclosed nature of landforms and the wider landscape in this area, it is considered that, whilst there is a clearly a policy conflict (and a need to determine planning applications in accordance with the development plan unless material considerations indicate otherwise), the harm to the character of the wider countryside would be limited to a significant degree in this case. In terms of any other issues in respect of the site's location outside Limits to Development, it is noted that, whilst the southern section of that part of the proposed residential development located outside Limits to Development would

be some distance from the closest bus routes on Ashby Road, should, as indicated, the access arrangements proposed at the reserved matters stage include pedestrian access via the St Modwen scheme to the north west, bus services on Ravenstone Road would be more readily accessible (400m approx.). In addition, there are a good range of services available in this part of Coalville and, as such, notwithstanding that part of the residential site's location outside Limits to Development, subject to the Ravenstone Road link being proposed at the reserved matters stage, there would nevertheless be a reasonable level of accessibility for occupiers of the proposed dwellings. The application is supported by a Framework Travel Plan which indicates that the site is accessible by sustainable modes of transport, stating that the surrounding area exhibits good levels of pedestrian and cycling infrastructure, and with some public transport opportunities within walking distance of the site; the County Highway Authority confirms that the Travel Plan is acceptable from its point of view.

Notwithstanding the accessibility credentials of the site and its previously-developed status, it remains the case that that part of the scheme located outside Limits to Development conflicts with the adopted Local Plan. However, this harm needs to be set against the anticipated benefits arising out of the scheme (and including any heritage-related implications, as set out in more detail below).

Historic Environment and Design

Long Term Vision

Following extensive dialogue between the County Council, District Council and Historic England, the amended application includes a long-term vision for the wider site. The supporting documents provide that the proposals "form a catalyst for the ongoing enhancement of Snibston Colliery, providing public access and heritage interpretation, whilst creating a café visitor facility as a focal point for the heritage offer and Country Park." They state that the long term vision seeks to deliver an education and tourism function, rationalise County Council museum collections management, and develop some of the site's buildings for commercial uses that will provide a sustainable future for the site. The County Council envisages delivering educational and tourism functions on the site in collaboration with third parties such as the Snibston and Coalville Preservation Group, the Coalville Heritage Society and the Leicestershire Industrial History Society. The aspiration, the County Council advises, would be to reintroduce guided tours (including the interiors of some colliery buildings), and would also seek to increase revenue from the site by way of making some buildings available for commercial use.

Designated Heritage Assets

Part of the former colliery is designated as a scheduled monument, and also encompasses three listed buildings, namely a locomotive shed, the powder magazine (an explosives store) and a twentieth century administration building including offices, the colliery lamp room and a medical centre. Local Plan Policy He1 requires that proposals should, amongst others, conserve or enhance the significance of heritage assets within the District. National policy in respect of heritage assets is set out in the NPPF (and the MHCLG's Planning Practice Guidance), and as set out under Relevant Planning Policy above. In addition, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard should be had to the desirability of preserving the building or its setting.

Following amendment, the scheme proposes a number of works in the vicinity of the scheduled monument and listed buildings, including the erection of an extension to the Century Theatre to form the café, visitor centre and ranger office, and various external public realm works such as

formation of a children's play area, creation of a circular "heritage trail", and the erection of fencing designed to restrict public accessibility to some of the site's historic structures. This fencing would take a number of forms, and would include a range of treatments, including weld mesh, post and rail, and chain link fencing. Extensive discussions have been held between the District Council, the County Council and Historic England, and resulting in the scheme now proposed.

In addition to the submitted Heritage Statement assessing the impacts of the proposed works on the site's heritage assets, the application is supported by a Conservation Management Plan which makes a number of recommendations, including longer-term measures designed to secure the site's protection, and its enhanced accessibility by the public. The application indicates that the former colliery buildings would be available to visitors (for both educational and recreational purposes) and aimed at "telling the story" of the site and its heritage significance (albeit potentially delivered through a third party). These measures do not form part of the planning application (and for the most part would not require planning permission), and essentially form part of the County Council's overall long-term vision of creating an interpreted heritage site that is open to the public; there are no changes to the colliery buildings proposed per se as part of this planning application, with the only works proposed in this regard relating to the formation of publicly accessible routes (and restriction as necessary through new fencing). Any future applications for planning permission, Listed Building Consent or Scheduled Monument Consent would need to be dealt by the District Council / Historic England as appropriate at that time.

Part of the applicant's case for the proposed residential development is to secure the necessary funding for the works the subject of the full element of the application and the implementation of a longer-term strategy for the protection of, (and, as set out above) public accessibility to, the former colliery site. In this sense, therefore, the proposed residential development would be "enabling development" (defined by Historic England in its Enabling Development and the Conservation of Significant Places guidance note as "development that would be unacceptable in planning terms but for the fact that it would bring public benefits sufficient to justify it being carried out, and which could not otherwise be achieved"). The issues surrounding the otherwise adverse impacts of the proposed residential development in planning policy terms are covered under Principle of Development above.

In terms of the impacts of the proposed development on the various designated heritage assets relating to the site, the submitted documents indicate that the proposed scheme (and including the residential elements and theatre extension) would, overall, result in a minor adverse effect on the significance of the Scheduled Monument resulting from development within its setting. These effects are, however, considered by the applicant to be limited given (i) the presence of similar 20th and 21st century residential development already in the area and (ii) the proposed extension being considered to be in keeping with the existing theatre structure. The applicant considers that there would however also be minor beneficial effects resulting from the consolidation and reopening of the former mineral railway to a footpath / cycleway (although it is noted that, save for the section passing through the current application site, this facility is the subject of a separate application). Insofar as the impact on the setting of listed buildings concerned, the applicant's submissions indicate that this would be expected to be minor adverse, leading to less than substantial harm to the heritage significance of the assets (and with the future implementation of a conservation plan to consolidate the buildings and repurpose them for public use being of benefit to the buildings and contributing to public understanding of and engagement with the assets).

The District Council's Conservation Officer has considered the revised proposals and draws

attention to the inclusion within the amended plans of two new pedestrian accesses to either side of the reconfigured Ashby Road access and a proposed reduction in height (to 1.2m) for visibility purposes. He takes the view that these alterations would harm the significance of the designated heritage assets (and stemming from a reduction in their character which, historically, would have been more "defensive" in nature). Whilst it is accepted that there would be a change from this original defensive character of the boundary treatment to Ashby Road (and that, to a degree, that change could harm the historic character of the heritage assets), it is also accepted that this harm would be limited in extent and, in addition to any highway / pedestrian safety benefits of the wall's reduction, a more "open" aspect could be more appropriate in terms of the intentions of opening up the site (both in terms of the former colliery structures and the wider Country Park beyond) to wider public recreational use, and may also assist in terms of providing greater surveillance and in terms of other community safety issues in respect of reducing opportunities for crime etc. Concern is also raised about the level of detail provided in respect of other fences and barriers proposed within the site itself (particularly in view of the fact that they would in some cases be abutting designated heritage assets); whilst further details have not to date been provided, it is nevertheless accepted that, given that a range of illustrative material in respect of the fencing has been provided, this can be dealt with appropriately by way of condition in this case.

For its part, Historic England draws attention to the need for clear and convincing justification for all harm and for its balancing against public benefits with great weight given to the conservation of the heritage assets. Historic England considers that the colliery requires a holistic Conservation Management Plan approach which secures the viable future of the site and structures (both in terms of their physical maintenance / preservation and their public understanding, access and appreciation); it advises that the revised scheme is a positive step in taking the site towards a viable future.

Whilst not forming part of the application proposals per se, Historic England's advice nevertheless highlights a number of areas where further work will be required to ensure continued positive progress, and including the relocated Wheelwright's Workshop, the Powder Magazine and Lamp Room / Control Room.

In terms of other issues, Historic England notes that there has been water ingress into headstock structures and associated corrosion and recommends that steps to address this are secured through conditions. Whilst works to these buildings are not the subject of this planning permission (and, moreover, are likely to require Scheduled Monument Consent from Historic England), the material considerations relevant to this application include the associated preservation works to the monument and, as such, it is considered legitimate to link the two. However, in this case, it is considered that any such works would more appropriately be secured by way of Section 106 obligations related to the implementation of a comprehensive management plan rather than by way of a planning condition.

Comments have also been received on behalf of other interested parties, and including the Snibston and Coalville Preservation Group and the Coalville Heritage Society. The Snibston and Coalville Preservation Group supports the amended proposals, welcoming changes made following earlier concerns, albeit with similar concerns to the Council's Conservation Officer in respect of the proposed alterations to the Ashby Road wall, and raising issues with respect to potential anti-social behaviour associated with some elements within the longer-term vision. Nevertheless, the Group urges early implementation. For its part, the Coalville Heritage Society also supports the proposals (and, similarly, raising concerns over potential anti-social behaviour associated with the longer-term vision).

Overall, it is accepted that some harm to the significance of designated heritage assets on the site would arise, but that this harm would be less than substantial. Paragraph 134 of the NPPF provides that, "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use". In this instance, therefore, any harm considered to arise in respect of the heritage assets needs to be weighed against public benefits (which, in this case, would, it is considered, principally be in respect of the contribution to public understanding and engagement with the assets).

The balance between the harm, by way of the 'in principle' conflict with adopted Local Plan Policy S3, is clearly and demonstrably outweighed by the benefits that would result from the proposals, most notably the works to and protection of the heritage assets, but also including the improvements to connectivity comprising the footpath/cycleway to Oliver's Crossing, and the wider country park. This site-specific material consideration is of such significance that it indicates planning permission should not, in principle, be refused on the basis of the conflict with Local Plan Policy S3.

Due to the extensive nature of the benefits of the scheme, it has been necessary to ensure the development will be deliverable. To that end, a viability appraisal has been undertaken on behalf of the applicant, and is being assessed on the Local Planning Authority's behalf by the District Valuer. At the time of preparing this report, the District Valuer was awaiting some of the required information from the County Council's consultants in order to complete its findings but, in the event that the District Valuer confirms agreement of the applicant's financial viability conclusions, it would (having regard to the approach to viability set out in the NPPF) be considered that the overall balance of benefits and harm outlined above would be reasonable.

Assuming this position is accepted, however, in order to ensure that this overall acceptable balance is achieved (and, hence, to ensure that the requirements of the NPPF (including Paragraph 134) and Local Plan Policy He1 are met), it would be necessary to make sure that the full range of benefits considered in that balancing exercise would be secured (and including ensuring the progression of a management strategy for the site in order to make sure that future opportunities for maintenance, enhancement and public access are protected). In view of the nature of these opportunities, and the need to adhere to a management plan / strategy designed to maximise future opportunities for use of the site, it would be considered appropriate to enter into a Section 106 obligation to secure these objectives (and to also ensure that, say, the residential development were not progressed in isolation of any heritage benefits being accrued). Whilst an initial strategy has been submitted, it is considered that a more comprehensive document (which includes greater detail of measures and a protocol for defining how and when they could be enabled / delivered, as applicable) should be secured by way of a Section 106 obligation.

In addition, having regard to the conclusions relating to financial viability, it would also be considered appropriate to include obligations which would ensure that, in the event that a higher than anticipated return was to be achieved on the proposed enabling development, any additional receipts be ring-fenced for use by the County Council in the enhancement of the former colliery site (although it would be open to members to opt to redirect any additional receipts towards other contributions (e.g. transportation) if preferred). It is also recommended that the Section 106 obligations include for regular viability review mechanisms during the construction period of the proposed residential development.

In accordance with the requirements of NPPF Paragraph 132, "great weight" should be given to the asset's conservation and, notwithstanding the approach set out in Paragraph 134, regard

nevertheless still needs to be had to the statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990. In this case, and when applying the duty under Section 66 of the Act together with the tests set out in the Planning Practice Guidance, the view is taken that, whilst there would be a degree of harm to the settings of the listed buildings, the overall impact would be acceptable.

Non Designated Heritage Assets

In terms of non designated assets affected by the scheme, the submitted supporting documents indicate that the area the subject of the proposed residential development has low potential to affect hitherto unknown archaeological remains relating to the colliery itself; for his part, the County Archaeologist considers it unlikely that the residential development site is likely to retain any potential beyond the former mining building. However, he does advise that provision be made for photographic and historic building surveys of structures and elements affected by the proposals (including the Century Theatre, the former railway and existing railway sidings), and for archaeological assessment by trial trenching of any buried archaeological resource.

Design of Proposed Public Buildings / Space

Following extensive discussions between the County Council, the District Council and Historic England, a revised configuration of the area adjacent to the principal colliery buildings has been proposed. In particular, amendments have been made in order to seek a more logical use of space, and to seek to prioritise pedestrian and cycle use over vehicle use, and including a move towards a less engineered appearance to the principal route connecting the reopened Ashby Road access with the proposed car park (which would be formed in the approximate location of former car park space and on part of the hardstanding upon which the former Discovery Park building was sited).

Insofar as the carriageway elements are concerned, the District Council's Urban Designer welcomes the improvements made over the originally submitted scheme. Whilst some concerns over detailed design and use of appropriate materials remain, the Urban Designer is content with the proposals subject to the imposition of appropriate conditions to secure the required design quality. Previously raised concerns in respect of landscaping of the proposed car park (i.e. in order to secure a form of development appropriate in this National Forest setting, and serving the Country Park), provision of cycle parking and treatment of the main square have not been fully resolved but can, it is considered, be addressed by way of suitably worded conditions.

The application as originally submitted proposed the erection of a new, free-standing facility to provide the proposed café and Country Park visitor centre / ranger accommodation but, following amendment, would now be proposed as an extension to the existing Century Theatre structure. This, it is considered, would allow for a more usable public space to be formed to the northern side of the former mineral railway / cycleway, providing a greater sense of enclosure which, it is further considered, would lend itself better to creating an attractive, usable "square" (i.e. as opposed to a range of individual buildings distributed between the colliery buildings and car park). The re-routing of the proposed vehicular access to the car park (including a right angle bend in lieu of the originally proposed diagonal arrangement) is considered to not only enhance pedestrian priority, but also enable the provision of a more meaningful "square".

In terms of the design of the proposed extension itself, this would be in the form of a "sawtooth" layout (in plan view) and incorporating angled roof structures intended to reflect the design of the existing theatre structure. In terms of materials, the application documents refer to the use of metal cladding (understood to be likely to be zinc). It is considered that this contemporary

design approach would respect and complement the existing theatre structure, and would add to the attractiveness of the site as a visitor destination. Given its obviously contemporary appearance, it is considered that the erection of this building in the vicinity of the historic features on the site would not detract from the setting of those heritage assets in that it would clearly be "read" as a later addition, and would not in this sense cause confusion in terms of visitors' interpretation of those assets.

During the process of negotiations between the County Council, the District Council and Historic England, the potential for the removal of the existing pre-fabricated education building on the site was explored (an approach also favoured by the County Archaeologist); the building appears to have had the benefit of temporary planning permissions granted by the County Council, most recently expiring in 2015. At the present time, given the existing level of use of the building (including by the theatre) and the costs associated with providing a replacement for the facilities it provides, the County Council is understood to not be in a position to remove it and, on the basis of the submitted long-term vision documents, it would appear that the intention is to retain it on a permanent basis. Given its temporary nature / form of construction, it may not be the case that retention in perpetuity would be appropriate. However, it is noted that, as part of the proposals, it is intended to clad the building in zinc so as to reflect the proposed theatre extension. It is also acknowledged that the form of development shown for the public space (and the design of the proposed theatre extension) would mean that, were the decision taken in the future to remove the structure after all, a replacement structure would seem capable of being provided and would not be prejudiced by the retention of the education building in the meantime. For its part, Historic England considers that the proposed café proposals are a very positive step, but that there should be a medium term vision for the replacement of the education building and other non-historic temporary accommodation with a bespoke solution for the theatre. The Theatres Trust has been consulted in respect of the proposals, and supports the proposed amendments given the reduced likelihood of disturbance to performances from vehicles passing through the site, the enhanced accessibility by sustainable means, and the linking of the theatre and café functions.

Design of Proposed Residential Development

Insofar as the proposed residential development is concerned, the application is supported by a Design and Access Statement and Building for Life assessment.

In response to comments made by the District Council's Urban Designer, the revised proposals (supported by a Design and Access Statement Addendum) indicate two character areas, namely an "Industrial" character area in the section of the site closest to the principal colliery buildings, and typified by three storey units, and a predominantly two storey Country Park character area to the remainder. Additional information has also been submitted demonstrating the likely ground levels of the residential element, and demonstrating how it would sit in its wider context.

Whilst it is considered that further work would be required at the reserved matters stage in order to ensure that the residential element of the scheme meets the District Council's Good design for North West Leicestershire SPD, it is accepted that, at this outline stage, sufficient information has been submitted to demonstrate that this is achievable, and no objections are raised by the District Council's Urban Designer.

Notwithstanding the scheme as shown on the illustrative material, the residential development would need to meet the Council's requirements under Local Plan Policy H6 (housing mix), and a condition is required to secure this at the reserved matters stage.

Means of Access, Highways and Transportation Issues

Insofar as the proposed means of access is concerned, the full element of the application proposes alterations to the existing (gated) access onto Ashby Road; whilst all matters are reserved in respect of the outline element of the application, the illustrative details indicate that access to the proposed housing would be via Chiswell Drive.

A number of concerns were raised by the County Highway Authority in respect of the application as submitted (including issues such as road safety implications, trip generation, assignment and distribution, car and cycle parking and the proposed cycle route) and, as such, additional information has been provided to address those issues. The County Highway Authority confirms that sufficient information has now been provided.

In terms of the scheme's impact on the wider highway network, the County Highway Authority draws attention to the importance of the A511 as a part of the primary A-Road network providing both local and regional connectivity. Given the significance of the A511 around Coalville, the County Highway Authority has been working in collaboration with the District Council to ensure that wider growth in and around Coalville can be accommodated by way of seeking contributions from developers towards measures required to mitigate the impacts (both individually and cumulatively) of the various developments forming that wider growth. This approach has been adopted as it is considered that the cumulative impacts of development around Coalville will have a large scale impact which should be addressed comprehensively, rather than in a piecemeal manner. In this case, and in accordance with similar contributions sought elsewhere in the area, the County Highway Authority advises that a contribution of £4,800 per dwelling (i.e. up to £691,200 for a scheme of up to 144 dwellings) be sought.

Under the provisions of the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville SPD*, the requirement for highways infrastructure contributions in Coalville is prioritised above other required contributions, and provides that affordable housing contributions can be reduced accordingly so as to ensure that, where other contributions are made, a development remains viable.

