

Meeting	PLANNING COMMITTEE
Time/Day/Date	6.30 pm on Tuesday, 2 October 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 4 September 2018	3 - 6
4. PLANNING APPLICATIONS AND OTHER MATTERS	
Report of the Planning and Development Team Manager.	7 - 56
5. PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT LAND AT BOSWORTH ROAD, MEASHAM AND MEASHAM ROAD, MOIRA	
Report of the Planning and Development Team Manager	57 - 66

Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	18/00464/FULM : Erection of a retail store (use of class A1) and associated garden centre along with associated car parking, service yard, hard and soft landscaping, foul and surface water drainage and utility infrastructure Plot 2 Ashby Gateway Smithy Road Ashby De La Zouch Leicestershire	PERMIT subject to S106 Agreement	11 - 30
A2	18/00427/FULM: Erection of 9 dwellings with associated access, turning areas and car parking. Land Off Forest Road Coalville Leicestershire	PERMIT	31 - 48
A3	18/00624/FUL: Conversion of barn to form residential dwelling including raising the roof to provide first floor living accommodation Barn Adjoining Renira Aqueduct Road Coleorton Coalville Leicestershire LE67 8JA	PERMIT	49 - 56

MINUTES of a meeting of the PLANNING Committee held in the Council Chamber, Council Offices, Coalville on TUESDAY, 4 September 2018

Present: Councillor N Smith (Chairman)

Councillors R Ashman, R Boam, J Bridges, R Canny, J G Coxon, J Geary (Substitute for Councillor R Adams), D Harrison, G Jones, J Legrys and M Specht

In Attendance: Councillors T J Pendleton

Officers: Mr C Elston, Mr C English, Mrs C Hammond, Mr J Knightley and Miss S Odedra

16. APOLOGIES FOR ABSENCE

Apologies were received from Councillor R Adams.

17. DECLARATION OF INTERESTS

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

Councillor J Bridges declared a non-pecuniary interest in item A1, application number 18/01056/FUL as he was currently working for a company associated with the applicant. The said company has no involvement in this application.

Councillors J G Coxon and G Jones declared a non-pecuniary interest in item A3, application number 18/00819/FUL, as members of Ashby de la Zouch Town Council.

Councillor J Geary declared a non-pecuniary interest in item A1, application number 18/00705/VCUM, as he had attended a site visit with the Ward Member prior to the meeting and item A3, application number 18/00819/FUL, as a member of the Sealed Knot, who had recently used the Rugby Club as a campsite for a recent event.

During the meeting Councillor M Specht declared a pecuniary interest in item 5 – To consider the confirming of a tree preservation order (TPO) on land to the south of Overton Close, Coleorton, as a Member of Coleorton Parish Council, who had submitted the application.

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

Item A1, application number 18/00705/VCUM
Councillor J Legrys

Item A2, application number 18/00557/FUL
Councillor R Boam

Item A3, application number 18/00819/FUL
Councillor M Specht

18. MINUTES

Consideration was given to the minutes of the meeting held on 7 August 2018.

It was moved by Councillor N Smith, seconded by Councillor J Legrys and

RESOLVED THAT:

The minutes of the meeting held on 7 August 2018 be approved and signed by the Chairman as a correct record.

19. 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.

20. A1 18/01056/FUL: CONSTRUCTION OF SITE ACCESS JUNCTION AND BALANCING POND

Land North Of Grange Road Hugglescote Leicestershire

Officer's Recommendation: Permit

The Principal Planning Officer presented the report to Members.

Mr W Hodgson, applicant, addressed the Committee. He highlighted that the development was part of the wider South East Coalville development, that they had discussed the installation of a radar activated speed sign on entrance to the village with the Parish Council, that they had agreed to investigate an extension to the car park of the neighbouring surgery and that the application was in accordance with the requirements of Leicestershire County Council Highways Authority.

In determining the application, members had regard to the fact that the developer had agreed to investigate car parking with the neighbouring surgery.

It was moved by Councillor J Bridges, seconded by Councillor D Harrison and

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Planning and Development Team Manager.

21. A2 18/00557/FUL: DEMOLITION OF EXISTING JOINERS WORKSHOP AND STORES AND ERECTION OF NEW SINGLE STOREY DWELLING

Wayside Cottage Loughborough Road Coleorton

Officer's Recommendation: Permit

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

Mr A Large, agent, addressed the Committee highlighting that the proposed dwelling before them was for a self-build, which would allow the applicant's son, who was local to the area, to get on the property ladder.

In determining the application, members stated that, in principle, they supported the application but had concerns over the design of the building. They felt that the proposals as originally submitted under the application should be considered by the Committee. A discussion was held over the removal of condition 9 and advice on the removal of the condition was provided by officers.

It was moved by Councillor J Bridges, seconded by Councillor D Harrison and

RESOLVED THAT:

The application be permitted subject to the removal of condition 9 in accordance with the recommendation of the Planning and Development Team Manager.

**22. A3
18/00819/FUL: ERECTION OF EXTENSIONS TO CLUBHOUSE ALONG WITH
EXTERNAL ALTERATIONS, AND REMOVAL OF STORAGE CONTAINER AND
PORTACKABIN CHANGING ROOMS**

Ashby Rugby Club Nottingham Road Ashby De La Zouch

Officer's Recommendation: Permit

The Planning Officer presented the report to Members.

Mr A Large, agent, addressed the Committee, highlighting that the application was intended to allow the club to comply with the Rugby Football Union's requirements for female changing and would improve the facilities for the users of the club. He advised that the south extension was to be a bar area and therefore could not be restricted to storage.

In determining the application, members had regard to the statement from the Planning and Development Team Manager in relation to amending condition 4 that related to the use of the south extension.

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

RESOLVED THAT:

Subject to the amendment of condition 4, the application be permitted in accordance with the recommendation of the Planning and Development Team Manager.

**23. TO CONSIDER THE CONFIRMING OF A TREE PRESERVATION ORDER (TPO) ON
LAND TO THE SOUTH OF OVERTON CLOSE COLEORTON**

Councillor M Specht declared a pecuniary interest in the item as a Member of Coleorton Parish Council. He left the meeting and took no further part in the discussion and voting thereon.

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

It was moved by Councillor R Ashman, seconded by Councillor J Legrys and

RESOLVED THAT:

The Tree Preservation Order (TPO) be confirmed.

The meeting commenced at 6.30 pm

The Chairman closed the meeting at 7.17 pm

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APPENDIX B

**Report of the Planning and Development Team Manager
to Planning Committee**

2 October 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 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.

Erection of a retail store (use of class A1) and associated garden centre along with associated car parking, service yard, hard and soft landscaping, foul and surface water drainage and utility infrastructure
Plot 2 Ashby Gateway Smithy Road Ashby De La Zouch Leicestershire

Report Item No
A1

Application Reference
18/00464/FULM

Grid Reference (E) 437137
Grid Reference (N) 317181

Date Registered:
22 March 2018
Consultation Expiry:
1 May 2018
8 Week Date:
21 June 2018
Extension of Time:
None Agreed

Applicant:
Mr Freddie Jones

Case Officer:
Adam Mellor

Recommendation:
PERMIT subject to S106 Agreement

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application is called in to Planning Committee by Councillor Allman on the basis that the off-street parking is inadequate, there is a need to enhance the green credentials of the scheme and that financial contributions are required to mitigate the impacts on the vitality and viability of the Ashby De La Zouch Town Centre.

Proposal

This is an application for the erection of a retail store (use class A1) and associated garden centre along with associated car parking, service yard, hard and soft landscaping, foul and surface water discharge and utility at Plot 2, Ashby Gateway, Smithy Road, Ashby De La Zouch.

Consultations

Objections have been received from third parties as well as Ashby De La Zouch Town Council, but no objections have been received from other statutory consultees who have responded during the consultation process.

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:

- The sequential approach to site selection;
- The impact of the development on town and local centres;
- Loss of employment land;
- Design and the impact on the character and appearance of the streetscape and wider area;
- Residential amenity;
- 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 erection of a retail store (use class A1) and associated garden centre along with car parking, service yard, hard and soft landscaping, foul and surface water discharge and utility infrastructure at Plot 2 Ashby Gateway, Smithy Road, Ashby De La Zouch. The 0.8 hectare site is within the defined Limits to Development and is situated on the eastern side of Smithy Road where it is set to the immediate south of the M&S Food store which occupies Plot 1 of the Ashby Gateway site.

The proposed retail store would have a gross internal area of 1,915 square metres with an associated external garden centre of 700 square metres and would be served by the existing vehicular access off Smithy Road which was created in accordance with the planning permission granted under application reference 15/00278/FULM.

A planning statement (containing a retail impact assessment, transport assessment, coal mining risk assessment, surface water drainage calculations and arboricultural impact assessment), design and access statement and framework travel plan have been submitted in support of the application. A highways technical note reviewing off-street parking associated with the development has also been submitted in response to the comments of the County Highways Authority.

The recent and relevant planning history of the site is as follows:

- 03/01464/OUT - Erection of retail units (4,645 square metres) and garden centre (929 square metres) (outline - means of access) - Refused 27th May 2005, Dismissed by the Secretary of State July 2006.
- 09/00734/FULM - Erection of discount food retail store (class A1), public house/restaurant (class A3/A4) and 60 no. bed hotel with associated parking, access, landscaping and infrastructure - Appeal against non-determination ref. APP/G2435/A/10/2135336 - Appeal dismissed 4th May 2011.
- 13/00033/OUTM - Outline planning permission application for the erection of a discount food retail store (class A1), public house/restaurant (class A3/A4) and 60 no. bed hotel (class C1) with associated parking access, landscaping and drainage - Withdrawn 27th October 2014.
- 15/00278/FULM - Construction of access road and associated services to serve existing vacant site and erection of four lighting columns - Approved 15th July 2015.
- 15/01048/FUL - Erection of restaurant (use class A3) with associated car parking and landscaping - Refuses 10th May 2016.
- 16/00499/FULM - Erection of a food store (use class A1) to include ancillary café, car parking, servicing yard, substation, landscaping and associated works - Approved 9th February 2017.

2. Publicity

13 Neighbours have been notified.
 Site Notice displayed 10 April 2018.
 Press Notice published Leicester Mercury 18 April 2018.

3. Summary of Consultations and Representations Received

The following summary of representations is provided.

Ashby De La Zouch Town Council has raised concerns to the application on the following

grounds:

- The off-street parking is inadequate and less than the guidance of the County Council Highways Authority.
- The green credentials of the scheme need to be enhanced by the provision of solar panels.
- The development should contribute to the provision of a cycle route along Nottingham Road as outlined in the Ashby De La Zouch Cycle Strategy as well as contributions towards improvements in the public realm in Ashby town centre to off-set the impact on the vitality of the town centre. These could be secured in a Section 106 agreement.

Coal Authority has no objections.

Leicestershire County Council - Ecology has no objections.

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

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

National Forest Company has no objections subject to conditions.

Natural England has no objections subject to conditions.

NWLDC - Environmental Protection has no objections.

NWLDC - Environmental Protection (Contaminated Land) has no objections subject to conditions.

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

Third Party Representations

Three representations have been received which object to the application with the comments raised summarised as follows:

- The proposal is contrary to the Ashby Neighbourhood Plan and adopted Local Plan in that the area where the development would be located is designated for employment purposes.
- The health of Ashby De La Zouch Town Centre is beginning to decline given proliferation of charity shops.
- Over 77 businesses in Ashby will be impacted on as a result of the development including 15 traders in the Town Hall Market.
- Unemployment levels of the businesses in Ashby will far exceed the employment levels of the proposal.
- The Retail Impact Statement only focuses on Ashby De La Zouch and Coalville Town Centres yet many convenience stores in the smaller settlements will also be impacted on.
- Ashby De La Zouch will not gain from this development given the impacts to the local economy and the fact that profits made by the business will be spent away from the District.
- The applicant already has stores within the vicinity of the site such as Swadlincote and

- Coalville.
- Footfall to other non-retail uses in Ashby will decrease as a result of the diversion of trade.
- The analysis of the Ashby De La Zouch Town Centre Traders is more beneficial as an evidence base than that within the submitted Retail Impact Assessment.
- The development will impact adversely on the integrity of the River Mease SAC.
- Insufficient levels of off-street parking will be provided and the highway network cannot cope with the additional traffic associated with this development and others proposed in Ashby.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2018)

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

Paragraphs 9 and 10 (Achieving sustainable development);
 Paragraphs 11 and 12 (Presumption in favour of sustainable development);
 Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making);
 Paragraphs 54, 55 and 56 (Planning conditions and obligations);
 Paragraphs 80 and 82 (Building a strong, competitive economy);
 Paragraphs 85, 86, 87, 89 and 90 (Ensuring the vitality of town centres);
 Paragraphs 105, 106, 108, 109, 110 and 111 (Promoting sustainable transport);
 Paragraphs 126, 127, 130 and 131 (Achieving well-designed places);
 Paragraph 163 (Meeting the challenge of climate change, flooding and coastal change); and
 Paragraph 175, 178, 179 and 180 (Conserving and enhancing the natural environment).

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 Ec3 - Existing Employment Areas;
 Policy Ec8 - Town and Local Centres: Hierarchy and Management of Development;
 Policy Ec9 - Town and Local Centres: Thresholds for Impact Assessments;
 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.

Emerging Ashby Neighbourhood Local Plan

The Ashby Neighbourhood Plan was submitted to the Council on 1 August 2017. The Council undertook a six week consultation on the Draft Neighbourhood Plan which ended on 11 October 2017. The plan has been at Examination, and the Examiner's Report was published in August 2018. The weight to be attached by the decision maker to this version of the plan should be in

accordance with the approach set out in Paragraph 48 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 E1 - Employment Land and Buildings;
Policy E3 - Connecting People in the Plan Area to New Employment Development;
Policy TC1 - Town Centre Uses;
Policy T1 - Traffic Management;
Policy T2 - Travel Plans;
Policy T4 - Walking and Cycling;
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 site is located within the Limits to Development where the principle of retail development is considered acceptable subject to compliance with the relevant policies of the adopted Local Plan (2017) and other material considerations. Within the NPPF (2018) there is a presumption in favour of sustainable development and proposals which accord with the development plan should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole of if specific policies in the NPPF indicate development should be restricted.

Within the NPPF it is stated that significant weight should be placed on the need to support and help achieve economic growth through the planning system and that local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

In terms of the principle of the development it is considered that there are three distinct elements which are required to be assessed and these would be as follows:

- The Sequential Approach to Site Selection;
- The Impact of the Development on Town and Local Centres; and
- Loss of Employment Land.

These elements are assessed in more detail as follows with the submitted Retail Impact Statement being independently reviewed by an external consultant on behalf of the District Council.

