



Scan the code above or visit [www.nwleics.gov.uk/meetings](http://www.nwleics.gov.uk/meetings)  
for a full copy of the agenda.

Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	6.00 pm on Tuesday, 5 April 2022
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454529)

AGENDA		Pages
Item		
1.	<b>APOLOGIES FOR ABSENCE</b>	
2.	<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.	
3.	<b>MINUTES</b>  To confirm and sign the minutes of the meeting held on 8 March 2022.	<b>3 - 6</b>
4.	<b>PLANNING APPLICATIONS AND OTHER MATTERS</b>  Report of the Head of Planning and Infrastructure.	<b>7 - 10</b>

## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
<b>A1</b>	<b>21/02107/FUL: The erection of a detached agricultural building and chicken coop and the provision of a track and hardstanding</b>  Land East Side Of Austrey Lane Appleby Parva Leicestershire DE12 7AR	<b>Refuse</b>	<b>11 - 34</b>
<b>A2</b>	<b>20/01118/OUT: Erection of one detached dwelling and associated garage (outline - details of access included)</b>  Land Adjacent To 37A Church Street Appleby Magna Swadlincote Derby DE12 7BB	<b>Permit</b>	<b>35 - 48</b>

MINUTES of a meeting of the PLANNING Committee held in the Council Chamber, Council Offices, Coalville on TUESDAY, 8 March 2022

Present: Councillor N Smith (Chairman)

Councillors R Boam, D Bigby, S Gillard, J Hoult, R L Morris, M B Wyatt, J Bridges (Substitute for Councillor J G Simmons), S Sheahan (Substitute for Councillor J Legrys) and J Geary (Substitute for Councillor D Everitt)

In Attendance: Councillors

Officers: Mr C Elston, Mr D Jones, Mrs C Hammond, Mr S Smith, Ms S Booth, Mr C Colvin and Mr A Mellor

#### **58. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors A Bridgen, D Everitt, J Legrys and J Simmons.

#### **59. DECLARATION OF INTERESTS**

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

Councillor J Geary declared a non-pecuniary in item A1, application number 21/00596/FULM, as a Director of the Springboard Centre that was located close to the application site.

#### **60. MINUTES**

Consideration was given to the minutes of the meeting held on 8 February 2022.

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

RESOLVED THAT:

The minutes for the meeting held on 8 February 2022 be approved and signed by the Chairman as a correct record.

#### **61. 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.

#### **62. A1 21/00596/FULM: ERECTION OF 77 DWELLINGS WITH ASSOCIATED WORKS Wolsey Road Coalville LE67 3TU Officer's Recommendation: PERMIT subject to S106 Agreement**

The Principal Planning Officer presented the report to members.

Mr Moore, applicant, addressed the committee, highlighting that the application before them would bring an attractive development to a brownfield site, that they had worked

closely with all statutory consultees to bring forward the application and that the design would allow for wider connectivity for any future developments on the site. He noted that the landscaping would be maintained by a registered partner, that the site would be energy efficient, and that direct funding had been secured which would allow the development to be delivered as soon as possible, subject to permission being granted.

In determining the application, members were in support of the application and the site, as it was for affordable houses on brownfield land. However, some concerns were expressed over the lack of turning heads through the site, the impact the development would have on the Mantle Lane junction and asked if there would be a street lighting scheme, given the road would be unadopted.

Members had regard to the turning points that were included in the plan, as determined by a tracking plan and the proposed highways layout that had been submitted by the applicant and approved by the Highways authority. It was also noted that a condition could be included on street lighting should the application be permitted.

The recommendation to permit the application in accordance with the officer's recommendation, subject to powers being delegated to officers to word the condition in relation to streetlights, was moved by Councillor J Bridges and seconded by Councillor S Gillard.

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, subject to powers being delegated to officers to word the condition in relation to streetlights.

**Correction:** It was stated in the officer report that a building was to be demolished on site and this was referred to as being the Neal's Cars building. Whilst the officer's report correctly identified that a building is to be demolished on site to facilitate this development, it should be noted that this building is not the Neal's cars premises as that lies elsewhere in Coalville and it is unaffected by this development.

<b>Motion to permit the application in accordance with the recommendation of the Head of Planning and Infrastructure, subject to powers being delegated to officers to word the condition in relation to streetlights. (Motion)</b>	
Councillor Nigel Smith	For
Councillor Russell Boam	For
Councillor Dave Bigby	For
Councillor Stuart Gillard	For
Councillor Jim Hault	For
Councillor Ray Morris	For
Councillor Michael Wyatt	For
Councillor John Bridges	For
Councillor Sean Sheahan	For
Councillor John Geary	For
<b>Carried</b>	

63. **A2**  
**21/00755/FUL: DEMOLITION OF ONE DWELLING AND REMOVAL OF PARKING AREA FOR FORMER QUEENSWAY HOUSE AND ERECTION OF 6NO. DWELLINGS**  
 Queens Street Measham Swadlincote Derbys DE12 7JF  
**Officer's Recommendation: PERMIT**

The Senior Planning Officer presented the report to members.

In determining the application members expressed their support for the scheme and hoped that the double yellow lines on Queens Street could be revisited to see if more on street parking could be safely brought back into use; although they were advised that this was not possible under planning rules.

The recommendation to permit the application in accordance with the officer's recommendation was moved by Councillor J Hoult and seconded by Councillor S Gillard.

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.

The meeting closed at 18.45pm.

<b>Motion to permit the application in accordance with the recommendation of the Head of Planning and Infrastructure (Motion)</b>	
Councillor Nigel Smith	For
Councillor Russell Boam	For
Councillor Dave Bigby	For
Councillor Stuart Gillard	For
Councillor Jim Hoult	For
Councillor Ray Morris	For
Councillor Michael Wyatt	For
Councillor John Bridges	For
Councillor Sean Sheahan	For
Councillor John Geary	For
<b>Carried</b>	

The meeting commenced at 6.00 pm

The Chairman closed the meeting at 6.45 pm

This page is intentionally left blank

## **APPENDIX B**

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

**5 April 2022**

### **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 list of the proposed planning 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.

The erection of a detached agricultural building and chicken coop and the provision of a track and hardstanding

Report Item No  
A1

Land East Side Of Austrey Lane Appleby Parva Leicestershire  
DE12 7AR

Application Reference  
21/02107/FUL

Grid Reference (E) 430901  
Grid Reference (N) 308717

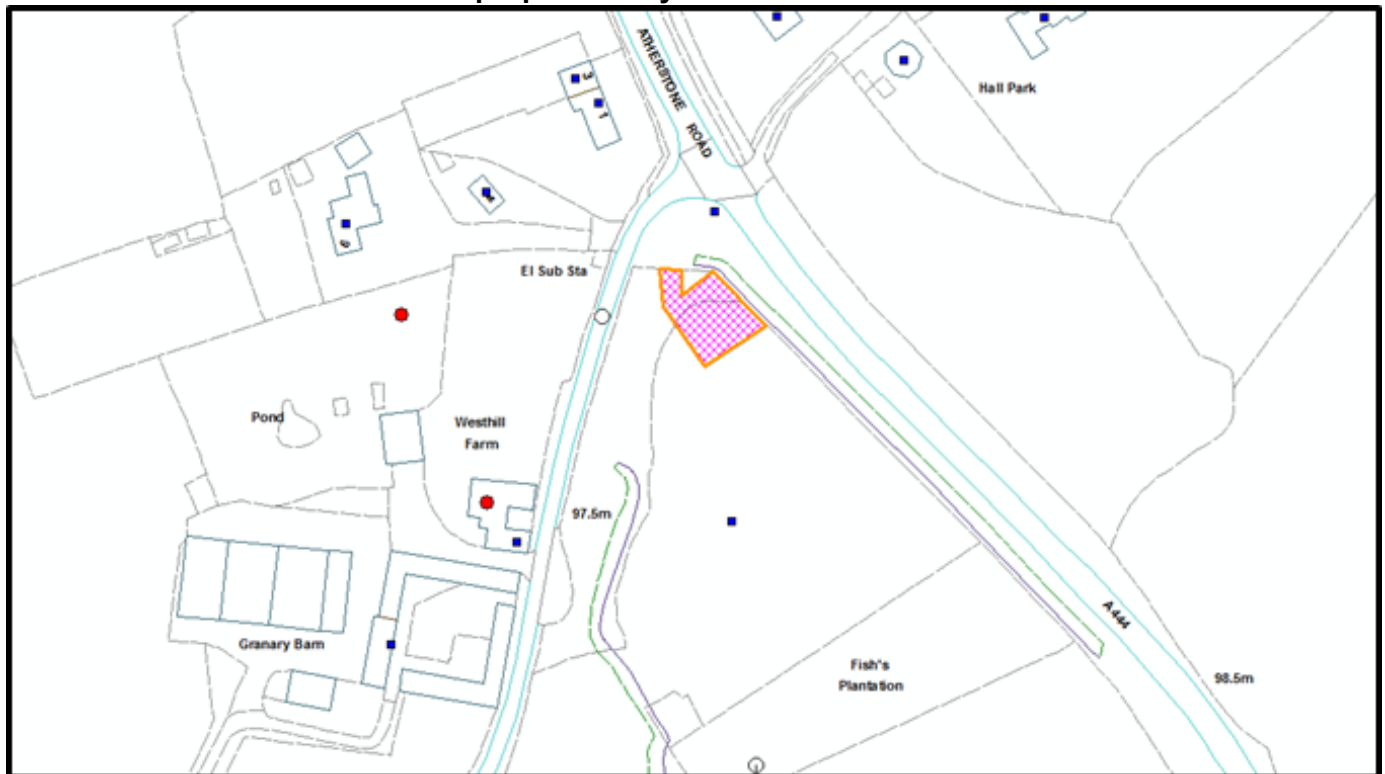
Date Registered:  
5 November 2021  
Consultation Expiry:  
12 April 2022  
8 Week Date:  
31 December 2021  
Extension of Time:  
None Agreed

Applicant:  
Mr Geoffrey Clarke

Case Officer:  
Sarah Booth

Recommendation:  
REFUSE

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



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

### **Call In**

The application is brought to Planning Committee at the request of Councillor Blunt due to visual and landscape impacts on the countryside.

### **Proposal**

Full planning permission is sought for the erection of an agricultural storage building, chicken coop, track and hardstanding on land to the east of Austrey Lane in Appleby Parva. The site is located outside the Limits to Development as per Policy S3 of the adopted Local Plan.

### **Consultations**

5 neighbour objections have been received to the proposal at the time of writing this report. Appleby Magna Parish Council have raised concerns with the vehicular access to the site. No other objections have been received from statutory consultees who have responded during the consultation process.

