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Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	6.00 pm on Tuesday, 9 February 2021
Location	Remote Meeting using Microsoft Teams
Officer to contact	Democratic Services (01530 454529)

<b>AGENDA</b>		<b>Pages</b>
<b>Item</b>		
<b>1.</b>	<b>APOLOGIES FOR ABSENCE</b>	
<b>2.</b>	<b>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.</b>	<b>MINUTES</b>	
	To confirm and sign the minutes of the meeting held on 13 January 2021	<b>3 - 10</b>
<b>4.</b>	<b>PLANNING ENFORCEMENT UPDATE</b>	
	The report of the Head of Community Services	<b>11 - 16</b>
<b>5.</b>	<b>PLANNING APPLICATIONS AND OTHER MATTERS</b>	
	Report of the Head of Planning and Infrastructure.	<b>17 - 20</b>

## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	<b>19/01496/OUTM:Development of up to 92,500 sq m GIA of storage and distribution units (B8), industrial units (B2) and light industrial units (B1c); service yards and parking areas; new vehicular accesses off Trent Lane / Station Road and Ryecroft Road with associated earthworks, drainage and attenuation features and other associated works (outline, all matters reserved except for the principal means of vehicular access to the site).</b>	<b>Refuse</b>	<b>21 - 106</b>

Land South Of Junction 1 Of The A50 Castle Donington Leicestershire

MINUTES of a meeting of the PLANNING Committee held in the Remote Meeting using Microsoft Teams on WEDNESDAY, 13 January 2021

Present: Councillor N Smith (Chairman)

Councillors R Ashman (Substitute for Councillor R Boam (Item A1 only) R Boam, D Bigby, A J Bridgen, R Canny, D Everitt, S Gillard, J Hoult, J Legrys, S Sheahan (Substitute for Councillor D Bigby (Item A1 only) and Councillor D Everitt (Item A3 only), M B Wyatt and G Hoult (Substitute for Councillor D Harrison)

In Attendance: Councillor D Harrison

Officers: Mr C Elston, Mr J Mattley, Miss S Odedra, Mrs C Hammond, Mr T Delaney, Mr J Knightley and Miss E Mattley

#### **45. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor D Harrison.

#### **46. DECLARATION OF INTERESTS**

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

Councillor D Bigby declared a pecuniary interest in item A1, application number 19/00652/FULM, as he had objected to the application in a personal capacity before being appointed to the Planning Committee.

Councillor R Boam declared a pecuniary interest in item A1, application number 19/00652/FULM, as the Ward Member.

Councillor D Everitt declared a pecuniary interest in item A3, application number 20/01401/FUL, as the Ward Member.

Councillor J Hoult declared a non-pecuniary interest in item A1, application number 19/00652/FULM, as the Chairman of Ashby Town Council Planning Committee, who had objected to the application. He stated that having read the report and attended the technical briefing, where new information had been provided, he had come to the meeting with an open mind.

During the consideration of item A3, application number 20/01401/FUL, Councillor J Legrys declared a non-pecuniary interest as he was acquainted with a number of the objectors.

Members declared that they had been lobbied without influence in respect of the following applications but had come to the meeting with an open mind.

##### Item A1, application number 19/00652/FULM

Councillor R Ashman, A Bridgen, R Canny, D Everitt, S Gillard, J Hoult, J Legrys, S Sheahan, N Smith and M Wyatt.

##### Item A2, application number 20/01184/VCIM

Councillors J Legrys and M Wyatt.

Item A3, application number 20/01401/FUL

Councillors D Bigby, J Legrys, S Sheahan and N Smith.

#### 47. MINUTES

Consideration was given to the minutes of the meeting held on 1 December 2020.

Councillor R Boam stated that he had not given his apologies for the last meeting as he had been advised not to attend due to part of the application falling within his ward.

It was moved by Councillor A Bridgen, Seconded by Councillor J Legrys and

RESOLVED THAT

Subject to the removal of Councillor R Boam's apologies, the minutes of the meeting held on 1 December 2020 be approved and signed by the Chairman as a correct record.

#### 48. 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.

#### 49. A1

**19/00652/FULM: HYBRID PLANNING APPLICATION FOR REDEVELOPMENT OF THE SITE COMPRISING: OUTLINE APPLICATION (ALL MATTERS RESERVED) FOR THE ERECTION OF CLASS B8 DISTRIBUTION UNIT(S) AND ANCILLARY OFFICES (B1A), SERVICE YARDS AND HGV PARKING, FUEL AND WASH FACILITIES, VEHICULAR AND CYCLE PARKING, GATEHOUSE(S) AND SECURITY FACILITIES, PLANT, HARD AND SOFT LANDSCAPING INCLUDING BOUNDARY TREATMENTS AND RETAINING WALLS, PEDESTRIAN AND CYCLING INFRASTRUCTURE, INTERNAL ROADS, AND FOUL AND SURFACE WATER DRAINAGE INFRASTRUCTURE. FULL APPLICATION FOR SITE CLEARANCE WORKS (INCLUDING REMOVAL OF RAILWAY, EXISTING TREES/HEDGEROWS AND EXISTING HARDSTANDING), ACCESS FROM (AND ALTERATIONS TO) CORKSCREW LANE, BROOK DIVERSION AND CROSSINGS, EARTHWORKS AND STRUCTURAL LANDSCAPING (INCLUDING BOUNDARY TREATMENTS), ASSOCIATED UTILITIES INFRASTRUCTURE, SURFACE WATER DRAINAGE OUTFALL, AND CONSTRUCTION ACCESS AND COMPOUNDS**  
Former Lounge Disposal Point Ashby Road Coleorton Leicestershire LE65 1TH  
**Officer's Recommendation: PERMIT subject to S106 Agreement**

Having declared a prejudicial interest in the item, Councillors D Bigby and R Boam stepped down from the meeting and were substituted by Councillors S Sheahan and R Ashman. Councillor R Boam remained in the meeting to address the committee as Ward Member and then he left the meeting for the consideration and voting of the item.

The Principal Planning Officer presented the report to members.

Town Councillor M Ball, on behalf of Ashby Town Council, addressed the committee, highlighting the significant impact the development would have on the already severely congested roads, that there was no immediate need for the employment site, that the site was inaccessible by sustainable means of transport, the increased height of the proposed development and that the development proposed would have a detrimental effect on the wider environment. He urged the committee to refuse the application.

Mr K Ward, Chairman of the Ashby Civic Society, objector, addressed the committee, highlighting that the development would have a detrimental effect on the landscape and would be clearly visible to many Ashby residents and, that the development would go against both Ashby's Neighbourhood Plan and the adopted Local Plan, as it was outside

the Limits to Development. He also highlighted that there were several distribution sites already under construction around the district, that the decision should be delayed until the impact of HS2 was known and that it would have a severe impact on the local highways network. He stated that the applicant's travel plan document contained inaccurate information. He urged the committee to refuse the application.

Mr M Fox, agent, addressed the committee, highlighting that the brownfield part of the site had been designated for employment land in both the Local Plan and the Neighbourhood Plan, that the eastern field on the application would be used for the new access and parking only. He added that the Corkscrew Lane access was more direct and safer than the existing access which could no longer be used due to proposals by HS2, that the proposal would create around 1,000 new jobs. He noted that the development would be built to a high standard of design and would be sustainable and that, a financial contribution would be made to the Coalville Road Strategy. He also noted that there were no technical objections or material planning reasons to refuse the application.

Councillor D Harrison, Ward Member, addressed the committee, highlighting significant concerns over the impact on Air Quality that the development would have, along with the impact the significant increase in vehicle movements from the site would have on the local highway network. He drew member's attention to an FOI document he had received from a resident that he felt highlighted significant concerns over the Air Quality data that had been submitted and in particular its reliability and urged that the application be deferred for that reason.

Councillor R Boam, Ward Member, addressed the committee, highlighting the significant impact the development would have on traffic and that the application that included rail connection that had been permitted back in 2012 did not resemble what was now before them. He noted that part of the site that would be built on was outside the Limits to Development and the impact on Air Quality that the development would have.

Councillor R Boam then left the meeting.

Before the debate took place, the Independent Air Quality Consultant addressed the committee to outline what work that had been carried out as part of the consultation process and clarified matters regarding receptors and the dispersion model.

In determining the application, some members expressed concerns over the impact the development would have on the highways network, that the site lay outside the Limits to Development, that the sustainable transport measures outlined would not be used due to lack of footpaths around the area and the ecology impact the development would have on the area.

Members had regard to the fact that under policy EC1 of the adopted Local Plan, as permission had already been granted for the site, the land could be developed and that the ecology report that had been carried out was acceptable along with the receptor area that would be included for translocation of the native species. It was noted that there were no statutory technical consultee objections and should the HS2 project not go ahead the applicant could revert to the original permission that had been granted as it had commenced.

The Legal Advisor and the Head of Planning and Infrastructure advised the committee that they had no concerns following the concerns that had been put forward by Councillor D Harrison and that due process had been followed.

A motion to permit the application in accordance with the recommendation of the Head of Planning and Infrastructure was moved by Councillor S Gillard and seconded by Councillor R Ashman.

The Chairman 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 Head of Planning and Infrastructure.

Councillors R Ashman and S Sheahan stepped down from the meeting and Councillors D Bigby and R Boam returned.

<b>Motion to permit in accordance with the officer recommendation (Motion)</b>	
Councillor Nigel Smith	For
Councillor Alexander Bridgen	For
Councillor Rachel Canny	For
Councillor David Everitt	Against
Councillor Stuart Gillard	For
Councillor Jim Hout	Abstain
Councillor John Legrys	Against
Councillor Michael Wyatt	Against
Councillor Robert Ashman	For
Councillor Gill Hout	For
Councillor Sean Sheahan	Against
<b>Carried</b>	

50.

**A2**

**20/01184/VCIM: ERECTION OF 360 DWELLINGS, ASSOCIATED INFRASTRUCTURE AND LANDSCAPING APPROVED UNDER RESERVED MATTERS APPROVAL REF. 18/00375/REMM (OUTLINE PLANNING PERMISSION REF. 13/00956/OUTM) WITHOUT COMPLYING WITH CONDITION NOS. 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 19, 20, 21, 22, 23, 24, 27, 31, 32 AND 34 SO AS TO ALLOW FOR AMENDED HOUSE AND GARAGE TYPES / POSITIONING, HARD SURFACING, BOUNDARY TREATMENT, EXTERNAL LIGHTING, ROAD LAYOUT, PEDESTRIAN AND CYCLE LINKS, RETAINING WALLS, BIN STORAGE, PUBLIC ART AND SALES CAR PARKING (INCLUDING REFERENCE TO DETAILS PREVIOUSLY APPROVED UNDER CONDITION)**

Land North Of Grange Road Parcels F1 And F2 Hugglescote Coalville Leicestershire LE67 2BQ

**Officer's Recommendation: PERMIT**

The Principal Planning Officer presented the report to members.

In determining the application, some members expressed concerns about the removal of the access point to the abandoned railway line, but noted that there were still 7 other access points, and over the Air Quality issues that would arise from the additional vehicle movements the development would bring.

Members had regard to the fact that there had been no objections to the application, that Air Quality concerns could not be considered under reserved matters, as that was an outline matter, and the access point to the abandoned line had been removed due to the angle of the slope leading down to the line.

A motion to permit the application in accordance with the recommendation of the Head of Planning and Infrastructure was moved by Councillor R Boam and seconded by Councillor J Hoult.

The Chairman 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 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 Dave Bigby	Against
Councillor Alexander Bridgen	For
Councillor Rachel Canny	For
Councillor David Everitt	For
Councillor Stuart Gillard	For
Councillor Jim Hoult	For
Councillor John Legrys	Abstain
Councillor Michael Wyatt	Against
Councillor Gill Hoult	For
<b>Carried</b>	

51. **A3**  
**20/01401/FUL: CHANGE OF USE FROM RESIDENTIAL DWELLING (USE CLASS C3) TO CHILDREN'S CAREHOME (USE CLASS C2)**  
 75 Main Street Thringstone Coalville Leicestershire LE67 8ND  
**Officer's Recommendation: PERMIT**

Having declared a pecuniary interest in the item, Councillor D Everitt stepped down from the meeting and was substituted by Councillor S Sheahan. Councillor D Everitt remained in the meeting to address the committee as Ward Member and then he left the meeting for the consideration and voting of the item.

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

Mrs J Howe, objector, addressed the committee, highlighting concerns over privacy, safety and security, noise and disturbance, unreasonable operating hours and overbearing impact, the welfare of the residents at the property and, inadequate parking and loss of amenity. She also expressed concerns over antisocial behaviour, loss of privacy due to the proposed CCTV installation and the path from the property that lead straight to her property, which were relevant and meant the proposal conflicted with the NPPF and Local Plan Policy D2. She urged the committee to refuse the application.

A statement was read out on behalf of the applicant, Dr Mohammed, highlighting that the company ran a number of residential care homes through contracts with Local Authorities and all were registered with Ofsted. It noted the local sufficiency and placement need and the requirement of The Children's Act 1989 for Local Authorities to meet The Sufficiency Duty. It added that the proposed care home would allow young people to maintain family and education links within the area that they had grown up in.

Councillor D Everitt, Ward Member, addressed the committee, highlighting that the location of the proposal in front of them was unsuitable and lacked the space inside that

vulnerable children required to feel safe. He noted that there were other homes in the district, but their locations were not in such close proximity to neighbouring properties as the one before them. He expressed concerns over the lack of parking, the impact on the neighbours from the noise and disturbance and, that Social Services should have been consulted. He urged the committee to give due care and consideration to the application and refuse it.

Councillor D Everitt then left the meeting.

In determining the application, some members expressed deep concerns over the suitability of the property along with the lack of internal space and facilities, the insufficient parking spaces for such a use and its close proximity to the highway and, the impact the proposal would have on the neighbouring properties and amenities. It was acknowledged that they had a duty of care to the children and the proposal before them would not meet that duty.

Members had regard to the fact that the application before them was for a change of use, and should it be permitted, the property would then have to meet the legal requirements set by Ofsted, which would include facilities. It was noted that a condition limiting the number of children that could reside there had been included and that a condition could be added to include that a noise management scheme be submitted that would provide contact details should noise and disturbance become an issue.

A motion to permit the application in accordance with the recommendation of the Head of Planning and Infrastructure subject to the additional condition in relation to a noise management scheme was moved by Councillor R Boam and seconded by Councillor G Hout.

The Chairman put the motion to the vote. A recorded vote being required, the voting was as detailed below. As the vote was tied, the Chairman exercised his casting vote for the motion.

**RESOLVED THAT:**

The application be permitted in accordance with the recommendation of the Head of Planning and Infrastructure subject to the additional condition relating to a noise management scheme.

<b>Motion to permit the application in accordance to the officers recommendation, subject to the additional condition in relation to a noise management scheme (Motion)</b>	
Councillor Nigel Smith	For
Councillor Russell Boam	For
Councillor Dave Bigby	Against
Councillor Alexander Bridgen	For
Councillor Rachel Canny	Against
Councillor Stuart Gillard	Abstain
Councillor Jim Hout	For
Councillor John Legrys	Against
Councillor Michael Wyatt	Against
Councillor Gill Hout	For
Councillor Sean Sheahan	Against
Councillor Nigel Smith	For (Casting Vote)
<b>Carried</b>	

The meeting commenced at 6.02 pm

The Chairman closed the meeting at 8.44 pm



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## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

## PLANNING COMMITTEE – TUESDAY, 9 FEBRUARY 2021

<b>Title of Report</b>	<b>PLANNING ENFORCEMENT UPDATE</b>	
<b>Presented by</b>	Minna Scott Street Protection Team Leader	
<b>Background Papers</b>	None	<b>Public Report:</b> Yes
<b>Financial Implications</b>	None	
<b>Legal Implications</b>	None	
<b>Staffing and Corporate Implications</b>	None	
<b>Purpose of Report</b>	To provide an update to Members on the work of the planning enforcement team. To provide an overview of the compliance and monitoring cases within the planning enforcement service.	
<b>Recommendations</b>	<b>PLANNING COMMITTEE NOTE THE INFORMATION CONTAINED WITHIN THE REPORT.</b>	

**1.0 PLANNING ENFORCEMENT POLICY**

- 1.1 In February 2019, the Council adopted the Enforcement Policy for Planning Enforcement (the Policy”) as it is considered best practice to adopt an enforcement policy specific to Planning Enforcement as detailed within paragraph 58 of the National Planning Policy Framework (June 2019). The Policy includes a risk matrix to better manage the volume of cases received and aligns resources to the most appropriate cases.
- 1.2 All complaints and enquiries received by the Planning Enforcement Service are categorised as one of the following:
1. *Urgent Cases* - where works are being carried out which will cause irreparable harm / damage.
  2. *High Priority Cases (Harm score over 5)* - where works or uses are causing a significant and continued harm to amenity, time sensitive breaches or development that compromise safety.
  3. *Standard Priority Cases (Harm score Under 5)* – new structures or changes of use having limited degree of disturbance to local residents or damage to the environment and which do fall within the foregoing priority groups.
- 1.3 Below is Table 1 showing the **results of the harm scoring** for 2020/2021.

	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Urgent cases	4	70	28	N/A
High priority cases (Score over 5)	16	39	49	N/A
Standard priority cases (Score under 5)	30	13	16	N/A
Case received and awaiting assessment by Officer	N/A	19	20	

## 2.0 PLANNING ENFORCEMENT STATISTICS

2.1 Table 2, below is a summary of enforcement statistics for Quarters 1, 2, 3 and 4 2020/2021.

It should be noted that some cases > 6 months and > 1 year are held in abeyance due to the necessity for scheduled monitoring; the submission of retrospective planning applications, appeals or are in the initial stages of formal action being taken by the service of an enforcement notice.

It should also be noted that the number of cases > 6 months has reduced in Q2 & Q3, this may be as a result of cases that are of a less complex nature and therefore can often be resolved in a shorter period of time e.g. retrospective planning permission may not be required.

Months/Year	No. of new cases opened	No. of cases closed	No. of cases older than 1 year	No. of cases older than 6 months	No. of live cases at time of report
Quarter 1	111	102	56	91	235
Quarter 2	141	77	78	75	234
Quarter 3	113	83	88	44	242
Quarter 4	N/A	N/A	N/A	N/A	N/A

2.2 Table 3 shows the types of cases that are over 6 months and 1 year.

	Planning Discharge of Condition	Retrospective application	Appeals	Complex cases	Prosecutions	Protracted negotiation	Development Monitoring
Cases over 6 mth	5	9	0	0	0	25	5
Cases over 1 year	2	14	1	12	0	57	2

2.3 The types of breaches investigated during Quarters 1, 2, 3 and 4 is summarised in Table 4 below.

Breach type	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Breach of planning condition	6	13	15	N/A
Unauthorised works in conservation area	3	4	3	N/A
High hedges	0	0	0	N/A
Unauthorised works on a listed building	0	2	5	N/A
Not in accordance with approved plans	20	25	17	N/A
Unauthorised works on a protected tree	4	2	1	N/A
Unauthorised development – Domestic	30	41	38	N/A
Unauthorised development – Non domestic	13	11	7	N/A
Untidy land	9	0	1	N/A
Unauthorised advertisement	0	0	1	N/A
Material change of use	13	27	21	N/A
Advice	2	1	2	N/A
Breach of Section 106	0	1	0	N/A

2.4 During the period Oct 2020 to December 2020, the following notices were served:

S330 – 2  
BOCN – 1

2.5 Prosecutions

During the period October 2020 to December 2020, there have been no prosecutions taken.

2.6 Prosecution outcome

Not applicable

2.7 Appeals

During the period October 2020 to December 2020, there has been no enforcement appeals lodged.

2.8 Appeal decisions

Not applicable

### 3. DEVELOPMENT MONITORING

3.1 Table 5 shows the number of development monitoring cases open for each quarter.

It should be noted that development monitoring cases are opened when the development starts and remains open until it is completed and therefore the figures also show the number of sites being monitored each quarter.

	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Development Monitoring	11	14	1	N/A

#### 4. PERFORMANCE STATISTICS

4.1 Table 6 shows the number of member enquiries received in each quarter.

	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Member Enquiries	15	9	17	N/A

4.2 The number of compliments and complaints is shown in Table 7.

	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Complaints	0	2	1	N/A
Compliments	0	0	0	N/A

4.3 Table 8 shows the response rate as per the timeframes set in the planning enforcement policy.

	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Acknowledged in writing within 3 working days	72	92	111 (2 anon)	N/A
Full assessment of operational development site visit completed within 5 working days	11	54	61	N/A
Full assessment of alleged material change of use within 5 working days of final site visit	6	8	31	N/A

#### 5. KEY CASES

5.1

- Aylesbury Gardens – this appeal has been allowed at the High Court and we await the outcome of the hearing
- The Stables, Charnells Court, Main Street, Swepstone – an enforcement notice has been appealed and is going to a public inquiry
- Whitney Park – gypsy site, we are awaiting feedback from the Lead Local Flood Authority before considering our next steps. A planning contravention notice (“PCN”) is to be issued in order to obtain occupier details
- Occupation Lane, Albert Village – this is a double mini roundabout that wasn’t implemented, this is with LCC legal and hopefully is progressing towards being developed
- Donington Hall – this is with administrators at the minute and we are working with them

- The Priest House – as above
- March House, Long Street, Belton - this is being negotiated with the owners to remedy the breach

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**APPENDIX B**

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

**9 February 2021**

**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.

Development of up to 92,500 sq m GIA of storage and distribution units (B8), industrial units (B2) and light industrial units (B1c); service yards and parking areas; new vehicular accesses off Trent Lane / Station Road and Rycroft Road with associated earthworks, drainage and attenuation features and other associated works (outline, all matters reserved except for the principal means of vehicular access to the site). Land South Of Junction 1 Of The A50 Castle Donington Leicestershire

Report Item No  
A1

Application Reference  
19/01496/OUTM

Grid Reference (E) 445261  
Grid Reference (N) 328917

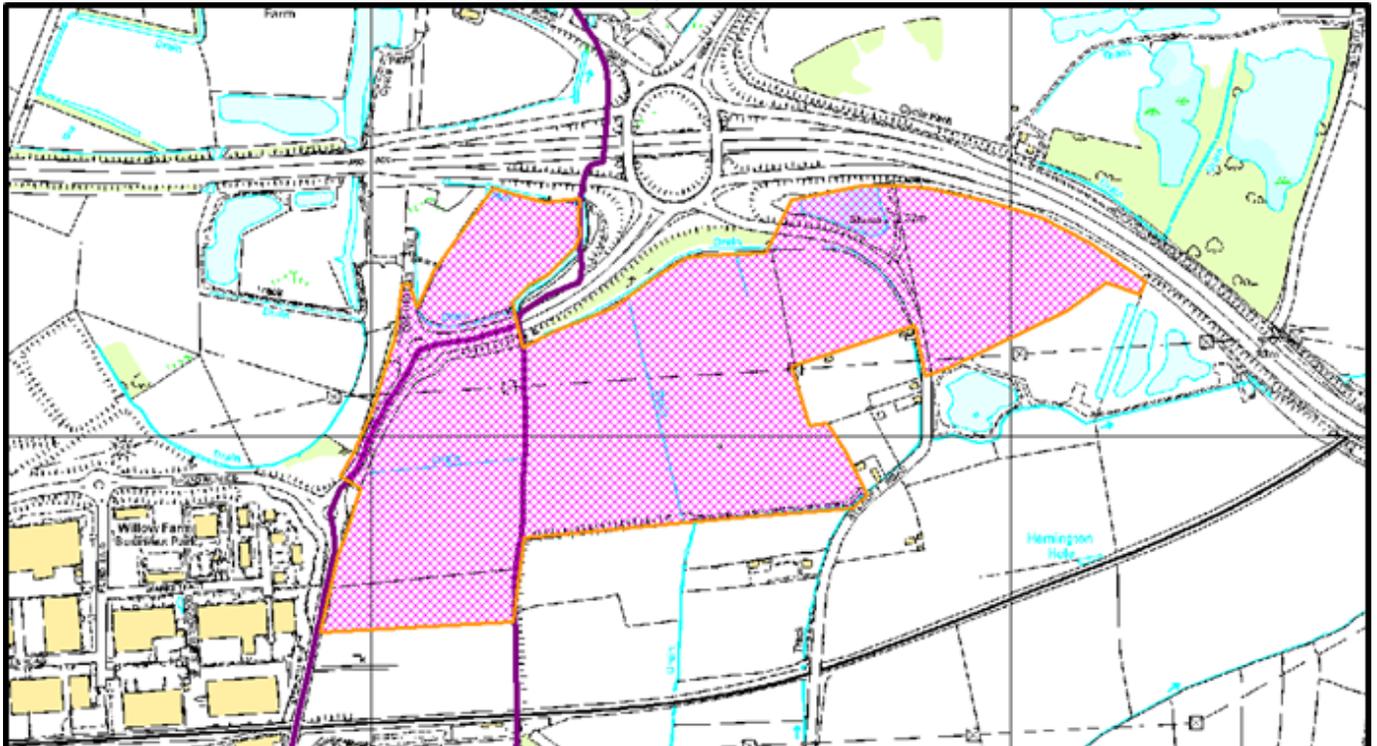
Date Registered:  
2 August 2019  
Consultation Expiry:  
10 November 2020  
8 Week Date:  
27 September 2019  
Extension of Time:  
10 February 2021

Applicant:  
St Modwen Developments Ltd

Case Officer:  
Adam Mellor

Recommendation:  
REFUSE

Site Location - Plan for indicative purposes only



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## Executive Summary of Proposals and Recommendation

### Call In

This application has been brought to the Planning Committee at the request of Councillor Sewell on the basis that the proposed development would not safeguard or enhance the appearance and character of the landscape, would undermine the perceived separation and open-undeveloped character between nearby settlements, would harm the significance of the setting of the Hemington Conservation Area, there is no need for the development, there would be adverse impacts to the Air Quality Management Area (AQMA) in Castle Donington, the development is within a floodplain, there would be adverse impacts to highway network with the ability for sustainable modes of transport to access the site being limited and there would be detriment to residential amenities, in particular the properties on Rycroft Road.

### Proposal

This is an outline planning application for up to 92,500 square metres GIA of employment development falling within use classes B1(c) (light industrial), B2 (general industrial) and B8 (storage or distribution) of the Town and Country Planning (Use Classes) Order 1987 (as amended), with associated service yards and parking areas and new vehicular accesses off Trent Lane and Rycroft Road, on land to the south of Junction 1 of the A50, Castle Donington. The matter of the principal means of vehicular access to the site are for consideration under this outline application.

### Consultations

Objections have been received from third parties as well as Castle Donington Parish Council and Lockington cum Hemington Parish Council. The Council's Conservation Officer has also identified some harm in relation to the application. All other statutory consultees have raised no objections.

### Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan.

### Conclusion

Within the report which follows below the following matters are assessed in detail:

- Approach to Determination and Principle of the Development;
- Assessment of Alternative Sites;
- Socio Economic Impacts;
- Landscape and Visual Impacts;
- Historic Environment/Cultural Heritage;
- Means of Access, Highways and Transportation;
- Flood Risk, Drainage and Water Quality;
- Noise and Vibration and Residential Amenity;
- Air Quality;
- Loss of Agricultural Land;

- Ecology;
- Landscaping;
- East Midlands Airport Safeguarding;
- Ground Conditions;
- Developer Contributions;
- Design;
- Climate Change; and
- Other Relevant Matters.

Where appropriate a brief officer conclusion is provided at the end of each section so as to draw together the information within the submitted Environmental Statement as well as the recommendations from statutory consultees. As is outlined above there are no objections from statutory consultees to the application with the exception of the Council's Conservation Officer who has identified some harm which arises to a designated heritage asset.

The overall conclusion, however, is that whilst there is evidence of an immediate demand for the additional employment land which this application would provide, the proposed scheme would have a significantly adverse impact on the appearance and character of the landscape contrary to the criteria set out within Policy S3 of the adopted North West Leicestershire Local Plan ("Local Plan") as well as Policy Ec2(2) of the adopted Local Plan which apply to development outside the Limits to Development. It is also considered that the proposal would result in a form of development which would not be well integrated with existing development and buildings. This would result in further conflict with criteria within Policy S3 of the adopted Local Plan.