The Sequential Approach to Site Selection

Paragraph 85 of the NPPF discusses allocating a range of suitable sites to meet the scale and type of retail, leisure and commercial uses in town centres to promote competitive town centres. It is considered that the NPPF is supportive of retail uses but seeks that these are provided within main town centres before than considering edge of centre locations and lastly out of town centre locations. The application site falls outside the Primary Shopping Area and Town Centre boundary for Ashby De La Zouch, as defined on the Policies Map to the adopted Local Plan, and is more than 300 metres from this boundary (the maximum distance for a site to be considered edge of centre), as such it would be categorised as an out-of-centre site. On this basis Paragraph 86 of the NPPF would be engaged which requires a sequential appraisal of site locations to be provided.

Policy Ec8 of the adopted Local Plan also reflects the advice outlined in Paragraph 86 of the NPPF in that a sequential appraisal is required should retail development not be located within the town centre.

The NPPG, in Paragraph 010 of the 'Ensuring the Vitality of Town Centres' section, outlines a checklist for the considerations which should be taken into account when determining whether a proposal complies with the sequential test and this outlines the following: -

- *"With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. Any associated reasoning should be set out clearly.*
- *Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.*
- *If there are no suitable sequentially preferable locations, the sequential test is passed."*

A sequential assessment has been submitted in support of the application, contained within the Retail Impact Statement, which have identified the following sites:

- Former Council Offices, 5 Kilwardby Street (town centre);
- Ivanhoe Business Park (out of centre);
- Land north of Ashby De La Zouch/Money Hill Urban Extension (out of centre);
- Fallen Knight Hotel, 14 - 18 Kilwardby Street (town centre);
- Royal Hotel Car Park, Station Road (edge of centre);

The assessment has been confined to Zone 3 of the survey area adopted for the purposes of the Council's 2012 Retail Study Update, which includes Ashby and the outlying areas, and is based on the shopping patterns identified in the 2012 study. The extent of the assessment area was also agreed with the District Council prior to the submission of the application. It is also the case that no sites have been specifically allocated for retail proposals within the adopted Local Plan and for the avoidance of doubt there is no requirement for the development to demonstrate need.

The conclusions of the suitability of these sites for the development is as follows but it is

important to establish that a sequentially preferable site would be one which accords with all criteria in that it is available, suitable and viable. This is as concluded within the Dundee Supreme Court decision [Tesco Stores Limited v Dundee City Council 21st March 2012] which states a site must be "*suitable for the development proposed by the applicant,*" that the "*whole exercise is directed to what the developer is proposing, not some other proposal which the planning authority might seek to substitute for it which is for something less than sought by the developer,*" as well as "*whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can fit an alternative site*" (this is as outlined in Paragraphs 24, 28 and 29 of the above decision).

Former Council Offices, 5 Kilwardby Street (town centre)

Planning permission was granted under application reference 14/00775/FULM for the demolition of existing buildings and erection of 32 no. retirement apartments and associated infrastructure and this permission has been implemented and subsequently completed. Accordingly this site is no longer available for development and is therefore discounted.

Ivanhoe Business Park (out of centre)

Development on all plots associated with this site have now commenced and accordingly no vacant plots are available for development. It is also the case that this site is further from the town centre than the application site and consequently would not be sequentially preferable.

On this basis this site is discounted as it is not available or suitable.

Land north of Ashby De La Zouch/Money Hill Urban Extension (out of centre)

Outline planning permission has been granted under application reference 15/00512/OUTM for the development of 605 residential dwellings including a 60 unit extra care centre (C2), a new primary school (D1), a new nursery school (D1), a new community hall (D1), new neighbourhood retail use (A1), new public open space and vehicular access from the A511 and Nottingham Road (outline - all matters other than part access reserved). Whilst this permission would provide an A1 use condition 23 of the permission outlines that any A1 use provided on the site will be limited to a floor space of 560 square metres (with any single unit being restricted to 460 square metres) and consequently the floor space would be significantly below that required by the applicant.

It is also the case that the description of the retail store as a 'neighbourhood retail use' would likely preclude the type of retail offer proposed by the applicant given that it would be envisaged that a convenience store would generally serve a residential development of the scale proposed. Even if allowing for some flexibility in the overall floor space the above site would not meet the requirements of the applicant.

On this basis the site is discounted as it is not suitable or viable.

Fallen Knight Hotel, 14 - 18 Kilwardby Street (town centre)

This site measures 0.14 hectares and benefits from planning permission (16/00012/FULM) and listed building consent (16/00007/LBC) for the conversion of hotel and restaurant to three townhouses, nine apartments and one commercial unit, erection of first floor extension over orangery, formation of terraces, external alterations and landscaping. Given the overall size of the site it would not be of a size which could accommodate the proposed development

(minimum of 0.6 hectares) and given that the permission seeks the retention of an existing building, which is Grade II listed, it would not be possible to adapt this building to meet the requirements of the applicant.

On this basis the site is discounted as it is not available, suitable or viable.

Royal Hotel Car Park, Station Road (edge of centre)

This site measures 1.64 hectares and planning permission exists for the demolition of side and rear extensions at existing hotel, erection of side/rear extension to existing hotel and associated external works; erection of single storey kiosk building (A3 use), erection of two-storey pavilion building (A3 and D2 use), formation of car park and alterations to existing access at Station Road involving removal of part of boundary wall to form visibility splays, associated removal of existing fencing and car park furniture and implementation of landscape works (application reference 14/00104/FULM). An application for the development of the northern car park of The Royal Hotel to provide B1 office accommodation and 28 residential apartments along with associated access, parking and amenity site (ref: 17/00761/FULM) has recently been withdrawn.

Initially the Council's external retail consultants queried the applicant's conclusions that this site was too small to accommodate the development given that it was over a hectare larger than the minimum site area required. Further information supplied by the applicant has outlined that whilst the site is large enough to feasibly accommodate the development it would be constrained by the fact that The Royal Hotel is a Grade II* listed building situated within the Ashby De La Zouch Conservation Area and that trees within its grounds would constrain development, this therefore leaves the car park which only extends to 0.3 hectares. It is accepted, by both the District Council and the Council's external retail consultants, that it would prove difficult to provide a form of development which would meet the requirements of the applicant whilst also preserving the significance of the heritage assets and protecting trees which contribute to the character and setting of these heritage assets with the car park not being of a suitable size so as to accommodate the scale of development proposed.

On this basis the site is discounted as it is not suitable or viable.

Conclusion in Relation to the Sequential Approach to Site Selection

Officers, as well as the Council's external retail consultants, are in agreement with the findings of the applicant's sequential assessment and that appropriate sites within the Town Centre, edge of centre and out of centre, have been appropriately considered and discounted for the reasons given above.

Whilst this site operates 'out of centre' it is within walking distance of the town centre, which lies around 1,200 metres to the west of the site, with such a route being on raised footpaths which are well lit. Access to public transport is also available from Nottingham Road which would provide easy access to the town centre with such routes being comparable to those which serve the other retail stores which exist in the immediate area. In this respect it is compliant with Policy E3 of the Emerging Ashby De La Zouch Neighbourhood Plan.

Having regard to the submitted information, it has been demonstrated that there are no sequentially preferable sites that are available, suitable or viable for the development either within the town centre or to its edges. The Council's external retail consultants have also indicated that whilst the above sites are the same as those identified two years ago their own

high-level review of commercial premises and development sites for sale or to let within the assessment area have not identified any sequentially preferable sites which would be of a sufficient size to accommodate the proposed development.

On this basis the application site represents the most sequentially preferable location for the proposed development and therefore the scheme is considered compliant with Policy Ec8 of the adopted Local Plan, Paragraph 86 of the NPPF and the guidance within the NPPG.

The Impact of the Development on Town and Local Centres

Policy Ec9 of the adopted Local Plan specifies that any development which proposes a town centre use which would not be within the town centre and which has a floorspace that exceeds 1000 square metres needs to be accompanied by an impact statement. In the circumstances that the proposal has a floorspace of 1915 square metres an impact statement is required.

Paragraph 89 of the NPPF requires proposed development of main town centre uses in edge and out-of-centre locations to be assessed against two impact criteria, namely the impact of the proposal on:

- Existing, committed and planned public and private sector investment in a centre or centre in the catchment of the proposal; and
- Town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time when the application is made.

Guidance on how the impact test should be used in decision taking is set out in Paragraph 015 of the 'Ensuring the Vitality of Town Centres' section of the NPPG. The guidance states that the impact test should be undertaken in a proportionate and locally appropriate way, drawing on existing information where possible. Paragraph 016 notes that, as a guiding principle, impact should be assessed on a like-for-like basis in respect of that particular sector. Key considerations are identified as including:

- The policy status of the investment (i.e. whether it is outlined in the Development Plan).
- The progress made towards securing the investment (for example if contracts are established).
- The extent to which the application is likely to undermine planned development or investments based on the effect on current/forecast turnovers, operator demand and investor confidence.

Paragraphs 017 and 018 of the NPPG also outline guidance for applying the impact test and the considerations to take into account when assessing an impact statement.

Section 7.4 of the Retail Impact Assessment considers the impacts of the proposed development on existing, committed or planned investment which includes the following:

- 17/00430/FUL - Land Adjacent to 1 Kilwardby Street, Ashby De La Zouch;
- 09/00006/FUL - Aldi at Nottingham Road, Ashby De La Zouch;
- 16/01180/FUL - Co-Op at Holywell Spring Farm, Burton Road, Ashby De La Zouch;
- 16/00499/FUL - M&S Food Hall, Plot 1, Ashby Gateway, Ashby De La Zouch;
- 15/00063/FUL - Moria Fire Station, Shortheath Road, Moira;

The Council's external retail consultants have outlined that four of these five developments have been delivered with the outstanding one (17/00430/FUL at Kilwardby Street) being a very

different proposition to investors, than that proposed at Ashby Gateway, given that it relates to the erection of a three-storey detached building to provide five 'micro shop units' which would be modest in scale. Consequently the proposal would not have any significantly adverse impacts on this planned development or any other existing, committed or planned investment in Ashby De La Zouch Town Centre.

With regards to the implications to the vitality and viability of Ashby De La Zouch and Coalville Town Centre the Council's external retail consultants have outlined that the proposal would result in the creation of 1,810 square metres of floor space for the sale of comparison goods and 477 square metres of floor space for convenience goods. The external retail consultants also consider that a figure of 90% for the turnover of the proposal being derived from residents within Zone 3 of the Council's Retail Study Update of 2015 (the catchment area of the proposed development) is a robust assumption given the site's location on the edge of the catchment area and the shopping patterns associated with existing retail units on Nottingham Road.

In respect of the trade diversion for comparison retail goods to the proposed development Tables 5 and 6 set out in Appendix E of the Retail Impact Assessment outline that in 2022 the highest trade diversions would be from Tesco (£1.53 million) and Coalville Town Centre (£1.47 million) which, when combined, would account for 51% of the comparison retail turnover of the proposed development. The trade diversion from Ashby De La Zouch Town Centre would be £0.88 million with a total of 26% of the turnover of the proposed development being expected to be drawn from destinations outside the District.

The Council's external retail consultants initially advised that they considered the trade diversion from Tesco to be exaggerated and diversion from Ashby De La Zouch Town Centre underestimated given that the Council's Retail Study Update of 2015 outlined that within Zone 3 of the Retail Study Tesco had an overall comparison retail market share of 9.6% whereas Ashby De La Zouch Town Centre had a market share of 22.7%. Subsequent information supplied by the applicant has now revised the figures so that 26% of the comparison retail turnover would be derived from Ashby De La Zouch Town Centre (this was originally 15%) and that trade draw from out-of-centre sites (including Tesco) is reduced from 34.5% to 23.5%. The external retail consultant considers that these revised figures are more robust.

In terms of convenience trade diversion the highest levels are expected from Tesco (40% of the estimated convenience retail turnover of the proposed development) followed by Aldi (18%) and the M&S Food Hall (10%). Only 5% of the convenience retail turnover is expected to be diverted from Ashby De La Zouch Town Centre which would equate to £0.08 million in 2022. This is as outlined in Table 6 within Appendix E of the Retail Impact Assessment.

The Council's external retail consultants agree with the applicant's assumptions in terms of the likely pattern of convenience trade draw and that it is evident that the proposed convenience goods trade floor space would draw most of its turnover from existing out-of-centre food stores in close proximity to the site.

In concluding on matters associated with the impacts on the comparison retail turnover of Ashby De La Zouch Town Centre the Council's external retail consultants have outlined that the town centre is in good health with a good mix of uses, very low vacancy rates and an attractive town centre environment. Consequently the estimated levels of trade impact would not give rise to any significantly adverse impacts on Ashby De La Zouch Town Centre. Although Coalville is a more vulnerable centre the Council's external retail consultants consider that a robust level of trade diversion has been assumed from this town centre and on this basis no significant adverse impacts would arise to Coalville Town Centre.

In respect of convenience retail impacts the highest impacts would fall on the out-of-centre food stores in Ashby De La Zouch, which are not afforded any policy protection, and consequently no significantly adverse impacts would arise to the both Ashby De La Zouch and Coalville Town Centres in this respect.

Overall it is concluded that the proposed development would not give rise to any significantly adverse implications to the vitality and viability of both the Ashby De La Zouch and Coalville Town Centre and consequently the proposed development would be compliant with Policy Ec9 of the adopted Local Plan as well as Paragraph 89 of the NPPF. There would therefore be no reason to resist the development in the context of Paragraph 90 of the NPPF.

Whilst noting the comments of Ashby De La Zouch Town Council that the proposed development should make a contribution towards improvements in the public realm of Ashby De La Zouch Town Centre this is on the basis that the development impacts on the vitality of this centre. Given the above conclusion there is no justification to seek such a contribution given that it would fail to meet the test for conditions or obligations as outlined in Paragraph 56 of the NPPF in that it is not *"necessary to make the development acceptable in planning terms."*

Loss of Employment Land

The application site lies within a Primary Employment Area and consequently Policy Ec3 of the adopted Local Plan would be of relevance, along with Policy E1 of the Emerging Ashby De La Zouch Neighbourhood Plan which reflects the guidance of Policy Ec3. Part (1) of this Policy states that the Primary Employment Areas will be retained for employment generating purposes within use classes B1 (business), B2 (general industrial) and B8 (storage or distribution). Part (2) of this Policy, however, does outline that other uses will be accepted within the Primary Employment Areas where they:

*"(a) are small scale or ancillary to the above uses; or
(b) maximise job outputs and are compatible with the character and function of the area and with other nearby uses and policies of this Local Plan."*

As part of the consideration of the application Members are advised that as of 1 April 2017, there is an under-supply of some types of employment land in the District. There is an under-supply of just under 30 hectares of Class B1a/b uses. However with respect to B1c/2 uses there is an oversupply of approximately 9 hectares (above our minimum requirements) and with respect to B8, supply generally meets the need that has been identified.

