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

<b>AGENDA</b>		
<b>Item</b>		<b>Pages</b>
<b>1. APOLOGIES FOR ABSENCE</b>		
<b>2. DECLARATION OF INTERESTS</b>		
	Under the Code of Conduct members are reminded that in declaring interests you should make clear the nature of that interest and whether it is a disclosable pecuniary interest, registerable interest or other interest.	
<b>3. MINUTES</b>		
	To confirm and sign the minutes of the meeting held on 4 May 2022.	<b>3 - 6</b>
<b>4. PLANNING ENFORCEMENT UPDATE Q4 2021/22</b>		
	Report of the Head of Planning and Infrastructure.	<b>7 - 14</b>
<b>5. PLANNING APPLICATIONS AND OTHER MATTERS</b>		
	Report of the Head of Planning and Infrastructure.	<b>15 - 18</b>

## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
<b>A1</b>	<b>20/01662/REMM: Erection of 605 dwellings, construction of car park and internal access roads and formation of public open spaces (reserved matters to outline planning permission ref. 15/00512/OUTM)</b>  Money Hill Site North Of Nottingham Road And South Of A511 Ashby De La Zouch Leicestershire	<b>Permit</b>	<b>19 - 34</b>
<b>A2</b>	<b>21/00438/OUT: Demolition of existing buildings and erection of up to three dwellings (Outline - details of access and layout for approval)</b>  49 Chapel Street Oakthorpe Swadlincote Derby DE12 7QT	<b>Permit</b>	<b>35 - 46</b>

MINUTES of a meeting of the PLANNING Committee held in the Council Chamber, Council Offices, Coalville on WEDNESDAY, 4 May 2022

Present: Councillor N Smith (Chairman)

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

In Attendance: Councillors R Johnson, V Richichi and R Canny

Officers: Mr C Elston, Mr D Jones, Mrs C Hammond, Mr S Smith, Ms S Booth and Mrs R Wallace

## **70. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors A Bridgen and D Everitt.

## **71. DECLARATION OF INTERESTS**

No interests were declared however, members declared that they had been lobbied without influence in respect of the following applications but had come to the meeting with an open mind.

Item A1, application number 22/00267/FUL

Councillors D Bigby, R Boam, S Gillard, J Hoult, J Legrys, R Morris, J Simmons, N Smith and M B Wyatt.

Item A2, application number 21/00896/FUL

Councillors D Bigby, J Legrys and N Smith.

## **72. MINUTES**

Consideration was given to the minutes of the meeting held on 5 April 2022.

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

RESOLVED THAT:

The minutes of the meeting held on 5 April 2022 be approved and signed by the Chairman as a correct record.

## **73. 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.

## **74. A1 22/00267/FUL: ERECTION OF ONE DWELLING AND CREATION OF A NEW VEHICULAR ACCESS**

Land Adjacent To 2 Station Terrace Heather Coalville Leicestershire LE67 2QN  
**Officer's Recommendation: Refuse**

The Senior Planning Officer presented the report to members.

Mrs Petty, objector, addressed the committee highlighting concerns over the amount of development that had taken place in the village over years, which had meant an increase in traffic on the road and impacted on highway safety. It was also noted that the proposed development site was outside the Limits to Development and she urged the committee to refuse the application.

Mr Cooper, agent, addressed the committee highlighting that the visibility splay of 2.4 by 120ms could be achieved in both directions, which was greater than that required on the other new developments in the area and that the applicant would be willing to carry out a further speed survey on the road, should the application be permitted. He noted that the entrance to the site would provide ample crossing points, that there had previously been a dwelling on the site and that the site was classed as both built up and open countryside, which therefore could be permitted under policies S2 and S3 of the Local Plan.

Councillor Richichi, ward member, addressed the committee highlighting that the NPPF stated that applications should be viewed with a presumption in favour to permit and outlined past applications, which had a bigger impact on the surrounding area, that had been permitted outside the Limits to Development. He noted that a dwelling once stood on the application site and that permission had been granted in recent history for a new dwelling on the site. He felt that one extra vehicle on the road would not have an impact on the highway and the development would meet local need and would be located in a sustainable village.

In determining the application members had regard to the fact that speed surveys should be carried out within the past three years. No up to date surveys had been provided at this stage. There were concerns being raised over the visibility splay, that the site was close to group of dwellings, but not in an area classed as a settlement, meaning therefore that it was outside the Limits to Development and that in terms of the previous developed land, garden areas within built up areas were not included, therefore it was not classed as previously developed land. Members were reminded that each application had to be considered on its own merits.

The recommendation to refuse the application in accordance with the officer's recommendation, was moved by Councillor J Hoult and seconded by Councillor R Morris.

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

#### RESOLVED THAT:

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

<b>Motion to refuse the application in accordance with the officer's recommendation (Motion)</b>	
Councillor Nigel Smith	For
Councillor Russell Boam	For
Councillor Dave Bigby	For
Councillor Stuart Gillard	For
Councillor Jim Hoult	For
Councillor John Legrys	For
Councillor Ray Morris	For
Councillor Jenny Simmons	For
Councillor Michael Wyatt	For
Councillor John Bridges	Against
Councillor John Geary	For
<b>Carried</b>	

75.

**A2****21/00896/FUL: PART DEMOLITION OF EXISTING BUILDING, ERECTION OF A TWO STOREY EXTENSION AND CHANGE OF USE TO FIVE ASSISTED LIVING FLATS ALONGSIDE OTHER EXTERNAL WORKS AND ALTERATIONS**

2 - 4 Central Road Hugglescote Coalville Leicestershire LE67 2FD

**Officer's Recommendation: Permit**

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

The Chairman read out a letter from Hugglescote and Donnington le Heath Parish Council. The Parish Council raised concerns in relation to the out of date transport statement and that car parking allocation of a sort would be required for staff and visitors, and how deliveries and waste collections would be managed. It was noted that the application was contrary to Policy T2 of the Neighbourhood Plan, that there was no construction plan submitted, which would detail how the site works would be managed especially as the site was located at a busy junction.

Councillor R Johnson, ward member, addressed the committee highlighting that the site was an eyesore and currently had a detrimental impact on the village however, the application before them was not right for the site. He noted that the case law that was mentioned had no similarity to the application and the construction management plan needed to be in place before approval was given, as the site was located at the busiest crossroads in Leicestershire and the limited access would mean construction traffic having to park on the roads which was already limited and there were no public car parks in the vicinity. He concurred with the comments read out on behalf of the Parish Council.

Some members expressed concerns over highway safety during the construction period, lack of parking for staff and visitors, which the both the Local Plan and Neighbourhood Plan stated that there should be for residential sites and the impact the development would have on a road that was already over capacity and had poor air quality.

In determining the application members had regard to there being no objections from LCC Highways, which included requirements for parking provision, that the existing building was already a residential dwelling which meant that access to services was already in place and that a construction management plan would be required as part of the conditions, which LCC Highways would be involved in assessing. It was noted that should an application for change of use be submitted at a later date to revert back to a C3 use, parking requirements would be revisited at that time.

The recommendation to permit the application in accordance with the officer's recommendation, was moved by Councillor R Boam 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 refused in accordance with the recommendation of the Head of Planning and Infrastructure.

<b>Motion to permit the application in accordance with the Officer's recommendation (Motion)</b>	
Councillor Nigel Smith	For
Councillor Russell Boam	For
Councillor Dave Bigby	Against
Councillor Stuart Gillard	For

Councillor Jim Hault	For
Councillor John Legrys	Against
Councillor Ray Morris	For
Councillor Jenny Simmons	For
Councillor Michael Wyatt	Against
Councillor John Bridges	For
Councillor John Geary	Against
<b>Carried</b>	

The meeting commenced at 6.00 pm

The Chairman closed the meeting at 7.51 pm

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – TUESDAY, 5 JULY 2022



<b>Title of Report</b>	<b>PLANNING ENFORCEMENT UPDATE Q4 2021/22</b>	
<b>Presented by</b>	Dylan Jones Planning and Development Team Manager	
<b>Background Papers</b>	None	<b>Public Report:</b> Yes
<b>Financial Implications</b>	None	
<b>Staffing and Corporate Implications</b>	None	
	<b>Signed off by the Director:</b> Yes	
<b>Legal Implications</b>	None apparent from this report. Legal advice is provided on enforcement matters on a case-by-case basis.	
	<b>Signed off by the Monitoring Officer:</b> Yes	
<b>Purpose of Report</b>	To provide an update to Members on the work of the planning enforcement team.  To provide an overview of the compliance and monitoring cases within the planning enforcement service.	
<b>Recommendations</b>	<b>PLANNING COMMITTEE NOTE THE INFORMATION CONTAINED WITHIN THE REPORT.</b>	

**1 BACKGROUND**

- 1.1 This report is to update Planning Committee members on the performance of the Planning Enforcement Team during Quarter 4 of the 2021/22 financial year. It also provides an opportunity to review the workload and the performance of the team in meeting its targets for investigating complaints against that which is specified in the Council's Enforcement Policy in the 2021/22 financial year and how that compares with how the team performed in the previous financial year to identify any trends.

**2 Harm Scoring of Cases**

- 2.1 Harm scoring is a process that the team uses to prioritise its workload. Below is Table 1 showing the results of the harm scoring process with the different priority levels given to the cases listed along the left hand side of the table. Following an initial site visit, each case is given a harm score which determines the priority that should be given to

the case, and this defines the timescale and process that the team will follow to investigate and resolve the matter.

- 2.2 To aid with clarity on this process, a copy of the harm scoring sheet is appended at the end of the report as appendix 1.
- 2.3 To clarify, the first heading under the urgent case/not required category is where a harm scoring exercise is not carried out as it's not necessary. This will be due to either the case falling into the high priority category where we investigate immediately, or no breach is found on site and there isn't a case to investigate.