#### **RECOMMENDATION - REFUSE.**

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

## Main Report

### 1. Proposals and Background

This is an outline planning application for employment development (B1(c) (light industrial) (now within class E), B2 (general industrial) and B8 (storage or distribution)) on a site of approximately 44.2 hectares of agricultural land (developable area of 20.6 hectares) which lies to south of junction 1 of the A50, north-east of the settlement of Castle Donington and north-west of the settlement of Hemington. The Willow Farm Industrial Estate, on the edge of Castle Donington, is set to the west and south-west of the extent of the application site with five residential properties to the edge of Hemington being set to the east and south-east. A showman's quarters (Hemington Park) is also set to the south-east. The application site is outside the Limits to Development as defined on the Policies map to the adopted North West Leicestershire Local Plan.

Whilst all matters, bar the principal means of vehicular access into the site, are reserved for subsequent approval a parameters plan has been submitted which splits the site into six zones (labelled A - F). The parameters plan proposes that zones A to D would be utilised for the employment development with, zones E and F being designated as flood mitigation, biodiversity and great crested newts mitigation/compensation and informal public open space. The parameters plan has been amended, from that originally submitted, and now proposes that units within zones A and B have maximum ridge heights of 18 metres (originally 21 metres), those within zone C having maximum ridge heights of 8 metres (originally 12 metres) and those within zone D having maximum ridge heights of 15.5 metres (originally 21 metres). The amended parameters plan also outlines that no more than 20% of the employment development to be created would be utilised for B1(c)(now class E)/B2 purposes (i.e. 18,500 square metres GIA) and that on plot landscaping would amount to 10% of the site area within zones A, C and D, and 7.5% of the site area within zone B.

The supporting documents outline that the development will focus on a mix of unit sizes of between 9,000 - 15,000 square metres and in this regard, it will provide for strategic-scale B8 which is categorised as units of 9,000 square metres and above. As is indicated above around 18,500 square metres of the total floorspace would be utilised for B1(c)(now Class E) and/or B2 purposes.

In terms of the principal means of access, the parameters plan identifies that a new arm would be formed on the roundabout on Station Road which links to the road to junction 1 of the A50 with a new roundabout access being created off Rycroft Road. The remainder of the 'access' matters (i.e. circulation routes through the site itself and any individual units to be created by vehicular and non-vehicular means) are reserved for subsequent approval.

The application would also propose the regrading of the land within zones A, B, C and D so as to allow the formation of site plateaus using cut and fill. Levels on these plateaus would provide for finished floor levels which would either be 0.5 metres above or below a set finished floor level of 34.00 metres above ordnance datum (AOD) within zones A and B and 33.00 metres AOD within zones C and D.

All other matters (i.e. internal access, appearance, landscaping, layout and scale) would be reserved for subsequent approval.

An Environmental Statement (ES) has been submitted in support of the application as the scale

of the development would meet the threshold for when an Environmental Impact Assessment (EIA) may be required as outlined in Schedule 2, Part 10 (Infrastructure Projects) (a) (Industrial Estate Development Projects) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended). The ES covers impacts such as socio-economic, transport, noise and vibration, air quality, ecology, landscape and visual, cultural heritage, agricultural land use, ground conditions, water resources and residual and cumulative effects and also considers alternative sites for the development.

In addition to the ES a planning statement (including a statement of community involvement and note on public right of way impacts), design and access statement, market need and demand report, socio-economic statement and flooding betterment report have also been submitted in support of the application.

An outline planning application (16/00061/OUTM) for the construction of a 12,000 bird free range egg production unit (outline application - means of access, landscaping, layout and scale for approval) was withdrawn on the 12th July 2016 (this application was applicable to zone D as identified on the submitted parameters plan).

## **2. Publicity**

15 neighbours notified.

Press Notice published Derby Evening Telegraph 21 August 2019.

## **3. Summary of Consultations and Representations Received**

The following summary of representations is provided.

### **Objections from;**

Councillor Sewell and Councillor Hay on the following summarised grounds:

- The proposed development would not safeguard or enhance the appearance and character of the landscape and would undermine the perceived separation and open undeveloped character between nearby settlements and would also be detrimental to the wider environment. On this basis the proposal is contrary to Policies S3 and Ec2(2) of the adopted Local Plan.
- The proposed development would be within the setting of the Hemington conservation area and would harm the significance of the Hemington conservation area with the Council's Conservation Officer raising concerns to the application in this respect.
- Minimal weight should be given to the 'need' argument presented by the applicant given that the requirements for strategic B8 development within the District are met and are well above the estimated requirements up to 2031.
- There would be impacts to air quality as a result of the development with Bondgate and High Street on Castle Donington being within an Air Quality Management Area (AQMA).
- The proposed development is within the floodplain.
- The ability to access the site via sustainable forms of transport is limited and there would be adverse impacts to the highway network with traffic in the area being an issue.
- There would also be detriment to residential amenities particularly as properties on Rycroft Road are in close proximity to the site.
- There is considerable local opposition on material grounds from residents of the neighbouring settlements as well as Castle Donington and Hemington cum Lockington

Parish Councils.

Councillor Saffell on the following summarised grounds:

- There is massive local opposition to the application which is outside the limits to development and is not needed. I cannot see any circumstances in which this application should be given permission to proceed.

Castle Donington Parish Council on the following summarised grounds:

- There is concern with the application of planning policies in the comments from the Council's Planning Policy team.
- There is no demonstrated additional employment need locally, nor are there anywhere near enough appropriately priced housing for minimum wage warehouse workers. The vast majority of employees will end up compounding current traffic overloads.
- The strategic B8 needs in North West Leicestershire alone exceeds the requirements to 2031 without considering the supply in the other District/Boroughs Exceeding a minimum requirement can be an objective and unequivocal reason for objection and can be so in isolation.
- There are no named end users, and this highlights that the proposal is purely speculative. Given that vacant capacity exists at other sites in the area for the same B8 development there is no pressing demand.
- The application site is on a floodplain and does flood and the development would only increase the risk of flooding.
- A development of this nature can only adversely impact the appearance and character of the welcoming open green space as you enter Castle Donington and Hemington.
- The proposed development will cause substantial harm to the historic setting of Castle Donington and will not be mitigated by landscaping.
- The development spans the northern entrance ways of both Castle Donington and Hemington and as such would reduce the area of separation between Castle Donington and Hemington contrary to criteria (ii) of Policy S3.
- The proposed site is isolated from the actual borders of both Castle Donington and Hemington which is in further conflict with criteria (ii) of Policy S3.
- The recent dismissed appeal decision at Carnival Way, Castle Donington cited the conflict with criteria (ii) of Policy S3 as a reason to dismiss the appeal and this proposal is similar in nature.
- Vehicle movements would largely be undertaken through the Castle Donington Air Quality Management Area (AQMA) despite any recommendations within the highway assessments.
- The increase in the use of distributors of 'on-line' products as a result of the Covid-19 pandemic should not be used as a reason to permit further B8 development particularly as vaccines have now been developed.
- The application site at Netherfields Lane would be considered more appropriate if the Planning Committee elects to approve a B8 site above its minimum requirements given that it would not impact on the setting of Castle Donington, Hemington or any other local village.

Lockington cum Hemington Parish Council on the following summarised grounds:

- The proposed development does not accord with the objectives of the adopted Local Plan.
- The proposed development will encourage further 'rat-running' through the settlements

- of Hemington and Lockington which are both conservation villages.
- There is no further identified need for strategic B8 development which is proposed.
  - There is no indicated or identified need and demand for the proposed development in the context of Policy Ec2(2).
  - There is concern with the application of planning policies in the comments from the Council's Planning Policy team.
  - The submitted visual impact assessment understates the impacts of the development.
  - There would be adverse impacts to the significance of heritage assets.
  - There are issues associated with the conclusions of the flood risk assessment and the recategorisation of land within the floodplain.
  - The proposed development will increase pollution and consequently result in air quality impacts which are already a significant issue in the area.
  - There would likely be better alternative locations for such a form of development.
  - The proposal would result in the loss of high grade agricultural land.
  - The proposal will increase light pollution which is not properly addressed by the application.
  - The proposal will result in adverse impacts to water quality.
  - There would be adverse impacts to biodiversity and ecology.
  - There would be adverse impacts to residential amenity.

**Comments from;**

NWLDC - Conservation Officer who has stated that the proposal would result in less than substantial harm to the setting of the Hemington Conservation Area.

**No Objections from;**

Charnwood Borough Council.

Derbyshire County Council - Highways Authority.

Highways England.

Historic England.

Leicestershire County Council - Waste and Minerals Authority.

Natural England.

Nottinghamshire County Council.

Police Architectural Liaison Officer.

South Derbyshire District Council.

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

East Midlands Airport Safeguarding.

Environment Agency.

Leicestershire County Council - Archaeology.

Leicestershire County Council - Ecology.

Leicestershire County Council - Highways Authority.

Leicestershire County Council - Lead Local Flood Authority.

NWLDC - Environmental Protection.

NWLDC - Environmental Protection Air Quality.

NWLDC - Environmental Protection Contaminated Land.

NWLDC - Planning Policy.

Severn Trent Water.

**Third Party Representations**

A total of 171 third party representations to the application have been received objecting to the application with the comments raised summarised as follows:

*Policy Conflicts*

- The development will join the settlements of Castle Donington and Hemington together, particularly when viewed from the elevated position of The Barroon and when approaching from the north. This would be in conflict with criteria (ii) of Policy S3 of the adopted Local Plan.
- Due regard should be given to the conclusions of the recent appeal decision at Carnival Way, Castle Donington which had regard to the narrowing between the settlements of Hemington and Castle Donington.
- The proposed development is outside the defined Limits to Development.
- The proposed development would constitute ribbon development contrary to criteria (iii) of Policy S3 of the adopted Local Plan.

*Environmental and Landscape and Visual Impacts*

- The proposed development is of a larger scale than that which was dismissed at appeal at Carnival Way, Castle Donington and will have a greater impact on the visual quality of the landscape contrary to criteria (i) of Policy S3 of the adopted Local Plan.
- The development could not be adequately screened by landscaping and therefore it will have a long term visual impact which is detrimental.
- The proposed development will result in the loss of high grade agricultural land.
- The proposed development at Netherfields Lane would be more appropriate for development given its remoteness from the settlements and present of the Aldi building.
- The approach to the village of Hemington will be of industrial development given that the proposal spans both sides of Rycroft Road.
- The development at the East Midlands Strategic Rail Freight Interchange was subject to restrictions in respect of the height of the units but subsequent applications have increased the heights which has worsened the visual impacts. Such impacts are likely to occur at this site given that occupants are likely to require buildings of the similar heights.

*Employment Land Position*

- There is insufficient need or demand for employment land which would outweigh the detrimental impacts and this conclusion was reached in the recent appeal decision at Carnival Way, Castle Donington.
- There are alternative sites already allocated for development which would be more suitable than the application site which include sites outside the District.
- Unemployment levels in the area are low and consequently the jobs will not be taken up by local residents.
- There is no particular interest from operators for the proposed development.
- The increase in the use of distributors of 'on-line' products as a result of the Covid-19 pandemic should not be used as a reason to permit further B8 development particularly as vaccines have now been developed.

*Highway Safety*

- There will be an increase in vehicular movements on highways which are already at capacity.
- There are existing issues with HGVs travelling through Castle Donington, Hemington and Lockington to access sites within the area on unsuitable highways and this will be

- exacerbated by the proposed development.
- Vehicles will 'rat run' through the settlements of Castle Donington, Hemington and Lockington in order to access the strategic highway network with such routes being unsustainable for large volumes of traffic.
- Weight restriction signage does not prevent the movement of HGVs along such routes and damage has been caused to highway verges and residential boundaries in the area as a result of HGVs manoeuvring once they become stuck.
- Given the amount of warehouse developments in the immediate area there is potential that shift patterns would coincide and consequently there would be high levels of vehicles on the highways at a particular time causing high levels of traffic at those times.
- There have been numerous examples where 'sat-navs' have not worked correctly which has led to HGVs passing through the villages and consequently such 'sat-navs' should not be relied upon to ensure vehicles associated with the development do not use inappropriate highways.

#### *Residential Amenities and Air Quality*

- Vehicles 'rat-running' through the settlements of Castle Donington, Hemington and Lockington will cause detriment to residential amenities by noise and impact on air quality and the environment.
- The overall development will increase the level of air pollution and result in adverse impacts to air quality with air quality management areas (AQMA) being present in the area.
- There will be substantial light pollution generated as a result of a development of this scale.
- Noise created in the construction of the development and its subsequent operation will result in detriment to residential amenities particularly when combined with the other industrial uses undertaken in the area as well as road noise.

#### *Flooding and Water Quality*

- The site is within a flood zone as identified on the Environment Agency's mapping data and therefore should not be allowed.
- The site has historically flooded (as recently as November 2019) and is constantly waterlogged. Hemington is already under pressure as a result of the surface water drainage associated with the East Midlands Gateway and this would be exacerbated by the proposal.
- Water quality has deteriorated as a result of surface water run-off from the East Midlands Gateway which the Environment Agency (EA) are aware of and it is likely that such issues would arise as a result of this development.
- An increase in the amount of developments in the area has increased the risk of flooding and also impacted on the water table with land which did not previously flood being flooded or waterlogged. Development in the area should be prevented until such time as flood risk has been appropriately considered.
- The area was assessed in the Strategic Housing and Economic Land Availability Assessment (SHELAA) of 2019 and was identified as not being likely to be developable due to its location within a flood plain, and if it was to be developed this would not be likely until the end of the plan period.

#### *Ecology*

- There will be an adverse impact on wildlife with it being noted that silt in the surface

water run-off from the East Midlands Gateway site has damaged the ecological systems in Hemington Brook.

- Lighting pollution particularly at night impacts the way insects pollinate crops and once the crops are lost it impacts on the livelihoods of farmers as well as overall eco-systems.
- Bird nesting sites will be impacted on with it being noted that the barn adjacent to the site is home to a colony of Barn Owls.
- The loss of trees and hedges impacts on biodiversity.
- Wildlife species would be displaced as a result of the development on the site with numerous species being spotted within the surrounding settlements which wasn't previously the case.
- Once the living space for ecological species has been removed it cannot be relocated elsewhere nor can it be expected that ecological species migrate to the new area.
- Several birds which inhabit the site are on the Red List of UK species which are endangered. The presence of such birds is acknowledged within the Environmental Statement.

#### *Historic Environment*

- The proposed development will impact adversely on the setting of heritage assets in particular the Hemington Conservation Area.
- The proposed development will not conserve or enhance the significance of the setting of heritage assets.

#### *Others*

- The author of the report examining the need and demand for the proposed development has been produced by an organisation of which St Modwen (the applicant) is a client and as such they have a vested interest in the proposal. On this basis the District Council should rely upon its own independent findings.
- Proposed development will result in the devaluation of properties.
- There is a lack of services within the settlements to support the employees who would work in the area.
- The Council will receive business rates from the proposed development.
- The response from the District Council's Planning Policy Officer is misleading, predetermined and prejudiced in favour of the development.

A petition outlining that the development would result in the destruction of more green space in Castle Donington and increase in local pollution which is already high and affecting the health of residents with 942 signatories has also been submitted objecting to the application.

## **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 80, 82 and 83 (Building a strong, competitive economy);  
 Paragraphs 91, 92 and 98 (Promoting healthy and safe communities);  
 Paragraphs 105, 106, 107, 108, 109, 110 and 111 (Promoting sustainable transport);  
 Paragraphs 117, 118 and 122 (Making effective use of land);  
 Paragraphs 124, 126, 127, 128 and 130 (Achieving well-designed places);  
 Paragraphs 148, 150, 153, 155, 157, 158, 159, 160, 161, 163 and 165 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraphs 170, 175, 178, 179, 180 and 181 (Conserving and enhancing the natural environment);  
 Paragraphs 189, 190, 192, 193, 194, 195, 196, 197, 198, 199 and 200 (Conserving and enhancing the historic environment); and  
 Paragraph 203 (Facilitating the sustainable use of minerals).

**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 S3 - Countryside;  
 Policy D1 - Design of New Development;  
 Policy D2 - Amenity;  
 Policy Ec2 - New Employment Sites;  
 Policy Ec5 - East Midlands Airport: Safeguarding;  
 Policy IF1 - Development and Infrastructure;  
 Policy IF4 - Transport Infrastructure and New Development;  
 Policy IF7 - Parking Provision and New Development;  
 Policy En1 - Nature Conservation;  
 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.

**Leicestershire Minerals and Waste Local Plan (2019)**

This plan was adopted on the 25th September 2019 and as such the following policies would be considered relevant to this application:

*Providing for Minerals:*

Policy M11: Safeguarding of Mineral Resources.

**Other Policies**

National Planning Practice Guidance.  
 Good Design for North West Leicestershire Supplementary Planning Document - April 2017.  
 Design Manual for Roads and Bridges (Highway England plus others).  
 Leicester & Leicestershire Strategic Growth Plan (Leicester & Leicestershire 2050: Our Vision for Growth).  
 National Policy Statement for National Networks (Department for Transport).  
 Leicestershire Highways Design Guide (Leicestershire County Council).  
 Planning (Listed Buildings and Conservation Areas) Act 1990 - Sections 66 and 72.  
 The Habitats Regulations (The Conservation of Habitats and Species Regulations 2017).  
 Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their

Impact Within The Planning System).

## 5. Assessment

### Approach to Determination and Principle of Development

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

Paragraph 11 of the National Planning Policy Framework, June 2019 ("NPPF") provides that plans and decisions should apply a presumption in favour of sustainable development and that, for decision-taking, this means:

*"...(c) approving development proposals that accord with an up-to-date development plan without delay; or  
(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

The areas or assets referred to under Paragraph 11 (d)(i) includes Sites of Special Scientific Interest (SSSIs).

Paragraph 12 of the NPPF provides that *"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan...permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."*

In effect, therefore, it is necessary to consider whether the development complies with the policies of the adopted Local Plan (when considered as a whole) and, if not, whether (in accordance with Paragraph 12 of the NPPF), other material considerations indicate that planning permission ought to be granted (and whether Paragraph 11 subsections (c) or (d) of the NPPF are applicable). For the purposes of applying the tests in the NPPF, the view is taken that the adopted Local Plan is up-to-date.

In terms of the site's status within the adopted Local Plan, it is noted that the site lies outside the Limits to Development and is not identified for any particular purpose (or any specific use) within the adopted Local Plan.

Policy S3 of the adopted Local Plan sets out the circumstances in which development will be permitted outside the Limits to Development; insofar as employment development is concerned the *principle* of such uses is allowed for (under criterion (s) of Policy S3) where it would comply with Policy Ec2 of the adopted Local Plan.

Policy Ec2 (subsection (2)) provides that *"Where evidence indicates an immediate need or demand for additional employment land (B1, B2 and B8) in North West Leicestershire that*

cannot be met from land allocated in this plan, the Council will consider favourably proposals that meet identified need in appropriate locations subject to the proposal:

- (a) *Being accessible or will be made accessible by a choice of means of transport, including sustainable transport modes, as a consequence of planning permission being granted for the development; and*
- (b) *Having good access to the strategic highway network (M1, M42/A42 and A50) and an acceptable impact on the capacity of that network, including any junctions; and*
- (c) *Not being detrimental to the amenities of any nearby residential properties or the wider environment."*

As such, in order to comply with the *principle* of development requirements of Policy S3, it would be necessary to demonstrate that there was an immediate need or demand for additional employment land within the District that could not otherwise be met by allocated sites (and, if that could be shown, that the criteria in (a), (b) and (c) above would also be met).

A detailed officer assessment of the position in respect of the need and demand for the proposals is set out in the separate Planning Policy consideration response attached as an appendix to this main report (and forming part of it).

This assessment identifies that at 1st April 2020 there is a small numerical shortfall in the overall supply of B class employment land (excluding strategic B8) when assessed against the findings of the Leicester and Leicestershire Housing and Economic Development Needs Assessment (HEDNA) although this shortfall is driven by a shortfall in floorspace for (former) B1 a/b (office and research and development) uses which this application would not address. This application, if approved, would result in the overall minimum need figure being met (and exceeded to a degree). In addition, in December 2020, the Planning Committee resolved to grant permission for B class uses on land at Stephenson Way, Coalville (20/00330/FULM) subject to completion of a s106 agreement which would add a further 3.31 hectares to the overall supply. As a result, the minimum overall HEDNA need figure would be met and exceeded in the event that either or both of these applications gain consent. As set out in the appendix, the supply of strategic warehousing has already surpassed the need to 2031 identified in the Leicester and Leicestershire Strategic Distribution Study (LLSDS) and, as such, approving this application would see it exceeded further. Nevertheless, it is acknowledged that the requirements set out in both the HEDNA and LLSDS are *minimum* figures and they are not a limit which cannot be exceeded. The need/supply position described above is not, on its own, sufficient to rule out the proposed development; consideration must also be given to the planning merits (or otherwise) of the proposal.

A resolution was reached to permit the redevelopment of the Former Lounge site near Ashby De La Zouch for employment development at the January 2021 planning committee (as considered under application reference 19/00652/FULM). However, the existing figures of need already included the Former Lounge site as it benefitted from an extant planning permission dating from 2012 and is allocated under Policy Ec1a of the adopted Local Plan.

As set out in more detail in the attached appendix and in the policy wording above, Policy Ec2 is quite clear that there has to be an *"immediate need or demand"* for the proposed development. It is therefore necessary to only demonstrate one of need or demand, not both. On the basis of independent expert consultants advice provided to the District Council's Planning Policy and Land Charges team, it is accepted that there is an identifiable, current demand for medium sized strategic warehousing units (B8) which the application intends to target and, as such, the immediate demand test in Policy Ec2(2) is considered to be met.

The case for the B1 (c)(now Class E)/B2 element of the proposal, which could be up to 20% of the floorspace, is less clearly made. In respect of need, and as previously outlined, the current (April 2020) overall shortfall against the minimum requirements in the HEDNA is very modest and is predominately linked to a district under-supply in office floorspace (which this application will not address). Demand for B1(c)/B2 uses is less tied to this specific location. There may, however, be demand from businesses that want to be located close to the airport and its associated uses and the consultants advise that there is very limited supply in the district of built units available for immediate occupation which this application could help to address. Incorporating this aspect of the proposal may also be beneficial in terms of overall flexibility and development mix.

On balance it is therefore considered that the demand aspect of Policy Ec2 is satisfied and therefore consideration is required in respect of the schemes performance against the subsequent criteria (a), (b) and (c) within Ec2(2). This is in effect assessed under the *Detailed Issues* section of this report below.

Should Policy Ec2 be satisfied (and, hence, the *principle* of development element of Policy S3 be satisfied) it will also be necessary to consider the proposals' compliance with criteria (i) to (vi) within Policy S3. Of particular relevance to this application are considered to be criteria (i), (ii), (iv) and (vi) as follows:

- "(i) *the appearance and character of the landscape, including its historic character and features such as biodiversity, views, settlement pattern, rivers, watercourses, field patterns, industrial heritage and local distinctiveness is safeguarded and enhanced. Decisions in respect of impact on landscape character and appearance will be informed by the Leicester, Leicestershire and Rutland Historic Landscape Characterisation Study, National Character Areas and any subsequent pieces of evidence; and*
- (ii) *it does not undermine, either individually or cumulatively with existing or proposed development, the physical and perceived separation and open undeveloped character between nearby settlements either through contiguous extensions to existing settlements or through development on isolated sites on land divorced from settlement boundaries; and*
- (iv) *built development is well integrated with existing development and existing buildings, including the re-use of existing buildings, where appropriate; and*
- (vi) *the proposed development is accessible, or will be made accessible, by a range of sustainable transport."*

As per Policy Ec2 above, these issues are considered where applicable under the *Detailed Issues* section of this report below.

#### Other Matters Relating to the Principle of Development

It is noted that Paragraph 117 of the NPPF contains encouragement for the effective use of land, and in particular by maximising use of previously-developed sites. Clearly the development of this site would not sit particularly well with this approach. However, regard is also given to Paragraph 82 of the NPPF which indicates that planning decisions should recognise and address the specific locational requirements of different sectors, including making provision for storage and distribution operations at a variety of scales and in suitably accessible locations. Taking into account the particular nature and scale of the proposals (and the likely ability to provide an alternative site capable of delivering this form of development which was not previously-developed), it is accepted that the scheme would not be unacceptable in this

regard.

Representations have been received raising concern with the comments from the District Council's Planning Policy Team. It is considered that such comments are primarily a means of providing advice and context in relation to the 'need and demand' aspects of the development proposed against Policy Ec2. The comments also provide commentary in relation to the policies which should be taken into account in the assessment of the application. As is concluded in the Planning Policy comments, it is the case that there is no policy objection in principle subject to the detailed matters in Policies S3 and Ec2, as well as other policies, being found to have been satisfied. Notwithstanding the comments of the Planning Policy Team, it is fundamentally the role of the Case Officer to take the comments which have been provided into account and make a balanced planning judgement of the positive elements of the development against any of the negative elements of the development in relation to relevant planning policy before making an overall recommendation. It is considered that all relevant matters are appropriately assessed in the sections which follow below in the *Detailed Issues* section of this report.

Third party representations have been received outlining that the site is within Hemington and therefore the development is contrary to Policy S2 of the adopted Local Plan as Hemington is defined as a 'Small Village' where development is restricted to those forms specified within Policy S2. Whilst the site is located within 'Hemington' parish, Policy S2 is more concerned with the settlement itself rather than the wider parish or town council area. Furthermore, the sites location outside the defined Limits to Development is a matter to be assessed in relation to Policy S3 as identified above.

#### Conclusions in respect of the Principle of Development

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The site lies outside the Limits to Development and, unless the scheme can be shown to comply with one of the development types specified under Policy S3, there would be an in-principle conflict with this development plan policy designed to protect the countryside from inappropriate development. On the basis of the conclusions above in respect of compliance with Policy Ec2, the view is taken that the proposal would meet the test of there being an immediate demand for the development and, subject to the associated criteria under Ec2(2) (a), (b) and (c) also being met, the scheme would comply with Policy Ec2 (and, hence, with the in-principle element of Policy S3(s)).

#### **Detailed Issues**

In addition to the issues of the principle of development, consideration of other issues relevant to the application (and including those addressed within the Environmental Statement (ES)) is set out in more detail below. The ES considers the environmental effects of the proposed development, both in their own right, and also cumulatively with four other developments (with the respective cumulative effects being assessed to a varying degree depending on the nature of the environmental effect type under consideration).

The four sites considered cumulatively by the ES are as follows:

- East Midlands Strategic Rail Freight Interchange (granted a Development Consent Order (DCO) by the Secretary of State for Transport) - set to the south-east;
- Land East of Carnival Way, Castle Donington (ref: 17/01136/OUTM) - set to the south;

- Land at Sawley Crossroads, Sawley (ref: 15/00015/FULM and 17/00366/VCIM) - set to the north; and
- Site of Former Sawley Crossroads Service Station (ref: 18/01115/FUL) - set to the north-west.

These sites are those referred to when reference is made to 'cumulative impacts' in the relevant sections of the report below albeit, it is noted that the application at land east of Carnival Way has recently been dismissed at appeal by the Planning Inspectorate.

### **Assessment of Alternatives**

Chapter 5 (Consideration of Alternatives) of the ES specifies that Schedule 4(2) of the Environmental Impact Assessment (EIA) Regulations 2017 indicates that an ES should include:

*"A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects."*

Within the ES it is stated that the EIA Regulations only require '*reasonable alternatives...studied by the developer*' to be considered. Following the receipt of further information from the applicant it has been outlined that alternative sites, both within and outside of their control, have been considered but such sites have been discounted as being appropriate for the development as they would not meet the objectives of the development (i.e. they are too small to accommodate the development) and do not serve the correct market (i.e. they do not serve the M1/A50 transport corridor). It is further outlined within the ES that the site is in close proximity to existing industrial development, and as such is in a sustainable location.

Although the specific sites considered as alternatives by the applicant are not stated within the ES, officers have given consideration to alternative sites which have been assessed in applications of a similar nature within the District (including those assessed under application reference 17/01136/OUTM at Carnival Way) and provide conclusions as follows:

#### Money Hill, Ashby De La Zouch

The Money Hill allocation in the adopted Local Plan provides for up to 16ha of employment development with the site planned to meet the needs arising from the Housing and Economic Development Needs Assessment (HEDNA), i.e. not strategic B8 development. Whilst the site may be appropriate for the B1c/B2 element of the proposal an application is not sufficiently advanced through the planning process so as to meet an 'immediate' demand. This site is also situated in a different part of the District and its principal connection would be the A42/M42 corridor.