The development would result in the loss of 0.8 hectares of employment land which is not considered to be a significant loss of such land. It is also the case that the retail proposal would create employment opportunities within this sector with the application suggesting that the equivalent of 30 full time jobs would be created. Furthermore the site has also been vacant since the mid-1990s and recent applications for development on the site have not been for uses within the 'B' use classes despite the prominence of the site and its easy access to the main road network.

In the context of criteria (a) and (b) of Part (2) of Policy Ec3 it is considered that the proposed floor space of the retail store would not be small scale nor would it be ancillary to a B1, B2 or B8 use, consequently it would not comply with criteria (a) of Part (2) of Policy Ec3. However, in terms of criteria (b) it is considered that the proposal would be compatible with the character and function of the surrounding area given that Plot 1 has been developed for a retail food store

within use class A1 and other A1 uses exist within the immediate area (i.e. Tesco, Aldi, Wickes and Pets at Home). In addition, Plot 1 was protected employment land but has subsequently been developed to provide a use which is not within the 'B' use classes.

On the basis that the development would be compliant with criteria (b) of Part (2) of Policy Ec3 it is considered that the loss of 0.8 hectares of employment land to provide the development would be acceptable particularly when factoring into account the adjacent plot of land has been redeveloped to provide an A1 use. As a result of this a reason to refuse the application on the basis of the loss of employment land could not be justified in this instance.

In conclusion, in the context of the above, the principle of development would be supported due to its compliance with relevant Policies of the adopted Local Plan, the Emerging Ashby De La Zouch Neighbourhood Plan and Paragraphs of the NPPF.

Whilst representations have been received from third parties, as well as Ashby De La Zouch Town Council, that the proposal is contrary to Policy TC1 of the Emerging Ashby De La Zouch Neighbourhood Plan it is noted that the current text of this Policy indicates that retail development outside the defined town centre will be subject to the sequential test and impact assessments outlined within relevant Paragraphs of the NPPF. As concluded in the sections above the proposal is compliant with the relevant Paragraphs of the NPPF and on this basis no conflict with Policy TC1 of the Emerging Ashby De La Zouch Neighbourhood Plan arises.

Design and Impact on the Character and Appearance of the Streetscape and Wider Area

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 124, 127 and 131 of the NPPF.

It is proposed that the building would be set to the south of the M&S Food store on land which rises from north to south as well as from west to east and whilst the application site sits around 3 metres lower than the edge of the A511, set to the east, it is considered to be within a prominent location in views established not only from the A511 but also Nottingham Road to the north. At the pre-application stage it was determined that the views of the M&S Food store from the A511 should be protected and the placement of the store ensures this is the case.

The proposed finished floor level of the retail unit would be 132.10 metres Above Ordnance Datum (AOD) with it being 11 metres in height at its highest point (i.e. 143.10 metres AOD). In comparison with the adjacent M&S Food store it would have a floor level which is 0.2 metres lower as well as an overall height which would be 1.5 metres lower than the highest part of the M&S Food store. In terms of floor space the proposed unit would be 699 square metres larger than that of the M&S Food store.

Pre-application advice has been provided in respect of the proposal and it was determined at that stage that the materials pallet for the building should be reflective of those used on the M&S Food store which is considered to be of a high quality design. The plans as submitted have heeded the advice which was provided and the building will be constructed utilising powder coated metal panels and timber feature fins, it will also incorporate a feature parapet to define the entrance to the store in the same manner as that adopted by the M&S Food store. The incorporation of such design features was considered important in defining the design approach to the buildings upon the Ashby Gateway so as to clearly distinguish them from neighbouring built forms.

In terms of orientation the entrance to the store would be angled so as to be visible from the

junction of Smithy Road with Nottingham Road as well as from Smithy Road itself and the expanse of glazing on the elevations which are visible from these highways has been increased so as to ensure that views into the store from the main pedestrian routes are established in accordance with the Council's adopted Good Design SPD. Pedestrian links from Smithy Road to the store entrance would also be provided so as to ensure the site is not only accessible from people travelling to the site via Nottingham Road but also employees within the numerous business premises which exist on Coalfield Way and Charter Point Way to the south.

With regards to the garden centre element of the scheme this would be set to the south-east of the unit and therefore sits between the south-eastern elevation of the store and the A511. The main concern raised, at the pre-application stage as well as during the consideration of the application, was associated with the visibility of this area and following amendments it is considered that a suitable design approach has been achieved. Views of the garden centre area from the A511 and Coalfield Way would be limited due to the difference in land levels and views from Nottingham Road, across the car park of the M&S Food store, would now be restricted by the provision of a suitable boundary fence (Heras Zenith fencing with Tenax Quadra Windbreak Mesh coloured Dark Grey ranging from 2.4 to 4.2 metres in height) and the planting of a 2 metre high beech hedgerow on the boundary with the M&S car park. On this basis the store itself would remain the main visual focus in views from the immediate area.

Overall the scale, design and layout of the development would be acceptable and would ensure that the development integrates into the environment in which it is set. On this basis it would accord with Policy D1 of the adopted Local Plan, the Council's adopted Good Design SPD, Policy S4 of the Emerging Ashby Neighbourhood Local Plan and Paragraphs 124, 127 and 131 of the NPPF.

Residential Amenity

There are no residential properties within the vicinity of the site which would be impacted on as a result of the development and consequently it is considered compliant with the aims of Policy D2 of the NPPF as well as Paragraph 180 of the NPPF.

Highway Safety

The County Highways Authority (CHA) have been consulted on the application and have advised that they have no objections subject to the imposition of conditions on any permission granted.

It is proposed that the vehicular access into the site off Smithy Road, created in accordance with the permission granted under application reference 15/00278/FULM, would be utilised to serve the store with this access also being shared with the adjacent M&S Food store. It is considered that this access has been designed to cater for the amount of vehicles associated with both of the stores and this access has adequate levels of visibility to enable vehicles to enter Smithy Road in a slow and controlled manner.

With regards to the impacts on the highway network the CHA are satisfied that the methodology of the transport statement (TS) and retail impact statement (RIS) is acceptable and whilst additional vehicle movements would be associated with the proposal, it is determined that the works recently undertaken to the A511 and B587 roundabout will deliver significant additional capacity on the highway network and consequently safeguard against any severe detriment to highway safety in this respect. It is, however, the case that it would be necessary to impose a condition restricting the proposed floor space of the unit to an appropriate split of comparison and convenience retailing (i.e. to meet the bespoke requirements of the applicant) given that any other retail uses within use class A1 could generate a greater level of vehicular activity than

that which has been assessed in the TS and RIS.

The CHA are satisfied with the proposed works which would be undertaken to the boundary with the highway, subject to relevant conditions, and agreement of such works separately with the CHA under Section 278 of the Highways Act 1990. They have also advised that the personal injury collision (PIC) data from the last 6 years would not lead to any requirement for highway safety measures to be secured as part of any permission granted.

In respect of off-street parking it is proposed that 79 off-street car parking spaces would be provided in connection with the store. Initially the CHA raised concerns as the level of off-street parking was below their requirements and as such the proposal would result in highway safety issues by exacerbating a known on-street parking problem in the area. The applicant sought to address this matter by the submission of a Highways Technical Note 1 (HTN1) which assessed the car parking demands at the neighbouring M&S Food Store, via surveys undertaken on three days in July 2018. HTN1 concluded that the maximum demand for vehicles within this car park was 57 between the peak hours of 14:00 to 15:00 with capacity not exceeding 80% at any time during the surveys. As such the level of car parking for the proposed store would be sufficient.

The CHA rejected the conclusion of HTN1 given that the survey was undertaken in the school holidays and as such did not represent 'normal' conditions due to Government advice in this respect advising that transport data should not be collected during non-neutral months (i.e. summer holidays). It was therefore advised by the CHA that in order for reliable survey data to be provided it would be necessary for this to be collected at an appropriate time of the year (i.e. not school holidays) with the survey ideally being based on a B&M store located in Leicestershire and of the same format to that proposed at Ashby Gateway.

As a result of this position the applicant submitted a further Highways Technical Note 2 (HTN2) which has assessed the parking demands at the B&M store on Rockingham Road in Market Harborough. This store met the criteria of the CHA in that it is based in Leicestershire, is a stand-alone store (i.e. not on a retail park), has its own car park and includes a garden centre. The B&M store in Market Harborough has 161 off-street car parking spaces and a total floor area of 3,718 square metres (2,788sqm internally and 930sqm within a garden centre). HTN2 concluded that the peak on-site accumulation was 76 vehicles on a Friday and 91 vehicles on a Saturday with it being noted that the combined floor space of the B&M store in Market Harborough is 1,159sqm greater than that proposed at Ashby Gateway. Taking into account the difference in the floor space between the two stores it is identified that a maximum parking demand on Fridays and Saturdays at the Ashby Gateway store would be 60 and 69 vehicles respectively and as such a sufficient level of off-street parking is proposed.

The CHA have reviewed HTN2 and have concluded that its findings are robust and provide sufficient justification for the level of off-street parking proposed. It is, however, the case that it would be necessary for the store to manage the car parking, via the installation of an enforcement camera to ensure time limits for parking are not exceeded, and the applicants have confirmed their acceptance to this condition. It is also noted that the adjacent M&S Food Store has recently received permission for the installation of a car park enforcement camera under application reference 18/00855/FUL.

Paragraph 109 of the NPPF outlines that *"development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."* Given the conclusions of the County Highways Authority it is determined that, subject to conditions, no unacceptable or severe detriment to highway safety would arise and consequently the proposal would be deemed

compliant with Policies IF4 and IF7 of the adopted Local Plan, Policies T1 and T2 of the Emerging Ashby Neighbourhood Plan as well as Paragraphs 105, 106 and 109 of the NPPF.

Landscaping

An arboricultural assessment has been submitted in support of the application and this has demonstrated that in order to facilitate the development a total of nine trees would need to be removed from the site along with a partial section of a group of trees, these trees would mainly be confined to the southern boundary of the site and are predominately young saplings of between 7 and 9 metres in height. On the basis of the current maturity of the trees they would not warrant protection via a Tree Preservation Order (TPO).

Whilst such trees would be removed a comprehensive soft landscaping scheme has been submitted in support of the application and as part of the consideration of the application the National Forest Company has been consulted. On the initial landscaping scheme submitted the National Forest Company indicated that although the loss of existing trees was regrettable the suggested landscaping scheme would mitigate against this loss due to the semi-mature trees within the car park having an instant visual impact and the establishment of a native woodland belt to the southern boundary and planting of a Beech hedgerow also being of benefit to landscape diversity.

However, an amended landscaping scheme has been required due to the County Highways Authority advising that they would not accept landscaping within the highway boundary and this has consequently led to the loss of the native woodland belt and a few individual trees. The National Forest Company have been reconsulted on the revised landscaping scheme and whilst it is regrettable that the extent of landscaping has been reduced, the proposed planting to be provided within the site boundaries would accord with their previous recommendations.

It is considered that as the soft landscaping within the confines of the site would remain in accordance with the recommendations of the National Forest Company, with an additional 2 metre high beech hedge being introduced to the boundary of the site with the M&S car park, the proposal would be acceptable particularly given that the applicant has no control over land within the highway in order to provide the soft landscaping initially proposed. Accordingly the submitted soft landscaping scheme would be acceptable and would be conditioned on any permission granted.

No details of the 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 as well as Policy NE5 of the Emerging Ashby De La Zouch Neighbourhood Plan.

Ecology

The County Council Ecologist has been consulted on the application and has raised no objections. On this basis that no ecological mitigation is required in connection with the development it would accord with Policy En1 of the adopted Local Plan, Policy NE4 of the Emerging Ashby De La Zouch Neighbourhood Plan and Paragraph 175 of the NPPF and Circular 06/05.

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. Discharge into the river from non-mains drainage systems and from surface water disposal can also result in an adverse impact on the SAC, including in relation to impacts on water quality and flow levels.

The proposal could result in an impact on the SAC, which may undermine its conservation objectives, as it could result in the additional discharge of foul drainage to the treatment works/use of a non-mains drainage system and surface water drainage discharge.

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 Community Infrastructure Levy (CIL) Regulations and Paragraph 56 of the NPPF. There is no capacity available under DCS1 and so DCS2 was adopted by the Council on the 20th September 2016.

The proposed development would result in the provision of amenity facilities for staff and therefore there would be an increase in foul drainage discharge to the mains sewer from the site. A DCS2 contribution would be calculated using the British Flows and Loads 4 document and this indicates that for full-time employees a rate of 90 litres/per person/per day would be expected. The application forms indicate that the proposal will create 30 full-time jobs and according the formula calculation would be as follows:

30 full-time employees x 90 litres = 2700 litres/per person/per day

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

2700 litres x 1 x 2.5 = £6750

The applicant has indicated that they are 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. On the basis that the applicant's calculation does not include for customer toilets a condition would be imposed to outline that no customer toilets should be installed within the premises given that they would not be mitigated.

The flows from the site need to be taken into account against the existing headroom at Packington Treatment Works and at present sufficient capacity is available so as to accommodate the foul drainage from the site.

The provision of the building and hard surfaces on the site will impact on land which is currently undeveloped but whilst this is the case it is considered that the impacts to the River Mease SAC from surface water run-off could be mitigated by the imposition of a condition on any consent granted to ensure that run-off rates from the site to the mains sewer are the equivalent of its undeveloped state.

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 adverse effect on the integrity of the River Mease SAC, or any features of special scientific interest of the River Mease SSSI. It therefore complies with the Habitat Regulations 2017, Policies S2, En1 and En2 of the adopted Local Plan, Policy NE4 of the Emerging Ashby De La Zouch Neighbourhood Plan and the NPPF.

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. The scheme has been assessed by the County Council Lead Local Flood Authority (LLFA) who whilst not objecting to the proposed means of surface water drainage, which would discharge surface water run-off to the mains sewer at a rate consistent with its undeveloped state, have outlined that consent from Severn Trent Water would be required to enable a connection into the mains sewer to be made. No representation has been received from Severn Trent Water to advise that they would not accept the surface water flows with it being the case that an agreement of a connection to the mains would be made directly with Severn Trent Water under separate legislation outside of the planning process. In these circumstances it is considered that subject to the imposition of appropriate conditions on any consent granted for the surface water drainage scheme to be provided the proposal would accord with Policies Cc2 and Cc3 of the adopted Local Plan as well as Paragraph 163 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 180 of the NPPF.

