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Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	6.30 pm on Tuesday, 1 October 2019
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454512)

## AGENDA

Item	Pages
<b>1. APOLOGIES FOR ABSENCE</b>	
<b>2. DECLARATION OF INTERESTS</b>	
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.	
<b>3. MINUTES</b>	
To confirm and sign the minutes of the meeting held on 3 September 2019	<b>3 - 6</b>
<b>4. PLANNING APPLICATIONS AND OTHER MATTERS</b>	
Report of the Head of Planning and Infrastructure.	<b>7 - 10</b>
<b>5. TO CONSIDER THE MAKING OF A TREE PRESERVATION ORDER (TPO) AT 86 LEICESTER ROAD, WHITWICK</b>	
Report of the Interim Planning and Development Team Manager	<b>41 - 46</b>

## Index of Applications to be Considered

<b>Item</b>	<b>Application Number and Details</b>	<b>Recommendation</b>	<b>Page</b>
<b>A1</b>	<b>19/00141/OUTM: Residential development for up to 30 dwellings (outline application with details of part access)</b>  67 Station Road Hugglescote Coalville Leicestershire LE67 2GB	<b>PERMIT subject to S106 Agreement</b>	<b>11 - 30</b>
<b>A2</b>	<b>18/02074/FUL: Erection of detached dwelling on site of the former Wesleyan Methodist Chapel</b>  Site Of The Former Wesleyan Chapel Dog Lane Wilson Derby	<b>PERMIT</b>	<b>31 - 40</b>

MINUTES of a meeting of the PLANNING Committee held in the Council Chamber, Council Offices, Coalville on TUESDAY, 3 September 2019

Present: Councillor N Smith (Chairman)

Councillors R Boam, A J Bridgen, R Canny, J Clarke, J Hoult, J Legrys, M B Wyatt and J Geary (Substitute for Councillor D Everitt)

In Attendance: Councillors D Harrison, R Ashman, R D Bayliss, R Blunt, A C Saffell, C A Sewell, D E J Tebbutt and A C Woodman

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

### **23. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors D Everitt and D Harrison.

### **24. DECLARATION OF INTERESTS**

All Councillors present declared that they had been lobbied without influence in respect of item A1, application number 18/01443 and had come to the meeting with an open mind.

In addition Councillors A Bridgen, J Bridges, R Canny, J Geary and J Legrys declared that they had attended presentations by the developer but had not been influenced

### **25. MINUTES**

Consideration was given to the minutes of the meeting held on 6 August 2019.

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

RESOLVED THAT:

The minutes of the meeting held on 6 August 2019 be approved and signed by the Chairman as a correct record.

### **26. 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.

### **27. A1**

**18/01443/ FULM: PART FULL / PART OUTLINE PLANNING APPLICATION FOR THE DEVELOPMENT OF LAND, INCLUDING THE DEMOLITION OF ALL EXISTING ON-SITE BUILDINGS AND STRUCTURES AND LEVELLING AND RE-GRADING OF THE SITE. FULL CONSENT SOUGHT FOR THE CONSTRUCTION OF A DISTRIBUTION CAMPUS (USE CLASS B8), WITH ANCILLARY OFFICES (USE CLASS B1A), ASSOCIATED GATEHOUSE AND OTHER ANCILLARY USES, NEW ELECTRICITY SUB-STATION AND NEW PUMPING STATION, CREATION OF NEW ACCESSES FROM THE B5493, INTERNAL ROADWAYS, CYCLEWAYS AND FOOTPATHS, YARD SPACE, CAR PARKING AND CIRCULATION, ASSOCIATED LIGHTING AND SECURITY MEASURES, SURFACE WATER ATTENUATION AND LANDSCAPING. OUTLINE CONSENT (WITH ALL MATTERS RESERVED EXCEPT VEHICULAR ACCESS FROM THE B5493 AND RE-GRADING OF SITE) SOUGHT FOR ADDITIONAL**

**USE CLASS B1C, B2 AND B8 EMPLOYMENT, WITH ANCILLARY OFFICES (USE CLASS B1A) AND ASSOCIATED COMMERCIAL AND AMENITY USES**

Land at M42, Junction 11, Stretton-en-le-Field, Leicestershire, DE12 8AA

**Officer's Recommendation: PERMIT subject to S106 Agreement**

The Principal Planning Officer presented the report to Members drawing their attention to the employment land need and demand assessment that was contained as an appendix within the report, and the update sheet, which contained a number of additional objections and further comments from the applicant.

Mr D Greally, on behalf of Stretton-en-le-Field Parish Meeting, addressed the committee. He highlighted that the site was a designated greenfield site within the Measham valley and was not a sustainable location due to no public transport, cycle paths or footpaths. He advised that he lived a mile from the junction 11 along the A444 and at peak times it could take him 10-15 minutes to get to the junction. He felt that there were more suitable locations in the district and should the application be permitted there would be a substantial loss of hedgerow that was home to unique species of wildlife.

Councillor E Bird, on behalf of Appleby Magna Parish Council, addressed the committee. She highlighted that the site had been identified as countryside and was outside the limits to development. She expressed concerns over the detrimental impact the development would have on the River Mease Special Area of Conservation, highway safety, landscape, noise and light pollution, and ecology due to the loss of trees, hedgerows and water pollution. She noted that the site was not sustainable due to lack of public transport and footpaths.

Ms C Chave, on behalf of Chilcote Parish Meeting, addressed the committee. She highlighted that the development would have a massive and irreversible impact on the surrounding areas and villages, and at the same time be contrary and conflict with the policy Ec2 of the Local Plan. She stated that a development of that size and nature should be considered through the Local Plan process that would allow for appropriate appraisal, consultation and debate on the site. On these grounds the application should be refused.

Councillor D Geldar, on behalf of the other Parishes, addressed the committee. He highlighted to the committee that the development would increase traffic along already busy highways where users already exceeded the speed limits. He noted that notification had been received from the local highways authority that they were looking at reducing the speed limit from 60 to 50mph however, increased traffic along a notorious accident black spot would make little difference. He also expressed concerns over the increase in pollution and the impact on the River Mease SAC.

Ms S Liff, Appleby Environment Group, in objection, addressed the committee. She highlighted that the an application such as the one before them should only be permitted for use if there were no environmental impacts, and as there were no rail links and most employees would need to use a car the application was contrary to policy Ec2. She noted that 16 Parishes and 5 District authorities had objected to the application and the development as a whole would have a permanent impact on the character of the surrounding villages and the gateway to the National Forest.

Ms G Speakman, Residents Against Project Mercia, in objection, addressed the committee. She highlighted that the area of the proposed development fell within the River Mease SAC and that the development would have major and permanent effects. She informed the committee that Natural England advised that there was an increased need for farmland, that there would be a major loss of habitat that homed many different species, TPOs were being ignored and it would have an adverse effect on the environment and life of neighbouring residents.

The committee adjourned at 6.23pm and reconvened at 6.35pm.

Mr D Smith, IM Properties, applicant, addressed the committee. He highlighted that the application was for a high quality employment site that would conform with the Local Plan policies as there was an immediate need for the development. He informed that the site would safeguard and provide jobs, funding towards training, agreed access through a transport plan, agreed environment mitigation and landscaping. He advised that a fund would be set up to benefit local communities and that there were no objections from technical consultees as all felt it was the right location for the development.

Mr T Byrne, JLR, addressed the committee. He highlighted that the new site would help the company grow so that it could continue to serve its UK customers. He advised that the proposed unit would allow them to remain sustainable with good transportation connections but at the same time, by combining the sites, reducing the number of vehicle movements by 25%. He stated that the location would allow current employees with the required skill set to transfer and the company had shown its commitment to the area by signing a twenty year lease.

Mr S Tucker, DTA, addressed the committee. He highlighted that access to the site for staff was critical, therefore included in the travel plan was provision to fund a site bus services and encouragement to car share, which had worked well at another location. He advised that provision had been made for 2350 car parking spaces and scope for cycling provision. He noted that there were no objections from any of the five highway authorities, and that the traffic modelling had been carried out in line with the requirements of the Local Plan. He stated that the traffic plan included proposed improvements to the junction and surrounding area, and a steering group to look at the impact on the area and considered funding for further improvements.

Councillor D Harrison, County Division Member, addressed the committee. He highlighted that the application would have a detrimental effect on thousands of people both near and far as the development would vastly increase the traffic in the area. He stated that at times of shift changes there could be up to 2000 people entering and exiting the site at the same time along with any HGV movements. He advised that the A444 was already congested and that the slip roads at the junction were inadequate.

Councillor R Blunt, District Ward Member, addressed the committee. He thanked the applicant for working together with officers and communities on the application however, he felt that it was a lazy application with much more suitable sites in and around the district. He advised that the application was contrary to the approved Local Plan as it did not meet its policies, that the site was not sustainable as the goods would need to be moved by lorry and staff would need to travel to the site by car and that there were many other brownfield sites that could meet the need. He reminded Members that the Council was pro-development however they should not ignore the Local Plan and therefore refuse the application.

In determining the application, Members acknowledged the number of objections that had been received and thanked officers for a very detailed report. Concerns were expressed about the increase in traffic on the already busy highways around the site, due to lack of public transport and cycle paths, but it was noted that there were no objections from any of the highway authorities consulted. Members also expressed concerns over the loss of countryside and the development being on rich farming land and a Greenfield site, adding that there were several other distribution sites in the District, all of which was contrary to the Local Plan. Members noted the requirement in making a decision, to read the Local Plan and that some policies would be contrary to the proposal but others would support the proposed development when considered together. Members were pleased to see the bunding and landscaping that had been included in the proposals to support the visual and ecological impact.

A motion to permit the application in accordance with the officer's recommendation was moved by Councillor N Smith and seconded by Councillor J Bridges.