#### Lounge Disposal Point, Ashby De La Zouch

This site is currently blighted by the route of Phase 2b of HS2 and therefore the extant consent (ref: 07/01372/FULM) cannot be realistically implemented in full. Whilst this is the case a current planning application (ref: 19/00652/FULM) for a revised proposal has a resolution to be permitted following its consideration at the Planning Committee in January 2021. The revised proposal shows an indicative layout for either a single B8 unit of 63,922 square metres or two units of 36,000 square metres and 19,290 square metres and therefore not the medium sized units the application proposes to provide. As is the case above this site is situated in a different part of the District with the principal connection being the A42/M42 corridor.

Sawley Crossroads, Sawley

Part of the site at Sawley Crossroads (as permitted under application references 15/00015/FULM and 17/00366/VCIM) is being used as a distribution centre for Aldi. The outline consent on the remaining part of the site would provide a further 14.8 hectares of B8 development but this is reserved for a further extension for Aldi and as such is not available to another occupier as an alternative to the application proposed.

Land at EM Point (M1 Junction 23A)

This site would be ruled out as it is too small for the development proposed with planning permission being granted, on the 15th October 2020, for the erection of 3 no. office buildings (Class B1(a) & B1(b)), access, car parking, landscaping and associated works under application reference 18/02227/FULM. It is also considered that given the site's prominent location adjacent to the motorway, industrial type units of the kind indicated would not be appropriate from a design perspective.

Land at East Midlands Airport (adjacent to Donington Park Motorway Services)

This site would be ruled out as it is too small for the development proposed and is also being marketed so its availability is uncertain.

Land at Donington Park

The site is within the East Midlands Airport Public Safety Zone and is therefore unsuitable (given the policy presumption against new development within Public Safety Zones leading to increased number of visitors etc.)

Land at Derby Road, Kegworth

This site would be affected by the proposed route of HS2 and consequently would not be supported.

Land at A50/Trent Lane, Castle Donington

This site is being marketed but is within Flood Zone 3b (functional floodplain) of the Environment Agency flood risk map identification and as such is unlikely to be supported for development.

Land at Sawley Marina

This site is also within Flood Zone 3b of the Environment Agency flood risk map identification and is unlikely to be supported for development.

Plots 2B and Plots 4B and 4D Willow Farm, Castle Donington

Although the Environment Agency flood risk map identification identifies that these sites are in Flood Zone 3b they are, in practice, not subject to flooding given historical flood protection works which have been undertaken. It is also the case these sites would be ruled out as they are too small for the proposed development.

East Midlands Strategic Rail Freight Interchange

This site is ruled out on the basis that the scheme is being targeted towards large space occupiers.

Plots 1 and 3, East Midlands Distribution Centre, Castle Donington

It is understood that the developer is wishing to reserve the remainder of the site for national level operators with reserved matters approvals being granted for large scale units on these two plots.

Land to the South of Park Lane, Castle Donington

It is understood that the developer would normally develop the employment site on a design and build basis and would not consider the sale of the site to a competitor.

It is considered that the above conclusions have identified that alternative sites would not, in practice, be feasible whilst meeting the identified demand and therefore the application site is the only feasible site available at this time to deliver the scheme. No other sites within the District, to those identified above, are considered potential alternatives at this time.

In terms of alternative designs, the ES outlines that the proposals have been through an extensive iterative design process in parallel with the assessment of the environmental impacts and the potential significant adverse environmental impacts have been 'designed out' of the scheme. Measures are also incorporated into the proposals which would seek to mitigate those impacts which cannot be adequately addressed through design.

Such iterations to the design have included the consideration of the density, layout, flood risk and ecological mitigation of the proposals which have influenced the preparation of a parameters plan which would allow for a variety of buildings so as to meet industry and employment requirements. The proposals would also incorporate a comprehensive flood mitigation scheme whilst also promoting recreational, landscaping and biodiversity benefits. The current proposal therefore represents the most suitable solution for the development of the site and further assessment of this design approach is undertaken in the report below.

**Socio Economics**

Chapter 6 of the ES includes an assessment of the potential socio economic impacts of the development in terms of the operational phase. No details in respect of the socio economic impacts of the proposal in terms of the construction phase are provided. Chapter 6 is supplemented by a separate Socio-Economic Benefits Statement.

During the operational phase the ES states that the intended development would be estimated to accommodate 1,440 full-time equivalent (FTE) jobs, which would equate to around 1,530 total jobs (full-time and part-time), should the 77 square metre FTE figure for B8 be utilised with this decreasing to 1,240 FTE jobs (equivalent to 1,330 total jobs) should the 95 square metre FTE figure for B8 be utilised.

Within North West Leicestershire this would represent an increase of 2-3% in the estimated total employment in the area and a 0.3% increase across the Leicester and Leicestershire Local Economic Partnership (LEP) with business rate revenue being estimated at around £1.9 million

to £2 million which would result in around £1 million being retained by the District Council should the business rate revenue be associated with new business (at present Local Authorities currently retain up to 50% of the additional rates generated by new businesses).

It is also outlined that the completed development would also contribute to increased productivity and by using gross value added (GVA) as a measure the annual GVA would be around £70-80 million using the East Midlands GVA per FTE figures for manufacturing and the transportation and storage sectors. There would also be additional benefits to the supply chain with an additional 370-430 jobs in suppliers and businesses whose trade is supported by the site's workforce, this would be an additional £20-25 million of GVA per annum which would be supported by such an activity.

The applicant's calculations in respect of job creation have been made having regard to the Office for National Statistics: Business Registers and Employment Survey, Valuation Office Agency: Commercial Floorspace Stock Data and North West Leicestershire District Council's Annual Statement of Accounts and it is considered that the assumptions made by the applicant in respect of the level of economic activity is reasonable.

Insofar as the ES's assessment of the residual environmental effects of the Socio-Economic impacts are concerned, the ES identifies that these would be positive and consequently no mitigation is required.

### **Landscape and Visual Impact**

The issues in respect of the principle of the development in this location outside Limits to Development are set out in the *Approach to Determination and Principle of Development* section above. However, Policy S3 of the adopted Local Plan also sets out the criteria for assessing development in the countryside, and including in terms of its impacts on the appearance and character of the landscape. Policy Ec2 of the adopted Local Plan also requires that any employment proposals on unallocated land are not detrimental to the amenities of the wider environment.

Chapter 11 of the ES addresses the Landscape and Visual impacts of the development and is supported by a Landscape Effects Table (appendix 11.2 of the ES) and Visual Effects Table (appendix 11.3 of the ES).

The development has been assessed in terms of its landscape and visual effects both during and after construction, with the residual effects assessed after the 15th year of completion. A Zone of Theoretical Visibility (ZTV) was not included in the original ES assessment and subsequently an addendum to the Landscape and Visual Impact Assessment (LVIA) was submitted (in September 2019) which included a ZTV. The addendum also included two additional viewpoints (as requested by the Council's Conservation Officer) as well as an additional viewpoint suggested by the applicant's landscape advisor. Sites within the ZTV include land within Lockington, Hemington, the northern parts of Castle Donington and Cavendish Bridge.

The site lies just within National Character Area (NCA) Area 69: Trent Valley Washlands with NCA Area 70: Melbourne Parklands being situated to the immediate south of the site. In terms of the East Midlands Regional Landscape Character Assessment (2010) the site lies within 3a 'Floodplain Valleys' and is just north of the 'Wooded Village Farmlands'. Insofar as the Leicester, Leicestershire and Rutland Woodland Strategy (LLRWS) (updated 2006) is concerned, the site is located in the 'Trent Valley' landscape character area (LCA) close to the boundary with the 'Langley Lowlands' LCA with the 'Trent Valley' LCA being summarised as follows:

*"This character area is mainly flat open floodplain, bounded by the River Trent to the north and west, by the River Soar to the east, and by the lower slopes of the Castle Donington escarpment to the south..."*

*Although the land use is predominately agricultural, including both arable and pasture, the character of the area, such as the parklands around Lockington and Hemington avoid such intrusions.*

*Ratcliffe-on-Soar power station is situated outside, but immediately adjacent to, the eastern boundary of the character area and is imposingly present in many views...*

*The proximity of East Midlands Airport, situated to the south of the area on an elevated plateau is not unduly intrusive, though it results in frequent aircraft noise."*

One of the objectives of the 'Trent Valley' LCA is to *"enhance the appearance of the local landscape through well designed and adequately mitigated schemes wherever further infrastructure or extractive development is necessary."* The ES states that whilst the LLRWS was updated in 2006 it is less 'up-to-date' than the other landscape character studies identified above. Reference is also made in the ES to the North West Leicestershire Settlement Fringe Assessment (2010) albeit the site is outside the nearest settlement fringe assessed, being the 'North Eastern Edge of Castle Donington Urban Fringe 1'.

The site is not covered by any statutory or non-statutory landscape designations at either a national or local level.

In terms of its current landscape value, the ES suggests that the condition of the landscape quality of the overall site and its immediate context is not in a good condition and is defined by arable farmland, field boundaries and public footpath (L80) to the west along with employment land and Station Road in the west, Trent Lane in the south-west, Rycroft Road in the north and further farmland to the south. In terms of its scenic quality the ES outlines that the site is not judged to be of unusual scenic quality and is unremarkable in the context of its setting and nearby villages given that the immediate landscape is influenced by various urban developments (including highway and railway infrastructure, electricity and employment buildings/business parks). On the above basis the ES defines the landscape value to be medium to low overall.

The ES also considers the sensitivity of a range of landscape receptors with the effects on a total of 19 receptors are also assessed.

#### *Environmental Statement Assessment of Landscape Effects*

In terms of the landscape effects, the ES assesses these in terms of both the construction and operational phases.

With regards to the construction phase, the ES outlines that the location and design of temporary site compounds, lighting, signage and perimeter screen fencing, combined with effective project management would seek to ensure that the potential landscape effects are minimised during the construction phase. It further outlines that hedgerows and occasional trees will be removed as part of the works to allow for the access arrangements, but this would represent a relatively small overall proportion and quality with the majority of the peripheral

landscaping retained. Within the site hedgerows and hedgerow trees will be retained, where possible, as part of the proposed green infrastructure.

In landscape terms the ES identifies that the effects arising during the construction phase would not lead to any long term harm as the construction phase is transitory in nature and over the short term. Generally, this phase would reflect the overall change to the landscape character of the site and loss of landscape features (such as the loss of arable fields). Overall (and relative to the local landscape and character resource), the ES judges that the landscape effect on the site and immediate context would be Major/Moderate Adverse with the effects localised to the site and the adjacent settlement edge context.

Insofar as the operational phase is concerned the ES considers that the site and the immediate landscape is one which could accommodate change, as suggested by the submitted parameters plan, with the consequential landscape effects as a result of the development not resulting in any unacceptable harm to landscape character. In terms of the specific landscape character areas, these are assessed as follows in respect of the development at completion:

*NCA 69 'Trent Valley Washlands' and NCA 70 'Melbourne Parklands'*

The ES outlines that the development would not result in the loss of key characteristics of these NCA's and would result in the extension of the existing industrial landscape which defines the site's immediate context. The ES concludes that the effects would therefore be considered to be Negligible.

*EMRLCA 3a 'Floodplain Valleys'*

The ES outlines that this landscape type extends throughout the principal river valley corridors within the East Midlands and the proposed development would be considered to have a Minor Adverse effect on the Regional character area.

*'Trent Valley' Landscape Character Area*

The ES specifies that the development proposes to retain a considerable amount of the existing landscape features of value, existing trees and hedgerows and as such the proposal would have a Minor Adverse effect on this character area. It is, however, outlined within the ES that this character area is heavily influenced by industry.

*Environmental Statement Assessment of the Local Landscape*

The ES outlines that the development would result in the loss of open arable land to built development but that substantial green infrastructure proposals would be provided within the landscape and flood mitigation zones in the western area of the site. Existing features of interest, including mature trees, hedgerows and water course would also be retained at the peripheries of the site. The ES concludes, therefore, that the landscape effects would be Major/Moderate Adverse to the local landscape.

*Environmental Statement Assessment of the Visual Effects*

In terms of the visual effects, the ES also assesses these in terms of both the construction and operational phases.

Insofar as the construction phase is concerned the ES outlines that there would be some initial

adverse effects on the local visual resource, but this would be dependent on the visibility of the site by the visual receptor. There are two public rights of way (PROWs) within the site, as well as PROWs outside the site, and construction works would be visible from these routes albeit views may be restricted by hoarding provided around the site. Residents within close proximity of the site along Rycroft Road and in the northern part of Castle Donington would also have views of construction features although views would be partially restricted by retained vegetation and site hoarding. The ES concludes that the construction effects would be relatively short term but would be more severe to receptors in the immediate vicinity of the landscape. On this basis the effects would be considered to range from Major/Moderate Adverse for sensitive receptors immediately adjacent to the site and Moderate/Minor Adverse/Negligible for receptors at a greater distance from the site.

With regards to the operation phase at the outset the ES concludes that in terms of the impacts from the 19 receptors assessed (which are supplemented by photos from the receptors - labelled A to R), when taking into account the nature of the receptors at those points (i.e. residential, employees, recreational users, pedestrians or motorists)) these would be as follows:

- Receptor One - Northern Edge of Hemington and Associated Dwellings (Residential) - Minor Adverse;
- Receptor Two - No. 69 Rycroft Road (Residential) - Major/Moderate Adverse;
- Receptor Three - Nos. 87, 89 and 97 Rycroft Road (Residential) - Major/Moderate Adverse;
- Receptor Four - Properties in North-East Castle Donington (Residential) - Moderate/Minor Adverse;
- Receptor Five - Rycroft Fisheries, Rycroft Road (Recreational) - Moderate/Minor Adverse;
- Receptor Six - Willow Farm Business Park, Castle Donington (Employees) - Negligible;
- Receptor Seven - Footpath L107 (Pedestrians) - Minor Adverse;
- Receptor Eight - Footpath L81 (Pedestrians) - Moderate/Minor Adverse;
- Receptor Nine - Footpath L80 Northern Part (Pedestrians) - Moderate Adverse;
- Receptor Ten - Footpath L91 (Pedestrians) - Minor Adverse/Negligible;
- Receptor Eleven - Footpath L77 Views North and North-West (Pedestrians) - Minor Adverse;
- Receptor Twelve - Footpath L80 Southern Part (Pedestrians) - Minor Adverse;
- Receptor Thirteen - Cut-Off Section of Station Road (Motorists) - Minor Adverse;
- Receptor Fourteen - Station Road (Motorists) - Minor Adverse;
- Receptor Fifteen - Rycroft Road (Motorists) - Moderate Adverse;
- Receptor Sixteen - Derby Southern Bypass (Motorists) - Minor Adverse;
- Receptor Seventeen - A50 (Motorists) - Minor Adverse;
- Receptor Eighteen - Footpath L79 (Pedestrians) - Minor Adverse;
- Receptor Nineteen - Footpath L86 (Pedestrians) - Minor Adverse;

As noted, therefore, the most significant adverse effects at the outset identified in respect of the 19 receptors assessed would be 'Major Adverse/Moderate Adverse' and 'Moderate Adverse' experienced at 4 of the viewpoints/receptors and would be experienced by residents, recreational users, pedestrians and motorists.

#### Environmental Statement Assessment of the Lighting Impacts on the Landscape

The ES also provides an assessment of the potential effects any lighting associated with the scheme would have on the overall night-time skies landscape. It is however noted that as the application is in outline form the precise landscaping strategy for the site is not currently known.

The ES indicates that the proposed development would follow the latest best practice so as to minimise and control lighting on the surrounding landscape with the effects localised to the local landscape judged to be Minor Adverse on completion reducing to Minor Adverse/Negligible at the 15th year when accounting for the maturing of landscaping which would restrict light emissions.

Environmental Statement Consideration of Landscape and Visual Mitigation

In terms of mitigation, the ES identifies this as including the following:

- Conservation of existing woodland and trees reinforced by significant new woodland tree and shrub planting;
- Creation and conservation of landscape corridors through the development;
- Creation of large landscape and flood mitigation zones with provision of new mixed habitats (including significant wetland areas as part of the sustainable drainage strategy) so as to satisfy biodiversity objectives;
- The establishment of high quality landscapes to the built development plots and surrounds;
- The implementation of an appropriate Landscape Management Plan (LMP) so as to ensure the successful establishment and continued thriving of the planting proposals.

Environmental Statement Assessment of the Residual Landscape and Visual Effects

The ES also assesses the residual landscape and visual effects of the development once the mitigation and green infrastructure proposals have been established and matured; this is generally considered to be the 15th year.

In terms of the landscape effects at the 15th year the ES determines these to be:

*NCA 69 'Trent Valley Washlands' and NCA 70 'Melbourne Parklands'*

The ES outlines that the site would occupy a relatively small area of the extensive Trent Valley Washlands NCA and the proposal would result in an extension of the existing industrial character to the west. On this basis the residual landscape effect to this character area would be Negligible.

*EMRLCA 3a 'Floodplain Valleys' and 'Trent Valley' Landscape Character Area*

The ES identifies that over time the proposed green infrastructure would help integrate the development into the existing landscape and help achieve objectives of the character assessment at a regional level. On this basis the residual landscape effects would be Minor Adverse/Negligible.

*Local Landscape*

The ES specifies that at a local level the development will result in the loss of arable land to industrial development, however a considerable area of the site would be retained and improved as green infrastructure. Once matured the residual landscape effects would be Moderate Adverse.

With regards to the 19 receptors the ES determines the visual effects to be as follows at the 15th year:

- Receptor One - Northern Edge of Hemington and Associated Dwellings (Residential) - Minor Adverse/Negligible;
- Receptor Two - No. 69 Rycroft Road (Residential) - Moderate/Minor Adverse;
- Receptor Three - Nos. 87, 89 and 97 Rycroft Road (Residential) - Moderate Adverse;
- Receptor Four - Properties in North-East Castle Donington (Residential) - Minor Adverse;
- Receptor Five - Rycroft Fisheries, Rycroft Road (Recreational) - Moderate/Minor Adverse;
- Receptor Six - Willow Farm Business Park, Castle Donington (Employees) - Negligible;
- Receptor Seven - Footpath L107 (Pedestrians) - Negligible;
- Receptor Eight - Footpath L81 (Pedestrians) - Minor Adverse;
- Receptor Nine - Footpath L80 Northern Part (Pedestrians) - Moderate/Minor Adverse;
- Receptor Ten - Footpath L91 (Pedestrians) - Negligible;
- Receptor Eleven - Footpath L77 Views North and North-West (Pedestrians) - Minor Adverse/Negligible;
- Receptor Twelve - Footpath L80 Southern Part (Pedestrians) - Minor Adverse/Negligible;
- Receptor Thirteen - Cut-Off Section of Station Road (Motorists) - Minor Adverse/Negligible;
- Receptor Fourteen - Station Road (Motorists) - Minor Adverse/Negligible;
- Receptor Fifteen - Rycroft Road (Motorists) - Moderate Adverse;
- Receptor Sixteen - Derby Southern Bypass (Motorists) - Negligible;
- Receptor Seventeen - A50 (Motorists) - Negligible;
- Receptor Eighteen - Footpath L79 (Pedestrians) - Minor Adverse/Negligible;
- Receptor Nineteen - Footpath L86 (Pedestrians) - Minor Adverse/Negligible;

On the basis of the residual visual effects the most significant adverse effects at the 15th year would be 'Moderate Adverse' experienced at 5 of the viewpoints/receptors and would be experienced by residents, recreational users, pedestrians and motorists. The 'Moderate Adverse' effect experienced at four of the viewpoints/receptors (nos. 2, 3, 9 and 15) would be deemed significant in Environmental Impact Assessment (EIA) terms due to the sensitivity of the receptor.

#### Environmental Statement Assessment of the Cumulative Impacts

The ES also considers the cumulative impacts of the proposal with the four development sites identified above (Detailed Issues) and in respect of the impacts to landscape character the ES concludes that these would be no more than Minor Adverse with the visual effects also being Minor Adverse. Such cumulative impacts would not be considered significant in EIA terms.

#### Officer Assessment of Landscape and Visual Effects

The landscape and visual assessment (LVA) of the submitted ES (chapter 11) has been assessed by an independent landscape consultant on behalf of the District Council, with the same consultant also reviewing the subsequent addendums to the ES as provided in September 2019 and October 2020.

In terms of the landscape and visual effects the District Council's landscape consultant outlines the following characteristics as being important in considering the landscape and visual effects resulting from the proposed development, these are based on his own on-site observations (i.e. as opposed to having undertaken a full, separate, LVA):

- (a) The site and surrounding area, notwithstanding the presence of the A50 to the north and the employment area to the south-west, is generally open and rural - there are detracting elements within it (including the pylons across the site) but the A50 and the Willow Farm employment area are reasonably well screened;
- (b) The landscape of and around the site is not designated for landscape quality or sensitivity, and the detracting features within and around it mean that it is no more than medium sensitivity. However, the change resulting from the development would be at a high level, on account of its scale and nature;
- (c) The proposed buildings would tend to appear discordant in the local landscape setting as a result of their size and height;
- (d) The buildings would appear dominant in short range views from within and around the site, and would be prominent in views from the higher ground between Castle Donington, Hemington and Lockington to the south;
- (e) It is apparent that there would be some very significant and permanent adverse effects on local landscape character, and also on some views from nearby residential properties, roads and footpaths. There are relatively few houses in the area around the site which would have significant views of the new buildings, but for properties along Rycroft Road, the adverse visual effects would be at a high level.
- (f) While the assessment of initially moderate to major adverse landscape effects on the area around the site seems reasonable, effects within the site itself (noting that it is a large area) would be at a higher level, and effects would not be significantly reduced by year 15, as any proposed planting would not be able to provide an effective screen by that time. It also seems likely that the LVA has underestimated visual effects, by undervaluing some of the views and also not taking account the discordant height of the new buildings, in comparison with the existing employment buildings which are present in some views, but in most cases far smaller.

The District Council's consultant has advised that the assessments are generally reasonable in terms of their scope, methodology and coverage, and has been carried out with due reference to the Guidelines for Landscape and Visual Impact Assessment (the GLVIA). There was, however, a number of issues raised by the Council's consultant in relation to the approach to the assessment and its subsequent conclusions which the applicant's landscape advisor sought to address by the submission of the relevant addendums to the original ES.

The final detailed comments of the District Council's landscape consultant, when considering all the information provided by the applicant's landscape advisors, are summarised as follows:

- There has been an overall increase in the area for the landscape buffers of 0.6 hectares any condition should ensure that such buffers are no less than this figure.
- The effects in winter Year 1 within the site would be judged as Major Adverse.
- Short term landscape effects of up to moderate to major adverse are identified within an area around 2km from west to east (much of which is within the site). Whilst the level of effect would reduce over time there would still be significant effects in the long term.
- The effects on the wider landscape would not suddenly fall from moderate to major adverse within the area identified on Figure 4.0 to minor adverse just beyond this. Such effects would gradually tail off with distance and would only be more rapid if significant screening features are present in the local landscape.
- My view is that the area of and around the site is mixed and clearly contains some significant detracting elements but is also (and notwithstanding those features) mainly (but not wholly) rural (site is presently farmland).
- The measures listed as reducing lighting levels seem sensible and can be controlled by condition.

- It is agreed that a ZTV can exaggerate the degree of visibility and therefore the actual visibility would be less than that shown on figure 23.
- The use of horizontal bands of colour, which can be helpful in minimising the apparent bulk of large buildings, could be controlled by condition.
- My previous comment related to the height of the proposed buildings (which have now been reduced to 18 metres) in comparison with other similar buildings in the views. The East Midlands Gateway development and M&S distribution centre are not in those views.
- A better description of the landscape would be a 'generally open and partly rural landscape' given the nearby detracting elements.
- The ES identifies adverse effects, on the site and the area around it, over a width from west to east of around 2km. Clearly effects further afield would be reduced, but there would be adverse landscape effects as recognised by the ES. In my view this would lead to conflict with relevant policies, but I agree that the weight to be attached to any such conflict needs to be considered against the benefits of the proposals in the overall planning balance.

The conclusions of the District Council's consultant, having also had regard to the ES addendum and response from the applicant's landscape advisor, are as follows:

- The presence of the large scale buildings in what is at the moment a generally open and partly rural landscape (and one which contains some existing detracting elements) would lead to some significant harm, and the buildings would appear as new, very large scale and discordant elements in some views, and due to their size would not be screened even in the medium to long term, though it would be possible for appropriate landscape proposals to provide a degree of screening and integration over time.
- The submitted LVA has been carried out with due reference to the GLVIA, though a number of comments can be made on it. The LVA has now explained what area the higher level landscape effects would be felt over (that area would be around 2km from west to east), but in my view has underestimated the initial landscape effects within the site and on the surrounding area in year 15, and has also underestimated some the visual effects.
- My view is that the long term landscape effects would be more correctly judged to be moderate to major adverse, rather than moderate adverse set out in the LVA, but even if the LVA assessment is correct, then moderate adverse (long term) effects are still three quarters of the way up the four point scale of potential effects used by the LVA, and should in my view be regarded as significant.
- In terms of landscape related policy, the FPCR (applicant's landscape consultant) response states that the proposals are in compliance but it seems clear to me that the proposals would be contrary to Policy S3 of the Local Plan as the site is in the countryside, and also contrary to Policy Ec2, as there would be some significant landscape harm. The proposals are not for one of the categories listed in Policy S3 as being supported, unless it is category (s), i.e. 'Employment land in accordance with the provisions of Policy Ec2', but even in that case the development would need to meet criterion (i) and safeguard and enhance the appearance and character of the landscape. Policy Ec2 does allow for the possibility of development on unallocated sites in the countryside in appropriate locations (if there is evidence of an immediate need or demand), provided the development is not detrimental to wider environment. As noted above, my view is that the LVA has understated the landscape and visual effects, but even if the assessment of the LVA is accepted, that shows that there would be long term landscape harm, so the landscape would not be safeguarded and enhanced, and there would be detriment to the wider environment, leading to conflict with Policies S3 and

Ec2. These conflicts will need to be taken into account in the overall planning balance, and weighed against the benefits of the proposed development.

- If the development were to be considered for permission, it would be important in landscape terms to secure the provision, early implementation and future management of the landscape buffers, and also a commitment to them being of a substantial width as indicated on the Development Parameters Plan and Illustrative Landscape Proposals drawing, to bunds being incorporated within them and to appropriate planting and future management.

An additional submission from the applicant's landscape advisor provided a further rebuttal to the final comments of the District Council's landscape consultant, by identifying screening features within the local landscape (which included the recently planted Old Bridge Orchard Plantation adjacent to the railway on Rycroft Road) and that in wider panoramic views the East Midlands Distribution Centre and Ratcliffe-on-Soar Power Station would be visible from elevated viewpoints. For their part the District Council's landscape consultant considers that this submission does not alter their conclusions as identified above.

It is acknowledged within the comments of the District Council's landscape consultant that the applicant's landscape advisor disagrees with the comments made but some difference of professional judgement as to the level of landscape and visual effects is not unusual.

The relationship between Policies S3 and Ec2 of the adopted Local Plan is set out in more detail under the *Approach to Determination and Principle of Development* section of this report above. Policy Ec2 requires, amongst others, that development for new employment purposes that cannot be met from land allocated in the plan (and for which an immediate need or demand has been identified) will be subject to a number of criteria, including criterion (c) (i.e. the development not being detrimental to the amenities of any nearby residential properties or the wider environment). Policy S3 provides that, should Policy Ec2 be satisfied, a number of other criteria also apply, and including criteria (i), (ii), (iv) and (vi) as set out in the relevant section. Having regard to the above specific criteria impacting upon issues assessed under this section, and to the above findings in respect of the landscape and visual impact, it is considered that the key criteria relevant to this part of the assessment would be (i) (safeguarding and enhancement of the appearance and character of the landscape) with due regard also given to criteria (ii) (not undermining the physical and perceived separation and open undeveloped character between nearby settlements either through contiguous extensions to existing settlements or through development on isolated sites on land divorced from settlement boundaries) and (iv) (built development is well integrated with existing development and existing buildings).