**Table 1 – Harm Scoring**

	2020/2021						2021/2022				
	Q1	Q2	Q3	Q4	Total		Q1	Q2	Q3	Q4	Total
<b>Urgent Case/Not Required</b>	4	70	28	36	<b>138</b>		37	12	43	59	<b>151</b>
<b>High Priority cases (score over 5)</b>	16	39	49	23	<b>107</b>		36	34	17	8	<b>95</b>
<b>Standard Priority case (score under 5)</b>	30	13	16	6	<b>65</b>		28	10	27	12	<b>77</b>
<b>No update (awaiting harm score)</b>	n/a	2	3	28	<b>33</b>		3	11	24	19	<b>57</b>
<b>Pending consideration (visit arranged but not completed or awaiting visit to be made)</b>	n/a	17	17	20	<b>54</b>		13	18	31	14	<b>76</b>
<b>Annual Total</b>					<b>397</b>						<b>456</b>

- 2.4 Table 1 shows that the workload of the team has increased since the 2020/21 financial year and this is potentially because of the lifting of the Coronavirus restrictions and lockdowns which formed the majority of 2020 and into 2021.
- 2.5 The table shows that the cases that don't need to be harm scored due to their urgency are similar between the financial years although there are less high priority cases coming forwards in the 2021/22 financial year compared to the previous year. However, the team has received an increase in the standard priority cases in the last financial year to deal with compared to that in the previous period.

- 2.6 It should also be noted that the Enforcement Team experienced more delays with being able to arrange a site visit to the sites that they are investigating in the last financial year which has caused a delay in them being able to progress those cases. This has been due to an increased number of landowners not responding to the team's requests to access their land and this has resulted in the need for further contact with the landowners which has caused additional work for the team and increased delays.

### 3 PLANNING ENFORCEMENT CASE STATISTICS

**Table 2 – Number of New Cases Opened**

<b>2020/21</b>				
<b>Months/Year</b>	<b>No. of new cases opened</b>	<b>No. of cases older than 6 months</b>	<b>No. of cases older than 1 year</b>	<b>Total no. of live cases within each quarter</b>
<b>Q1</b>	111	91	56	258
<b>Q2</b>	141	75	78	294
<b>Q3</b>	113	44	88	245
<b>Q4</b>	113	35	95	243
<b>Total in year</b>	<b>478</b>	<b>245</b>	<b>317</b>	<b>N/A</b>
<b>2021/2022</b>				
<b>Months/Year</b>	<b>No. of new cases opened</b>	<b>No. of cases older than 6 months</b>	<b>No. of cases older than 1 year</b>	<b>Total no. of live cases within each quarter</b>
<b>Q1</b>	117	67	105	289
<b>Q2</b>	85	54	100	239
<b>Q3</b>	142	60	120	322
<b>Q4</b>	112	46	120	278
<b>Total in year</b>	<b>456</b>	<b>227</b>	<b>445</b>	<b>N/A</b>

- 3.1 Table 2 above shows the number of new cases opened by the team and the number of those that have been with the team for over six months and over a year. The table also shows in the last column a running total between the quarters of the live cases that the team has. Members are advised that that some cases which have been with the team for 6 months and over and up to a year are held in abeyance due to the necessity for scheduled monitoring, the submission of retrospective planning applications, appeals or the case may be in the initial stages of formal action being taken by the service of an enforcement notice. Whilst some cases may have been with

the team for a relatively longer period, this doesn't mean that the case is inactive, and the team aren't progressing with it.

3.2 The last column shows that the number of live cases that are with the team at any one time has remained similar between both financial years and averages around the 270 mark per quarter of the year. There are currently five officers within the team with two of these being temporary agency workers who work on a part time basis dealing with the more complex cases and three full time permanent staff picking up all the other cases. As the team has approximately 270 live cases at any time, this gives each case officer an average of approximately 54 live cases to deal with at any one time. It must however be noted that in reality, the three permanent staff members will carry more workload than this as they deal with more less complex cases than the agency workers who carry less cases but these are more complex cases.

3.3 The types of breaches investigated during Quarters 1, 2, 3 & 4 are summarised in Table 3 below.

**Table 3 – Types of Breaches Investigated**

2020/21					2021/22				
Type of breach	Q1	Q2	Q3	Q4		Q1	Q2	Q3	Q4
Breach of planning condition	6	3	15	12		17	6	23	17
Unauthorised works in conservation area	3	4	3	5		10	2	4	5
High hedges	0	0	0	0		2	2	0	0
Unauthorised works on a listed building	0	2	5	2		4	2	6	4
Not in accordance with approved plans	20	25	17	21		15	8	23	15
Unauthorised works on a protected tree	4	2	1	1		2	3	3	4
Unauthorised development – Domestic	30	41	38	25		37	27	30	24
Unauthorised development – Non domestic	13	11	7	12		7	10	23	20
Untidy land	9	0	1	1		0	0	0	2
Unauthorised advertisement	0	0	1	10		1	0	3	2
Material change of use	13	27	21	14		16	17	5	10
Advice	2	1	2	8		3	6	18	9

<b>Breach of Section 106</b>	0	1	0	0		0	1	4	0
<b>Development Monitoring</b>	11	14	1	2		3	1	0	0
<b>Totals</b>	<b>111</b>	<b>141</b>	<b>112</b>	<b>113</b>		<b>117</b>	<b>85</b>	<b>142</b>	<b>112</b>

3.4 This table shows the different types of cases that the team deal with. The statistics show that the highest number of cases dealt with relate to investigating unauthorised works at private dwellings where extensions may have been built to properties without obtaining the relevant planning permission or establishing if permission was required in the first place. They also deal with several cases relating to developers' buildings schemes not being in accordance with the approved plans and also cases where changes of use have happened without permission. The total number of cases received are similar in total between both financial years.

3.5 It should be noted that since Planning Enforcement returned to the Development Management Team, High Hedges and untidy land complaints have remained with the Environmental Protection Team to deal with.

3.6 **Prosecutions** - There have been no prosecutions during quarter 4, and there have been no prosecutions in the last financial year. However, there has been court action to gain injunctions and these sites are subject to continued monitoring and the injunctions have been adhered to with no requirement for committal proceedings. There are also extant Enforcement Notices in place where the period for compliance is coming to an end and the site will be monitored further and may result in legal action in the future.

3.7 It must be emphasised that as the service of an enforcement notice and prosecution for non-compliance with its requirements is a last resort where all other forms of negotiation to resolve the issue has failed. A low number of prosecutions annually is what would be expected in the team and is not indicative of the team not performing as it should do.

3.8 **Appeals** - During the period January 2022 to March 2022, there has been no new enforcement appeals lodged with the Planning Inspectorate.

#### 4 Key Cases

4.1 Table 4 shows the cases that are complex cases that require more focus and time by the case officer. They may be at appeal stage, notice stage or of public interest.

**Table 4 – Key Cases**

<b>SITE</b>	<b>DESCRIPTION</b>
<b>Whitegate Stables, Coleorton Lane, Packington</b>	The site has an injunction order in place and an Enforcement Notice. The site has been given temporary approval for water and electricity supplies. Appeal has been lodged against the planning application refusal and the Enforcement Notice.

<b>Aylesbury Gardens, Newton Road, Swebstone</b>	Planning application due to be determined, but there is a Judicial Review relating to the users of the site.
<b>Whitney Park, Shortheath Road, Moira</b>	This is a gypsy/traveller site and feedback from the Lead Local Flood Authority on the acceptability of the site for the use is awaited before considering the next steps. Also awaited are details of who live on the site. The submitted planning application has been amended to propose that the site can be used for non-travellers and this is still being considered.
<b>Ashby Woulds Residential Park, Spring Cottage Road, Overseal</b>	Permission for the site has been granted via an appeal decision by the Planning Inspectorate. Therefore, there will not be any further action carried out at this site.
<b>AJS Welding, Rempstone Road, Coleorton</b>	Planning application approved, and the enforcement case is now closed and no further action is possible.
<b>Brooks Lane, Whitwick</b>	No travellers on site. Injunction being adhered to, and the site is continuing to be monitored.
<b>Netherfield Lane, Hemington</b>	Injunction being adhered to and continuing to monitor the site past the final compliance date.

## 5 Member Queries Relating to Enforcement Matters

5.1 Table 5 shows the number of member enquiries received in each quarter.

**Table 5 – Member Queries**

2020/2021							2021/22				
	Q1	Q2	Q3	Q4	Total		Q1	Q2	Q3	Q4	Total
Member Enquiries	15	9	17	24	65		23	11	18	7	59
Responded to within 10 day timescale	15	9	17	24	65		23	11	18	7	59

5.2 The table shows that the number of enquiries from the Council's locally elected members on enforcement matters has remained at a similar level between both financial years.

5.3 When the enquiries are submitted through the Feedback process officers have 10 days to respond back to the query made by the Member and the statistics show that all were responded to within the 10 day period. It must however be emphasised that the 10 day timescale relates to responding back to the initial query and is not intended to show that all cases which progress through to detailed investigations were resolved in this period.

## 6 Investigation of cases in line with the requirements of the Planning Enforcement Policy

6.1 Table 6 shows how the team performed in investigating their cases as per the timeframes as set in the planning enforcement policy.

**Table 6 – Performance in line with the requirements of the Planning Enforcement Policy**

<b>2020/21</b>					
	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>	<b>Total</b>
<b>Acknowledged in writing within 3 working days</b>	72	92	111	103	<b>378</b>
<b>Full assessment of operational development site visit completed within 5 working days</b>	11	54	61	39	<b>165</b>
<b>Full assessment of alleged material change of use within 5 working days of final site visit</b>	6	8	31	2	<b>47</b>
<b>2021/22</b>					
	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>	<b>Total</b>
<b>Acknowledged in writing within 3 working days</b>	111	77	102	91	<b>381</b>
<b>Initial site visit carried out within 21 working days of receipt of the initial complaint</b>	105	55	56	79	<b>295</b>

Please note that the changes in the table were made in 2021/22 to coincide with an agreed change in the Planning Enforcement Policy which gave the team a more realistic timescale of 21 days to be able to visit sites.