The report to Cabinet of 15 January 2013 which originally considered the proposed policy included an indicative list of potential transportation infrastructure measures to which the financial contributions made would be expected to contribute; based on the figures available at that time, the calculations provided to Cabinet suggested a potential contribution of between £4,419 and £4,884 per dwelling; the sum suggested by the County Highway Authority as appropriate in this instance would fall within that range. Consideration would need to be given to the most appropriate means of securing any such contribution (including, potentially under a Section 106 agreement and / or a Section 278 agreement).

However, the applicant advises that, due to viability constraints, it is unable to make the full contribution requested and proposes making a contribution of £250,000, together with an additional contribution of £80,000 towards the proposed pedestrian / cycle path linking the site with Belvoir Road. In terms of the proposed contribution towards the pedestrian / cycle link, it is noted that this is not one of the projects towards which Coalville transportation infrastructure has previously been directed (which, principally, relate to improving capacity along the A511 corridor between A42 Junction 13 and M1 Junction 22). However, it is considered that the proposed pedestrian / cycle link would provide for an alternative means of travel for cyclists / pedestrians and, in this sense, it would be considered reasonable to allow for it to be off-set against the

infrastructure contribution (i.e. it has the potential to reduce pressure on the A511 corridor (both for residents of the proposed development and elsewhere)). However, even when this is taken into account, this would still leave a significant shortfall in the contribution vis-à-vis the £691,200 suggested as appropriate by the County Highway Authority.

Under the provisions of the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy, it would be open to the applicant to reduce the affordable housing to allow for an increased transportation contribution. However, this is not proposed in this instance, and it is considered that the applicant's intention to retain affordable housing at a policy-compliant 5% would be a reasonable approach. However, it would remain the case that the scheme as proposed would result in a shortfall. In practice, this could mean that there will be reduced (pooled) funding available in order for the County Highway Authority to direct towards comprehensive infrastructure mitigation.

Local Plan Policies IF1 and IF4 set out the requirement for development to be supported by appropriate contributions to infrastructure (and including transport), but do also acknowledge the need for the Local Planning Authority to have regard to viability issues in negotiating any such contributions; Paragraph 7 of the NPPF sets out the three dimensions of sustainable development (and including the economic role which seeks to identify and coordinate development requirements, including infrastructure). In the event that the proposed residential development progressed without appropriate contributions being made to transportation infrastructure, there could potentially be adverse impacts on the efficient operation of the local highway network if the County Highway Authority was unable to fund any infrastructure improvements necessary to accommodate the additional users generated by the scheme, although there is no evidence to indicate that any impacts would necessarily be severe (as per Paragraph 32 of the NPPF); any impacts on the efficient operation of the local highway network could also have implications in terms of the environmental dimension of sustainable development. This issue also needs to be balanced alongside all other material considerations, and a view reached on whether, having regard to this issue (and other issues as also set out within this report), the scheme would, overall, represent sustainable development. The issue is considered to be finely balanced but, overall, the officer view (and as set out within the conclusions below) is that, notwithstanding the harm associated with this issue, the scheme would nevertheless remain sustainable development in NPPF terms.

Alternatively, members may wish to consider whether (assuming the District Valuer concludes that the applicant's calculations on viability are reasonable) other contributions ought to be reduced in order to allow for increased contributions to be made towards transportation infrastructure (albeit the officer view is that, subject to the applicant's viability calculations being concurred with by the District Valuer, the overall "balance" of contributions proposed would be reasonable). In this scenario, it would again be necessary to consider the implications on sustainable development arising from the non-provision (or reduced provision) of the contributions in question.

Insofar as the proposed reopened access to Ashby Road is concerned, the County Highway Authority confirms that the applicant has demonstrated that the access can adequately cater for all of the anticipated types of vehicles, that the necessary visibility splays can be achieved, and that the proposed access would comply with the Leicestershire Highways Design Guide. It is noted that the access proposals have been prepared on the basis that a separate scheme of traffic calming to Ashby Road (not part of the proposals the subject of this planning application) would also be implemented. However, the County Highway Authority advises that details have

also been submitted which demonstrate that, in the event that such a scheme of traffic calming were not implemented, an acceptable form of access to Ashby Road could still be provided.

In terms of the proposed site access to the proposed residential development, the County Highway Authority notes that this matter is reserved, but comments that, subject to extension of Chiswell Drive, this would be likely to be an acceptable means of accessing that part of the site. In addition, the County Highway Authority draws attention to the content of the Transport Assessment which suggests that, in the absence of parking controls within the proposed residential development, any charging system for parking within the proposed full application car park could result in displaced parking within the residential area. Whilst the details of the proposed access and layout of the residential development would be issues for consideration at the reserved matters stage, it is accepted that any requirement for Traffic Regulation Orders (TROs) to Chiswell Drive (and the proposed residential development) would arise as a result of the full element of the proposals and, therefore, the County Highway Authority's request for a contribution towards potentially implementing an extension of the existing TROs would be appropriate.

In terms of the internal layout of the full application elements of the scheme, the County Highway Authority notes that it is not proposed that the vehicular routes within this area would be offered for adoption and, as such, has no comments.

Transportation Contributions

In addition to the wider highway network mitigation referred to above, the County Highway Authority requires the following (and to be secured by way of Section 106 obligations):

- (i) A contribution of £7,500 to Leicestershire County Council towards the legal processes associated with amending the TRO associated with the proposed waiting restrictions (see above);
- (ii) Travel Packs (one per dwelling) to inform new residents from first occupation what sustainable travel choices are available in the surrounding area (these can be provided by the County Highway Authority if required at a cost of £52.85 per pack);
- (iii) Two six-month bus passes per dwelling to encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour (these can be provided by the County Highway Authority if required at an average cost of £360 per pass); and
- (iv) Submission / approval of a construction traffic routeing agreement.

The applicant is agreeable to making the above contributions (i) to (iv) (albeit potentially providing the Travel Packs and bus passes direct rather than via financial contribution).

Overall in terms of Access, Highways and Transportation issues, therefore, the proposals are considered acceptable subject to conditions and Section 106 obligations (and / or securing any contributions by way of a Section 278 if considered more appropriate by the District Council's legal advisors), although consideration will need to be given to the shortfall in transportation infrastructure funding and its implications on the scheme's overall contribution to sustainable development.

Neighbours' and Future Occupiers' Amenities

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

In terms of future residents' amenities, the application is accompanied by a Noise Impact Assessment which identifies that the main sources of sound affecting the site are noise from the Biffa waste recycling plant to the west of the site (located on the Ravenstone Road industrial estate) and distant road traffic; concerns have been raised on behalf of the operators of the recycling facility over potential incompatibility between their operations (which take place between 0700 and 1830 on weekdays, and between 0700 and 1300 on Saturdays) and residential use.

The Noise Impact Assessment provides that, having regard to the potential impacts from the adjacent Biffa site, mitigation measures would be required, including:

- A minimum 4 m high bund with 2.5 m barrier on top to the western site boundary with Biffa;
- A minimum 30 m stand-off distance from the site boundary near the Biffa service yard to the nearest dwelling; and
- Orientation of dwellings such that gardens to plots in closest proximity to the Biffa site boundary would be located behind dwellings.

Subject to the implementation of this mitigation, the Noise Assessment indicates that appropriate internal guideline values could be achieved with standard double glazing and open windows, and that garden noise levels across the site would also be acceptable. There is no reason to suggest that the recommended mitigation could not be incorporated satisfactorily within a detailed scheme at the reserved matters stage.

In terms of impacts from the proposed development on existing occupiers, the Assessment notes that the predicted impact from vehicular movements for dwellings located on Chiswell Drive would be minor in the short term (i.e. during construction), but negligible in the long term. The Assessment also considers the impacts of the proposed playground on existing and proposed occupiers but identified no significant effects.

No objections on noise grounds are raised by the District Council's Environmental Protection team, and the development is considered acceptable in this regard.

Insofar as other amenity impacts on neighbouring occupiers arising from the proposed development are concerned, whilst an illustrative development framework plan has been submitted, all matters are reserved for subsequent approval. Whilst the illustrative material indicates that an acceptable relationship between existing and proposed dwellings would be achievable, any reserved matters scheme would need to be appropriately devised to the boundaries of the site adjacent to other dwellings (and, in particular, those on Chiswell Drive) so as to ensure that occupiers of both existing and proposed dwellings were afforded an appropriate level of amenity. There is no reason to suggest that the eventual form of development proposed under the reserved matters would necessarily result in undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, acceptable in this regard.

Ecological Issues

The application is accompanied by an Ecological Assessment Report (updated during the course of the application's consideration) based on a desk study and an extended Phase 1 habitat survey.

In terms of designated sites, the report notes that there are two statutory (the Nature Alive and Snibston Grange local nature reserves) and 20 non-statutory designated sites (including the Snibston Discovery Park candidate local wildlife site which includes part of the route of the

former mineral railway and an area adjacent to the former wheelwright's workshop) within 1km of the development site. Some loss of habitat within the candidate local wildlife site would result from the development but, the report indicates, appropriate mitigation for the habitat lost can be included.

In terms of protected species, none of the buildings on the site with bat roosting potential are proposed to be affected by the scheme, and the report indicates that impact of the loss of any bat commuting and foraging habitat is unlikely to be significant. Similarly, impacts on potential foraging and sett excavation / nesting habitat for badgers and breeding birds respectively are identified, but found not to be significant. The report also identified ponds within and adjacent to the site, but are found as unlikely to contain great crested newts or other amphibians.

The application as originally submitted was the subject of an objection from the County Ecologist in view of the investigation work undertaken in respect of bats, great crested newts and some of the site's habitat but, following the submission of the updated Ecological Assessment Report, the County Ecologist's concerns have been addressed, and no objections are raised. Subject to the proposed mitigation measures set out within the Ecological Assessment Report being secured, therefore, the proposals are considered acceptable in terms of ecological issues.

Flood Risk and Drainage

The application is accompanied by a Flood Risk Assessment. This provides that the site lies within Flood Zone 1 (i.e. less than a 1 in 1,000 annual probability of river or tidal flooding in any one year) and, on this basis, the site is considered to pass the sequential test.

Insofar as other sources of flooding are concerned, the Flood Risk Assessment considers, in particular, the potential impacts from surface water, and identifies areas at high risk of surface water flooding (and including within the southern car park area the subject of the proposed residential development). To mitigate the risk of surface water flooding, however, the submissions recommend minimum finished floor levels within the development, and the limitation of surface water run-off rates. No objections are raised to the development by the Lead Local Flood Authority subject to the imposition of appropriate conditions; the Environment Agency confirms that it has no comments.

Geotechnical Issues and Land Contamination

The application is accompanied by a Phase 1 Geo-Environmental Assessment and Coal Mining Risk Assessment and a Phase 2 Geo-Environmental Assessment assessing the potential hazards / contamination risks. These recommend further site investigations in respect of ground conditions and installation of gas protection measures; other than the provision of a 10 metre exclusion zone around a disused adit on the line of Chiswell Drive, no significant mining related constraints to development are identified. The District Council's Environmental Protection team raises no objections in this regards subject to conditions in respect of further investigations / remediation as necessary. The Coal Authority raises no objections subject to the imposition of conditions on the outline element of the scheme; the Environment Agency confirms that it has no comments.

Other Matters

Developer Contributions

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

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

Equivalent legislative tests are contained within Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.

Affordable Housing

In accordance with the requirements of Local Plan Policy H4 for previously developed sites in the Coalville Urban Area, an affordable housing contribution of 5% is proposed (equating to 8 units (rounded up) if based on a total development of 144 dwellings). Having regard to the existing position with regards to affordable housing within the District (and the shortfall vis-à-vis the requirement set out in the HEDNA), it is considered that significant weight ought to be attached to the contribution that this development would make.

For its part, the District Council's Strategic Housing team advises that it would be seeking a tenure mix of 79% affordable rented and 21% intermediate housing (which, when applied to a development of 144 dwellings, would (when rounded up) equate to 8 no. dwellings) and comprising 4 no. 2 bed bungalows, 3 no. 2 bed houses and 1 no. 3 bed houses; whilst the amended illustrative layout does not show a range of affordable house types to reflect this, the applicant confirms it would be content for any Section 106 obligation to secure the affordable unit types sought by the Strategic Housing team. On this basis, the proposed development would be acceptable in respect of affordable housing matters.

Transportation and Accessibility Contributions

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

Historic Environment

These are as set out under Historic Environment and Design above.

Education

In respect of the proposed education contributions, Leicestershire County Council (as Local Education Authority) comments as follows:

Primary School Requirements:

The site falls within the catchment area of All Saint's C of E Primary School. The school has a net capacity of 315 and 359 pupils are projected on the roll should this development proceed, a deficit of 44 pupil places (of which 35 would be created by this development). When having regard to existing capacity at four other primary schools within a two mile walking distance of the development (namely Belvoirdale Community, Hugglescote Community, Woodstone Community and New Swannington Primary Schools), this shortfall cannot be met elsewhere, and a request for an education contribution in respect of the additional deficit places created by the development within the primary school sector is made (£412,334.26), and would be used for improving, remodelling or enhancing existing facilities at All Saint's C of E Primary School (or any other suitable school within the locality).

High School Requirements:

The site falls within the catchment area of Newbridge High School. The School has a net capacity of 590 and 809 pupils are projected on roll should this development proceed, a deficit of 219 pupil places. A total of 144 pupil places are included in the forecast for this school from Section 106 agreements for other developments in this area and are therefore discounted. This, the Local Education Authority advises, reduces the total deficit for this school to 75 pupil places (of which 15 would be created by this development). There is one other high school within a three mile walking distance (Castle Rock High School), but it also has a deficit, and a request for an education contribution in respect of the additional deficit places created by the development within the high school sector is made (£253,841.61), and would be used for improving, remodelling or enhancing existing facilities at Newbridge High School (or any other suitable school within the locality).

Upper School Requirements:

The site falls within the catchment area of King Edward VII Science and Sport College. The school has a net capacity of 1,193 and 1,378 pupils are projected on roll should this development proceed, a deficit of 185 pupil places.

However, having regard to existing capacity at the other upper school within a three mile walking distance of the development (Stephenson Studio School), there is an overall surplus of 143 places in this sector, and an upper school sector education contribution is not therefore requested.

The applicant is agreeable to making the education contributions sought.

Library Services

Leicestershire County Council advises that an additional 208 plus users of Coalville Library are anticipated to be generated by the proposed development, requiring an additional 500 items of lending stock (plus reference, audio visual and homework support material), and a contribution of £4,350 towards library services is therefore requested by the County Council's Library Services team. The applicant is agreeable to making the library contributions sought.

Civic Amenity

Leicestershire County Council advises that an additional 39 tonnes of municipal waste are anticipated to be generated annually by the proposed development, and a contribution of £9,415 towards additional facilities at the Coalville Civic Amenity site is therefore requested by the County Council's Director of Environment and Transport. The applicant is agreeable to making the civic amenity contributions sought.

Children's Play, Public Open Space and National Forest planting

Policy IF3 of the adopted Local Plan requires the provision of open space, sport and recreation facilities in association with new development of 50 or more dwellings having regard to a number of factors.

Whilst the illustrative material submitted in respect of the residential element of the scheme indicates that areas of open space would be included (e.g. a proposed buffer to the adjacent employment site and SuDS features), the scheme does not propose the provision of any on-site play or recreational open space (i.e. within the residential development part of the site as a whole). However, the scheme would provide for a new children's play area in the eastern part of the site and, on the basis that this play area would be available for (free) public use in the normal way (and including by residents of the proposed residential development), this would be considered to represent a reasonable contribution. Similarly, given the extent of public

recreational open space in the vicinity (i.e. the Country Park), it is considered that no additional contribution would be necessary in this instance under Local Plan Policy IF3.

Insofar as National Forest planting is concerned, the National Forest Company notes that, for a development of this scale, 20% of the site would be required to be provided as woodland planting and landscaping and, whilst the scheme would fall short in this regard, the National Forest Company considers that proposed investment in the Country Park would off-set this shortfall, and no additional National Forest planting or financial contribution is sought.

Overall in terms of public open space and other green infrastructure, therefore, subject to the satisfactory provision of the measures proposed (and including ensuring that the proposed children's play area is operated in a manner whereby it is available for public use in the usual way normally required for residential development), the proposals are considered acceptable. Again, however, it is considered appropriate to enter into Section 106 obligations so as to ensure that the proposed housing does not come forward without other development forming part of the application (and including the proposed play and open space works).

Healthcare

West Leicestershire Clinical Commissioning Group (CCG) requests a developer contribution of £78,971.04 in respect of healthcare as set out in the consultation response above. This request has been supported by detailed information setting out the projected impacts on capacity arising from the proposed development (with the principal impacts being on the Whitwick Road surgery) together with commensurate costs of mitigation which, it is understood, would include potential extensions of the surgery to provide additional consulting / treatment rooms. The applicant is agreeable to making the healthcare contributions sought.

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

Overall Planning Balance, Contribution to Sustainable Development and Conclusions

As set out within the report above, the proposed development would conflict with Policy S3 of the adopted North West Leicestershire Local Plan which presumes against non-essential development within the countryside. It is however acknowledged that the harm arising in this instance would be limited to some degree by virtue of the relationship of that part of the site outside Limits to Development to existing built up areas and the accessibility credentials of the site (and, furthermore, would be outweighed by the scheme's benefits).

Having regard to the three dimensions of sustainable development, it is accepted that the proposals would sit well in terms of the economic role insofar as they would make a positive contribution to economic growth associated with the proposed development, the residential element would result in a New Homes Bonus for the local authority (identified by the applicant as being £1.1m over a five year period) and, subject to appropriate contributions to a number of local services being made, the scheme would be accompanied by the provision of infrastructure. However, this needs to be considered in the context of a reduced extent of proposed mitigation for the impacts on the local highway network compared with the figures suggested by the County Highway Authority and as set out in the District Council Cabinet report of January 2013, and any potential adverse impacts on the economic dimension arising from that shortfall. Nevertheless, given the viability constraints which appear to apply in this case, it is considered that the overall range of contributions proposed to be made would represent a reasonable approach.

Insofar as the social dimension is concerned, whilst the development would bring the benefit of providing additional housing, and whilst the need to boost housing supply is a key message of the NPPF, the District currently has a five year supply of housing land, and the weight to be afforded to the benefit of boosting supply as a material consideration ought to be adjusted accordingly. The scheme would, however, also deliver a 5% affordable housing contribution which would be a positive in respect of this dimension of sustainable development, and the scheme overall would include improvements to publicly accessible facilities (including associated wider enhancement of green infrastructure); it is considered that significant weight ought to be attached to this as a material consideration. Insofar as design issues are concerned, following amendment, the proposed development in the area surrounding the former colliery buildings would now be considered to perform relatively well in respect of the social dimension insofar as the requirement of creating a high quality built environment is concerned, and the proposed residential development has the potential to also do so subject to the provision of an appropriate scheme complying with the District Council's Good design for North West Leicestershire SPD at the reserved matters stage(s). In addition, the potential benefits in respect of cultural well-being (and, in particular, the potential for greater public engagement with heritage features), would be positive features in respect of the social dimension.