### **Planning Policy**

The application has been assessed against paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant policies of the adopted Local Plan and other guidance, particularly policy S3 of the Local Plan.

### **Conclusion**

In conclusion, the site is situated outside the Limits to Development. The proposed building is considered to be reasonably necessary for the purposes of agriculture. The scheme is also not considered to give rise to any detrimental impacts upon the occupiers of neighbouring dwellings, heritage assets, highway safety, ecology, flooding or trees. The proposal would also not be detrimental to the River Mease SAC.

However, the proposed development would have a detrimental impact on the character of the open countryside. The adverse impacts of approving development in this case would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework taken as a whole. The scale of the building and the cumulative impact of the hard surfacing and track would also be to the overall detriment of the visual characteristics of the area and would not allow it to assimilate into the rural environment. This would be exacerbated by the elevated ground level of the application site when compared to the public Highway which would enhance the prominence of a building. Whilst some changes have been made to the proposal from previous application on this site, the amendments are minimal and would actually increase the footprint of the building from the previous application that was dismissed at appeal. This is not considered to overcome the concerns raised by the Planning Inspector in the recent appeal.

The proposal would therefore have a harmful visual impact on the character of the countryside and would not safeguard the appearance and character of the open landscape. The application would therefore not meet the requirements of the Council's Local Plan Policy S3 especially subparagraph (i) or the NPPF's core planning principles of preventing development that would be harmful to the intrinsic open character of the countryside.

## **RECOMMENDATION - REFUSE**

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

## Main Report

### 1. Proposals and Background

Full planning permission is sought for the erection of an agricultural storage building, a chicken coop, an access track and hardstanding on land to the east of Austrey Lane in Appleby Parva. The application site is a field measuring approximately 0.7 hectares (1.73 acres). The site is located outside Limits to Development, as defined by the adopted Local Plan.

There have been a few previous planning applications on this site for similar proposals to the current application. The site history is detailed below:

#### Planning history

- 15/00775/FUL - Erection of agricultural building and construction of access track (Withdrawn 22 October 2015).
- 15/01071/FUL - Erection of agricultural building and construction of access track (Refused 28 April 2016).
- 16/00568/FUL - Agricultural storage building and driveway (Refused 16.09.2016).
- 20/00707/FUL - Erection of agricultural building and chicken coop and installation of track and hardstanding (Refused 09.10.2020).

#### Application 20/00707/FUL Background

The most recent application (20/00707/FUL) proposed a building that would have been the same size and location as application 16/00568/FUL. The 2020 application also included a structure to provide an electricity box, a chicken coop building, access track and hardstanding. This application was recommended for approval, however, it was refused at planning committee due to the unjustified need for the building in the countryside and the development's visual impact on the character of the countryside.

Application 20/00707/FUL was subsequently appealed by the applicant in 2021 (APP/G2435/W/21/3266391) and this was dismissed by the Planning Inspectorate.

#### Appeal Decision summary

To assist with the assessment of this report please find a copy of the Inspectors appeal decision for this site included in Appendix 1 of this committee report.

Please see the following summary of the inspector's conclusions from the appeal decision:

#### *Need for the building*

- The site would be used for hobby farming. The appellant provided a County Parish Holding Number (CPH) for the site issued by the Rural Payments Agency.
- The inspector applied "moderate weight" in their decision with regard to the agricultural consultant's response to a previous application for this site 16/00568/FUL. The agricultural consultant concluded that the size of the proposal was acceptable in these circumstances.
- The Inspector considered that Policy S3 of the adopted Local Plan accepts the principle of agricultural development as being acceptable on land within the countryside, regardless of it being used for large scale / commercial or small scale / hobby farming.
- Section 336 of the Town and Country Planning Act 1990 defines "agriculture" and this national

definition does not distinguish between business and hobbyist agricultural activity.

- Whilst there aren't any livestock on site at present, such activity could occur in the future.
- The proposal would not conflict with Policy S3 (a) of the Local Plan.

*Impact on the character of the countryside*

- The undeveloped nature of the area makes an important contribution to the character of this part of the countryside.

- The application site is raised from the road level of the Austrey Lane and Atherstone Road. The application site is also visible in the context of the wider rural landscape to the south.

- The materials would be acceptable however the design would appear disproportionately tall to the size of its footprint.

- The proposed development would result in the introduction of built development on a rural site where there is currently none. The proposal would unacceptably affect the contribution that the site makes to the character of this part of the countryside.

- The building would appear as an unusually tall and narrow structure in wider views of from the wider countryside to the south and east. Consequently the development would appear as a prominent, incongruous and isolated standalone feature that would erode the open character of this part of the countryside.

- The prominence of the building would be exacerbated by the elevated ground levels.

- The development would unacceptably introduce substantial built development into the open countryside that would fail to conserve the open rural character of this part of the landscape.

- The other development such as the chicken coop, electricity box and hard standing, when considered individually, would not cause unacceptable impacts on the character of the area due to its small scale nature and reduced height. However, when all the development is considered collectively they raise a concern of erosion of the open character of the site. "Consequently, when considered as a whole, the proposed development would cause harm to the character and appearance of the appeal site and the surrounding area."

- In conclusion the proposed development would harm the character and appearance of the surrounding area. Accordingly, the proposed development would not accord with sub-paragraph (i) of Policy S3 of the Local Plan.

*Other matters*

- Notwithstanding the support within the National Planning Policy framework for the rural economy this would not outweigh the harm caused to the character and appearance of the area.
- The proposal would preserve the setting of nearby listed buildings.
- No objections were raised with regard to Highway safety or drainage.

*Conclusion*

- The need for the building is considered to be justified and acceptable in accordance with Policy S3 of the adopted Local Plan.

- However, the application was dismissed due the visual impact on the character of the

countryside.

### **The current application - 21/02107/FUL**

The current application seeks permission for the erection of an agricultural storage building, a chicken coop, an access track and hardstanding on land to the east of Austrey Lane in Appleby Parva.

The design and size of the building has been amended from the 2020 application. Additionally an electricity box structure was proposed under application 20/00707/FUL, however this has been removed from the current application.

The footprint of the previously proposed building measured 4.6 metres x 6.1 metres and had a maximum height of 5.3 metres. The current application proposes a building that would be 4.6 metres x 9.3 metres and a maximum of 4 metres in height. The current application would therefore be 1.3 metres lower in height and would be 3.2 metres wider.

The applicant proposes to use the building for storage of a small tractor, equipment for maintenance of the site and some animal feed. The applicant proposes to keep goats, sheep and chickens on the land and the development is proposed to assist with this.

## **2. Publicity**

11 Neighbours have been notified.  
Site Notice displayed 4 March 2022.  
Press Notice published Burton Mail 2 March 2022.

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

**Appleby Magna Parish Council** - have raised concerns with the access to the site.

### **No objections from:**

NWLDC Conservation Officer  
NWLDC Tree Officer  
NWLDC Environmental Protection

### **No objections subject to conditions / notes to applicant from:**

Leicestershire County Highways  
Leicestershire County Ecology

### **No response received from:-**

Severn Trent Water

### **Third Party Representations**

5 letters of neighbour representation have been received at the time of writing this report. The objections raised are summarised as follows:

- The last application was dismissed at appeal and this application is no different.
- Impacts on the open countryside.
- There is no "need" for the proposed development.
- The agricultural use is for a hobby only.
- Has the owner any experience in farming.



- The land has not been used for agricultural purposes.
- The development won't be used for agricultural purposes once built.
- Permission has not been given from DEFRA for livestock to be kept here.
- No water provision for the chickens.
- Anti-social behaviour from unauthorised use of the site and impacts on residential amenity.
- Enforcement matters regarding the site / the land has been used for the unauthorised use of the applicant's business and for disposal of waste.
- The land has been used for the burning of commercial waste / noise and smell impacts.
- The plans refer to an existing structure, however no permission has been given for an existing structure.
- The development would block the culvert which runs through the site / flooding concerns.
- The access does not have planning permission.
- Concerns regarding highway safety of the access for this application / near misses in the area / speeding.
- An existing access to the west of the site should be used.
- The Highways recommended conditions need to be met.
- It would be too expensive for the applicant to be able to comply with the Highway conditions.
- Concerns regarding costs to taxpayers.
- Cost of works to grass verge / electricity and services run under the grassed verge.
- Mud and debris already on the road from the site.
- There has been a large van kept on site.
- Loss of trees.
- Untidy land / keeping of waste materials on site.
- What type of boundary treatments would be required to secure the site for livestock.
- This application would encourage future development on site.

#### **4. Relevant Planning Policy**

##### **National Planning Policy Framework (2021)**

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

Paragraphs 7, 8, 9 and 10 (Achieving sustainable development);  
Paragraph 11 (Presumption in favour of sustainable development);  
Paragraphs 55, 56 and 57 (Decision-making);  
Paragraph 84 (Building a Strong Competitive economy);  
Paragraphs 104, 105, 110, 111 and 112 (Promoting sustainable transport);  
Paragraphs 126, 129, 131 and 134 (Achieving well-designed places);  
Paragraphs 152, 154, 157, 159 and 167 (Meeting the challenge of climate change, flooding and coastal change);  
Paragraphs 174, 182, 183, 184, 185 and 186 (Conserving and enhancing the natural environment);  
Paragraphs 194, 195, 197, 199, 202 and 204 (Conserving and enhancing the historic environment).

##### **Adopted North West Leicestershire Local Plan (2021)**

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

Policy S2 - Settlement Hierarchy;  
Policy S3 - Countryside;  
Policy D1 - Design of New Development;  
Policy D2 - Amenity;  
Policy IF4 - Transport Infrastructure and New Development;  
Policy IF7 - Parking Provision and New Development;  
Policy En1 - Nature Conservation;  
Policy En2 - River Mease Special Area of Conservation;  
Policy Cc3 - Sustainable Drainage Systems;  
Policy He1 - Conservation and enhancement of North West Leicestershire's historic environment.

### **Other Policies and Guidance**

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.  
National Planning Practice Guidance - March 2014.  
Leicestershire Highways Design Guidance (Leicestershire County Council).  
Good Design for North West Leicestershire SPD - April 2017.  
The Habitats Regulations (The Conservation of Habitats and Species Regulations 2017).  
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System.  
River Mease Water Quality Management Plan - August 2011.

## **5. Assessment**

### **Principle of Development**

The application site is a field in Appleby Parva measuring approximately 0.7 hectares (1.73 acres) and is located to the east of Austrey Lane and to the West of Atherstone Road. The site is located outside Limits to Development, as defined by the adopted Local Plan.