The table shows that the team have been consistent in acknowledging cases in writing between the two financial years and that the number of cases acknowledged within the 21 day period remains relatively similar between the months, except for quarter 1 which was higher and took account of the fact that the team received more cases to visit due to the end of the last Coronavirus lockdown.

The table shows that 295 site visits were carried out to assess the complaints received by the team and this shows an increase over that done in the previous financial year. Again, this reflects the lockdowns that were in place for most of the 2020/21 financial year and the increase in development that followed as the restrictions eased and the economy reopened in the 2021/22 financial year.

## **APPENDIX B**

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

**5 July 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.

Erection of 605 dwellings, construction of car park and internal access roads and formation of public open spaces (reserved matters to outline planning permission ref. 15/00512/OUTM)

Report Item No  
A1

Money Hill Site North Of Nottingham Road And South Of A511  
Ashby De La Zouch Leicestershire

Application Reference  
20/01662/REMM

Grid Reference (E) 435839  
Grid Reference (N) 317826

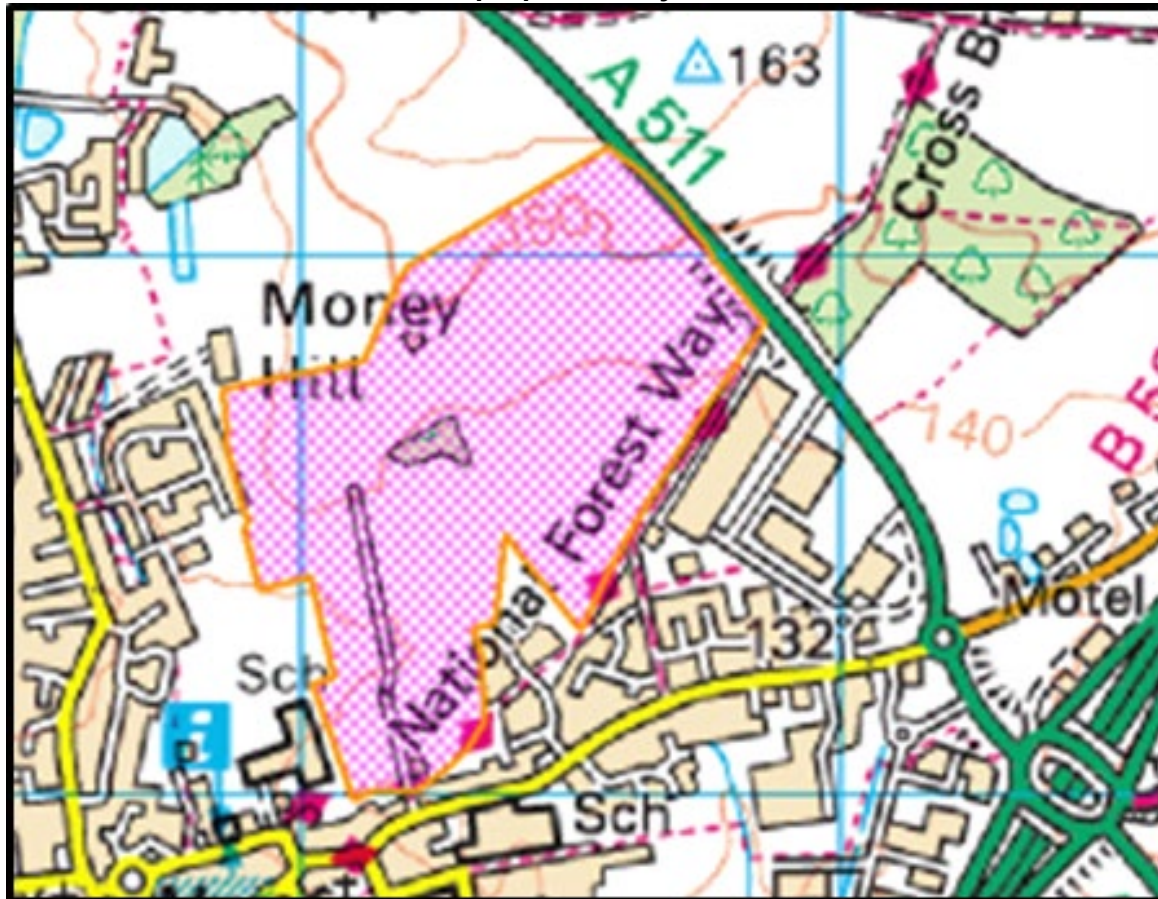
Date Registered:  
3 December 2020  
Consultation Expiry:  
15 June 2022  
8 Week Date:  
4 March 2021  
Extension of Time:  
15 July 2022

Applicant:  
Messrs L Padimore & P MacCarthy

Case Officer:  
James Knightley

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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

- 1 Compliance with outline planning permission
- 2 Approved plans
- 3 Landscaping (including future maintenance and management)
- 4 Hard surfacing (including provision of transition strips to proposed roads)
- 5 Materials
- 6 Boundary treatment
- 7 Tree / hedgerow protection
- 8 Levels
- 9 Retaining walls / structures
- 10 Pedestrian and cycle connections (including any works to public rights of way and other routes)
- 11 Signage of public rights of way
- 12 Provision of signage in respect of unadopted roads / drives intended for public use
- 13 Car parking and turning facilities
- 14 Bus gate (including mechanisms for future maintenance)
- 15 Measures to prevent drainage of surface water into the public highway
- 16 External lighting
- 17 Windows, doors, rainwater goods, utility boxes, chimneys, eaves and verges
- 18 Windows to car parking areas
- 19 Bin / recycling storage and collection points
- 20 Street name plates
- 21 Compliance with details approved pursuant to outline planning permission conditions and forming part of the reserved matters submission (including ecology / biodiversity and archaeology)
- 22 Affordable housing

## MAIN REPORT

### 1. Proposals and Background

This is a reserved matters application for the erection of 605 dwellings on a site of approximately 42 hectares to the north / north east of Ashby de la Zouch.

The original outline planning permission (ref. 15/00512/OUTM) was determined at the Planning Committee in August 2016, and issued in November 2017 following completion of a Section 106 agreement securing obligations including in respect of the River Mease, policing, healthcare, libraries, affordable housing, education, construction traffic routeing, travel plans, travel packs, bus passes, public transport, connectivity, public rights of way, traffic regulation orders, provision of a public car park, public open space and provision of a community facility. That outline planning permission was issued further to an earlier outline permission granted on appeal by the Secretary of State in February 2016 (ref. 13/00335/OUTM / APP/G2435/A/14/2228806). Further outline permissions have also been issued subsequently (in the form of Section 73 permissions, approving variations to 15/00512/OUTM (and variations thereof) (refs. 21/02089/VCUM and 22/00526/VCUM).

All matters were reserved for subsequent approval at the outline stage (save for the means of vehicular access from Nottingham Road and the A511), and all five reserved matters for the phases to which this application relates (i.e. access, appearance, landscaping, layout and scale) are included for consideration as part of this reserved matters submission. However, in accordance with the requirements of the outline planning permission, a site-wide masterplan and Design Code have previously been submitted and approved under conditions attached to the outline permission.

The approved masterplan identifies four phases; the current application in effect relates to the residential development elements of the scheme within all four phases, together with areas of public open space and a proposed public car park (the delivery and operation of which is the subject of the Section 106 agreement referred to above).

### 2. Publicity

164 neighbours notified.

Site Notice displayed 11 December 2020.

Press Notice published Leicester Mercury 16 December 2020.

### 3. Summary of Consultations and Representations Received

**Ashby de la Zouch Town Council** objects on the basis that the proposed 3m wide footpath / cycleway would not continue from the site through to North Street

**Coal Authority** has no objections

**Leicestershire County Council Lead Local Flood Authority** has no comments

**Leicestershire County Council Highway Authority** has no objections subject to conditions

**Leicestershire Police** makes a number of recommendations in respect of reducing the opportunities for crime

**National Forest Company** recommends that additional screening be provided on the eastern boundary to help screen the site from existing employment units

**North West Leicestershire District Council Strategic Housing team** has no objections

### **Third Party Representations**

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

- Increased use of existing public right of way across private drive leading from Wood Street
- No vehicular traffic accessing the development should be allowed to use the private drive leading from Wood Street
- No vehicular access should be allowed to Nottingham Road which is already severely congested
- Impact of construction traffic
- Flooding
- Loss of agricultural land
- Impact on wildlife / ecology
- Over-development of Ashby de la Zouch detracting from its character and heritage
- Sufficient new housing in Ashby de la Zouch
- Previously-developed sites should be used instead
- Impact on infrastructure (including healthcare, drainage and education)
- Properties should incorporate sufficient insulation
- Water mains are affected by asbestos
- Insufficient employment opportunities in Ashby de la Zouch
- Overlooking / loss of privacy
- Pollution
- Query over funding of proposed extra care facility on the site
- Potential for noise / disturbance to new properties from nearby employment uses

All responses from statutory consultees and third parties are available to view in full on the Council's website.