Whilst, in terms of the environmental dimension, the proposals have the potential to perform relatively well in terms of need to travel and the movement towards a low carbon economy (given the site's relationship to existing services), the proposals would result in the development of land identified as countryside (albeit impacts on the wider countryside beyond would be limited, and the site constitutes previously-developed land). Whilst there is also the potential for some adverse impacts in respect of the environmental dimension arising from the shortfall in contributions towards transportation infrastructure (as well as the economic dimension), for the reasons set out under the social role above, the scheme has the potential to perform well in respect of design (and, hence the environmental role's contribution towards enhancing the built environment) and, furthermore, would on balance be appropriate insofar as the aspect of protecting or enhancing the historic environment is concerned. As such, the scheme is considered to perform well overall in terms of this dimension of sustainable development.

On this basis it is considered that, overall, the proposals represent sustainable development and, subject to the imposition of appropriate conditions as summarised below, the scheme is considered acceptable, and it is recommended that planning permission be granted.

RECOMMENDATION- PERMIT, subject the Local Planning Authority's advisors confirming overall agreement to the findings of the applicant's viability assessment, subject to Section 106 (or equivalent) Obligations, and subject to the following condition(s):

- 1 Time limits
- 2 Submission of reserved matters (residential development)
- 3 Approved plans
- 4 Masterplan (residential development)
- 5 Clarification of number of dwellings (residential development)
- 6 Design Code (residential development)
- 7 Housing mix (residential development)
- 8 Landscaping (including future maintenance and management) (non-residential development)
- 9 Tree protection (non-residential development)
- 10 Construction traffic management plan
- 11 Site access / visibility (non-residential development)
- 12 Car parking (including provision of landscaping (and any amended layout required to accommodate this), materials of construction, and to ensure the parking is provided / retained) (non-residential development)
- 13 Cycle parking (non-residential development)
- 14 Clarification on works forming / not forming part of the application (non-residential development)
- 15 Details of play equipment and modular cycle track (non-residential development)
- 16 Flood Risk / Drainage
- 17 Contaminated land
- 18 Coal mining risk mitigation (residential development)
- 19 Noise mitigation
- 20 Ecology and biodiversity (including mitigation)
- 21 Archaeology
- 22 Proposed site levels (non-residential development)
- 23 Materials (including cladding of education building whilst retained on site) (non-residential development)
- 24 Details of hard surfacing (non-residential development)
- 25 Boundary treatment / fencing (non-residential development)
- 26 External lighting (non-residential development)
- 27 Limitation on café floorspace (non-residential development)

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Self and custom build residential development consisting of 30 plots with a new access and supporting infrastructure (outline - access and layout included)

**Report Item No
A2**

Land Off Hepworth Road Woodville Swadlincote Derbys

**Application Reference
16/01191/OUTM**

**Applicant:
Mr Carlin**

**Date Registered:
12 October 2016**

**Case Officer:
James Mattley**

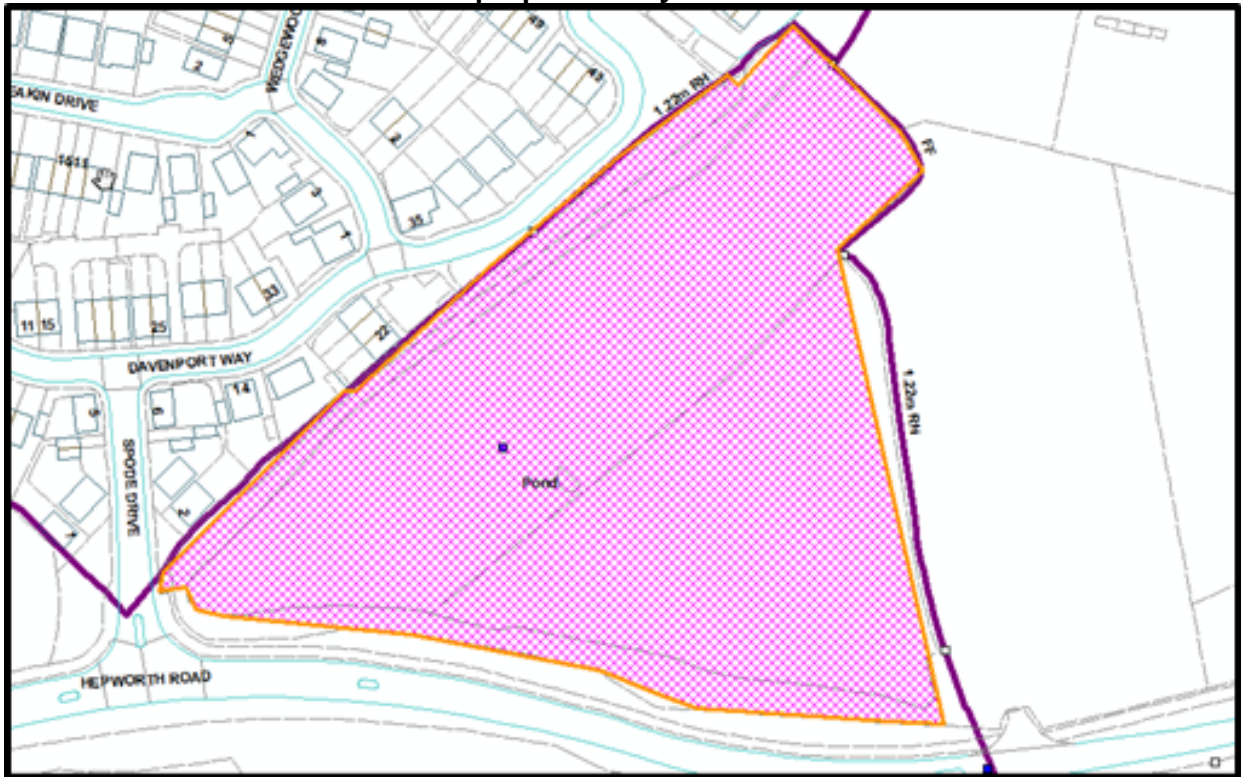
**Consultation Expiry:
26 April 2018**

**Recommendation:
PERMIT subject to S106 Agreement**

**8 Week Date:
11 January 2017**

**Extension of Time:
28 February 2018**

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Reasons for Approval

Reason for Call In

The application is reported to the Planning Committee, at the request of Councillor McKendrick on the basis of the sites location being outside Limits to Development, coalesce of settlements, highway concerns and loss of green space.

Proposal

Outline planning permission is sought for a self and custom build residential development consisting of 30 plots with a new access and supporting infrastructure. Details of access and layout are included for consideration at this stage.

Consultations

Objections have been received from members of the public, Ashby De La Zouch Town Council and Ashby Woulds Town Council. No objections are raised from any other statutory consultees.

Planning Policy

The application site is located outside Limits to Development as defined by the adopted Local Plan. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan, the Good Design for North West Leicestershire SPD and other relevant guidance.

Conclusion

The key issues arising from the application details are:

- The principle of self and custom build dwellings outside the Limits to Development;
- Impact on trees, ecology and National Forest Planting;
- Highway safety issues;
- Impact upon residents.

The report looks into the key planning issues in detail. The benefits arising from meeting a significant level of current demand for custom and self build development would, on balance, outweigh the site's location outside the Limits to Development in the adopted Local Plan. Subject to conditions and obligations the application is not considered to result in significant impacts on the other key planning issues set out above.

There are no other material planning considerations to indicate that planning permission should not be granted but it is noted that more precise details would need to come forward as part of future reserved matters approvals.

On this basis, it is therefore recommended that the application be permitted subject to conditions and a legal agreement.

RECOMMENDATION - PERMIT, subject to conditions and a legal agreement.

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

MAIN REPORT

1. Proposals and Background

Outline planning permission is sought for a self and custom build residential development consisting of 30 plots with a new access and supporting infrastructure (outline - access and layout included) on land off Hepworth Road, Woodville.

The site which measures 1.9 hectares is bounded to the north and west by the recently constructed Taylor Wimpey residential development. The eastern site boundary comprises of a mature hedgerow and public right of way adjacent to the site. Beyond this, to the east of the site, lies open grassland. The site is bounded to the south by Hepworth Road. The application site is located outside the Limits to Development as defined by the adopted Local Plan.

The Self-Build and Custom Housebuilding Act (as amended) provides a legal definition of self and custom housebuilding and states that it is where 'an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.

The proposal would entail the creation of 30 serviced plots with a new access formed off Hepworth Road. The position and design of each plot would be determined by each owner as part of a Reserved Matters application, however the Design Code sets out parameters in terms of, amongst other things, positioning, heights, parking and landscaping.

Amended plans have been received during the course of the application to address officer concerns over various elements of the proposal including ecology, design and highway matters.

The application is accompanied by a viability assessment, design code, biodiversity survey and report, design and access statement, flood risk assessment, land contamination assessment, planning statement, drainage strategy, heritage statement and transport assessment.

There is no relevant planning history on the site although it is noted that the application site forms part of a previous permission known as Woodville Woodlands and the approved plans for that development show a combination of forest planting and grassland. There is a legal agreement in place to maintain the land as forestry land and not to use the land for any purpose other than woodland/shrubland. An application has been submitted under Section 106A of the Town and Country Planning Act 1990 to modify the obligations contained in the legal agreement and given the associated nature of the two applications this is considered as part of this report also.

2. Publicity

9 Neighbours have been notified.
 Press Notice published Burton Mail 9 November 2016.
 Site Notice displayed 8 November 2016.

3. Summary of Consultations and Representations Received

Ashby De La Zouch Town Council objects to the application on the following grounds:

- plans are contrary to local planning policy;
- land was previously designated as an area for planting and landscaping as part of a legal agreement;
- outside limits to development;
- the area of green space on this side of Hepworth Road should be maintained;
- separation between Blackfordby and Woodville would be diminished.

Ashby Woulds Town Council objects to the application on the following grounds:

- outside limits to development;
- coalesce of settlements;
- highway concerns;
- loss of open space.

LCC Archaeologist has no objections subject to the imposition of conditions.

LCC Civic Amenity does not require any contribution as part of this proposal.

LCC Ecologist has no objection subject to the imposition of conditions.

LCC Education requests a developer contribution of £195,806.86.

LCC Footpaths Officer has no objection subject to the imposition of conditions.

National Forest Company has no objection subject to conditions and/or obligations.

NWLDC Environmental Protection Section has no environmental observations.

NWLDC Land Contamination Officer has no objections subject to conditions.

South Derby District Council has provided comments in respect of infrastructure, ecology, design and replacement planting.

The Coal Authority has no objections subject to conditions.

Woodville Parish Council objects on the grounds of highway concerns and coalesce of settlements.

The following consultees have not responded: Severn Trent Water, Leicestershire Police and the NHS. Any comments received will be reported on the Update Sheet.

A total of 14 number of objections have been received making the following comments:

- contrary to planning policies and outside the limits to development;
- developer could sell off the plots to a large building company;
- no mention of when the plots will be sold;
- impact upon the surrounding area and the National Forest;
- traffic and highway safety issues;

- trees (including protected trees) have been removed from the site;
- impact upon private views;
- already houses being erected in the surrounding area;
- impact upon infrastructure;
- increased pollution;
- there are mine shafts on the site;
- what scale and appearance of houses will be constructed on the site?;
- design code could result in 'ultra-modern' house types. Will new properties be in keeping with existing properties?
- land was previously designated for planting and landscaping and was subject to a legal agreement;
- impact upon protected species;
- impact upon the residential amenity of existing properties;
- more residents will result in more anti-social behaviour;
- South Street is currently unadopted, why should existing residents maintain the road for others?
- there are restrictive covenants on the land;
- there is a public footpath crossing the site;
- scheme is unsustainable;
- drainage issues.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2012)

The following sections of the National Planning Policy Framework (NPPF) are considered relevant to the determination of this application:

Paragraph 14 (Presumption in favour of sustainable development);
 Paragraph 17 (Core planning principles);
 Paragraph 32 (Promoting sustainable transport);
 Paragraphs 47, 49, 50 and 54 (Delivering a wide choice of high quality homes);
 Paragraphs 57, 60 and 61 (Requiring good design);
 Paragraphs 103-104 (Meeting the challenge of climate change, flooding and coastal change);
 Paragraph 117-118 (Conserving and enhancing the natural environment);
 Paragraph 203-206 (Planning conditions and obligations).

Draft National Planning Policy Framework (2018)

In March 2018, the Ministry of Housing, Communities and Local Government commenced consultation on a draft revised National Planning Policy Framework. In view of the stage of this consultation process, it is considered that only limited weight may be attached to the policies of the draft National Planning Policy Framework at this time, and greater weight should be attached to the 2012 version.

Adopted North West Leicestershire Local Plan (2017)

The following adopted Local Plan policies are relevant to this application: -

Policy S1 - Future Housing and Economic Development Needs;
 Policy S3 - Countryside;
 Policy D1 - Design of New Development;

Policy D2 - Amenity;
 Policy H4 - Affordable Housing;
 Policy IF4 - Transport Infrastructure and New Development;
 Policy IF7 - Parking Provision and New Development;
 Policy Cc2 - Flood Risk;
 Policy Cc3 - Sustainable Drainage Systems.

Other Policies/Guidance

- National Planning Practice Guidance
- North West Leicestershire District Council - Good Design Guide SPD
- Leicestershire Highway Design Guidance
- The Self-Build and Custom Housebuilding Act (as amended)
- The Habitats Regulations (The Conservation of Habitats and Species Regulations 2017)

5. Assessment

Principle

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan, which in this instance, includes the adopted North West Leicestershire Local Plan 2017. The application site lies outside the defined Limits to Development with residential dwellings not being a form of development permitted by Policy S2 and S3 of the adopted Local Plan. However it is necessary to consider the nature of the housing being offered as part of this proposal and whether any economic, social and environmental benefits of this proposal would outweigh the conflict with planning policy.

In terms of the environmental strand of sustainable development, the site would result in the loss of a greenfield site but it is considered that the application site currently has the appearance of scrubland which is immediately located adjacent to existing residential development to the north and west and Hepworth Road that runs along the southern boundary. Development on the application site is not considered to impact upon the wider countryside given its contained nature. In addition, as discussed in more detail below, subject to planning conditions there are no significant impacts in respect of ecology, heritage, flooding, drainage and agricultural land.

The application site forms part of the National Forest planting and landscaping which was secured by the adjacent Woodville Woodlands development. The applicant has had pre-application discussions with the National Forest Company about how to address this issue. As discussed in more detail below, the National Forest Company have no objection to the proposal providing that an equal amount of landscaping is provided elsewhere.

In terms of the sustainability of the site, Woodville provides a good range of day-to-day facilities including bus routes, schools, shops, restaurants, doctors and a pharmacy. There are public footpath, cycleways and bridleways in the surrounding area and on this basis it is not considered that occupiers of the new dwellings would be heavily reliant on the private car.

It is accepted that the development has the potential to make a positive contribution to the economic dimension by virtue of the growth associated with the proposed development. In terms of the social and economic benefits, it is considered necessary to have regard to the self and custom build nature of the proposal. The Self-Build and Custom Housebuilding Act (as amended) provides a legal definition of self and custom housebuilding and states that it is where

'an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals. As part of this legislation there is a 'duty to grant planning permission' upon local authorities for enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries to the self-build register.

The self-build register in North West Leicestershire currently contains 37 entries but the Local Planning Authority has not granted planning permission or allocated land for this level of 'suitable serviced plots'. This application provides an opportunity to meet the majority of the District's current demand for such plots in a comprehensive manner (rather than piecemeal applications across the district) and this is considered to be a significant social and economic benefit of the scheme in the overall planning balance.

The planning application conflicts with an up-to-date development plan and permission should not usually be granted. However, Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. When having regard to all of the issues above, on balance, it is considered that because it offers the opportunity to meet the majority of the District's custom and self build demand (30 out of 37) in a planned and comprehensive way, on a sustainable site that is at the edge of an existing built up area and is relatively well contained, the benefits arising from this self and custom housebuilding application would clearly and demonstrably outweigh the conflict with planning policy. On this basis the scheme is considered to represent sustainable development and, therefore, the proposal is considered to be acceptable in relation to the NPPF.

Highway Safety

The access into the site and the internal roads are included for matters to be considered at this outline stage. The development would be accessed from a new vehicular access point off Hepworth Road. The access is located approximately 170 metres to the west of the Hepworth Road / Forest Road roundabout and would take the form of a priority junction with a right turn ghost lane.

The application is accompanied by a transport statement which concludes that the development would be in a sustainable location and that the development would not materially increase traffic flows on the surrounding highway network and a road safety problem would not be introduced.

Leicestershire County Council has reviewed the transport statement and originally requested clarification on a number of matters including the adoptability of the road, traffic calming, connections to adjacent developments, clarification of the trip generation derivation and the submission of a road safety audit. Following the submission of further information from the applicant's agent, the County Highway Authority now considers that the previous issues have been resolved. The access details shown are to an adoptable standard and the impacts of the development can be mitigated and are not considered to be severe.

In conclusion, the County Highway Authority raises no highway safety objections to the proposed scheme subject to the inclusion of relevant conditions. Taking these matters into account, therefore, the proposed development is considered acceptable in terms of Means of Access and Transportation issues and would comply with Policy IF4 in the adopted Local Plan, the advice in the NPPF and the Leicestershire Highways Design Guide.

Design

The proposed scheme has been discussed with the District Council's Urban Designer both at the pre-application advice stage and during the course of the application. This application seeks approval of the layout of the plots, the internal access roads and the point of access from Hepworth Road. The precise location of the dwelling within each plot, its appearance, scale and landscaping would be subject to separate reserved matters approvals if this outline application is granted planning permission. A design code has been submitted as part of this outline application to guide future reserved matter applications and covers landscaping, sustainable technologies, drainage, scale, design and layout.

A number of layout options have been explored and amended following comments from the County Highway Authority and the Council's Urban Designer. The final design shows for a main route through the site that would be planted, significant planting/ecological opportunities to the boundaries of the site, public open space and spacious plots (a density of only 15.7 dwellings per hectare is proposed). The spacious nature of the scheme would help to secure the vision of 'development of a street focused community of energy efficient homes with innovative design solutions which reflect the wider aspiration to create a National Forest character throughout the development'.

The Council's Urban Designer is supportive of the scheme subject to ensuring that the design code forms a planning condition and is used to guide subsequent reserved matters applications.

Therefore, whilst the scheme in outline cannot be assessed fully against Building for Life, it is considered that it has been demonstrated that, in principle, an appropriate scheme for up to 30 dwellings could be satisfactorily developed on the site, and would comply with Policy D1 of the adopted Local Plan and advice in the NPPF.