Turning to criteria (i) of Policy S3 it is considered that the District Council's landscape consultant has concluded that the landscape effects would be moderate to major adverse which would be significant in EIA terms and would not be mitigated even as a result of the proposed landscaping infrastructure which would be provided as part of the development (landscaping would be considered further at the reserved matters stage). This impact is compounded due to the placement of what would be large scale buildings in a generally open and partly rural landscape (albeit one which contains some detracting elements) with the buildings being dominant in short range views from within and around the site. The development would also be prominent in views from the higher ground between Castle Donington and Hemington to the south. Such a scale of building would lead to them appearing as discordant elements in some views due to their heights being much greater than those employment buildings which would be present in the views (mainly those which are situated on the edge of Castle Donington). Whilst the applicant's landscape consultant has sought to demonstrate that in viewpoint N (Public Right of Way L80) views of the East Midlands Distribution Centre (in the western part of Castle

Donington) and Ratcliffe-on-Soar Power Station would be visible this would be in a 'panoramic' view and consequently these features would not be appreciated in the direct view when looking north from the footpath and are a considerable distance from the application site.

Although accepting that the landscape of and around the site is not designated for landscape quality or sensitivity and, as a result of the detracting features within and around it, it is no more than medium sensitivity, it is case that the change resulting from the development would be at a high level due to the scale and nature of the development. The adverse effects would be significant and permanent on the local landscape character, and also on some views from nearby residential properties, roads and footpaths.

Whilst the impact on private views is not a material planning consideration, it is necessary for the LVA to specify receptors from which the impacts can be assessed and in this respect it is generally the case that these would be 'pinpointed' to an area around residential receptors (rather than a specific property) so as to provide an identifiable position. The conclusions from the LVA are that from the locations around residential receptors (on Rycroft Road) the adverse visual effect would be at a high level with such receptors being of a high sensitivity to any change in visual impact.

In terms of public rights of way (PROWs) L80 and L81 it is considered that at present users would experience open and undeveloped countryside on both sides and whilst they would be aware of the presence of existing development (due to the background noise on the highways and tops of buildings punctuating views) this would not be at such a level which would detrimentally affect the enjoyment of the footpath. As a result of the proposals a significant amount of built development and activity would be associated with the PROWs, with it being a requirement that L80 would have to cross the internal estate road. This would consequently impact on user's enjoyment of the PROWs and further compound the adverse impacts to the local appearance and character of the landscape.

On the basis of the above it can be concluded that the appearance and character of the landscape would not be enhanced or safeguarded as a result of the development and therefore there is direct conflict with criteria (i) of Policy S3. As a result of this conflict the proposal would also not accord with criteria (c) of Policy Ec2(2) as the proposal would be detrimental to the visual amenities of the wider environment.

It is also considered that in relation to criteria (iv) of Policy S3, the proposed development by virtue of its scale and physical detachment from the buildings to the north-eastern edge of Castle Donington would not be well integrated with existing development and therefore in conflict with the aims of this criteria. Such conflict is not as significant as that in relation to criteria (i) but would weigh against the development.

In terms of criteria (ii) of Policy S3 it is noted that numerous representations have been received identifying that the proposal conflicts with the aim of this criteria. The terms of criteria (ii) of Policy S3 are identified above but principally the determination is whether, as a result of the development, the physical and perceived separation and open undeveloped character between settlements would be undermined either through contiguous extensions to existing settlements or through development on isolated sites divorced from settlement boundaries (officer emphasis). Primarily the objections have arisen as a result of the determination of an appeal for a proposed employment development at Carnival Way, Castle Donington which was refused by the District Council (under application reference 17/01136/OUTM) and dismissed at appeal on the 13th November 2020 (appeal reference APP/G2435/W/20/3246990). The Inspector dismissed the appeal on the basis that the proposal would represent a contiguous extension to

Castle Donington which would undermine the physical and perceived separation and open and undeveloped character between Castle Donington and Hemington.

Taking a step back to the Local Plan in force, prior to the adoption of the current Local Plan there was a policy (E21) which dealt with the separation between settlements this specifically stated that:

*"Development will not be permitted which would result in a reduction in the physical separation between the built up areas of adjoining settlements provided by the following areas of land, identified on the Proposals Map:*

(e) *Hemington - Castle Donington."*

The area identified on the Proposals Map would not include the application site but would have included the site associated with the development at Carnival Way.

Whilst acknowledging that policies of a former Local Plan would not be relevant in the assessment of this application it is considered useful to provide context to how 'physical separation' was formally perceived, insofar as it related to development between Hemington and Castle Donington.

It is considered that the development is 'divorced' from the settlements boundaries (the development zones being around 345 metres from the settlement boundary of Castle Donington and around 617 metres from the 'built-up' area of Hemington) and in viewpoints from the higher ground to the south of the site (namely viewpoints N and P) it is clear that the proposed development would 'wrap' behind existing dwellings in Hemington visible from these viewpoints (mainly those on Station Road, Hemington) whilst also projecting towards the development visible at the north-eastern of Castle Donington (particularly the external storage at the rear of GL Events UK on Station Road, Castle Donington). On this basis it is considered that the proposed development would undermine the *perceived* separation and open undeveloped character between Castle Donington and Hemington and the important role it plays in preserving their separate identities as settlements.

However, given the location of the site to the north-west of Hemington and north-east of Castle Donington, as well as it being to the north of the Midland Mainline railway which runs from west to east (set to the south of the application site), it is considered that the development would not undermine the *physical* separation and open undeveloped character between the settlements and would not be a contiguous extension to either of the existing settlements.

On the basis of the above the assessment is different to that of the Carnival Way application and appeal but it is clear that in order to be contrary to criteria (ii) of Policy S3 the proposed development would need to undermine the physical and perceived separation and open undeveloped character between the settlements. On the basis of the conclusions reached above the proposed development would not be contrary to both parts of the argument (i.e. there is a perceived impact but not a physical impact) and as such a reason to refuse the application as being contrary to criteria (ii) of Policy S3 could not be substantiated in this instance. That being said the perceived loss of separation between the settlements would increase the harm arising to the landscape and would weigh against the scheme.

Representations received in relation to the application also consider that the proposal would constitute 'ribbon development' and would therefore conflict with criteria (iii) (does not create or exacerbate ribbon development) of Policy S3. It is noted that the Planning Portal defines 'ribbon

development' as "development, usually residential, extending along one or both sides of a road but not extended in depth" with the dictionary definition being the "the building of houses along a main road, especially one leading from a town or village." By strict definition the proposal would not be in conflict with criteria (iii), as the development is not residential, with the proposal not constituting a continuation of development out of a town or village given the separation to the boundaries of such settlements where the majority of development is contained. It is also the case that there are no objections to the application in this respect from the Council's Planning Policy team.

It is noted that a number of concerns have been raised regarding the visual impacts of the proposed development at night. It is accepted that the illumination of the site would, during the hours of darkness, be likely to have a degree of impact when compared to the current undeveloped agricultural land, with illumination of buildings, hardstandings, and lights from manoeuvring vehicles etc. contributing towards a more urbanised character of the area between Castle Donington and Hemington at night time. However, the extent of this additional impact could be mitigated to some extent by appropriate means of illumination (including in terms of the design of the lighting installations involved and their direct etc. so as to minimise light spill).

Officer Conclusion in Relation to the Landscape and Visual Impact

As outlined in the *Approach to Determination and Principle of Development* section of this report above the shortfall against the minimum HEDNA need is modest (0.2 hectares) and is likely to be overcome now that there is a resolution to permit the development at Stephenson Way (as considered under application reference 20/00330/FULM). Given that the unmet need is modest (or now overcome) the positive weight to be afforded to the economic benefits of providing further land for employment development is reduced accordingly as the Inspector did in the assessment of the Carnival Way appeal.

In any case, even if there was a greater need it would still have to be met with development that was considered to accord with the policies of the adopted Local Plan and, for the reasons outlined above, this would not be the case here.

Significant weight, therefore, is given to the harm that the proposed development would cause to the environment and subsequent conflict with the adopted Local Plan with the impact being wide ranging and long lasting. Although such 'environmental' harm would seek to be minimised by the approach to addressing climate change (as outlined in the *Climate Change* section of this report below) and flood risk (as outlined in the *Flood Risk, Drainage and Water Quality* section of this report below) these primarily are means of mitigating the impacts of the development and would not address the visual harm and adverse impacts to the appearance and character of the landscape which would arise, as such they would not be sufficient to make the development acceptable.

**Historic Environment/Cultural Heritage**

Policy He1 of the Local Plan sets out the approach to assessing the impact of development on heritage assets; similar principles are set out in Chapter 16 (Conserving and enhancing the historic environment) of the NPPF. Chapter 12 of the submitted Environmental Statement (ES) covers Cultural Heritage with appendix 12.1 covering built heritage and appendix 12.2 consisting of a desk-based archaeological assessment.

Environmental Statement Assessment on Designated Heritage Assets

In terms of designated heritage assets, the built heritage statement (BHS) at appendix 12.1 of

the ES outlines that within 1km of the boundary of the site there are 24 listed buildings but the site is not considered to form a setting with these assets given that there is no shared intervisibility nor a functional or direct historical link between the site and such assets. There are, however, four listed buildings beyond the 1km radius of the boundary of the site that are considered to be impacted on. The BHS also considers the impacts on two conservation areas within the 1km radius. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard should be had to the desirability of preserving the building or its setting. Section 72 of the same Act also requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

An archaeological desk-based assessment at appendix 12.2 of the ES outlines that the site is not within the setting of the Scheduled Hemington Chapel which is set 1km to the south of the site.

### *Environmental Statement Assessment of Impact on Listed Buildings*

The four listed buildings considered are the Grade I Church of St Nicholas, Lockington (1.5km to the south-east), Grade II\* Church of St Andrew, Kegworth (3.7km to the south-east), Grade II\* Church of St Edward King and Martyr, Castle Donington (1.5km to the south) and Grade II Methodist Church, Castle Donington (1.5km to the south). These are assessed in turn.

#### *Church of St Nicholas, Lockington - Grade I*

The BHS outlines that the site would be part of the extended setting of the Church, with glimpsed long-distance views of the upper parts of the tower available from the western site boundary and additional long-distance views of the tower from the westernmost parts of the site. The BHS considers that whilst such views contribute to the heritage sensitivity of the building, by enabling some understanding of its landmark status, the distance and partial nature of the views do not allow for the appreciation of its architectural quality and age. Given that only the Church tower is visible, with no surrounding built form evident, the BHS also identifies that the views do not allow for the relationship between the Church and the communities of Lockington or Hemington to be understood with no views of the site established from the Church or its immediate setting (with the exception of some partial views which may be available from the top of the Church tower). Overall, the BHS concludes that the site makes only a negligible positive contribution to the heritage sensitivity of the Church and as a result of the construction and operation of the development there would be a negligible level of harm to the significance of the setting of the Church.

#### *Church of St Andrew, Kegworth - Grade II\**

It is identified within the BHS that the application site would form part of the extended setting of the Church and there are glimpsed long-distance views of the Church steeple available from the easternmost parts of the site only. The BHS outlines that the availability of such views would be limited due to the intervening distance and vegetation and consequently the architectural or historic special interest of the Church steeple is not afforded in such views, there would be no experience of the body of the Church. It is also outlined within the BHS that there is no return views of the site available from the Church or its immediate setting. On this basis the BHS concludes that the site makes no more than a negligible positive contribution to the heritage sensitivity of the Church and there would be no material impact to the setting of this asset as a result of the construction and operation of the proposed development.

*Church of St Edward King and Martyr, Castle Donington - Grade II\**

The BHS identifies that the application site forms part of the extended setting of the Church with long distance views of the upper parts of the tower and Church spire available across the majority of the site. Given such views the BHS outlines that they allow an appreciation of the heritage sensitivity of the Church as a building of some age which serves the community of Castle Donington and also allow for an appreciation of the Church's landmark status with the needle spire breaking the horizon. However, there is little appreciation of the Church's architectural quality with no experience of the main body of the Church. The BHS specifies that the wider setting of the Church, which includes the application site, makes a positive contribution to the heritage sensitivity of the Church but one which would be secondary to other contributing factors such as the fabric of the building and its immediate setting. It is concluded within the BHS that the construction of the development would have no impact on the setting of the Church but once built the proposal would result in a negligible level of harm to the significance of the setting of the Church.

*Methodist Church, Castle Donington - Grade II*

It is identified within the BHS that the site forms a part of the wider setting with views of the Church tower and front gable available from central parts of the site. Such long distance views allow for an appreciation of the Church as a building of some age and as a landmark structure, however, due to the distance and partial nature of the views they do not allow for an appreciation of the Church's architectural quality or its completeness. On this basis the BHS concludes that the site makes only a limited contribution to the heritage sensitivity of the Church as a small part of the receptor's wider setting and only offers a limited appreciation of that sensitivity with the wider setting being a secondary level of contribution to such sensitivity when compared with other contributing factors (such as its immediate setting and architectural quality). Taking this into account the BHS specifies that the construction of the development would not impact on the setting of the Church but once completed there would be a negligible level of harm to the significance of the setting of the Church.

*Environmental Statement Assessment of Impact on Conservation Areas*

The two conservation areas assessed are those associated with Castle Donington and Hemington. The conservation areas at Cavendish Bridge and Lockington were discounted from the assessment as there is no visual connectivity between these conservation areas and the site and consequently there would be no material harm to their character and appearance.

*Castle Donington*

The BHS outlines that the site forms part of the wider setting of the Castle Donington Conservation Area (CDCA), given that it currently remains as open fields. However, the presence of 20th century development along Station Road greatly reduces the rural and agricultural context the site provides to this setting. The BHS also identifies that views out of the CDCA across the Trent Valley floodplain are available from Hillside and Castle Hill, although the narrowness and curving form of most streets within the CDCA preclude most views beyond the individual streets themselves. Return views to the CDCA are available from the site although there is no understanding of the historic or architectural interest of the CDCA in such views given that it is predominately screened by vegetation with only the upper parts of the Church of St Edward King and Martyr and Methodist Church indicating the location of the historic town centre. On this basis the BHS concludes that the site would not contribute to the heritage

sensitivity of the CDCA and as a result of the construction and operation of the development there would be no material impact on the significance of the CDCA.

### *Hemington*

It is identified within the BHS that whilst the surrounding landscape has undergone significant development the agricultural land which remains and immediately surrounds Hemington provides some heritage sensitivity of the Hemington Conservation Area (HCA) as a historically rural, agricultural settlement. Given that the site forms a part of such rural surroundings, albeit it does not 'immediately' surround the settlement, the BHS specifies that it has the potential to make a small positive contribution to the significance of the HCA. Overall, the BHS concludes that there would be a short-term negligible adverse effect on the character and appearance of the HCA, as a result of construction noise levels being higher than those generated by traffic on the strategic road network and at the airport, but once built there would be no impact on the significance of the HCA. This conclusion is reached within the BHS as there is no intervisibility between the HCA and the site due to the intervening mature vegetation.

### *Environmental Statement Assessment on Registered Parks and Gardens*

The BHS identifies that there are no Registered Parks and Gardens within 1km of the boundary of the application site. Consequently, no impacts to the setting of Registered Parks and Gardens would arise.

### *Environmental Statement Assessment on Scheduled Monuments*

The archaeological desk-based assessment at appendix 12.2 of the ES identifies that the site is not within the setting of the Scheduled Hemington Chapel, situated 1km to the south of the site, and consequently no impacts to its setting would arise.

### *Environmental Statement Assessment of Mitigation and Cumulative Impacts*

In terms of specific mitigation paragraphs 12.6.2 to 12.6.4 of Chapter 12 of the ES outlines that the retention of the majority of the trees to the site boundaries will provide a degree of screening between the site and the identified heritage assets with the provision of landscape buffers alongside the site boundaries, which vary from 5 to 25 metres in width, further supplementing the existing landscape screening. The provision of landscaping within the development plots themselves (which varies between 7.5% to 10%) is also proposed as a means of breaking up the massing of the development in views from the identified heritage assets.

Paragraphs 12.8.1 and 12.8.3 of Chapter 12 of the ES considers the cumulative effects of the proposed development with other proposed schemes within the area (be they committed or have approval) which include those listed within the *Detailed Issues* section above. It is concluded that as the impacts to the identified heritage assets is negligible or less, such impacts would not change as a result of the cumulative impacts of the development.

### *Officer Assessment and Conclusion on Designated Heritage Assets*

For their part Historic England (HE) have outlined that they have no objections but that the views of the District Council Conservation Officer and County Council Archaeologist should be sought.

In their initial assessment the Council's Conservation Officer considered that the proposed

development had the potential to impact on the significance of the Hemington Conservation Area (HCA) and, to a lesser extent, the Lockington Conservation Area (LCA) due to the views established from public footpaths L77 and L79. For the avoidance of doubt no views from within the HCA or LCA towards the site have been identified by the Council's Conservation Officer.

The Council's Conservation Officer raised no objections in respect of the impacts to other designated heritage assets, including the four listed buildings referred to above and the Castle Donington and Cavendish Bridge Conservation Areas.

Following an addendum to the Landscape and Visual Impact Assessment, Chapter 11 of the ES, the Council's Conservation Officer maintained their concern in respect of the impacts to the significance of the HCA and LCA.

The most recent information from the applicant, that of the 30th November 2020, maintains that there is no harm to the significance of the character and appearance of the HCA and LCA with additional viewpoints being provided from the public footpaths referred to by the Council's Conservation Officer.

In their final comments the Council's Conservation Officer has identified that the NWLDC character appraisal for the HCA describes the *"relationship between the area and the surrounding landscape"* with paragraph 4.24 referring to *"the agricultural landscape surrounding the village."* It also states that *"for the most part views out of the [conservation] area are restricted"* because of *"the position of the village in a shallow valley and the contribution of natural elements"*; however *"good views into the village can be obtained from the public footpath that runs along the boundary of the field area on Hemington Hill"* (paragraphs 4.25 and 4.26 and figure 19). The *"good views"* would correspond to viewpoints N and P identified by the applicants.

It is further considered by the Council's Conservation Officer that the NWLDC character appraisal identifies a view which demonstrates the relationship between the historic settlement core and the surrounding agricultural landscape (it being a view *"across or including"* the conservation area) and that this view includes the *"immediate"* setting of the HCA and a *"wider"* setting that extends uninterrupted to the southern limit of the Derbyshire coalfield.

On this basis the Council's Conservation Officer outlines that the proposed development would be within the setting of the HCA and would harm the significance of the HCA to a less than substantial degree. This would be by virtue of the development introducing built forms of a significant scale into an agricultural landscape that contributes positively to the setting of the HCA. There is no concern raised in respect of the setting of the LCA.

In view of this conclusion, it is considered that some harm to the significance of the HCA would arise, but that this harm would be less than substantial (a position accepted by the District Council's Conservation Officer). Paragraph 196 of the NPPF provides that, *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal..."* In this instance, therefore, any harm considered to arise in respect of the heritage asset needs to be weighed against the public benefits. Whilst noting that the Council's Conservation Officer has advised that he has identified no *'heritage'* benefits this is not the relevant test in respect of Paragraph 196 which specifically refers to *'public'* benefits, albeit heritage benefits which may arise could be considered as part of any public benefits. It is important that this is acknowledged in the overall assessment of the application.

In accordance with the requirements of Paragraph 193 "*great weight*" should be given to the asset's conservation and, notwithstanding the approach set out in Paragraph 196, regard nevertheless still needs to be had to the statutory duties under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (albeit Section 66 would not be of direct relevance in this case as there is no concern in relation to the impacts of the development to the setting of listed buildings).

Whilst appearing to refer specifically to works to an asset itself (as opposed to works affecting the asset), the National Planning Practice Guidance (NPPG) suggests that harm to an asset may be justified in the interests of realising a public benefit provided the harm is minimised, and also indicates that developers can use appraisals to identify alternative development options that would both conserve the asset and deliver public benefits in a more sustainable and appropriate way.

For their part, the applicant considers the benefits to include those in respect of job creation, meeting an identified demand for employment units, assisting the recovery from the Covid-19 pandemic by supporting the increased provision for logistics and warehousing space, the scheme of flood risk mitigation which would reduce the flood risk to properties outside the site and the environmental approach (as well as the commitment) to the development being built to be Building Research Establishment Environmental Assessment Method (BREEAM) 'Excellent' compliant and having a 'Net Zero Carbon' approach (as discussed in more detail in the *Climate Change* section of this report below).

Whilst there would clearly be some adverse impacts on the asset, the public benefits of the scheme (and including the proposed development's contributions to the economic and social strands of sustainable development as set out elsewhere within this report) would be considered to more than outweigh the less than substantial harm identified. It is also accepted in this instance that, given the particular nature of the development proposed (i.e. large scale units predominately within use class B8) and the constraints limiting options in terms of site layout (including flood risk), an alternative, less harmful, form of development is unlikely to be feasible. In this case, and when applying the duty under (in particular) Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 together with the tests set out in the NPPG, the view is taken that, whilst there would be a degree of harm to the setting of the HCA, the overall impact would be acceptable.

#### *Environmental Statement and Officer Assessment on Non-Designated Heritage Assets*

Insofar as non-designated heritage assets are concerned an archaeological desk-based assessment (appendix 12.2 of the submitted ES) has been submitted in support of the application and this has been reviewed by the County Council Archaeologist.

The consultation response of the County Council Archaeologist has outlined that whilst the Leicestershire and Rutland Historic Environment Record (HER) identifies that much of the site has previously been quarried, a small section within the south-western part of the site was not impacted by such quarrying. It is further outlined that this area lies within an area of archaeological interest given its proximity to a probable pre-historic pit alignment, Bronze age structures and early Anglo-Saxon settlement, amongst others.

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 written scheme of investigation (WSI) to be provided, 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 possibility of archaeological remains being present on the site.

Paragraph 197 of the NPPF provides that *"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."* Having regard to the above findings in respect of non-designated assets and the advice of the County Archaeologist, it is considered that only limited harm is likely to arise.

Officer Overall Conclusion in Relation to Designated and Non-Designated Heritage Assets

The proposals, subject to the imposition of conditions, are therefore considered to be acceptable in terms of the impacts on heritage assets, and, overall, would accord with the principles set out in Policy He1 of the adopted Local Plan and Paragraph 199 of the NPPF.

**Means of Access, Highways and Transportation**

As set out in the *Proposals and Background* section of this report above, the application is in outline form although the principal means of vehicular access into the site is included for consideration at this stage. The submitted parameters plan identifies that a new arm would be formed onto the roundabout on Station Road, Castle Donington which links to the road to junction 1 of the A50 with a new roundabout access being created off Rycroft Road, Hemington.

As set out under the preceding sections relating to the principle of development and the associated attached Planning Policy comments assessing the scheme's performance in respect of Policy Ec2, two key criteria under that policy are the site's accessibility (or potential to be made accessible as a consequence of any planning permission granted for the development) by a choice of means of transport, and the need to have good access to the strategic highway network. Chapter 7 of the ES deals with Transport and is accompanied by a Transport Assessment (TA) (appendix 7.1 of the ES) and Travel Plan (TP) (appendix 7.2 of the ES) and the information submitted, including subsequent information to that originally submitted, has been assessed by both the County Highways Authority (CHA) and Highways England (HE). Their conclusions are set out in more detail below with the CHA having due regard to the Leicestershire Highways Design Guide (LHDG) in their comments.

CHA Assessment of Site Accessibility

The TA outlines that the following pedestrian and cycle measures would be proposed:

- Footway/Cycleways are proposed along the proposed site access road and at each individual plot access;
- A new off-road 3 metre wide footway/cycleway is proposed between the Trent Lane access junction and the existing Willow Farm Business Park bus stops on Station Road, Castle Donington;
- External pedestrian and cycle routes on Trent Lane, Donington Lane and Station Road will be linked with a network of internal footway/cycleway and pedestrian only routes. The internal routes will provide direct, safe and convenient links between the building access points, parking areas and public rights of way (PROWs) L80 and L81; and
- A site wide electric bike scheme is proposed for internal journeys within the site.

The CHA is content that such measures would provide a suitable pedestrian and cycle access

strategy for the proposed development and these would be developed further at the reserved matters stage, should outline consent be granted, once a detailed site layout is submitted for consideration.

Insofar as public transport is concerned the CHA has commented that it has been highlighted by the applicant that there is a need for good public transport links so as to widen the employee pool over a wide an area as possible. Specifically within the TA it was referenced that there is a lack of good links to North West Leicestershire, however since the TA was written a new bus service operated by Midland Classic has begun to run which provides hourly links to East Midlands Airport from Burton, Swadlincote, Ashby, Melbourne and Lount and therefore improves this situation.

The TA also specifies existing services which already operate close to the site (such as the Trent Barton 'SkyLink') and therefore the CHA considered that it would be reasonable to consider enhancing or extending the provision already offered by such services, as well as having regard to the Midland Classic service from Burton. The CHA also specified that any service should penetrate into the site so as to provide good accessibility for employees of the site.

The CHA would also expect the applicant to secure any service enhancements or extensions directly from the operator(s) with the minimum required provision being an hourly frequency of service between 07:00 - 19:00 Monday to Friday and 08:00 - 18:00 on Saturdays. It is, however, noted by the CHA that the service provision would also need to take account of any known significant shift changes outside of these hours which may be operated by major employers on the site as well as employee movements on Sundays. Consideration would be given by the CHA to any proposed provision on a flexible or demand responsive basis which would widen accessibility to the site, or which filled gaps in the timetables of the existing services around shift patterns.

Following the submission of a Technical Note (TN) from the applicant the CHA understands that the applicant has been in discussions with local bus operators regarding the diversion of a bus route through the site and that quotations for a bus service which would serve the development and which would comply with the text the CHA would wish to be included in a planning obligation (Section 106 agreement) so as to secure the bus service. It is the understanding of the CHA that the applicant's preferred proposal would be for an extension to the Midland Classic Airline 9 route which is subject to ongoing discussion and refinement.

Whilst this approach to the public transport strategy may prove to be acceptable to the CHA it is made clear in their consultation response that the public transport proposals will not be formally reviewed until such time as a defined strategy is formally submitted to discharge the planning obligation the CHA would wish to be secured should permission be granted.

Although the CHA observe that layout is a reserved matter they have previously advised that in order to adhere to walking distances within the LHDG a pair of bus stops would need to be provided in both the western and eastern sides of the development and that the infrastructure for such bus stops should be to a level specified by the CHA. The position of the bus stops would be subject to further assessment at the reserved matters stage although the CHA would envisage a financial contribution being made to cover the ongoing maintenance of the infrastructure associated with the bus stops for a reasonable period.

The CHA have also specified that the applicant will need to make it clear to the bus operator(s) in their discussions around the public transport strategy that the internal highway is not to be

adopted.

In terms of the submitted TP this outlines the following measures which would be implemented to promote the use of sustainable forms of transport:

- Cycle hubs adjacent to building entrances with changing facilities on site;
- Dedicated cycle lane on internal estate road and linkages to existing and proposed cycle and walking routes for connectivity;
- Provision of a signal-controlled crossing on Station Road to provide a safe crossing point for pedestrians and cyclists.
- Provision of electric vehicle charging points with dedicated spaces as well as dedicated spaces for 'car sharers'.
- Provision of a bus service within the site for ease of movement of employees from public transport to their place of employment.
- Information made readily available for staff and visitors so that they can take advantage of alternative modes of transport.

The CHA consider that the travel plan is well thought out and a condition would be imposed on any permission granted so as to enable the submission of further travel plans which specifically identify how the measures identified above would be realised and brought forward in practice.

It is noted that, for the purposes of meeting the policy test set out in Policy Ec2(2)(a), the requirement being that sustainable travel choices are *available* for employees, the scheme would, overall, (and subject to the precise nature of the public transport strategy and travel plan) provide for an acceptable degree of accessibility by sustainable transport modes.

In addition to the obligation associated with a public transport strategy the CHA would also seek mitigation as follows:

- Provision of travel packs to be provided to each employee in accordance with details first agreed with the CHA (or payment of £52.85 per employee to Leicestershire County Council for the CHA to provide these on the applicant's behalf);
- Provision of 6 month employee bus passes per employee (or payment of £360 per pass to Leicestershire County Council for the CHA to provide them on the applicant's behalf);
- Payment of a framework travel plan monitoring fee of £11,337.50 to the Leicestershire County Council;
- Appointment of a Travel Plan Coordinator from the commencement of the development until 5 years after first use; and
- A construction traffic routing agreement.

Subject to the imposition of the suggested conditions and securing of the above obligations the CHA have no objections in respect of the accessibility to the site.