This application seeks full planning permission for the erection of an agricultural storage building, a chicken coop and an access track and hardstanding. The applicant proposes to use the new building for storage of maintenance vehicles such as a small tractor and equipment as well as for the storage of hay and animal feed. The applicant advises that they intend to keep animals on the land and the proposed development is required to assist with this use.

Paragraph 84 of the NPPF (2021) states that planning decisions should enable, amongst other things, the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings and the development and diversification of agricultural and other land-based rural businesses.

The overarching principle of the NPPF is to protect the countryside but to also allow sustainable development where appropriate.

### **Planning History**

As detailed in an earlier section of this report, there have been a few previous planning applications on this site for similar proposals to the current application. An initial planning application for an agricultural building (15/00775/FUL) raised some concerns including its impact on trees and ecology and therefore this application was withdrawn. A subsequent similar planning application (15/01071/FUL) was refused due to the scale of the proposed building and its impact on the countryside. A third planning application (16/00568/FUL) proposed a smaller scale building and received an officer recommendation for approval but was refused by

Planning Committee in 2016 on the basis of the development's impact on the countryside and highway safety impacts.

The last application (20/00707/FUL) proposed a building that was the same size and has the same location as application 16/00568/FUL. The 2020 application also included additional features such as a timber chicken coop, a structure to provide an electricity box, an access track and hardstanding. This application received an officer recommendation for approval however was refused at planning committee. Application 20/00707/FUL was refused for two reasons; that being the development's impact on the character of the countryside and the essential need for the proposed building.

In 2021 application 20/00707/FUL was appealed by the applicant (APP/G2435/W/21/3266391) and the appeal was dismissed. The Inspectors conclusions with regard to the principle of the building are outlined below (matters relating to visual impact will be considered in the Design section of this report).

### **Need for the building - Conclusions of appeal decision APP/G2435/W/21/3266391**

Neighbouring residents have objected to this application due to what they consider to be a lack of "need" for the building. This will be considered further as follows.

The Planning inspector for appeal APP/G2435/W/21/3266391 applied "moderate weight" to the agricultural consultant's response to a previous application for this site in 2016 (16/00568/FUL). The agricultural consultant took into account the proposed use of the site and the size of the proposal and concluded that the development was acceptable in principle.

It is accepted that the proposal in the current application would have a slightly larger footprint than applications 16/00568/FUL and 20/00707/FUL, however the previous building could have accommodated additional storage space in the roof space of the building. When taking that into account, it is considered that the overall useable floor space would be comparable and therefore the same advice, relating to principle matters, from the agricultural consultant and the Planning Inspector would be applicable to the current application.

The advice received from the agricultural consultant as part of application 16/00568/FUL stated the following:

*"Your Local Plan Policy at Policy S3 of the Adopted North West Leicestershire Local Plan states 'That the proposed development can be shown to be essential for the efficient long-term operation of agriculture and forestry.' As I stated in my previous letter dated 4th February, 2016 - agricultural buildings are also required to be on agricultural land, which means land in use for agriculture for the purposes of a trade or business. I still consider a unit with approximately 0.4 of a hectare or 1 acre of land with 3-5 sheep and approximately 10 head of poultry could not be classed as a trade or business but would effectively be a hobby or an interest.*

*I consider the size of the proposed building would be of a size capable of storing the tractor and miscellaneous items which the applicant proposes to use on the land.*

*In conclusion, I advise that the now proposed building is more in keeping with the size of the unit, and although not essential for the efficient long-term operation of agriculture and forestry may now be acceptable to the Local Planning Authority in planning terms, as it may partially comply with Policy S3 of the Adopted North West Leicestershire Local Plan, as it could now be classed as reasonably necessary for the purposes of agriculture within the unit."*

The Local Planning Authority argued at appeal stage that there given the use of the site was for hobby farming then this would not represent an essential agricultural use within the countryside. This was also a concern raised by members of the public in relation to the previous and current applications. The Planning inspector considered this point and stated that Policy S3 of the Local Plan does not:

*"...define or quantify in the policy, or the supporting text provided, the nature or extent of development that may be reasonably necessary for the purposes of agriculture. Furthermore, the policy provides no distinction between commercial and hobbyist agricultural activity."*

The inspector also referred to Section 336 of the Town and Country Planning Act 1990 which defines "agriculture" as the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land) and the use of land as grazing land. The Inspector also highlighted that this Act also provides no further quantification or distinction between business and hobbyist agricultural activity.

A neighbour objection has been received regarding the farming experience of the applicant, this is not a material planning consideration.

The Inspector therefore concluded that that Policy S3 of the adopted Local Plan accepts the principle of agricultural development as being acceptable on land within the countryside, regardless of it being used for large scale / commercial or small scale / hobby farming. Therefore this proposal would not conflict with Policy S3 (a) of the Local Plan.

### **Policy Assessment**

As per the assessment above the application is considered to be supported in principle under Policy S3(a) however this is also subject to compliance with subparagraphs (i) - (vi) of S3. This is considered further below:

*(i) The appearance and character of the landscape, including its historic character and features such as biodiversity, views, settlement pattern etc. are safeguarded and enhanced.*

For the reasons discussed later in the design section of this report, it is considered that the appearance and character of the landscape would not be safeguarded.

*(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.*

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

The development is for agricultural purposes and therefore does not exacerbate ribbon development. The scale of the development is minor and therefore does not undermine the physical or perceived separation between nearby settlements.

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

This matter will be discussed later in the design section of this report. Whilst there aren't any existing buildings on site the development has been located close to the site entrance and nearby dwellings.

*(v) the development will not seriously undermine the vitality and viability of existing town and*

*local centres.*

Given that the use of the building would be for agricultural purposes only, the use of the building would not be one that would impact on the vitality or viability of any existing town or local centre. Furthermore, Paragraph 84 of the National Planning Policy Framework (NPPF) states that planning decisions should support the growth and expansion of all types of businesses within rural areas.

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

It is accepted that the site is not served by a range of public transport. However, due to the agricultural nature of the proposal this requires buildings to be located in the countryside and it is not a requirement for this type of development to meet with this criteria. It is also noted that very similar developments could be achieved elsewhere in the countryside through a prior approval application without any need for them to be served by sustainable transport.

When taking all these matters into consideration it is considered that the development would, on the whole, accord with the aims of Policy S3 of the adopted Local Plan, and Paragraph 84 of the NPPF.

#### **Other principle matters / Neighbour concerns**

Neighbours have raised concerns that they do not think that an agricultural use would be the ultimate intention for the use of the site or the proposed buildings. Neighbours have also referred to recent enforcement matters on the site where the land has not been used for agricultural purposes. Neighbours have mentioned that the site has been used in association with a builder's business, for storage / disposal of waste materials and burning of materials.

Notwithstanding the concerns raised, this proposal is for agricultural purposes only and therefore the proposed use is all that can be considered in determination of this application.

A neighbour has stated that they do not believe that permission has been given from DEFRA for livestock to be kept here. However, as the Planning Inspector concluded, there is no evidence to confirm that that this would not be forthcoming in the future.

A neighbour has raised concerns that there would be no water provision for the chickens. This would not be a reason to refuse the planning application however given that there is a culvert running through the site it is considered that a water connection could be feasible. If that was not the case then water can still be brought to the site.

In conclusion, having regard to all of the above, the principle of the development is considered to be acceptable.

#### **Siting, Scale and Design and Impact upon the Countryside**

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1 and the Council's Good Design Supplementary Planning Document (SPD) but also paragraphs 130 and 134 of the NPPF.

Paragraph 174 of the NPPF states planning decisions should recognise the intrinsic character and beauty of the countryside.

As previously mentioned, the proposal would also need to accord with subparagraphs (i) and

(iv) of Policy S3 of the adopted Local Plan. Paragraph (i) requires the appearance and character of the landscape, including its historic character and features such as biodiversity, views, settlement pattern to be safeguarded and enhanced and paragraph (iv) requires built development to be well integrated with existing development and existing buildings.

The application site comprises a relatively small field of predominantly rough grassland located at the junction of Atherstone Road with Austrey Lane. Westhill Farm and a few residential properties are located to the west and north with open countryside to the south and east. The area to the south and east comprises of open fields separated by hedgerows and areas of woodland.

The previous application on this site 20/00707/FUL, for a similar proposal, was dismissed at appeal because the proposal was considered to have a harmful impact on the open countryside, contrary to Policy S3 subparagraph (i). This has also been raised as a concern for the current application by neighbouring residents and the local Ward Member. This will be considered further below.

The current application proposes a black corrugated onduline sheeted roof with timber cladding, a red brick plinth and timber doors. The proposed chicken coop building would also be constructed in timber. It is considered that the proposed materials to be used in the building would be acceptable in the rural setting and would be consistent with the appearance of a typical agricultural building.

The site is raised above the road level when compared to Austrey Lane and Atherstone Road. This elevates the application site and makes the development more prominent, whilst there are some boundary trees and hedgerows along these roads the site is more exposed during the winter months when the leaves have fallen from the trees, especially in views from Atherstone Road. Furthermore, over the years, more vegetation and trees have been removed from the site entrance. Some close boarded fencing has recently been erected on the application site in the same location of the proposed development, and this is already visually prominent from the entrance to the site and in views from both Atherstone Road and Austrey Lane.

The Planning Inspector for APP/G2435/W/21/3266391 identified that the most prominent open countryside views of the application site are those taken from the south and east of the application site. The Inspector stated that the sites "...undeveloped nature makes an important contribution to the character of this part of the countryside."

It is noted that the Planning Inspector did not raise an objections with regard to Policy S3(iv) which requires development to integrate with existing development. Whilst there is no built development within the site for the proposed development to integrate with, the development has been located as close as possible to the access of the site and adjacent to the boundary edge of the field. There is also some built development in the locality of the proposed development, such as nearby residential properties opposite the site. It is considered that the proposal accords with Policy S3 (iv) of the adopted local Plan.

The footprint of the previously proposed building was 4.6 metres x 6.1 metres and proposed a maximum height of 5.3 metres. The current application proposes a building that would be 4.6 metres x 9.3 metres and a maximum of 4 metres in height. The current application would therefore be 1.3 metres lower in height but would actually be 3.2 metres wider.

The Planning Inspector for APP/G2435/W/21/3266391 determined that the 2020 proposed scheme, owing to its design, would appear as an unusual disproportionately tall and narrow

building relative to the size of its footprint. Whilst the height of the building has been marginally reduced, the floor area of the building would increase from the 2020 scheme, as such the overall bulk of the new development would not differ from the harm identified by the Planning Inspector under appeal decision APP/G2435/W/21/3266391.