The Chairman then put the motion to the vote. A recorded vote being required, the voting was as detailed below.

RESOLVED THAT:

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

<b>Motion to permit the application in accordance with the officer recommendation (Motion)</b>	
Councillor Nigel Smith	For
Councillor Russell Boam	For
Councillor Alexander Bridgen	For
Councillor Rachel Canny	For
Councillor John Clarke	For
Councillor Jim Hout	For
Councillor John Legrys	Against
Councillor Michael Wyatt	Against
Councillor John Bridges	For
Councillor John Geary	Against
<b>Carried</b>	

The meeting commenced at 5.30 pm

The Chairman closed the meeting at 7.48 pm

**APPENDIX B**

**Report of the Interim Head of Planning and Infrastructure to  
Planning Committee**

**1 October 2019**

**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 Infrastructure are material planning considerations and relate to matters not previously raised.

### **4. Reasons for Grant**

Where the Head of Planning and Infrastructure 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 Infrastructure.

### **5. Granting permission contrary to Officer Recommendation**

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



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

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

## **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 Infrastructure.

## **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 Infrastructure /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 Infrastructure.

### **9. Decisions on Items of the Head of Planning and Infrastructure**

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

**Residential development for up to 30 dwellings (outline application with details of part access)**

**Report Item No  
A1**

**67 Station Road Hugglescote Coalville Leicestershire LE67  
2GB**

**Application Reference  
19/00141/OUTM**

**Grid Reference (E) 442408  
Grid Reference (N) 312479**

**Date Registered:  
24 January 2019**

**Consultation Expiry:  
27 February 2019**

**Applicant:  
Mr T Marsden**

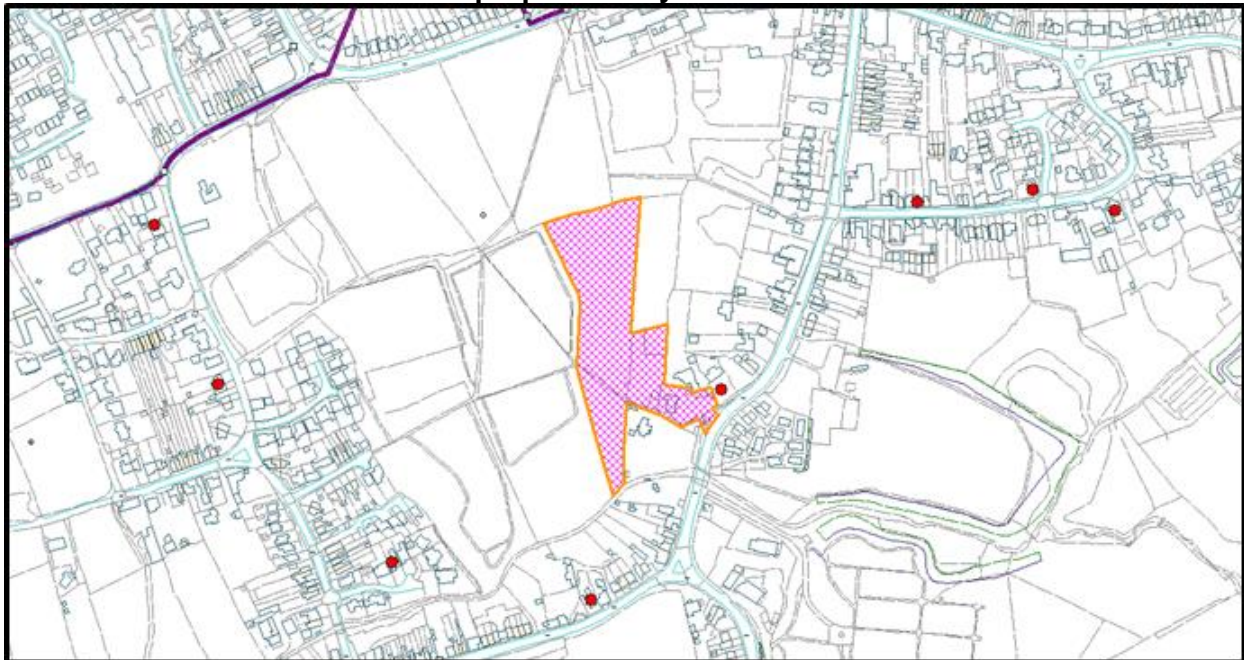
**8 Week Date:  
25 April 2019**

**Case Officer:  
Adam Mellor**

**Extension of Time:  
None Agreed**

**Recommendation:  
PERMIT subject to S106 Agreement**

**Site Location - Plan for indicative purposes only**



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## **EXECUTIVE SUMMARY OF PROPOSALS**

### **Call In**

This application has been brought to the Planning Committee at the request of Councillor Johnson on the basis of detriment to highway safety, flooding, nature and ecology.

### **Proposal**

This is an outline application, with means of part access for approval, and relates to a residential development of up to 30 dwellings at 67 Station Road, Hugglescote.

### **Consultations**

Objections have been received from third parties as well as Hugglescote and Donington Le Heath Parish Council. No objections have been received from statutory consultees.

### **Planning Policy**

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

### **Conclusion**

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

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

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 adopted Good Design for North West Leicestershire SPD, and the NPPF (2019).

### **RECOMMENDATION - PERMIT, SUBJECT TO A LEGAL AGREEMENT AND CONDITIONS.**

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

## MAIN REPORT

### 1. Proposals and Background

Outline planning permission is sought for a residential development of up to 30 dwellings with means of part access for approval at this stage at 67 Station Road, Hugglescote. No. 67 Station Road is a single storey detached dwelling situated on the north-western side of Station Road and is within the Limits to Development. It is intended that the dwellings would be provided on land which currently comprises grassland with the surrounding area comprising residential development to the north-east, east and south and open space/agricultural land, between the settlements of Hugglescote and Donington Le Heath, to the west. Public Right of Way (PROW) N73 passes through the site with the boundaries of the Hugglescote Conservation Area and Grade II listed garden building at no. 77 Station Road being set to the east and north-east.

In order to create the residential development no. 67 Station Road would be demolished with the existing vehicular access into the site being upgraded so as to serve the proposed dwellings. It is anticipated that a mix of 2, 3 and 4 bed properties would be created as part of the development.

A design and access statement, Building for Life 12 (BfL 12) assessment, affordable housing statement, preliminary ecological appraisal, flood risk assessment, heritage statement, Section 106 draft heads of terms, statement of community involvement and travel plan and highways impact assessment have been submitted in support of the application. Following consultation responses a preliminary roost assessment, bat activity survey and management plan for the Local Wildlife Site (LWS) have been submitted and reconsultation undertaken on this information.

The relevant planning history of the site is as follows:

- 91/0554/P - Residential development (outline) - Refused 3rd September 1991.
- 91/0784/P - Residential development (outline) - Refused 26th November 1991; Dismissed at Appeal 29th April 1992.
- 93/0704/P - Erection of one dwelling (outline) - Refused 28th September 1993; Allowed at Appeal 4th February 1994.
- 96/0062/P - Erection of one dwelling (reserved matters) - Approved 13th March 1996.
- 97/0584/P - Use of land as site for two caravans for residential occupation - Refused 4th August 1997; Dismissed at Appeal 17th March 1998.
- 98/01042/MSG - Use of land for the stationing of two residential caravans for occupation by gypsies between 1 October and 30 April each year - Refused 22nd February 1999; Dismissed at Appeal 15th June 1999.

### 2. Publicity

8 neighbours notified.

Press Notice published Leicester Mercury 13 February 2019.

### 3. Summary of Consultations and Representations Received

The following summary of representations is provided.

#### Objection from;

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

- As part of the Parish Councils Neighbourhood Plan consultation residents of the Parish outlined that the open fields and green spaces bounded by Ashburton Road, Station Road, The Green and Manor Road should be preserved. This development would compromise this aim with the emerging Neighbourhood Plan seeking to protect such areas.
- Substantial development has already been undertaken within the Parish and this development is on unallocated land and results in unacceptable impacts to amenity, highway safety and loss of green spaces.
- If to be permitted the development should ensure that at least 20% of the housing is affordable, that bungalows are created and that a financial contribution is made towards youth and adult play facilities.

**No Objections from;**

NWLDC - Environmental Protection.

**No Objections, subject to conditions and/or financial contributions, from;**

Leicestershire County Council - Archaeology.

Leicestershire County Council - Developer Contributions.

Leicestershire County Council - Ecology.

Leicestershire County Council - Footpaths Officer.

Leicestershire County Council - Highways Authority.

Leicestershire County Council - Lead Local Flood Authority.

National Forest Company.

NWLDC - Affordable Housing Enabler.

NWLDC - Environmental Protection (Contaminated Land).

NWLDC - Conservation Officer.

NWLDC - Urban Designer.

Police Architectural Liaison Officer.

University Hospitals of Leicester NHS Trust.

**Third Party Representations**

Seven representations have been received objecting to the development with the comments raised summarised as follows:

*Sustainability of settlement and impact on services*

- The provision of further residential development will impact on the existing services (such as schools and doctors) which are already at capacity.
- The amount of required housing within the area has already been exceeded.

*Highway safety*

- Vehicles travel in excess of the speed limit on Station Road.
- Current road infrastructure, including the Hugglescote crossroads, cannot accommodate additional vehicular movements.
- The proposed access is not in a position that would enable safe access and exit from the site for the amount of residential properties proposed particularly given its proximity to bends and lack of visibility.
- Existing parking provision at the doctors and school needs to be improved so as to accommodate additional users of these services.
- Potential vehicular link with residential development to the rear of no. 115 Station Road will result in further detriment to highway safety.

Design and integration of development into environment

- The construction of houses behind existing houses and loss of the green spaces results in detriment to the character and appearance of the streetscape and the wider areas as a whole.