Land Stability and Contamination

The Council's Contaminated Land Officer has reviewed the application and has determined that there are no objections to the application subject to the imposition of conditions associated with the submission of a Risk Based Land Contamination and relevant Verification Investigation should remediation be required, this is due to known issues with ground gas and contamination issues in the area. It is considered that the imposition of such conditions are reasonable given the use of the building and the need to ensure the health and safety of employees and customers of the store.

As the site lies within a Coal Mining Referral Area a Coal Mining Risk Assessment has been submitted in support of the application. The Coal Authority has been consulted on the Risk Assessment and have raised no objections to the application. On this basis it is considered that there are no land stability issues associated with the creation of the development.

On the basis of the above, and subject to the imposition of relevant conditions, it is considered that the proposal would accord with Policy En6 of the adopted Local Plan as well as Paragraphs 178, 179 and 180 of the NPPF.

Other Matters

In terms of the third party comments received which have not been addressed above the applicant has outlined that the submitted Retail Impact Assessment is based on industry established information provided by Experian which is a definitive source of information for town centre health checks. The use of such information has also been considered acceptable by the Council's external retail consultants. Consequently it is considered to be a more reliant source of material for the basis of the assessment of the application than that provided by the third party which is not substantially backed with any financial or factual information. It is also the case that vacancy rates have reduced and an above 'national average' of comparison retailers

are now present in Ashby De La Zouch Town Centre than was the case at the time of the Council's Retail Studies of 2012 and 2015 which would not suggest that the town centre is failing. The presence of charity shops would also not suggest a failing town centre given that such businesses generally require small floor space premises which are characteristically found in traditional high street destinations, such as Ashby, where small terraced retail units are present, it is also the case that they represent only 7% of the town centre's unit composition.

Conclusion

The application site is situated within the Limits to Development where the principle of this type of development is acceptable. It is also considered that the information as submitted has adequately assessed the impacts of the proposal on the vitality and viability of Ashby De La Zouch and Coalville Town Centres and that no significant adverse impacts would arise, in this respect, as well as the fact that there are no sequentially preferable sites available for the proposed development. On this basis compliance with Policies Ec8 and Ec9 of the adopted Local Plan as well as Paragraphs 24 and 26 of the NPPF has been demonstrated. The loss of employment land, in this instance, is also considered acceptable in the context of Policy Ec3 of the adopted Local Plan. It is also considered that the proposal would also not impact adversely on the character and appearance of the streetscape and wider area, residential amenity, highway safety, ecology, existing landscaping, contaminated land or the integrity of the River Mease SAC, nor would the proposal exacerbate any localised flooding issue. There are no other material planning considerations that indicate planning permission should not be granted and accordingly the proposal, subject to relevant conditions and completion of a Section 106 agreement, is considered 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. **Restriction on floor space of comparison goods.**
5. **Restriction on use class.**
6. **Finished floor levels and ground levels.**
7. **Boundary treatments (including retaining walls).**
8. **Soft landscaping.**
9. **Replacement landscaping.**
10. **Hard landscaping.**
11. **Retained tree and hedgerow protection.**
12. **Car parking.**
13. **Car park monitoring camera.**
14. **Cycle parking.**
15. **Off-site highway works.**
16. **Construction traffic management plan.**
17. **Foul drainage.**
18. **Surface water drainage.**
19. **Surface water drainage during construction.**
20. **No installation of customer toilets.**
21. **Contaminated land.**
22. **Verification investigation.**

Erection of 9 dwellings with associated access, turning areas
and car parking.

Report Item No
A2

Land Off Forest Road Coalville Leicestershire

Application Reference
18/00427/FULM

Grid Reference (E) 442699
Grid Reference (N) 313046

Date Registered:
6 April 2018

Consultation Expiry:
23 May 2018

Applicant:
Mr Louis Massarella

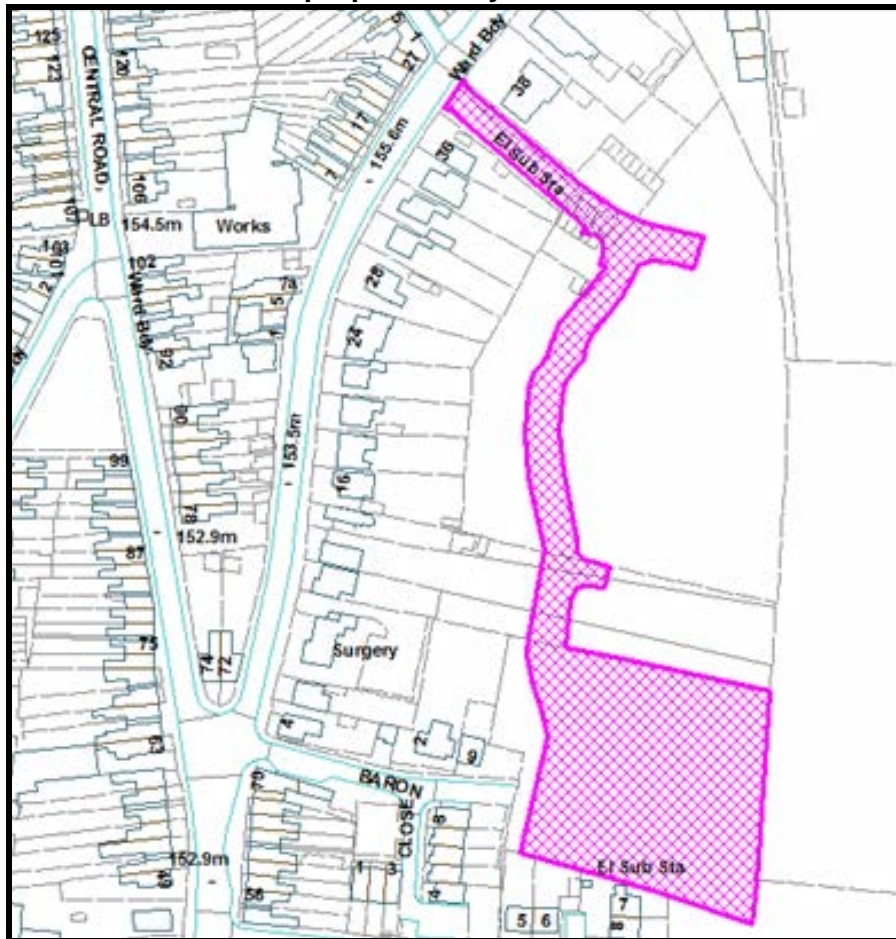
8 Week Date:
6 July 2018

Case Officer:
Adam Mellor

Extension of Time:
8 August 2018

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application is called in to Planning Committee by Councillor Johnson on the basis that the scheme will provide no affordable housing, residential properties on Peggs Grange will be overlooked and that land levels will be raised.

Proposal

It is proposed that 9 dwellings with associated access, turning areas and car parking will be erected on land off Forest Road, Hugglescote.

Consultations

Objections have been received from third parties as well as Hugglescote and Donington Le Heath Parish Council, but no objections have been received from other statutory consultees who have responded during the consultation process.

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:

- Design, housing mix and impact on the character and appearance of the streetscape;
- Residential amenity;
- Highway safety;
- Ecology;
- Landscaping;
- Drainage and flood risk;
- Archaeology; and
- Development viability.

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 erection of 9 dwellings with associated access, turning areas and car parking at land off Forest Road, Hugglescote. The 0.66 hectare site is situated on the eastern side of Forest Road where it is within the Limits to Development. Public footpath N85 runs along the eastern boundary of the application site and the surrounding area comprises predominately residential development with properties varying in their type and design.

Planning permission has been granted, and subsequently implemented by the applicant, on land to the north of the application site under application references 15/00032/FULM (30 dwellings) and 16/00798/FUL (8 dwellings) and the proposal under this application would be a continuation of this development with a further nine dwellings being created. It is proposed that the dwellings would comprise seven x 4 bed and two x 3 bed two-storey detached types.

Vehicular access to the site would be gained from the private drive (Choyce Close) created as part of 15/00032/FULM and 16/00798/FUL, whose main access is off Forest Road. Off-street parking for the dwellings would be provided both externally and within integral garages.

A design and access statement, incorporating a Building for Life 12 (BfL12) assessment, affordable housing statement and statement of public consultation, has been submitted in support of the application along with a viability appraisal. The viability appraisal has been independently reviewed by the District Valuer (DV).

The planning history of the site is as follows:

- 15/00032/FULM - Construction of 30 dwellings with associated access and open space - Approved 14th January 2016.
- 16/00797/VCUM - Variation of conditions 2, 3, 9, 11 and 12 of planning permission 15/00032/FULM in order to allow for the erection of 30 dwellings with a revised site layout - Approved 8th March 2017.
- 16/00798/FUL - Construction of 8 dwellings with associated access and turning (extension to site granted planning permission under 15/00032/FULM - Approved 8th March 2017.

2. Publicity

22 Neighbours have been notified.

Site Notice displayed 30 April 2018.

Press Notice published Leicester Mercury 2 May 2018.

3. Summary of Consultations and Representations Received

The following summary of representations is provided.

Hugglescote and Donington Le Heath Parish Council object to the application on the following grounds:

- The proposed levels and design for the dwellings work against the contours of the land and as such the finished floor levels will be raised so that they are level with the street.
- Adverse impacts to the amenities of residents on Peggs Grange will arise due to changes in the levels.
- Surface water flooding impacts will arise due to topography of the site.

- The applicant is avoiding the payment of affordable housing contributions by submitting applications in stages.

Leicestershire County Council - Archaeology has no objections.

Leicestershire County Council - Developer Contributions have sought a financial contribution towards education.

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

Leicestershire County Council - Footpaths Officer has no objections subject to conditions.

Leicestershire County Council - Highways Authority have no objections subject to conditions and financial contributions towards travel packs and bus passes.

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

National Forest Company require a financial contribution towards off-site National Forest planting.

NWLDC - Affordable Housing Officer has outlined that two affordable units would be required as part of the development.

NWLDC - Environmental Protection has no objections.

NWLDC - Footpaths Officer has no objections.

NWLDC - Waste Services have outlined where bin collection points should be located in the circumstances that the highway is largely unadopted.

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

Third Party Representations

Five letters of representation have been received objecting to the application with the comments raised summarised as follows:

- The proposed dwellings will impact on residential amenities given that the land on which they are situated will be is at a higher level so overlooking and overbearing impacts will arise.
- Additional traffic on Forest Road will result in detriment to highway safety.
- It will be important to ensure that land levels are not raised and that appropriate landscaping is provided.
- Recommendations in relation to ecology need to be followed.
- Consideration should be given to limiting the hours of construction.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2018)

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

Paragraphs 8 and 10 (Achieving sustainable development);
 Paragraphs 11 and 12 (Presumption in favour of sustainable development);
 Paragraph 34 (Development contributions);
 Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making);
 Paragraphs 54, 55, 56 and 57 (Planning conditions and obligations);
 Paragraphs 59, 60, 61, 62, 64, 68, 73, 74 and 76 (Delivering a sufficient supply of homes);
 Paragraph 98 (Promoting healthy and safe communities);
 Paragraphs 105, 106, 108, 109, 110 and 111 (Promoting sustainable transport);
 Paragraphs 126, 127, 130 and 131 (Achieving well-designed places);
 Paragraph 163 (Meeting the challenge of climate change, flooding and coastal change);
 Paragraph 175, 178, 179 and 180 (Conserving and enhancing the natural environment); and
 Paragraph 199 (Conserving and enhancing the historic environment).

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 H4 - Affordable Housing;
 Policy H6 - House Types and Mix;
 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 Cc2 - Water - Flood Risk; and
 Policy Cc3 - Water - Sustainable Drainage Systems.

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).

5. Assessment

Principle of Development and Sustainability

The site is located within the Limits to Development where the principle of residential development is considered acceptable subject to compliance with relevant policies of the adopted Local Plan and other material considerations. Within the NPPF (2018) there is a presumption in favour of sustainable development and proposals which accord with the

development plan should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

The sustainability credentials of the scheme would need to be assessed against the NPPF and in this respect Policy S2 of the adopted Local Plan highlights that the Coalville Urban Area, of which Hugglescote is part, is the primary settlement in the District where the largest amount of new development will take place.

On the basis of the above, the application site would be considered a sustainable location for new development due to it benefitting from a range of local services and being readily accessible via public transport, as such future residents would not be heavily reliant on the private car to access the most basic of services.

The provision of the housing would result in development on a greenfield site which is not allocated in the adopted Local Plan for such a form of development. Whilst the site is not allocated, and greenfield land is not the most sequentially preferable land on which to provide new development, it is noted that both developments to the north of the site have been undertaken on greenfield land and land to the east of the site (also greenfield) is allocated under Policy H1h of the adopted Local Plan for a residential development of up to 3,500 dwellings (Land North and South of Grange Road, Hugglescote) with a resolution being in place to permit a scheme of 79 dwellings under this allocation (ref: 13/00802/FULM) on land adjacent to the eastern boundary of the site. In this context, as well as taking into account that existing residential properties lie to the south and west of the site and the provision of a wildlife buffer that would protect the ecological significance of the site, it is considered that the loss of the greenfield site would not result in significant conflict with the environmental strand of sustainability enshrined within the NPPF.

Overall there would be no substantial harm to the built and natural environment with any harm being outweighed by the economic benefits associated with the construction of the dwellings and the positive social sustainability aspects of the scheme which would support the move towards a low carbon economy as required by the environmental strand. As a result the proposal would be considered sustainable in accordance with Policy S2 of the adopted Local Plan and the principles of the NPPF.

Design, Housing Mix and Impact on the Character and Appearance of the Streetscape

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1, as well as the Council's adopted Good Design for NWLDC SPD, but also Paragraphs 124, 127 and 131 of the NPPF.

At present the application site comprises an area of scrubland which is set to the east of residential properties on Forest Road and Baron Close, north of dwellings on Peggs Grange and south of dwellings on Choyce Close with permission also existing for the creation of a housing development to the immediate east of the site. Within the surrounding area there is a significant variation in the types, heights and scales of residential properties. From a topographical perspective land levels fall from west to east, by around 5 metres, and from north to south, by around 1 metre.

It is noted that the same applicant has received permission for two housing developments (totalling 38 dwellings) on land to the north of the site and these schemes are currently in the process of being built out. During the consideration of these previous applications extensive discussions and negotiations were held with the Council's Urban Designer so as to ensure a

good standard of design was achieved.

The Council's Urban Designer has been consulted as part of this application and initially concerns were raised in relation to how the scheme would address the proposed residential development to the east (permitted under application reference 13/00802/FULM) as well as the ability for pedestrians and cyclists to permeate through the scheme so as to access Forest Road.