Trees

It is understood that some trees have been removed from the site prior to the submission of this application. The site does not fall within a Conservation Area and there were no trees that were subject to tree preservation orders. However, the application site forms part of the required National Forest planting and landscaping from the adjacent Woodville Woodlands development. The applicant has had pre-application advice discussions with the National Forest Company about how to address the loss of National Forest habitat. As discussed in more detail below, the National Forest Company have no objection to the proposal providing that an equal amount of landscaping is provided elsewhere. A contribution towards off-site planting would be secured by a legal agreement (as discussed in more detail below).

There are a limited number of trees on the application site at present and the development would likely result in the loss of these trees. However, it is anticipated that a significant level of planting will come forward at the reserved matters stage both to the boundaries of the site, along the main roads and within each plot (as the design code requires each plot to plant at least one tree within their site). This replacement planting would address the loss of any trees on the site.

On this basis it is considered that the proposal would have an acceptable impact upon trees.

Ecology

The original application was accompanied by an ecological report that was considered by the County Ecologist. The County Ecologist did not consider that the ecological report was acceptable and on the basis of the loss of species rich grassland, inadequate ecological information and potential harm to Great Crested Newts recommended refusal of the application.

The County Ecologist also noted that part of the site is designated as a Local Wildlife Site.

Following the comments of the County Ecologist, the applicant's agent submitted a further ecological survey including Great Crested Newt mitigation strategy. The County Ecologist has reviewed the updated information and was satisfied with the mitigation strategy put forward in respect of Great Crested Newts and recommends that this forms a planning condition.

The County Ecologist also considers that a much more satisfactory botanical survey of the site has been carried out but that a site visit should be undertaken in respect of the survey data. This site visit has now been undertaken and the County Ecologist considers that the loss of species rich grassland can be offset by the creation of a new wet grassland of around 0.25 ha (trees should not be planted within this area). There is sufficient space along the site frontage and within the south eastern corner of the site for this to be created but it is recommended that the precise species and management be subject of planning conditions.

Therefore, subject to suitable conditions it is considered that the scheme has an acceptable impact upon ecology.

Neighbours' Amenities

The impacts on neighbouring occupiers arising from the proposed development would need to be assessed in more detail at the reserved matters stage(s) when more precise details as to the layout, scale and appearance of the dwellings is submitted for consideration. Notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 30 units could not be provided on the site in a manner which would not significantly adversely impact upon neighbours' amenities.

The District Council's Environmental Protection team has reviewed the submitted information and has no objections. They do not consider that the proposal would result in significant adverse impacts on health or quality of life. Accordingly, the requirements under Policy D2 of the adopted Local Plan are considered to have been met by the scheme and the proposal would not conflict with paragraph 123 of the NPPF.

Flood Risk and Drainage

A Flood Risk Assessment (FRA) and surface water drainage strategy has been submitted in support of the application. The Environment Agency flood zone maps indicate that the site lies within Flood Zone 1, and on this basis the site would appear suitable for development in principle (and in flood risk sequential terms, would meet the requirements of the NPPF). However, it is noted that there is a small area located centrally within the site which has resulted in a high level of risk of surface water flooding.

It is proposed to manage surface water run-off from the development through the implementation of a sustainable drainage system, limiting the proposed maximum discharge rate to the site-specific greenfield rate, providing on-site attenuation in the form of ponds or open water features with controlled discharge rates. The precise location and design of the open water features would be subject to a planning condition. Foul drainage would connect to the existing mains sewer (outside of the River Mease catchment area).

Overall, in terms of issues of Flood Risk and Drainage, it is considered that the scheme is acceptable, and would provide for appropriate drainage solutions to accommodate the proposed development. In coming to this conclusion it is noted that the LLFA raise no objections to the proposed development subject to the inclusion of relevant planning conditions and notes to applicant.

Archaeology

The Leicestershire and Rutland Historic Environment Record (HER) notes that the site is located within an area of archaeological interest. The site is located within an area that is defined as 'Old Boothorpe', on an estate map of 1720, which suggestive of former settlement in this location. The County Archaeologist originally considered that an archaeological desk-based assessment and historic building assessment as well as a field evaluation be submitted by the applicant.

The applicant has submitted information to indicate that there has been disturbed ground and this has been mapped and represents approximately 35-40% of the wider site. On the basis of this information, the County Archaeologist has confirmed that the required archaeological investigation (including trial trenching) can be secured through suitable worded planning conditions. Therefore, the development is deemed to be compliant with Paragraph 141 of the NPPF and Policy He1 of the adopted Local Plan.

Developer Contributions

The requested developer contributions are listed below.

Affordable Housing

The Council's SPD on affordable housing indicates that for developments of this scale in this area 30% of the units should be provided as affordable housing (i.e. 9 units, assuming the construction of the maximum 30 dwellings as proposed). In terms of tenure split, the District Council's Affordable Housing Enabler advises that a tenure split of 79% affordable rented and 20% shared ownership would be sought and the District Council's Strategic Housing Team is seeking the following:

- 5 x 2 bed homes
- 4 x 3 bed homes

Education

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

Primary School Requirements

The site falls within the catchment area of Blackfordby St Margaret's C of E Primary School. The School has a net capacity of 105 and 150 pupils are projected on the roll should this development proceed; a deficit of 45 pupil places. A total of 11 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have to be discounted. This reduces the total deficit for this school and creates a deficit of 34 pupil places that cannot be met by other schools within a two mile walking distance.

The 8 deficit places created by this development can therefore not be accommodated at nearby schools and a claim for an education contribution of 8 pupil places in the primary sector is justified. In order to provide the additional primary school places anticipated by the proposed development the County Council would request a contribution for the Primary School sector of £87,112.87.

High School Requirements

This site falls within the catchment area of Ivanhoe High School. The School has a net capacity of 949 and 1172 pupils are projected on roll should this development proceed; a deficit of 223 pupil places. A total of 91 pupil places are included in the forecast for this school being funded

from S106 agreements for other developments in this area and have to be discounted. This reduces the total deficit for this school to 132 (of which 129 are existing and 3 are created by this development). There are no other high schools within a three mile walking distance of the site. A claim for an education contribution in this sector is therefore justified. In order to provide the additional high school places anticipated by the proposed development, the County Council requests a contribution for the high school sector of £53,628.51.

Upper School Requirements

This site falls within the catchment area of Ashby School. The College has a net capacity of 1842 and 1993 pupils are projected on roll should this development proceed; a deficit of 151 pupil places. A total of 104 pupil places are being funded at this college from S106 agreements for other developments in this area which need to be discounted and reduces the total deficit for this college to 47 (of which 44 are existing and 3 are created by this development). There are no other upper schools within a three mile walking distance of the site. A claim for an education contribution in this sector is therefore justified. In order to provide the additional upper school places anticipated by the proposed development, the County Council requests a contribution for the upper school sector of £55,065.48.

National Forest Planting

As discussed above, the National Forest Company have no objection to the proposal providing that an equal amount of landscaping is provided elsewhere. The NFC therefore requests a contribution of £38,000.

It is the current intention that such funds would be used for tree planting at Ashby Woulds which the National Forest Company have recently acquired and which is around 1.39 kilometres to the south of the application site. However, this would depend on when the site is brought forward so the legal agreement would need to include some flexibility to provide for tree planting and development works in the surrounding area.

Conclusions in respect of Developer Contributions

The following requests have been made:

National Forest Company - £38,000
 Education - £195,806.86
 9 Affordable Houses

The application is accompanied by a viability assessment. This viability report indicates that the scheme would not be viable with the inclusion of affordable housing (either on-site or off-site). The DV is satisfied that the scheme is not viable with the inclusion of affordable housing.

However, it is still considered necessary to consider whether a scheme without affordable housing would represent sustainable development. Paragraph 7 of the NPPF provides support for the social role of planning. It states the following: "a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being".

A lack of affordable housing in the District would be likely to impact upon some of the most vulnerable people within the District and has the potential to increase the number of homelessness cases. However, this needs to be balanced against the Government's support for Local Planning Authorities taking a proportionate approach to developer contributions and

viability (and as indicated in Paragraph 173 of the NPPF) so as to enable development to come forward to meet market (if not affordable) housing needs, and the need to consider the potentially harmful impact on other service areas were the shortfall in viability to be addressed by way of reductions in contributions to other areas of infrastructure. In this instance it is also noted that the proposal would provide for self build and custom plots which there is a demand for (as discussed in more detail above).

On balance, given that the applicants have been able to demonstrate to the District Valuer's satisfaction that no affordable housing contribution could be provided from a viability point of view, and that contributions are being made to all other service areas, it is considered that the omission of affordable housing would be acceptable in this case, when balanced against all other viability considerations and other aspects of sustainable development.

Other

There would need to be provisions within the legal agreement to ensure that the dwellings are provided as either custom or self-build properties.

The impact of the proposal upon private views is not a material planning consideration and cannot be taken into account in the determination of this application.

There is a public footpath that runs adjacent to the eastern edge of the site. The County Footpath Officer has no objections to the proposal subject to conditions and notes to applicant. Some of the suggested conditions are not considered to be necessary given that the footpath runs adjacent to the application site and others are covered by separate legislation.

Conclusions

The application site lies outside the defined Limits to Development with residential dwellings not being a form of development permitted by Policy S2 and S3 of the adopted Local Plan.

However, this application provides an opportunity to meet a significant level of current demand for custom and self build plots and this is considered to be a significant social and economic benefit of the scheme in the overall planning balance and would outweigh the conflict with planning policy. On this basis the scheme is considered to represent sustainable development and, therefore, the proposal is considered to be acceptable in relation to the NPPF.

The application site forms part of the required National Forest planting and landscaping from the adjacent Woodville Woodlands development. The National Forest Company have no objection to the proposal providing that an equal amount of landscaping is provided elsewhere. A contribution towards off-site planting would be secured by a legal agreement.

There are no other material planning considerations to indicate that planning permission should not be granted but it is noted that more precise details would need to come forward as part of future reserved matters approvals.

On this basis, it is therefore recommended that the planning application be permitted subject to conditions and a legal agreement and that the existing Section 106 agreement be modified to allow development to take place on the site with National Forest Planting provided elsewhere.

1. RECOMMENDATION - PERMIT planning application 16/01191/OUTM, subject to conditions and a legal agreement.

2. RECOMMENDATION - AGREE to the modification of existing Section 106 agreement to allow development to take place on the site subject to National Forest Planting being provided elsewhere.

Suggested conditions for planning application:

1. Time limit
2. Details of reserved matters
3. Approved plans
4. No more than 30 dwellings
5. Land contamination assessment
6. Land contamination verification
7. Construction traffic management plan
8. Visibility splays
9. Access provided
10. Parking and turning
11. Foul drainage
12. Infiltration testing
13. Surface water drainage
14. Archaeology - written scheme of investigation
15. Archaeology - post investigation assessment
16. Design Code
17. Coal mining assessment
18. Coal mining verification
19. Ecology - great crested newt translocation
20. Ecology - species rich grassland specification and management plan

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Erection of detached dwelling (outline access and layout included).

Report Item No
A3

Land Opposite Lower Farm House Netherseal Road Chilcote Derby

Application Reference
18/00095/OUT

Applicant:
Mr & Mrs Hancocks

Date Registered:
23 January 2018

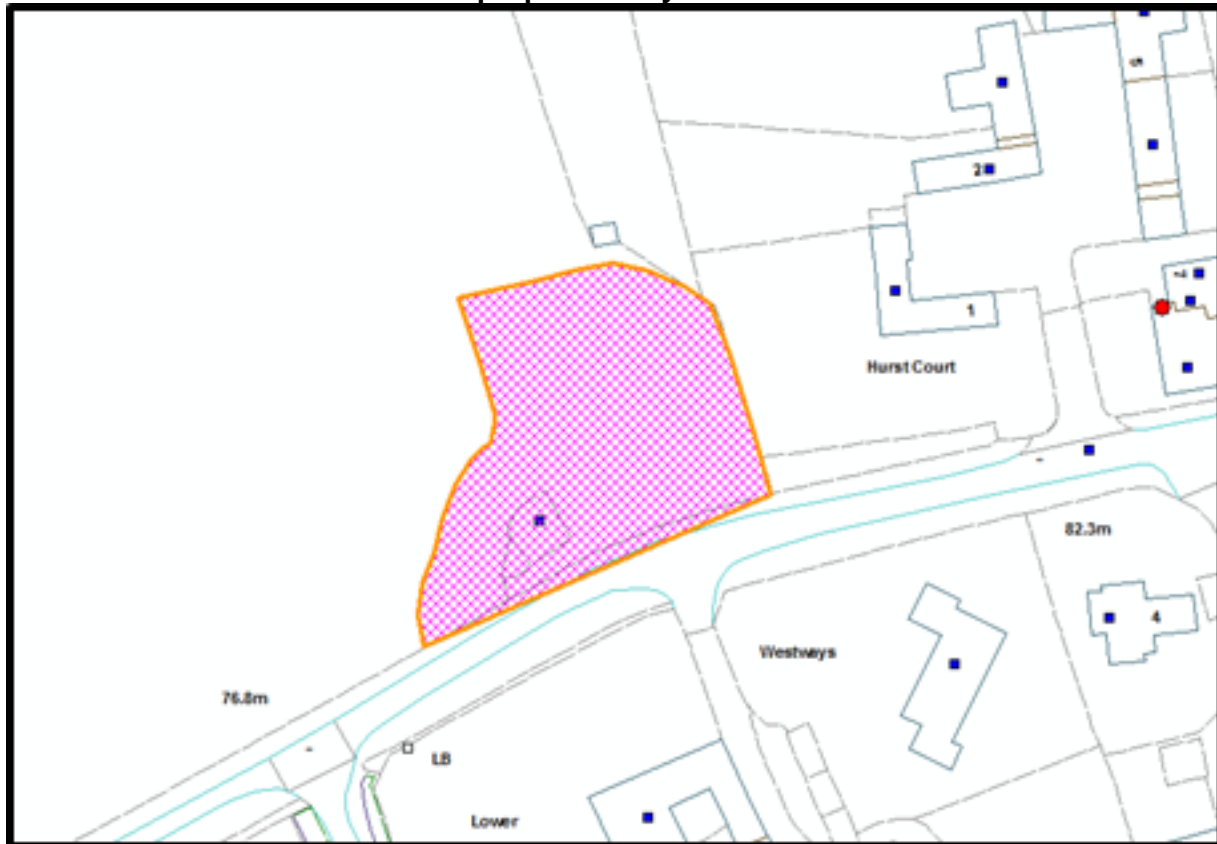
Case Officer:
Jenny Davies

Consultation Expiry:
3 May 2018

Recommendation:
REFUSE

8 Week Date:
20 March 2018
Extension of Time:
10 May 2018

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

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

Proposal

Outline planning permission is sought for the erection of a detached dwelling (with scale, appearance and landscaping reserved for future determination) on land opposite Lower Farm House, Netherseal Road, Chilcote. The site is currently part of a grassed field. Some ground works would be undertaken on parts of the front and central areas of the site to lower the land levels to a similar height to the road. The dwelling would be served by an existing altered field access off Netherseal Road.

Consultations

Members will see from the main report below that a total of 32 letters of representation have been received, four of which are supportive of the proposals and 28 (with six being duplicates) of which raise objections. Chilcote Parish Meeting does not wish to comment on the proposal. The County Archaeologist recommends that the application be refused due to insufficient information to assess impact on archaeological remains. All other statutory consultees have raised no objections.

Planning Policy

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

Conclusion

The key issues arising from the application details are:

- The principle of the erection of a dwelling on the site
- Impact on the character and visual amenities of the area
- Impact on the setting of listed buildings and archaeological remains
- Impact on residential amenities
- Impact on highway safety
- Impact on the River Mease SAC

The report looks into the key planning issues in detail. The applicants' need for the dwelling so that they can reside close to Mrs Hancocks' parents and provide their care, is not, on balance, considered to outweigh the site's location outside the Limits to Development in the adopted Local Plan in a location where occupiers of the dwelling would be reliant upon the private car to access basic day to day services/facilities, the harm to the character and visual amenities of the countryside, the harm to the setting of listed buildings and the lack of information to assess impact on archaeological remains. The application is not considered to result in significant impacts on the other key planning issues set out above.

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 and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Outline planning permission is sought for the erection of a detached dwelling (with scale, appearance and landscaping reserved for future determination) on land opposite Lower Farm House, Netherseal Road, Chilcote. The site lies on the northern side of Netherseal Road and is currently part of a grassed field, with dwellings adjoining the site to the east and across the road, with the remainder of the field to the west, north west and north.

The dwelling would be L-shaped, and the indicative plans show a three bedroom dwelling. Due to the land levels increasing in height from the road in a northerly and easterly direction by up to five metres, ground works would be undertaken on parts of the front and central areas of the site to lower the land levels to a similar height to the road. The indicative plans show that most of the dwelling would be two storeys in height, with part of its rear element being single storey but set at first floor level.

The dwelling would be served by an existing altered field access off Netherseal Road, and parking and turning space would be within the site, which would be located in the cut away area. The layout plan also originally showed the site access to serve the remainder of the field. However amended plans have been received, which have removed this access to the field, as well as showing visibility splays and amendments to the access and driveway. The field would be served by an existing access located further to the west off Church Lane.

The existing hedgerow to the site frontage is shown to be retained, save for some cutting back on either side of the amended access to provide visibility splays. The hedgerow/planting on the eastern boundary with No. 1 Hurst Court is also shown to be retained. An area of small trees/vegetation at the site's south eastern corner appears to be retained. The precise dimensions of the proposal are available to view on the planning file.

The site is located outside the defined Limits to Development, as identified on the Policy Map to the adopted North West Leicestershire Local Plan (2017). The site also lies within the catchment area of the River Mease Area of Conservation. Hurst Farmhouse and Hurst Lodge lie around 63 metres to the east, Rock Farmhouse lies around 83 metres to the south east and St Matthew's Church lies around 63 metres to the south west, all of which are Grade 2 listed buildings. Public right of way P93 crosses the field within which the site is located, to the west and north of the site, running from Church Lane in a north easterly direction to join Netherseal Road at the northern end of the village. There are no planning history records for the site.