*Heritage and archaeology*

- Intensive archaeological investigations should be undertaken on the site given that the site lies adjacent to the remains of the old Hugglescote Manor, any further discoveries will be of major importance to the local community and the Parish heritage.
- The loss of the site results in detriment to the historic significance of the area given its association with the Donington Le Heath Manor House and medieval field system.
- The proposed Hugglescote and Donington Le Heath Neighbourhood Plan would seek to preclude development on this site given that it forms part of 'Donington Fields'.

*Residential amenity*

- Provision of residential development will impact adversely on residential amenities due to the scale and position of dwellings causing overbearing, overshadowing and overlooking impacts.

*Ecology*

- There will be adverse impacts to ecological species as a result of the loss of a greenfield site.
- Appropriate buffer mitigation should be provided to the existing watercourse so as to protect ecological species.

*Drainage and Flood Risk*

- The application site is subject to frequent saturation by surface water and the run-off results in flooding to the adjacent footpaths which disrupts the use of the footpaths and this development will exacerbate that impact and increase the risks of surface water flooding.
- The land is important for surface water attenuation to the River Sence and therefore should be protected from development.

*Other Matters*

- There will be a loss of open space.
- I received no direct consultation letter and therefore the determination of the application is not in accordance with relevant legislation.

**4. Relevant Planning Policy**

**National Policies**

*National Planning Policy Framework (2019)*

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, 108, 109 and 110 (Promoting sustainable transport);  
Paragraphs 117, 118, 122 and 123 (Making effective use of land);  
Paragraphs 126, 127 and 130 (Achieving well-designed places);  
Paragraph 163 (Meeting the challenge of climate change, flooding and coastal change);  
Paragraphs 170, 175, 178, 179 and 180 (Conserving and enhancing the natural environment);  
and  
Paragraphs 192, 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 He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;  
Policy Cc2 - Water - Flood Risk; and  
Policy Cc3 - Water - Sustainable Drainage Systems.

### **Other Policies**

National Planning Practice Guidance.  
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 the relevant policies of the adopted Local Plan and other material considerations. Within the NPPF (2019) 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.

It is also the case, in accordance with Policy IF2 of the adopted Local Plan, that the level of proposed development (i.e. a major application) is required to mitigate its impact to infrastructure (such as schools and doctors surgeries) by the provision of relevant developer contributions. The 'Developer Contributions' section of this report, below, outlines in more detail the contributions which would be secured, but in brief these would include monetary contributions towards education, civic amenity, libraries, bus passes and improvements to bus stops on Station Road. Affordable housing would also be secured on site and, overall, the securing of such contributions within a Section 106 agreement would ensure that the development is socially sustainable.

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 preferred land on which to provide new development, it is noted that it is within the Limits to Development and would be closely associated with a residential development which has outline consent to be constructed to the rear of no. 115 Station Road (ref: 18/01599/OUTM) The retention of planting to the northern and western boundaries would also provide screening of the development with such planting providing a defensible barrier so to prevent the encroachment of further development into the adjacent areas of open space and the Ashburton Road recreation ground. Overall it is considered that the loss of the greenfield site would not result in significant conflict with the environmental objective enshrined within the NPPF.

Although third parties have commented that the development will result in the loss of open space it is noted that the land is in private ownership and consequently is not accessible to members of the public (particularly given the presence of fencing along the boundaries of Public Right of Way (PROW) N73) in the same manner as the land to the north-west and west of the site which forms woodland planting and the Ashburton Road recreation ground. On this basis there would be no conflict with Policy IF3 of the adopted Local Plan.

It is also the case that whilst the Hugglescote and Donington Le Heath Neighbourhood Plan may seek to protect land known locally as 'Donington Fields', which on the basis of the third party representations would include the application site, there is no Neighbourhood Plan in place at this time which would be a material consideration in the assessment of the application.

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. As a result the proposal is considered sustainable in accordance with Policy S2 of the adopted Local Plan and the core objectives of the NPPF.

It is also the case that the housing figures for the District are only minimum figures, not maximum figures, and consequently the provision of housing in appropriate locations (i.e. within the Limits to Development and within appropriate settlements as outlined in Policy S2 of the adopted Local Plan) will remain acceptable in principle.

### **Design, Density, 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 and 127 of the NPPF.

At present the application site comprises residential garden and grassland associated with no. 67 Station Road with land levels which fall from north to south and from west to east. Station Road is characterised by a mixture of dwellings with a more concentrated pattern of development to the north of no. 99 Station Road and a looser pattern to the south of this property. To the west is recreational land and open space.

It is noted that layout, scale, appearance, internal access and landscaping are included as matters to be considered at a later stage with only part access being approved at this stage. Station Road is a principle highway through the settlement of Hugglescote and whilst, to the north-east of the site, properties predominately follow a relatively uniform building line and are orientated to address the highway, the pattern of development at the point where the vehicular access would be provided lacks consistency with there being greater separation distance between dwellings and the highway. It is also the case that Brookside Park (to the south-east) and the granting of outline permission for dwellings to the west of no. 115 Station Road (ref: 18/01599/OUTM) result in development which extends away from Station Road. Whilst the proposed development would extend development further in a western direction than that which is established, it is considered that any impact to the character and appearance of the streetscape and wider area would not be sufficiently detriment as to warrant a refusal of the application given the integration it would have with residential properties and residential estates that are consistent with the character of the area.

The Council's Urban Designer reviewed the indicative layout originally submitted and outlined that the layout should seek to address the following matters:

- Ensure any dwelling proposed at the site frontage is pivoted to address views into the site when approaching from the north and enable active surveillance of Public Right of Way (PROW) N73;
- Ensure that the route of PROW N73 is as open as possible so as to ensure active surveillance of this route;
- Integrate the water course as a key distinctive feature of the scheme;
- Address the vista along PROW N72 where it meets PROW N73 given that existing trees prevent views of St Johns Church on Grange Road being established;
- Provide a connection to PROW N72;
- Improve the relationship between buildings and the adjacent open space;
- Ensure that future connectivity is safeguarded; and
- Retain the hedge along the eastern boundary outside of residential gardens.

Following subsequent discussions between the applicant and the Council's Urban Designer an amended parameters plan has been submitted to outline how any development brought forward at the reserved matters stage(s), should outline permission be granted, would address these

matters and the Council's Urban Designer has commented that such an approach would be acceptable. On the basis that only part access is for approval at this stage the scheme is not sufficiently advanced to be fully assessed against Building for Life 12 (BfL 12) and therefore a further BfL 12 assessment would need to accompany a reserved matters application to demonstrate how the development would accord with the principles of this guidance. This would be secured by a condition on any consent granted with a note to the applicant advising that the annotations on the submitted parameters plan should be reflected in any layout, scale and appearance of development brought forward.

In terms of the appearance and scale of the dwellings these would be agreed at the reserved matters stage and, at this point, an appropriate design could be achieved which would accord with the Council's current design agenda by providing a scheme which responds to the positive characteristics of dwellings within the area.

PROW N73 passes through the southern part of the application site with PROW N72 being set to the north-west of the site, connecting into PROW N73, and PROW N74 being set to the north. Whilst the provision of a residential development would alter the nature of the view established from PROW N73 it is considered that the development would not obstruct features of significance in the wider landscape, due to the presence of mature trees to the boundaries limiting views, with existing residential development on Station Road being visible in views in an eastern, north-eastern and south-eastern direction from these PROW's. In this context the development would not adversely impact on people's enjoyment of the PROW's and consequently the proposal is acceptable in relation to Paragraph 98 of the NPPF.

Overall it is considered that a layout, appearance and scale of development could be provided at the reserved matters stage which would be consistent with the aims of Policy D1 of the adopted Local Plan, the Council's adopted Good Design SPD and Paragraphs 124 and 127 of the NPPF.

#### *Housing Mix*

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. The range of dwelling sizes (in terms of number of bedrooms) identified as appropriate in the HEDNA are as follows:

- 1 bed - 0-10% (Market) and 30-35% (Affordable);
- 2 bed - 39-40% (Market) and 35-40% (Affordable);
- 3 bed - 45-55% (Market) and 25-30% (Affordable); and
- 4 bed - 10-20% (Market) and 5-10% (Affordable).

It is proposed that up to 30 dwellings could be created on the site with the suggested mix (which does not distinguish between the market and affordable types) being as follows (%):

- 1 bed - 0%;
- 2 bed - 26.67%;
- 3 bed - 63.33%; and
- 4 bed - 10%.

Although this mix would be weighted towards a 'mid-range' size of property (3 bed) the supporting documentation does outline that the above mix is only indicative and that the

applicant would be willing to review such a mix under any subsequent reserved matters application. It is noted that the means of securing a suitable mix of dwellings is a matter to be addressed at the outline stage rather than during the consideration of any subsequent reserved matters application, due to housing mix in itself not being a reserved matter, and as such a condition would be imposed on any outline permission granted so as to ensure an appropriate mix of dwellings is provided as part of any subsequent reserved matters application(s). This approach would ensure that a suitable mix of market and affordable properties are provided in accordance with Policies H4 and H6 of the adopted Local Plan.

As the proposed number of dwellings is below 50 there is no requirement for the development to provide bungalows, or suitable properties for the elderly, in the context of criterion (3)(a) of Policy H6 of the adopted Local Plan. Whilst this is the case the applicant has identified that they would be willing to provide bungalows given that this was a key requirement of Hugglescote and Donington Le Heath Parish Council when the proposed development was presented at a public consultation event, and which has been reiterated in their consultation response. A note to the applicant would be imposed on any permission granted to ensure that appropriate consideration is given to this matter when any subsequent reserved matters application(s) are submitted given that the imposition of a condition would not be justified on the basis that the provision of bungalows is not necessary to make the development acceptable in Policy terms.