The Inspector noted that the most prominent and open views of the countryside for this site are those from land to the south and east of the application site. The front elevation of the proposed new building is the most prominent elevation of the development from open views of the countryside and landscape. The front elevation of the proposed building would become longer when compared to the 2020 application and would thereby make the building equally prominent from views of the site from the south and east.

It is accepted that the Inspector stated that the proposed development would result in the introduction of built development on a rural site where there is currently none and it would impact on the open character of the area. This proposal would not address this concern raised by the inspector and would still result in a build development on a currently undeveloped site.

The Inspector also stated that the other development such as the chicken coop and hard standing, when considered individually, would not cause unacceptable impacts on the character of the area due to its small scale nature and reduced height. However when all the development is considered collectively the Inspector raise a concern of erosion of the open character of the site. The Inspector therefore concluded that when the 2020 application was considered as a whole "...the proposed development would cause harm to the character and appearance of the appeal site and the surrounding area." Whilst the previously proposed electricity box structure has been removed in the current application all other cumulative development is still proposed and would still have a cumulative adverse impact on the open character of the area.

Enforcement matters have been raised by local residents including an existing structure on site which appears to be unauthorised. The existing structure is indicated on the submitted site plan and does not appear to benefit from planning permission. This structure is also shown in the applicant's submitted appendix photos and is a temporary style shelter constructed in timber. This is currently under investigation by the Council's Enforcement team along side other matters raised in resident's objections.

Ultimately the Planning Inspector concluded that:

*"For the above reasons, the proposed development would unacceptably harm the character and appearance of the surrounding area. Accordingly, the proposed development would not accord with criterion (i) of Policy S3 of the Local Plan. This part of the policy, amongst other things, identifies that development will be supported where the appearance and character of the landscape is safeguarded and enhanced."*

It is considered the changes in the current application do not address the concerns raised by the planning inspector. The proposed development would have a detrimental impact on the character of the open countryside. The adverse impacts of approving development in this case would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework taken as a whole. The scale of the building and the collective impact of the hard surfacing and track would also be to the overall detriment of the visual characteristics of the area and would not allow it to assimilate into the rural environment. These impacts would also be intensified as a result of the elevated ground level of the application site when compared to the public Highway (approximately 2 metres) which would enhance the prominence of a building.

Whilst some changes have been made to the proposal from previous applications on this site, the amendments are minimal and actually increases the floor area of the building from the previous application that was dismissed at appeal. This is not considered to overcome the concerns raised by the Planning Inspector for APP/G2435/W/21/3266391.

The proposal would therefore have a harmful visual impact on the character of the Countryside and would not safeguard the appearance and character of the open landscape. The application would therefore not meet the requirements of the Council's Local Plan Policy S3 especially subparagraph (i) or the NPPF's core planning principles of preventing development that would be harmful to the intrinsic open character of the countryside. The proposal would therefore fail to comply with the NPPF and Policy D1 of the adopted Local Plan.

### **Impact to Heritage Assets**

The site lies to the south-west of a grade II listed building which is on the northern side of the A444 and approximately 70 metres to the north-east of Westhill Farm, a grade II listed building. As such in determining any application special attention shall be paid to the desirability of preserving listed buildings, their settings or any features of special architectural interest which it possesses as set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Paragraph 197 of the NPPF 2021 states that planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. It further indicates (at paragraph 199) that when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The Council's Conservation Officer has no objections to this application and does not identify any harm to surrounding designated heritage assets.

Although the proposal is not of entirely traditional materials or design, the proposed building is agricultural in character which is another prevailing character of the area. As the building is set on a separate parcel of land which is well landscaped, and is offset to the north of the farm, it is considered that the setting of the listed buildings would not be harmed. This therefore complies with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Overall it is considered that the proposals would not harm the setting of the listed buildings and would preserve the character and appearance of the area. The proposal is considered to be in accordance with Policies D1 and He1 of the adopted Local Plan, the Council's Good Design SPD and the advice contained in the NPPF. Taking the above into account, it considered that the scheme is appropriate and would comply with the NPPF.

### **Impact upon Residential Amenity**

Several objections have been received regarding this development which includes the use of the site. Residents have raised concerns that the building would not be used for agricultural uses as it may be used for residential or business purposes. This Council can only consider the proposal as submitted, which is for an agricultural building. Any alternative uses proposed would require permission through a further planning application. If the development had deemed to be acceptable it would be recommended that the building should be conditioned to be used as per that which has been applied for.

The nearest property to the development would be in excess of 50 metres away and at this



distance it is not considered that the development would have an overbearing, overlooking or overshadowing impact on neighbouring residential properties.

Neighbours have objected on the grounds of noise and smells from the proposed development. The agricultural use of the field already exists and the nature of this use can sometimes result in some noise and smell implications but it is not considered that the proposed development would result in detrimental impacts resulting from noise or smells. Furthermore the Council's Environmental Protection team have been consulted on this application and have not raised any objections.

Concerns have been raised regarding noise and smell impacts from the burning of waste on site. These matters do not fall within the remit of the planning system as set in law and would be considered and controlled separately, outside of the planning application process, by both the Environment Agency and the Council's Environmental Health team.

For the reasons set out above, it is not considered that there would be any significant loss of amenities by means of overbearing, overshadowing, overlooking impacts or noise and disturbance impacts. The proposal therefore complies with the provisions of Policy D2 of the adopted Local Plan.

### **Highway Considerations**

It is noted that several neighbour objections have been raised regarding the access to the site, highway safety concerns and the intensification of this road junction. The Parish Council have also raised concerns with the site access. These matters will be considered below.

Access for this development would be from Austrey Lane near to the junction with Atherstone Road. However, it is not considered that this development would significantly intensify vehicular movements to the site directly in the long term given the agricultural nature of the site and because the proposed use would be agricultural. Furthermore the County Highways Authority (CHA) does not consider that any potential increase in vehicular movements, given the nature and scale of the development, would have a detrimental impact on Austrey Lane, a class C road, or the A444.

Neighbours state that this access has not been used previously due to the steep incline of the access from this part of the site and the levels have been altered prior to the submission of a planning application. The neighbours also have concerns regarding the visibility at the access. The neighbours' concerns have been raised with the (CHA) in previous applications, however the CHA have raised no objections regarding this development.

Neighbour concerns have been raised that the site access requires planning permission however previous applications on this site and advice received by Leicestershire County Council Highways Team have concluded that this is not the case.

Residents' concerns have also been raised regarding mud being deposited in the road from vehicles currently using the site. If this presents a hazard to highway safety then this can be reported to the County Highway Authority and cannot be controlled through the planning process. Additionally, it is noted that this concern relates to the existing use of the current site.

Leicestershire County Highways have requested that conditions should be attached if permission is granted to secure improvements to the access such as an increased width, gradient, hard bound surfacing. It is considered that the surfacing and gradient could be secured by condition however it would be unreasonable to condition alterations to the access when this

element does not require planning permission and the development would not significantly intensify the use of the site. Therefore the recommended access condition requested by the CHA would not meet the six tests of planning conditions as per Paragraph 55 of the NPPF.

Residents have fears that the recommended conditions, requiring works to the gradient etc, would be too expensive for the applicant to be able to comply with the Highway conditions and would then become a cost to the taxpayer. This is not a material planning consideration.

Members of the public have also mentioned that there are likely to be costs associated with works to the frontage grass verge / electricity and services run under the grassed verge. This would also be at the expense of the applicant and would be a civil matter between the applicant and the relevant electricity company. Any works to a Highway verge would also be a civil matter between the applicant and the County Highway Authority, where costs would be obtained from the applicant for any necessary works on highway land.

Residents have referred to a large van being kept on site. This is not included in the current application and therefore hasn't been considered as part of this proposal. If this relates to an unauthorised use of the site then this can be referred to the Council's enforcement team for investigation.

Neighbour concerns have been raised regarding accidents in the area, speeding traffic and near misses. The CHA have advised that there have been two recorded personal injury collisions (PICs) within 500m of the site within the last five years and current year to date. Both incidents occurred on the A444. The CHA advise that there have been no recorded PICs at the site access or junction of Austrey Lane / A444. The CHA raise no concerns for this application on the grounds of Highway Safety.

Overall, the CHA has advised that they are satisfied that the development would not result in any unacceptable risks to highway safety.

In view of the above it is considered that the proposal accords with the intentions of Paragraphs 110 and 111 of the NPPF, Policies IF4 and IF7 of the adopted Local Plan and the County Highways Design Guidance.

#### **River Mease Special Area of Conservation/SSSI - Habitat Regulations Assessment**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river.

In this case it is considered that the proposal could result in an impact on the SAC, which may undermine its conservation objectives, as it could result in an increase in foul and surface water drainage discharge. Therefore an appropriate assessment of the proposal and its impacts on the SAC is required.

The scheme would result in an additional area of hardstanding as well as the new building, chicken coop and the access track. It is considered that a sustainable surface water drainage system such as a soakaway could be utilised given the small surface areas proposed and the size of the field. It is recommended that if permission is granted then a condition should be secured to ensure an adequate sustainable method of surface water drainage is provided.

The scheme does not propose to increase any foul water discharge and is not connected to the foul water system. As such the River Mease SAC would not be significantly or adversely

affected by the proposed development.

On this basis, it is considered that the integrity of the River Mease SAC would be preserved and the development would accord with Policy En2 (River Mease Special Area of Conservation) and Cc3 (Water - Sustainable Drainage Systems) of the adopted Local Plan.

Therefore it can be ascertained that the proposal would, either alone or in combination with other plans or projects, have no adverse effect on the integrity of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, and would comply with the Habitat Regulations 2017, the NPPF and adopted Policies S2, En1 and En2.

### **Flood Risk**

Many residents have objected on the grounds of the development's impact on flooding in the area. It has been stated by neighbours that there is a culvert on site which, if affected, could lead to flooding on neighbouring sites.

The site falls within Flood Zone 1, which is the area at lowest risk of flooding. Notwithstanding this, the site is located within an area identified as being at risk of surface water flooding and therefore consideration has been given to surface water impacts from the proposed development.

As per the above section on River Mease matters, it is recommended that if the application is approved then a condition could be included to secure an adequate and sustainable surface water drainage scheme so that the development would not adversely impact on surface water drainage in the area.

Issues regarding the culvert have been raised in previous applications with Natural England and they advised that they have no objections to the development.

Residents have also raised concerns with the impact of additional vehicles driving over existing underground services (e.g. water and electricity connections), which are located at the site entrance. Neighbours consider that damage is being caused to water pipes which is resulting in flooding. This would not be a material planning consideration as it would be a civil matter between the water service provider and the applicant for them to resolve.

Subject to the above recommended condition it is considered that the development would not adversely impact on flood risk and would comply with Policy Cc3 of the Adopted Local Plan.