A design and access statement (DAS) accompanied the application submission, which states that the dwelling is proposed to meet a local need and:

- the intended occupants are Mr and Mrs Hancocks who presently reside in Measham and who were forced to set up home outside Chilcote due to high house prices;
- an assessment of all properties for sale in Chilcote over the last four years (to January 2018) shows that the cheapest property marketed for sale was £449,950 for a two-bed dwelling, with the cheapest four-bed property marketed for £580,000;
- it is considered based on these comparables that the subject dwelling would have an unrestricted value of £450,000 which is considered unachievable for a young couple with a connection to the village;
- a detailed financial assessment of the applicants' personal financial circumstances has been undertaken;
- whilst the applicants' household income is marginally higher than the threshold to be

- accepted onto the Council's housing list, this threshold is based on the District as a whole;
- Mrs Hancock's parents reside in Chilcote and are both retired, with her father having significant health problems following treatment;
 - the intention is that Mrs Hancocks would care for her parents;
 - the applicants would be able to support the current services in the village, and there would be a reduction in vehicle movements due to the applicants caring for elderly relatives in the village;
 - an up to date housing needs survey for Chilcote concluded 'there was a need of up to two small affordable or open market homes for local people enabling them to be suitably housed within the community';
 - the dwelling would meet a local need, providing a form of intermediate affordable housing, with occupation secured by a legal agreement and a restriction on market value at 50%, although this figure is not fixed at this stage. The intention is that this percentage is set at a level which results in the scheme being not for profit;
 - the applicants and agent attended a parish meeting on 5 December 2017 which was well attended with approximately 40 residents present, with residents in support and against the proposal.

2. Publicity

5 neighbours notified.

Site Notice displayed 9 February 2018.

Press Notice published Burton Mail 14 February 2018.

3. Summary of Consultations and Representations Received

Statutory Consultees

Chilcote Parish Meeting do not wish to comment on the application.

NWLDC Environmental Protection has no environmental observations.

NWLDC Housing advises that the proposal would not qualify as a rural exception site for affordable housing.

Leicestershire County Council - Ecology has no objections.

Leicestershire County Council - Archaeology advises that as buried archaeological remains, indicative of the establishment, settlement and probable clearance of the settlement to make way for a post-medieval park, may well survive in the development area and will be affected by the proposals, an archaeological desk-based assessment and a field evaluation need to be undertaken and submitted to the Council before the application is determined. The lack of archaeological information should be an additional reason for refusal, to ensure the archaeological potential is given future consideration.

Leicestershire County Council - Lead Local Flood Authority has no comments.

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

A total of 32 letters of representation have been received.

28 letters have been received (including six duplicates) raising objection on the following grounds:

Principle

- the proposal is outside Limits to Development and is contrary to Policy S3;
- greenfield site normally used for livestock;
- development of agricultural land should not be allowed;
- first time a non-agricultural building is proposed on agricultural land within the village;
- no place for a 'non-agricultural' dwelling to be built on agricultural land';
- setting of precedent for further development on agricultural land in the village which would be more difficult to resist;
- proposed covenant to prevent development went some way to easing concerns regarding similar future proposals but understands that the applicants cannot make this covenant and that the site owner is unwilling to give such a guarantee against possible future development;
- site owner owns other land in the village that would have a lesser impact on the village;
- applications for redevelopment of existing buildings and infill plots can be supported;
- development at Hurst Court was only allowed if no changes to building footprints and surrounding area;
- no bus services and limited facilities in the village (church, village hall and play area) and occupiers of the dwelling would be totally reliant on the car;
- Chilcote is classified as a hamlet, within the lowest level of the settlement hierarchy under Policy S2;

Need for Dwelling

- a house of this size is likely to attract a value of £450,000-£600,000, which even with a 50% discount on its open market value, would not be an affordable dwelling;
- the site would have a market value of £250,000;
- average incomes in the area are £22,000;
- an open market discount of 70-75% would be required to make the dwelling affordable;
- cost and final value don't appear to meet understood criteria of affordable housing;
- dwelling does not satisfy 2015 housing need survey which identified a need for one-two bedroom properties for people wanting to stay in the village after downsizing;
- housing need survey therefore cannot be relied upon as evidence to support the application;
- proposal does not put forward a dwelling that is affordable due to its size or suitable for young people trying to get onto the property ladder or someone seeking a smaller property;
- dwelling proposed for daughter of the site owner and therefore not proposed for benefit of people within the village;
- applicants live four miles away in Measham and are able to support parents from there;
- as site was gifted to the applicants, even if sold with a 50% discount, applicants could potentially cover build costs and still have substantial profit;
- dwelling would not be carried out by a housing association and so would not remain reserved for local people, at initial sale/rent and in the future;
- proposal would not meet the national definition of affordable housing;
- none of the criteria are met under Policy H5 of the adopted Local Plan for the proposal to be a rural exception for affordable housing;

- site owner sold another house in the village, which would have been more 'affordable' and met the family's current need;
- currently a house up for sale in the village which has been empty for some time;
- affordable properties available to buy in Netherseal and Measham;

Character and Visual Amenities

- harmful to rural character and landscape setting;
- harm to open undeveloped character of the field and its relationship with the village;
- encroachments into the countryside;
- inconsistent with settlement pattern;
- creates ribbon development and would not integrate with existing buildings or be well-related to the settlement;
- scale of the site and its potential impact are understated;
- does not follow building line along Netherseal Road;
- the indicative design are incongruous in style and material to surrounding properties;

Setting of Listed Buildings

- detrimental impact on the setting of Hurst Farmhouse which is a Grade 2 listed building, and Hurst Court which was the historic farmstead, including in views from the nearby public footpath;
- Hurst Farmhouse's connection with the surrounding countryside would be significantly impaired;
- Hurst Farmhouse's connection with the countryside has not been weakened by extension to No. 1 Hurst Court;
- application attempts to downplay the value Hurst Court makes to retaining the setting of Hurst Farmhouse and Hurst Lodge, which retain the integrity of the farm cluster at Hurst Farm;
- importance of the open setting of Hurst Farmhouse in the landscape are central to its listing and historic value;
- significant impact on views from the listed Hurst Farmhouse of the open countryside;
- impact on setting of St Matthew's Church;
- as the proposal would not be a rural exception for affordable housing, this cannot be justified as a public benefit when considering the harm to the setting of the listed buildings;
- limited public benefits to the proposal which would not outweigh the great weight given to the heritage asset's conservation;
- proposal for solar panels at No. 1 Hurst Court was not taken forward due to planning officer's advice regarding impact on setting of listed buildings and visibility from public footpath;

Highway Safety

- hazard to other road users due to proximity to blind bend on a narrow lane which is frequently used by heavy farm vehicles and cyclists;
- access not used for some time as field is accessed by another access off Church Lane;

Residential Amenities

- impact on outlook from nearby dwellings, especially No. 1 Hurst Court;
- impact on privacy;
- residents of No. 1 have spent considerable amount of time developing and nurturing their garden into a quite beautiful space, which this year will be opened up for charity;
- smoke from flue would discharge direct into No. 1's garden;

Other Matters

- impact on hedgehogs which are in serious decline in rural areas due to loss of scrubland on site;
- impact on views;
- impact on property values;
- overall effect of the proposal will have a greater negative impact on the immediate surroundings than any positive benefits;
- information submitted in support of the proposal is biased, flawed and factually incorrect, and not a true reflection of the current situation;
- selective consultation and ignored those who would be most affected, with wider consultation only taking place after a request by very concerned residents;

Four letters have been received in support on the following grounds:

- application is for our daughter and her husband who we would like to provide us with on-site care and assistance due to ill-health and old age, but they are unable to move back to Chilcote due to very high house prices;
- applicants have a strong connection with the village;
- proposal would provide a form of affordable intermediate housing and would exist in perpetuity, with a restriction on market value of 50%;
- not for profit scheme, with the applicants intending to live in the village and join in with village activities, and contributing to the viability and sustainability of existing services;
- village needs youngers residents but they are priced out of the housing market;
- main concerns from the meeting appeared to be the setting of a precedent within the village and impact on neighbouring properties;
- applicants would like the field that the site sits in and the adjacent field to be passed to them and to retain them as grassland, and would be open to adding a covenant to prevent building on these fields;
- land is of no agricultural use due to topography;
- dwelling designed to be sympathetic to neighbouring properties and to maintain their views;
- dwelling would assimilate into surroundings and utilise an existing access;
- the applicants have engaged with residents and attended a village meeting.

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)

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 32 and 35 (Promoting sustainable transport)

Paragraphs 47, 49, 50, 54 and 55 (Delivering a wide choice of high quality homes)

Paragraphs 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)

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

Paragraphs 129, 131, 132, 133, 134, 135, 139 and 141 (Conserving and enhancing the historic environment)

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

Draft National Planning Policy Framework (2018)

In March 2018, the Ministry of Housing, Communities and Local Government commenced consultation on a draft revised NPPF. In view of the early stage of this consultation process, it is considered that only limited weight may be attached to the policies of the draft NPPF at this time, and greater weight should be attached to the 2012 version.

Adopted North West Leicestershire Local Plan (2017):

The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are relevant to the determination of the 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 H5 - Rural Exceptions Sites for Affordable Housing

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 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(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Self-Build and Custom Housebuilding Act 2015 (as amended)

Housing and Planning Act 2016

The Community Infrastructure Levy Regulations 2010

The Conservation of Habitats and Species Regulations 2017

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

National Planning Practice Guidance - March 2014

River Mease Water Quality Management Plan - August 2011

The River Mease Developer Contributions Scheme (DCS) - September 2016

Leicestershire Highways 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, includes the adopted North West Leicestershire Local Plan (2017).

The application site lies outside the defined Limits to Development with residential dwellings not

being a form of development permitted by Policy S3 of the adopted Local Plan save for limited exceptions as specified in the policy. Under Policy S2 Chilcote is considered to be a hamlet, which is defined as a small group of dwellings with no services and facilities, where development will be considered in the context of the countryside policy (i.e. Policy S3). 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.

Assessment Against Policy H5 (Rural Exception Site for Affordable Housing)

It is noted that the dwelling is proposed to be provided to meet a 'local need', with the need in this circumstance being outlined in the Proposals and Background section of this report. Policy H5 deals with rural exceptions sites for affordable housing which are located outside the Limits to Development. Affordable housing is defined at Annex 2 of the NPPF as "*social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision*". Policy S3 also supports affordable housing in accordance with Policy H5, subject to other detailed matters which are considered later in this report.

Consideration must therefore be given as to whether the proposal would constitute affordable housing, having regard to the above definition and the provisions of Policy H5, in particular sections 1 (a) and 2 (a) and (b) of the policy. Whilst section 3 of Policy H5 relates to the provision of market housing on exception sites, this part refers specifically to schemes for affordable housing that need to include an element of market housing to ensure delivery. The other matters set out under Policy H5 are considered in more detail later in this report.

Policy H5 - section 1 (a) - the housing is demonstrated to meet an identified local need for affordable housing

Whilst it is recognised that the dwelling is proposed to meet the applicants' need to reside close to Mrs Hancocks' parents and provide their care, Policy H5 specifically relates to a local need for affordable housing.

Whilst the conclusion of a Rural Housing Need Survey for Chilcote (2015) does refer to a need for two small open market or affordable homes, this reference to affordable homes is erroneous, as the survey itself identified a need for:

- 1 x 2 bed house or bungalow for open market purchase;
- 1 x 1 bed house or bungalow for open market purchase.

Therefore this survey did not identify an affordable housing need within Chilcote. The use of the survey is the accepted methodology within the Local Plan to identify housing needs to justify affordable housing in rural settlements under Policy H5.

The Housing Needs Survey identified a requirement for open market housing in Chilcote but such housing cannot be considered under Policy H5, and the principle of the proposal should therefore be assessed against the criteria set out under Policies S2 and S3. As such it is considered that the proposal would not comply with this part of Policy H5.

Policy H5: - section 2 (a) - all initial and subsequent occupiers of the affordable dwelling will be local people in housing need

The Council's Strategic Housing team advises that all initial and subsequent residents of the dwelling would need to meet the Council's local connection criteria, which is considered to be

met initially given that Mrs Hancocks' parents have lived in the village for over three years.

As noted above, whilst it is recognised that the dwelling is proposed to meet the applicants' personal need, the Council needs to be satisfied that initial and subsequent occupiers are unable to meet their own housing needs on the open market.

The Council's Strategic Housing team advises that the Council administers a district wide Housing Register, and district wide average income levels have been used to determine affordability eligibility for the Housing Register. Those people either on the register or eligible for the register are considered to be in housing need. The current Housing Register thresholds are:

- a) Household income of less than £57,085
- b) Savings of less than £20,100
- c) Equity in property of less than £33,000

It is therefore reasonable to use these figures to determine eligibility for this proposal, as if any are exceeded the household would not be eligible for the Housing Register. The financial information submitted by the applicants shows their income and equity is in excess of the limits above, and demonstrates that they are able to fund the building of the proposed dwelling themselves. No information relating to household savings has been submitted. The applicants would therefore not qualify for inclusion on the Housing Register and therefore cannot be regarded as an eligible household, as it is considered they can meet their own housing needs in the housing market.

The Council's Strategic Housing team also considers that individual self-build or bespoke market housing (as is proposed here) are not appropriate under Policy H5 as these homes, by their very nature, will be provided for specific households who have a) the means to meet their own housing needs and therefore are not in need of an affordable home; b) are not affordable under the NPPF definition outlined above and c) will not be occupied initially by eligible households.

As the applicants would also initially occupy the dwelling themselves, and given they are not considered to be in housing need as outlined above, the proposal would not comply with this part of Policy H5.

Policy H5: - section 2 (b) - all initial and subsequent occupiers of the affordable dwelling will benefit from the status of the dwelling as affordable housing in perpetuity.

The agent proposes that the local need element of the property would be secured by way of a legal agreement that would restrict occupation and the market value of the property at 50%, which the agent considers makes the proposal a form of intermediate affordable housing.

However irrespective of future sales of the property (i.e. at a reduced market rate), as the dwelling would not initially be sold at a discount of 50% but would be occupied as a self-build market home, it is considered that the proposal could not be regarded as affordable initially. Only at some unknown point in the future, when the applicants or their successors sell the property, would the property be available as intermediate affordable housing. Securing the property as an acceptable form of affordable tenure for subsequent occupiers is not sufficient to meet the definition of affordable housing in the NPPF.

The Council's Strategic Housing Team also has significant concerns that the proposed dwelling would demand too high a value even with a 50% discount on its market value to secure it in perpetuity as an affordable dwelling. The submitted information advises that the cheapest two-

bed dwelling in Chilcote over the last four years was marketed at £449,950, and the cheapest four-bed dwelling was marketed at £580,000. The agent advises he has conservatively estimated the value of the proposed dwelling to be £450,000, giving a 50% discounted market value of £225,000.

It is considered that a property of this value would not be affordable, as to buy a property of this value is likely to require an income of £64,286 based on a mortgage of 3½ times household income. Anyone with a household income above £57,085 would not qualify for inclusion on the Council's Housing Register as they would exceed the Council's Housing Register thresholds (outlined earlier in this section of the report) and would not therefore be an eligible household for affordable housing, as it is considered they can meet their own housing needs in the housing market. The Council's Strategic Housing Team also advises that completion of the Council's Discounted Open Market Eligibility Form (which sets out that occupiers would need to meet the Housing Register thresholds set out above) would be required as part of any legal agreement and returned to the Council to confirm eligibility. The Strategic Housing Team are therefore also concerned that anyone who was eligible to occupy the dwelling on the basis of being eligible for inclusion on the Housing Register would not be able to purchase the discounted dwelling.

Due to the unavailability of income data for specific settlements and the distortions caused by using such small numbers, the average household income levels for the District are based on district wide figures of £36,448 (mid 2015 figures provided for the draft Leicestershire HEDNA report). Given the above, it appears that this average income would be insufficient to purchase the proposed dwelling on completion or in future years.

Given that the dwelling would not be initially occupied as an intermediate affordable dwelling, and that even with a 50% discount on market value the dwelling would also be unlikely to be affordable for eligible households, it is considered that the proposal does not comply with this part of Policy H5.

It should be noted that if the application is approved at Planning Committee, that there would be a need for a Section 106 Agreement to restrict the occupation of the dwelling to those with a local connection (based on the Council's local connection criteria) and as an intermediate dwelling with a discount on its market value, either initially and in the future, or just in the future. The application has been considered on the basis of a 50% discount on market value as set out in the submitted DAS. However the DAS advises the 50% discount figure is not fixed at this stage, and that the intention is that this percentage is set at a level which results in the scheme being not for profit. It is not clear therefore how such an agreement would be worded to achieve this aim. However it is recommended that a legal agreement would need to fix the discounted market level at no lower than 50% in order to ensure the greatest chance of the property remaining affordable in the future.

Conclusion in Respect of Policy H5

The dwelling is proposed to meet the applicants' personal local housing need. However it is considered that it would not meet an identified local need for affordable housing, would not be initially occupied by people with a housing need, would not initially be occupied as an affordable dwelling and would not be a dwelling which is affordable for eligible persons in the future. Therefore it is considered that the proposal would not qualify as a rural exceptions site for affordable housing and would therefore be contrary to Policy H5.

Other Matters relating to the Principle of the Proposal

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

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

In terms of social sustainability, Chilcote has a very limited range of services/facilities, namely a church, village hall and play area, and there is no bus service. The closest settlements with a shop, school and other facilities/services and small-scale employment sites (Netherseal, Clifton Campville and Appleby Magna) are in excess of the 800 metre-1km distance that is considered would deter trips by walking. The road to Netherseal has no streetlighting or footway. Whilst these settlements are within the average cycling trip distance, the routes include mostly 50-60mph roads, which are narrow in places, with no streetlighting. Therefore residents of the dwelling would be reliant upon the private car to access basic day to day services/facilities, which weighs heavily against the site being socially and environmentally sustainable.

Whilst it is considered that occupiers of the dwelling could support the facilities within the village, the likely contribution of the development to the vitality of the local community as a whole would be very limited given that only one dwelling is proposed, and that Chilcote has limited facilities. Furthermore the proposal would provide very limited construction jobs.

It is also noted that Policies S2 and S3 do provide some opportunities for appropriate residential development in rural areas and that this is informed by a settlement hierarchy which has been developed having regard to the role, functions and sustainability of different settlements. Given the site's location in the least sequentially preferable of the settlements set out under Policy S2 the proposal would conflict with the settlement hierarchy and strategic housing aims of adopted Policy S2.

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 38 entries on the Council's self build register, including the applicants. No self-build dwellings have been granted in the Chilcote area. 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.

The proposal would result in the loss of agricultural land. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). It is not clear what class of agricultural land the site falls within. Whilst the NPPF does not suggest that the release of smaller BMV sites 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 it is considered that this is not sufficient to sustain a reason for refusal in this case.

As outlined above, the dwelling is proposed for the applicants' personal need to reside close to Mrs Hancocks' parents and provide their care. However it is considered that as this is a personal need, for which there is no policy support in the Local Plan or in the NPPF, and that it is not an unusual for family members to want to live close to other family members who are older and/or with ill-health, it is considered that this need should be given very limited weight.

Conclusion in respect of the Principle of the Proposal

It is considered that the proposal would not result in an 'isolated' dwelling given it is close to

existing development. There would also be limited social and economic benefits. However there would be harm to the historic environment, and insufficient information has been submitted to assess the impact on potential buried archaeological remains, as set out in more detail below.