### **Impact on the Historic Environment**

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority, when considering whether or not to grant planning permission for development which affects a listed building or its setting, as well as a Conservation Area, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess, and to the desirability of preserving or enhancing the character or appearance of that area. Such an approach is also supported by Paragraphs 192, 193, 194, 196 and 200 of the NPPF.

In terms of heritage assets the application sites lies to the west and south-west of the Hugglescote Conservation Area with a Grade II listed garden building at no. 77 Station Road being set to the east. Therefore the impact of the development on the fabric and setting of these heritage assets should be given special regard by the 1990 Act.

In commenting on the scheme as originally submitted the Council's Conservation Officer raised concerns over the density of the development given that whilst such a density would be consistent with the 'Hugglescote Village' Conservation Area (where development is dense and uniform) it would not reflect the character established between 65 and 93 Station Road where development is less dense and dwellings are laid out irregularly. Concern was also expressed that the development would result in the loss of a red brick outbuilding which would harm the setting of the Grade II listed garden building at no. 77 Station Road which was formerly an outbuilding to Hugglescote Manor.

Following further discussions a revised parameters plan has been submitted which indicates that any development brought forward at the reserved matters stage would seek to provide for a looser form of development at the south-eastern end of the site, so as to reflect the character between nos. 65 and 93 Station Road, and then more concentrated development at the north-western end of the site which would be better related to the Hugglescote Conservation Area. The red brick outbuilding on the site would also be retained although the future use of this building would be matter to be determined at the reserved matters stage(s). The Council's Conservation Officer has outlined that they have no objections to this approach.

Overall it is considered, at this outline stage, that the approach to development would preserve the setting of the conservation area, given the separation distance and intervening development to be created to the rear of no. 115 Station Road, as well as the setting of the Grade II listed garden building at no. 77 Station Road due to the looser form of development reflecting the character of development which surrounds this heritage asset. On this basis the Council's Conservation Officer has concluded that the proposed development would result in no harm to the significance of the identified heritage assets and as no harm would arise an assessment in the context of Paragraph 196 of the NPPF would not be required.

Overall the proposed development would be acceptable and accords with Policy He1 of the adopted Local Plan, Paragraphs 192, 193, 194 and 196 of the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Accessibility**

The County Highways Authority (CHA) have been consulted on the application and following consideration of the Leicestershire Highways Design Guide (LHDG) they have raised no objections subject to the imposition of conditions on any permission granted.

All matters are reserved for subsequent approval except for part access. The point of access shown on the submitted plan would be provided within the south-eastern site boundary and would involve the upgrading of the existing access so that it would have a width of 4.8 metres with 6 metre kerb radii and 2 metre wide footways. Such an access would be compliant with the LHDG. Vehicular visibility splays of 2.4 metres by 43 metres would also be provided at the site access, in both directions, which again would be compliant with the LHDG and compatible with the measured speeds of vehicles on Station Road at the point of the access.

Pedestrian visibility splays of 1 metre by 1 metre would also be provided with the footways being able to tie into the existing footway on Station Road.

The CHA have also determined that given the quantum of development proposed no assessment of the implications of additional vehicular movements on the highway network would be required.

The ability for vehicles to manoeuvre within the site so as to exit in a forward direction would be a matter to be addressed at the reserved matters stage(s) once a layout was progressed.

Whilst acknowledging the concerns raised by third parties and the Parish Council associated with the additional vehicular movements on highways within the settlement, as well as the suitability of the levels of visibility at the site access due to parked vehicles causing detriment to pedestrian and highway safety, such concerns are not shared by the CHA.

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."* In the absence of an objection from the CHA it is concluded that the proposed development would not have an unacceptable impact on highway safety nor would the cumulative impacts of development be severe. As such the proposal would accord with Policy IF4 of the adopted Local Plan as well as Paragraphs 108, 109 and 110 of the NPPF.

In terms of the third party comment received in respect of the development providing vehicular access through the site with outline consent to the rear of no. 115 Station Road (ref: 18/01599/OUTM) it is considered that the internal highway layout would be a matter to be

assessed at the reserved matters stage(s) and consequently if vehicular access was to be provided through the adjacent site then it would be the responsibility of the CHA to comment on the appropriateness of this arrangement at that time.

The specific off-street parking arrangements for each individual property would be assessed and addressed following the submission of any subsequent reserved matters application, given that this would be dependent on the total amount of bedrooms within a particular dwelling, as required by the Council's adopted Good Design SPD and the LHDG. As a consequence of this the particular requirements of Policy IF7 of the adopted Local Plan and Paragraph 105 of the NPPF would be satisfied at that time.

Public Right of Way (PROW) N73 passes thorough the southern part of the site and the submitted parameters plan indicates that the route of PROW N73 would not be altered or diverted as a result of the development. As part of the consideration of the application the County Council Footpaths Officer has commented that they have no objections to the application subject to the imposition of a condition which would seek to agree a suitable scheme of surfacing for PROW N73. The County Council Footpaths Officer has also commented that the formation of a link onto PROW N74, set to the north, would be welcomed but that such a link should be extended to enable connectivity into PROW N76 which is already a surfaced path and provides all-weather access to services and Hugglescote Community Primary School. It is considered that any future connectivity into PROW's outside the site would be a matter to be addressed at the reserved matters stage(s) when a formal layout is submitted. Overall the proposal would not impact on the safe usage of PROW N73, with enhancements to this PROW being secured via condition, and as a consequence the development would be compliant with Paragraph 98 of the NPPF.

### **Neighbours and Future Occupants Amenities**

The site borders with residential properties on Station Road to its eastern and southern boundaries with the closest residential dwellings being nos. 65, 75 and 77 Station Road.

The impact on neighbouring occupiers arising from the proposed dwellings would need to be assessed at the reserved matters stage(s) once the layout, appearance and scale of the dwellings was known. Notwithstanding the details shown on the parameters plan there would appear to be no reason in principle why a residential development could not be provided on the site in a manner which would not adversely impact upon amenities of the occupants of adjoining residential properties.

In establishing an acceptable relationship with existing residential properties at the reserved matters stage, it could also be ensured that the amenities of any future occupants of the proposed dwellings are adequately protected.

The potential for noise to be generated by vehicular movements along an access road between nos. 65 and 75 Station Road, as well as to the rear of existing dwellings on Station Road, would also be a matter to be assessed at the reserved matters stage(s) when an internal access road is put forward for consideration. It is, however, noted that at this stage the Council's Environmental Protection Team have raised no objections to the application in this respect and due regard would have to be given to the fact that the level of noise generated by existing vehicular movements on Station Road would be more substantial than those which would be associated with the proposed development.

Overall the means of part access is considered to be compliant with Policy D2 of the adopted Local Plan as well as Paragraph 180 of the NPPF.

## Landscaping

Existing landscaping on the site is mainly confined to the boundaries of the site in the form of trees and hedgerows and the County Council Ecologist has commented, amongst other things, that the development should be designed so as to enable retention of the existing landscaping outside the domestic curtilages of any of the dwellings to be created.

As the layout is not for approval at this stage such a matter would need to be considered in greater detail at the reserved matters stage(s) but it is considered that on the basis that the landscaping is to the boundaries it would appear possible to provide a layout which would enable the retention of the existing landscaping with its retention (in particular tree retention) being strongly encouraged given the National Forest setting of the development. There is no other soft landscaping within the site itself which would act as a constraint to the development with it also being possible to secure additional soft landscaping as part of any subsequent reserved matters application, should outline consent be granted.

Hard landscaping on the site would also be considered under a reserved matters application.

Overall, it is considered that a residential development can be progressed at the reserved matters stage which complies with Policies D1, En1 and En3 of the adopted Local Plan.

## Ecology

The County Council Ecologist's original comments on the application outlined that the part of the site to the south of Public Right of Way (PROW) N73 is designated as a Local Wildlife Site (LWS) (Donington Le Heath Grassland 1) and that whilst the indicative information suggested that no development would occur on the LWS the provision of the attenuation pond should not cause the loss of species rich grassland. The species of grassland on the wider site, identified within the ecology survey, were also of such a variety that the wider site could be designated as a LWS but given the sub-optimal period when the ecology survey was undertaken it was necessary for the County Council Ecologist to undertake their own site assessment during the optimum season for a habitat survey. Additional comments also outlined that a bat survey would be required as no. 67 Station Road would be demolished and that any layout should seek to ensure existing hedges are maintained outside of domestic curtilages.

A subsequent site assessment undertaken by the County Council Ecologist, on the 31st May 2019, concluded that the designated LWS still qualified as species rich grassland with the exception of the southernmost point which has become dominated with brambles, therefore the County Council Ecologist advised that this area should be used for any surface water attenuation pond. The area of the wider site currently used as a pony paddock did not qualify as a LWS but the northern most part of the wider site, as well as an area along the eastern site boundary, did contain enough species of grassland to meet the criteria for designation as a LWS. It was, however, noted that this area had been sprayed with herbicides so as to prevent the spread of injurious weeds.

On the basis that the long-term future of the species rich grassland within the northern and eastern parts of the site has been compromised by the spraying of herbicides the County Council Ecologist has concluded that the submission of a management plan (which would require the removal of scrub and bramble back to the hedge line along the western boundary, a hedgerow management scheme, a commitment to annual hay cut with no use of herbicides/fertilisers/pesticides on the LWS in perpetuity and the requirement for the attenuation basin to be of wildlife value) and informal use of this land as public open space would be acceptable. Following receipt of these comments the applicant submitted a Management

Proposals Plan, for the long-term maintenance of the LWS, and Construction Method Statement, for the formation of the attenuation pond, and these documents have now been considered by the County Council Ecologist who has concluded that they have no objections subject to the imposition of conditions on any permission granted.