*CHA and HE Assessment of Trip Generation, Assignment and Distribution*

The submitted TA within the ES has adopted vehicle trip rates from the East Midlands Strategic Rail Freight Interchange (EMSRFI) and Sawley Crossroads sites as these were shown to be higher than those from general trip information systems, such figures are acceptable to the CHA. The CHA has also advised that they are content with the adopted split between light vehicles and heavy goods vehicles (HGVs) which again are the same as those for the East Midlands SRFI/Sawley Crossroads sites. The CHA are also content with the B2 and B1c (now Class E) land uses trip rate adopted.

It is predicted within the TA that the vehicle trip generation of the development proposals is based on the following land use split:

- 74,322 square metres of B8 (80%);
- 9,290 square metres of B2 (10%);
- 9,290 square metres of B1c (now Class E) (10%);

The CHA has advised that the above split is acceptable on the basis that no less than 80% of the development would be for B8 purposes.

Table 17 within the TA predicts the potential person trips that could be generated by the site (excluding HGV trips) which outlines that there would be a total of 2,605 daily two-way person trips and this figure is considered accurate to the CHA.

In terms of HGVs, their distribution and assignment has been based on that applied for the Sawley Crossroads site which would result in 33% of the movements being westwards of Junction 1 of the A50 and 67% being eastwards of Junction 1 of the A50. The distribution and assignment for light vehicles is based on travel to work statistics from the 2011 census, which is acceptable to the CHA, and distributes such vehicles as follows:

- 7.19% Station Road, Castle Donington;
- 7.54% Broad Rushes, Castle Donington;
- 33.9% A50 West of Junction 1;
- 1.62% B5010;
- 12.37% B6540;
- 37.19% A50 East of Junction 1; and
- 0.19% Rycroft Road.

The following traffic data has been collected to inform the TA, from which the actual peak hours has been established (07:30 - 08:30 and 17:00 - 18:00) and used for assessment:

- A50 Junction 1 - AM and PM peak origin and destination manual classified count (and associated queue lengths) data (5th July 2018);
- A50 Mainline AM and PM peak manual classified count data (5th July 2018);
- Broad Rushes/Station Road AM and PM peak manual classified turning count data (2nd May 2018); and
- Rycroft Road and Station Road - 7-day automatic traffic count data (with speeds) (29th April to 5th May 2018).

The 2018 base traffic surveys have been growthed to 2019 so as to enable base year assessments and the CHA consider the rates to be acceptable.

The following future year scenarios have also been assessed:

- 2022 (Opening Year) Base + Committed "No Dev";
- 2022 (Opening Year) Base + Committed "With Dev";
- 2032 (Opening Year + 10 Years) Base + Committed "No Dev"; and
- 2032 (Opening Year + 10 Years) Base + Committed "With Dev".

With the following committed developments being included in the assessment flows:

- Land at Sawley Crossroads - 15/00015/FULM;
- Land North and South of Park Lane - 09/01226/OUTM;
- East Midlands Strategic Rail Freight Interchange - Development Consent Order;
- Land at Station Road - Duflex - 13/00702/FULM;
- East Midlands Distribution Centre (EMDC) - appeal reference APP/G2435/A/00/1046562.

The development at Carnival Way (ref: 17/01136/OUTM) was also included as a sensitivity test albeit this application has recently been dismissed at appeal.

It is advised by the CHA that they have checked the build-up of the 2022 traffic flow scenarios and consider them to be acceptable with the future year flow scenarios also making an allowance for redistribution of existing traffic following the opening of the Castle Donington Western Relief Road. In the view of the CHA the assumptions applied are reasonable with the calculations also being acceptable to the CHA.

No objection has been raised by Nottinghamshire County Council or Derbyshire County Council in respect of the impacts of the development on highways further afield, nor does HE raise any objections in respect of the impacts on the strategic highway network.

#### CHA and HE Assessment of Junction Capacity

As agreed with the CHA during discussions on the scoping of the Environmental Impact Assessment (EIA), which led to the formation of the ES, the following junctions have been subject to a detailed capacity assessment:

- Junction 1 of the A50 partially signalised grade separated roundabout;
- Junction 1 of the A50 slip road merges/diverges;
- Trent Lane Site Access signalised roundabout;
- Rycroft Road Site Access priority-controlled roundabout; and
- Broad Rushes/Station Road priority-controlled roundabout.

The CHA's views on the above junction modelling (with the exception of the slip road merges/diverges onto the A50) are as follows:

#### *Junction 1 of the A50 partially signalised grade separated roundabout*

The submitted TA presents the results of modelling of the existing junction under 2019 base flows using a model which is supported by both the CHA and HE. The model of the existing junction outlines that it operates above capacity in the 2019 morning and evening peak hours. In the morning peak four links operate at a level exceeding practical capacity, three of which comprise local road network junction approaches (London Road (left/ahead), Tamworth Road (left/ahead) and Tamworth Road (ahead)). Within the evening peak none of the local road approaches operate above practical capacity.

In the 2032 future year without the development, but which includes a committed mitigation scheme to be delivered as part of the developments approved at Park Lane, Castle Donington, it is predicted that the junction will continue to operate above capacity in both the morning and evening peak periods. There would also be an exceedance of the practical capacity at the London Road (left turn) link in the morning peak as well as the London Road (left turn), Tamworth Road (ahead) and Trent Lane (left ahead) in the evening peak. The addition of the development would only serve to worsen the practical capacity at these links.

Given such impacts, and primarily with respect to the impact on Trent Lane, a mitigation scheme is proposed which would consist of the following improvements:

- Tamworth Road nearside lane to now enter the nearside downstream circulatory lane;
- A50 Westbound off-slip to now enter both middle and off-side lanes. Nearside lane can no longer enter middle land of carriageway; and
- Trent Lane - left turns only from nearside lane.

Such improvements would be in addition to those committed by the development off Park Lane.

Principally the CHA considered that such a mitigation scheme seemed sensible, but they observed that the reserve capacity worsened with the proposed mitigation scheme. Additionally, the CHA observed that whilst predicted queuing on the Trent Lane and Tamworth Road arms would be reduced, the queues on the London Road turn left link increased and consequently it would operate significantly above its practical capacity. Therefore, whilst the TA concluded that the traffic impact at the junction could be mitigated such a conclusion was not supported by the CHA and they required further consideration to be given to the impact on London Road and whether this could be mitigated. The CHA also required precise details of the mitigation scheme as well as a Stage 1 Road Safety Audit (RSA) and satisfactorily Designer's Response (DR).

In response to this the applicant provided a Technical Note (TN) which sought to respond to the comments of the CHA, and which specifically outlined the following:

- The TN acknowledged that the impact of the proposed development even with the proposed mitigation scheme did result in reduced capacity at the junction. However, the TN also sets out that the increases in queue length and delay on the London Road arm were minimal when compared to the 2032 scenario without the development. The TN also noted that the mitigation scheme would result in betterments on the Tamworth Road and Trent Lane arms of the junction, as well as the junction as a whole. As such the TN considered that the impacts on the junction would not be 'severe' in the context of Paragraph 109 of the NPPF.

The applicant's TN was also supplemented by a drawing of the mitigation scheme as well as Stage 1 RSA.

Having considered all of the relevant information the CHA is content that following the implementation of the proposed capacity mitigation scheme the traffic impacts of the development on the above junction would be acceptable. The Stage 1 RSA and DR did not raise any issues which required specific mitigation and whilst the CHA note that the majority of the mitigation scheme is on highway land under the control of HE the CHA consider it to be feasible and appropriate. For their part HE has no objections to the application.

*Trent Lane Site Access signalised roundabout*

The CHA have reviewed the modelling of the proposed scheme and following appropriate response from the applicant to queries raised by the CHA (in their third observations) they are content that the junction is likely to work within practical capacity in the future year scenarios in both the morning and evening peak hours. Principally the observations in the CHA's third observations were in relation to the combination of two streams in the model so as to enable a fixed phase delay to ensure Trent Lane traffic would always clear the internal stop line.

The applicant also considered providing the above junction as a normal roundabout, i.e. without signalisation, and whilst this indicated that the junction would only slightly exceed capacity in the future year, the applicant opted for a partially signalised layout as this would allow for greater priority of bus movements serving the access road through the site.

The CHA have agreed that the partially signalised layout is the most appropriate solution due to it allowing for more spare operational capacity in the future as well as enabling priority to buses.

On this basis the CHA have no objections to the proposed mitigation scheme to this junction.

#### *Rycroft Road Site Access roundabout*

The CHA is content with the capacity analysis undertaken at this junction with the analysis predicting that this junction would operate well within practical capacity in the future year.

#### *Broad Rushes/Station Road roundabout*

The TA presented results of the modelling of this junction under the 2019 base flows, however the CHA (in their third observations) raised concerns that the Broad Rushes and Station Road South approaches had not been modelled correctly. This was mainly due to the flows on the approaches not being balanced which meant the model was likely to provide more optimistic results for these arms than should be the case. Specifically, the CHA requested that a more realistic model of the base can be provided which should then be followed by future year modelling taking the new model into account, this was to ensure that the traffic impact and any associated need for mitigation could be understood.

A TN was subsequently submitted by the applicant which presented the results of an updated model with relevant amendments to the modelling methodology so as to more accurately reflect the non-balanced flows at the junction. The CHA has advised that they are content with the modelling, which provides a more realistic basis for the consideration of the traffic impacts, and on the basis of these findings there would only be a minor impact at the junction. Although this junction is already predicated to operate over capacity in the future years without the development, this impact would be minor and as such would not be considered severe in the context of the NPPF. As such the CHA have concluded that the junction has been modelled correctly and that on the basis of its findings no capacity mitigation measures are required for this junction.

#### *Junction 1 of the A50 slip road merges/diverges*

HE have not raised any objections to the application and consequently it is considered that there would be no adverse impacts to the flow of traffic on the slip road merges and diverges at Junction 1 of the A50.

#### *CHA Assessment of Site Accesses*

As set out above, there are two vehicular accesses proposed to serve the site. In respect of these the CHA advises as follows:

Both site access locations will allow access to the local highway network and towards the A50 (via Trent Lane and Rycroft Road respectively) with the two accesses linked by a development access road (with a 7.3 metre wide carriageway) which the CHA understand will be designed to be to an adoptable standard but not adopted. The CHA describe the site access proposals as:

- The Trent Lane/Station Road/Donington Lane junction will be enlarged and signalised to accommodate a new site access arm. This scheme will include the widening of the Station Road arm to provide a 100m long flare lane on the northbound approach to the junction and the Trent Lane approach will be realigned to improve the existing sub-standard deflection and facilitate HGV access to the site. The second lane on the southbound carriageway of Trent Lane will also be reinstated;
- The proposed access junction from Rycroft Road will be a new four arm roundabout with an inscribed circle diameter of approximately 36 metres. The scheme will also include:
- A Traffic Regulation Order (TRO) will be sought to introduce a 40mph speed limit between Junction 1 of the A50 and the proposed Rycroft Road site access roundabout;
- As part of the TRO, the existing 7.5 tonne weight restriction will be relocated from the Junction 1 of the A50/Rycroft Road exit onto the southern arm of the site access roundabout;
- HGV movements from the site towards Rycroft Road (southern arm) are to be banned and physically constrained through suitable junction geometry, signing and lining; and
- To compliment the scheme, the kerb-line of Rycroft Road will be slightly widened where it exits Junction 1 of the A50 which would be within the part of the highway which is under the control of HE.

Both parts of the TRO are acceptable in principle to the CHA, and HE have raised no objections to the application.

In reviewing both site access schemes, as well as the proposed widening of Rycroft Road where it leaves the A50, the CHA have confirmed that they are content that such proposals are generally in accordance with appropriate design standards as identified in the LHDG.

The CHA has also reviewed the Stage 1 Road Safety Audit (RSA) which was undertaken against the proposed access arrangements, as identified above, which were submitted alongside a Designer's Response (DR). Three issues were raised in the Stage 1 RSA, all associated with the proposed Trent Lane access scheme, which would be summarised as follows:

- Risk of vehicles colliding with pedestrians/cyclists crossing the southern arm of junction [site access arm] due to unclear signal control arrangements and inadequate forward visibilities for approaching traffic (issue 7.1);
- Proposed signal control of southern circulatory within Station Road/Trent Lane roundabout (issue 7.2); and
- Inadequate separation [on the north-east bound approach] between pedestrian crossing signals and roundabout entry causing confusion for drivers (issue 7.3).

Having considered the DR response in relation to the above issues the CHA is content that the site access designs have responded to the issues raised in the Stage 1 RSA with the swept path analysis for both junctions also being acceptable to the CHA. Given that both of the proposed junctions would operate within practical capacity under the predicted future traffic operations they would be considered 'safe' and 'suitable' in the context of Paragraph 108 of the NPPF.

#### CHA Assessment of Highway Safety

As part of the TA a review of personal injury collision (PIC) data across the following study area has been presented:

- A50 - Junction 1 (excluding the mainline);
- Trent Lane;
- Station Road (north and south of Broad Rushes roundabout); and
- Broad Rushes and Station Road roundabout.

Such analysis has suggested that there were 28 PICs during a period from 1st May 2013 to 30th April 2018 of which 26 were slight and 2 were serious. This analysis has concluded that there are no patterns of PICs that would be exacerbated by the development proposals.

The CHA have reviewed this information within the TA and agree with the conclusions reached, as such the proposed development is not considered to result in significant implications to highway safety.

CHA Assessment of Impacts on Public Rights of Way

The site is currently affected by the following public rights of way (PROWs):

- PROW L80 - running north to south; and
- PROW L81 - connects with PROW L80 and runs east to west.

It is also outlined above that a network of internal footways and pedestrian only routes would be provided through the site connecting with the above PROWs with trim trails (recreation/fitness routes) also provided through and around areas of proposed landscaping, which again would connect with the PROWs.

At this stage it is acknowledged by the CHA that as the application is in outline form there would need to be a further discussion on the treatment of the PROWs when the layout is developed at the reserved matters stage. On the basis of the submitted parameters plan it is outlined that the PROWs would be retained on their current routes albeit PROW L80 would likely need to cross the internal estate road at some point.

Any potential changes to the route of PROW 80 would be given greater consideration at the reserved matters stage when the layout is progressed albeit any such changes are not likely to make the route any less direct than the existing route.

Insofar as the existing routes' amenity value is concerned, the PROWs currently pass through undeveloped areas of agricultural land, and the experience of users in terms of the rural amenity afforded by these routes would clearly be diminished by virtue of the development proposals themselves. This is discussed further in the *Landscape and Visual Impact* section of this report above.

Overall, therefore (and notwithstanding impacts on the rural amenity aspect) it is considered that any potential changes to PROW 80 would, in officers view, not impact substantially on the direct nature of the current route.

CHA and Officer Assessment of Highway Movements through Castle Donington, Hemington and Lockington

As part of the consultation on the application a representation from Lockington cum Hemington Parish Council (LHPC), as well as numerous third parties, has raised concerns in relation to the potential for significant vehicle movements associated with the development to utilise the local

roads through Castle Donington (such as The Barroon), Lockington and Hemington so as to reach the signal controlled roundabout at junction 24 of the M1 (such vehicles seeking to access the A6 and A453). Concerns were raised that such movements would compromise highway safety within the settlements as well as resulting in detriment to amenities. This issue in respect of 'amenities' is assessed further in the Noise and Vibration and Residential Amenity section of this report below.

A technical note (TN), titled 'Hemington & Lockington Vehicle Movements', was submitted by the applicant's highways advisors which generally concluded that:

*"the existing highway network, the nature of the proposed site's operation, the likely staff residency locations and measures to be put forward as part of the Travel Plan and site access design mean that the alternative non-Strategic Road Network (non-SRN) route options are not attractive and will not be well-used by future staff."*

In assessing the TN, the CHA advised that they agreed with its findings and that the conclusions reached were valid and have been arrived at using appropriate and reasonable methodology.

A further representation from LHPC was subsequently submitted, following the receipt of the TN, which additionally provided information from Google Maps of a particular day (19th February 2020) showing that the route through Hemington and Lockington to Junction 24 of the M1 was quicker than that of the A50 east and consequently all daily trips by light vehicles and HGVs would utilise this route. An issue was also raised in relation to a reliance on satellite-navigation systems to 'direct' employees to the trunk road network.

The CHA have consequently considered this response and have outlined that whilst they agree that movements to the A6 and A453 would need to do so via Junction 24 of the M1, not all vehicles movements from the site using the A50 east will be going via the A6 and A453 (i.e. some will be travelling north and south on the M1 via the direct slips). It is also the case that on a 'typical day' Google Maps would identify the A50 to be the quickest route option given that it is shorter and a higher standard of highway (it being noted that the images within the submitted TN showed the strategic highway network to be quicker despite there being minor delays on this network). Consequently, a route through Hemington and Lockington would only become quicker should there be a significant issue on the trunk road network which isn't usually the case, also only vehicles travelling to the A6 or A453 would likely use the village roads in such a circumstance.

Specifically in relation to the above, the Google Maps data from the 19th February 2020 (as provided by LHPC) is perhaps exacerbated by the fact that on that day the B6540 (Tamworth Road - to Sawley and Long Eaton) was closed, as were other routes in the area, in the aftermath of Storm Dennis, as such there was reasoning for the longer times. The CHA also consider that the vehicle volumes quoted by LHPC would suggest that all vehicles intending to use the A50 east and routing through Castle Donington would go through Hemington and Lockington if there is an incident on the trunk road network which again is not a typical occurrence. On this basis the CHA maintain that there are no objections to the application in this respect.

Further information submitted by the applicant's transport consultant, on the 30th November 2020, has also been scrutinised by LHPC who have observed that the applicants modelling assessed that in abnormal situations the peak traffic flow might be 10 - 12 trips (or 130 daily) to and from the A453/A6 via the local roads through Hemington and Lockington if there was congestion on the A50 at the traffic lights at Junction 24 of the M1. It also assumes that all other

site traffic heading to the M1 would do so via the A50. There is, however, the potential that in situations where the A50 lanes to the M1 are slow or blocked this number would rise (potentially 74 trips per hour (of 806 in total per day) in peak times. The data and analysis also excludes any of the 516 daily HGV movements predicted by the model.

Whilst such concerns have been raised it remains the case that the CHA have no objections to the application on highway safety grounds.

With particular regard to HGV movements it is considered that such movements from the site along local roads would be prevented as a result of the alterations to the highway network on Rycroft Road. Consequently, such movements would be consigned to the strategic highway network.

In terms of the situation in respect of existing HGV movements through the local settlements, despite weight restrictions, it is considered that this is a separate matter and is an issue which is being investigated by the CHA. It is not necessary for this application to address or mitigate an existing issue and as is outlined above HGV movements from the site towards Hemington and Lockington would be prevented by the alterations made to Rycroft Road with the HGV traffic associated with the development being consigned to the strategic highway network. Consequently, the proposed development would not exacerbate the issue which currently exists.

Considering the position of the CHA, as well as the specifics of Paragraph 109 of the NPPF as identified below, it is considered that a reason to refuse the application on this particular basis could not be substantiated.

*Officer Conclusions in respect of Means of Access, Highways and Transportation*

Policy Ec2(2) of the adopted Local Plan sets out a number of criteria against which proposals for employment development will be considered, including in respect of accessibility by a choice of transport modes, and good access to (and an acceptable impact upon the capacity of) the strategic highway network. Also relevant are Local Plan Policies IF1 and IF4 which seek to ensure the provision of suitable infrastructure (including transportation infrastructure) necessary to accommodate new development.

Due regard is also given to Paragraphs 108, 109 and 110 of the NPPF with Paragraph 109 being clear in that development should only be prevented or refused on highway grounds should the impacts to highway safety be unacceptable or the residual cumulative impacts with other development on the road network be severe.

Whilst a public transport strategy and travel plan are to be devised, the information provided to date by the applicant is considered acceptable to the CHA with the application site being adjacent to routes which are served by frequent public transport provision and, thereby, future employees would have the opportunity to access the site via means other than the private car. By virtue of its location in close proximity to Junction 1 of the A50 the site would be well related to the strategic highway network, and it has been demonstrated to the satisfaction of the CHA and HE that the impacts on the operation of the network (and including Junction 1 itself) could be appropriately mitigated. Other impacts in terms of the local highway network are also considered acceptable (and including with the impacts of mitigation where required).

It is therefore considered that the proposals, subject to conditions and securing of the relevant obligations, would meet the requirements of Policies IF1 and IF4, the relevant criteria within

Policy Ec2 and Paragraphs 108, 109 and 110 of the NPPF.

### **Flood Risk, Drainage and Water Quality**

Policy Cc2 of the Local Plan sets out a number of criteria in terms of flood risk against which proposals will be considered. Policy Cc3 sets out the requirements for the implementation (and management/maintenance) of Sustainable Drainage Systems (SuDS). Chapter 15 (Water Resources) of the Environmental Statement (ES) includes an assessment of the proposed development's impacts in terms of flood risk and drainage, informed by a Flood Risk Assessment (FRA) (appendix 15.2), setting out how the site is proposed to be drained, and assessing the existing flood risk to the site along with any resulting flood risk associated with the proposed development.

The proposed development includes a range of on-site drainage measures in respect of both surface and foul water disposal.

### *Environmental Statement and Officer Assessment of Flood Risk*

Insofar as fluvial flood risk is concerned, the site lies within Flood Zone 3 (i.e. land assessed as having a 1 in 100 or greater annual probability of river flooding) as defined on the Environment Agency's flood risk mapping and the District Council's Strategic Flood Risk Assessment (SFRA). Whilst this is the case the submitted ES outlines that as part of the FRA process the Environment Agency's (EA) hydraulic model of the local area was reviewed and as part of this exercise it was identified that both the Donington and Hemington Brooks were absent from the EA's model as was a 2D representation of application site and the local area. On this basis the ES states that the EA's model did not provide an accurate representation of the local fluvial system, and its associated flood risk to the application site, and consequently was not appropriate to support a detailed FRA as required by the NPPF (Paragraph 163).

On this basis the applicant has provided an updated model as part of their FRA which demonstrates that the extent of Flood Zone 3 across the site and local area is significantly less than as represented on the EA's model and flood map. The applicant's model has outlined that the Zones (as identified on the submitted Parameters Plan) would be reclassified as follows:

- Zones A, B and C (All Commercial Areas) - Flood Zone 3a (high probability of flooding);
- Zone D (Commercial Area) and (Biodiversity/Flood Mitigation) - Mostly Flood Zone 1 (low probability of flooding) with a small area in Flood Zone 2 (medium probability of flooding); and
- Zones E and F (Biodiversity/Flood Mitigation and Access Road) - Flood Zone 3b (the functional floodplain).

On the basis of the reclassified zones, and that development remains proposed on land outside of Flood Zone 1, it would be necessary to apply the sequential test (as required by Paragraphs 157 of the NPPF) to determine whether there is more suitable sites for this form of development which would be sequentially preferable in flood risk terms.

A flood risk sequential assessment (FRSA) has been undertaken by the applicant (appendix L of the FRA) and this outlines that in flood risk terms, buildings used for industrial purposes would fall within the 'less vulnerable' use vulnerability category as identified in the Planning Practice Guidance (NPPG). Such a use is acceptable within Flood Zones 1, 2 and 3a, subject to the sequential test being met.

It is further outlined in the FRSA that in terms of the SFRA only the north-eastern parcel of the

application site was identified (study site E9) which was outlined as being within Flood Zone 3b. However, on the basis of the applicant's modelling, study site E9 would now be within Flood Zone 2.

In terms of alternative sites the FRSA has reviewed the sequential assessments undertaken for applications at Carnival Way, Castle Donington (application reference 17/01136/OUTM) and Sawley Crossroads, Sawley (15/00015/FULM), which assessed a total of 16 sites, and has added a further four sites meaning that a total of 20 alternative sites has been considered. These sites are as follows:

- Site 1 - Land to the north-east of A42/A453 Roundabout;
- Site 2 - Land to the north-west of A42/A453 Roundabout;
- Site 3 - Land south of Donington Park Services, Junction 23A;
- Site 4 - Land north of Remembrance Way;
- Site 5 - Land north of Derby Southern Bypass (A50);
- Site 6 - Land west of A50;
- Site 7 - Land south of Sawley Marina, Tamworth Road, Sawley;
- Site 8 - Sawley Crossroads, Sawley;
- Site 9 - Land at Rycroft Road, Hemington;
- Site 10 - East Midlands Gateway Strategic Rail Freight Interchange;
- Site 11 - Land north of Derby Road, Kegworth;
- Site 12 - Plot 2B, Willow Farm Business Park, Castle Donington;
- Site 13 - Plots 4B and 4D, Willow Farm Business Park, Castle Donington;
- Site 14 - East Midlands Distribution Centre, Castle Donington;
- Site 15 - Land at Castle Donington Race Circuit, Castle Donington;
- Site 16 - EM Point, East Midlands Airport, Castle Donington;
- Site 17 - Land at East Midlands Airport, Castle Donington;
- Site 18 - Carnival Way, Castle Donington;
- Site 19 - Glebe Farm, Thrumpton Lane, Barton-In-Fabis; and
- Site 20 - Derby Commercial Park Phase 2, Raynesway, Derby.

The applicant has also identified the following site search parameters within the FRSA which would need to be met in order to be considered appropriate:

- The site should have good access to the strategic highway network, particularly the A50, and should be suitable for HGV access;
- The site should be large enough to accommodate the proposal for up to 92,500 square metres of B1c, B2 and B8 floorspace, but not so large that there would be significant surplus land;
- The site should be within Flood Zone 1 or 2 to offer a reduced level of risk in flood terms, taking the status of the application site after proposed site earthworks and ground reprofiling; and
- An alternative location should be suitable for commercial activities and be located where vehicle movements, fork-lift trucks, loading and unloading activities would not cause noise and disturbance to neighbours and should not have an unacceptable impact on constraints such as, for example, heritage assets or protected land.

Sites which would not acceptably fit all of these criteria would not be considered to fall within the terms 'suitable' or 'reasonably available' as identified in Paragraph 158 of the NPPF. The availability of sites has also been considered in terms of their current marketing position, existing uses and overall planning status.

For the reasons given within the appendix 1 of the FRSA the above sites have been discounted as being sequentially preferable for the proposed development, with the exception of site 9 which forms part of the application site, and therefore the applicant considers the sequential test is passed.

In terms of the applicant's sequential options generally, it is noted that these are limited to sites set out in the SFRA; whilst it is considered that an argument could be made that the area of search for sequentially preferable sites ought to be District-wide (given the justification for the proposals on a need for additional employment development within the District), it is acknowledged that the NPPG advocates a pragmatic approach to applying the sequential test. Insofar as the area of search is concerned the NPPG suggests that the area to apply the sequential test across will be defined by local circumstances relating to the catchment area for the type of development proposed, also relevant would be the applicant's site search parameters as identified above.

An independent review of the flood risk information which accompanied the application has been undertaken by a consultancy on behalf of the District Council and this has concluded that the number of alternative sites considered by the applicant is reasonable and the reasoning for them being discounted is also acceptable.

Taking the information within the applicant's FRSA and the independent review undertaken on behalf of the District Council it is considered that the sequential test is passed.

Whilst the sequential test may be passed it would also be necessary for the development to pass the exception test as outlined in Paragraph 159 of the NPPF. As is identified above, buildings used for industrial purposes would fall within the 'less vulnerable' use vulnerability category as identified within the NPPG which is acceptable within Flood Zones 1, 2 and 3a. Consequently, this element of the development would pass the exception test. In terms of the western access road, that from the roundabout off Station Road, the Environment Agency (EA) has identified that this would fall within Flood Zone 3b and consequently would need to be considered as 'essential infrastructure' in order to pass the exception test. For their part the EA have specified that they would ordinarily class an access road within the same vulnerability category as the remainder of the development (i.e. 'less vulnerable'). Notwithstanding the view of the EA it is noted that the NPPG outlines that 'essential infrastructure' can include *"essential transport infrastructure (including mass evacuation routes) which has to cross the area of risk."*

The FRA outlines that the western access road would provide a primary means of access and egress and, in accordance with Paragraph 067 of the NPPG, the road would remain operational and safe at all times, would not result in the loss of floodplain storage, would not impede water flows and would not increase the risk of flooding. It is also the case that its design level would lead to it being above the level within Flood Zone 3b and therefore not at risk of flooding in the same way as the land around the western access road would.

On this basis it is considered that the exception test within Paragraph 160 of the NPPF is passed as the development will be safe for its lifetime when taking account of the vulnerability of its users and would not increase flood risk elsewhere, and will reduce the overall level of flood risk. It would also provide some flood risk benefits (as outlined below) to the community.