## **4. Relevant Planning Policy**

### **National Policies**

*National Planning Policy Framework (2021)*

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

Paragraphs 8, 11 and 12 (Achieving sustainable development)

Paragraphs 47, 55 and 56 (Decision-making)

Paragraphs 108, 110, 111, and 112 (Promoting sustainable transport)

Paragraph 124 (Making effective use of land)

Paragraphs 126, 130, 131, 132, 133 and 134 (Achieving well-designed places)

Paragraph 169 (Meeting the challenge of climate change, flooding and coastal change)

Paragraph 180 (Conserving and enhancing the natural environment)

Paragraphs 197, 199 and 200 (Conserving and enhancing the historic environment)

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

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

The majority of the application site as a whole lies within Limits to Development as defined in the Local Plan (with areas outside Limits to Development being limited to a small area to the north east of the A511 associated with the site access, but unaffected by this reserved matters application). The application site is also identified as a site with planning permission for housing under Policy H1 (site H1b); some sections of the wider site fall within areas identified as a housing allocation under Policy H3 (site H3a). The following adopted Local Plan policies are considered relevant to the determination of this application:

Policy D1 - Design of new development  
 Policy D2 - Amenity  
 Policy H6 - House types and mix  
 Policy IF1 - Development and Infrastructure  
 Policy IF3 - Open Space, Sport and Recreation Facilities  
 Policy IF4 - Transport Infrastructure and new development  
 Policy IF7 - Parking provision and new development  
 Policy En1 - Nature conservation  
 Policy En3 - The National Forest  
 Policy He1 - Conservation and enhancement of North West Leicestershire's historic environment

### **Ashby de la Zouch Neighbourhood Plan (2018)**

The majority of the application site as a whole lies within Limits to Development as defined in the Neighbourhood Plan (with areas outside Limits to Development being limited to a small area to the north east of the A511 associated with the site access, but unaffected by this reserved matters application). The following adopted Local Plan policies are considered relevant to the determination of this application:

Policy S1- Presumption in Favour of Sustainable Development  
 Policy S2 - Limits to Development  
 Policy S4 - Design Principles  
 Policy H1 - Sustainable Housing Growth  
 Policy H2 - Requirement for Masterplan  
 Policy H4 - Housing Mix  
 Policy H5 - Affordable Housing  
 Policy T4 - Walking and Cycling  
 Policy NE2 - Open Space, Sport and Recreation Provision in New Housing Development  
 Policy NE5 - Trees and Hedgerows

### **Other Policies**

Good Design for North West Leicestershire SPD

Leicestershire Highway Design Guide (Leicestershire County Council)

## 5. Assessment

### Principle of Development

The principle of development on this site for residential purposes was established by the grant of the original outline planning permissions in 2016 and 2017 and, as a submission for reserved matters approval, the present application essentially seeks agreement of details in respect of the access, appearance, landscaping, layout and scale for the parts of the wider development to which the reserved matters submission relates. Assessment of this application should therefore relate to the implications of the particular scheme proposed under this reserved matters application; issues relating to the principle of the development and associated matters are not relevant to this application.

### Other Matters Relating to the Outline Planning Permission

In addition to a range of conditions requiring submission and approval of details in respect of various matters prior to trigger points such as commencement / occupation etc., the outline planning permission also requires certain matters to be included as part of the reserved matters application(s) (either for the site as a whole or the relevant phase). These conditions include requirements in respect of: provision of a masterplan (Condition 5), ecological / biodiversity enhancement management (Condition 21), and archaeological mitigation (Condition 24). However, whilst these conditions generally require these matters to be submitted with the first reserved matters application for the relevant phase, the consortium has already sought to address Condition 5 on a site-wide basis under a separate (approved) discharge of condition application (submitted alongside an associated application for approval of a site-wide Design Code, required separately prior to commencement under Condition 8), and the submission requirements under this condition have, in effect, already been complied with. In terms of the remaining conditions referred to above, the following conclusions are reached:

*Condition 21:* The application is accompanied by an ecology briefing note reviewing ecological survey work already undertaken as part of the outline application and associated discharge of conditions, and setting out proposed measures forming part of the scheme intended to secure the ecological and biodiversity value of the scheme. No objections are raised in respect of the scheme by the County Ecologist.

*Condition 24:* The application is accompanied by archaeological evaluation and excavation reports, supplementing the information provided at the outline stage. The additional information has been assessed by the County Archaeologist, who advises that the submissions are acceptable, and that no further archaeological work is required.

### Design and Site Layout

The proposed development would provide for a gross density of approximately 14 dwellings per hectare. However, this figure would include the associated strategic landscaping and open space, as well as the principal roads and other parts of the site identified for future non-residential development, and net figure for the residential elements would equate to approximately 31 dwellings per hectare. Paragraph 124 of the NPPF requires development to make efficient use of land; the density of the proposed development would, when having regard to the location of the development and the implications of meeting the District Council's design policies, be considered reasonable in this location.

The scheme is intended to be a landscape-led development in accordance with the principles set out in the agreed Design Code for the site as a whole, and including both strategic planting around the perimeter of the built development area, and on-street / on-plot landscaping in accordance with the street typologies approved under the Code. The scheme also identifies a

range of non-vehicular connections throughout the site in accordance with the approved Code and masterplan, and is proposed to form different character areas (in terms of style of dwelling detailing and materials). The scheme also proposes the provision of four focal spaces.

During the course of the application, the scheme has been the subject of discussions between officers and the applicant, intended to address a number of concerns raised by officers (including the District Council's Urban Designer) in respect of the originally submitted scheme, and including the need to comply with the scheme's approved masterplan and Design Code. Issues have arisen in respect of some of the street typologies, and how they comply with the Local Highway Authority's separate requirements in respect of road adoptions. In particular, the County Highway Authority had indicated that it would not wish to adopt routes where unadopted drives connected to the adopted network at both ends (given concerns that residents may petition the County Council in the future to adopt them). In terms of this issue, and as per the approach taken elsewhere in the District, the applicants intend that the routes will be conveyed to a management company (with public access over the routes allowed), and that an undertaking would be entered into so as to preclude any future adoption petitioning of the affected routes. Extensive discussions have also taken place with officers over a wide range of design issues relating to both layout and elevational detailing of the proposed dwellings.

In terms of the proposed focal spaces, these are as follows:

#### *Lamp Green*

This would be an area of public open space of approximately 64m by 20m located within the north western section of the site, and incorporating a balancing pond, adjacent to proposed streets on two sides, further green space, to the third side, and with detached dwellings to the fourth. The applicants confirm that the profile of the SuDS feature would be of a gradient where safety fencing would not be required (i.e. not exceeding 1:3).

#### *Money Hill Square*

This area would be located on the principal route through the site, and would incorporate a future local centre and three storey flats to the western side, and a school to the east (the local centre and school do not form part of the current reserved matters application).

#### *Orchard Gardens*

This would be an area of formal public open space of approximately 53m by 23m located towards the southern end of the site, enclosed by the adjacent streets and with the fourth side overlooked by two rows of terraced dwellings.

#### *Bakers Green*

This would be an area of formal public open space of approximately 62m by 20m located within the north eastern section of the site, adjacent to proposed streets on two sides, and with detached dwellings to the others.

As set out, extensive dialogue has taken place in respect of design issues. In response to the changes made to the scheme arising from these discussions, the District Council's Urban Designer acknowledges that the developer design team has worked constructively and collaboratively over a period of time to address the issues, and welcomes these efforts. He takes the view that most of the issues are now resolved where possible, and the result has been a positive scheme. In terms of remaining issues, he highlights the use of forecourt parking to both sides of the street in one area of the site, and which has been the subject of previous discussions; whilst the preferred solution would, he considers, clearly be that this is only provided on one side, he notes that it has not been possible to achieve that here. The District

Council's Urban Designer therefore advises that particular care needs to be taken in relation to the soft landscaping and the tree positioning / future protection so as to ensure that this feels like an attractive street that is not dominated by car parking. On-plot landscaping would need to be secured by way of condition.

Insofar as wider open space and strategic landscaping is concerned, this is the subject of Section 106 obligations entered into at the outline stage. However, in accordance with the approved site-wide masterplan, the scheme shows substantial areas of buffer planting and public open space (including children's play) to the perimeters of the site, and in the form of a centrally-located linear space running through the scheme.

In terms of housing mix issues, Local Plan Policy H6 requires a mix of housing types, size and tenure to meet the identified needs of the community; Neighbourhood Plan Policy H4 requires at least 60% of new market housing to comprise two or three bed units. Whilst tenure is in effect addressed by the existing Section 106 obligations securing affordable housing (with a minimum 30% required) as part of the development, Local Plan Policy H6 refers to the need to have regard to the most up-to-date Housing and Economic Development Needs Assessment (HEDNA), and sets out the range of dwelling size (in terms of numbers of bedrooms) identified as appropriate in the HEDNA as follows:

<i>Tenure</i>	<i>No. of Bedrooms (% of each tenure type)</i>			
	<i>1</i>	<i>2</i>	<i>3</i>	<i>4+</i>
Market	0-10	30-40	45-55	10-20
Affordable	30-35	35-40	25-30	5-10

Following amendment, the submitted scheme proposes the following (%):

<i>Tenure</i>	<i>No. of Bedrooms</i>			
	<i>1</i>	<i>2</i>	<i>3</i>	<i>4+</i>
Market	0	2.4	37.1	60.5
Affordable	33.5	45.1	17.0	4.4

Insofar as the market housing is concerned, it is noted that the scheme would be more weighted towards larger units than as suggested in the HEDNA; furthermore, the proportion of two or three bed units would also not meet the 60% threshold set out in the Neighbourhood Plan. It is however noted that Policy H6 indicates that the HEDNA mix is one of a number of criteria to be considered when applying the policy and, furthermore, it is accepted that Inspectors' decisions elsewhere in respect of housing mix have indicated that reserved matters applications cannot normally be used to secure a specific mix of house types (i.e. as housing mix is not, in itself, a reserved matter)). As per advice provided to members previously in respect of sites elsewhere in the District, it would not normally be appropriate to seek to refuse a reserved matters application in respect of housing mix issues.