As the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of Policy S2, and is in a location where future residents of the dwelling are likely to be reliant upon the private car to access basic day to day services/facilities. The proposal would not constitute a rural exception site for affordable housing and would not comply with Policy H5, and is not a form of development permitted in the countryside by 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 Policy S3 and the NPPF. The resulting harm would significantly and demonstrably outweigh the limited social and economic benefits, including the provision of a self-build dwelling, and would not be outweighed by the material consideration of the applicants' need for the dwelling so that they can reside close to Mrs Hancocks' parents and provide their care. Therefore it is considered, overall, that the proposal does not constitute sustainable development.

Setting of Listed Buildings

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) 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.

In terms of heritage assets, Hurst Farmhouse and Hurst Lodge lie around 63 metres to the east, Rock Farmhouse lies around 83 metres to the south east and St Matthew's Church lies around 63 metres to the south west, all of which are Grade 2 listed buildings.

Part of Hurst Farmhouse's and Hurst Lodge's significance are their age, dating from the mid-19th century, their original appearance is largely still apparent, the farmhouse's prominent setting within the village and that it still retains its historic relationship with the village as one of its main five farmhouses, and its visual, historic and functional relationship with the surrounding rural landscape. The listing description states that it is '*...The finest of several buildings in identical style in this village.*' Part of the significance of St Matthew's Church are its medieval origins, even if the building itself was re-built or altered in the 19th century, its appearance and setting and its historic and functional relationship with the village, in particular being the only place of worship. Part of Rock Farmhouse's significance is its age, dating from the 18th century and that some of its original features are retained.

Significant weight is given to preserving the setting of the Grade 2 listed buildings. Rock Farmhouse is separated from the site by modern development and the proposal would not be seen in the immediate setting of the farmhouse. As such it is considered that the proposal would not result in harm to the setting of this designated heritage asset.

The dwelling would be seen in the setting of St Matthew's Church, albeit on the periphery, in views towards the church from the public footpath that runs through the field within which the site is located. In addition the dwelling would be partly visible in views of the site from the churchyard, and the church would be in full view from the site itself. However views of the proposal alongside the church would be fairly limited and would not significantly intrude into the open setting of the church. As such, it is considered that the proposal would result in less than

significant harm to the setting of the church.

The field within which the site is located forms an important part of the setting of Hurst Farmhouse, as it forms part of the largely undeveloped foreground to the farmhouse. The undulating nature of the site itself also draws attention to the farmhouse, which is a prominent feature in the streetscene and in views from the public footpath. The site also forms part of land which abuts the Hurst Farm farmstead.

It is acknowledged that Hurst Court, in particular No. 1, also forms part of the foreground to the farmhouse. However No. 1 is one of the original farm outbuildings to Hurst Farm and therefore has always formed part of this setting. Whilst No. 1 has been extended to the front, this extension is modest and single storey and does not completely obscure views of the farmhouse from the public footpath. The garden to No. 1 does provide an element of domesticity to the view of the farmhouse from the public footpath but one that is considered to be limited as it does not extend beyond the western edge of the former farm complex. As such the Conservation Officer is of the view that development of Hurst Court has not significantly compromised the setting of the farmhouse. In addition whilst there may be limited inter-visibility between the farmhouse and the countryside, the Conservation Officer advises that it is possible to walk from the farmhouse, passing the traditional farmstead buildings, to find oneself addressing agricultural land, including the application site.

The proposal would be seen in the setting to Hurst Farmhouse, in views from Netherseal Road to the immediate west of the site and in front of the site, but most clearly in views from the public footpath. Whilst the proposed dwelling is unlikely to completely obscure the view of the farmhouse from the public footpath, the rural character of the setting of the farmhouse would be significantly altered, with the loss of this part of the field, the extensive ground works required to lower the land levels and the associated retaining walls, and the introduction of a domestic character to the site, including the large area of hardstanding forming the driveway and parking/turning area, the front garden area and soft landscaping.

Whilst the view of the site from Hurst Farmhouse would change, with the site having a more domestic appearance in comparison to the existing situation, it is considered that this would have a limited impact given that most of the dwelling would be screened by No. 1 Hurst Court and that the longer view of the rural landscape would be retained.

The site, and the wider rural landscape within which it is set, contributes positively to the setting of the farmhouse, as it contributes to the understanding of the functional relationship between the farmstead and the agricultural land. The proposal would sever the farmstead from the abutting agricultural land, to which the Conservation Officer objects, resulting in the loss of part of the rural setting of the farmhouse and fragmentation of the surrounding agricultural land from the farmhouse. It is considered that the local context of the setting of the farmhouse and the relationship of the site with the farmhouse can be experienced when crossing the public footpath, as well as when viewed from Netherseal Road, and therefore the site's present and past relationships with the heritage asset can be experienced. As such it is considered that the proposal would fail to preserve the setting of Hurst Farmhouse contrary to the expectations of the Act. However, this harm would be less than substantial in the NPPF's terms.

Considerable weight and importance is attached to this harm to the setting of the heritage assets. In this case greater weight is attached to the harm to the setting of Hurst Farmhouse given the circumstances set out above, with the harm to the setting of the church carrying lesser weight. Regardless of the level of weight that is attached to the harm to the setting of the heritage assets, paragraph 134 of the NPPF requires less than substantial harm to designated

heritage assets to be weighed against the public benefits of the proposal.

In this case the dwelling would make a very limited contribution to the Council's housing land supply, and in any case the Council has a five year housing land supply. The provision of one self-build dwelling is of limited benefit. The dwelling is not considered to constitute affordable housing, as it would be contrary to Policy H5 of the adopted Local Plan, and very limited weight is given to the personal need for the dwelling put forward by the applicants, which is considered to be a private benefit. As such the public benefits of the proposal are limited, and would not outweigh the harm to the setting of the listed buildings. Therefore the proposal would be contrary to Policy HE1 of the adopted Local Plan and paragraphs 132 and 134 of the NPPF.

Archaeology

The County Archaeologist advises that:

Consideration of the Leicestershire and Rutland Historic Environment Record (HER) and the developer's Heritage Statement (HS) indicates that the development area, in addition to its above ground heritage concern - the listed and unlisted historic buildings discussed in the HS - has a buried archaeological interest. The site lies within the former historic medieval and post-medieval historic settlement core of Chilcote (HER ref.: MLE16709), in an area of earthwork remains associated with the former village and the post-medieval park (illustrated on the 1776 plan). Buried archaeological remains indicative of the establishment, settlement and probable clearance of the settlement to make way for the park, may well survive in the development area and will be affected by the proposals... no assessment of the form or character of the earthwork remains is offered, nor their relationship to the wider parkland setting considered.

The County Archaeologist goes on to advise that the proposals include operations that may destroy any buried archaeological remains that are present, but the archaeological implications cannot be adequately assessed on the basis of the currently available information. Since it is possible that archaeological remains may be adversely affected by this proposal, it is recommended that the Council defer determination of the application and request that the applicant complete an Archaeological Impact Assessment of the proposals, to include:

- an Archaeological Desk-based Assessment, including an earthwork survey using available topographic data such as the Environment Agency's LiDAR data;
- a field evaluation, by appropriate techniques including trial trenching, if identified necessary in the assessment, to identify and locate any archaeological remains of significance, and propose suitable treatment to avoid or minimise damage by the development. Further design, civil engineering or archaeological work may then be necessary to achieve this.

The agent has advised that the applicant does not wish to undertake the requested archaeological work. Conditions requiring the required archaeological work to take place after determination would not be sufficient to prevent any potential harm. It is therefore concluded that insufficient information has been submitted to ensure that the development would not harm important archaeological remains, and therefore the proposal would not comply with Policy He1 of the adopted North West Leicestershire Local Plan and paragraphs 135 and 141 of the NPPF.

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 site is part of an undeveloped grass field bordered on one side by residential development at Hurst Court, with a hedgerow forming the boundary, with the remainder of the field surrounding the site to the west and north. The site fronts onto Netherseal Road and is fronted by a mature hedgerow, with dwellings on the opposite side of the road set back and screened from the site by mature trees/vegetation. The roadside hedgerow provides some screening, although given the changes in the land levels on the site, increasing in a northerly and easterly direction by up to five metres, the site is also prominent within the streetscene. A public footpath runs through the surrounding field to the north and west of the site, from which there are open views of the site. The site is rural in character and provides the rural setting for development on Netherseal Road, appearing as an undeveloped site separate from existing development and closely associated with the rural landscape to the west and north on the northern side of Netherseal Road. As a consequence the site contributes positively to this part of the village, both in the approach from Netherseal Road and Church Lane, and from the public footpath.

Whilst the indicative plans show a two storey dwelling it is noted that a single storey dwelling could be proposed at reserved matters. It is also noted that extensive ground works would be undertaken on parts of the front and central areas of the site to lower the land levels to a similar height to the road. However it is considered that regardless of the scale of the dwelling and the groundworks, some parts of the dwelling would be visible above the frontage hedgerow, in particular the element that would be sited at the same level as existing land levels, and in particular during the winter months. The existing access would be widened, which would open up views into the site not just of the dwelling but of the parking/turning area. Given the depth of the hedgerow, some trimming back would be required to provide the visibility splays, rather than its removal.

The dwelling would be close to existing housing at Hurst Court, which would provide a backdrop in some views of the site from the road and public footpath. However in views from the footway to Netherseal Road and Church Lane, in longer and more immediate views, the dwelling would be seen against a backdrop of the gardens to these existing dwellings, rather than the dwellings themselves. Hedgerows/vegetation provide a clear demarcation between the built up part of the village and the site and the field within which it is located; the edge of the village here follows the extent of the former farm complex at Hurst Farm. In views south from the footpath, the site and its environs appear more rural, due to the more limited views of Hurst Court and the mature trees/vegetation to the front garden to Lower House Farm. The proposal would therefore not respect the established settlement form/field pattern in this location and would appear incongruous in these southerly views. The proposal would be clearly separate from existing development and would extend development into the open countryside, in an open and prominent location both when viewed from the road and from the public footpath.

A new dwelling, and its associated ancillary development such as the extent of hardsurfacing, as well as the extensive groundworks proposed, would result in the urbanisation of the site which would diminish its present rural character and contribution to the character and visual amenities of the area, and would be an incongruous encroachment into the rural environment.

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 need for good design in new residential development is outlined in adopted D1 and Paragraphs 57, 60 and 61 of the NPPF.

The proposal would result in a density of around six dwellings per hectare. 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 in this part of the village and the footprint of the dwelling would give an opportunity to reflect local character and distinctiveness. Whilst extensive groundworks are proposed, the proposal attempts to reduce the scale of the dwelling by setting it at a lower level. The site could accommodate all of the necessary requirements (private garden, parking/turning space) without being too cramped or resulting in over-development.

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.

Residential Amenities

The property that would be most immediately affected by the proposals would be No. 1 Hurst Court which is a single-storey dwelling located to the east of the site. Other dwellings are sited at sufficient distance away in order to prevent any loss of residential amenities. No. 1 contains windows in its rear elevation facing the site which serve habitable rooms, and its rear garden lies immediately adjacent to the site's eastern boundary. The dwelling would be 28 metres from these rear windows and five metres from the garden. The two storey element of the dwelling would be cut in, so that it is at a similar height to the road, and the element proposed at existing land levels would be single storey. No. 1 is positioned around one metre higher than the site, with its garden also being slightly higher. A dwelling could be accommodated on the site that has any habitable room windows facing away from No. 1. Whilst concerns have been raised regarding the potential for smoke from use of a flue impacting on No. 1, appearance of the dwelling is reserved for future determination and therefore this matter cannot be considered at this stage, and it is considered that a flue could be accommodated on the dwelling without resulting in significant impact on No. 1. As such it is considered that the proposal would not adversely affect the amenities of occupiers of nearby dwellings from overlooking, loss of light or creation of an oppressive outlook, and as such would comply with the provisions of Policy D2 of the adopted Local Plan.

Highway Safety

Given the scale and nature of the proposal the application is dealt with under the County Highway's Standing Advice. Therefore the application has to be considered having regard to the provisions of the Leicestershire Highways Design Guide and Highways Standing Advice. Amended plans have been received, which show that visibility splays of 43 metres can be provided in both directions, and that an access and driveway of adequate width can be provided. Sufficient parking and turning space would be available within the site, and the driveway and parking/turning areas would be located within the cut away ground, so their gradient would not be too steep. Pedestrian visibility splays are also proposed at the junction of the access with the verge. Whilst the sharp bend on Netherseal Road, at its junction with Church Lane, is located to the west of the access, it is considered that vehicle speeds are likely to be low on the approach to the site from the west, given this bend and junction. Whilst the access does not appear to have been in significant use for some time, it could still be used by

vehicles accessing the existing field. Access to the remaining field is now proposed to be via an existing access located further to the west off Church Lane, and not via the site access. It is therefore considered that a reason for refusal on the basis of severe impact on highway safety against Policies IF4 and IF7 of the adopted Local Plan and paragraph 32 of the NPPF could not be justified in this case.

Trees and Ecology

The hedgerow on the boundary with No. 1 Hurst Court is shown to be retained, and the majority of the frontage hedgerow would also be retained, save for some trimming back for visibility splays. An area of small trees/vegetation at the site's south eastern corner appears to be retained, which are not in any case considered to be of significance. As such the proposal would comply with the provisions of Policy En1 of the adopted Local Plan.

There are mature trees/hedgerows on and close to the site and the site is part of and adjoined by open fields and large gardens. All of these are features that could be used by 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 Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions. Small sections of vegetation and hedgerows would be removed but the majority would remain, and there is other similar habitat in the vicinity. The County Ecologist advises that whilst the grassland may be species-rich, it is a small part of a much larger pasture and any loss of habitat would be not significant. The County Ecologist also advises that there is no requirement for ecology surveys, and has not made any specific comments in respect of concerns regarding hedgehogs. There would still be opportunities for the site to be used by hedgehogs and pass from the site to adjacent land. On this basis it is considered that protected species and other wildlife would not be adversely affected by the proposal and the proposal complies with the Habitats Regulations 2017 and Policy EN1 of the adopted Local Plan.

River Mease Special Area of Conservation/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 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 are considered to meet the three tests of the 2010 CIL 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 proposal would increase the foul drainage discharge from the site into the mains sewer. The applicant has indicated they are willing to pay the required DCS contribution and the Council's solicitors have been instructed. The Environment Agency and Natural England have both issued Standing Advice relating to the River Mease SAC under which they do not need to be consulted if the proposal connects to the mains sewer and the applicant is agreeable to payment of the DCS contribution.

As the new dwelling would be sited on a grassed field, a condition could be imposed requiring surface water to discharge to soakaway or a sustainable drainage system.

The flows from the dwelling needs to be taken into account against the existing headroom at

Chilcote Treatment Works. At March 2016 Severn Trent Water (STW) was unable to provide specific information regarding capacity but estimated that capacity was available for less than five dwellings. Only one dwelling has been approved in the village since 2009 and no other development has been given consent or is under construction that would further reduce this capacity. As such it is considered that there is likely to be capacity available at the relevant treatment works for the foul drainage from the site.

Notwithstanding the above, STW has previously advised that it will not object to proposals where there is no capacity available but that a phasing condition should be imposed. However a recent appeal decision for a site at Talbot Place in Donisthorpe considered that a condition could be imposed relating to drainage details, and no comments have been received from STW in respect of this application. In addition, STW has the opportunity to consider whether capacity is available within its sewer network when issuing permits to connect to the sewer 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, and would comply with the Habitat Regulations, the NPPF and Policies EN1 and EN2 of the adopted Local Plan.

Drainage and Flood Risk

The site is within Flood Zone 1 and is not within an area of low, medium or high risk of surface, although an area of low risk surface water flooding runs along Netherseal Road to the front of the site. The Lead Local Flood Authority has no comments to make. No comments have been received from Severn Trent Water. Matters relating to drainage are discussed in more detail above in the section of the report relating to the River Mease SAC. As such the proposal is unlikely to result in a significant impact on flood risk or drainage and would comply with Policies CC2 and CC3 of the adopted Local Plan.

Other Matters

Concerns have been raised in relation to the level of consultation undertaken by the applicants. It is understood that the applicants and agent attended a parish meeting in December 2017. There are no statutory requirements in place in relation to pre-application consultation for a proposal for a single dwelling. The Council has also sent consultation letters to occupiers of all adjacent properties, as well as displaying a site notice, publishing a press notice in the Burton Mail and consulting the Parish Meeting.

It is a fundamental tenet of the planning system that every planning application is considered on its own merits and a decision made in relation to the proposal do not set a precedent for other forms of development.

Concerns have also been raised in respect of the accuracy of some of the submitted information. The application submission, together with information gathered during the site visit and consideration of the application, have allowed for the application to be fully and adequately assessed.

In respect of matters raised in the letters of representation that have not been addressed above, impacts on views and property values, and the use of covenants, are not material planning considerations and therefore cannot be given weight in the determination of the application.

Conclusion

The proposal would have limited social and economic benefits and would not adversely impact on residential amenities, highway safety, trees, ecology/protected species, the River Mease SAC and drainage/flood risk. However there would be harm to the setting of listed buildings, which would not be outweighed by the limited public benefits of the proposal, and insufficient information has been submitted to assess the impact on potential buried archaeological remains, contrary to Policy He1 and the NPPF.

As the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of Policy S2, and is in a location where future residents of the dwelling are would be reliant upon the private car to access basic day to day services/facilities. The proposal would not constitute a rural exception site for affordable housing and would therefore not comply with Policy H5, and is not a form of development permitted in the countryside by 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 Policy S3 and the NPPF. The resulting harm would significantly and demonstrably outweigh the limited social and economic benefits, including the provision of a self-build dwelling, and would not be outweighed by the material consideration of the applicants' need for the dwelling so that they can reside close to Mrs Hancocks' parents and provide their care. Therefore it is considered, overall, that the proposal does not constitute sustainable development.

RECOMMENDATION - REFUSE, for the following reason(s):

- 1 Under Policy S2 of the adopted North West Leicestershire Local Plan Chilcote is considered to be a hamlet, which is defined as a small group of dwellings with no services and facilities, where development will be considered in the context of the countryside policy (i.e. Policy S3). Policy S3 of the adopted Local Plan 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. Policy H5 of the adopted Local Plan sets out the criteria for rural exception sites for affordable housing. As the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of Policy S2, and is in a location where future residents of the dwelling would be reliant upon the private car to access basic day to day services/facilities. The proposal is not a form of development permitted in the countryside under Policy S3, and would not qualify as a rural exceptions site for affordable housing and would therefore be contrary to Policy H5. 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. The resulting harm from these impacts would significantly and demonstrably outweigh the limited social and economic benefits, including the provision of a self-build dwelling, and would not be outweighed by the material consideration of the applicants' need for a dwelling on the site so they can reside close to parents and provide their care. Therefore it is considered, overall, that the proposal does not constitute sustainable development.