Following a site visit it was determined that the topography of the application site in relation to Baron Close and the land to the east would reduce the possibility to provide appropriate pedestrian and cycling links. In addition, a 5 metre ecological buffer strip would be provided between the eastern (side) elevations of plots 5 and 6 and the site boundary, at the request of the County Ecologist, which would further prevent the movement of people in this particular area. Whilst the lack of routes between sites would be a negative, from a design perspective, it is considered that future residents of the proposed development would still benefit from a convenient route to Forest Road via Choyce Close, with occupants of the proposed dwellings to the east being able to utilise public footpath N85 to pedestrian and cyclist links onto Choyce Close which are to be provided in accordance with the permission granted under application reference 15/00032/FULM.

In terms of addressing the proposed residential development to the east of the site, the eastern (side) elevations of plots 5 and 6 have been amended so that habitable room windows and bay windows are installed which ensures that there is visual interest to these elevations whilst also enabling additional surveillance of public footpath N85 to be undertaken. The western (side) elevation of plot 9 has also been amended to provide a window and chimney breast which ensures that views established from Forest Road and Baron Close towards this dwelling do not terminate at a blank elevation, albeit it is accepted that the difference in land levels between the application site and Baron Close limit the extent of the elevation which would be visible. Amendments undertaken to plot 1 and the northern (front) elevation of plot 9 also ensure that these elevations address views established from Choyce Close and enable surveillance of the route into the application site.

With regards to more general compliance with the Council's adopted Good Design SPD, amendments have also been made to ensure that habitable room windows enable surveillance of parking provision to the side of dwellings, that private amenity areas are the equivalent of the foot print of the properties and that a 50/50 balance exists between soft landscaping and off-street parking provision.

The design of the dwellings, and their external materials, are to be consistent with the house types that have been permitted on the schemes to the north of the site and consequently are considered to be appropriate in the context of the environment in which they are set.

Overall the layout, appearance and scale of the development would be acceptable and would ensure compliance with Policy D1 of the adopted Local Plan, the Council's adopted Good Design SPD and Paragraphs 124, 127 and 131 of the NPPF.

With regards to housing mix, Policy H6 of the adopted Local Plan outlines that a mix of housing types, sizes and tenures is expected on residential developments proposing 10 dwellings. When determining an appropriate housing mix the information contained within the Housing and Economic Development Needs Assessment (HEDNA) is one of the factors to take into account alongside other criteria as outlined in Part (2) of Policy H6. It is noted that the scheme as originally submitted proposed 10 dwellings whereas it has now been subsequently amended to

only propose 9 dwellings.

It is outlined in the 'Viability of the Development' section of this report below that for the purposes of developer contributions the proposal would be considered as an extension to the developments permitted to the north. Whilst a scheme of 9 dwellings would not ordinarily require the provision of developer contributions it is noted that the development permitted under application reference 16/00798/FUL, for 8 dwellings, was permitted subject to a Section 106 agreement which secured an appropriate level of contributions based on the viability of the scheme. Therefore the approach, in this respect, would be consistent with that previously taken.

Although developer contributions would be sought it is considered that it would not be appropriate to have regard to the overall mix of dwellings on the application site in conjunction with the previously permitted developments given that there was no policy in place which required an appropriate housing mix to be provided when application references 15/00032/FULM and 16/00798/FUL were determined. Therefore, in this instance, there would be no overall justification to resist the development on the basis of Policy H6 particularly as the scheme, as proposed, is below the threshold where Policy H6 would be applicable.

In any event it is noted that criteria (f) of Part (2) of Policy H6 outlines that the 'character and context of the individual site' is one of the considerations to take into account when considering housing mix with Paragraph 122 of the NPPF outlining that in terms of the efficient use of land planning decisions should support development which take into account, amongst other things:

- *"local market conditions and viability" (criteria (b));*
- *"the desirability of maintaining and area's prevailing character and setting (including residential gardens)" (criteria (d)); and*
- *"the importance of securing well-designed attractive and healthy places" (criteria (e)).*

In this respect it is considered that the proposed mix, scale and form of the dwellings would be consistent with the developments permitted to the north and therefore compliant with criteria (f) of Part (2) of Policy H6 as well as the aims of Paragraph 122 of the NPPF. There would also be no justification to seek a higher number of dwellings on the site, in order to make Policy H6 applicable, given that Paragraph 123 of the NPPF only seeks to ensure that residential developments are not built at low densities where there is a shortage of land available for meeting housing needs, this is not applicable in this case as the District Council has a five year housing land supply.

Residential Amenity

In respect of the impacts on the amenities of neighbouring residents it is considered that the properties most immediately affected would be nos. 5, 6 and 7 Peggs Grange to the south, nos. 20, 21, 22, 23, 24 and 25 Choyce Close to the north and nos. 7, 8 and 9 Baron Close, to the west.

Plots 7, 8 and 9 are set to the north of nos. 5, 6 and 7 Peggs Grange and on the basis of the submitted plans separation distances of 21.95 metres would be provided between the northern (side) elevation of no. 7 Peggs Grange and the southern (rear) elevation of plot 8 as well as 27 metres between the northern (rear) elevations of nos. 5 and 6 Peggs Green and the southern (rear) elevation of plot 9. Plot 7 would not sit directly behind the side elevation of no. 7 with plot 8 not being directly behind nos. 5 and 6. In terms of the single storey detached garages for plots 7 and 8 the amended plans for nine dwellings originally showed these to be set 11 metres from the side elevation of no. 7 but following concerns being raised by third parties Officers have been able to secure the relocation of these garages so that a separation distance of 17 metres

would now be provided.

The Council's adopted Good Design SPD outlines that a separation distance of at least 20 metres should be provided between rear elevations (Figure 14 on Page 64 of the adopted Good Design SPD) with a distance of at least 12 metres where the principal window of a habitable room is directed to face the blank wall of a neighbouring dwelling (Figure 13 on Page 64 of the adopted Good Design SPD). Given the above separation distances, as well as the fact that the development is orientated to the north of dwellings on Peggs Grange, it is considered that no adverse overbearing or overshadowing impacts would arise particularly when the development intends to follow the topography of the site. It is also considered that no adverse overlooking impacts would arise given the separation distances between elevations as well as the fact that at least 13 metres would exist between the rear elevations of plots 7, 8 and 9 and what would become shared boundaries with nos. 5, 6 and 7. The separation distance between the northern (side) elevation of no. 7 and the rear elevations of the detached garages to plots 7 and 8 would also be acceptable given that their heights are limited to 5 metres, they are set at a lower land level to that associated with no. 7 and the fact that the roof slopes away from what would become the shared boundary.

The western (side) elevation of plot 9 would be set 23 metres from the eastern (rear) elevation of no. 8 Baron Close and 12 metres from its boundary with a distance of 21.43 metres to the eastern (side) elevation of no. 9 Baron Close and 9.5 metres to its boundary. Taking into account the separation distances advised by the Council's adopted Good Design SPD, outlined above, as well as the fact that properties on Baron Close are situated on higher land it is considered that no adverse overbearing or overshadowing impacts would arise. The only window proposed at first floor level in the western (side) elevation of plot 9 would serve an ensuite and views from the windows in the northern (front) and southern (rear) elevations would only provide oblique views towards nos. 8 and 9 Baron Close, as such no adverse overlooking impacts would arise to the occupants amenities.

Plots 1, 2, 3, 4 and 5 would be situated to the south of nos. 20, 21, 22, 23, 24 and 25 Choyce Close with it being observed on the site that nos. 20 - 25 Choyce Close are set at a higher land level to that of the application site. A minimum separation distance of 20 metres would exist between elevations (plot 1 with no. 20 Choyce Close) with a minimum distance of 11 metres to what would become shared boundaries (plots 3 and 4 with nos. 23 and 24 Choyce Close). As is the case above such separation distances would ensure that no adverse overbearing, overshadowing or overlooking impacts would arise to the amenities of the occupants of these dwellings.

With regards to the new development to the east of the site the submitted layout plan associated with application reference 13/00802/FULM outlines that plots 61, 62 and 63 would be set in close proximity to the application site boundary with plots 61 and 62 being orientated so that their principal elevations face towards the proposed development and plot 63 being orientated so as to present its side elevation to the application site. Plots 5 and 6 on the application site would be set 5 metres from the boundary of the application site associated with application reference 13/00082/FULM. The smallest separation distance between dwellings would be 13.23 metres (the western (front) elevation of plot 63 and the eastern (side) elevation of plot 6) and this is considered acceptable in ensuring that no adverse overbearing or overshadowing impacts would arise when accounting for the topography of the land and the orientation of dwellings.

Windows are proposed to serve habitable room windows at first floor level in the side elevation of plot 6 as well as the principal elevation of plot 63. Given that views from these windows would

be across public footpath N85, as well as a front amenity area to plot 63, it is considered that any overlooking implications would not be of sufficient detriment as to warrant a refusal of the application given that such a relationship is not too dissimilar to that established between the front elevations of dwellings which are separated by areas that are accessible to the public.

On the basis of the above it is also considered that the relationship between the proposed dwellings and existing built forms, as well as between themselves, would be acceptable. The size of the gardens associated with plots 1 - 5 would also ensure that the provision of retaining walls and boundary treatments to nos. 20 - 25 Choyce Close would not result in any sufficiently detrimental overbearing impacts to the amenities of any future occupants of these plots particularly given that they would be aware of such relationships prior to their purchase.

With regards to the suggestion that the construction hours should be limited it is considered that it would be difficult to impose such a condition given that the permissions granted for the development to the north of the site have not been subjected to such a condition and the Council's Environmental Protection Team have not advised that such a condition would be necessary. Should a statutory noise nuisance arise as a result of construction works than the Council's Environmental Protection team could investigate and take action against such a matter under separate Environmental Health Legislation.

Overall the proposal would be considered compliant with Policy D2 of the adopted Local Plan as well as Paragraph 180 of the NPPF.

Whilst third party representations and the Parish Council have raised objections in relation to the levels on the site being raised so as to become level with the adjacent development on Choyce Close the submitted information outlines that this would not be the case with it being possible to condition that the finished floor levels of the dwellings are provided in accordance with the information as submitted.

Highway Safety

The County Highways Authority have been consulted on the application and have raised no objections subject to the imposition of conditions on any permission granted.

Vehicular access into the site would be achieved from Forest Road via the access point which was created in accordance with the planning permission granted under application reference 15/00032/FULM. This access has been designed to provide adequate levels of visibility in both directions, so as to enable vehicles to enter the highway in a slow and controlled manner, and which is of a width that allows vehicles to pass clear of the highway. Given the design of the access it is considered that it would be capable of accommodating the vehicular movements associated with a further 9 dwellings without resulting in severe implications to pedestrian and highway safety. Internally the highway is not to be adopted, and thereby it remains a private drive, but this highway being of a width of seven metres would be sufficient in allowing vehicles to travel safely past each other. Within the site itself vehicles would be able to manoeuvre in a safe and appropriate manner so as to exit the site in a forward direction. On the above basis the proposal would be compliant with Policy IF4 of the adopted Local Plan and Paragraph 109 and 110 of the NPPF.

Following amendments to the plans the dimensions of the external off-street parking spaces and internal dimensions of the integral/detached garages now accord with guidance contained with the County Highways Design Guide and Council's adopted Good Design SPD with the number of spaces per plot also being in accordance with the aforementioned guidance. On this basis, and subject to the imposition of a relevant condition, a sufficient level of off-street parking would

be provided in accordance with Policy IF7 of the adopted Local Plan and Paragraphs 105 and 106 of the NPPF.

Public footpath N85 runs adjacent to the eastern boundary of the site and would not be impacted on as a result of this development given the retention of the boundary hedge and provision of the 5 metre ecological buffer strip on the development side of the eastern boundary. On this basis compliance with Paragraph 98 of the NPPF would be ensured.

Ecology

The County Council Ecologist has been consulted on the application and has commented that the loss of the grassland on the site would be acceptable to facilitate the development given that it is only of local significance. It is, however, the case that evidence from previous ecological appraisals, as well as the submitted ecological appraisal, have indicated that badgers are present in the area albeit the location of their sett has not been established. On this basis the County Council Ecologist considers it imperative that the hedgerow to the eastern boundary of the site is retained and that a buffer of natural vegetation is provided to a total distance of 5 metres from this hedgerow to the residential boundaries of the dwellings so as to establish a wildlife corridor and to ensure badgers do not become trapped on the site. It is noted that such an approach was taken on the scheme to the immediate north of the site and consequently a similar condition would be imposed to secure the provision of the wildlife corridor. Revised plans have been submitted to indicate how the wildlife corridor would be established and a revised consultation response from the County Council Ecologist has confirmed that they consider this detail to be acceptable.

Subject to the imposition of a condition to secure the wildlife corridor it is considered that the proposal would accord with Policies D1 and En1 of the adopted Local Plan as well as Paragraph 175 of the NPPF and Circular 06/05.

Landscaping

The majority of trees and hedgerows on the site are located on the site boundaries and consequently could be retained as part of the development although some management of this vegetation may be undertaken given its current condition. For the avoidance of doubt it is noted that no trees on the site are subject to Tree Preservation Orders (TPOs) nor would they be deemed worthy of protection via a TPO.

The National Forest Company have identified that the previous applications to the north of the site have addressed the need for National Forest woodland planting and landscaping by making a financial contribution via a Section 106 agreement and this would be their preferred method of securing the 0.13 hectares of woodland planting and landscaping required as part of this development.

Notwithstanding the comments of The National Forest Company it is generally encouraged that existing soft landscaping is retained as part of development proposals, particularly those within the National Forest area, and consequently a condition would be imposed on any permission granted for a suitable scheme to be secured given that no precise information in this respect has been provided.

It is also considered that details of the hard landscaping to be provided on the site would be secured via a condition.

Overall, and subject to the imposition of the identified conditions, the scheme would be compliant with Policies D1 and En3 of the adopted Local Plan.

Drainage and Flood Risk

The site lies within Flood Zone 1 (which has the lowest risk of flooding) and is also within an area which is largely not impacted on by surface water flooding although there is a low to medium potential for surface water flooding to occur within parts of the site where plots 6 - 10 would be located. The above is based on the Environment Agency's Surface Water Flood Map.

As part of the consideration of the application the Lead Local Flood Authority (LLFA) have been consulted and initially an objection was raised due to the submitted information not demonstrating that the risk of surface water flooding would not increase as a result of the proposal. Further information subsequently submitted has outlined that surface water run-off would discharge into the surface water sewers owned by Severn Trent Water whose consent to connect into the system will be required under separate legislation and who will determine the appropriate flow which should discharge into the sewer from the site. The LLFA have considered the revised information and determined that they have no objections subject to the imposition of conditions on any permission granted to secure the surface water drainage solution.