Local Plan Policy H6 also requires a proportion of dwellings suitable for occupation by the elderly (including bungalows) for developments of 50 or more dwellings; Neighbourhood Plan Policy H4 requires new housing development to provide a "balance of accommodation, including bungalows, which meets the needs of people of all ages, including older people". Eight single storey dwellings (plus flats providing single level accommodation) are included within the proposed development. Local Plan Policy H6 also requires a proportion of dwellings suitable for occupation or easily adapted for people with disabilities in accordance with Part M4(2) of the Building Regulations; the applicant advises all 182 affordable units would meet HQI standards,

and that 274 of the proposed market units would meet M4(2) of the Building Regulations internally (with the exception of the ground floor WC, which would be in accordance with Part M).

In terms of affordable housing generally, as set out above, the Section 106 agreement requires the provision of 30% of the proposed dwellings to be affordable and, in this case, the Section 106 agreement cross-references to the relevant reserved matters application(s) (and the need for the detailed affordable housing scheme to be agreed as part of the reserved matters process). It is proposed that 182 of the proposed units would be provided as affordable, thus ensuring that the development would meet the requirements of the Section 106 agreement in terms of the minimum 30% provision.

Insofar as the mix of affordable units is concerned (in terms of dwelling size and tenure type), this has been the subject of extensive dialogue between the applicants and the District Council's Strategic Housing Team (including in respect of the details of the affordable housing contribution and the units offered). The split between affordable tenures would equate to 70% affordable rented and 30% affordable home ownership, in accordance with the provisions of the Section 106 agreement. Insofar as the proportions of each tenure type (in terms of numbers of bedrooms are concerned), the scheme indicates similar overall proportions to those set out in the Section 106 agreement (with variances of no greater than 5.5% compared to the agreement figures); the Strategic Housing Team considers the proposals to comply overall with the provisions of the agreement and confirms that the team considers the scheme to be acceptable. It is recommended that a condition be attached to any approval issued so as to ensure that a detailed scheme in accordance with the requirements of the Section 106 agreement be agreed, given the cross-referencing in the agreement to reserved matters approvals.

Insofar as the sustainability credentials of the development are concerned, the agent advises that both developers apply a "fabric-first" approach. The agent notes that Part F, L and O changes to Building Regulations will affect the site from June 2023, and that there would be a 31% reduction in carbon dioxide emissions for new dwellings, compared to the current standards.

As set out above, the Section 106 obligation entered into at the outline stage secures a significant contribution to green infrastructure (including public open space, children's play and National Forest planting), and the landscaping details submitted with the current reserved matters scheme would, overall, reflect this requirement, as well as the approved masterplan. Whilst the National Forest Company has suggested including additional landscaping to assist in providing further screening to the employment units to the east (and whilst areas of additional planting are shown indicatively), it is acknowledged that this would involve land to the west of the application site (i.e. within the adjacent employment allocation), and so would, more reasonably, be expected to be delivered in association with that scheme in due course (if required at that time).

Insofar as existing trees and hedgerows are concerned, there are no protected trees within the site. The application is accompanied by an Arboricultural Assessment and Arboricultural Method Statement. These identify that the site includes only includes a limited number of high (Category A) and moderate (Category B) quality trees, with the remaining tree cover comprising low quality individual trees, groups and hedgerows. The District Council's Tree Officer advises that this is generally to be expected when considering the previous agricultural land use of the site, and confirms that he is satisfied that the report provides an accurate assessment of the site's existing tree cover.

As a result of the above, the number of trees or hedgerows within Categories A and B proposed to be removed to accommodate the development would be very limited and, accordingly, the Tree Officer raises no objections to the scheme. Further information was sought by the Council's Tree Officer in respect of two retained Category trees on the western side of the site; following the submission of a supplementary Arboricultural Method Statement in respect of these trees, the Tree Officer is content that the scheme would be compatible with their retention.

Overall in terms of design and layout, therefore, the scheme represents a good standard of design as required by the relevant policies, including the District Council's Good Design for North West Leicestershire SPD.

### **Highway Safety, Transportation and Access Issues**

The principal means of vehicular access into and through the site were established at the outline stage (15/00512/OUTM) and include provision for a north-south link through the site, connecting the Ashby bypass (A511) with Nottingham Road. The approved accesses include a new roundabout to the A511 and a new priority junction to Nottingham Road (following demolition of Nos. 3 and 5 Nottingham Road). The north-south connection through the site is required to be implemented prior to the occupation of 100 dwellings within the scheme.

The number of dwellings accessed from Nottingham Road is limited to a maximum of 100, and the current proposals include measures to ensure this limitation is complied with. At the time that the outline application was considered, the applicants' intention was that a one-way bus gate be implemented (i.e. allowing all traffic to travel northbound through it, but limiting southbound through traffic to buses and emergency vehicles); it was proposed that this would be positioned so as to ensure that 100 of the scheme's dwellings (plus the proposed public car park) would only be accessible via Nottingham Road (albeit, given the unrestricted northbound link, these properties could still be exited via the A511). As a result, the remaining parts of the development could have been accessed from both directions, but only egressed via the A511, thus limiting traffic joining Nottingham Road.

Following discussions with the County Highway Authority and Town Council, however, the proposals have been amended during the course of the current reserved matters application, and it is now proposed that the bus gate restrict traffic in both directions such that (with the exception of buses and emergency vehicles) all properties located to either side of the gate would need to access and egress via one direction only (i.e. either via Nottingham Road or the A511). On the basis of the scheme as now submitted (showing a bus gate with automated rise and fall bollards), 98 dwellings plus the public car park (and the future extra care centre site (not part of this reserved matters application)) would be accessed / egressed via Nottingham Road; the remaining dwellings (plus the future school and local centre (also not part of this reserved matters application)) would be accessed / egressed via the A511.

Following amendments to the configuration of the proposed bus gate, the County Highway Authority now confirms that the proposals are acceptable in this regard. In response to County Highway Authority queries regarding the mechanism for maintaining the unadopted feature, further information has been provided in respect of this matter, and confirming that the bus gate would be maintained by the residents' management company along with other management company responsibilities (i.e. public open space etc.); the County Highway Authority is content with this arrangement in principle, subject to imposition of conditions. It is noted that the conditions requested by the County Highway Authority include one in respect of making a landowner statement every 20 years under Section 31(6) of the Highways Act 1980. Whilst it is not considered that it would be appropriate to apply such a condition in this form (i.e. as it seeks to secure compliance with other legislation), it is considered that a commitment to comply with

such measures could reasonably form part of a range of measures within a wider strategy for ongoing maintenance of the bus gate. Given the change in approach from that previously assumed (i.e. all in / out access to areas north and south of the bus gate via the A511 and Nottingham Road respectively), additional information in respect of modelling has been provided which, the County Highway Authority advises, confirms that the principle of the revised bus gate arrangement would remain in line with the modelling previously undertaken and, as such, no concerns in respect of a changed wider pattern of vehicular movements into and out of the site on the wider network are raised.

In terms of other issues relating to the internal layout (and in addition to the issues discussed under Design and Site Layout above with respect to adoption of routes connected by management company maintained lanes etc.), the County Highway Authority now confirms that the proposals fundamentally accord with the Leicestershire Highway Design Guide and are suitable for adoption, subject to Section 38 technical approval.

### *Non-Vehicular Connections*

The site is crossed by existing public right of way O89 which, via the south western section, connects the site to the town centre at North Street and, to the east / north east, provides pedestrian connections to existing areas of residential development, along with employment areas / retail development (including the nearby Tesco store), and the wider countryside. The south western route would provide the most direct connection between the site and the town centre.

The section of right of way O89 connecting to North Street is unsuitable for cycling being, at present, narrow and / or unsurfaced in places, and passing through a yard forming part of an employment use (all of which are also considered to diminish its attractiveness as a pedestrian route). Extensive discussions took place between the Local Planning Authority and the applicants at the time of the original outline application (13/00335/OUTM) with a view to enhancing this link but, having regard to the extent of land within the applicants' control, no firm proposals for upgrading the connection were made and, as an alternative, a range of financial contributions were offered. In May 2014, Planning Committee resolved to refuse the outline application on, amongst others, the scheme's lack of proposals to improve this link. An appeal was subsequently lodged in response to the refusal but, in January 2015, following the receipt of legal advice, the Committee resolved to withdraw that reason for refusal and to not contest it at the forthcoming inquiry. As such, whilst the approved masterplan for the wider site identifies the connection as a cycle link, the outline planning permission granted on appeal (and, as a result, carried through to the subsequent outline permissions) nevertheless does not specifically require the upgrading of this connection. However, as set out above, the applicants offered a range of financial contributions, and these are included within the Section 106 agreement. These include various contributions to Leicestershire County Council in respect of improvements to existing public rights of way (totalling £111,749, of which £39,744 would be for surface improvements to this section of right of way O89). The Section 106 agreement also secures an Enhanced Connectivity Contribution of £400,000 intended to be directed by Leicestershire County Council towards a range of measures (including assessment of existing public transport, cycle and pedestrian connectivity within the town, and implementation of measures identified as a result of that assessment in order to enhance the site's connectivity with the town). Potentially, therefore, Leicestershire County Council would be able to direct funds from this Enhanced Connectivity Contribution towards this link if it considered that would be appropriate, in addition to those specifically identified for the right of way.

It is noted that Ashby de la Zouch Town Council objects to the current application on the basis

that the reserved matters scheme does not include a 3m wide cycle link to this route and, having regard to the existing condition of the right of way, this concern is fully appreciated. However, the position is, in effect, unchanged from the time that the original outline planning application was considered and, whilst the concerns over the form of development would remain, it is nevertheless the case that this situation (and its proposed mitigation by way of financial contributions) was (notwithstanding the Local Planning Authority's concerns) not a matter that was considered to have warranted refusal of the application and, furthermore, is not now considered directly relevant to the determination of this reserved matters application.