Although the sequential and exception tests are passed, Paragraph 163 of the NPPF identifies that in determining planning applications it should be ensured that flood risk is not increased elsewhere. In this respect the ES, as well as the FRA, outline that 47,522 cubic metres of floodplain storage volume would be displaced as a result of the development and as such

mitigation would be required to ensure that the proposed development does not have a major adverse effect on the level of flood risk. The proposed flood mitigation scheme, as outlined in the ES and FRA, would comprise the following:

- Lowering of land levels in Zones E, F and part of D (this being identified as Zone 5a or G in the submitted FRA) (as identified on the submitted Parameters Plan) so as to preserve the functional floodplain and create flood alleviation storage areas which would provide a flood storage area of around 266,906 cubic metres. Such areas would be designed and planted to create large biodiversity zones;
- Raising of land to achieve the required finished floor levels in Zones A, B, C and D (the part not covered by Zone 5a or G as identified above) which will provide a safe, flood risk free development with safe access and egress during all flood events up to and including the 1 in 100 year+ appropriate climate change event;
- A channel crossing of the Donington Brook to provide safe access and egress to the proposed development; and
- The creation of a 30m wide x 1000m long flood storage channel along the northern boundary of the site and a culvert under Rycroft Road.

The proposed 266,906 cubic metres of flood storage to be created would be 219,384 cubic metres more than that required to mitigate the impact of the development with the flood storage channel intending to intercept, reroute and store flood flows which would 'back-up' along the Donington Brook. This channel would reduce the flood risk within the site and further upstream within the villages of Hemington and Lockington, with the ES quantifying that an estimated 22 residential and 12 commercial properties would be removed from Flood Zone 3 and that flooding depths within Hemington and Lockington would be reduced.

Following the consideration of the information within the ES and the associated FRA, as well as additional information supplied by the applicant, the EA have raised no objections to the development subject to the imposition of conditions on any outline permission to be granted. Such conditions would seek to ensure that the development is undertaken in accordance with the submitted FRA (as updated in October 2020) and that the precise flood risk mitigation strategy is submitted for approval by the EA, this is due in part to the fact that the application is currently in outline form.

In terms of other potential sources of flooding, the FRA indicates that the majority of the site is at a low risk of flooding from surface water with the areas of highest risk being alongside drainage ditches, which is ordinarily the case, due to the topographical depressions which are designed to collect overland flows. It is, however, identified that the low risk of surface water flooding could be adequately mitigated via the provision of a Sustainable Urban Drainage System (SuDS), thoughtful highway design and strategic placement of green infrastructure. The provision of such surface water drainage techniques would ensure flows were the equivalent of the current greenfield conditions whilst also improving the water quality which would be of benefit to Hemington Brook.

With regards to groundwater flooding the FRA outlines that the site is within a low lying topography and due to the proximity to the local watercourse network (comprising the River Trent and Castle Donington and Hemington Brooks) naturally high groundwater levels within the site may be present in localised areas. The FRA concludes that the risk of the site flooding from groundwater is low and the detailed design of the surface water drainage system will take this in account, particularly within open SuDS features and the building foundations.

The risk of reservoir inundation flooding would be mitigated by ensuring the finished floor levels

are set above the expected level of reservoir flood water. There is no risk to the site from coastal, tidal or estuarine flooding.

*Environmental Statement and Officer Assessment of Surface Water*

In terms of the proposed surface water drainage system, the application is accompanied by a drainage strategy (DS) (appendix 15.3 of the ES) which identifies that as a result of the development there would be an increase in impermeable surfaces within the site (calculated to be 17.4 hectares) which would increase the rate and volume of surface water runoff entering the natural drainage system which, if not mitigated, would result in additional flooding.

It is therefore proposed that any surface water drainage system should be designed to mitigate surface water runoff up to and including the 1 in 100 year+ 40% climate change rainfall event, with infiltration into the ground being discounted as the ground conditions would prevent this. Therefore the DS indicates that the site would be split into three surface water catchment areas (western, central and eastern) which would all be served by permeable paving and crated on-plot underground attenuation, with the flows from the western catchment being discharged to a balancing pond for water quality 'polishing' before being discharged into Donington Brook upstream of Trent Lane. The flows from the central and eastern catchments would be discharged to an ordinary watercourse adjacent to Rycroft Road which connects with Hemington Brook.

The proposed plots would also have finished floor levels which will ensure the surface water drainage system will function without the need for pumping, with the above and below ground attenuation features having sufficient capacity so as to ensure that the overall discharge rate meets the 1 in 100 year+ 40% climate change rainfall event figure. Such attenuation features may require lining so as to avoid contamination and this would be designed and factored into account as part of the final surface water drainage solution. The attenuation basins will also be positioned at the lowest point on the site so as to facilitate a gravity drained system with a 300mm freeboard provided so as to cater for exceedance events. The DS also identifies that consideration would be given to providing the basins with a slightly deeper level so as to create a permanently wet feature which would enhance biodiversity and further improve water quality.

In order to maintain the quality of the water environment the DS outlines that treatment trains would be utilised with source control techniques being utilised to intercept rainfall. Permeable paving with sub-base storage and bioretention units such as tree pits could also be utilised to provide additional attenuation, water quality treatment and slow the time of concentration into the drainage network. Petrol interceptors will also be utilised in the areas of the surface water drainage system which would receive runoff from HGV manoeuvring and parking areas. The attenuation basins will then provide a secondary treatment to the flows they receive.

So as to account for a rainfall event which would be in excess of the 1 in 100 year+ 40% climate change rainfall event the DS outlines that the layout and landscaping of the proposed development will be designed and developed so as to ensure that exceedance flood flow paths are routed away from vulnerable development and toward either landscaped areas, areas of open attenuation, watercourses or surrounding green infrastructure. Floor levels of the units will also be set so as to ensure that surface water does not ingress through doorways with the placement of units within ground depressions being avoided so as to prevent water pooling. Such solutions would be further managed as the layout of the development and precise surface water drainage scheme are progressed given that the application is only in outline form.

Insofar as the surface water drainage solution is concerned the EA and Lead Local Flood

Authority (LLFA) have no objections to the principle of the development, subject to the imposition of conditions on any consent granted.

Insofar as the amenity impacts of the proposed SuDS features are concerned, the District Council's adopted Good Design SPD provides that careful attention will need to be afforded to the softer design of headwalls to attenuation basins and seeks to avoid steeply sided SuDS features (and which, as a result, require the use of safety fencing), thus reducing their contribution to the amenity value of any newly-created public access land. As the application is in outline form the details of the SuDS features are not known and consequently their design would be assessed in more detail as part of any subsequent reserved matters application, should outline permission be granted, to ensure they meet the District Council's requirements in terms of their visual amenity value.

#### Environmental Statement and Environment Agency Assessment on Controlled Waters

The EA has had regard to a Phase 1 Desk Study (appendix 14.1 of the ES) which has identified potentially complete pollutant linkages where on-site sources of contamination pose risks to controlled water receptors. The report goes on to recommend further investigative works which would be utilised to inform an updated assessment of the risk posed to controlled waters. The EA further comment that given the anticipated ground conditions at the site, the proposed investigations must ensure that site coverage is adequate to successfully characterise the waste materials previously deposited.

Within the ES it is outlined that the risks posed to controlled waters by the development can be mitigated and managed and as such the EA has no objections to the application subject to the imposition of conditions which would seek to ensure that any contamination risk to controlled waters is remediated and verified and that piling operations are strictly controlled.

The consultation response from the EA identifies that they have only considered the contamination risks to controlled waters and that the views of the District Council's Contaminated Land Officer should be sought in respect of the contamination risks posed to human health. In this respect the *Ground Conditions* section of this report below addresses the other contamination issues identified by the EA.

In terms of other sources of pollution and their effects on the water environment, the ES identifies these (and their mitigation where relevant) as follows:

#### Environmental Statement Assessment of Sediment Control

The ES outlines that an erosion and sediment control plan would be prepared as part of any Construction Environmental Management Plan (CEMP) which would be prepared in advance of the development commencing. The CEMP will address activities such as vehicle washing, works in or near water, storage of construction equipment and materials, waste management and water use and disposal with it being advised that any control measures are inspected regularly, particularly after rainfall events. The proposed erosion and sediment controls would need to work effectively until disturbed soils are stabilised (i.e. through vegetation establishment) and not just until the end of the construction phase.

The ES also identifies that large areas of stockpiled material would be kept covered or contained, where possible, so as to prevent erosion impacts with the movement of heavy machinery around the site being restricted via the provision of designated routeways which would reduce the overall compaction of soil on the site and thereby ensure that established

infiltration rates are not impacted on. Any water from dewatering operations (if required) would pass through a settling basin to allow suspended soils to settle out.

The implementation of such mitigation measures would ensure that the impacts to the water environment would not be significant.

*Environmental Statement and Environment Agency Assessment in Relation to Working in or Near Water*

The ES identifies that works in or near to a watercourse would require approval from either the EA or the Lead Local Flood Authority (LLFA). The EA have outlined that a Flood Risk Activity Permit (FRAP) as part of The Environmental Permitting (England and Wales) Regulations 2016 would be required for activities within the vicinity of the Donington and Hemington Brooks which are classified as Main Rivers. Should works be undertaken within the vicinity of an ordinary watercourse than Land Drainage Consent (LDC) would be required from the LLFA. As part of the application process for the FRAP, or LDC, the EA and/or LLFA would ensure that all environmental risks have been appropriately considered and mitigated where necessary. The ES also identifies that construction materials should not be stored in the functional floodplain. By complying with the above approach, the impacts would not be significant to the water environment.

*Environmental Statement and Environment Agency Assessment of Site Compound and Dewatering Operations, Over-pumping and Excavations*

It is also outlined in the ES that fuels would be stored in a dedicated bund with refuelling carried out in a central refuelling point and if this is not possible bowzers (complete with spill kits) would be deployed. Should excavation and dewatering activities be required than the ES identifies that advice from the EA will be sought in terms of ascertaining if a transfer licence for the dewatering and disposal of dewatered water is required.

On the basis of the above, the ES concludes that the residual effects, of both the construction and operational phases, would be negligible/neutral in their impact subject to the appropriate mitigation being secured and adhered to. The potential impacts on water quality would therefore not represent a constraining factor on the proposed development.

Subject to the above, therefore, and subject to the imposition of conditions, the EA raises no objections to the application, and the development is considered acceptable in this regard.

*Environmental Statement and Severn Trent Water Assessment of Foul Drainage*

Insofar as foul drainage is concerned, the submitted drainage strategy (DS) (appendix 15.3 of the ES) identifies that the closest public sewers are located approximately 125 metres to the west (Willow Farm Business Park) and approximately 430 metres to the south (in Hemington). It is intended that the foul water effluent would be of domestic quality only and would drain by gravity to an onsite pumping station which will pump the flows to the public sewer network.

As part of the ES the applicant has engaged with Severn Trent Water (STW) via a developer enquiry following a sewer capacity assessment. This enquiry has confirmed details of a point of connection to the public foul water sewer system and that the public sewer network has the capacity to receive a maximum pumped discharge rate of 8 litres per second (l/s) without the need for offsite reinforcement works. Should the flows exceed 8 l/s then any off-site improvement works would need to be undertaken by STW before a connection would be

allowed to the mains sewer but such works would be undertaken separate to the planning process and ultimately an approval from STW for a connection to the foul water network would not be granted unless sufficient capacity is available.

For their part STW have raised no objections to the application subject to the imposition of a condition which would require details of the foul drainage solution to be submitted for approval.

*Environmental Statement Assessment of Cumulative Impacts with Other Developments*

In terms of the cumulative impacts with other developments (as outlined in the Detailed Issues section of this report above) the ES outlines that in terms of foul drainage there would be an increase in demand which would impact on the water supply. However, it is necessary for the statutory undertaker (Severn Trent Water (STW)) to programme reinforcement works to water supply and waste-water infrastructure to ensure there is capacity for future growth. Furthermore, the ES identifies that Hemington and the surrounding water management areas have water available for further abstraction and licensing. On this basis the ES concludes that the cumulative impact on water resources, the local water supply and drainage infrastructure would be considered negligible resulting in no significant effect. It is identified above that STW have no objections to the application subject to the imposition of a condition on any consent to be granted.

With regards to flood risk the ES specifies that there should be no cumulative impacts with the other developments in the area given that the developments to be undertaken would need to accord with the principles outlined in the adopted Local Plan and NPPF in respect of reducing flood risk and ensuring surface water run-off rates are the equivalent of a greenfield standard. It is also identified that the flood alleviation proposals associated with the East Midlands Gateway scheme address a different flooding mechanism that affects Hemington by attenuating flows into Hemington Brook at the head of the contributing catchment consequently reducing peak flood flows. In combination with the proposed flood risk strategy for the application site the ES outlines that there would be a cumulative beneficial impact to Hemington.

As outlined above the EA and LLFA have no objections to the principle of the development, subject to the imposition of conditions on any consent granted.

*Officer Conclusion in Relation to Flood Risk, Drainage and Water Quality*

In terms of Flood Risk, Drainage and Water Quality issues overall, therefore, the view is taken that the proposals would result in no adverse impacts (after mitigation) by way of the various measures set out in the supporting documents (including the ES, FRA and DS) with a condition being imposed which would require the submission of a Construction Environmental Management Plan ("CEMP"). The proposals are therefore considered to comply with the requirements of Policies En1, En2, Cc2 and Cc3 of the adopted Local Plan, as well as Paragraphs 156, 157, 158, 159, 163, 165, 170, 175, 179 and 180 of the NPPF (insofar as they relate to these particular issues).

**Noise and Vibration and Residential Amenity**

In terms of amenity issues (and the scheme's performance in respect of Policy D2 of the adopted Local Plan), the impacts of the proposed development need to be considered both in terms of the effects on nearby residents arising from the undertaking of the construction of the proposed development (including, in particular, construction noise and vibration), as well as the future living conditions of those residents following construction, having regard to the noise and other amenity impacts of the proposed development.

The nearest residential receptors to the application site include nos. 69, 71, 87, 89 and 97 Rycroft Road, as well as Hemington Park showman's' site off Rycroft Road, which are set to the south-east and south of the site, as well as The Bungalow, Netherfields Lane which is to the north of the eastbound A50 slip road (i.e. it is on the opposite side of the A50 to the application site).

Chapter 8 of the submitted Environmental Statement (ES) relates to noise and vibration and this chapter is also supported by the information at appendices 8.1 to 8.4 of the ES.

Specifically, chapter 8 outlines that the proposed development has the potential to introduce operational noise from the activities which would take place within the site as well as through changes in road traffic noise from vehicles accessing the site utilising the existing highway network. It is further outlined that the extent of the survey area was residential dwellings within 600 metres of the proposed development and thus includes the closest noise-sensitive dwellings to the site as outlined above.

The assessments undertaken are based on a 'worst-case' scenario taking into account the noise levels associated with the types of uses which would be established at the site, which predominately would fall within the B8 (storage or distribution) use class, as well as the typical plant and machinery which would be utilised to construct the industrial form of development proposed. The assessment also takes into account the cumulative impacts connected with developments within the area which have either been implemented or have planning permission but are yet to be implemented.

A noise survey undertaken, which forms part of the chapter 8 assessment, outlines that the ambient noise environment at the relevant noise-sensitive locations is influenced by traffic noise on the A50 as well as more distant traffic noise from the M1 with sporadic traffic movements carried out on Rycroft Road.

The construction noise and operational noise effects are considered in turn as follows:

*Environmental Statement Assessment of Construction Noise Effects (including Piling) and Mitigation*

In terms of the likely significant construction effects the ES outlines that generally the worst-case construction noise would result in impacts which are of a low (noise levels between 55dB and 65dB) to medium (noise levels between 65dB and 72dB) magnitude of impact (minor negative impact) which would not be significant in environmental impact assessment (EIA) terms. However, in periods when landscaping or substructure works occur close to no. 97 Rycroft Road (within 20 metres) the worst-case scenario could result in a high (noise levels between 72dB and 82dB) magnitude of impact (moderate negative impact) which would be significant in EIA terms.

With regards to construction vibration levels during piling, the ES concludes that the worst-case scenario would result in a medium (velocity of vibration of between 0.3 to 1.0 millimetres per second (mm/s)) magnitude of impact (minor negative impact) to no. 97 Rycroft Road which would not be significant in EIA terms.

In order to mitigate the impacts associated with construction noise the ES outlines that should it be necessary to undertake landscaping or substructure works within 100 metres of 97 Rycroft Road then such works should be limited so that either:

- Noise levels over the working day do not exceed 72 dB, either through use of quieter plant or working practices, local screening or similar measures; or
- The total duration of works associated with levels in excess of 72 dB is limited (less than 4 weeks) and controlled so that levels do not exceed 82 dB.

As the construction works moves further from the residential receptors the noise levels reduce to a level which would be considered a negligible effect (noise levels under 55dB), with construction vibration impacts also identified to be a minor negative effect (velocity of vibration between 0.14 to 1.0 mm/s) at worst. On this basis no specific mitigation is considered to be required. Whilst concluding in this respect the ES outlines that it would be best practice for a Construction Environmental Management Plan ("CEMP") to be prepared so as to further control noise emissions from the site.

*Environmental Statement Assessment of Operational Noise Effects (including Road Traffic Noise) and Mitigation*

With regards to the likely significant operation effects the ES concludes that the commercial operations would result in a noise impact which would be of medium (noise level up to 5dB higher than background noise) to high (noise level up to between 5dB and 10dB higher than background noise) magnitude during the day and night which, if not mitigated, would result in a worst-case scenario of minor to moderate effect to residential receptors with the moderate effect being significant in EIA terms. Although locations of fixed plant associated with the development are not known at this time, given that the application is in outline form, the ES concludes that such plant is generally designed so as not to have a noise level which would exceed the existing background noise level at residential receptors and therefore this impact would be of a low magnitude which would result in a minor adverse effect which would not be significant in EIA terms.

The impacts from road traffic noise has also been considered, as part of the operational noise assessment, with it being concluded that the increase in noise would not exceed 1dB above the baseline level. This conclusion would consequently correspond to a medium magnitude of impact resulting in a minor adverse effect which would not be significant.

As outlined above without mitigation the worst-case scenario is that the commercial operations would result in a moderate adverse effect to residential receptors which would be significant in EIA terms. However, this conclusion is largely based on generic assumptions as details of how the site would be developed are not known at this stage due to the application being in outline form. Consequently, the commercial units should be designed so to prevent significant effects at the residential receptors (i.e. by ensuring the noise levels do not exceed 5 dB above the prevailing background noise of the area). This could be achieved by measures such as:

- Designing the commercial uses to optimise the separation distance between noise-generating activities and residential locations;
- Using the commercial buildings themselves to screen noise-sensitive locations from noise generating activities;
- Operational management and control of activities at the site, potentially through a noise management plan; and
- Localised or boundary screening as necessary.

The ES also recommends that fixed plant is controlled so as to not to exceed a level of 5 dB above the existing background noise levels in the area with no specific mitigation for road traffic

given that the increase in noise in this respect is not significant.

Officer Conclusion in Relation to Noise and Vibration

The District Council's Environmental Protection Team have been consulted on the application and have raised no objections subject to the imposition of conditions on any permission to be granted.

Specifically, the condition would request the provision of the noise barrier so as to protect neighbouring properties with conditions securing the control of noise levels associated with construction activity within 100 metres of no. 97 Rycroft Road, the submission of a CEMP and construction hours also being reasonable. A condition would also be imposed which would require the submission of a further noise assessment as part of a reserved matters application(s) so that operational noise, including any potential mitigation, can be appropriately assessed and secured.

On the basis that such conditions are imposed the impacts of the proposed development, in so far as they relate to noise and vibration impacts, would not be sufficiently detrimental as to warrant a refusal of the application.

Officer Assessment in Relation to External Lighting

Policy D2 of the adopted Local Plan provides that proposals for external lighting schemes should be designed to minimise potential pollution from glare or spillage or light, that the intensity of lighting should be necessary to achieve its purpose, and the benefits of the lighting scheme must be shown to outweigh any adverse effects.

As the scheme is in outline form no lighting assessment has been submitted as this would not be developed until such time as the internal arrangement of buildings and road was developed at the reserved matters stage(s). The Council's Environmental Protection Team have outlined that a condition requiring a lighting assessment to be submitted should be imposed on any permission to be granted, and it is considered that this approach would ensure that relevant information is provided at the reserved matters stage(s) in order to allow further consideration of this matter.

At this time, therefore, there is no conflict with Policy D2 of the adopted Local Plan in this respect.

Officer Assessment in Relation to Other Residential Amenity Impacts

In terms of the impacts on neighbouring amenities arising from the proposed buildings themselves, whilst a parameters plan has been submitted, all matters except part access are reserved for subsequent approval. The parameters plan identifies that buildings within zones A and B would be up to 18 metres in height, with those within zone C being up to 8 metres in height and those within zone D being up to 15.5 metres in height, such heights being reduced from those originally proposed. It is also identified in the *Flood Risk, Drainage and Water Quality* section of this report above that land levels within zones A to D would be raised above the existing land level (providing maximum finished floor levels of 34.0 metres Above Ordnance Datum (AOD) in zones A and B and 33.0 metres AOD in zones C and D) so as to reduce the risk of flooding.

Parts of the south-eastern and north-eastern boundaries of the application site adjoin with those

associated with no. 97 Rycroft Road with part of the north-eastern boundary also being adjacent to no. 71 Rycroft Road. Relevant properties would be set the following distances from the application site boundaries:

- No. 97 Rycroft Road - around 3.5 metres from south-eastern site boundary and around 184 metres from the north-eastern site boundary.
- No. 89 Rycroft Road - around 84 metres from the south-eastern site boundary and around 168 metres from north-eastern site boundary.
- No. 87 Rycroft Road - around 113 metres from south-eastern site boundary and around 137 metres from north-eastern site boundary.
- No. 71 Rycroft Road - around 20 metres from north-eastern site boundary.
- No. 69 Rycroft Road - around 80 metres from southern site boundary.
- Plot 1 on Hemington Park Showman's' Site - around 85 metres from south-eastern site boundary.

The part of the application site comprising zone D (as defined by the parameters plan) would be to the north-east of nos. 87, 89 and 97 Rycroft Road, on the opposite side of the highway, with the boundary of this zone being around 15.6 metres from no. 97 Rycroft Road (being the closest residential receptor).

Although acknowledging that buildings to the heights and floor spaces proposed would be of some scale, with land levels also being increased, the parameters plan identifies that landscaping buffers would be created to increase the separation distances between the units to be created and the identified residential receptors (i.e. the separation distances would be increased to those identified above). Notwithstanding the anticipated scale of the units it is considered that, in principle, a form of development could be provided on the site which would not result in undue loss of amenity by virtue of an overshadowing, overbearing or other residential amenity impacts. Clearly careful consideration would need to be given to any detailed proposals within zones C and D (due to the proximity to no. 97 Rycroft Road in particular), as well as the wider earthworks and landscaping strategy for the site, submitted at the reserved matter stage(s) so as to ensure appropriate relationships are established. However, as set out above, there is no reason to suggest that the eventual form of development proposed at the reserved matters stage(s) would necessarily result in an undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, considered acceptable in this regard.

It is appreciated that given the intended scale of the buildings, as well as the surrounding topography, they are likely to be visible to a varying extent from residential properties to the east, south and west of the site. Whilst acknowledging this the loss of a private view, or impact on the value of a property, are not material planning considerations which could be taken into account as part of the assessment of the application.

*Officer Assessment in Relation to the Amenity Impacts as a Result of Vehicle Movements through Hemington and Lockington*

As outlined in the *Means of Access, Highways and Transportation* section of this report above concerns have been raised by Lockington cum Hemington Parish Council, as well as third parties, in relation to vehicle movements through Hemington and Lockington impacting adversely on the 'character' and 'amenity' of the villages. This is primarily in relation to criteria (c) of Policy Ec2(2) of the adopted Local Plan which outlines that new employment sites should not be "*detrimental to the amenities of any nearby residential properties or the wider environment.*" Policy D2 of the adopted Local Plan (as identified above) would also be of

relevance.

Primarily the issue is in relation to vehicular movements associated with the development using the local roads through Hemington and Lockington to access the strategic highway network via the signal controlled roundabout at Junction 24 of the M1. This would, for all intents and purposes, involve movements by users of the site who would utilise the A453, A6 or M1 South with it being likely that such movements would be undertaken in the afternoon/evening period given that the A50 westbound (towards Stoke) is not generally subjected to any queuing around Junction 1 in the morning peak period.

Further information submitted by the applicant's transport consultant, on the 30th November 2020, has also been scrutinised by LHPC who have observed that the applicants modelling assessed that in abnormal situations the peak traffic flow might be 10 - 12 trips (or 130 daily) to and from the A453/A6 via the local roads through Hemington and Lockington if there was congestion on the A50 at the traffic lights at Junction 24 of the M1. It also assumes that all other site traffic heading to the M1 would do so via the A50. There is, however, the potential that in situations where the A50 lanes to the M1 are slow or blocked this number would rise (potentially 74 trips per hour (of 806 in total per day) in peak times. The data and analysis also excludes any of the 516 daily HGV movements predicted by the model.

As is concluded in the *Means of Access, Highways and Transportation* section of this report above there is no objection to application on highway safety grounds from the County Highways Authority (CHA).

Whilst accepting that delays can be experienced on the A50 eastbound in the afternoon/evening peak, it is not the case that should this route be unavailable that 'all' vehicular movements associated with the site would go via the local roads within Hemington and Lockington. Primarily this route would only be 'attractive' to those who would wish to utilise the signal controlled roundabout at Junction 24 of the M1 in order to access the A453 or A6 (and to a lesser extent the M1 South). In the above respect it is considered that HGV movements from the site along the local roads would be prevented as a result of the alterations to the highway network on Rycroft Road. Consequently, such movements would be consigned to the strategic highway network.

Although the applicant has identified that the operation of shift patterns, which do not coincide with the peak morning and evening 'rush hour' periods, would also see vehicular movements undertaken when the strategic highway network is not generally subject to delays it is the case that the Local Planning Authority has no control over shift patterns. Consequently, limited weight could be attributed to this argument in the overall assessment.

It is also the case that the local roads through Hemington and Lockington would only be attractive if there is an incident on the trunk road network, which is not a typical occurrence, and as outlined above not all vehicular movements from the site would utilise the local roads in such a circumstance.

In conclusion it is considered that a detailed analysis has been undertaken by the applicant and which has been scrutinised by the CHA. Whilst acknowledging the concerns raised in the representations it is considered that, on the basis of the information submitted, the overall level of vehicular movements would not be substantial and would not be at a level whereby it would impact adversely on the character and amenity of the villages (i.e. their 'status' as villages would not be compromised as a result of the limited level of additional vehicular activity through them should the strategic highway network be subjected to significant delays).

Consequently, there would be no justification to refuse the application in this respect.

Officer Overall Conclusion in respect of Noise and Vibration and Residential Amenity

On the basis of the above, and subject to the imposition of relevant conditions, it is considered that the proposed development would be compliant with Policy D2 of the adopted Local Plan and Paragraph 180 of the NPPF (insofar as they are applicable in respect of noise, vibration, lighting and other residential amenity issues).

**Air Quality**

Policy D2 of the adopted Local Plan also seeks to ensure that adverse effects of development on residents' amenities is minimised (and including in respect of pollution). Policy En6 of the adopted Local Plan also provides that development close to an Air Quality Management Area (AQMA) will be supported where an application is accompanied by a detailed assessment of the issues, and appropriate mitigation is identified.

Chapter 9 of the ES addresses Air Quality and is accompanied by the information at appendices 9.1 to 9.5 which include a scheme of mitigation for the construction phase (appendix 9.5). Specifically the air quality assessment addresses the impacts of the construction of the development on dust soiling concentrations of Particulate Matter (PM10 the number after PM refers to the diameter of the particles in micrometres) as well as the emissions from road traffic generated by the development on concentrations of Nitrogen Dioxide, PM10 and PM2.5 at sensitive locations along the local road network (including the A50 and M1 and within the Castle Donington AQMA) and whether any additional mitigation measures are required to address any significant air quality effects. The approach to the air quality assessment was agreed with the District Council where it was advised that consideration should be given to the Castle Donington AQMA as well as the cumulative impacts with other developments considered as part of a transport assessment (TA).