The County Council Ecologist has also confirmed that the bat survey submitted is acceptable with there being no roosting bats within the buildings to be demolished and bat foraging activity being low, consequently there are no objections subject to the recommendations of the report being included as a note to the applicant on any permission granted.

Overall the proposal would be compliant with Policy En1 of the adopted Local Plan, Paragraphs 170 and 175 of the NPPF and Circular 06/05.

### **Drainage and Flood Risk**

The majority of the site lies within Flood Zone 1 (which has the lowest risk of flooding) with only a small part of the southern areas of the application site being within Flood Zones 2 and 3 (the areas adjacent to the River Sence). The majority of the site is at a low risk of flooding from surface water flooding, as defined by the Environment Agency's Surface Water Flood Map, with only limited areas being at a medium to high risk of surface water flooding.

A Flood Risk Assessment (FRA) has been submitted in support of the application which has indicated that surface water run-off from the site would be directed to the River Sence. Following consideration of the FRA the Lead Local Flood Authority (LLFA) advised that the existing levels in the east of the site would appear too low to enable a gravity solution to the watercourse and that the plan as submitted had not demonstrated that an outfall could be provided within the application site to enable discharge to the River Sence. Following the receipt of land ownership details and a topographical survey the LLFA have raised no objections to the application subject to the imposition of conditions in relation to the details of the precise surface water drainage scheme to be provided, the means of mitigating surface water run-off during the construction phase, the management and maintenance of the surface water drainage solution and that infiltration testing is undertaken to ensure that the ground can accommodate soakaways.

On the basis that such conditions are imposed on any permission granted it is considered that the proposal would be compliant 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 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 indicated that an appraisal of the Leicestershire and Rutland Historic Environmental Record (HER) notes the proposed site lies adjacent to the historic core settlement of Hugglescote as well as two series of fishponds to the south-east of Hugglescote Manor and to the south-west of Donington Manor. In the circumstances that the application site is relatively undisturbed there is a reasonable likelihood that archaeological remains are present.



Given the opportunities which exist for archaeological remains to be present on the site, the County Council Archaeologist considers it necessary for conditions to be imposed on any consent for a programme of archaeological work to be carried out, in advance of the development commencing, in order to record and advance the understanding of the significance of any heritage assets. Such conditions are considered reasonable given the archaeological potential of the site and their inclusion ensures compliance with Policy He1 of the adopted Local Plan and Paragraph 199 of the NPPF.

### **Contaminated Land**

The Council's Contaminated Land Officer has reviewed the application and concluded that given the proximity of the site to a known landfill site it would be necessary for conditions to be imposed on any permission granted to secure a Risk Based Land Contamination Assessment and relevant Verification Investigation should remediation be required.

It is considered that the imposition of such conditions are reasonable given the proposed residential development to be undertaken and the need to ensure the health and safety of future occupants of the proposed dwellings. On this basis the proposal would accord with Policy En6 of the adopted Local Plan as well as Paragraphs 178 and 179 of the NPPF.

### **Developer Contributions**

Requests have been made for Section 106 contributions towards education, civic amenity, libraries, transportation, the NHS, the National Forest 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 Policy IF1 of the adopted Local Plan and Paragraphs 34, 54 and 56 of the NPPF.

The CIL Regulations were amended on the 1st September 2019 to remove pooling restrictions.

The requested development contributions are listed below.

#### *Affordable Housing*

The Council's Affordable Housing Enabler (AHE) has advised that on a greenfield site within the Greater Coalville area it would be anticipated that 20% of such housing should be affordable in order to comply with Policy H4 of the adopted Local Plan and such provision should be provided on site.

On the basis of the provision of 30 dwellings the Council's AHE outlines that the site would need to deliver one property as an affordable Low Cost Home Ownership (LCHO) product and the remaining five as traditional affordable products.

It is also advised by the Council's AHE that the Housing, Economic and Development Needs Assessment (HEDNA) has indicated that 80% of the affordable proportion of new properties should be rented and 20% as LCHO products. However given that 10% of all the properties will be provided as LCHO, as required by Paragraph 64 of the NPPF, which is roughly equivalent to the 20% of the affordable requirement indicated by the HEDNA, the Council's AHE would expect the five dwellings to be provided as affordable rented properties.

The Section 106 would be worded to outline the level of affordable housing which would be required, with the Council's Affordable Housing Enabler also requiring clauses to be imposed within the legal agreement to ensure that affordable housing is delivered to the council should a registered provider not make an offer on the affordable housing.

The internal space standards for an affordable house, based on HCA Design and Quality Standards, would also be outlined within the Section 106 agreement.

In the circumstances that the above mechanisms can be secured in the Section 106 agreement, and the applicant is willing to meet these affordable housing requests, the development would be compliant with Policy H4 of the adopted Local Plan and Paragraph 64 of the NPPF.

*Education*

Based on 30 dwellings Leicestershire County Council (Education) have requested a primary school sector contribution of £131,328.00 for Hugglescote Community Primary School with no requests made for the high, upper or special schools sectors.

The applicant has confirmed their acceptance to the payment of the education contribution.

*Civic Amenity*

Based on 30 dwellings Leicestershire County Civic Amenity have requested a contribution of £1,961.00 for improvements to the civic amenity facilities within Coalville which would mitigate the increase use of this facility generated by the proposed development.

Such a contribution would be used either towards new storage containers at the above civic amenity site or improved traffic management of vehicles at the above civic amenity site.

The applicant has confirmed their acceptance to the payment of the civic amenity contribution.

*Libraries*

Based on 30 dwellings Leicestershire County Library Services have requested a contribution of £900.00 for improved adult stock provision (i.e. books, audio books, newspapers, periodicals for loan and reference use) at Coalville Library on High Street.

The applicant has confirmed their acceptance to the payment of the library contribution.

*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 per pass).
- Raised kerb provision at the two nearest bus stops to support modern bus fleets with low floor capabilities (£3,500 per bus stop).
- Information display cases at the two nearest bus stops (£120 per bus stop).

The applicant has confirmed their acceptance to the payment of the highway contributions.

*University Hospitals of Leicester NHS Trust*

University Hospitals of Leicester NHS Trust ('The Trust') have requested a contribution of £11,344.00 in order to bridge a gap in the funding created by each potential patient from the development in respect of Accident and Emergency (A&E) and planned care within the

Leicester, Leicestershire and Rutland area.

Whilst such a request has been made the evidence to justify the contribution is not robust particularly given that the estimate of the population of the District is in excess of the actual figure, and the calculations do not break down the number of residents of Hugglescote who previously attended A&E departments or received planned care within the administrative area of The Trust. Paragraph 56 of the NPPF outlines the tests which should be met in order for a planning obligation to be sought and, at this time, it is considered that the request of The Trust does not meet all of the criteria identified. It is also the case that NHS revenue shortfalls are a matter to be dealt with through national NHS funding arrangements and through commissioning of services. On this basis the contribution will not be sought.

#### *National Forest*

The National Forest Company (NFC) has commented that on the basis of the site area it would be expected that 0.27 hectares should be woodland planting although, at this stage, the parameters plan does not identify where such planting would be accommodated.

Although this is the case the NFC have identified that compliance with Policy En3 of the adopted Local Plan could either be achieved by the provision of 0.27 hectares of woodland planting and landscaping as part of a reserved matters application, the payment of a contribution of £9,450 for the provision of woodland planting off-site or the long-term management of at least 0.27 hectares of existing on-site grasslands of ecological interest.

The applicant has identified that they would seek to provide 0.22 hectares of managed grasslands of ecological interest, this being the area within the southern part of the application site to the west of no. 65 Station Road, with the remaining 0.05 hectares either being provided as an off-site contribution or within the northern part of the application site where a potential footpath link to Public Right of Way (PROW) N74 would be created.

The NFC identified in their consultation response that the applicant's preferred option should be secured within the Section 106 and therefore the provision of the managed grasslands in the southern area of the application site, and either an off-site contribution or further on-site managed grasslands within the northern area of the application site, would be secured within the Section 106.

#### *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.

Whilst noting the request of Hugglescote and Donington Le Heath Parish Council for a financial contribution (£1400 per dwelling) to be provided for the creation of youth and adult play facilities within the immediate area it is outlined above that, in policy terms, a development of this scale would not be required to provide on-site play provision and open space or an off-site contribution. Consequently the request for such a contribution would not meet the tests outlined in Paragraph 56 of the NPPF.

Insofar as the various developer contributions is concerned the view is taken that the proposed contributions would comply with the relevant policy and legislative tests as set out in the adopted Local Plan, Circular 05/2005, the CIL Regulations and the NPPF.

### Other Matters

The comments provided by the Waste Services Development Officer have outlined that any layout progressed at the reserved matters stage, should outline consent be granted, would need to clarify the positioning of bin collection points and the individual bin storage points for dwellings as well as identify which internal roadways would be put forward for adoption to the County Council Highways Authority, given that this would dictate where bin collection points should be accommodated. Relevant notes to the applicant would be imposed on any outline permission granted to make them aware of the requirements of the Council's Waste Services Team and appropriate compliance with these requests would be assessed at the reserved matters stage(s).

The application has been publicised and consulted on in accordance with the requirements of Paragraph 18 of Part 4 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and consequently there has been no breach of legislation in this respect. In any event the occupant of no. 55 Station Road would not be prejudiced by any decision made on the application given that they have submitted a formal representation.

### Conclusion

The site is located within the Limits to Development where the principle of residential development is acceptable, with the development also being within a socially sustainable location and not impacting adversely on the environment due to its visual integration with residential properties on Station Road. The proposed means of access would also not result in detriment to highway safety. It is also considered that the site could be developed, at the reserved matters stage, in a manner which would not appear out of keeping with the character and appearance of the surrounding locality, and which would not adversely impact on the amenities of neighbouring residents, heritage assets, highway safety, ecology, archaeology, contaminated land or further exacerbate any localised flooding issues. There are no other material planning considerations that indicate outline planning permission should not be granted and accordingly the proposal, subject to relevant conditions and the completion of a Section 106 agreement, is considered acceptable for the purposes of the above-mentioned policies.