For their part, the applicants understand the concerns raised locally and, whilst they advise they are unable to commit to providing an enhanced link (for the same reasons as set out at the time of the outline application), they have offered to pay the Section 106 contributions to Leicestershire County Council at an earlier stage (with the £39,744 O89 surfacing contribution being paid on commencement, rather than upon occupation of 200 dwellings (as part of an overall two tranche rights of way contribution), and the first £50,000 of the £400,000 Enhanced Connectivity Contribution also being paid on commencement (currently required in two £200,000 payments upon 200 and 400 occupations)). For its part, the County Council's Rights of Way team advises that it has had no specific discussions with adjacent landowners regarding the widening of the path, albeit this is not something it would normally engage with until such time as the monies had been received, and it is therefore acknowledged that earlier payment of the contribution would enable Leicestershire County Council to commence any such discussions at an earlier point in time. The Rights of Way team advises however that, to increase the width of the path, additional land would have to be acquired, but that it considers it is unlikely that the adjacent owners would be willing to agree to such works.

Whilst the scheme would not provide for enhancement of the right of way beyond the south western corner of the site, the sections of right of way O89 that run through and alongside the southern edge of the site would be re-routed within the site so as to allow for full pedestrian and cycle use. In addition to the issues relating to right of way O89, the application has been amended following dialogue between the applicants, the County Council Rights of Way team and local residents regarding the means of connection with right of way O90. At present, O90 runs for a short distance between Wood Street and the application site, with the existing route of O89 crossing at its northern end. In response to resident concerns over potential increased use of O90, the applicants propose to apply to extinguish this route. Whilst this would remove an existing connection to Wood Street, it is acknowledged that the new pedestrian / cycle access that would become available alongside the new Nottingham Road vehicular connection would serve to mitigate for this loss to a reasonable degree. Whilst extinguishment would need to be pursued separately (and outside the scope of this reserved matters application), it is understood that residents and the County Council are generally supportive of this proposal at this stage.

A range of other non-vehicular links are proposed (and which comply generally with the site-wide masterplan). These include a link to the Ivanhoe College site on the western boundary, along with links connecting to existing residential areas and rights of way to the east / south east, and to Money Hill Farm / Smisby Road to the north west. Insofar as the college link is concerned, the applicants would propose to make the connection up to the site boundary and, in effect, whether or not it could then be used to access the college would depend on whether or not the college then provided a means of crossing the college grounds to connect the route to the main buildings. Appropriate conditions would need to be imposed in order to ensure that these links were secured, and so as to enable they connect fully in accordance with the details indicated on the masterplan.

Overall in respect of highway safety, transportation and access issues, therefore, it is noted that

the County Highway Authority has no objections to the proposals subject to the inclusion of conditions. On this basis the scheme is considered acceptable. Whilst there are unresolved Town Council concerns in respect to whether there would be any future enhancement of the section of right of way O89 between the south western part of the site and North Street (and whilst officers continue to take the view that the connectivity of the scheme would clearly benefit from an enhancement of this route), it is nevertheless acknowledged that (as accepted at the time of the original appeal), this would not be a matter that would warrant a refusal of the scheme and, furthermore, has in effect already been addressed as far as practicable at the outline stage by way of the financial contributions secured.

### **Residential Amenity**

There are limited numbers of existing neighbours considered to be materially affected by the proposals, given separation between existing and properties afforded by proposed landscape buffers and areas of public open space etc. As a result, all separation distances between existing and proposed dwellings would exceed the minimum standards set out in the Council's Good Design for North West Leicestershire SPD.

Whilst no material impacts from the proposed dwellings themselves on existing residents would be anticipated, it is noted that the proposed development would result in increased activity (and, in particular, vehicular activity) adjacent to existing dwellings and their curtilages. In terms of the likely impacts of the proposed vehicular access to Nottingham Road, the issue of the potential increased disturbance to the side and rear of nos. 1 and 7 Nottingham was considered at the outline application stage when that means of access was approved and it was accepted that, in principle, any impacts could be mitigated by provision of suitable screening. The submitted scheme proposes the erection of a 2m high screen wall to either side of the Nottingham Road access, set behind landscaped strips of approximate width 2m which, it is considered, would be appropriate. In terms of the proposed car park, the northern (rear) boundaries of existing properties closest to the car park area (approx. 7.5m away from the nearest proposed parking spaces) are robust (2m approx. high brick walls), and it is considered that material loss of amenity would not be likely to result.

Insofar as future residents of the proposed development are concerned, the proposed layout is, for the most part, considered to include appropriate relationships between the new dwellings, providing for an acceptable level of amenity, and complying with the relevant policies. It is noted, however, that there are some instances where the minimum garden sizes as required under the SPD would not be fully complied with. Similarly, gardens shorter than the usual requirements would result in reduced back-to-back separation distances. In order to address the amenity impacts of these shortfalls, the applicants propose to provide for more substantial boundary treatment (including 2.4m high fences / green screens) which, when coupled with the proposed fenestration arrangements would, it is considered, enable an acceptable relationship (including in respect of mutual overlooking of dwellings, and overlooking of private amenity space) to be provided in this instance.

It is noted that concerns have been raised that occupiers of new properties on the site could be subject to noise associated with existing employment uses to the east of the site. In particular, attention is drawn to the findings of the original Environmental Statement which recommended that noise mitigation measures be provided in respect of the United Biscuits (UB) site, suggesting that it be in the form of an extension to an existing screen (or, if such could not be agreed with the operators, a standalone screen overlapping the end of the UB screen). The implementation of a scheme of mitigation is secured under a condition (Condition 7) attached to the outline planning permission, and a discharge of condition application to agree mitigation details under that condition will be required to be made prior to commencement of development.

Representations have been made to the effect that, in the absence of any noise screen detail submitted alongside the current reserved matters application, there can be no guarantee that a suitable form of mitigation may ultimately be possible. Whilst this position is appreciated, it remains the case that Condition 7 needs to be discharged prior to works commencing and if, for whatever reason, the developers were unable to mitigate for any noise emanating from the employment site whilst implementing the scheme as shown in the currently proposed layout, they would potentially need to revisit the scheme in order to ensure that appropriate details could be submitted and approved under the condition. Nevertheless, in response to this concern, the applicants have submitted updated noise information which, they advise, is intended to be submitted in respect of Condition 7 in due course. This indicates that alternative mitigation measures in the form of enhanced glazing and the provision of localised screening to some gardens could be implemented instead of the screen options. Whilst this would need to be assessed by the District Council's Environmental Protection team at the appropriate time, this would suggest that an alternative to screening may be possible but, as set out above, the consideration of the discharge of condition application would be the appropriate time to assess and reach a decision on this point.

### **Other Matters**

#### *Flood Risk and Drainage*

In terms of flood risk and drainage issues, these are dealt with under the outline planning permission and the conditions attached thereto. Insofar as the proposed SuDS are concerned, whilst the precise details would be a matter for discharge of condition, the general form (including gradient and, as a result, likely requirement for fencing etc.) would, in principle, be capable of meeting the design requirements for such features as set out in the District Council's Good Design for North West Leicestershire SPD. No objections to the reserved matters scheme are raised by the Lead Local Flood Authority.

#### *Designated Heritage Assets*

There are a number of Grade II listed buildings in the vicinity of the site, and the Ashby de la Zouch Conservation Area abuts its southern edge. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard should be had to the desirability of preserving the building or its setting. Section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. In this case, particularly when having regard to the relationship and inter-visibility between the site and the nearest designated heritage assets (and including the substantial boundary treatment marking the northern edge of the Conservation Area), it is considered that no material harm to any of those assets or their setting would result from the development.

### **Conclusions**

As set out above, the principle of the development has already been established by way of the outline planning permission, and assessment is therefore limited to those issues falling within the reserved matters.

The reserved matters scheme the subject of this application is considered to be acceptable, and previously raised design concerns are considered to have been addressed to an acceptable degree. It is therefore recommended that reserved matters approval be granted.



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**Demolition of existing buildings and erection of up to three dwellings (Outline - details of access and layout for approval)**