### **Ecology**

The County Ecologist has been consulted on the application and has advised that it would be unreasonable to request any protected species surveys given the minor scale of the development. The Ecologist has recommended a note to applicant to advise about badgers in the area and one regarding vegetation clearance. It is also recommended to secure some new landscaping by condition, which should be a native species.

On the basis of the above there are no ecological reasons for objection and this proposal is considered to comply with Policy En1 of the adopted Local Plan.

### **Trees**

Neighbours have raised concerns in regards to the loss of trees on site. The application does not propose to remove trees as part of this application. The Council's Tree Officer has been consulted on the application and advises that the access track should be constructed to a

porous specification, which can be secured via a hard surfacing condition. The Tree Officer has confirmed they have no arboricultural objections to this application.

It is also recommended to include an additional landscaping condition to assist in screening the proposed building from the public highway. This would help to enhance the appearance of the site.

It is therefore considered that the proposal would accord with Policy En1 of the adopted Local Plan.

### **Other**

Concerns have been raised regarding some close-boarded fencing that has been erected on site and neighbours have raised concerns regarding what type of boundary treatments would be used by the applicant to secure the site for livestock. Boundary treatment of up to 2 metres in height would not require planning permission and therefore the appearance of future fencing could not be controlled, though it is perhaps more likely that a rural style of fencing would be used as it is likely to be more cost effective.

Concerns have been raised regarding the keeping of materials on site and the land being untidy. This is a separate matter that the Council's enforcement team could investigate.

Residents also consider that this application would encourage further future development on site. This Council through the consideration of this scheme can only assess what is currently proposed.

### **Conclusion**

The site is situated outside the Limits to Development. The proposed building is considered to be reasonably necessary for the purposes of agriculture. Whilst the scheme is not considered to give rise to any detrimental impacts upon the occupiers of neighbouring dwellings, heritage assets, highway safety, ecology, flooding, trees or the River Mease SAC, the concerns raised with regard to the impact on the landscape and open character of the countryside are paramount in the consideration of this application.

As per the above assessment, the proposed development would have a detrimental impact on the character of the open countryside. The adverse impacts of approving development in this case would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework taken as a whole. The scale of the building and the cumulative impact of the hard surfacing and track would also be to the overall detriment of the visual characteristics of the area and would not allow it to assimilate into the rural environment. This would be exacerbated by the elevated ground level of the application site when compared to the public Highway which would enhance the prominence of a building. Whilst some changes have been made to the proposal from previous applications on this site, the amendments are minimal and would actually increase the floor area of the building from the previous application that was dismissed at appeal. This is not considered to overcome the concerns raised by the Planning Inspector for APP/G2435/W/21/3266391.

The proposal would therefore have a harmful visual impact on the character of the countryside and would not safeguard the appearance and character of the open landscape. The application would therefore not meet the requirements of the Council's Local Plan Policy S3 especially subparagraph (i) or the NPPF's core planning principles of preventing development that would be harmful to the intrinsic open character of the countryside.

*RECOMMENDATION - REFUSE***Appendix 1 -****Appeal Decision APP/G2435/W/21/3266391 (For Planning application 20/00707/FUL)****(subject to no contrary observations by 12 April 2022)**

- 1 Paragraph 174 of the NPPF states planning decisions should recognise the intrinsic character and beauty of the countryside. Paragraph 84 of the Framework supports growth and expansion of all types of rural business. Policy S3 of the adopted Local Plan states that development will only be permitted on land outside the Limits to Development, where it meets certain criteria and where it complies with considerations set out in criteria (i) to (vi). Development permitted in the countryside would need to safeguard the appearance and character of the landscape, including its historic character and features such as biodiversity, views, field patterns and local distinctiveness.

The application site lies in an area defined in the adopted North West Leicestershire Local Plan as countryside as per Policy S3 of the adopted Local Plan and as such it is protected against unwarranted development. The proposed development would have a detrimental impact on the character of the open countryside. The adverse impacts of approving development in this case would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework taken as a whole. The scale of the building and the cumulative impact of the hard surfacing and track would also be to the overall detriment of the visual characteristics of the area and would not allow it to assimilate into the rural environment. This would be exacerbated by the elevated ground level of the application site when compared to the public Highway which would enhance the prominence of a building. Whilst some changes have been made to the proposal from the previous application on this site, the amendments are minimal and would actually increase the footprint of the building from the 2020 application dismissed at appeal. This is not considered to overcome the concerns raised by the Planning Inspector in that appeal.

The proposal would therefore have a harmful visual impact on the open character of the countryside in this location and would not safeguard the appearance and character of the landscape. The application would therefore not meet the requirements of the Council's Local Plan Policy S3 especially subparagraph (i) or the NPPF's core planning principles of preventing development that would be harmful to the intrinsic open character of the countryside.

This page is intentionally left blank

---

## Appeal Decision

Site visit made on 13 April 2021

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 March 2021**

---

**Appeal Ref: APP/G2435/W/21/3266391**

**Land East Side of Austrey Lane, Appleby Parva, Derby DE12 7AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Geoffrey Clark against the decision of North West Leicestershire District Council.
  - The application Ref 20/00707/FUL, dated 24 April 2020, was refused by notice dated 6 October 2020.
  - The development proposed is the erection of agricultural building and chicken coop and the installation of track and hardstanding.
- 

### Decision

1. The appeal is dismissed.

### Procedural matter

2. The Council changed the description and address of the proposed development from those contained on the planning application form to those shown in the banner heading above. These are a more accurate description of the proposed development and site address which I have therefore used in the determination of this appeal.

### Main Issues

3. The main issues are:
  - Whether an agricultural need for the proposal has been demonstrated sufficient to justify development within the open countryside.
  - The effect of the proposed development on the character and appearance of the appeal site and the surrounding area.

### Reasons

#### *Justification for the development*

4. The appeal site comprises a relatively small field of predominantly rough grassland located at the junction of Atherstone Road with Austrey Lane. Westhill Farm and number of sporadic residential properties are located to the west and north with open countryside to the south and east. The Council indicate that the site is located outside of any defined limits to development and is therefore identified as being located within the countryside.

5. The proposed development would involve the erection of a storage building, chicken coop, electricity cabinet and an access track and hardstanding which would be positioned in the northern corner of the site. The Council indicates that the storage building would be approximately 4.57m wide and 6.1m long with a maximum height of 5.3m. It would be used for the storage of a tractor, maintenance equipment and animal feed.
6. Although there was no evidence of any livestock on the site at the time of my site visit, the appellant indicates that the site is to be used for hobby/entry into farming with chickens and either sheep or goats. In this regard, the appellant has provided a County Parish Holding Number (CPH) for the site issued by the Rural Payments Agency.
7. No agricultural justification documentation was provided with the planning application to support the agricultural need for the building. However, the Council indicate that the appellant applied for planning permission in 2016 for a building of similar dimensions to the appeal proposal (Ref 16/00568/FUL). At that time the Council commissioned the services of an agricultural consultant to advise on the agricultural need for a building.
8. The consultant advised that the size of the unit could not be classed as a trade or business but would effectively be a hobby or interest. Whilst the building would be capable of storing a tractor, the consultant further advised that the size of the proposal was more in keeping with the size of the unit but concluded that the building was not essential for the efficient long-term operation of agriculture or forestry. Although not a statutory consultee, given the similarities between the appeal proposal and the application considered by the Council in 2016, I attach moderate weight to the views of the agricultural consultant in an advisory capacity to the Council.
9. The Council suggest that the building is not considered essential given the hobby use nature of the proposed activity. However, category (a) of Policy S3 of the North West Leicestershire Local Plan (2017) (the Local Plan) identifies that agricultural development is an acceptable use in principle in the countryside. The evidence provided in this appeal does not define or quantify in the policy, or the supporting text provided, the nature or extent of development that may be reasonably necessary for the purposes of agriculture. Furthermore, the policy provides no distinction between commercial and hobbyist agricultural activity.
10. In this case the appellant has CPH documentation and whilst there appears to be no evidence of livestock being kept on the appeal site, such activity could occur in the future. The consultant's advice also states that the building considered in 2016 could be classed as being reasonably necessary for the purposes of agriculture within the unit.
11. Section 336 of the Town and Country Planning Act 1990 identifies, amongst other things, that 'agriculture' includes the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land) and the use of land as grazing land. The Act also provides no further quantification or distinction between business and hobbyist agricultural activity.
12. I recognise the Council's concerns regarding the justification for the building, in particular its proposed height. However, taking into account the available



evidence, in particular the views of the agricultural consultant and the lack of any definition or quantification of agricultural development in the Local Plan, I have no other reasons but to conclude that the proposed development would not be in conflict with Policy S3 (a) of the Local Plan.

*Character and appearance*

13. Overall, the surrounding area is that of a mature rural landscape interspersed with a number of sporadic residential properties and established farm buildings to the north and west. The area to the south and east comprises of open fields separated by hedgerows and areas of woodland. I have no evidence to suggest that the appeal site is subject to any landscape designation. However, its undeveloped nature makes an important contribution to the character of this part of the countryside.
14. The appeal site appears to be raised above the road level on Austrey Lane and Atherstone Road. Whilst there are boundary trees and hedgerows along these roads which offer some degree of screening, particularly during the summer months, the appeal site is visible in the context of the wider rural landscape to the south.
15. In my view, the materials proposed to be used in the storage building would be acceptable in the rural setting. However, owing to its design, the proposed storage building would appear as an unusual disproportionately tall building relative to the size of its footprint.
16. The proposed development would result in the introduction of built development on a rural site where there is currently none. I recognise that the proposed building would be positioned close to an existing hedge forming the site boundary with the road which would help to mitigate some views of the proposed development. However, in views from the wider countryside to the south and east, the storage building would appear as an unusually tall and narrow isolated structure in the countryside.
17. Consequently, the proposed building would appear as a prominent, incongruous and isolated standalone feature that would erode the open character of this part of the countryside. The prominence of the building would be exacerbated by the elevated ground level of the site relative to the adjacent public highways.
18. Overall, the proposed building would unacceptably affect the contribution that the site makes to the character of this part of the countryside, particularly to the east of Austrey Lane. It would unacceptably introduce substantial built development into the open countryside that would fail to conserve the open rural character of this part of the landscape.
19. I consider that the proposed chicken coop and electricity box, when considered individually, would not cause an unacceptable impact on the character and appearance of the area due to their small-scale nature and low height. However, when considered collectively with the proposed building, access track and hardstanding they add to my concern regarding the erosion of the open character of the site. Consequently, when considered as a whole, the proposed development would cause harm to the character and appearance of the appeal site and the surrounding area.