The site itself is not within an AQMA but is within 3km of three AQMA's two of which are within Kegworth (3km to the south-east) and one which is along Bondgate and High Street in Castle Donington (1km to the south). A further AQMA exists within the borough of Erewash which is 4km to the north-east of the site (along the M1 at Long Eaton). Eighteen sensitive locations were chosen as receptors for the assessment which include residential properties in Hemington, Castle Donington, Shardlow, Long Eaton, Long Whatton, Diseworth and Chellaston. In addition to these sensitive receptors, concentrations have been modelled at a number of diffusion tube monitoring sites in Castle Donington as well as the three sites in Long Eaton (adjacent to the M1) so as to verify the model outputs.

As part of the consultation process a representative of Lockington cum Hemington Parish Council (LHPC) raised questions in respect of the models predicted levels used to assess air quality and whether the traffic assessment (TA) had accounted for all of the predicted growth in the area. A response to the questions raised has been provided by the applicant's air quality consultant and this has clarified the model which has been used and has also outlined that the TA has factored into account all of the predicted growth in the area so as to provide robust results. The response provided by the applicant's air quality consultant, as well as the questions raised by the representative of LHPC, have been taken into account by the District Council's Air Quality Officer in their overall assessment of the application.

Environmental Statement Assessment of Construction Impacts

Insofar as the construction phase is concerned, the ES indicates that traffic flows generated by construction would be considerably lower than those associated with the site when operational (with the assessment in this respect taking into account movements at the opening year) and consequently have not been specifically assessed within the ES. Whilst the ES did not specify a figure the applicant was requested to provide a reasonable figure of construction traffic so that an appropriate assessment could be undertaken. The applicant has subsequently advised that between 50 - 70 heavy duty vehicles (HDVs) would access the site in any given day.

The Environmental Protection UK and Institute of Air Quality Management air quality criteria outline that significant impacts on air quality are unlikely to occur where a development results in fewer than 100 HDVs movements per day in locations not within or adjacent to an AQMA. On the basis of the above figure the number of HDV movements would be below 100 and thereby the impacts on local air quality as a result of construction traffic movements would be considered negligible and not significant in EIA terms. It is also the case that nearest AQMA would not be adjacent to the site, being 1km away.

In terms of dust impacts, the ES assesses the impacts of a range of construction activities (namely demolition, earthworks, construction (of the buildings) and 'trackout' (the transport of dust and dirt from the construction site onto the public road network where it may be deposited and then re-suspended by vehicles using the network)). The magnitude of dust emissions are identified as 'large' for earthworks and trackout and 'medium' for construction, demolition is not applicable in this instance as there no buildings which would be required to be removed to facilitate the development.

The Institute of Air Quality Management (IAQM) guidance outlines that residential properties are of a 'high' sensitivity to dust soiling whilst places of work are of a 'medium' sensitivity. It is acknowledged within the ES that there are a small number of residential properties on Rycroft Road which are within 20 metres of the site but given that the total number is less than 10, the area surrounding the site would be of a 'medium' sensitivity to dust soiling from earthworks and construction.

The dust emission magnitude for trackout is identified as large and consequently there is a risk of material being tracked 500 metres from the site exit. The ES assumes that construction traffic will likely use all possible routes but is unlikely to travel south on Rycroft Road. In this respect it is noted that the County Highways Authority (CHA) would require the routing of construction traffic to be approved under a Section 106 agreement which would subsequently assist in ensuring construction vehicles do not travel south on Rycroft Road. Two receptors of medium sensitivity are within 50 metres of the roads along which material could be tracked and as such the ES concludes that the area is of a 'low' sensitivity to dust soiling as a result of trackout.

Residential properties are also classified as being of 'high' sensitivity to human health effects and in this respect the modelled PM10 concentration in the area is 16.0  $\mu\text{g}/\text{m}^3$  and thereby the ES identifies that the area is of a 'low' sensitivity to human health effects with the surrounding roads on which material may be tracked also being of 'low' sensitivity.

Overall, the ES outlines that without mitigation the summary of risk from dust soiling would be 'medium' for earthworks and construction and 'low' for trackout with the risk to human health being 'low' for all of the sources.

Notwithstanding the above, appendix 9.5 of the ES provides information on best practice measures from the IAQM guidance which should ideally be formulated into a dust management plan (DMP) and it is considered that such a DMP would form part of a Construction

Environmental Management Plan ("CEMP") which would be conditioned on any permission to be granted. As a result of such mitigation the residual effects would not be significant.

Environmental Statement Assessment of the Operational Impacts

In terms of the operational impacts, the ES considers in particular the effects of nitrogen dioxide and particles associated with the development, including impacts arising from the additional traffic associated with the development once it is in use.

In the 2022 scenario the predicated annual mean concentrations of nitrogen dioxide are predicated to be below the objective at all receptor locations with or without the development, with only a minor change at a residential property on Bondgate (identified as receptor 10). The percentage changes in concentrations, relative to the air quality objective is predicted to be 0% (when rounded to the nearest whole number) at all receptors, consequently the impacts would be described as negligible and therefore not significant in EIA terms. When applying the worst-case sensitivity test (which assumes higher emissions from diesel vehicles in the future) the development may lead to a marginal exceedance of the objective, at a single receptor (a residential property on Bondgate - identified as receptor 8) but whilst this is the case the impact would still be considered negligible. The annual mean nitrogen dioxide concentrations are below the objective at every hour and therefore the 1 hour mean nitrogen dioxide objective is unlikely to be exceeded.

In terms of the annual mean PM10 and PM2.5 concentrations in the 2022 scenario the concentrations would be below the relevant objective at all receptors, with or without the development. It is also outlined in the ES that as the annual mean PM10 concentrations are below the objective, it is unlikely that the 24-hour mean PM10 objective will be exceeded at any of the receptors. The percentage change in both PM10 and PM2.5 concentrations are also predicted to be zero (when rounded to the nearest whole number) at all of the receptors and as such the impacts would be described as negligible and not significant in EIA terms.

With regards to the 2032 scenario the annual mean nitrogen dioxide concentrations would remain below the objective at all of the receptors with or without the proposed development. The percentage changes in concentration are also predicted to be 0% (when rounded to the nearest whole number) at all receptors and as such the impacts would be negligible and not significant in EIA terms. The results of the worst-case sensitivity test would not materially alter the above conclusion.

In the 2032 scenario the annual mean PM10 and PM2.5 concentrations would not be materially different to those in the 2022 scenario with the concentrations remaining below the relevant criteria at all receptors with or without the development. On this basis the impacts would remain negligible and not significant in EIA terms.

Mitigation in terms of the operational phase would be limited to those measures designed to minimise employees' reliance on single occupancy vehicles through any proposed public transport strategy and travel plan(s) as outlined in the *Means of Access, Highways and Transportation* section of this report above.

Even when assessed cumulatively with other developments the conclusions reached within the ES, as outlined above, would remain the same as such developments have been accounted for within the TA with the Castle Donington Relief Road also being taken into account.

Officer Conclusion in Relation to Air Quality

The District Council's Air Quality Officer has assessed the relevant information within the ES and has raised no objections to the application. On this basis it is considered that the proposal would be acceptable in relation to Policies D2 and En6 of the adopted Local Plan and Paragraph 181 of the NPPF (insofar as they relate to this particular issue).

**Loss of Agricultural Land**

In terms of the loss of agricultural land, Paragraph 170 of the NPPF outlines that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the Best and Most Versatile (BMV) agricultural land. Footnote 53 to Paragraph 171 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. BMV agricultural land is defined as that falling within Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). Policy En6 of the adopted Local Plan outlines that *"development should avoid unacceptably adverse impacts upon soils of high environmental value (for example wetland and other special soils) and ensure that soil resources are conserved or managed in a sustainable way."*

An Agricultural Land Classification Survey (appendix 13.1 of the Environmental Statement (ES) - dated June 2018) was submitted in support of the application and this outlined that the development would result in the loss of 36 hectares of agricultural land, of which 35.5 hectares would comprise 'good' quality land and therefore would fall within the definition of BMV as outlined within the NPPF.

In their original consultation response Natural England (NE) outlined that the development would impact on land recognised as being BMV agricultural land and consequently further information was required in order to determine the significance of the impacts and whether they could be appropriately mitigated. Specifically, it was necessary for information in relation to soil pit profiles and whether the land was still under aftercare, following its restoration from gravel extraction, to be provided. Soil pit profiles were important as a means of assessing the structural characteristics of the soil as well as its droughtliness and wetness limitations.

In order to address the comments of NE a revised Agricultural Land Classification Survey has been submitted (dated October 2020) which has taken into account further studies in relation to the chemical properties of the Pulverised Fuel Ash (PFA) which was used in the restoration of the site following the cessation of the gravel extraction. The conclusions of the revised report are that of the 36 hectares of agricultural land the chemical and other limitations would result in 28.7 hectares being rated Subgrade 3b with the remaining 7.3 hectares (accounting for 17% of the application site) being Grade 2 and Subgrade 3a.

Following reconsultation on this information NE have raised no objections with it being outlined that as the BMV would now be below 20 hectares there is no requirement to consult with them.

Whilst the NPPF does not suggest that the release of smaller BMV sites is acceptable, the magnitude of loss of agricultural land is considered to be low where less than 20 hectares of BMV would be lost. Given that the amount of BMV to be lost now equates to 7.3 hectares it is

considered that a reason to refuse the application in the context of criteria (b) of Paragraph 170 of the NPPF, as well as Policy En6 of the adopted Local Plan, could not be substantiated.

### **Ecology**

Policy En1 of the Local Plan presumes in favour of development that would conserve, restore or enhance biodiversity, and that proposals that would result in significant harm to a number of protected sites or areas will be refused unless that harm is unavoidable, and can be mitigated or compensated for. Similar principles are outlined in Paragraphs 170 and 175 of the NPPF as well as Circular 06/05.

The submitted Environmental Statement (ES) includes a detailed assessment of the ecological implications of the proposed development on various receptors of ecological value, informed by a range of ecological appraisals, surveys and reports, and including in respect of various protected species. In addition to assessment of the anticipated impacts, mitigation measures are also proposed. The above reports form appendices 10.1 to 10.5 of the ES.

In their original comments the County Council Ecologist outlined that, in principle, there were no objections to the scheme given the current arable land use was of low ecological value and that any impacts to ecological species were mitigatable. It was also indicated that the proposal offered an opportunity for significant habitat creation and enhancements within the western areas of the site (identified as Zones E and F on the submitted Parameters Plan), which would result in a net gain in biodiversity as required under the NPPF. However, the following issues were raised by the County Council Ecologist which required further details to be provided:

#### *LCC Ecologist Assessment of Impacts to Local Wildlife Site Grassland, Habitat Compensation and East Midlands Airport*

The main concern was the loss of a species-rich roadside verge alongside Rycroft Road, designated as a Local Wildlife Site (LWS), which would be due to the widening of Rycroft Road so as to create access into the site. Its loss would be accepted by the County Council Ecologist should the habitat creation result in equivalent quality with regards to species composition. However, the County Council Ecologist raised caution in respect of East Midlands Airport Safeguarding (EMAS) Bird Strike Policies preventing the provision of suitable habitat creation and therefore it was important for EMAS to be engaged to ensure that the habitat creation proposed would meet the standards of a LWS. In conclusion it was advised by the County Council Ecologist that if the habitat creation did not meet LWS standards they would object to the proposed development.

The County Council Ecologist also outlined that the impacts on Hemington Slurry Lagoon LWS were not clear in relation to whether this would be impacted by the proposed flood protection and management arrangements.

Discussions were held between the applicant and EMAS in respect of the grassland habitat creation and following publication of the notes to the County Council Ecologist they are satisfied that the grassland to be created would meet LWS criteria. Conditions would be imposed on any permission granted to ensure that the grassland is created, with the parameters plan being updated to outline that zones E and F would be where such mitigation would be provided (i.e. they are now identified as biodiversity mitigation/compensation areas).

#### *LCC Ecologist Assessment of Impacts to Great Crested Newts*

The County Council Ecologist outlined that a small population of Great Crested Newts (GCNs)

were present in a drainage ditch along the northern site boundary and extending into a watercourse running south from this boundary. This was an unexpected recording within the River Trent flood plain as GCNs are not normally found in ditches, due to them being averse to flowing water, and as such their presence would suggest another population of GCNs was nearby. On this basis the County Council Ecologist considered that the off-site ponds may support a colony of GCNs.

Whilst this may be the case the County Council Ecologist outlined that the habitat creation within zones E and F (as identified on the Parameters Plan) would adequately buffer any GCNs found in the off-site ponds, albeit construction impacts would likely arise.

In terms of the GCNs on-site the County Council Ecologist outlines that they are at risk from the development, during construction as well as afterwards due to unspecified hydrological changes, with there being the potential that fish from the adjoining ponds enter the ditch which would threaten the GCN population. Whilst this is the case the impacts would be mitigatable by relocating the newts to the ponds which would be created in zones E and F, this being as recommended by the applicant's ecologist, and should be carried out in accordance with a European Protected Species (EPS) licence.

Following this, the status of GCNs on the site should be kept under review.

Notwithstanding the above the County Council Ecologist did raise concerns in respect of the GCN mitigation proposals which were not informed by surveys of the off-site ponds. That being said the County Council Ecologist did stipulate that their approach, when insufficient survey evidence is presented in respect of GCNs, is to recommend mitigation suitable to a medium-sized local GCN population which would be possible due to the extent of mitigation proposed within the red-line of the application site boundary. Taking this approach, the County Council Ecologist advised that a new GCN pond and additional GCN habitat should be created given that this would reduce the risk of the GCN population being preyed on by fish as well as adverse impacts from the flooding of the River Trent. If such commitments were made by the applicant, the County Council Ecologist could withdraw their concerns in this respect.

The applicant's ecologist has identified that a GCN pond would be included as part of the mitigation proposals and the County Council Ecologist recommends that this should also be conditioned on any permission to be granted.

#### LCC Ecologist Assessment of Impacts to Other Protected Species

The applicant's ecologist identified an outlier badger sett which the County Council Ecologist considered would be lost. However, as this was not a significant sett the County Council Ecologist did not have any objections to the closure of the sett, under licence, should this be necessary.

Several barn owl pellets were identified against the base of a tree, alongside the watercourse through the site, which would be lost to facilitate the development. As the tree only accommodates roosting of birds, rather than being a nesting site, the County Council Ecologist does not object to its removal subject to approval of an appropriate mitigation plan.

The status of badgers and barn owls will need to be kept under review and repeat surveys submitted prior to commencement of works on each phase. The County Council Ecologist has no objections to such an approach to mitigation.

Whilst a moderate level of bird and bat activity was noted, the County Council Ecologist has concluded that the compensation proposed within zones E and F (of the parameters plan) would mitigate for the impacts of the development particularly given the disturbance already caused as a result of the proximity of the site to major roads and other development.

There was no evidence of reptiles, water vole or otter found on the site although in respect of water voles the Environment Agency (EA) identify in their comments that water voles are known to rapidly colonise suitable sites and therefore a condition, as outlined in the recommendations of the Water Vole and Otter Survey, should be imposed so that a further precautionary survey is undertaken prior to the development commencing in order to ensure that any impacts to water voles (if found to be present) can be mitigated.

For their part Natural England have raised no objections to the application.

### Officer Conclusion in Relation to Ecology

Under Regulation 55 of the Conservation of Habitats and Species Regulations 2017 ("Habitat Regulations"), activities which would otherwise contravene the strict protection regime offered to European protected species under Regulation 43 can only be permitted where it has been shown that the following three tests have been met:

- The activity must be for imperative reasons of overriding public interest or for public health and safety;
- There must be no satisfactory alternative; and
- The favourable conservation status of the species in question must be maintained.

Case law sets out that Local Planning Authorities must engage with these three tests at the planning application stage and demonstrate that they are satisfied that the three tests have been met prior to granting planning permission. In this case, it is considered that the tests would be met as (i) for the reasons set out under the *Approach to Determination and Principle of Development* section of this report above, it is considered that (subject to being acceptable in planning terms) the site needs to be released for the proper operation of the planning system in the public interest; (ii) the works affecting the protected species would be necessary to enable the development to proceed in a logical/efficient manner; and (iii) the proposed mitigation measures would satisfactorily maintain the relevant species' status. It is therefore considered that the proposal would meet the requirements of the Habitat Regulations in respect of protected species, and would also comply with this element of Policy En1 of the adopted Local Plan.

In conclusion it is considered that the proposed development, subject to the imposition of the recommended conditions of the County Council Ecologist and EA, would be compliant with Policy En1 of the adopted Local Plan, Paragraphs 170 and 175 of the NPPF and Circular 06/05 (insofar as they relate to these particular issues).

### **Landscaping**

An arboricultural assessment (appendix 11.4 of the submitted Environmental Statement (ES)), identifies that 24 individual trees, 12 groups of trees and 10 hedgerows are present on the site. Of the individual trees only one (T17) would be rated category B (tree of moderate quality with an estimated life expectancy of at least 20 years), the remainder are either category C (trees of low quality - a total of 21) or category U (trees which cannot be retained as part of the development - a total of 2). In terms of the groups of trees and hedgerows all would be rated category C with the exception of 1 group of trees (G8) which would be category U.

The arboricultural impact assessment (AIA) outlines that the following landscaping would be impacted on by the development:

- G10 (a mixture of species) - a section would be removed to facilitate the provision of the vehicular access onto the existing roundabout junction at Station Road.
- G12 (a mixture of species) - a section removed to facilitate the provision of the vehicular access off Rycroft Road.
- H8 (a mixture of species) - a section removed to facilitate access through the site.
- T10 (Crack Willow), T11 (Crack Willow), T12 (Crack Willow), G4 (all Goat Willow) and G5 (a mixture of species) - removed to facilitate the alignment of the site.
- T1 (Ash) and T14 (Ash) - removed due to their poor physical condition.

It would be possible to retain all other landscaping as part of the development given that it is predominately located to the site boundaries.

Whilst acknowledging that the layout of the development is not for approval at this stage it is considered that the parameters plan has identified the zones within which the development would be located (and this plan would be conditioned on any permission granted) and as the majority of the landscaping is to the site boundaries it is considered that it would not be unduly impacted on as a result of the provision of the built infrastructure. Conditions would also be imposed on any permission granted which would require a further AIA to be submitted as part of a reserved matters application, which shall include a site specific management and protection scheme for retained landscaping, so as to ensure the conclusions reached in the current AIA are adhered to.

Given that the landscaping to be removed in its entirety is not of a high quality and is limited to 5 individual trees and two groups of trees, it is considered that its loss to facilitate the development would be acceptable. Such loss would also be mitigated by landscaping which would be provided as part of the development and which would be subject to an assessment at the reserved matters stage, when a precise landscaping scheme is submitted.

Overall, the proposal would be considered compliant with Policies D1 and En3 of the adopted Local Plan (insofar as they relate to this particular issue).

### **East Midlands Airport Safeguarding**

As part of the consideration of the application East Midlands Airport Safeguarding (EMAS) have been consulted and have raised no objections subject to the imposition of conditions on any permission granted. Such conditions would seek to ensure that the landscaping strategy and flood risk/drainage proposals do not conflict with the bird strike policies of EMAS, that a glint and glare assessment is undertaken to ensure that construction materials, glazing and any renewable energy installations (such a solar panels) do not cause a hazard to aviation safety, that any lighting is shielded and capped to prevent horizontal light spill and that robust dust suppression methods are adopted during the construction phase.

EMAS have also recommended that notes to the applicant be imposed which would require separate permits to be issued should the applicant wish to use tall equipment on the site, such as cranes, as well as for the use of radio frequencies.

As is outlined in the *Ecology* section above the applicant held discussions with EMAS to ensure that they would not object to the creation of grassland habitat which would meet a Local Wildlife Site (LWS) standard, so as to compensate for that lost and to meet the requirements of the

County Council Ecologist, and it has been confirmed by EMAS that they have no objections in this respect.

Overall, it is considered that the requested conditions, as well as the notes to the applicant, would be reasonable so as to ensure the safe operation of the East Midlands Airport and subject to their imposition the proposal would accord with Policy Ec5 of the adopted Local Plan (insofar as they relate to this particular issue).

### **Ground Conditions**

Policy En6 of the adopted Local Plan sets out the approach for determining proposals for development on land that is (or is suspected of being) subject to land instability issues or contamination.

Chapter 14 of the ES addresses Ground Conditions and is supported by a Phase 1 Desk-Study (appendix 14.1 of the ES).

It is outlined within the ES that the disturbance of the ground surface as a result of the construction of the development could lead to the release of contaminants within dust which could impact on human health. Disturbance of the fill material could also result in hazardous ground gases or vapours which may be present being released. At this time no ground gas or vapour monitoring of the site has been undertaken.

Whilst such impacts have been identified the ES considers that they could be appropriately mitigated and as part of the consideration of the application the District Council's Contaminated Land Officer has not raised any objections to the application subject to the imposition of conditions on any permission granted. Such conditions would require the submission of a risk-based land contamination assessment and relevant remedial and verification assessment.

Subject to the imposition of such conditions it is considered that the risks to human health would be appropriately mitigated and therefore the development would be compliant with Policy En6 of the adopted Local Plan as well as Paragraphs 178 and 179 of the NPPF (insofar as they relate to this particular issue).

### **Developer Contributions**

A request has been made for Section 106 contributions towards transportation. This request has 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 requested development contribution is listed below.

#### *Transportation*

Leicestershire County Council Highways Authority have requested the following contributions/obligations:

- A bus service or services will be required to serve bus stops on the site access road from first occupation. Services, providing access to/from settlements and East Midlands Airport, should provide the following minimum level of service:
- Hourly between 07:00 and 19:00 hours (Mon-Fri), 08:00 and 18:00 (Sat) and as appropriate at other times to coincide with major shift pattern changes outside of those times.

- Provision of travel packs to be provided to each employee in accordance with details first agreed with the CHA (or payment of £52.85 per employee to Leicestershire County Council for the CHA to provide these on the applicant's behalf);
- Provision of 6 month employee bus passes per employee (or payment of £360 per pass to Leicestershire County Council for the CHA to provide them on the applicant's behalf);
- Payment of a framework travel plan monitoring fee of £11,337.50 to the Leicestershire County Council;
- Appointment of a Travel Plan Coordinator from the commencement of the development until 5 years after first use; and
- A construction traffic routing agreement.

These contributions are considered to meet the relevant tests identified above and the securing of these contributions will assist in mitigating the impacts on the development on the highway.

No other contributions have been requested and the applicant is agreeable to paying/meeting the relevant contributions.

Should members be minded to approve this application, these requests would be secured through a Section 106 agreement.

Subject to these contributions being secured within a Section 106 agreement the proposed development would be compliant with Policy IF1 of the adopted Local Plan and Paragraphs 34, 54 and 56 of the NPPF.

### **Design**

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

As part of the submission of the application a Design and Access Statement has been provided which includes an indicative masterplan. It is, however, acknowledged that the proposed scheme is in outline form only, with all matters other than part access reserved for later consideration.

The illustrative images within the Design and Access Statement indicate that the proposed units are likely to take the form of most modern industrial buildings in the area (i.e. a steel frame which would be clad, along with window openings largely confined to any office areas within the units), with the indicative masterplan suggesting that car parking would be provided to the frontage of the units with lorry parking and the servicing areas being to the side or rear of the proposed units.

Given the visibility of the proposed development it would be important to ensure that the units are designed and orientated in a manner which satisfactorily addresses the streetscape whilst also ensuring that off-street parking does not dominate the frontage of the units, i.e. the off-street parking for cars and the potential service and lorry parking areas should be kept separate. Such an approach would respond to the District Council's aspirations for the design of built development as outlined in Policy D1 of the adopted Local Plan and the Council's adopted Good Design SPD.

In terms of settling the buildings into the landscape it is considered that it would be important at the reserved matters stage, should outline permission be granted, to ensure that an appropriate earthworks strategy is followed so as to lessen the overall visual impact given the height of the

units proposed. The submission of an appropriate landscaping strategy, as discussed in the *Landscaping* section of this report below, would also be important.

Overall, and from an 'in principle' perspective, it is considered that at the reserved matters stage it could be ensured that the appearance, layout and scale associated with the development responds positively to the design principles outlined in Policy D1 of the adopted Local Plan, the Council's adopted Good Design SPD and Paragraphs 124 and 127 of the NPPF (insofar as they relate to this particular matter).

### **Climate Change**

Paragraph 150 of the NPPF provides that new development should be planned for in ways that avoid increased vulnerability to the range of impacts arising from climate change, and can help to reduce greenhouse gas emissions, such as through its location, orientation and design.

Whilst no specific chapter within the Environmental Statement (ES) addresses climate change the applicant has submitted an Energy Efficiency & Sustainable Development Report (EESD) by Synergy Building Services as well as a statement outlining how the applicant would be committed to delivering a development which met a 'Building Research Establishment Environmental Assessment Method (BREEAM) Excellent' standard.

The BREEAM targets identified by the applicant in their statement, so as to meet an 'Excellent' standard, would comprise the following:

- Photovoltaic panels (potential to reduce carbon emissions within the building by 20%);
- Energy Performance Certificate (EPC) A+ (targeting an energy performance of A+ (very efficient) for all buildings);
- Air source heat pumps (a system to provide both office heating and cooling plus hot water generation);
- Sophisticated controls (installed as a standard for heating, ventilation and lighting);
- Building fabric (enhancement of the thermal performance of the buildings so as to provide betterment to that required by building regulations);
- Solar control (implementing solar control glazing, brise solei and static solar control so as to reduce the need for mechanical cooling);
- Electric vehicle charging (commitment to providing EV charging points for each building);
- Industry leading mechanical and electrical efficiency (focusing on LED lighting, heating, ventilation and hot water generation so as to provide enhancements above building regulations);
- Health and wellbeing (focusing on fitness trails, amenity space and community orchards);
- Park recycling (providing a hub where all occupiers can dispose of recyclable materials so as to reduce on-site traffic);
- Enhanced public transport (providing a strategy for public transport);
- Reduced water consumption (reducing waste-water within each building by 40%);
- Car sharing promotion (promotion of a car sharing scheme and provision of dedicated parking spaces for car sharers); and
- Green energy (using third party green energy providers who produce their electricity from zero-carbon sources).

The applicant has also specified a 'Net Zero Carbon' commitment whereby the carbon emitted will be offset by the generation of electricity on-site using photovoltaic panels mounted on the roof of each unit. Such generation would 1) reduce, and at certain times eliminate, the amount of energy which has to be imported from the grid and 2) at times generate a surplus which will

be exported to the grid for use elsewhere. In order to demonstrate that the scheme is 'carbon neutral' the applicant will need to outline that the PV system generates a greater amount of electrical energy annually than is used on-site.

Further measures of how the applicant would commit to both carbon dioxide and environmental impact reduction are also identified in the EESD and whilst these generally the same as those identified above the following are noted:

- Structured landscaping proposals;
- Solar street lighting;
- Sustainable urban drainage systems (SuDS); and
- Increasing natural light into warehouse areas so as to reduce electrical lighting loads by having roof lights on 15% of the roof surface.

There is also a commitment to a minimum of a 10% net gain in biodiversity as part of the proposed development and this is discussed in more detail in the *Ecology* section of this report above.

It is accepted that these measures would (where applicable) assist the development in terms of its performance under those sections of Policy D1 of the adopted Local Plan relating to subsection (2) (positively addressing the Council's Place Making principles (and, in particular in terms of the greener footprint criterion)) and subsection (5) (new development having regard to sustainable design and construction methods).

Overall, it is considered that the effects in terms of climate change would not be significant and that appropriate mitigation, including the implementation of the measures identified above, would assist in ensuring the development appropriately tackled climate change. In this respect a condition would be imposed which would require the proposed development to meet the BREEAM 'Excellent' standard as committed to by the applicant.

On this basis the proposed development would perform well against Paragraph 150 of the NPPF.

## **Other Matters**

### Local Finance Considerations

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that, in dealing with an application for planning permission, a Local Planning Authority shall have regard to any local finance considerations, so far as material to the application. Section 70(4) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received, or will or could receive, in payment of the CIL. The Council is not a CIL charging authority.

The MHCLG's Planning Practice Guidance indicates that whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms, and states that it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body. It also provides that, in deciding an application for planning permission or appeal where a local financial consideration is material, decision takers need to ensure that the reasons supporting the decision clearly state how the consideration has been

taken into account and its connection to the development.