**Report Item No  
A2**

**49 Chapel Street Oakthorpe Swadlincote Derby DE12 7QT**

**Application Reference  
21/00438/OUT**

**Grid Reference (E) 432010  
Grid Reference (N) 312635**

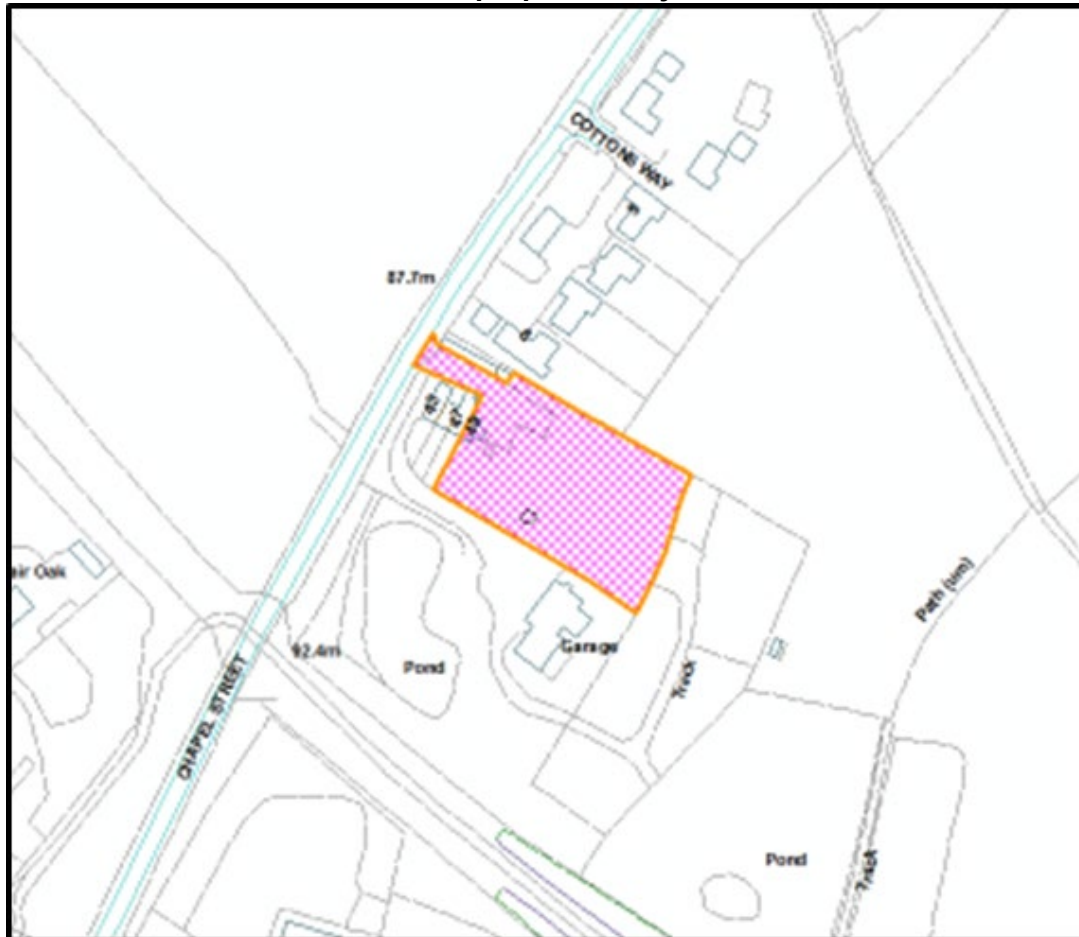
**Date Registered:  
14 April 2021  
Consultation Expiry:  
10 January 2022  
8 Week Date:  
9 June 2021  
Extension of Time:  
None Agreed**

**Applicant:  
Grice**

**Case Officer:  
Sarah Booth**

**Recommendation:  
PERMIT**

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



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

- 1 Time limit.
- 2 Reserved Matters.
- 3 Approved Plans.
- 4 Levels.
- 5 Glazing - noise insulation
- 6 Acoustic fencing
- 7 Land Contamination
- 8 Verification Investigation
- 9 Secure non-mains drainage
- 10 EA water contamination
- 11 Surface water Drainage scheme
- 12 Infiltration Testing
- 13 Bat Boxes
- 14 Tree protection
- 15 Highways - Access
- 16 Highways - Visibility splays
- 17 Highways - surfacing,
- 18 Highways - Parking and turning
- 19 In accordance with the Ecology report

## MAIN REPORT

### 1. Proposals and Background

The application is brought to the Planning Committee as the planning agent is related to a serving councillor (Councillor Blunt) and contrary representations to the recommendation to permit the application have been received.

This is an outline application for the demolition of some existing domestic outbuildings and the erection of three new dwellings on land at 49 Chapel Street, Oakthorpe. Approval of access and layout are for consideration at this stage. If this application is approved the details of appearance, scale and landscaping would be dealt with during a subsequent reserved matters application.

The application site is located within the defined Limits to Development and is within the River Mease Special area of Conservation.

### Recent Planning History

12/00822/FUL Change of use of building to general purpose use and car repair business for a temporary period of three years PER 14.11.2012

09/01124/FUL Erection of new storage/general purpose building used for purposes incidental to the main dwelling and maintenance of non-domestic land. PER 14.07.2010

05/00494/FUL Erection of single storey side extension to form conservatory PER 19.05.2005

04/00005/FUL Demolition of outbuilding/workshop and erection of part one/part two storey side extension PER 05.02.2004

### 2. Publicity

10 Neighbours have been notified.

Site Notice displayed 29 April 2021.

### 3. Summary of Consultations and Representations Received

**Oakthorpe and Donisthorpe Parish Council** - Concerns over risk of flooding with additional properties. History of flooding locally in the area.

#### No objections from:

LCC Minerals and Waste Planning

County Archaeologist

NWLDC Tree Officer

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

NWLDC Environmental Protection

LCC Ecology

County Highway Authority

Natural England

Environment Agency

LLFA

Severn Trent Water

### **Third Party Representations**

6 letters of representation have been received from members of the public these are summarised below:

#### *2 letters neither objecting to nor supporting the application:*

- Concerns regarding obstruction of shared access and drive.
- The new development must take account of an existing adjacent garage business. Future compatibility issues for new dwellings and the business.
- North easternly property will look into a bedroom at 8 Cottons Way.
- Drainage issues.

#### *2 letters of Support:*

- The private road will be tarmacked which will improve the existing situation.
- This would be a better use of the land.

#### *2 letters of objection:*

- Surface water flooding impacts.
- Land ownership concerns.
- Impact on windows of 47 Chapel Street.

## **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).

#### **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  
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).  
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.

## **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).

This is an outline application for approval of access and layout at this stage. 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.

The proposal would represent a sustainable form of development and would accord with the policy aims of the adopted Local Plan and would be acceptable in relation to the NPPF. Therefore, the development is acceptable in principle subject to other material considerations as assessed in the remainder of the report.

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

This outline application seeks approval for access and layout at this stage. As such, scale and appearance of the properties would be determined in a subsequent application for reserved matters. The following will assess the layout and 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 within limits to development and is accessed off a private drive from Chapel Street in Oakthorpe where there are already several neighbouring dwellings. The proposed new dwellings would be visible from the public highway at the access point to the site.

The proposal includes the demolition of a group of existing sheds and a large storage building which is currently located towards the south-east part of the application site. It is considered that

removal of the existing buildings on site would help to improve the overall appearance of the site.

It is noted that there is a public footpath located approximately 85 metres to the north-east of the application site. However, the site and the public footpath are both well screened by a boundary of mature trees and hedgerows, therefore views of the application site from the public footpath would not be prominent.

With regard to the overall layout, it is noted that there is already a row of existing dwellings on the wider site and new dwellings have been granted in recent years on land directly to the north where some are also set back behind other properties. This development would have the appearance of a cul-de-sac which would not be dissimilar to surrounding development. Furthermore, the northern most unit faces the access drive which will help to give an attractive vista when viewed from the public highway. On that basis the proposed layout and location of the new dwellings would be in keeping with the character of the area.

Additionally, it is considered possible for the proposed dwellings 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 submitted site plan 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 Policy D1 of the Local Plan, the Good Design SPD and paragraph 130 and 134 of the NPPF.

### **Impact upon Residential Amenity**

Neighbour representations have been received during the course of the application with regard to impacts on neighbouring residential amenity, particularly at 8 Cottons Way and 47 Chapel Street. These matters will be considered further below.

The neighbouring properties most likely to be affected by the proposed development are No.8 Cottons Way to the north of the application site and No's 49, 47, 45 and 43 Chapel Street, to the north west. No.49 Chapel Street is in the closest neighbouring dwelling in proximity to the proposal and No.49 is also in the same ownership as the application site.

As previously mentioned, this outline application only seeks approval for access and layout at this stage. Matters such as appearance and scale would be considered at reserved matters stage. Notwithstanding this the principal impacts on residential amenity will be considered below.

With regard to No.8 Cottons Way, the closest of the proposed new units (the most northern plot) would be at least 35 metres from the rear elevation of that neighbouring dwelling. This exceeds the recommended 20 metre separation distances as per the Council's Good Design Supplementary Planning Document (SPD). It is noted that this same proposed unit could have first floor windows within 10 metres of the rear garden boundary. Notwithstanding this, it is considered that during a reserved matters application it would be possible to obscurely glaze, and fix shut below an internal floor height of 1.7 metres, the closest window to that neighbour to reduce the overall impact. Furthermore, there would be a tree retained in this location that would

partly screen the proposed dwelling from the neighbouring garden. Overall, it is not considered that the proposed development would be harmful to No.8 Cottons Way.

It is noted that No.47 Chapel Street has raised some concerns regarding the impacts on their windows from the development. No.47 is a least 20 metres away from the nearest proposed dwelling which complies with the Council's Good Design SPD. It is noted that the occupant of No.47 has concerns with their front windows and the proximity to the driveway. As the driveway already existing there are already comings and goings past the front windows of these properties. It would be unreasonable to argue that this development would intensify the development to a harmful extent that would be sufficient enough to warrant refusal of the application. As such the proposal is considered to be satisfactory.

Concerns have been raised by the owners of the adjacent commercial garage business regarding the future occupants of the proposed dwellings being likely to make noise complaints about the garage business due to the close proximity of garage to the application site. The Council's Environmental Protection Team have provided additional advice regarding noise and disturbance concerns for future occupants of the new dwellings. The Environmental Protection Officer has assessed the submitted noise assessment and is satisfied with the proposal. They have also recommended conditions to secure acoustic fencing and to ensure the windows would be sufficiently noise insulated. Subject to these conditions the proposal is considered to be satisfactory.

In addition to the above, it has been recommended that the southern plot is moved further away from the boundary to further reduce the possibility of noise impacts on the future occupants of this plot. This option is in discussions with the applicant and will be updated to planning committee.

With regard to impacts on the existing dwelling No.49, it is considered that the proposals would be sited in locations that would provide a suitable distance to prevent any adverse overshadowing, overbearing or overlooking impacts. Further assessment could be made during a reserved matters application, once the location of windows is confirmed, to ensure that there would not be any adverse overlooking. However, there would be a distance of at least 10 metres from the rear elevation of the nearest adjacent plot to No.49, which is compliant with the standard minimum distances as per the Council's Good Design SPD.