20. For the above reasons, the proposed development would unacceptably harm the character and appearance of the surrounding area. Accordingly, the proposed development would not accord with criterion (i) of Policy S3 of the Local Plan. This part of the policy, amongst other things, identifies that development will be supported where the appearance and character of the landscape is safeguarded and enhanced.

#### *Other matters*

21. I have taken into account the advice contained within the National Planning Policy Framework regarding the support for a prosperous rural economy. However, the economic benefit of the construction and use of the development does not outweigh the harm that I have identified above that would be caused to the character and appearance of the surrounding area.
22. As the proposed development comprises of a number of separate components, I have carefully considered whether a split decision could be issued for those aspects that cause less harm to the character and appearance of the area. However, all of the proposed buildings, the hardstanding and the access track are inextricably linked to the use of the site for agriculture. Therefore, I do not consider that a split decision would be appropriate in this case.
23. I have also taken into account the location of the site with regard to the setting of nearby heritage assets. These comprise a Grade II Listed Building located on the northern side of Atherstone Road and the Grade II Listed Building at Westhill Farm. Although the Council has raised no concerns regarding the impact of the proposed development on designated heritage assets, I am nevertheless required to have regard to the statutory duty to consider the effect of the proposal on such assets within the context of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I have had regard to the desirability of preserving or enhancing the designated heritage assets. Given the separation distance between the appeal site and these assets and the extent of intervening trees and hedgerows, I am satisfied that the proposal would preserve the setting of these listed buildings.
24. In addition to the main issues that I have identified above, I have also taken into account the concerns of local residents which, amongst other things, relate to highway safety, drainage, adherence to planning conditions and the future intentions of the appellant. Whilst these matters have been carefully noted, they do not alter the main issues which have been identified as the basis for the determination of this appeal, particularly in circumstances where the Council has not objected to the appeal scheme for these other reasons

#### **Conclusion**

25. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

*Stephen Normington*

INSPECTOR

**Erection of one detached dwelling and associated garage  
(outline - details of access included)**

**Report Item No  
A2**

**Land Adjacent To 37A Church Street Appleby Magna  
Swadlincote Derby DE12 7BB**

**Application Reference  
20/01118/OUT**

**Grid Reference (E) 431467  
Grid Reference (N) 309685**

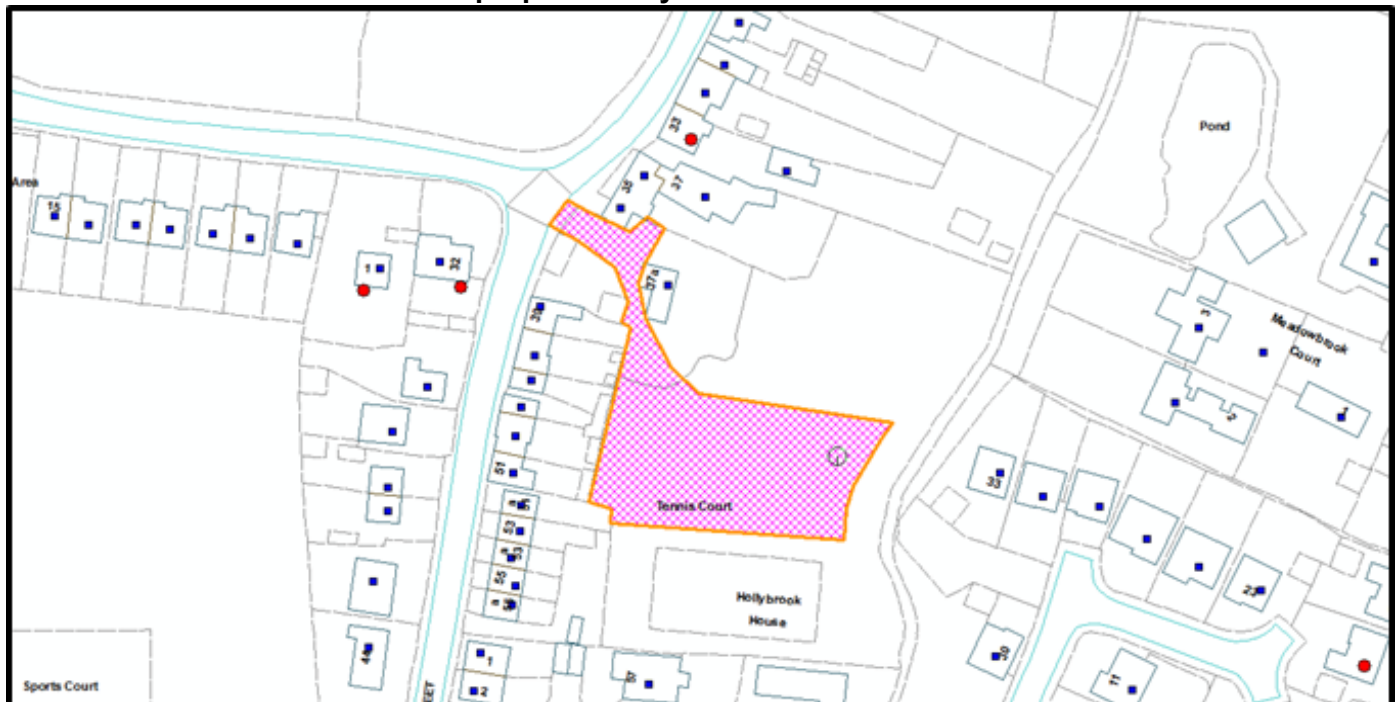
**Date Registered:  
3 August 2020  
Consultation Expiry:  
22 March 2022  
8 Week Date:  
28 September 2020  
Extension of Time:  
None Agreed**

**Applicant:  
Mr And Mrs Dash**

**Case Officer:  
Sarah Booth**

**Recommendation:  
PERMIT**

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



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

### **Call In**

This application has been brought to the Planning Committee at the request of Councillor Blunt due to concerns with impacts on residential amenity, the Conservation Area, flooding and highway safety.

### **Proposal**

Outline Planning permission is sought for the erection of one detached dwelling and a garage, with only access for approval at this stage.

### **Consultations**

A total of 10 letters of neighbour representation have been received, 9 were received at the time the application was originally submitted and 1 has been received following a reconsultation on amended plans. Concerns have also been raised by Appleby Magna Parish Council in relation to highway safety, impacts on the Conservation Area and flooding. Comments have also been raised by the Council's Conservation Officer and these have been addressed in the assessment below. No further objections have been received from other statutory consultees who have responded during the consultation process.

### **Planning Policy**

The site is located within the Limits to Development on the Policy Map of the adopted Local Plan. The application has also been assessed against the relevant policies within the NPPF (2021), the adopted Local Plan, the Council's Good Design Supplementary Planning Document (SPD) and other relevant guidance.

### **Conclusion**

The principle of the development is acceptable. The proposal is not considered to have any significant detrimental impacts on residential amenity, design, heritage, highway safety, the River Mease SAC, ecology, flooding, trees or archaeology. The proposal is deemed to comply with the relevant policies in the adopted Local Plan, the advice in the NPPF and the Council's Good Design SPD. Whilst concerns have been raised by objectors regarding a range of issues, having regard to the supporting information submitted with the application and the advice of statutory consultees, it is considered that there are no technical issues that would indicate that planning permission ought to be refused. It is therefore recommended that the application be permitted, subject to the imposition of planning conditions and the completion of a legal agreement.

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

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

## MAIN REPORT

### 1. Proposals and Background

Outline planning permission is sought for the erection of one detached dwelling and associated garage on garden land adjacent to 37A Church Street, Appleby Magna. The only matter sought for approval at this stage is access. The appearance, scale, layout and landscaping would be dealt with at reserved matters stage.

The site is located within Limits to Development and is within the Appleby Magna Conservation Area. The site is also within the River Mease Special Area of Conservation (SAC) and part of the site falls within Flood Zones 2 and 3.

Amended plans have been received during the course of the application to reduce the number of new dwellings from 2 to 1 in order to address highway safety concerns.

Additionally, the applicant has also agreed to revoke a previously granted planning permission for a development within the wider site and this would be secured by way of a legal agreement. Planning permission (19/00406/FUL) was granted for the conversion of two outbuildings, including extensions and associated works, to create one dwelling. This permission has not yet commenced on site, however it is still within time for this permission to be implemented. It is proposed to revoke this previous application in the interests of highway safety as this would ensure that there would not be a net increase in the number of dwellings using the existing access. This will be considered further in the highway safety section of this report.

In addition to the above, a legal agreement would also be required in accordance with DCS2 to secure a developer contribution to offset the impact of the development on the River Mease SAC. The legal agreement would be secured prior to any decision for the current application being issued.

The main matters for consideration in this application are impacts on design, heritage, residential amenity, the River Mease SAC, highways safety, ecology, flood risk, protected trees and archaeology.

#### Recent Planning History

19/00406/FUL Conversion of outbuildings to form one dwelling, including extensions and associated works PER 13.02.2020

19/00403/OUT Erection of two detached dwellings and associated garages (outline - details of access included) WDN 18.04.2019

04/01369/FUL Erection of detached garage block/tractor shed/workshop PER 18.10.2004

04/00347/FUL Erection of detached garage block WDN 26.04.2004

### 2. Publicity

21 neighbours notified.

Site Notice displayed 11 February 2022.

Press Notice published Burton Mail 12 August 2020.

### 3. Summary of Consultations and Representations Received

**Appleby Magna Parish Council** - raise concerns with regard to the access to the site, the impacts on the Conservation Area and flood risk.

**Conservation Officer NWLDC** - Has raised comments about the location of the proposed dwelling.

**County Highway Authority** - Initially raised concerns but on the basis of amended plans they have no objections subject to conditions and the completion of a legal agreement to revoke a previous planning permission.

**No objections from:**

NWLDC Environmental Protection  
NWLDC Tree Officer  
NWLDC Waste Service  
Historic England

**No objections subject to conditions / note to applicant:**

Leicestershire County Ecology  
Severn Trent Water  
Environment Agency  
County Archaeologist

**Third Party Representations**

10 letters of representation have been received from members of the public. 9 were received at the time the application was originally submitted and 1 has been received following a reconsultation on the amended plans. These are summarised below:

- Highway safety / congestion / local parking problems / number of vehicle movements.
- Lack of vehicular visibility / substandard access.
- Access not wide enough for emergency vehicles.
- Impacts on pedestrians, school children and road users.
- Inaccuracy of details for the site's access onto Church Street.
- Impacts on the Conservation Area.
- Impacts on boundary walls that have heritage interest.
- Position of the dwelling.
- Development on a floodplain.
- Overdevelopment of Appleby Magna.
- No need for this property.
- residential amenity impacts - primarily relating to one of the dwellings that has now been removed from the application.
- Development of a greenfield site.
- Bins will need to be collected from Church Street.
- Impacts on the environment and ecology.