- 2 Under Policy He1 of the adopted North West Leicestershire Local Plan, where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposal would fail to preserve the setting of Hurst Farmhouse and the Church of St

Matthew's, which are Grade 2 listed buildings. This harm would be less than substantial. It is considered that clear and convincing justification for the development has not been put forward nor would the limited public benefits of the proposal outweigh this harm to the setting of designated heritage assets. As such the proposal would not comply with Policy HE1 of the adopted Local Plan and paragraphs 132 and 134 of the NPPF.

- 3 Under Policy He1 of the adopted North West Leicestershire Local Plan, the Council will support development that conserves the significance of non-designated heritage assets, including archaeological remains. The site is likely to have a buried archaeological interest, as it lies within in an area of earthwork remains associated with the former village and the post-medieval park. As such the proposal may destroy any buried archaeological remains that are present. The archaeological implications cannot be adequately assessed on the basis of the submitted information. Conditions requiring the required archaeological work to take place after determination would not be sufficient to prevent any potential harm. It is therefore concluded that insufficient information has been submitted to ensure that the development would not harm the archaeological remains. There are no public benefits that would outweigh the potential harm to buried archaeological remains and therefore the proposal would not comply with Policy He1 of the adopted North West Leicestershire Local Plan and Plan and paragraphs 135 and 141 of the NPPF.

Alterations to existing access and erection of holiday lodge

Report Item No
A4

Lavender House 80 Snarestone Road Appleby Magna
Swadlincote Derby DE12 7AJ

Application Reference
18/00257/FUL

Applicant:
Mr & Mrs Halliwell

Date Registered:
20 February 2018

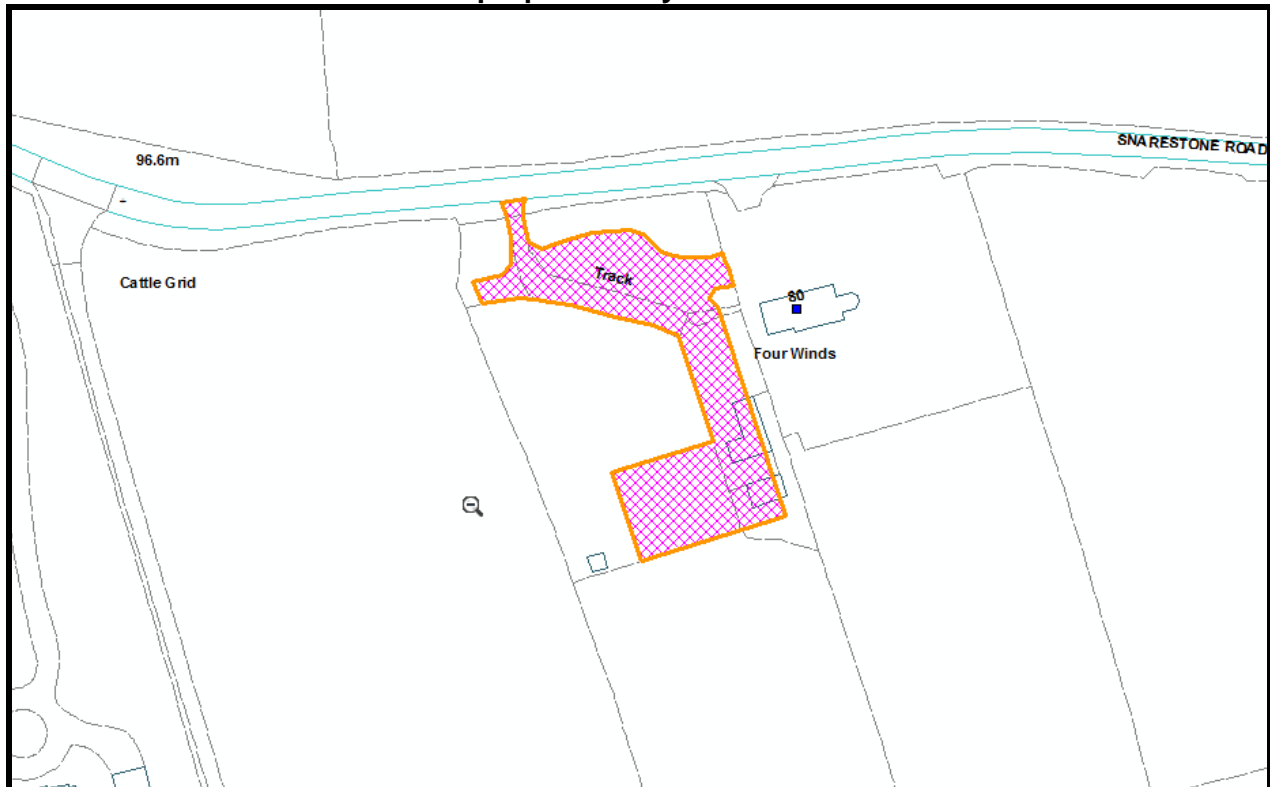
Case Officer:
Sarah Booth

Consultation Expiry:
5 April 2018

Recommendation:
REFUSE

8 Week Date:
17 April 2018
Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Reason for 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

Permission is sought for the erection of a single storey holiday home on land adjacent to Lavender House, 80 Snarestone Road, Appleby Magna.

Consultations

Members will see from the main report below that letters of support have been received from local residents.

There are no objections raised from statutory consultees.

Planning Policy

The application site is located outside Limits to Development as defined by the adopted Local Plan. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

Conclusion

The key issues arising from the application details are:

- The principle of the erection of a holiday home on the site
- Impact on the character and visual amenities of the area
- Impact on nearby residents
- Impact on ecology
- Impact on highway safety
- Impact on the River Mease SAC
- Impact on a Public Right of Way

The site is located within the countryside and whilst leisure and recreational uses can be acceptable in principle, this is subject to the development being sustainable and in accordance with Policy Ec13 of the adopted Local Plan 2017. The application proposes to construct a new building for use as a holiday home, which would be outside the Limits to Development in a location that is not in close proximity to any existing tourist destinations. This development would therefore be contrary to the aims of Policy Ec13 and the core principles of the NPPF.

Whilst the development would provide an economic gain through tourism, there is no justification for a holiday lodge in this location or material planning considerations that would outweigh the non-compliance with Policy Ec13. It is therefore recommended that the application 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 and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Permission is sought for the erection of a holiday home on land at 80 Snarestone Road, Appleby Magna. In terms of vehicular access to the site this would be achieved through the existing access for the stables and would involve closure of the access directly serving No.80 Snarestone Road. The remaining access would then be shared by the existing dwelling, the stables and the proposed holiday home.

Amended plans have been received which have reduced the scale of the development from two storey to single storey and the development has been located approximately 20 metres further north to be nearer to the main road and parallel with the applicant's existing dwelling.

The site lies within the catchment area of the River Mease Special Area of Conservation and is outside of the Limits to Development as set out in the adopted North West Leicestershire Local Plan (2017).

2. Publicity

2 Neighbours have been notified.
 Site Notice displayed 15 March 2018 and 8 March 2018.
 Press Notice published Burton Mail 21 March 2018.

3. Summary of Consultations and Representations Received

Statutory Consultees

Appleby Magna Parish Council no comments received at the time of writing this report.

Leicestershire County Council - Highways advised that the visibility splays are not compliant with Highways guidance however they are considered to be acceptable in this instance due to the speed of the road reducing from 60mph to 30mph to the west of the site.

Severn Trent Water no comments received at the time of writing this report.

Leicestershire County Council - Ecology has no objections however recommends that native species should be used in the new landscaping.

The Council's Environmental Protection team has no environmental observations.

Leicestershire County Council - Archaeology has no objections.

Leicestershire County Council - Footpaths has no objections but recommends conditions.

The Council's Footpaths Officer has no objections.

Third Party Representations

Two letters of representation have been received which support the application on the following grounds:

- Other holiday cottages in the village benefit the area.
- Development supports businesses in the area.

All responses received 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 (Building a strong competitive economy)
- Paragraph 28 (Supporting a prosperous rural economy)
- Paragraphs 32 and 35 (Promoting sustainable transport)
- 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 203, 204 and 206 (Planning conditions and obligations)

Draft National Planning Policy Framework (2018)

In March 2018, the Ministry of Housing, Communities and Local Government commenced consultation on a draft revised NPPF. In view of the early stage of this consultation process, it is considered that only limited weight may be attached to the policies of the draft NPPF at this time, and greater weight should be attached to the 2012 version.

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 Ec13 - Tourism development
- 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 CC2 - Water - Flood Risk
- Policy CC3 - Water - Sustainable Drainage Systems

Other Guidance

National Planning Practice Guidance 2014;
 The Habitats Regulations (The Conservation of Habitats and Species Regulations 2017);
 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.
 Leicestershire Highways Design Guide;
 Good Design for North West Leicestershire SPD - April 2017

5. Assessment**Principle of the Development**

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

This application proposes to erect a new single storey timber clad building for use as holiday accommodation on land adjacent to 80 Snarestone Road, Appleby Magna. The application site lies outside the defined Limits to Development within the adopted Local Plan. Recreation and leisure uses are a form of development permitted in the countryside by Policy S3 of the adopted Local Plan subject to compliance with paragraphs (i) to (vi). 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.

Paragraph 28 of the NPPF seeks to support economic growth in rural areas through supporting sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. The NPPF supports proposals which will help to diversify the rural economy and therefore, policy support exists for tourism accommodation within the countryside.

Policy Ec13 of the adopted Local Plan seeks to maximise the potential of tourism in the district and increase tourist opportunities for visitors by supporting the: *(c) development of new tourist attractions, including the provision of new accommodation to facilitate the opportunity for overnight stays and (2) seeks to encourage new tourist attractions and accommodation within the Limits to Development where it can make use of existing infrastructure.* However this application is located outside Limits to Development.

The proposal would have some impact on the open nature and rural character of the countryside and this will be considered in more detail in the following section on Visual impact. Amended plans have been received which reduce the height of the proposal and reposition the building further towards the highway. On this basis it is considered that there would be no significantly harmful impacts to visual amenities of the countryside, in accordance with Policy S3 of the adopted Local Plan and the NPPF.

Consideration must also be given to whether the proposals constitute sustainable development given the presumption in favour of such as set out in the NPPF.

In terms of social sustainability Appleby Magna provides a range of day to day facilities,

including a shop, church, a public house, play area/recreation ground, and there is a limited two hourly public transport service. These services/facilities are within 800-1000m (preferred maximum walking distance) of the site. To walk to these facilities from the site would involve a route along Snarestone Road which does not have a footway and the speed of the road ranges from 30mph to 60mph. An alternative route to the village is also available via a public footpath which runs through the application site, however this is less direct. 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.

The nearby larger settlements of Measham and Ashby de la Zouch are in excess of the 800 metre-1km distance and that is considered to deter trips by walking. Though within the average cycling trip distance, the routes include mostly 50-60mph roads with no streetlighting.

Whilst the site is not within the boundaries of the National Forest, it is approximately 2 miles away. Visitors are likely to need to drive to the nearest recreation and tourism facilities, including Twycross Zoo, the restored Minorca Colliery site, Donisthorpe Woodland Park, Moira Furnace, Conkers and the Hicks Lodge Cycle Centre and Ashby Castle. These tourist destinations are at least 3 miles away from the application site, which is therefore over the preferred maximum walking distance outlined above and the cycling distance of 4.5km (2.7 miles).

Policy Ec13 states that tourism accommodation should be well connected to other tourist destinations and amenities, in particular by public transport, and places emphasis on tourism accommodation being targeted in accessible locations served by a range of services and facilities. In rural areas, tourism related development will be allowed in a countryside location where necessary or where it may be directly related to a specific tourist destination and where possible, existing buildings should be re-used.

It is noted that the provision of holiday accommodation, provides opportunities for visitors to stay in the area, and such visitors would be likely to support the local economy to some extent by spending on goods and services. This is also reiterated in the letters of support received from member of the public. However, the proposal is not directly related to a specific tourist destination and is not well connected to other tourist destinations, in particular by public transport. Therefore it is considered that the development would be heavily reliant upon private vehicles to visit tourist destinations. Whilst a few services are available locally in Appleby Magna these are unlikely to meet the sole needs of occupiers of the holiday accommodation therefore regular vehicular journeys will be required. Any benefits which the development might bring to local communities, on balance, are likely to be limited.

The planning agent has advised that this proposed location is required only because of its outlook into the countryside, which in itself is not considered to be an overriding justification for the siting of this development outside Limits to Development. In this respect the proposal would not comply with Policy Ec13 of the adopted Local Plan.

Whilst there is support in principle in national and local policy for sustainable rural tourism, given the concerns regarding the location of the proposal in relation to tourist destinations and local services and facilities, on balance there is insufficient justification for approval of holiday accommodation in this location. Therefore on balance the development would be contrary to the overall aims of Policy Ec13 and the core principles of the NPPF. The application is therefore considered to be unacceptable in principle and would not be a sustainable form of development.

Design 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 area is primarily characterised by open fields with trees and hedgerows forming the boundaries, as such the application site is very prominent in the street scene and forms part of the open nature of the countryside. Notwithstanding this, the land subject to this application is currently occupied by stable buildings and is used for the keeping of horses, as such there are already some elements of built development on site.

The application has been amended to reduce the height of the development from two storey to single storey and has been positioned further north to be more in keeping with the location of the existing dwelling. Additionally the new building would be constructed in timber cladding which would be sympathetic to the wider rural aesthetic and would not be dissimilar in appearance and scale to a log cabin or the nearby stable buildings.

Furthermore the submitted details propose landscaping with locally native species, which would to a certain extent screen the new development from the public highway. It is considered that this would significantly soften the overall visual impact of the new building on the countryside and rural landscape and therefore there would be no detrimental impacts on the open countryside.

In view of the above, it is considered that the proposal would not result in significant harm to the character and rural appearance of the locality. The development would therefore comply with Paragraph 17 of the NPPF, the Council's Good Design SPD and Policies S3 and D1 of the adopted Local Plan

Residential Amenities

The proposed development would result in some noise from comings and goings to and from the site from vehicular traffic and occupation of the holiday home. However this is not considered to be harmful to the residential amenity of the neighbouring property which is in the applicant's ownership.

The property that would be most immediately affected by the proposal would be the applicant's dwelling Lavender House, No.80 Snarestone Road, which is located to the east of the application site. Other dwellings are sited at sufficient distance away in order to prevent any loss of residential amenities. With regard to the impacts upon Lavender House, the proposal would be sited almost in line with the existing dwelling and would be single storey only. Furthermore the holiday home would be owned and controlled by the occupants on No.80. Therefore it is not considered that there would be any significant overbearing or overshadowing impacts upon or any direct overlooking of Lavender House. It is considered that the proposal would accord with the provisions of Policy D2 of the adopted Local Plan.

Ecology

Leicestershire County Council Ecology have no objections to the development however have advised that the landscaping scheme should be native species only, which would be more in keeping with the countryside location. Subject to a condition to secure appropriate landscaping, it is considered that the proposal would accord with the Habitats Regulations 2017 and Policy EN1 of the submitted Local Plan.

Highway Safety

The development proposes to close an existing access serving No.80 Snarestone Road. As a result the existing dwelling as well as the proposed holiday home and any traffic associated with the stables would all be accessed from the existing stables vehicular access from the 60mph section of Snarestone Road. It is also noted that the speed limit reduces to 30mph approximately 70 metres to the west of the application site.

The existing visibility splays from the stables access is approximately 125m in an eastern direction and approximately 120m to the west, which is lower than the required 215m as per the Leicestershire Highways Design Guidance.

The submitted supporting Transport Assessment states that there would be an improvement by closing off of the existing dwellings access because the stables access has better visibility looking to the east where vehicles are more likely be travelling faster.

The County Highways Authority have advised that whilst the development is not wholly compliant with the Leicestershire Highways Design Guide, given the rural nature of the location, the characteristics of the road and the proximity to the speed limit change the vehicle speeds are likely to be lower than the speed limit. Therefore shorter visibility splays would be acceptable in this instance.

With regard to other highway matters the application proposes two off street parking spaces to serve the two bedroom holiday home, which is compliant with the Leicestershire Highways Design Guide. The scheme also includes hard surfacing on the access to a setback distance of at least 11 metres and the access width would be at least 5.5 metres, which is acceptable for the proposed development.

The visibility proposed would therefore not be considered unacceptable by the County Highway Authority and are 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). 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 septic tank to deal with foul drainage discharge. 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, waste would not be disposed of in the SAC catchment. It is considered that use of a septic tank, along with a sustainable surface water drainage scheme could be controlled by condition to ensure they 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.

Footpaths

Public Footpath Q7 runs through the application site and adjacent to the proposed development. It is not considered that this development would adversely impact on the public's enjoyment of the Right of Way. Furthermore no objections have been raised from either the Council's or County Council's Footpaths Officers. The County Footpaths officer has recommended some conditions should the application be approved, however these recommendations are controlled by separate legislation such as the Highways Act. Therefore it is advised that the County Footpath Officer's comments are attached as notes to applicant if permission is granted.

Conclusion

In conclusion, a reason for refusal on the basis of the proposal's impact on the countryside could not be justified following the receipt of amended plans, and the proposal would not result in any unacceptable impacts on residential amenity or the River Mease SAC. There would also be limited social and economic benefits. However as the site is outside the Limits to Development, would involve a new build development and would not be in close association with any existing tourist development it would conflict with the aims of Policy Ec13 of the adopted Local Plan. Furthermore it is considered that there is no overriding justification for the location of this development outside Limits to Development. Therefore it is considered, on balance, 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 S3 of the adopted Local Plan sets out the types of development that will be supported outside the Limits to Development including recreation and leisure uses and also requires the appearance and the character of the landscape to be safeguarded and enhanced. Policy Ec13 supports new tourist accommodation where it is well connected to other tourist destinations and amenities and states that new tourist accommodation will be directed to Limits to Development and any development outside of Limits should give preference to the re-use of land or buildings. The application proposes to construct a new building for use as a holiday home, which would be outside the Limits to Development in a location that is not in close proximity to any existing tourist destinations. Furthermore insufficient information has been provided to justify this countryside location for the proposed development. Therefore, the development would be contrary to Policy Ec13 of the adopted Local Plan.