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**

The site would utilise an existing access, an adopted unclassified road on Chapel Street. No details have been submitted regarding the surfacing of the site access however, it is considered this could be secured by way of a planning condition to ensure suitable surfacing for the development which would reduce the risk of deleterious material being deposited in the highway.

The County Highway Authority (CHA) requested that a speed survey was undertaken due to the intensification of the use of the site access in order to establish the recorded 85th percentile speeds on Chapel Street. Subsequently, a speed survey has been undertaken which identified the speeds of 35.5mph northeast bound and 39.5mph southwest bound.

In accordance with Table DG4 of Part 3 of the Leicestershire Highway Design Guide (LHDG), visibility splays of 2.4m x 65m should be provided.

Whilst the submitted block plan demonstrates visibility splays of 2.4m x 65m and 2.4m x 54m to the northeast and southwest of the site access respectively, the CHA is satisfied that suitable visibility splays can be achieved and recommends that the access details are secured by way of planning condition. The access arrangements are therefore acceptable.

The proposed site plan indicates that the required amount of off street parking can be accommodated within the application site. Additionally, the swept path analysis demonstrated a fire appliance accessing and turning within the site, which is considered to be acceptable.

Neighbour concerns have been raised with regard to possible obstruction of the site access and driveway during construction. This is a private drive and is not part of the adopted public highway, therefore any arrangements during construction on private land would be a civil matter for the developer to arrange with those who have a right of way over the land.

The CHA has determined that the proposed development is acceptable subject to conditions to secure access details, visibility splays, surfacing, parking and turning. 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**

Neighbour objections and an objection from the Parish Council have been received regarding the development's impact on drainage and flooding. This will be considered below.

The application site is within Flood Zone 1 however the site contains areas at low risk of surface water flooding. There are also some surrounding areas on neighbouring land which are within areas at high risk of surface water flooding.

Due to the concerns raised by residents, Councillors and given that there appear to be wider surface water flooding issues in the locality, the Lead Local Flood Authority (LLFA) have been consulted on this application and were asked to provide a detailed assessment.

The LLFA notes that there have been repeated reports of internal flooding on land around the application site. Reports indicate that flooding to the south is partially due to surface water accumulation inside the sites blue line boundary, which is land within the ownership of the applicant.

The LLFA provided guidance during the course of the application and the planning agent has provided an amended flood risk assessment in accordance with the LLFA's comments. On the basis of the detailed reports provided the LLFA advises that the proposals are acceptable however planning conditions should be attached to any permission granted to secure a surface water drainage scheme and to undertake infiltration testing.

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.

Discharge into the river from surface water disposal via a sustainable drainage system or via the mains sewer system can also result in an adverse impact on the SAC, including in relation to water quality and flow levels.

#### *Foul / Non-Mains Drainage*

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 182 of the NPPF.

Paragraph 174 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution. Paragraph 180 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment. The Planning Practice Guidance (PPG) also states that applications for developments relying on anything other than connection to a public sewage treatment plant will need to be supported by sufficient information to understand the potential implications for the water environment. The PPG also sets out a hierarchy of preferred foul drainage solutions; firstly mains sewer, then package treatment plants and lastly septic tanks, and also advises that proposals should clearly set out the responsibility and means of operation and management of non-mains drainage systems to ensure that the permit is not likely to be infringed in the life of the plant, the effects on amenity and traffic should be considered and where a system will rely on use of a drainage field, consideration may be given to the need to periodically replace it to allow the system to continue to function properly.

It therefore has to be considered whether a non-mains drainage system could be accommodated on the site without resulting in an adverse impact on the environment, as well as whether it is likely that any necessary approvals under separate legislation, e.g. the Environmental Permit system and the Building Regulations, could be successfully obtained. Consideration is therefore given as to whether the non-mains drainage system can be accommodated on the site in accordance with separate legislation, whilst not resulting in any impacts on material planning considerations, e.g. residential amenities, highway safety, flood risk, layout and design of the site, and any other relevant planning matters. Specific impacts on the River Mease SAC are considered in a separate section of this report below.

Firstly, the application site would be in excess of 30 metres from the nearest mains connection, as such a non-mains drainage option in principle is considered to be acceptable in this location. It is also noted that the existing neighbouring properties already have non-mains options. Given that a non-mains option is required in this location there is no requirement to secure a DCS contribution as the development would not connect to the mains.

In terms of the Environment Agency's hierarchy of non mains drainage methods the preference

would be package treatment plants then septic tanks then cesspools or sealed tanks. The planning agent has confirmed that the proposed method of drainage for this development would be a package treatment plant, which would be the most preferable in the EA's guidance.

This proposal has been assessed against Natural England's standing advice to ensure that the non-mains drainage would not adversely impact on the River Mease Special Area of Conservation and it has been found to comply with this guidance. Furthermore, Natural England has no objection to this application.

It is noted that access would be required for a large vehicle to enter the site to empty the cesspool / sealed tank and it is considered that here would be sufficient turning space within the application site for this to take place.

It is therefore considered that the non-mains drainage system would not result in any adverse impacts on residential amenities, health and living conditions, highway safety, flood risk and the natural environment (other than matters relating to the River Mease SAC/SSSI are considered below) and would therefore comply with paragraphs 174 and 180 of the NPPF and the guidance in the PPG.

On the above basis, it is considered that foul drainage discharge from the site would not adversely impact on the integrity of the River Mease SAC/SSSI.

#### *Surface Water Drainage*

This application would increase areas of hardstanding. It is considered that an appropriate condition to secure disposal of surface water runoff to a sustainable drainage system would ensure that no adverse impacts would arise. On this basis, compliance with the proposed condition would ensure that surface water run-off from the site would not adversely impact on the integrity of the River Mease SAC.

On the above basis, compliance with the proposed condition would ensure that surface water run-off from the site would not adversely impact on the integrity of the River Mease SAC.

#### *Conclusion*

On the above basis, it is considered that foul drainage discharge from the proposed new dwelling on the site would not adversely impact on the integrity of the River Mease SAC.

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.

#### **Ecology**

During the course of the application the County Ecologist requested a detailed ecological survey be provided. The submitted Ecological Appraisal Survey (Wildlife Consultants Limited, June 2021) confirms that at the time of the survey no evidence of protected species was found. A Habitat Suitability Index (HIS) has confirmed the ponds offer poor potential to support Great Crested Newts (GCN) and no further surveys are required, nor is implementation of a Mitigation Strategy for GCNs required.

Paragraph 180 of the NPPF (2021) states that 'opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is

appropriate'. To achieve biodiversity net gain on the site the County Ecologist advises that the recommendations in the report should be followed. The Ecology survey states that biodiversity net gain can be achieved by management of existing hedgerows, planting a new hedgerow, planting new native shrub and tree species within the adjacent blue line area. The County Ecologist advises that a landscape plan should be provided to demonstrate how biodiversity net gain will be achieved on the site or on adjacent land within the applicant's ownership. However, this would be a matter for a future reserved matters application where landscaping would be assessed.

The County Ecologist has also advised that there should be a condition attached to any planning permission granted to secure 2 bat bricks/boxes on each new dwelling.

Subject to the above recommended conditions, 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**

The tree officer has assessed the proposed development and has no arboricultural objections to this outline application. The submitted details demonstrate that the three new dwellings could be constructed on the site without undue impacts to the existing tree cover. Further details will be required regarding the protection of trees during construction. However, this would need to be dealt with, alongside a landscaping scheme, during a subsequent reserved matters application, if this outline consent is granted.

If planning permission is granted then it is recommended to attach a condition to secure tree protection measures for the retained trees on site in order to ensure these trees would not be adversely affected during construction.

On the basis of the above, this application is considered to accord with Policy En1 of the Adopted Local Plan.

### **Land Contamination**

The Council's Environmental Protection Land Contamination Officer has requested that conditions be imposed requiring a risk based land contamination assessment.

The Environment Agency (EA) has also provided advice which relates to the protection of controlled waters. Detailed geological maps indicate that the site is located on a Principal Aquifer. The site is not within a groundwater Source Protection Zone however several surface water features are located within proximity of the site. The proposed application is also located to the north of an existing pond.

Reference to Environment Agency databases indicate that the site is located in proximity to an historic landfill, known as 'Oakthorpe Landfill Site'. The EA advise that the landfill accepted inert, industrial and household waste between 1960 - 1974. The EA also note that the site was formerly used in relation to motor vehicles maintenance and repair garage. These former uses of the site have the potential to have caused contamination to controlled waters receptors. Furthermore, there is the potential to mobilise existing contamination during development. As such, the EA recommend that a land contamination condition be included if planning permission is granted.

The wider site has also been used as a motor vehicle garage, and nearby historic landfills, presents a risk of contamination that could be mobilised during construction to pollute controlled

waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a principal aquifer.

Considering the above, the EA advise that the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 183 of the NPPF.

Subject to these conditions the development would accord with Policy En6 of the adopted Local Plan and paragraphs 183 and 184 of the NPPF regarding land and air quality.

### **Minerals**

The site lies within a Mineral Safeguarding Area for shallow/surface coal and therefore Policy M11 of the Minerals and Waste Local Plan is relevant. However, the Mineral Planning Authority does not believe that the proposed development would adversely sterilize mineral if present, and advises that a Mineral Assessment is not required. As such the proposal would not conflict with Policy M11.

### **Other**

With regard to land ownership disputes, these have been clarified with the applicant. Other landowners have been served notice and have been declared on the submitted application form. The issues raised regarding land ownership would be a civil matter and would be dealt with by the applicant separately outside of the planning application process.

Neighbour concerns were raised by the occupants of No.47 regarding whether the development would be built over their non-mains drainage. The latest drainage plan shows that this would not be built over and therefore the owners of No.47 would still have access to their drainage.

### **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, highway safety, ecology, flooding, trees or environmental protection 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.