*The following matters are not material planning considerations:*

- Disruption and damage to neighbouring properties from construction works.
- Severed access to the existing private tennis court on site.

## 4. Relevant Planning Policy

### National Policies

#### National Planning Policy Framework (2021)

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

Paragraphs 9 and 10 (Achieving sustainable development);  
 Paragraphs 11 and 12 (Presumption in favour of sustainable development);  
 Paragraphs 38, 44 and 47 (Decision-making);  
 Paragraphs 55 and 56 (Planning conditions and obligations);  
 Paragraphs 60, 69, 74, 75 and 79 (Delivering a sufficient supply of homes);  
 Paragraphs 107, 110, 111 and 112 (Promoting sustainable transport);  
 Paragraphs 119, 120 and 124 (Making effective use of land);  
 Paragraphs 126, 128, 130 and 134 (Achieving well-designed places);  
 Paragraph 152, 154, 157, 159, 161, 162 and 167 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraphs 174, 182, 183, 184, 185 and 186 (Conserving and enhancing the natural environment);  
 Paragraphs 194, 195, 197, 199-203 and 205-207 (Conserving and enhancing the historic environment)

#### Adopted North West Leicestershire Local Plan (2021)

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

S2 - Settlement Hierarchy  
 D1 - Design of New Development  
 D2 - Amenity  
 IF4 - Transport Infrastructure and New Development  
 IF7 - Parking Provision and New Development  
 EN1 - Nature Conservation  
 EN2 - River Mease Special Area of Conservation  
 He1 - Conservation and enhancement of North West Leicestershire's historic environment  
 CC2 - Water - Flood Risk  
 CC3 - Water - Sustainable Drainage Systems

### Other Policies / Guidance

National Planning Practice Guidance  
 Good Design for North West Leicestershire Supplementary Planning Document - April 2017.  
 Leicestershire Highways Design Guide (Leicestershire County Council).  
 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act).  
 The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').  
 Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).  
 River Mease Water Quality Management Plan - August 2011.  
 National Design Guidance - Oct 2019.  
 Appleby Magna Conservation Area Appraisal (2001).  
 The Appleby Magna Village Design Statement.

## 5. Assessment

### Principle of Development

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

Neighbour concerns have been raised regarding the principle of the development and the overdevelopment of Appleby Magna, however the site is located within Limits to Development as defined by the adopted Local Plan where the principle of development is acceptable. Policy S2 defines Appleby Magna as a 'Sustainable Village' which is supportive of a limited amount of growth, within the defined Limits to Development.

Given that the proposed development would only create one additional dwelling, and that it would be within limits to development, it is considered that the limited scale of the proposed development would not lead to overdevelopment of the settlement of Appleby Magna.

As the application site is within the defined Limits to Development and as this proposal is for residential development, it would accord with Policy S2 of the adopted Local Plan.

### Historic Environment

Concerns have been raised by members of the public and Appleby Magna Parish Council with regard to the development's impact on the Conservation Area, this will be considered in the section below.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority to have special regard to the desirability of preserving the character and appearance of a Conservation Area when considering whether or not to grant planning permission for development. It is also important to assess the proposal against heritage guidance in the NPPF particularly paragraphs 197 and 199.

Policy He1 of the adopted Local Plan also aims to secure the conservation and enhancement of North West Leicestershire's historic environment.

It is noted that there is an ancient scheduled monument located approximately 100 metres to the north-east of the application site. It is not considered that the proposed development would significantly or adversely impact on the setting of the ancient scheduled monument owing to the separation distance and the application site's location to the rear of properties on Church Street.

The Conservation Officer has been consulted on this application and has highlighted that the Appleby Magna Conservation Area Character Appraisal concludes that the application site was included in the Conservation Area because of its open nature. The Appleby Magna Village Design Statement also identifies the application site as important for its undeveloped nature.

It is proposed to erect one detached house. The Conservation Officer has commented that the submitted indicative site plan could potentially intrude into what is described as the "vista protection zone" which is the more sensitive area within the site where development could be viewed from the public highway. The Conservation Officer has advised that the development should preserve the site's open nature.

Notwithstanding the Conservation Officer's comments, the siting, scale, appearance and design would only be assessed at reserved matters stage. Given the generous size of the plot it is



considered that the proposed dwelling could be located in a less prominent position. The Conservation Officer has also acknowledged that plans submitted at earlier stages in this application demonstrate that development could be possible whilst also maintaining the views across the site to the south-east. Taking this into account it is considered that a suitable scheme could be achieved in a subsequent reserved matters application.

A member of the public has raised concerns with heritage impacts from the development on the boundaries of No.39 Church Street, which they have described as a building of historical interest. No.39 and its boundaries are not listed and are not one of the Council's locally listed assets. The application does not include works to the existing walled boundaries, however boundary details can be secured at reserved matters stage. Furthermore, the Conservation Officer has raised no concerns with the impacts on No.39 Church Street.

In view of the above, at this outline stage, it is considered that it would be possible to site a new dwelling in this location without resulting in harm to the character of the Conservation Area. Therefore the proposal would comply with the aims of the NPPF, Policy HE1 of the Local Plan, the Appleby Magna Conservation Area Appraisal and the Appleby Magna Village Design Statement.

### **Design and impact on character of the area**

Neighbour concerns have been raised with the location and positioning of the proposed dwelling and over development of the site. This outline application only seeks approval for access at this stage. As such, the location, scale and appearance of the property would be determined in a subsequent application for reserved matters. The following will assess the overall principle that a suitably designed property could be provided on this site.

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1 and the Council's Good Design SPD but also paragraphs 130 and 134 of the NPPF.

The application site is within the garden of an existing property. The site is part of the village settlement and is located behind other dwellings on Church Street. Depending upon the exact siting of the new dwelling, it could be visible from the public highway at the access point to the site when looking in a south-eastern direction.

It is noted that there is a public footpath located 130 metres to the north-east of the application site. However, the site is well screened by a boundary of mature trees in this direction and therefore views would not be prominent in this direction.

In some cases, where it is proposed for new dwellings to be located behind the existing dwelling this can result in what is known as 'backland' development, which has the potential to be harmful to the character of surrounding development in the area. With regard to this application, it is noted that new dwellings have been granted in recent years on land directly to the south of the application site where they are also set back behind other properties. On that basis a new dwelling located on the proposed application site would be in keeping with the character of the area.

The neighbouring concerns about overdevelopment of the site have been taken into consideration. The National Planning Practice Guidance advises that building to plot ratio measurements can help to compare the density of development on different sites. On average the surrounding neighbouring properties in this location have a building to plot ratio of between 30 - 40%. On the basis of the indicative site plan the proposal would be approximately 10%,

which is far less dense than surrounding plots. Whilst this would have to be confirmed in a reserved matters application, the plot in this case is generously sized and therefore proposal would have a lower density than surrounding properties. On this basis the site is not considered to be overdeveloped.

Furthermore, it is considered possible for the proposed dwelling to have a footprint that would be at least equal to its outdoor amenity space, as recommended in the Council's Good Design Supplementary Planning Document (SPD). As such the proposal is not considered to result in overdevelopment of the site.

Based on the indicative layout, it appears possible that the site could accommodate all of the necessary requirements including a private garden, landscaping, parking/turning space and bin storage for both the new dwelling as well as the existing dwelling, without being cramped.

Therefore, it is considered that the proposal would not result in any harmful impacts to the character or appearance of the local area. As such, the development would accord with Policies He1 and D1 of the Local Plan, the Good Design SPD and paragraph 130 and 134 of the NPPF.

### **Impact upon Residential Amenity**

Neighbour objections have been received during the course of the application with regard to impacts on neighbouring residential amenity. Most objections were received prior to the latest amended plans, which reduce the number of dwellings from two to one. The following will assess all impacts on the residential amenity of neighbouring properties, with regard to the latest amended plans.

Given that this outline application only seeks approval for access, there are only limited matters to assess at this stage with regard to neighbouring impacts because it is not known where the property would be sited or its scale. These matters would be dealt with in a reserved matters application. Notwithstanding this the principle impacts on residential amenity will be considered below.

The application site is bordered by a number of residential properties. Firstly, the access drive is adjacent to No's 35, 37 and 39 Church Street, as well as the applicant's own property No.37a Church Street. Whilst it is noted that there would be cars using the access at the front of the site no objections have been received from the Council's Environmental Protection Team with regard to noise and disturbance concerns. Furthermore, the Highways section of this report will explain that this application also proposes to revoke a previous planning permission (19/00406/FUL) for this site which granted the residential conversion of outbuildings to the site frontage. This would ensure that there would not be a net increase in the number of dwellings that would use the access.

In addition to the above, No's 35 and 37 Church Street would be separated from the proposed development by the intervening existing property (No.37a). As such it is not considered that these dwellings would be adversely affected by the proposal.

The application site is bounded by a row of neighbouring properties that front Church Street, this includes 39, 41, 43, 45, 47, 51, 51A, 53, 53A, 55, 55A. According to the indicative site plan the proposed new dwelling could be sited at least 10 metres from the rear garden boundaries of these neighbouring properties and at least 20 metres from the rear elevations of the neighbouring dwellings. As such, it is considered that a detailed scheme at reserved matters could be achieved that would accord with the aforementioned separation distances as per the Council's Good Design SPD. This would thereby prevent any detrimental impacts to neighbour's

residential amenity.

With regard to impacts on the existing dwelling No.37a, it is considered that the proposal could be sited in a location that would provide a suitable distance to prevent any adverse overshadowing impacts. The proposed property could also be orientated in the same direction as 37a and any upper floor side facing windows could be obscurely glazed. As such it is considered that the proposed development could be implemented in a way that would not result in any harmful overbearing, overlooking or overshadowing impacts to No.37a.

It is noted that there are neighbours to the east of the site such as 33 Didcott Way, however the neighbouring properties in this direction would be approximately 50 metres from the proposed development and would be separated from the new dwelling by a brook and boundary trees. Additionally properties to the south of the application site would be at least 30 metres from the application site and would be separated by an existing private tennis court that would be retained by the existing property No.37a. As such it is not considered that properties to the south or east would be adversely affected.

Overall, it is considered that a scheme at reserved matters could be achieved that would not result in detrimental impacts upon surrounding residential amenity. Therefore, the proposed development is considered to be in accordance with Policy D2 of the adopted Local Plan and the Council's Good Design SPD.