On this basis it is considered that the proposal would comply with Policies Cc2 and Cc3 of the adopted Local Plan, as well as Paragraph 163 of the NPPF, and would ensure the development would not exacerbate any localised flooding impact.

Insofar as foul drainage is concerned, it is indicated on the application form that this would be discharged to the mains sewer with such discharge being agreed with Severn Trent Water under separate legislation. In the circumstances that Severn Trent Water have raised no representation to foul drainage discharges being managed in this manner it is considered that the additional demands for foul drainage could be met by the existing sewerage system in place and therefore the proposed development would accord with Paragraph 180 of the NPPF.

Archaeology

The County Council Archaeologist has advised that no archaeological mitigation would be required as a result of the development and on this basis the proposal would be considered compliant with Policy He1 of the adopted Local Plan and Paragraph 199 of the NPPF.

Viability of the Development

A request has been made for Section 106 contributions towards education, National Forest planting, transportation and affordable housing. These requests have been assessed against the equivalent legislative tests contained within the Community Infrastructure Levy (CIL) Regulations 2010 (CIL Regulations) as well as Paragraphs 34, 54 and 56 of the NPPF.

For the avoidance of doubt the Local Planning Authority is not dealing with this development as a stand-alone application for 9 dwellings but instead are treating it as an extension to the existing site and consequently a combined development of 47 dwellings, should permission be granted for the development as proposed.

The requested development contributions are listed below.

Affordable Housing

Policy H4 of the adopted Local Plan outlines that the affordable housing contribution on a scheme of 11 or more dwellings proposed on a greenfield site within the Coalville Urban Area, of which Hugglescote is part, would be 20%. Whilst it is noted that ordinarily a scheme of 9 dwellings would not 'trigger' an affordable housing contribution in light of this proposal being an

extension to the existing development to the north Policy H4 would be applicable, this is as outlined above. It is, however, the case that any contribution would be based on 9 dwellings given that off-site contributions have already been secured within Section 106 agreements associated with the permissions granted to the north.

The Council's Affordable Housing Enabler has been consulted on the application and has advised that a scheme of 9 dwellings should provide 2 affordable units on the site. It is, however, the case that Paragraph 7.34 of the supporting text to Policy H4 outlines that in exceptional circumstances (such as site specific constraints or demonstrable viability issues) the Local Authority may accept a sum of money (referred to as a commuted sum) to make provision for affordable housing on another site(s). Should a commuted sum be paid on this site it would be in the region of £100,000 (£50,000 per unit).

Education

Leicestershire County Council (Education) request a high school sector contribution of £17,876.17 for Newbridge High School. No requests are made for the primary, upper or special school sectors. The reasoning for the request outlines that no more than five obligations (including those proposed) have been sought for the scheme project and as such no issues arise in respect of pooling (insofar as the limitations on pooled contributions as set out within the CIL Regulations are concerned).

A total contribution of £17,876.17 is therefore sought for education.

Transportation Contributions

The County Highway Authority has requested the following developer contributions, required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use.

- Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
- Two six month bus passes per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services as an alternative to the private car and to establish changes in travel behaviour from first occupation (£360.00 per pass).

National Forest Planting

The National Forest Company request a financial contribution of £4550 given that no woodland planting or landscaping is proposed on site.

Conclusions in respect of Developer Contributions

The following requests have been made:

National Forest Company - £4550.00;
 County Highway Authority - £1915.65 based on 25% uptake of bus passes;
 County Council Education Authority - £17,876.17;
 Affordable Housing - £100,000.00;

Total - £124,341.82

It has been identified by the applicant that there are viability constraints associated with the development due to the topography of the site which would require the provision of abnormal foundations, retaining walls and a pumping station. The costs associated with carrying out these

works would result in the development not providing a competitive return to any landowner or developer.

Policy IF1 of the adopted Local Plan outlines that in negotiating the provision of infrastructure the Council will have due regard to viability issues which will require the applicant to provide viability information to the Council which will then be subject to independent verification. Paragraph 57 of the NPPF outlines that *"the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force."* Paragraph 008 of the 'Viability and Plan Making' section of the NPPG outlines that *"where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then."*

A viability appraisal was submitted in support of the application and this assessment was independently reviewed by the District Valuer (DV) who has concluded, following the receipt of further information associated with sales on Phases 1 and 2 to the north of the site as an accurate evidence base to the viability appraisal, that the scheme would be unable to support any Section 106 contributions (a deficit of over £120,000 has been demonstrated to a 17.5% profit margin).

While Paragraph 008 of the NPPG now states that any viability assessment which is submitted should be *"based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since"* it is considered that as the scheme has already been assessed by the DV, it would be unreasonable to require the developer to undertake further viability appraisals at this late stage of the application process.

As the DV is satisfied regarding the viability assessment that has been submitted on the site the Local Planning Authority accepts these arguments. However, and notwithstanding the aims of Policy IF1 of the adopted Local Plan and Paragraph 57 of the NPPF, it is still considered necessary to determine whether a scheme offering no contributions would represent sustainable development. Paragraph 8 of the NPPF provides support for the economic and social roles of planning and states that with regards to the economic role development should *"include the provision of infrastructure"* and from a social perspective development should support the community's *"health, social and cultural well-being."*

Subsequent discussions have been undertaken with the applicant and it has been agreed that a total contribution of £24,341.82 (representative of 20% of the total contribution) would be paid to meet the requests of the County Council Education Authority, County Council Highways Authority and National Forest Company (these service areas would therefore receive the full contribution sought). The payment of these contributions would assist in off-setting some of the conflict with the economic and social strands of sustainability referred to above.

It would remain, however, that no contribution towards affordable housing would be made albeit consideration could be given to dividing the contribution up on a pro rata basis which would result in the following contributions being provided:

National Forest Company - £973.67;
 County Highways Authority - £486.84;
 County Education Authority - £3407.85;
 Affordable Housing - £19,473.46;

If Members are minded to grant planning permission than they can give consideration as to whether the pro-rata contributions should be sought, which would ensure that at least some contribution is provided to each of the relevant requests, or that full contributions are made to the County Council Highways, National Forest Company and County Council Education Authority (i.e. no affordable housing contribution is paid).

Overall in the context of Policy H4 of the adopted Local Plan Part (2) of this Policy does outline that in agreeing the provision of affordable housing due regard will be given to "*site constraints*" as well as "*financial viability, having regard to the individual circumstances of the site.*" As concluded above it has been demonstrated that the scheme is not viable to afford any Section 106 contributions with it also being the case that the schemes permitted to the north of the application site have been granted without the provision of on-site affordable housing (indeed only a significantly reduced off-site contribution was sought). Taking such matters into account it is considered that, on balance, the securing of relevant contributions to other service areas would assist in mitigating the implications of the development to local infrastructure, and thereby ensure it is sustainable, with the degree of conflict with Policy H4 of the adopted Local Plan not justifying a refusal of the application when taken in balance with the compliance with Policy IF1 of the adopted Local Plan.

It should also be the case that the Section 106 agreement is subjected to periodic reviews of the economic viability of the scheme, during the course of the development, with a view to increasing the level of contributions in the event that the profitability of the scheme improves.

Play Area/Open Space

Policy IF3 of the adopted Local Plan outlines that on-site play provision and open space, or any off-site contribution, would only be applicable on development proposals of 50 dwellings or more and as such none would be required as part of this proposal which only equates to 47 dwellings, when taking into account those permitted to the north of the site.

Other Matters

The Council's Waste Services Team have been consulted on the application and have advised that if Choyce Close is to largely remain an unadopted highway than the bin collection point for the proposed dwellings would need to be located around the turning head in close proximity to nos. 7, 8, 9, 32 and 33 Choyce Close which forms part of the adopted highway. The District Council has been made aware of issues associated with the current bin collection arrangements for the existing dwellings on Choyce Close and whilst no conditions were imposed on the permissions granted under application references 15/00032/FULM and 16/00798/FUL the applicant has outlined that he is willing to discuss this matter further with the District Council in order to achieve a suitable solution. In respect of this application a condition would be imposed for the precise bin collection scheme to be agreed.

Conclusion

The application site is located within the Limits to Development where the principle of this form of development would be acceptable with the development also being within a socially sustainable location and not impacting adversely on the environment due to the neighbouring land being allocated for housing development. 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 impact adversely impact on the amenities of neighbouring residents, highway safety, ecology, archaeology or soft landscaping nor would the proposal exacerbate any localised surface water flooding impact. The development would also provide an appropriate housing mix and an acceptable level of

developer contributions given the viability constraints. There are no other material planning considerations that indicate that planning permission should not be granted and accordingly the proposal, subject to relevant conditions and completion of a Section 106 agreement, is acceptable for the purposes of the above mentioned policies.

It is therefore recommended that the application be permitted.

RECOMMENDATION - PERMIT, subject to the LLFA and County Council Ecologist confirming that they have no objections, and to conditions and the completion of a Section 106 agreement;

1. Time limit.
2. Approved plans.
3. External materials.
4. Hard and soft landscaping.
5. Replacement landscaping.
6. Boundary treatments.
7. Finished floor and ground levels.
8. No raising of existing ground levels.
9. Surface water drainage.
10. Off-street parking.
11. Vehicle manoeuvring facilities.
12. Proposed pumping station.
13. Bin collection area.
14. Tree and hedge protection.
15. Ecological buffer strip.
16. Curtilage restriction plots 5 and 6.

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Conversion of barn to form residential dwelling including raising the roof to provide first floor living accommodation

**Report Item No
A3**

**Barn Adjoining Renira Aqueduct Road Coleorton Coalville
Leicestershire LE67 8JA**

**Application Reference
18/00624/FUL**

**Grid Reference (E) 440567
Grid Reference (N) 317983**

**Date Registered:
9 May 2018**

**Applicant:
Mr & Mrs Michael Richards**

**Consultation Expiry:
21 September 2018**

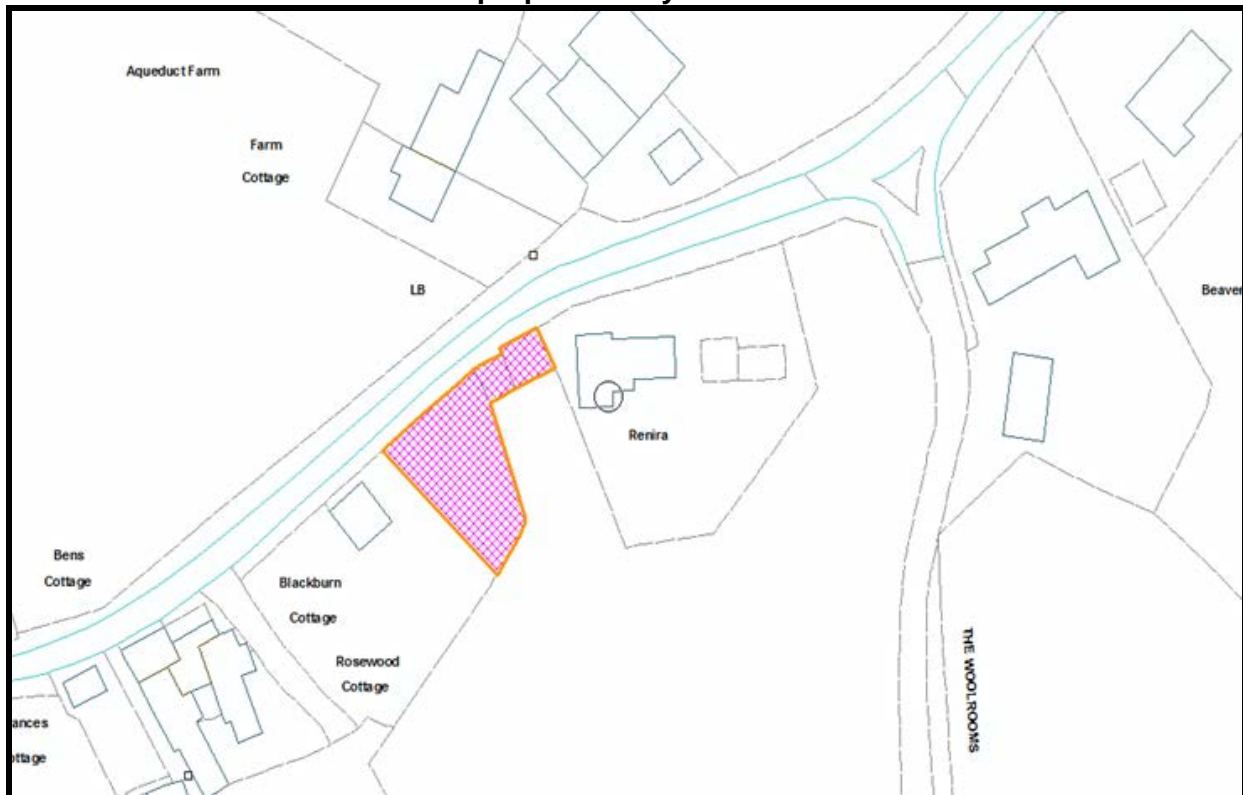
**Case Officer:
Hannah Exley**

**8 Week Date:
4 July 2018**

**Extension of Time:
9 August 2017**

**Recommendation:
PERMIT**

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 related to a serving councillor (Councillor Blunt) and contrary representations to the recommendation to permit the application have been received.

Proposal

Planning permission is sought for the conversion of an existing barn to form a residential dwelling. The proposals also include the raising of the existing roof of part of the building to provide first floor living accommodation. The 0.04 of a hectare site is located on the south eastern side of Aqueduct Road and was last used for agricultural and residential storage.

Consultations

A total of 12 letters of representation have been received, 9 stating support for and 3 raising objection to the proposals. No comments have been received from Worthington Parish Council and all statutory consultees have raised no objections.

Planning Policy

The site is located outside the Limits to Development on the Policy Map to 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 application site lies outside the defined Limits to Development within the part of Coleorton identified as a 'small village', where the conversion of existing buildings is considered acceptable. The scheme does not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, highway safety or ecology. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION:-

PERMIT SUBJECT TO THE IMPOSITION OF CONDITIONS

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

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the conversion of an existing barn to form a residential dwelling. The proposals also include the raising of the existing roof of part of the building to provide first floor living accommodation. The 0.04 of a hectare site is located on the south eastern side of Aqueduct Road and was last used for agricultural and residential storage.

The site is identified as being outside the defined Limits to Development in the adopted Local Plan, with the surrounding area comprising mainly open agricultural fields as well as residential properties of varying designs and scales which are predominantly located on the southern side of Aqueduct road.

During the course of the application amended plans have been secured following officer concerns about the visibility available at the access and the loss of hedgerow.

The application submission was accompanied by a Design and Access Statement and Bat Survey.