It is therefore recommended that outline planning permission be granted.

### **RECOMMENDATION - PERMIT, subject to a legal agreement and conditions;**

1. Timeframe for reserved matters.
2. Approval of reserved matters details.
3. Approved plans.
4. No more than 30 dwellings to be built.
5. Finished floor and ground levels as part of reserved matters.
6. Building for Life 12 (BfL 12) assessment as part of reserved matters.
7. Housing mix.
8. Access provided.
9. Pedestrian and vehicular visibility splays.
10. Construction traffic management plan.
11. Scheme of treatment works to Public Right of Way N73.
12. Surface water drainage.
13. Risk based land contamination report.
14. Verification investigation.
15. Retained tree and hedge protection plan during construction.
16. Reserved matters of layout to include retention of Local Wildlife Site (LWS).

17. Management of retained LWS and biodiversity enhancements.
18. Construction method statement for surface water drainage features within LWS.
19. Archaeology.

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**Erection of detached dwelling on site of the former Wesleyan Methodist Chapel**

**Report Item No  
A2**

**Site Of The Former Wesleyan Chapel Dog Lane Wilson Derby**

**Application Reference  
18/02074/FUL**

**Grid Reference (E) 440481  
Grid Reference (N) 324669**

**Date Registered:  
13 November 2018  
Consultation Expiry:  
3 July 2019  
8 Week Date:  
8 January 2019  
Extension of Time:  
None Agreed**

**Applicant:  
Mr John Rochester**

**Case Officer:  
Hannah Exley**

**Recommendation:  
PERMIT**

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**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**

Approval is sought for the erection of a new three-bedroomed dwelling on the site of the former Wesleyan Chapel off Dog Lane in Wilson. The dwelling would comprise two and single storey elements. The proposed building would straddle a brook which passes through the site and a bridge would be provided over the brook to allow access throughout the site and to provide a base for the dwelling where it would cross the brook. There is an existing timber bridge which crosses the brook and this would be removed as part of the development.

Access to the dwelling would be off Dog Lane via an existing vehicular access into the site. Parking for two vehicles would be available to the front of the dwelling and private amenity space would be provided to the rear.

The site lies within the Wilson conservation area within an area of archaeological interest.

### **Consultations**

A total of 11 letters of neighbour representation have been received, 10 stating support for the proposal and 1 raising concern. Breedon on the Hill Parish Council and all statutory consultees have raised no objections.

### **Planning Policy**

The site lies 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**

In conclusion, the site lies outside the Limits to Development where the re-use of previously developed land is considered acceptable in principle, subject to all other matters being addressed. 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, ecology, trees, floodrisk or airport safeguarding. The proposals would preserve the character and appearance of the Wilson conservation area. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. 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

Approval is sought for the erection of a new three-bedroomed dwelling on the site of the former Wesleyan Chapel off Dog Lane in Wilson. The dwelling would comprise two and single storey elements and would straddle a brook. There are remains of the former chapel on the site up to a height of 1.2m and the Council's records of the former building show that a building with a footprint of 8m by 5.6m and with a ridge height of 7.1m and 4.6m to the eaves occupied the site until 1989.

The proposed building would straddle a brook which passes through the site and a bridge would be provided over the brook to allow access throughout the site. There is an existing timber bridge which crosses the brook and this would be removed as part of the development.

Access to the dwelling would be off Dog Lane via an existing vehicular access into the site. Parking for two vehicles would be available to the front of the dwelling and private amenity space would be provided to the rear.

The application has been subject to various amendments during the course of the application following the advice of the Council's Conservation Officer in order to secure an appropriate design for the building within the historic environment that would be sympathetic to local character.

The site lies within the Wilson conservation area and is surrounded by buildings which are identified as unlisted buildings of interest which make a positive contribution to the Wilson conservation area. The site is also within an area of archaeological interest.

The application submission was accompanied by a Planning Statement, Heritage Statement and Ecology Report.

### Recent Planning History:

None found.

## 2. Publicity

4 Neighbours have been notified.

Site notice displayed 21 November 2018

Press Notice published Derby Evening Telegraph 28 November 2018.

## 3. Summary of Consultations and Representations Received

The following summary of responses is provided.

**Breedon on the Hill Parish Council** has no objections.

**NWLDC Environmental Protection** has no environmental observations.

**NWLDC Conservation Officer** recommends approval of the amended proposal subject to conditions.

**Leicestershire County Council - Ecology** has no objection subject to a condition requiring a construction method statement to ensure the watercourse routed through the site is not adversely affected.

**Leicestershire County Council - LLFA** refers the LPA to standing advice, advising that the development does not constitute major development and therefore, they do not wish to comment on the application.

**East Midlands Airport (as Safeguarding Authority)** has no objections subject to a note to applicant.

No responses received from Severn Trent Water, NWLDC Tree Officer or the County Archaeologist.

### **Third Party Representations:**

A total of 11 letters of representation have been received.

10 letters of neighbour representation have been received in response to the original proposals, 9 stating support for the proposal and 1 raising objection. The comments can be summarised as follows:

- no objection to the right development;
- supportive of the re-use of this piece of land/previously developed land;
- the proposal relates well to existing built form and is situated on the footprint of the former chapel;
- the proposal is modest and sympathetic to its surroundings;
- a small-scale development would be attractive to a first time buyer or someone wishing to downsize which would free up a larger house in the village;
- concern about overlooking of The Corn Mill from first floor windows as the plans show minimal detail and request that any such windows should be frosted;
- loss of privacy to Brook Farm;
- Rochester homes are a local firm and have completed numerous developments to a high standard;
- Dog Lane can accommodate an additional dwelling without any highway issues;
- objection on the ground that the proposal is not in line with the settlement hierarchy;
- the site is presented as vacant brownfield land but has been used as a garden for the last 30 years;
- no evidence of a chapel remains;
- there is a shortage of small affordable homes to meet local needs and the proposal should be considered as affordable housing against policy H2 of the [previously] adopted Local Plan;
- the replacement dwelling should be considered against design and amenity policies not just the replacement of a place of worship.

1 letter of neighbour representation has been received to the amended plans, seeking assurance that flood risk has been properly assessed.

### **4. Relevant Planning Policy National Planning Policy Framework (2019)**

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 109 (Promoting sustainable transport)
- Paragraph 79 (Rural Housing)
- Paragraphs 117, 118 (Making effective use of land)
- Paragraphs 127, 130 (Achieving well-designed places)
- Paragraph 175 (Conserving and enhancing the natural environment)
- Paragraph 178 (Ground conditions and pollution)
- Paragraph 189 (Conserving and enhancing the historic environment)
- Paragraphs 192, 193 (Conserving and enhancing the historic environment)
- Paragraph 196 (Conserving and enhancing the historic environment)
- Paragraph 163 (Meeting the challenge of climate change, flooding and coastal change).

### **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:

S2 - Settlement Hierarchy

D1 - Design of New Development

D2 - Amenity

IF4 - Transport Infrastructure and New Development

IF7 - Parking Provision and New Development

EN1 - Nature Conservation

HE1 - Conservation and Enhancement of North West Leicestershire's Historic Environment

CC2 - Water - Flood Risk

CC3 - Water - Sustainable Drainage Systems

Ec5 - East Midlands Airport: Safeguarding

#### **Other Policies/Guidance**

The Planning (Listed Buildings and Conservation Area) Act 1990

National Planning Practice Guidance

Leicestershire Highways Design Guide

Good Design for North West Leicestershire SPD - April 2017

Wilson Conservation Area Appraisal

## **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 site was last used as a chapel and a chapel building occupied the site until 1989. Remains of the former structure exist up to height of 1.2m in height and the site is considered to constitute previously developed land. 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 redevelopment of previously developed land) 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 use of the site as a residential dwelling would be no less sustainable than its former use as a chapel.

Policy S2 of the adopted Local Plan identifies that within Wilson, development will be restricted to conversions of existing buildings and the redevelopment of previously developed land.

Therefore, it is considered that the re-development of previously developed land 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.

### **Design and Impact on Heritage Assets/ Character of the area**

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1 and the Council's Good Design SPD but also paragraphs 127 and 130 of the NPPF.

The proposed development must be considered against section 72 of the Planning (Listed

Buildings and Conservation Areas) Act 1990 which requires that "special regard shall be had to the desirability of preserving or enhancing the character or appearance of a Conservation Area".

Paragraph 192 of the NPPF 2018 states that planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. It further indicates (at paragraph 193) that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The proposal is located within Wilson conservation area and it is a statutory requirement that any new development should at least preserve the character of the conservation area.

The scheme has been subject various amendments following the advice of the Council's Conservation Officer who initially raised objection on the ground that the originally proposed building, which sought to recreate the chapel building, would not be sympathetic to the character of development within Wilson. This reflects advice in the supporting information accompanying the application which identified that a slavish re-creation of the chapel is neither necessary nor desirable.

The amended scheme that has been developed for the site takes the footprint and simple form of the former chapel building but with a different approach to fenestration, and a single storey wing has been added with more contemporary detailing. The overall building has a simple and modest appearance and the building has a roof pitch that can accommodate traditional materials. The design incorporates a bridge to accommodate the build over the brook and to allow access throughout the site. The Council's Conservation Officer raises no objection to the amended scheme, subject to conditions.

Overall, subject to conditions to secure details of the proposed materials, windows and doors, landscaping and boundary treatments, in accordance with the advice of the Council's Conservation Officer, it is considered that the proposed dwelling would be in keeping with the scale and character of existing development in the locality and would preserve the character of the conservation area.