### **Highway Considerations**

Members of the public and the Parish Council have raised concerns with highway safety matters including pedestrian safety, visibility, access, congestion, local parking problems and the number of vehicle movements. These matters will be considered in the section below.

During the course of the application the County Highway Authority (CHA) have raised some concerns with regard to the site access because the visibility splays and the access width do not meet the criteria in the Local Highways Design Guide (LHDG). Neighbour concerns have also been taken into account, including concerns regarding parked cars and bins which can further impede visibility for this site access. Neighbour concerns regarding potential impacts on pedestrian safety have also been noted but are not considered material.

Officer discussions have taken place with the applicant and the CHA to address the above matters. Subsequently, the application has been amended and the number of dwellings has been reduced from two to one. In addition to the above the applicant has agreed to revoke a previously granted planning permission for a development within the wider site. Planning permission (19/00406/FUL) was granted for the conversion of two outbuildings, including extensions and associated works, to create one dwelling. This permission has not yet commenced on site however it is still within time to be implemented.

The outbuildings to be converted and extended are located towards the site frontage, adjacent to the access. The approved development would also include new boundary walls and parking areas to provide parking and a garden for that new unit. If this application was revoked (and secured via a legal agreement) then that would reduce the total number of dwellings that could currently use the access to the site. This would also maintain the space available within the front of the site across the main driveway, so that there would be more room for vehicles to pass each other. As such, this would enhance visibility and access width internally within the application site when compared to the arrangement if application 19/00406/FUL was implemented.

The CHA have been informed that it is the applicant's intention to revoke this previous planning

permission and that the Local Planning Authority would secure this by way of a legal agreement, prior to any decision for the current application being issued. The CHA are also aware that the proposal has been amended to reduce the proposed new dwellings in this application from two to one. On the basis of these two key factors the CHA are now satisfied that there would be no net increase in permitted dwellings using the application site's access.

The CHA have advised that the Local Planning Authority should secure the use of the existing outbuildings to ensure they would remain ancillary to the rest of the site in order to ensure there would not be excessive vehicular trips associated with the existing outbuildings. This will need to be secured by a legal agreement, which would satisfy the concerns raised by the CHA.

Neighbours have also raised concerns with what they consider to be an inaccurate account of land available at the site access. The County Highway Authority are aware of land that falls within the Highway ownership and they have taken account of resident's concerns relating to parked cars in the street which can also hinder visibility. Notwithstanding this, the CHA do not object to this application on the basis of the above.

In terms of the neighbour comments relating to the access by emergency vehicles (in particular a fire engine) it is noted that The Building Regulations 2010 Fire Safety Approved Document B: Vol 1 - Dwellinghouses Section B5 (Access and facilities for the fire service) outlines that the minimum width of a road between kerbs would be required to be 3.7 metres. However, the Association of Chief Fire Officers have outlined within Manual for Streets that such a width is required for "operating space at the scene of a fire and that to simply reach a fire the access route could be reduced to 2.75 metres" (Paragraph 6.7.3 of Section 6.7 Emergency Vehicles on Page 75 of Manual for Streets). In this circumstance it is considered that the narrowness of the internal access point (to 2.5 metres) would not prevent emergency vehicles from serving the proposed dwelling given that the width of site frontage access would be approximately 5 metres, which would be sufficient for operating at the scene of a fire.

Therefore, subject to the imposition of the above conditions and completion of a legal agreement, the CHA consider that the highway safety aspects of the scheme are considered acceptable. The proposal is considered acceptable in relation to the Leicestershire Highways Design Guide and Policies IF4 and IF7 of the adopted Local Plan and the Local Highways Design Guidance.

### **Flood Risk and Drainage**

Parish Council and Neighbour objections have been received with regard to the development's impact on flooding. This will be considered in the section below.

There is a brook that runs along the eastern boundary of the application site and consequently the eastern half of the application site is located within Flood Zones 2 and 3. The rest of the site falls within Flood Zone 1. The indicative site plans show the property as being located outside of flood zones 2 and 3. The applicant has provided a Flood Risk Assessment (FRA) with their application submission.

The Environment Agency have been consulted on this application and they have reviewed the submitted FRA. The Environment Agency have advised that the proposed development would meet the requirements of the National Planning Policy Framework provided that the following details are secured by conditions, which are considered to be reasonable:

- The finished floor levels should be set no lower than 87.08m above Ordnance Datum (AOD), or 150mm above external finished ground levels whichever is the greater.

- As a minimum there should be an 8 metre easement provided between any proposed built development and the top of the bank of the watercourse.
- There must be no development or ground level raising (including for the disposal of surplus excavated material), within the area classed as Flood Zone 3.
- There must be no close board fencing within flood Zone 3, however post and rail fencing is acceptable in this location. Other open style types of fencing and hedging may be acceptable but this would be subject to the details being submitted as part of any Reserved Matters or Full application.

The site is also within areas of low, medium and high risk of surface water flooding. It is therefore recommended to secure detailed sustainable surface water drainage scheme by condition to ensure that the water quality and quantity would be equivalent to that of the current run-off rate on site.

Subject to the recommended conditions it is considered that the proposal is unlikely to result in any harmful increases in flooding on the site or elsewhere. The proposal would therefore not have a significant impact on flood risk or drainage and so would comply with Policies CC2 and CC3 of the Local Plan and the aims of the NPPF.

#### **River Mease Special Area of Conservation/SSSI - Habitat Regulations Assessment**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewerage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river.

As a result of the proposed development there could be an impact on the River Mease SAC, which may undermine its conservation objectives, from an increase in foul and surface water drainage discharge as well as due to its proximity to a tributary of the River Mease. Therefore an appropriate assessment of the proposal and its impacts on the SAC is required.

The River Mease Developer Contribution Scheme First and Second Development Windows (DCS1 and 2) have been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). Both DCS1 and DCS2 are considered to meet the three tests of the 2010 CIL Regulations and Paragraph 177 of the NPPF. DCS1 was adopted in 2012 and DCS2 was adopted by the Council on 20 September 2016 following the cessation of capacity under DCS1.

Applications are allocated capacity under the DCS chronologically by the date they are submitted. This application was originally submitted in 2020 and there have been various matters to address for this site which has subsequently taken time for the application to reach a conclusion. At the time that this application was originally submitted there was capacity in DCS2 for this proposed dwelling and this has been reserved throughout the application process. As such, whilst there is no longer any capacity within DCS2 at this current time, capacity for this application has been historically reserved for this development.

This application proposes to connect to the mains sewer and the applicant has indicated they are willing to pay the required DCS contribution and the Council's solicitors have been instructed. On the above basis, compliance with the proposed legal agreement would ensure that foul drainage discharge from the site would not adversely impact on the integrity of the River Mease SAC.

The flows from the new dwelling need to be taken into account against the existing headroom at Snarestone Treatment Works, which currently has the capacity to cope with this additional dwelling.

With regard to surface water drainage it is recommended to secure a sustainable surface water drainage system by condition in the interests of protecting the River Mease SAC and to limit impacts on Flood Zones 2 and 3 as mentioned in the section above. It is also recommended to secure a construction management condition to ensure that the adjacent water course would not be contaminated during construction of the new dwelling. Subject to this condition the proposal would be acceptable and would comply with Policies CC2 and CC3 of the Local Plan.

Therefore it can be ascertained that the proposal would, either alone or in combination with other plans or projects, have no adverse effect on the integrity of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, and would comply with the Habitat Regulations 2017, the NPPF and adopted Policies En1 and En2.

### **Bin Storage and Collection**

The Council's Waste Services team advises that the waste and recycling receptacles would need to be presented adjacent to the adopted highway i.e. Church Street as per the current collection arrangements for neighbouring properties. Precise details for bin storage details would be secured at reserved matters stage.

A note to applicant could be imposed advising that residents would need to leave their bins for collection on the footway, and that Council has powers to remove the bins from the footway once emptied.

### **Ecology**

Neighbours have raised concerns that the impacts on ecology have not been considered. This matter has been assessed below.

The submitted Ecological Impact Assessment has been assessed by the County Ecologist who advises it is satisfactory. No protected species or species of note have been identified on the site and no further ecology surveys are required.

The County Ecologist has advised that a planning condition should be attached to ensure that bat and bird boxes are provided on the proposed new dwelling

On the basis of the above it is considered that protected species would not be adversely affected by the proposal and the development complies with the Habitats Regulations 2017 and Policy En1 of the adopted Local Plan.

### **Trees**

There are a group of trees within the application site that are protected by a Tree Preservation Order (Number T206), which are located to the south eastern corner of the site. The Council's Tree Officer has been consulted on this application and has advised that there appears to be sufficient space within the site to accommodate a single dwelling without any significant impacts to the existing trees.

Given that this is an application for outline permission with only access for approval at this stage there are no arboricultural objections in principle to outline consent being granted.

Tree protection measures can be secured at reserved matters stage once the scale and layout of the proposal has been established. This application is therefore considered to accord with Policy En1 of the Adopted Local Plan.

### **Archaeology**

Leicestershire County Council Archaeology have advised that they have no objections to the application subject to a condition to secure a written scheme of investigation. The applicant has agreed to this condition being attached the proposal would comply with the NPPF, Policy He1 of the Local Plan

### **Other Matters**

Neighbour concerns have been raised that the development would separate a piece of land from the rest of the site where there is currently a private tennis court. This is not considered to be a planning concern however it is highlighted that there would still remain a route at the rear of the proposed new dwelling for the existing property to access this land.

### **Conclusion**

In conclusion, the site lies within Limits to Development where there is a presumption in favour of development subject to all other matters being addressed. The scheme does not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, visual amenity, the character of the Conservation Area, highway safety, ecology, flooding, protected trees or archaeology matters. The proposal would also not result in harm to the River Mease SAC. It is recommended that planning permission be granted, subject to the imposition of planning conditions and the completion of a legal agreement.

### **RECOMMENDATION- PERMIT, subject to a legal agreement covering the following points:**

- a) To revoke planning application 19/00406/FUL;
- b) To secure that the existing outbuildings would remain ancillary to the existing dwelling; and
- c) To secure a River Mease developer contribution under DCS2.

### **and subject to the following conditions**

- 1 Time limit.
- 2 Reserved Matters.
- 3 Approved Plans.
- 4 Levels.
- 5 Archaeology - written scheme of investigation
- 6 EA condition - Floor levels
- 7 EA condition - 8 metre easement from watercourse
- 8 EA condition - No ground level raising
- 9 EA condition - PD removed for new boundary treatments (Flooding reasons)
- 10 Surface water during construction
- 11 Surface water drainage scheme
- 12 Surface water management
- 13 Bird and bat Boxes
- 14 Bin storage details to be provided at reserved matters.

This page is intentionally left blank