The submitted Socio-Economic Benefits Statement indicates that the proposed development would generate up to £2 million in annual business rates once fully occupied.

Business rates are collected by the District Council and, under current legislative requirements, 50% of these rates collected is passed to central government. Central government then uses these payments, along with others, to provide grants / financial assistance to local authorities. Whilst attention is drawn by the applicant to the business rates generated (and notwithstanding the Planning Practice Guidance advice on the weight that could be attracted to such a consideration in the event it was material), it is considered that the business rates generated would not constitute a local finance consideration material to the application pursuant to Section 70 of the Town and Country Planning Act 1990 (as amended). The business rates generated would not make the development acceptable in planning terms. Therefore, officers recommend that no weight be given to the business rates generated as it would not be a material consideration to which regard would need to be had under Section 70(2) in the determination of this planning application. The PPG states that it is not appropriate to make a decision based on the potential for the development to raise money for a local authority or other Government body.

South Derbyshire District Council Comments

Whilst South Derbyshire District Council (SDDC) have not raised any objections to the application they did comment on whether the proposal would impact on the deliverability of employment schemes within South Derbyshire and Derby City.

The applicant has outlined that they are involved in a range of employment schemes in South Derbyshire and Derby including receiving outline consent for 5,946 square metres of employment units as part of a mixed development at Hilton, the promotion of a site through the South Derbyshire Development Plan at Findern for a major employment development and have received consent for 60,387 square metres of employment accommodation as part of the 'Derby Triangle Scheme' in Derby. Given this approach by the applicant they are content to invest in both Leicestershire and Derbyshire.

It is also the case that the employment market in Leicestershire is different to that within Derbyshire due to the points of demand around the M6 and M1 Axis and A42/M42 Corridor which intersect around the site but excludes the A50, A38 and links towards Stoke which are a separate market. As outlined above the applicant is content to invest across all areas (as demonstrated by the consents they have received) and there is no reason to suggest that other developers would think differently.

On this basis there is no evidence to suggest that investment in South Derbyshire and Derby City would be hindered should outline planning permission be granted for the proposed development.

Leicestershire County Council Minerals Authority

Leicestershire County Council, as the Minerals and Waste Planning Authority, has identified that the application site lies within a mineral safeguarding area for sand and gravel and therefore Policy M11 of the Leicestershire Minerals and Waste Plan would be of relevance. Although within a safeguarded area the County Council Minerals Planning Team have outlined that the application site has previously been worked for sand and gravel and subsequently restored, on this basis they have no objections to the application.

On this basis there is no conflict with the Leicestershire Minerals and Waste Plan.

Contribution to Sustainable Development

The NPPF contains a presumption in favour of sustainable development. Having regard to the three objectives of sustainable development, it is concluded as follows:

*Economic Objective:*

Whilst it is acknowledged that the existing identified shortfall in respect of employment land does not specifically relate to the use classes to which this proposal relates, it is nevertheless considered that the proposals would perform reasonably well in this regard, contributing to continued economic growth by virtue of the inward investment and job creation which would arise.

*Social Objective:*

The economic benefits associated with the proposed development would, by virtue of the social effects of the jobs created on those employed in association with the development, also be expected to provide some social benefits and, hence, the impacts of the proposed scheme would also be considered to be positive insofar as the social objective is concerned.

*Environmental Objective:*

Whilst the site is relatively well served in terms of public transport, and has the potential to contribute positively towards the movement towards a low carbon economy, the proposals would result in the development of a site which is identified as countryside in the adopted Local Plan and, furthermore, the proposals would result in a significantly adverse impact on the appearance and character of the landscape thereby not safeguarding or enhancing such landscape whilst also resulting in the provision of buildings which would not be physically integrate with existing development or buildings within the area.

Having regard to three objectives of sustainable development, therefore, and having regard to the conclusions in respect of various technical issues above, it is accepted that the contribution to the economic growth, associated with the proposed development, coupled with the role played in contributing to the employment land supply, would ensure that the scheme would sit well in terms of the economic and social dimensions. However, insofar as the environmental objective is concerned, it is considered that significant harm would result, and particularly in terms of the development of land outside the Limits to Development, in conflict with the policies of the development plan.

**Conclusion**

As set out above, whilst the proposed development would contribute towards the supply of employment land, and whilst it is acknowledged that, in terms of a number of technical issues, the scheme would be satisfactory, the scheme would result in the development of land outside the Limits to Development as defined in the adopted Local Plan.

Whilst, given the overall shortfall in employment land allowed for in the Local Plan vis-à-vis the requirement identified in the Housing and Economic Development Needs Assessment (HEDNA) (albeit that the principal shortfall would be in respect of B1(a) (offices) and B1(b) (research & development) (which are both now within Class E), the adopted Local Plan allows in principle

the development of sites outside the Limits to Development for employment purposes where an immediate need or demand is demonstrated. This is subject to a number of criteria including the requirement within Policy S3 that development outside the Limits to Development should safeguard and enhance the appearance and character of the landscape, as well as criteria within Policy Ec2(2) that new employment development should not be detrimental to the wider environment.

It is considered that the proposed development would have a significantly adverse impact on the appearance and character of the landscape by virtue of the placement of large scale buildings in a generally open and partly rural landscape with such scale of buildings being discordant with existing infrastructure around the site. Such impacts would result in the landscape effects being major adverse to moderate which would be significant in EIA terms and would not be mitigated by the proposed landscaping infrastructure. As such there would be direct conflict with criteria (i) of Policy S3 by virtue of the appearance and character of the landscape not being safeguarded or enhanced. Such a significantly adverse impact on the appearance and character of the landscape would also result in the development being detrimental to the amenities of the wider environment in direct conflict with criteria (c) of Policy Ec2(2).

To a lesser extent the proposed development would also be contrary to criteria (iv) of Policy S3 due to the detachment of the built infrastructure from that within the neighbouring settlements not leading to it not being well integrated with existing development and buildings.

When having regard to the economic and social benefits of the scheme in the overall planning assessment, it is considered that the planning judgement would be finely balanced. Nevertheless, such positive social and economic benefits, or other material planning considerations, would not offset the environmental harm arising from the significantly adverse impacts on the appearance and character of the landscape and detriment to the wider environment as well as the failure of the development to integrate with existing development and buildings. As such it is considered that the proposed development would not meet the requirements of Policies S3 and Ec2 of the adopted Local Plan, nor the strategy within the adopted Local Plan as a whole.

It is therefore recommended that the outline planning permission be refused.

**RECOMMENDATION - REFUSE, for the following reason;**

- 1 Paragraphs 7 and 8 of the National Planning Policy Framework (NPPF) require that the planning system contributes towards the achievement of sustainable development, and set out the environmental objective of sustainable development, including its contribution to protecting and enhancing our natural environment. Paragraph 170 of the NPPF provides that planning decisions should recognise the intrinsic character and beauty of the countryside. The application site falls outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan (Local Plan). Whilst Policy Ec2 of the adopted Local Plan allows for new employment development in locations not otherwise identified for employment use in the adopted Local Plan, this is subject to the proposals not being detrimental to the wider environment. Policy S3 allows for employment development outside the Limits to Development in accordance with Policy Ec2 and subject to a number of other criteria, including a requirement that such development safeguards and enhances the appearance and character of the landscape (criteria (i)) and that built development is well integrated with existing development and buildings (criteria (iv)). The application proposes the development of land outside the Limits to Development and would have a significantly adverse impact on the appearance

and character of the landscape and would also be detrimental to the amenities of the wider environment. It would also result in the formation of development which would not be integrated with existing development and buildings due to its detachment from those buildings within the area.

Approval would therefore be contrary to criteria for such development as set out within Local Plan Policies S3 and Ec2(2) of the adopted Local Plan, not constituting sustainable development, and contrary to the policies and intentions of the NPPF.

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## Consultation Response from Planning Policy Team

19/01496 | Land South Of Junction 1 Of The A50 Castle Donington Leicestershire.

Development of up to 92,500 sqm GIA of storage and distribution units (B8), industrial units (B2) and light industrial units (B1c); service yards and parking areas; new vehicular accesses off Trent Lane / Station Road and Ryecroft Road with associated earthworks, drainage and attenuation features and other associated works (outline, all matters reserved except for the principal means of vehicular access to the site).

### Comments

The proposal is for a development of up to 92,500sqm of B8, B2 and B1c development on a site with a developable area of some 20ha (as amended). The description of development and the submitted masterplan do not specify a unit mix. The supporting documents suggest that the development will focus on a mix of unit sizes of between 9,000-15,000sqm and in this regard it will provide for strategic-scale B8 which is categorised as units of 9,000sqm and above. It will also be capable of providing a broader range of unit sizes and can incorporate up to 20% of (former) B1c/B2 uses (<18,500sqm). There are no named end users; the applicant proposes to build the units speculatively to meet immediate market requirements.

The NPPF (2019) emphasises the role that planning should play in building a strong, competitive economy. It requires that;

*“Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development” (paragraph 80).*

It goes on to direct that decisions on planning applications should take account of different business sector needs and in this context it highlights the logistics sector specifically;

*“Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for.....storage and distribution operations at a variety of scales and in suitably accessible locations.”(paragraph 82).*

The application site is outside the limits to development as defined in the adopted Local Plan (2017) and it thereby falls within the countryside in accordance with Policy S3. This policy lists the circumstances when development in the countryside will be supported including at criterion (s) the provision of employment land in accordance with Policy Ec2 – New Employment Sites. The second section of Policy Ec2 describes the circumstances when development will be acceptable as follows;

*Where evidence indicates an immediate need or demand for additional employment land (B1, B2 and B8) in North West Leicestershire that cannot be met from land allocated in this plan, the Council will consider favourably proposals that meet the identified need in appropriate locations subject to the proposal:*

The policy then goes on to list three site-specific characteristics (a, b and c) which should also be met. If the requirements of Ec2(2) are met, the development is also required to accord with the further site-specific criteria (i) to (vi) of Policy S3.

Policy Ec2(2) states that immediate need or demand for additional B class employment land must be demonstrated. ‘Immediate’ in this context can be interpreted as meaning ‘arising now’. ‘Need’

correlates to a policy requirement identified through the plan-making process to ensure that the future needs of an area are adequately addressed. ‘Demand’ could be in the form of a request from potential future users or could be to address a gap in the supply of premises in the district. In other words it relates to ‘market demand’. The policy requires need or demand to be demonstrated; it is not necessary to demonstrate both.

### **Employment Land Supply**

The proposals will provide for strategic-scale B8 (defined as units of 9,000sqm and above) and, potentially, a proportion of (former) B1c/B2 uses.

**Note** – changes to the use classes order came into effect on 1<sup>st</sup> September 2020. Uses which previously fell within the B1 use class now fall within the new Use Class E along with shops and cafes/restaurants. Use Classes B2 and B8 are unaffected by these recent changes.

It is understood that applications submitted before 1<sup>st</sup> September 2020 (such as this one) should be determined on the basis of the old use classes. Commentary on the implications of the changes for this application is included at the end of this advice.

This advice will continue to refer to the old use classes so that it is consistent with the studies and reports that it relies upon.

### **Need for B class land (excluding Strategic B8)**

The district’s need for new B class land (excluding strategic B8) for the period 2011-31 was quantified in the Housing & Economic Development Needs Assessment 2017 (HEDNA)<sup>1</sup>. These requirements are expressed as minimum requirements. Based on this assessment and the monitoring of completed and committed developments since 2011, the need/supply position at April 2020 is as follows;

	<b>B1a/b (Ha)</b>	<b>B1c/B2 (Ha)</b>	<b>Small B8(Ha)</b>	<b>TOTAL (Ha)</b>
HEDNA requirements 2011-2031 (excluding strategic B8)	44.7	3.3	16.8	64.8
Completions 2011-2020	8.1	2.7	8.9	19.7
Under construction at 31st March 2020	1.5	0.5	0.1	2.1
Allocated	5.3	5.3	5.3	15.9
With permission at 31st March 2020	10.2	12.2	14.6	37.0
Residual requirement up to 2031	19.6	-17.4	-12.0	-9.8
Allowance for potential loss of employment land				10.0
<b>Residual requirement up to 2031</b>	<b>19.6</b>	<b>-17.4</b>	<b>-12.0</b>	<b>0.2</b>

Based on the above, there is an over-provision of land for both B1c/B2 and small scale B8 and an under-provision of land for B1a/b. Taken collectively, and when an allowance for the potential loss of existing employment sites to other uses is factored in, this leaves a small net requirement of 0.2ha. In December 2020, Planning Committee resolved to grant permission for B class uses on land at Stephenson Way, Coalville (20/00330/FULM) subject to the completion of a s106 agreement.

<sup>1</sup> The requirement figures are those found in tables 80 and 82 of the HEDNA. Table 83 of the HEDNA rounds these to whole figures

Assuming the agreement is signed, this would add 3.31ha supply to the above figures and the residual requirement would turn to an overall surplus of 3.1ha.

The current application does not include offices (B1a/b) as one of the potential uses so it will not address the shortfall in the supply of those type of premises.

The application could contribute up to 18,500sqm (est. 4.1ha) of B1c/B2 which, if permitted, would result in a small overall surplus of 3.9Ha (equating to 5%) over the minimum requirement set out in the HEDNA . With the inclusion of the Stephenson Way application as well, this would become 7.2ha (equating to 9.6%).

#### Strategic B8 needs

Strategic B8 is categorised as warehousing/distribution units of 9,000sqm and above. The Leicester and Leicestershire Strategic Distribution Study (2016 update) assesses the need for additional strategic B8 land and it presents the findings on a county-wide basis. The table below shows these requirements (road and rail combined) and the supply which has been achieved in this district since 2011 (completions, under construction and consents). These figures include the ex-Lounge site which has an extant planning permission dating from 2012.

<b>A</b>	<b>Strategic B8 requirement 2011 – 2031 (HMA wide)</b>	<b>361.0 Ha</b>
B	Strategic B8 requirement 2011 – 2036 (HMA wide)	472.0 Ha
C	NWL strategic B8 Completions April 2011 - April 2020	115.5 Ha
D	NWL strategic B8 Under construction at 31st March 2020	146.5 Ha
E	NWL strategic B8 With permission at 31st March 2020	159.9 Ha
<b>F</b>	<b>NWL strategic B8 Total provision (C+D+E)</b>	<b>422 Ha</b>
<b>G</b>	<b>Residual requirement (HMA wide) 2011-2031 (A-F)</b>	<b>-61.0 Ha</b>
H	Residual requirement (HMA wide) 2011 – 2036 (B-F)	50.0 Ha

This shows that the level of provision in NWL alone exceeds the requirements to 2031 without taking into account the supply in the other districts/boroughs. Growth of the sector has surpassed what was forecast at the point the Study was undertaken and could be taken as an indicator of the strength of the market. Importantly, the Study signals that the need figures should be viewed as minimum requirements and should not be treated as a cap on provision.

Therefore, the need/supply position described above for both B1c/B2 uses and strategic B8 uses are not, on their own, sufficient to rule out the proposed development. Further, the test in Ec2(2) is to demonstrate need or demand, not both.

The Strategic Distribution Study (2016) identified a number of Key Areas of Opportunity (KAO) across Leicester & Leicestershire. These were defined by having regard to a series of criteria to define “*areas across Leicestershire [and the East Midlands region] where new commercially attractive logistics sites should be located*”. Within North West Leicestershire 3 KAOs were identified:

- KAO C - East Midlands Airport to south Derby corridor (rail and road served)
- KAO E - M1 North corridor (road served)
- KAO F - M42/A42 corridor (road served)

The application site is located within KAO C. It is within a key transport corridor identified as attractive to the market as well as being well related to the M1 and M42/A42 corridors denoted as

KAO E and F respectively. Further, the Study went on to distinguish between the 'Best KAO' and 'Good KAO'. KAO C was included in the 'Best' category.

This area has already been the focus of significant development activity, including the East Midlands Gateway where Segro is in the process of delivering 557,400sqm of strategic B8 floorspace and East Midlands Distribution Centre where there is consent for some 53,000sqm of strategic B8 (which are included in the supply figures above). The application site falls within an established area for strategic distribution where the market is keen to locate and where there is a pipeline supply of land with planning permission. The extent to which this pipeline supply matches segment of market demand which this application purports to target is explored in the next section.

## **Demand**

G L Hearn (/Iceni) was commissioned by the council to provide an evaluation of the employment land evidence submitted with the application. The consultants were asked to conclude whether the proposal meets the demand test in the first part of Policy Ec2(2) (as quoted above). The assessment looked at;

- The strategic distribution market (units >9,000sqm)
- The specific segment of the market that the development intends to target- units of 9,000-15,000sqm
- The more local market for B1c/B2 units

With respect to the strategic distribution market GLH found the following;

- North West Leicestershire sits within the 'golden triangle' in the country where there is a concentration of large-scale warehousing premises serving the national distribution network. Historically, demand from the logistics sector has been high in Leicester and Leicestershire and more recently there has been considerable activity in North West Leicestershire specifically including at East Midlands Gateway, East Midlands Distribution Centre and in the Bardon area as well as the forthcoming Jaguar Land Rover development at J11 M42.
- Covid 19 is likely to trigger a short-term interruption in the demand (and supply) for large scale distribution floorspace but demand is expected to return more strongly as growth in on-line shopping accelerates
- Comparing the supply of strategic B8 floorspace and recent take up rates reveals that;
  - The supply of units which are immediately available for occupation (so called 'direct supply') is quantified as 0.7 years' worth of supply and this is described as 'very tight'. The position for Leicester & Leicestershire as a whole is similar (0.9 years).
  - The supply of land with planning permission ('indirect supply') is measured at 2.8 years for NWL and 5.7 years for Leicester & Leicestershire.
  - At 5%, the vacancy rate is indicative of a low level of market choice for those wanting to occupy B8 premises in the district. GLH report that markets generally require a rate of between 5-10% for optimal choice and churn.
  - There is no current direct supply in the district of units of the size range 10-20,000sqm. This is the market segment which this application proposes to target. The equivalent supply for Leicester & Leicestershire is 'tight' at 1.3 years.

GLH assess that the site's characteristics will make it attractive to the strategic distribution market; it has excellent motorway accessibility and it is close to the logistics hubs at and around the airport suiting distribution firms who seek the operational benefits of locating close to similar firms.

If the development were built speculatively as the applicants propose, GLH agree that it would generate a supply of premises available for immediate occupation (direct supply). However, they also point out that the planning system has limited powers to ensure that the proposed units would indeed be built speculatively.

With respect to the provision of B1c/B2 units, GLH find that;

- At 0.2 years the supply of immediately available units is described as 'very limited' but there is a good pipeline supply of sites with planning permission (indirect supply) of some 5.5 years
- These uses are less tied to this particular site, although proximity to the airport and the logistics cluster there may drive some demand
- Agents confirm that the market in North West Leicestershire, and Castle Donington in particular, is primarily driven by the demand for strategic scale distribution and not for B1c/B2 uses.

## **Policy Ec2**

Turning to the different aspects of Policy Ec2(2) in turn;

*Where evidence indicates an immediate need or demand for additional employment land (B1,B2,B8) in North West Leicestershire...*

As outlined above, the level need for strategic B8 floorspace identified through the Leicester & Leicestershire Study (2017) to 2031 has been achieved. These need figures are expressed as a minimum however and should not be viewed as a limit which cannot be exceeded.

The need for B1c/B2/small scale B8 assessed through the HEDNA has also been substantially met but again this is presented as a minimum requirement. At April 2020 there is a small shortfall in total requirements but this is in the main as a result of a shortfall in B1a/b floorspace which this proposal would not address. The application, if granted, could contribute up to 18,500sqm/(est. 4.1ha) of B1c/B2 resulting in a small overall surplus against the total requirement of 64.8ha (2011-31).

Analysis of the commercial logistics market by the council's consultants concludes that there is current demand for strategic distribution units of the size this application could provide. Whilst there are extant planning consents in the East Midlands Airport-south Derby corridor at EMDC and EMG, these are for larger scale units and not the mid-size units which is the application's purported target market.

The need/demand test in Policy EC2(2) applies to the North West Leicestershire area. It is apparent from the analysis by GLH that there is a gap in the portfolio of strategic distribution premises in the district which the application proposal could help to address. This gap is evident now and fulfils the requirement for 'an immediate demand' under the terms of the policy.

The market analysis of the B1c/B2 aspect of the proposal finds that the demand for these uses in this location is less apparent, particularly as the market for strategic distribution dominates commercial activity here. The overall supply of B1c/B2 floorspace is judged by the council's consultants to be healthy although there is a very limited supply of units available for immediate occupation which this application could help to address. Some demand may arise from industrial businesses

gravitating towards the logistics hub at the airport. Further, there could be wider planning benefits from incorporating a range of these other uses in terms of overall flexibility and the delivery of a more mixed form of development.

*...that cannot be met from land allocated in this plan...*

The Money Hill allocation in the adopted Local Plan provides for up to 16ha of employment development. The site was planned to meet the needs arising from the HEDNA, (i.e. not strategic B8). It could be an appropriate location for the B1c/B2 element of the proposal however it is not currently sufficiently advanced through the planning process to meet an 'immediate' demand.

Whilst not allocated as such, two sites listed in Ec1 – Employment provision: permissions are identified in the Local Plan as suitable for B8 uses. Taking these in turn, the Lounge site at Ashby de la Zouch (Ec1a) is currently blighted by the route of HS2 and the extant consent cannot realistically be implemented in full. Whilst there is a current planning application under consideration for a revised proposal, this shows an indicative layout for either a single unit of 63,922sqm B8 or two units of 36,000sqm and 19,290sqm not the medium sized units the application proposal aims to provide. The site is also in a different part of the district and its principal connection would be to M42/A42 corridor (KAO F).

Part of the site at Sawley Crossroads (Ec1c) is being used as a distribution centre for Aldi. The outline consent on the remaining part of the site is for some 14.8ha of B8 but this is reserved for a further extension for Aldi so is not available to another occupier as an alternative to the application proposal.

*...the council will consider favourably proposals that meet the identified need in appropriate locations...*

The site is located within an area which has been identified in the Strategic Distribution Study as one of the locations in the county where strategic scale distribution should be directed. In these terms it is in a prime location for strategic distribution. It is well connected to three transport corridors (M42/A42; A50; M1). It is also in close proximity to the distribution hubs at East Midlands Airport and GLH report that this can generate agglomeration benefits for the businesses locating there. Taking these factors together the location is judged to be an appropriate one for the uses proposed.

Site-specific matters impacting on the appropriateness of the site should be assessed as part of the detailed consideration of the application.

*(a) Being accessible or will be made accessible by a choice of means of transport, including sustainable transport modes...*

There are bus stops to the west of the site on Station Road which also serve the Willow Farm Business Park. Services from these stops run to Coalville, Leicester, Kegworth and East Midlands Airport to the south and Derby and Nottingham to the north. The access strategy plan submitted with the application proposes that additional bus stops will be located within the site and from the LCC Highways consultation response it appears that the applicants are in discussions with bus operators to improve the bus services to the site. The access plan also shows existing and proposed cycle links along Station Road and A50.

The views of the highway authority will be an important consideration in this respect of this criterion.

*(b) Having good access to the strategic road network...*

As indicated above, the site is considered to have good access to the SRN.

*(c) Not being detrimental to the amenities of any nearby residential properties or the wider environment*

No comments are made from a policy perspective in respect of this factor. This is a matter for the detailed consideration of the proposal's impacts.

The consideration then moves onto the further requirements of Policy S3 (i)-(vi).

*(i) the appearance and character of the landscape...*

This is a matter for the detailed consideration of the proposal's impacts.

*(ii) it does not undermine.....separation and open undeveloped character between nearby settlements... (including) through development on isolated sites...*

The site is sited immediately to the south of the J1 of A50. According to the parameters plan, the developed areas of the site will be to the immediate south and south east of the junction; the land to the west on the approach to Willow Farm Industrial Estate and beyond that Castle Donington will be retained as open land and used as flood mitigation. The development would be divorced from settlement boundaries and to that extent could be considered to be isolated. Balancing against this, the nature of the use is such that access to the SRN is critical (as discussed elsewhere) and a location which is removed from other development helps to limit potential disturbance.

The issue of separation is a site-specific matter and, from a policy perspective, no comments are made other than to note that the issue was discussed in the recent appeal decision at Carnival Way.

*(iii) it does not create or exacerbate ribbon development*

This criterion is complied with.

*(iv) built development is well integrated with existing development and existing buildings...*

As discussed above, the development would be removed from other development and not integrated with the established settlement pattern.

*(v) ...vitality and viability of existing town and local centres...*

The proposal does not include town centre uses as defined in the NPPF and this criterion is considered to be met.

*(vi) ...accessible, or will be made accessible, by a range of sustainable transport*

This aspect is considered above (Ec2(2)(a)).

### **Cumulative considerations**

Another application has been submitted at a site on Netherfield Lane. The proposal description is “Demolition of existing structures and the erection of a new building to accommodate up to 78,967sqm of storage and distribution (Use Class B8) and ancillary office (Use Class B1) floorspace, with associated infrastructure including access, parking, servicing and landscaping (outline - all matters other than part access reserved)”. The application documents signal that the development will focus on a similar segment of the strategic B8 market to the J1 A50 application being units of 78,000-134,000sqft (equivalent to approximately 7,200-12,450sqm).

If both were permitted, this would add approximately 13.3Ha to the supply of HEDNA uses (equating to an estimated surplus of 17.5%) and 24.2ha to the strategic distribution supply. However, as discussed above, these requirements in the HEDNA and the Strategic Distribution Study are expressed as minimum figures and are not a limit which cannot be exceeded.

Granting both applications would add considerably to the supply of mid-size units with the effect that the two sites would be in competition with each other for occupiers. As a result, they may take longer to become fully occupied, although this is an observation rather than a planning consideration.

Further, a strict reading of the policy would mean that the granting of consent for one proposal would not necessarily remove the need/demand justification for the second. Policy Ec2(2) reads;

‘Where evidence indicates an immediate need or demand...that cannot be met from land allocated in the plan’. (my emphasis)

Granting consent on one of these candidate sites would not change the alternative sites test for the other; the alternative sites to consider would still be those listed in Ec2 and, for completeness, Ec1.

### **Other relevant policies**

The site falls within the East Midlands Airport Safeguarded Area and is subject to the consultation requirements set out in Policy Ec5.

### **Changes to the use classes order**

As a result of the recent changes to the Use Classes Order, there is a prospect that light industrial use could be changed to another within Class E without the need for any additional planning control. This is important because a) justification for this proposal is linked to the demand for industrial/distribution floorspace and b) the impacts of, for example, a retail use on this site could be significantly different to what is proposed in the current application and the best way to test this would be through a planning application.

For this reason, it is suggested that if the application is to be approved, condition/s are added to specify the permitted uses in words to include ‘light industrial’.

### **Overall conclusion**

The need/demand justification for the proposed development has been assessed against current employment land requirements and market considerations.

With respect to need, there is a small numerical shortfall in the overall supply of B class employment land (excluding strategic B8) based on the findings of the HEDNA. This application, if approved, would result in this overall need being met, and exceeded to a degree. The supply of strategic warehousing has surpassed the need to 2031 identified in the Strategic Distribution Study.

However, outputs from both the HEDNA figures and the Strategic Distribution Study are expressed as minimum figures. Exceeding these figures is not, of itself, a reason to resist this proposal.

Furthermore, only one of need or demand have to be satisfied, not both.

Expert consultants with a sound understanding of the local, regional and national distribution market advise that there is an identifiable demand for the medium sized strategic warehousing units which the application purports to target and, for this element, the demand test in Policy Ec2(2) is met. The case for B1c/B2 uses is less clearly made; the current shortfall in needs is very modest and is predominantly linked to a district under-supply in office floorspace. Demand for these uses is also less tied to this specific location although there may be demand from businesses which want to locate close to the airport and its associated uses. Further, incorporating this aspect of the proposal may be beneficial in terms of overall flexibility and development mix.

Further requirements in Policy Ec2 are found to be met, or are capable of being met, but require detailed site-specific assessment Concerns about the location of the site in the countryside would need to be balanced against the locational requirements of strategic scale distribution.

Paragraph 82 of the NPPF also provides support for the application as it indicates that provision should be made for “storage and distribution operations at a variety of scales and in suitably accessible locations”.

On this basis there are no policy objections to the application subject to the detailed matters in Policy Ec2 and S3 being found to have been satisfied.

Sarah Lee

Principal Planning Policy Officer

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