Taking the above into account, it considered that the scheme is appropriate and would comply with the NPPF and Policy D1 of the adopted Local Plan.

### **Archaeology**

The site lies within an area of archaeological interest and accordingly the County Archaeologist has been consulted on the application. No consultation response had been received at the time of writing this report and should any further correspondence be received, Members will be advised via the update sheet.

### **Impact on Residential Amenities**

The properties that would be most immediately affected by the proposed development would be Brook Farm to the south west, Cornmill to the north east and The Fold Yard to the north west.

The proposed dwelling would be built in the location of the former chapel and would be adjacent to the common boundary with Brook Farm. This neighbouring property has a large front garden such this neighbouring dwelling would be sited over 15m from the application site, which is considered to be sufficient to prevent any undue overbearing or overshadowing impacts as a result of the development. There are no windows on the south facing elevation facing Brook Farm and therefore, the proposal would give rise to no direct overlooking of this neighbouring property.

The proposed dwelling is sited 7m from the common boundary with The Fold Yard and there

would be a distance of over 15m between the proposed dwelling and this neighbouring property which is considered sufficient to prevent any significant overbearing or overshadowing impacts on this neighbouring property. There are windows in the rear facing elevation, including two first floor windows serving a bedroom and en-suite that would be a distance of 8m from the common boundary. However, when having regard to the size of the garden area to the Fold Yard and the distance of this part of the garden from the neighbouring dwelling, along with the mature landscaping present along the common boundary at this point, it is not considered that any significant overlooking impacts would arise. This neighbour has also made a representation in support of the application.

The dwelling known as Cornmill is a converted dwelling located over 20m to the north east. The private garden area to this neighbouring dwelling would occupy the space between this neighbouring dwelling and the application site. The common boundary is occupied by post and rail fencing and hedgerow planting and there would be some inter-visibility between the site and this neighbouring garden. The neighbouring garden is also overlooked from Dog Lane through the access and above low boundary treatments along the highway boundary.

Where it is closest to this neighbouring dwelling, the proposal would be single storey and would be sited 5m off the boundary with this neighbouring property. Whilst there is one window in the gable of the single storey elevation serving a kitchen diner, there are no first floor windows facing this neighbouring property. Given the distance of 5m between the ground floor window and the common boundary, there may be some opportunities for overlooking of the neighbouring garden in the winter months when the vegetation is less dense but as the vegetation matures this would lessen. Furthermore, any overlooking would be no worse than that which already occurs from the public highway. Overall, given the distance to the neighbouring dwelling, there would be no overlooking of the neighbouring dwelling itself and it is not considered that any overlooking of the garden area would be sufficiently detrimental to warrant a refusal of permission.

Overall, the proposal is not considered to result in significant impacts upon surrounding residential amenity. 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.

### **Impacts on Highway Safety**

The application is for one dwelling and therefore, falls to be considered under Highways Standing Advice. The proposal would utilise an existing vehicular access off Dog Lane (unclassified road), which served the former chapel on the site. The existing access is level and is set back 5m from the highway with a five bar gate with post and rail fencing either side. This access arrangement would be retained for the proposed dwelling which accords with highways standing advice.

The visibility available at the access are restricted to 8m and 6m which is substandard for a 30mph road. However, Dog Lane is a single track road and is lightly trafficked given the limited number of properties it serves, and vehicles speeds are also low given the narrow width of the road. The site is also previously developed land and traffic generated by the proposed dwelling would be less than that by the former use of the site.

Overall, when having regard to the former use of the site, its previously developed status and the nature of the road and likely vehicles speeds, it is not considered that a refusal on the ground of substandard visibility splays could be sustained. The views of the County Highways Authority have been sought and they concur with this assessment.

The site layout shows that there is sufficient space within the curtilage of the site to allow for two parking spaces to be provided in connection with the occupation of the proposed three-bedroom dwelling in accordance with highway standards.

Overall, therefore, the highway safety aspects of the scheme are considered acceptable. The proposal is considered acceptable in relation to the Leicestershire Highways Design Guide and Policies IF4 and IF7 of the adopted Local Plan.

### **Ecology and Trees**

The County Ecologist has been consulted on the application and originally raised concern about the potential construction impacts on the watercourse which is directly adjacent to the site of the proposed building. The foundations of the former chapel building form a raised platform and one side of which includes a brick retaining wall to the watercourse. The former chapel platform would form the base of the replacement building and therefore, in the long-term, impacts on the watercourse would be no more than experienced at the moment but if works are required to stabilise the retaining wall or remove vegetation along the watercourse then, this could have an adverse environmental impact.

In order to address the concerns of the County Ecologist, the applicant's agent has suggested a construction method statement to enable the impacts of the construction to be controlled and this is considered an acceptable approach to the County Ecologist. No other ecological information is required by the County Ecologist.

There are a number of mature trees on and around the site, the closest being a mature beech tree located on the southern edge of the watercourse and with its root protection spanning up to the remains of the former building on the site. The trees are protected by virtue of their location within a conservation area. The proposal, which would incorporate the foundations of the former chapel would have not greater impact on the trees than the existing situation. Therefore, subject to a condition requiring protection fencing being on site prior to works commencing, it is not considered that the proposal would have any significant adverse impact on existing trees on the site.

Overall, subject to conditions requiring a construction method statement and protection fencing, the proposal would accord with Policy En1 of the adopted Local Plan the aims of Paragraph 175 of the NPPF and Circular 06/05.

### **Floodrisk**

The development would straddle a brook and falls within Flood Zone 1. The site lies within an area which is within a high risk of surface water flooding. Local Lead Flood Authority (LLFA) was consulted on the original proposal and had no comment on the application due to the minor nature of the proposal. The amended proposal would result in the development straddling the brook and therefore, updated comments from the LLFA have been sought. Revised comments had not been received at the time of writing this report and therefore, Members will be advised of any further comments received via the update sheet.

### **Airport Safeguarding**

The site is within the safeguarded area of East Midlands Airport and as the airport safeguarding authority, the airport has been consulted and raises no safeguarding objections subject to a note to applicant concerning the use of cranes. Therefore, the proposal would raise no safeguarding issues and would be compliant with Policy Ec5 of the adopted Local Plan.

### **Conclusion**

In conclusion, the site lies outside the Limits to Development where the re-use of previously developed land is considered acceptable in principle, subject to all other matters being addressed. 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, ecology, trees or airport safeguarding. The proposals would preserve the character

and appearance of the Wilson conservation area. Subject to no objections being received from the LLFA with regard to floodrisk and the County Archaeologist with regard to archaeology, there are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

**RECOMMENDATION - PERMIT, subject to the following conditions:**

**Conditions:**

1. Time limit
2. Approved plans
3. External materials
4. Window/door details
5. Landscaping and boundary treatments
6. Construction management condition - ecology
7. Pd rights - extensions and alterations
8. Tree protection
9. Two parking spaces
10. Gate set back - 5m
11. Surfacing
12. Surface Water Drainage

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**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL****PLANNING COMMITTEE - WEDNESDAY, 1 OCTOBER 2019**

Title of report	<b>TO CONSIDER THE MAKING OF A TREE PRESERVATION ORDER (TPO) AT 86 LEICESTER ROAD WHITWICK</b>
Contacts	<p>Councillor Robert Ashman 01530 273762 <a href="mailto:robert.ashman@nwleicestershire.gov.uk">robert.ashman@nwleicestershire.gov.uk</a></p> <p>Interim Planning and Development Team Manager 01530 454673 <a href="mailto:james.mattley@nwleicestershire.gov.uk">james.mattley@nwleicestershire.gov.uk</a></p> <p>Tree Officer 01530 454683 <a href="mailto:julian.simpson@nwleicestershire.gov.uk">julian.simpson@nwleicestershire.gov.uk</a></p>
Purpose of report	To consider the objections from Mr. M. Anderson who is the site owner and representations lodged by his neighbour Mr. M. Molyneux.
Reason for decision	A provisional TPO was made on 25th April 2019 and a revised provisional TPO was made on 14 <sup>th</sup> May 2019. The TPO needs to be confirmed within six months. Trees will lose their protection if not confirmed within six months.
Council Priorities	Developing a Green and Clean District
Implications	
Financial/Staff	Not applicable
Link to relevant CAT	None
Risk management	None
Equalities Impact Screening	Equality Impact Assessment already undertaken, issues identified actioned.
Human Rights	Under the Human Rights Act, Article 8, there is a right to respect for private and family life, the home and correspondence. The making of a Tree Preservation Order potentially impacts on that right. However, in this case it is considered that the making of the Order is justified in the public interest.
Transformational Government	None

Consultees	People with a legal interest in the land affected by the Order have been consulted and members of the public were consulted by the placing of site notices.
Background papers	None
Recommendations	<p><b>(i) THAT THE TREE PRESERVATION ORDER (TPO) T477 BE CONFIRMED</b></p> <p><b>(ii) THAT THE TREE PRESERVATION ORDER (TPO) T476 IS NOT CONFIRMED</b></p>

## **1.0 INTRODUCTION AND BACKGROUND**

- 1.1 When tree work commenced on the west boundary of 86 Leicester Road, a request was received from neighbours to make a TPO to prevent further felling. An emergency Tree Preservation Order T476 was prepared and served, and came into force for a six month period on 25 April 2019. The Council's Tree Officer subsequently inspected the site and found that trees to the rear of the house and on the west boundary did not merit protection by TPO.
- 1.2 A revised provisional TPO T477 was made on 14 May to protect only those trees along the front boundary of Leicester Road with the intention of not confirming TPO T476.
- 1.3 TPO T477 protects T1 copper beech, T2 ash, T3 sycamore and G1 3no. yews and 2no. holly.
- 1.4 Because the owner has made an objection to both Orders and a representation has been received challenging T477 for the reason that it does not protect all trees on the property, Planning Committee is asked to formally confirm the making of Tree Preservation Order T477.
- 1.5 The effect of this would be to maintain Order T477 on a permanent basis.