Relevant planning history:

17/01354/PDNALO - Prior approval of a change of use of agricultural building for storage (Refused)

In considering this application it was noted that: 'On the balance of the evidence, it is considered that it has not been adequately demonstrated that the subject building has been used solely for an agricultural use as part of an established agricultural unit in accordance with the time periods specified.'

2. Publicity

5 Neighbours have been notified.

Site Notice displayed 31 May 2018.

3. Summary of Consultations and Representations Received

Worthington Parish Council - no response received.

Leicestershire County Council - Ecology recommends that any permission be subject to conditions.

Leicestershire County Council - Highway Authority advise that the residual cumulative impacts of development can be mitigated and are not considered severe, subject to conditions.

NWLDC - Environmental Protection has no environmental observations, subject to contaminated land conditions.

Severn Trent Water no comments received.

Third Party Representations

12 letters of neighbour representation have been raised raising both support and objection for the proposals.

9 letters provide support for the application for the following reasons:

- There is a need for additional housing in this area;
- The proposal will provide a much needed smaller dwelling that would be suitable for an

existing resident who wishes to downsize;

- The proposal would help support local services;
- The proposal would be a sensitive conversion scheme and would improve the appearance of Aqueduct Road;
- It is important to support local people who want to stay in the area;
- The proposal would prevent an important old building going into disrepair and being pulled down and would not be detrimental to the area;
- Re-use of an existing building.

3 letters raise objection to the application for the following reasons:

- Increase in traffic on a busy single track road with no footways and where on-street parking further narrows the width of the road;
- Other developments permitted along the road will also generate additional traffic along the road and therefore, the proposal will only add to this;
- New vehicular access onto a single track road creates a highway hazard;
- Concern about parking on the road due to inadequate parking being provided;
- The character of Aqueduct Road is being eroded by new residential development;
- A previous planning permission was refused on highway safety grounds and therefore, the same concerns should apply to the current proposal;
- There have been 2 vehicle accidents on Aqueduct Road in the last 8 months and near misses;
- Raising of the roof would result in loss of light to neighbouring windows in side elevation of Renira resulting in loss of neighbouring amenities;
- No objection to the principle of converting the barn but raise highway safety concerns for all road users.

4. Relevant Planning Policy National Planning Policy Framework (2018)

The policies of the North West Leicestershire Local Plan as listed in the relevant section below are consistent with the policies in the NPPF. The following paragraphs of the NPPF are considered relevant to the determination of this application:

Paragraphs 7, 8, 9, 10, (Achieving sustainable development);
Paragraphs 11, 12 (The Presumption in Favour of Sustainable Development);
Paragraph 55 (Planning conditions and obligations);
Paragraph 79 (Delivery of a sufficient supply of homes)
Paragraph 109 (Promoting sustainable transport);
Paragraphs 127 (Achieving well-designed places);
Paragraph 175, 178 (Conserving and enhancing the natural environment);

Adopted North West Leicestershire Local Plan (2017)

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

S3 - Countryside
D1 - Design of New Development
D2 - Amenity
IF4 - Transport Infrastructure and New Development
IF7 - Parking Provision and New Development
En1 - Nature Conservation
En3 - The National Forest
Cc2 - Floodrisk
Cc3 - Sustainable Drainage Systems

Other Policies/Guidance

National Planning Practice Guidance

Leicestershire Highways Design Guide

Good Design for North West Leicestershire SPD - April 2017

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

5. Assessment**Principle of 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 and is in the countryside and therefore, Policy S3 of the adopted Local Plan applies. This policy stipulates that only certain types of development (including the re-use and adaptation of buildings for appropriate purposes including housing) are permitted and they must conform to certain criteria whilst aiming to preserve and enhance the environment. With regard to criteria (i) and (iv), the suitability of the proposal in relation to the character and appearance of the landscape and the integration of the proposal within existing development, these are covered below in the 'design and impact on the character of the area' section of this report. As for criteria (ii) and (iii), the proposal would not result in the joining of settlements or ribbon development. With regard to criterion (v), the site is located between existing residential development and re-uses an existing building. Furthermore, Policy S2 of the adopted Local Plan allows for the conversion of existing buildings within this part of Coloerton which is identified as a small village.

Therefore, it is considered that the proposed conversion of the building for residential purposes, would be acceptable in principle, for the purposes of Policies S2 and S3 of the adopted Local Plan and paragraph 79 of the NPPF.

Highway Safety and Access

Concern has been raised by local residents about the development leading to an increase in on-street parking and an increase in traffic on adjoining single track roads, along with concerns about the suitability of the proposed access.

The application falls to be considered under Highways Standing Advice. There is currently no vehicular access to the wider site apart from the access to the building and the proposal would require a new access to be formed off an unclassified road with a 30mph speed limit where splays of 43m in both directions would be required. The original submission showed a new access at the western end of the site frontage with substandard visibility splays of 14.6m in a westerly direction and 36m in an easterly direction. The plans have since been amended to provide a more centrally positioned vehicular access with visibility splays of 25m in both directions shown on the plans, although the northern splay is not achievable as it is shown to extend through the barn. The visibility would be substandard and therefore, the formal comments of the County Highways Authority have been sought.

The County Highways Authority notes that Aqueduct Road is a predominately rural, single carriageway road subject to a 30mph speed limit. However, when having regard to the existing use of the barn and with Aqueduct Road being an unclassified road, County Highways Authority advise that a new vehicular crossover could be provided at the site, without having the benefit of turning/parking provision and visibility splays scrutinised. Therefore, whilst the visibility splays

may be less than typically desired for a 30mph speed limit road, by virtue of the development proposal being detailed under a planning application, the design of the access can be controlled and the majority is in accordance with the Leicestershire Highways Design Guide (LHDG). The proposal also makes provision for off-street parking and turning provision in connection with proposed dwelling and pedestrian access between the parking area and the dwelling is available within the site. Additionally, the County Highways Authority notes that the cessation of the potential use of the existing substandard access between the building and the highway is considered to be a highway gain.

In light of the above, and taking into consideration the available visibility, the scale of the proposal and the likely traffic generation, and other existing accesses onto Aqueduct Road, that are restricted in terms of visibility, the County Highways Authority considers the proposal is acceptable. Notwithstanding comments by local residents, there have been no recorded personal injury collisions (PIC's) on Aqueduct Road within the last five years. Subject to conditions, the County Highways Authority has no existing safety concerns regarding the site.

Overall, therefore, the highway safety aspects of the scheme are considered acceptable. The proposal is considered acceptable in relation adopted IF4 and IF7 of the adopted Local Plan and paragraph 109 of the NPPF.

Impact on Residential Amenities

The properties most immediately affected by the proposal would be Renira and Blackburn Cottage. Renira is located to the east of the converted building which forms the boundary line to the garden to this property. The application property is orientated north west to south east and Renira is orientated north to south and as a result, Renira is located between 2.8m and 4.2m from the converted dwelling. This neighbouring property has two windows in its side elevation facing the proposed dwelling. At the ground floor level there is a secondary window to a lounge (habitable room) and at first floor level there is a window serving a bathroom.

The height of the converted barn is currently asymmetrical and the ridge would be raised by 0.8m to create a symmetrical gable with an overall ridge height of 6.2m. When having regard to the secondary nature of the lounge window and the fact that the bathroom window serves a non-habitable room and the location of the building to the west of the neighbouring property, it is not considered that the proposed raising of the roof would give rise to any significant overbearing or overshadowing impact on this neighbouring property. No windows are proposed in the side gable facing Renira and the roof lights serving first floor accommodation in the rear elevation would directly overlook fields to the rear. It is not considered that the proposal would result in any significant overlooking of Renira.

Blackburn Cottage is located to south west of the garden area to the proposed dwelling and has a detached garage occupying the north eastern corner of the property, which would abut the application site. The garden area to the proposed dwelling along with the garage to the neighbouring dwelling would provide sufficient distance between the proposal and Blackburn Cottage in order to prevent any significant overbearing, overshadowing or overlooking of this neighbouring property.

There are properties on the opposite side of the road but these are sited at sufficient distance from the highway to prevent any adverse impact by means of overbearing, overshadowing or overlooking impacts.

Overall, the proposal is not considered to result in significant impacts upon surrounding residential amenities. Therefore, the proposed development is considered to be in accordance

with Policy D2 of the adopted Local Plan and the Council's Good Design SPD.

Design and Impact on Character of Area

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1, but also Paragraph 127 of the NPPF.

The proposed conversion of the existing building would result in the raising of the roof of the larger section of the existing building which would provide symmetrical gables to the building. There are no new openings within the front elevation with existing openings being utilised, to the garden facing side elevation a new door is proposed in place of an existing window opening and these changes are considered sympathetic. However, to the rear elevation it is proposed to install three identical two light casement windows which are both large window units for this modest building and have a domestic appearance and would appear incongruous and out of keeping with the simple character of the barn. At the time of writing this report, the agent advised that amended plans would be provided to overcome officer concerns. Members will be advised of the suitability of the amended details via the update sheet.

Overall, and subject to suitable amended plans being received, it is considered that the proposal would respect the scale and character of existing development in the locality and would be compliant with Paragraph 127 of the NPPF as well as Policy D1 of the adopted Local Plan.

Ecology

The application site is situated within the National Forest (Policy En3) and Policy En1 of the adopted Local Plan seeks to ensure existing vegetation is retained and enhanced. The landscaping on the site consists of hedgerows along the boundaries with three small trees within the site.

The new vehicular access and provision of visibility splays would result in the loss of hedgerow along the site frontage and would require the remove of one of the existing trees within the site. At the time of writing this report, the agent had agreed to provide an amended plan showing the retention of existing hedgerows along the rear/side boundaries and the replanting of a hedgerow behind splay lines along the front boundary of the site. Members will be advised of the suitability of the amended landscape details via the update sheet.

Overall, the development would be compliant with the aims of Policies En1 and En3 of the adopted Local Plan.

The proposal relates to the conversion of a rural building including the raising of the roof and therefore, protected species information has been provided as part of the application. The County Ecologist has been consulted and advises that the bat survey accompanying the application is satisfactory. It concludes that minor evidence of a bat roosting was found with a bat seen emerging from the building. The consulting ecologist has proposed mitigation including the exclusion of bats before work commences and the provision of a temporary bat box roost and a permanent ridge roost unit in the converted dwelling, which is considered acceptable to the County Ecologist, subject to conditions.

On the basis of these conclusions it is considered that the proposal is unlikely to adversely affect protected species and therefore it complies within the aims of Paragraph 175 of the NPPF, Circular 06/05 and Policy En1 of the adopted Local Plan.

Other

The Council's Environmental Protection team have raised no objections with regards to ground

contamination subject to the imposition of conditions. Subject to conditions, it is considered that the proposal would comply with Paragraph 178 of the NPPF.

Conclusion

The application site lies outside the defined Limits to Development within the part of Coleorton identified as a 'small village', where the conversion of existing buildings is considered acceptable. The scheme does not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, highway safety or ecology. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION - PERMIT, subject the following condition(s):

1. Standard time limit
2. Approved plans
3. Materials, details and finishes
4. Definition of residential curtilage
5. Land contamination
6. Access
7. Provision of visibility splays
8. Provision of off street car parking and turning
9. Landscaping and boundary treatments
10. Window/door details
11. Removal of permitted development rights
12. Ecological mitigation scheme

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – TUESDAY, 2 OCTOBER 2018

<p>Title of report</p>	<p>PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT LAND AT BOSWORTH ROAD, MEASHAM AND MEASHAM ROAD, MOIRA.</p>
<p>Contacts</p>	<p>Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Planning and Development Team Manager 01530 454668 chris.elston@nwleicestershire.gov.uk</p> <p>Senior Planning Officer 01530 454768 ebony.mattley@nwleicestershire.gov.uk</p>
<p>Purpose of report</p>	<p>To consider a request from the developer of the above sites to amend its affordable housing obligations</p>
<p>Council Priorities</p>	<p>Homes and Communities</p>
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>Not applicable</p> <p>N/A</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p>
<p>Comments of Head of Paid Service</p>	<p>Report is satisfactory.</p>
<p>Comments of Section 151 Officer</p>	<p>Report is satisfactory.</p>

Comments of Monitoring Officer	Report is satisfactory.
Consultees	Ashby Woulds Town Council Measham Parish Council North West Leicestershire District Council Ward Member – Councillor John Bridges North West Leicestershire District Council Ward Member – Councillor Gill Hoult North West Leicestershire District Council Strategic Housing Team
Background papers	Application documents in respect of planning application refs:- 14/00444/FUL (New Street, Measham) 14/00445/FUL (Bosworth Road, Measham) 17/00130/FUL (Measham Road, Moira)
Recommendations	TO AGREE TO THE AMENDMENTS OF THE EXISTING AFFORDABLE HOUSING OBLIGATIONS WITHIN THE LEGAL AGREEMENTS FOR BOSWORTH ROAD, MEASHAM AND MEASHAM ROAD, MOIRA FOR THE PROVISION OF 9 NO. ON-SITE AFFORDABLE UNITS AT NEW STREET, MEASHAM IN LIEU OF AFFORDABLE HOUSING AT BOSWORTH ROAD, MEASHAM AND MEASHAM ROAD, MOIRA.

1.0 INTRODUCTION AND BACKGROUND

Bosworth Road, Measham

- 1.1 On 14 April 2015, the District Council’s Planning Committee resolved to grant full planning permission subject to Section 106 obligations for residential development of 27 dwellings and associated infrastructure at Land Adjoining Greenacres, Bosworth Road, Measham (herein referred to as “Bosworth Road” (planning permission ref: 14/00445/FULM).
- 1.2 The Bosworth Road application was originally a linked application with ref: 14/00444/FUL at Land off New Street, Measham.
- 1.3 The New Street, Measham site originally proposed 22 affordable dwellings, with the intention being that the affordable housing requirements of 8 affordable dwellings from the Bosworth Road site would be provided at the New Street, Measham site. The applications were intended to be linked by way of a legal agreement and in the event that the New Street site was not granted planning permission, the Section 106 agreement would be

flexibly worded to ensure that on-site provision and/or a suitable equivalent by way of a commuted sum would be required on the Bosworth Road site.

- 1.4 Members were informed via the update sheet for Planning Committee on 14 April 2015 that the Council's Strategic Housing Officer requested that in the event that an on-site affordable housing provision was required for the Bosworth Road site, the mix of units on the site should be secured. Accordingly an amended plan was submitted showing an additional two, two bed roomed dwellings at Plots 1, 2, 15 and 15a, providing four on-site dwellings.
- 1.5 Within the update sheet the Council's Strategic Housing Officer confirmed that in the event that New Street, Measham was not consented, the Authority would accept four dwellings on the Bosworth Road site, with the other four dwellings, as a commuted sum and that flexibility would be provided within the S106 Agreement to allow for such a series of scenarios, if necessary.
- 1.6 The Section 106 agreement was completed on 25 August 2016 and the planning permission was issued on the same day.
- 1.7 The Section 106 agreement included obligations in respect of, amongst others, affordable housing comprising four x 2 bed 4 person Affordable Rented houses and an off-site commuted sum in lieu of 4 on-site units of £133,833.33. The affordable housing obligation therefore required four dwellings to be provided on-site and for the commuted sum, to be used anywhere within the District, where there is a need for affordable housing.