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**Proposed two storey and single storey extensions to existing
C2 Care Home**

**Report Item No
A5**

**Lyndhurst Lodge 87 Burton Road Ashby De La Zouch
Leicestershire LE65 2LG**

**Application Reference
17/01607/FUL**

**Applicant:
Mr J Halliwell**

**Date Registered:
10 November 2017**

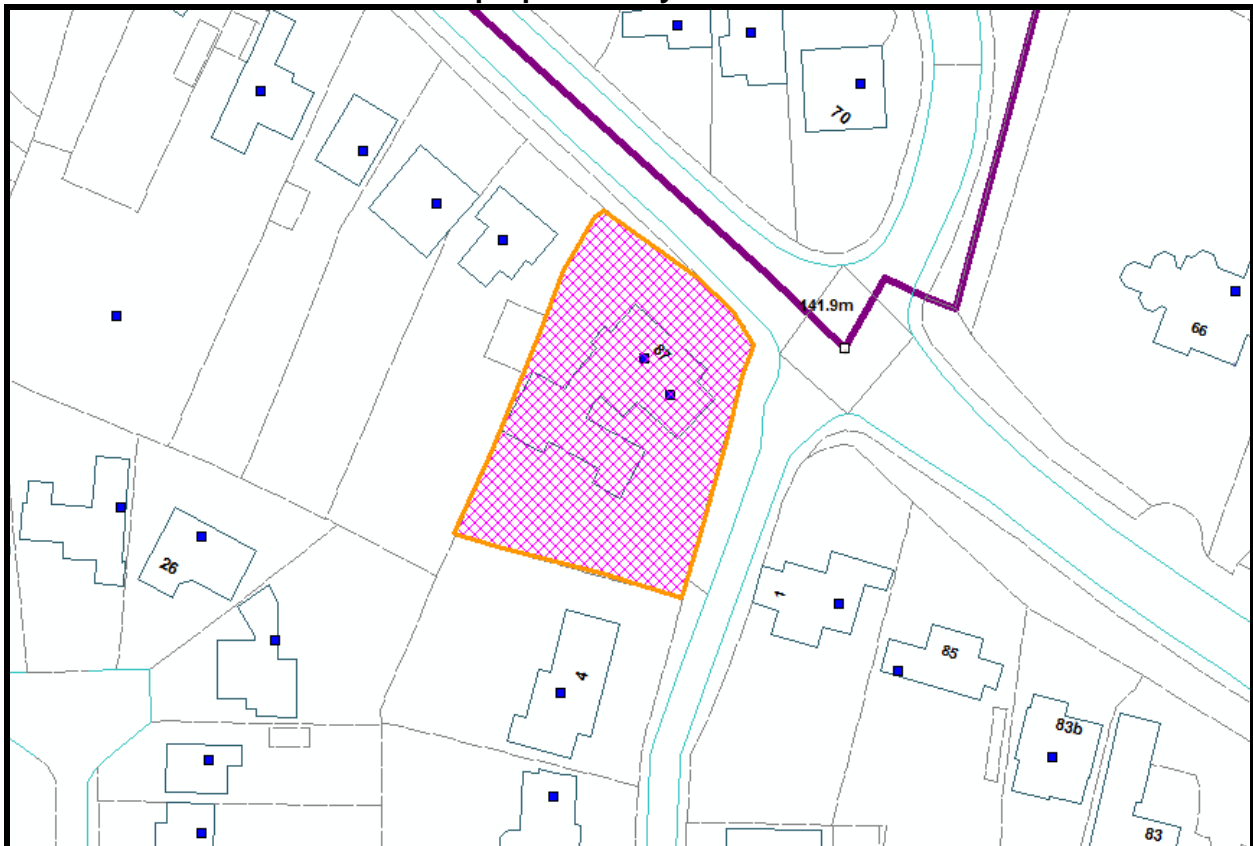
**Case Officer:
Adam Mellor**

**Consultation Expiry:
21 December 2107**

**Recommendation:
PERMIT subject to S106 Agreement**

**8 Week Date:
5 January 2018
Extension of Time:
None Agreed**

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is called in to Planning Committee by Councillor Hoult on the basis of concerns about the impacts on residential amenities, overdevelopment of the site in a residential area and the loss of off-street parking spaces as well as a matter of public concern.

Proposal

This is an application for single and two-storey extensions to Lyndhurst Lodge, 87 Burton Road, Ashby De La Zouch which is a residential care home.

Consultations

Objections have been received from third parties and Ashby De La Zouch Town Council, but no objections have been received from other statutory consultees.

Planning Policy

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

Conclusion

As the site is within the Limits to Development the principle of the development is acceptable. The key issues are:

- Residential amenity;
- The impact on the character and appearance of the property and streetscape;
- Highway safety;
- Landscaping;
- The integrity of the River Mease SAC; and
- Drainage and flood risk.

The report below looks at these details, and Officers conclude that the details are satisfactory. The proposals meets the requirements of relevant NWLDC policies, including the Good Design for North West Leicestershire SPD, and the NPPF.

RECOMMENDATION - PERMIT, SUBJECT TO CONDITIONS AND COMPLETION OF A SECTION 106 AGREEMENT.

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

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the two-storey and single storey extensions to an existing C2 care home at Lyndhurst Lodge, 87 Burton Road, Ashby De La Zouch. Lyndhurst Lodge is a two-storey detached building situated on the south-western side of Burton Road at its junction with Churchill Close and is within the Limits to Development.

The proposed two-storey extension would be attached to an existing two-storey rear projection to the building and would cover a ground area of 98.6 square metres and utilise a pitched hipped roof with a ridge height of 8 metres. A single storey extension would project in a south-western direction from an existing single storey addition to the building which would cover a ground area of 78 square metres and would utilise a pitched hipped roof with a ridge height 4.35 metres. It is proposed that the extensions would accommodate 9 bedrooms, a laundry room and a kitchen.

Following amendments a total of 12 off-street car parking spaces would be provided in connection with the use.

A design and access statement, outline sustainable drainage strategy statement and parking appraisal were initially submitted in support of the application and following the receipt of the initial comments of the County Highways Authority a further parking appraisal has been submitted and re-consultation undertaken accordingly.

No recent or relevant planning history was found.

2. Publicity

15 Neighbours have been notified.
Site Notice displayed 30 November 2017.

3. Summary of Consultations and Representations Received

The following summary of representations is provided.

Ashby De La Zouch Town Council objects to the application on the following grounds: -

- Over intensive development on the site.
- Location of kitchen will impact on the neighbouring property.
- Insufficient off-street parking is provided.

Leicestershire County Council - Highways Authority has no objections.

NWLDC - Environmental Protection has no objections.

Severn Trent Water no representation received at the time of this report.

Third Party Representations

One third party representation has been received which objects to the application and whose comments are summarised as follows: -

- Insufficient off-street parking has been provided on the site not only for staff but also for relatives of the residents and extra visits by medical teams.
- The location of the site will lead to on-street parking causing highway safety issues due to its proximity to a roundabout at the junctions of Burton Road with Churchill Close and Marlborough Way.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2012) ("NPPF")

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 32 and 39 (Promoting sustainable transport);
 Paragraphs 57, 60, 61 and 64 (Requiring good design);
 Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);
 Paragraphs 118, 120, 121 and 123 (Conserving and enhancing the natural environment); and
 Paragraphs 203, 204 and 206 (Planning conditions and obligations).

Draft National Planning Policy Framework (2018)

In March 2018, the Ministry of Housing, Communities and Local Government commenced consultation on a draft revised National Planning Policy Framework (NPPF). In view of the stage of this consultation process, it is considered that only limited weight may be attached to the policies of the draft NPPF at this time, and greater weight should be attached to the 2012 version.

Adopted North West Leicestershire Local Plan (2017)

The following policies of the adopted local plan are consistent with the policies of the NPPF and should be afforded full weight in the determination of this application:

Policy S1 - Future Housing and Economic Development Needs;
 Policy S2 - Settlement Hierarchy;
 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 Cc2 - Water - Flood Risk; and
 Policy Cc3 - Water - Sustainable Drainage Systems.

Submission Draft Ashby Neighbourhood Local Plan

The Submission Draft of the Ashby Neighbourhood Local Plan was submitted to the Council on 1 August 2017. The Council has undertaken a six week consultation on the Draft Neighbourhood Plan and will now arrange for an examination. The weight to be attached by the decision maker to this submitted version should be in accordance with the approach set out in

Paragraph 216 of the NPPF, having regard to the stage now reached towards adoption, the extent to which there are unresolved objections to the policies relevant to the determination of this application, and the degree to which the emerging policies are consistent with the NPPF.

Policy S1 - Presumption in Favour of Sustainable Development;
Policy S2 - Limits to Development;
Policy S4 - Design;
Policy T6 - Car Parking;
Policy NE4 - Nature Conservation; and
Policy NE 5 - Trees and Hedgerows.

Other Policies

National Planning Practice Guidance.

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

Leicestershire Highways Design Guide (Leicestershire County Council).

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).

5. Assessment

Principle of Development

The application site is within the Limits to Development where the principle of this form of development is acceptable. Accordingly the matters requiring further consideration are the implications of the proposals to the amenities of neighbours, highway safety, landscaping, drainage and the integrity of the River Mease SAC as well as the design of the extensions.

Residential Amenities

It is considered that the residential properties most immediately impacted on as a result of the development are no. 89 Burton Road, set to the north-west, no. 1 Churchill Close, set to the south-east, and no. 4 Churchill Close, set to the south-west.

In respect of no. 89 Burton Road the two-storey and single storey extensions would be set in excess of 19 metres from the south-eastern (side/rear) elevation of no. 89 with the two-storey extension set 14.4 metres from the shared boundary and the single storey extension set 0.6 metres from the same boundary. On the basis of the separation distance to the elevation it is considered that neither of the extensions would result in any adverse overbearing or overshadowing impacts and whilst the single storey extension would result in more built development along the shared boundary it is considered that it would not dominate the shared boundary, given the overall amount of garden associated with no. 89, and consequently would have no significant impacts on the occupants amenities. Neither of the extensions would propose windows that would result in an adverse overlooking impact to no. 89.

With regards to no. 1 Churchill Close the extensions would be set in excess of 19 metres from the property's north-western (side) elevation with the two-storey extension set 18.6 metres from the boundary and the single storey extension set 32.4 metres from the same boundary. On the basis of the separation distances to the elevations and boundaries the extensions would not result in any adverse overbearing or overshadowing impacts to the occupant's amenities. Whilst habitable room windows would be proposed at first floor level in the south-eastern elevation of the two-storey extension the separation distance would ensure that no adverse overlooking

impacts would arise particularly given that any views would be towards the front amenity associated with no. 1.

In terms of no. 4 Churchill Close the extensions would be set around 10.39 metres from the dwelling's north-eastern (side) elevation with the two-storey extension set 3.4 metres from the shared boundary and the single storey extension set 1.04 metres from the same boundary. Vegetation would be lost in close proximity to the boundary with no. 4 which would 'open-up' views of the extensions but given the extent of the massing of the extensions which would be presented to no. 4, as well as the use of a hipped roof on the two-storey extension, the orientation of no. 4 to the application site and the size of the garden associated with no. 4, it is considered that no adverse overbearing or overshadowing impacts would arise which would justify a refusal of the application. The position of windows on the two-storey extension would not result in any overlooking impacts with the view from a kitchen window in the single storey extension being at an oblique angle towards no. 4 and therefore not resulting in any adverse overlooking impact.

The Council's Environmental Protection Team have raised no objections to the application and as such it is considered that the proposal would not result in any adverse noise or smell implications to neighbouring amenities.

Overall the proposal would accord with Policy D2 of the adopted Local Plan and Paragraph 123 of the NPPF.

Impact on the Character and Appearance of the Building and Streetscape

The need for good design in new 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.

Lyndhurst Lodge is a property which, when viewed from Burton Road, is considered to make a positive contribution to the visual amenities of the streetscape due to its traditional appearance. It is, however, the case that the premises has been somewhat crudely extended in the past and consequently when viewed from Churchill Close the positive qualities of the overall building have been reduced.

With regards to the proposed extensions it is considered that the single storey addition would not have any adverse impacts on the character of the property nor the visual amenities of the streetscape due to its location at the rear of the building. Whilst concerns were initially expressed as to the scale and appearance of the two-storey extension it has been clarified by the applicant that the proposed size of the rooms is necessary to meet minimum standards and enhancements have been made to the appearance of the extension so as to try and mimic the design quality of the original building (by the inclusion of chimneys, recessed windows and consistent window sizes). It is considered that these amendments, as well as the fact that the proposed two-storey extension would effectively 'block' views of the previous two-storey extension, would enhance the visual amenities of the streetscape (particularly in views from Churchill Close) and would not harm the overall character of the building.

It is proposed that the external materials to be used in the construction of the extensions would be roughcast render along with a brickwork plinth in order to differentiate from the brickwork of the original property. It is considered that the use of such materials would be acceptable and as such would be conditioned accordingly on any permission granted.

Overall the scale, appearance and design of the extensions would be acceptable and would

ensure compliance with Policy D1 of the adopted Local Plan as well as Paragraphs 57, 60 and 61 of the NPPF.

Highway Safety

Following amendments to the plans the County Council Highways Authority (CHA) have raised no objections subject to conditions on any permission granted.

The vehicular accesses into the site off both Burton Road and Churchill Close currently exist and consequently the movement of vehicles at these accesses would not result in detriment to pedestrian or highway safety given that their widths and levels of visibility accord with the Leicestershire Highways Design Guidance. Vehicles would also be able to manoeuvre within the site so as to exit in a forward direction. On this basis the proposal would accord with Policy IF4 of the adopted Local Plan and Paragraph 32 of the NPPF.

Initially the CHA raised concerns about the proposals as it had not been demonstrated that adequate levels of off-street parking would be provided in connection with the proposal. Following the receipt of further information the CHA have determined that a parking survey demonstrated that no more than five visitor vehicles were parked on the site at any one time and that a TRICS (Trip Rate Information Computer System) assessment using average trip rates of three comparable care homes demonstrated that a care home with 25 bedrooms (which would be the total number of bedrooms should the application be approved) would generate a maximum accumulation of 9 vehicles. The amended layout plan demonstrates that 12 car parking spaces could be accommodated on the site and on the basis of the above the CHA are satisfied that this would be acceptable. On this basis the proposal would accord with Policy IF7 of the adopted Local Plan and Paragraph 39 of the NPPF.

Landscaping

Five trees to the south-western (rear) boundary of the site along with partial sections of the hedgerow to the north-eastern (front) and south-eastern (side) boundaries would be removed in order to facilitate the development. None of the trees to be removed are protected by a Tree Preservation Order (TPO), nor would they warrant protection by a TPO, and a significant length of hedgerow would be retained to the north-eastern and south-eastern boundaries. Whilst it is preferable that existing soft landscaping is retained and enhanced, particularly when a development is located in The National Forest, it is considered that the limited loss of the soft landscaping in this instance should not act as a constraint on the development particularly given that its lack of protection could lead to it being removed at any time as well as the fact that the majority of the hedgerow would be retained.

No details of the type of hard landscaping to be provided on the site has been submitted and consequently a condition would be imposed on any permission granted for these details to be agreed.

Overall the proposal would be considered compliant with Policies D1 and En3 of the adopted Local Plan.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). 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 proposed extensions will result in the creation of six additional bedrooms, each of which would have one occupant, and as such there would be an increase in the foul drainage discharge from the site into the mains sewer. A DCS2 contribution would be calculated using the British Flows and Loads 4 document and this indicates that for a residential care home it would be anticipated that a flow of 350 litres/per person/per day would be expected. Whilst this is the case it is considered that, in this instance, the proposal only relates to the creation of additional bedrooms in an existing residential care home and consequently the flow is likely to be less than that for a new build proposal. As a result of this the calculation has been based on half of the expected flow (i.e. 175 litres/per person/per day). Two extra part time staff would also be employed and they are included in the calculation at a rate of 45 litres/per person/per day).

6 bedrooms x 1 person x 175 litres = 1050 litres/person/day
 2 staff x 45 litres = 90 litres/person/day
 Total discharge = 1140

Using the formula for non-residential schemes in DCS2, the resulting contribution is calculated as follows:

1140 litres x 2.5 = £2850

The applicant has indicated that he is willing to pay the required DCS contribution and the Council's solicitor has been instructed. The Environment Agency and Natural England have both issued Standing Advice relating to the River Mease SAC under which they do not need to be consulted if the proposal connects to the mains sewer and the applicant is agreeable to the payment of the DCS contribution.

The flows from the six bedrooms need to be taken into account against the existing headroom at Packington Treatment Works. At March 2016 capacity was available for 3368 dwellings but this is reduced by the number of dwellings that already have consent or were under construction in March 2016 (1444), and the number of dwellings that have subsequently been approved or have a resolution to permit (446). As such it is considered that capacity is available at the relevant treatment works for the foul drainage from the site.

The proposed extensions and provision of additional hard surfaces on the site will impact on land which is currently soft landscaped and as such there will be an increase in hard surfaces on the site. Whilst this is the case, it is considered that the impacts to the River Mease SAC could be mitigated by the imposition of a condition on any consent granted to ensure that a soak-away is utilised.

In conclusion it can be ascertained that the development on the site 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. It therefore conforms to Policies S2, En2 and Cc2 of the adopted Local Plan.

Drainage and Flood Risk

The site lies within Flood Zone 1, and is therefore in an area at the lowest risk of flooding, and is not within an area impacted by surface water flooding as defined by the Environment Agency's Surface Water Flood Maps. Whilst not in an area which would be prone to flooding it is noted that there is a need for surface water to be adequately drained for the purposes of the River Mease SAC. Permeable surfacing should therefore be utilised to achieve this aim as well as to avoid displaced surface water into the highway and public sewers. On the basis that a condition is imposed to secure the above works the proposal would be considered compliant with Policies Cc2 and Cc3 of the adopted Local Plan as well as Paragraph 103 of the NPPF.

Insofar as foul drainage is concerned, it is indicated that this would be discharged to the mains sewer, which would be a necessity in terms of the River Mease SAC, and would be agreed with Severn Trent Water under separate legislation. No representation to the application has been received from Severn Trent Water advising that this would not be appropriate and as such it is considered that the drainage can be met by the existing sewerage system in place. On this basis the proposed development would accord with Paragraph 120 of the NPPF.

Summary Reasons for Granting Planning Permission

The application site is located within the Limits to Development where the principle of this form of development would be acceptable. It is also considered that the site could be developed in a manner which would not appear out of keeping with the character and appearance of the surrounding locality and which would not adversely impact on the amenities of neighbouring residents, highway safety, soft landscaping or the integrity of the River Mease SAC/SSSI, nor would the proposal exacerbate any localised surface water flooding impact. There are no other material planning considerations that indicate that planning permission should not be granted and accordingly the proposal, subject to relevant conditions, is acceptable for the purposes of the above mentioned policies.

It is therefore recommended that the application be permitted.

RECOMMENDATION - PERMIT, subject to conditions and completion of a Section 106 agreement;

1. Time limit.
2. Approved plans.
3. External materials.
4. Hedgerow protection.
5. Hard landscaping;
6. Off-street parking.
7. River Mease surface water run-off.

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