## **2.0 OBJECTIONS AND OFFICER COMMENTS**

### **2.1 Objections from Mr Anderson**

- 2.1.1 Mr Anderson objected to TPO T476 because it lacked detail in respect of tree numbers and species. His accompanying Apex Environmental arboricultural report considers that copper beech (T1) and sycamore (T3) to the front of the house are causing damage to the property and footpath and are likely to cause indirect and direct damage to the property if they are retained.
- 2.1.2 Other trees along the front boundary (T2 and G1) are said to be damaging the boundary wall and are in contact with telephone cables. Other objections are that branches are close to the chimney stack, the owner has been working within the law clearing self-set trees from the neglected garden and the tone of visit accompanied by police had led to stress.
- 2.1.3 He considers there should be a 3m. clearance between tree branches and a chimney pot.

- 2.1.4 The second Apex report which forms the objection to TPO T477 makes the same points but also considers that errors were made in making the TPO. General observations are made on building condition and tree zones of influence. The report identifies path damage caused by the beech and notes that branches are in contact with the chimney stack and roof of the house. It explains the TEMPO (Tree Evaluation Method for Preservation Orders) method and provides an amenity assessment which actually confirms the Tree Officer's own TEMPO assessment that the frontage trees do merit protection by TPO.
- 2.1.5 The Apex report identified honey fungus colonisation in the partially lopped horse chestnut on the west boundary and also considers that trees in the rear garden have no public amenity value.
- 2.1.6 The report refers to NHBC (National House Building Council) recommendations for foundation depth when building near trees and suggests that trees should be no closer to buildings than in NHBC guidance.

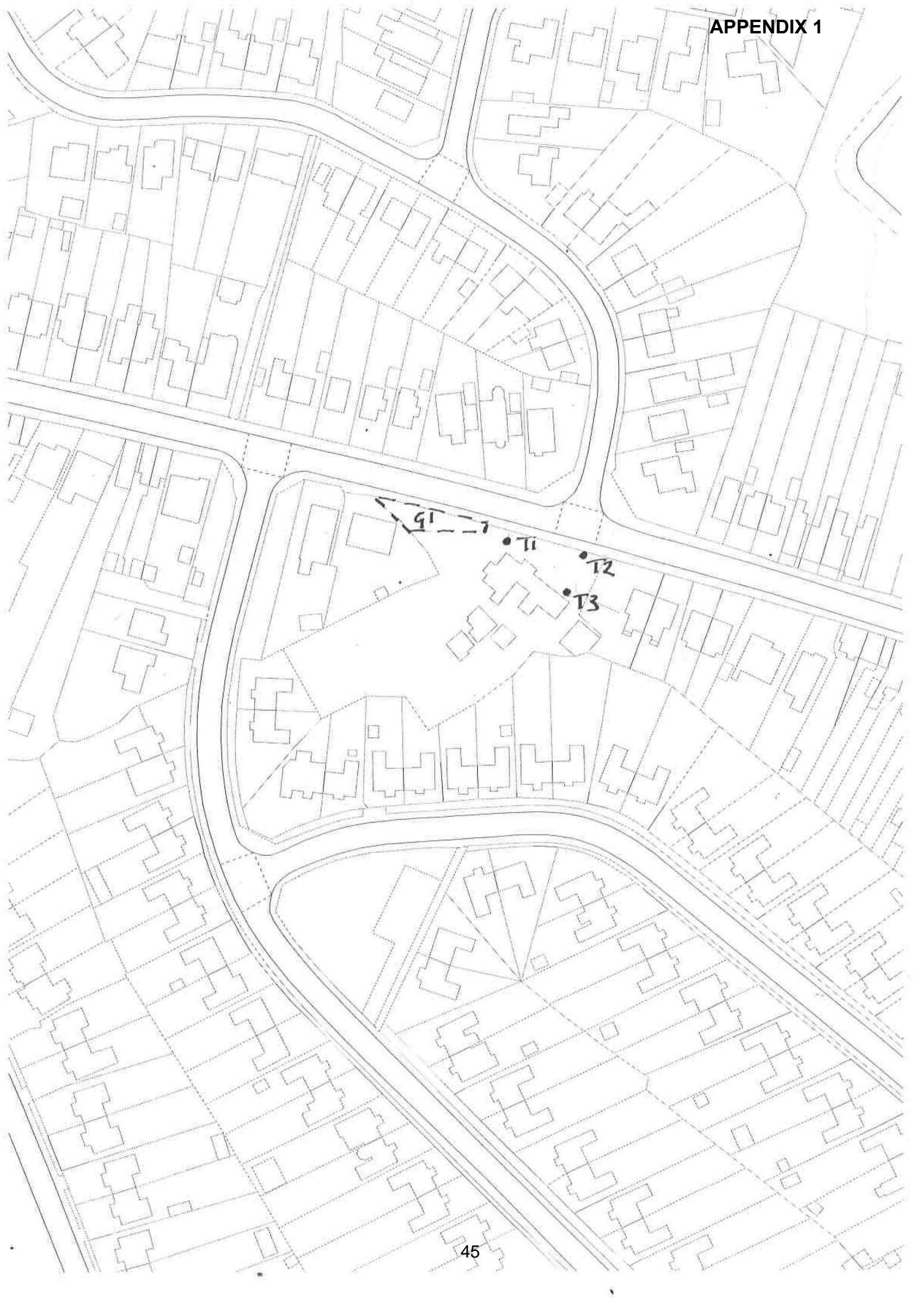
## **2.2 Representations from Mr Molyneux**

- 2.2.1 Mr Molyneux refers to the site as Ancient Woodland and would like to see all trees on the property protected by TPO. He has provided an 1884 OS map which has trees marked on it.
- 2.2.2 He is concerned that protection should be given to wildlife, history, visual amenity and the benefits of noise reduction.

## **2.3 Tree Officer Comments**

- 2.3.1 Trees to the rear of the property are in poor structural condition. They consist of three medium size sycamores with extensive decay and fungal infection and three suppressed sycamores of poor form. Where there is a likelihood of structural failure the Local Planning Authority cannot justify making a TPO.
- 2.3.2 One horse chestnut was partially felled by tree surgeons before work was suspended and consequently is badly disfigured. It has been colonised by honey fungus which can cause root decay resulting in failure.
- 2.3.3 Small fruit trees in the rear garden have no public visibility and one Lombardy poplar has extensive trunk decay due to previous lopping.
- 2.3.4 Additionally, to the front of the property some young naturally regenerated trees do not merit TPO protection and therefore only three prominent yews and two hollies in G1 are considered worthy of protection. It would be reasonable for larger growing species in G1 which could damage the boundary wall, to be removed. Pruning could provide suitable clearance for overhead wires.
- 2.3.5 T1 copper beech, T2 common ash and T3 sycamore are large, very prominent trees and their removal would have a significant negative impact on the local environment and its enjoyment by the public. TPO protection will provide significant public benefit.
- 2.3.6 T1 copper beech is a mature tree located 2m. from the house, is of asymmetric form and the canopy grows predominantly away from the house. Branches over the roof will need to be trimmed if the roof and chimney pot are to be cleared but this could have minimal impact on tree shape or condition if undertaken sympathetically. The tree's unusual and valuable characteristics could be retained.

- 2.3.7 T3 sycamore is 1.5m. from the brick barn which has structural cracks. In conjunction with T2 ash the pair of trees help soften the built environment and are important elements of the Leicester Road landscape.
- 2.3.8 No Structural Engineer's report has been provided and the impact that trees are having on the building has not been professionally determined. Engineering solutions could possibly be sought to enable tree retention if they are having a material impact on the buildings.
- 2.3.9 NHBC Chapter 4.2 document is not a document to be used for assessing subsidence risk of existing buildings. It is a guide to the foundation depth required for new buildings near existing trees.
- 2.3.10 The Council's Building Control and Land Charges Team Leader has confirmed that there are no specific building regulations in respect of trees and chimneys. It is considered that some pruning would be acceptable to provide effective clearance from the chimney pot. Anti-downdraught terminals can be fitted to provide weather, bird and debris protection to the chimney.
- 2.3.11 It must be noted that if the trees are implicated in a subsidence event caused by the direct or indirect action of tree roots and an application to fell is subsequently refused by the Local Planning Authority, the Council could be liable for the costs of repair. If a property is insured, such costs are usually outlined by an insurance company or loss adjuster when an application is made to remove protected trees and such costs should be compared with a CAVAT valuation (Capital Asset Value for Amenity Trees) to assess financial benefits and implications.
- 2.3.12 The 1884 map provided does not denote Ancient Woodland. Ancient Woodland by definition must have been present in 1600AD and Natural England records indicate this is not Ancient Woodland.
- 2.3.13 Trees in the rear garden do provide a softening backdrop but the Council cannot justify making a TPO in respect of trees with a limited safe life expectancy and which are likely to fail in the near future.
- 2.3.14 The Council's Principal Solicitor is of the view that the TPO is capable of being confirmed. A simple clerical error can be corrected by way of manuscript amendment in a confirmed order.
- 2.3.15 It is therefore considered that the proposed Tree Preservation Order T477, as per the map at appendix 1 of this report meets the legal requirement for making a TPO, and that the reasoning that was set out in the objection to the TPO does not indicate that the TPO should not be confirmed. It is, accordingly, recommended that the TPO T477 be confirmed with immediate effect to provide TPO protection to T1 copper beech, T2 ash, T3 sycamore and G1 3no.yew and 2no.holly.
- 2.3.16 TPO T476 should not be confirmed.
- 2.3.17 Members will note that full copies of correspondence received are available on the planning file.



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