New Street, Measham

- 1.8 Full planning permission, was granted by delegated powers on 14 February 2017 for residential development of nine dwellings and associated infrastructure at Land off New Street, Measham (herein referred to as "New Street" (planning permission ref: 14/00444/FUL).
- 1.9 The original submission was for 22 affordable dwellings, and was intended to be the affordable provision for a then linked application ref: 14/00445/FULM at Land at Bosworth Road, Measham. During the course of the application, however, a series of amendments were made, including reducing the number of dwellings to 16 affordable dwellings and subsequently, nine open market dwellings.
- 1.10 At the time of determination, the application was assessed against Policy H8 (Affordable Housing) of the adopted North West Leicestershire Local Plan 2002 and the North West Leicestershire District Council Affordable Housing SPD, which required affordable housing to be sought on all sites of 11 or more dwellings in Measham. Accordingly, for the avoidance of doubt, following the reduction in the number of dwellings, there was no requirement for affordable housing provision as a stand-alone application, as the scheme did not meet the threshold for it.

Measham Road, Moira

- 1.11 Full planning permission, was granted by delegated powers on 15 August 2017 for residential development of four dwellings and associated garages at Measham Road, Moira (herein referred to as “Measham Road” (planning permission ref: 17/00130/FUL).
- 1.12 An application for 80 dwellings and a small retail store (planning permission ref: 13/00183/FULM) was previously approved on the site and the application ref: 17/00130/FUL proposed to replace the retail store, with four dwellings.
- 1.13 For the avoidance of doubt, whilst there would not usually be a requirement for affordable housing provision, for a scheme for four dwellings, the Local Planning Authority considered the application as an extension to the existing site and the Council’s Strategic Housing Officer confirmed that the scheme should provide for 30% affordable housing within the site (which would equate to 1 dwelling).
- 1.14 The Section 106 agreement was completed on 14 August 2017 and the planning permission subsequently issued on 15 August 2017.
- 1.15 The Section 106 secured one x 2 bedroomed affordable rented dwelling (let by the District Council and/or a Registered Provider at a rent up to 80% of local market rent).

2.0 PROPOSED AMENDED AFFORDABLE HOUSING OBLIGATIONS

- 2.1 The developer is of the view that, given the interrelationship between the three sites, all of the affordable dwellings can be provided on the New Street site.
- 2.2 The developer has confirmed that the proposed changes have arisen, following discussions with Registered Providers on both the Bosworth Road and Measham Road schemes.
- 2.3 In relation to the Measham Road site, the developer has confirmed that the single plot, was a semi-detached unit joined to an open market unit, which has resulted in a lack of interest from Registered Providers.
- 2.4 The scheme at Bosworth Road had provision for four units on site, and the developer states that they were sited in isolated pairs on the development and that there was a lack of interest in these units due to them being located remotely and there only being four units.
- 2.5 The developer therefore confirms that the proposed scheme delivers nine affordable housing units in a close area, which will be easy to manage for Registered Providers going forward and they have a Registered Provider (Trent and Dove) lined up to take the dwellings.
- 2.6 In combination, the Bosworth Road, Measham and Measham Road, Moira sites provide the following affordable housing provision:-

- 4 x 2 bed 4 person Affordable Rented houses (Bosworth Road, Measham)
- An off-site commuted sum in lieu of 4 onsite units (£133,833.33) (Bosworth Road, Measham)
- 1 x 2 bed 4 person affordable rented house (Measham Road, Moira)

2.7 The New Street, Measham site approved open market dwellings comprising:-

- 6 x 3 bed units,
- 2 x 2 bed units
- 1 x 1 bed unit.

2.8 Accordingly the changes would result in the New Street, Measham site providing the following affordable dwellings:-

- 6 x 3 bed houses (comprising 4 x 3 bed as Affordable Rented and 2 x 3 bed houses as Shared Ownership)
- 2 x 2 bed houses as Affordable Rented
- 1 x 1 bed coach house as Affordable Rented

3.0 CONSULTATION

3.1 Measham Parish Council have no objections.

3.2 Ashby Woulds Town Council object to the loss of one affordable dwelling on the Measham Road, Moira site. The town council's view is that the affordable housing should not be taken out of the parish and provision should be increased not decreased and disputes that the plot is in isolation.

3.3 The District Council's Strategic Housing Team have indicated that the proposal maximises the level of onsite affordable housing provision and have confirmed that they are happy to accept the proposal.

3.4 At the time of writing comments are awaited from the Ward Members – Councillors Hault and Bridges.

4.0 RELEVANT PLANNING POLICY

4.1 National Policies

National Planning Policy Framework (NPPF)
Planning Practice Guidance

4.2 Adopted North West Leicestershire Local Plan

Policy H4 of the adopted North West Leicestershire Local Plan states that to support the provision of mixed, sustainable communities, the Council will seek the provision of affordable housing on new housing developments.

For Measham the affordable housing contribution is 30% and the threshold on 11 or more dwellings or 1,000 square metres of floor space.

5.0 ASSESSMENT

5.1 Interconnecting relationship between Bosworth Road and New Street

- 5.1.1 Consideration has been given to the original links between the Bosworth Road and New Street sites, where it was accepted in principle, at first, that all affordable units from the Bosworth Road site, were to be provided at New Street, Measham (as set out within Paragraph 1.3 above).
- 5.1.2 At the time of consideration of the Bosworth Road application at Planning Committee in April 2015, the New Street site was still at the original 22 dwellings, however at that time objections had been raised by statutory consultees, namely in respect of ecology and flood risk. Accordingly, the Local Planning Authority in consideration of the concerns of statutory consultees, considered a fall-back position, so that in the event that the New Street site did not receive consent, as a stand-alone application, that the policy compliant amount of affordable housing would still be provided at Bosworth Road.
- 5.1.3 As such the initial position was to link the two sites Bosworth Road and New Street together. Whilst the resolution at Planning Committee, still allowed for the link, this also established on-site provision of four dwellings on the Bosworth Road site, and an additional four dwellings, as a commuted sum, in the event that the New Street site did not received planning consent.
- 5.1.4 The Bosworth Road site received a resolution to permit, on 14 April 2015, but the Section 106 Agreement was not secured until August 2016. Within this time, the New Street site was initially reduced in numbers to 16 affordable dwellings in July 2015.
- 5.1.5 The New Street site was then subsequently reduced in numbers, again, which arose due to the physical constraints of the New Street site, being a sewer easement, and the alternative layouts proposed also reflected the ecological surveys and flood risk assessment.
- 5.1.6 At this time when the amendments for 9 dwellings at New Street were submitted in May 2016, the applicant also indicated that the dwellings were to be open market, and not a 100% affordable housing scheme, as had been originally submitted. Given the resolution at Planning Committee for Bosworth Road, which allowed for four on-site dwellings and four as a commuted sum, the change proposed by the applicant for the New Street site, did not affect the level of affordable housing to be provided at the Bosworth Road site.
- 5.1.7 Accordingly, it was at this time, that the link between the two sites was effectively severed, as there was provision for affordable dwellings within Bosworth Road site, secured within the S106 Agreement and the reduction to nine dwellings meant that affordable dwellings were not required to be provided within the New Street site, as a standalone application.
- 5.1.8 The original issues identified within the New Street site, were overcome and the scheme was ultimately granted planning permission for 9 open market dwellings in February 2017, with no link, or no requirement for affordable dwellings.
- 5.1.9 The amendments as now presented, seeks to re-iterate the original link between to the two sites at Measham, by New Street facilitating the provision of affordable housing, for

the Bosworth Road site. This reflects that of the original intention when New Street was to provide the entire affordable housing provision for Bosworth Road.

5.2 Registered Providers

- 5.2.1 The developer has confirmed that the proposed changes have arose, following discussions with Registered Providers on both the Bosworth Road and Measham Road schemes.
- 5.2.2 In relation to the Measham Road site, the single dwelling was a semi-detached unit joined to an open market unit. The developer has stated that this arrangement, and the single isolated dwellings, has resulted in a lack of interest from Registered Providers.
- 5.2.3 In respect of Bosworth Road, the four on-site dwellings were proposed as two pairs of semi-detached dwellings. Plots 1 and 2 were on the sites frontage, with Plots 15 and 15a located within the site. The developer states that the small number of dwellings, and the layout has resulted in there being a lack of interest from Registered Providers.
- 5.2.4 The developer states that the scheme would provide all nine affordable dwellings, within one area, which would be easy to manage for a Registered Provider and they have a Registered Provider (Trent and Dove) lined up to take the dwellings.
- 5.2.5 The Strategic Housing Team have confirmed that a Registered Provider (Trent and Dove) is already on board and would oversee the delivery of the properties in line with their business plan timescales and that all of the rented properties would be allocated off the Council's Choice Based Lettings Housing Register.
- 5.2.6 The Strategic Housing Team have also confirmed that they would be supportive of the Registered Provider seeking to prioritise applicants from the area, and to ring-fence one property initially for applicants from Moira (even though this would be physically located within Measham), to reflect the loss of one rented unit in Moira from the Measham Road site. The Strategic Housing Team would seek to negotiate that the remaining rented properties and the shared ownership properties were offered to those households with a connection to Measham.
- 5.2.7 In the event that the Registered Provider should withdraw at any time, the Strategic Housing Team have confirmed that the Council would seek to secure the transfer/ownership of the land at New Street at nil value for the Council to either develop the affordable scheme itself, or transfer to some other Registered Provider to develop the affordable scheme.
- 5.2.8 The developer has confirmed that terms have been agreed with Trent and Dove on these units, however, if for some reason Trent and Dove pull out of the scheme and no other Registered Provider is willing to accept transfer of the units, the developer has agreed to transfer the land to the Council, at nil value. It is therefore recommended to include provisions within the legal agreement to allow for such scenarios.

5.3 Deliverability of Affordable Housing Obligations

- 5.3.1 The developer has indicated that the amendments to provide nine affordable dwellings on New Street would be more efficient in timescale, in comparison to the previously approved

scheme, as additional time would be required to find suitable sites elsewhere in the District, for the off-site payment (commuted sum).

- 5.3.2 The delivery of the nine affordable dwellings at New Street would be required to be tied to trigger points on the Bosworth Road site, to ensure an appropriate level of affordable housing coming forward on New Street. The new trigger points should be at least, commensurate to the original trigger points that were set within the Section 106 Agreement for on-site affordable provision on Bosworth Road.
- 5.3.3 The developer has indicated that the triggers would be as per the original Bosworth Road scheme, therefore ensuring that no more than 18 of the open market dwellings on the Bosworth Road site shall be occupied, until two of the affordable dwellings on New Street have been provided and no more than 22 of the open market dwellings on the Bosworth Road site shall be occupied, until all of the affordable dwellings on New Street have been provided.
- 5.3.4 The developer is proposing to proceed by one new legal agreement to include the planning obligations relating to the New Street Site and the variations relating to the existing S106 Agreements in respect of Bosworth Road Site and the Measham Road Site.

5.4. Amendments to Provision

- 5.4.1 The existing S106 obligations require the on-site provision of 4 x 2 bed 4 person Affordable Rented dwellings at Bosworth Road and 1 x 2 bed 4 person Affordable rented dwelling at Measham Road.
- 5.4.2 The amendments would result in a change to 6 x 3 bed dwellings, 2 x 2 bed dwellings and 1 x 1 bed dwelling, this increasing the level of 3 bedroomed dwellings, and providing a greater mix of 1-3 bedroomed dwellings, than the originally secured schemes, which were all for 2 bed dwellings.
- 5.4.3 The Strategic Housing Team have confirmed that the property types and mix as proposed are acceptable and reflect current needs in the village.

5.5 Overall gain of on-site provision

- 5.5.1 The scheme would result in the loss of four on-site affordable dwellings at Bosworth Road site and one on-site affordable dwelling at Measham Road, however it would deliver the four additional dwellings from the Bosworth Road that were previously agreed to be provided as an off- site contribution (commuted sum).
- 5.5.2 The Strategic Housing Team have indicated that the principle regarding the affordable requirement from two sites being delivered on one site has been previously accepted by the initial links between Bosworth Road and New Street, and that a higher number of affordable units will be provided on-site than the two sites would, independently.
- 5.5.3 Overall the changes proposed would result in the same level of affordable housing provision by providing a total of nine dwellings, ensuring that accumulatively the three sites affordable housing provision, would be policy compliant.

5.5.4 Furthermore, the scheme would result in the provision of nine on-site affordable dwellings, which would otherwise have resulted in only five on-site affordable dwellings (four from Bosworth Road and one from Measham Road).

5.6 Loss of 1 unit in Moira

5.6.1 The scheme would result in the loss of one affordable dwelling in Moira, as this is now being proposed to be transferred to Measham and Ashby Woulds Town Council have objected, on that basis.

5.6.2 The Strategic Housing Team have confirmed that they would not usually consider transferring the affordable requirement from one parish and delivering in another. The Strategic Housing Team, however, have taken into consideration the recent history on affordable housing delivery in the two parishes and in considering this proposal the Strategic Housing Team have taken the following points into consideration –

- Increased on site delivery (from 5 across the 3 sites to 9 on one site)
- Recent and pipeline delivery in Moira (49 from Laud Close & 21 remaining at Measham Rd Moira)
- Very low delivery in Measham over the last 5 years due to a lack of Registered Provider interest and viability concerns. Overall 10 units have been provided at Atherstone Road from a negotiated 51 properties from developments at Atherstone Road and Bosworth Road (plus the required 4 properties agreed on Bosworth Road i.e. a maximum on site delivery of 14 units)
- Affordable Housing secured through S106 Agreements on planned developments. (19 affordable homes have been negotiated on full planned developments in Moira. Measham 0)

5.6.3 Taking the above into account the Strategic Housing Team believe that the loss of one affordable home in Moira is outweighed by the on-site provision of 9 dwellings through a local Registered Provider in Measham.

6.0 CONCLUSION

6.1 Having regard to the advice of the District Council's Strategic Housing Team in respect of the difficulties in securing a Registered Provider at Bosworth Road and Measham Road, due to the small number and isolated position of the dwellings, and given the overall gain in *on-site* provision and more efficient delivery of it, it is recommended that the proposed amended affordable housing obligations to provide nine affordable dwellings at New Street, be accepted.

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