



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

Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	6.00 pm on Tuesday, 1 November 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 October 2022.	<b>3 - 6</b>
<b>4. PLANNING ENFORCEMENT UPDATE Q2 2022/23</b>		
	The report of the Planning and Development Team Manager.	<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>22/00691/REMM: Erection of a road related storage, maintenance and management facility and associated site works (reserved matters to outline planning permission ref. 17/01081/OUTM) (revised scheme)</b>  Flagstaff Island Lountside Ashby De La Zouch Leicestershire LE65 1JP	<b>Permit</b>	<b>19 - 34</b>
<b>A2</b>	<b>21/01615/FUL: Change of use to a shop (Use Class E) and associated works</b>  Former Castle Donington Library Delven Lane Castle Donington Derby DE74 2LJ	<b>Permit</b>	<b>35 - 48</b>
<b>A3</b>	<b>22/01288/FUL: Erection of detached garage (retrospective)</b>  15 Money Hill Ashby De La Zouch Leicestershire LE65 1JA	<b>Permit</b>	<b>49 - 58</b>

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

Present: Councillor R L Morris (Chairman)

Councillors R Boam, D Bigby, A J Bridgen, J Bridges, D Everitt, D Harrison, J Legrys and J G Simmons

In Attendance: Councillors R Johnson

Officers: Mr D Jones, Mrs C Hammond, Mr J Arnold, Mrs H Exley, Mr D Gill and Ms S Lee

At the start of the meeting the Chairman advised members that item A3, application number 21/01615/FUL, had been withdrawn from the agenda to allow officers to address additional information that had been received in relation to the scheme. This would necessitate a deferral of the consideration of the scheme to allow officers time to review the information and update the officer report and return it to the 1st of November Planning Committee meeting for consideration.

He also advised that he intended to change the order of the agenda and take item A2, application number 22/00356/FUL first.

## **20. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors J Hoult and M B Wyatt.

## **21. DECLARATION OF INTERESTS**

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

Councillor R Boam declared an other interest, in items A1, application number 22/00801/FUL and A2, application number 22/00356/FUL, as the ward member for both items. He stated that he would address the meeting on item A2 and then leave the meeting for the consideration and voting thereon of both items.

## **22. MINUTES**

Consideration was given to the minutes of the meeting held on 1 September 2022.

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

RESOLVED THAT:

The minutes of the meeting held on 1 September 2022 be approved and signed by the Chairman as a correct record.

## **23. 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.

**24. A2**

**22/00356/FUL: ERECTION OF A SMALL-SCALE OFFICE DEVELOPMENT (CLASS E(G)) WITH ASSOCIATED HIGHWAY ACCESS, CAR PARKING, AND LANDSCAPING**  
Land South Of A512 Between Loughborough Road And Moor Lane, Coleorton, LE67 8FQ  
**Officer's Recommendation: Permit**

The Senior Planning Officer presented the report to members.

Mr Golby, applicant, addressed the committee highlighting that since the consideration of the last application, he had approached the Economic Development team, who had advised that there were no appropriate office spaces available in the District to meet the company's needs and therefore they had reviewed the scheme to address concerns raised on the previous application. A junction improvement plan had been included, which had been approved by LCC highways and the tree officer. It was confirmed that the development would be small scale and that no vehicles, plants or materials would be stored on site and remaining in the district would ensure that connections were maintained with the local college and their client base. He highlighted the bio-diversity sites that would be maintained by the company and future plans to expand the sites within the county, and the proposed development would become a learning centre to help develop their work.

Councillor R Boam, ward member, addressed the committee highlighting that the proposed development would offer nothing to the area and was outside the Limits to Development. He felt that there were empty buildings that could house the business across the district and felt that more damage would be done by allowing the company to move out of a town centre to the countryside. He expressed concerns that the single lane junction was not suitable for the increase in traffic, and the proposed changes to it made no difference to highway safety concerns that had been raised previously. He urged the committee to refuse the application.

Councillor R Boam then left the meeting.

In determining the application some members expressed concerns, that although they supported companies in growing, they felt that the site in front of them was not suitable for the development, that there was still a lack of evidence to show that the application was an employment generating small scale development and that there were empty shops, that could be converted, or office units within the district that would be a suitable size for the company. It was also felt that the junction, even with the improvements, was still unsuitable for the increase in traffic.

Members had regard to policy S3(k) which allowed small scale development outside the Limits to Development, that LCC highways had no objections to the application and that junction improvements had been included to appease past objections. It was also noted that the applicant had consulted the economic development team on several occasions to confirm that there were no other available sites within the district and that there was an outstanding amount for additional office sites up to end of the life of the current Local Plan.

A discussion took place around deferring the application to allow officers to consider policy Ec2(2). It was noted by the Legal Advisor that a deferment to consider a policy change, would not benefit the decision making, as the concerns raised by members were around the location and highways safety, and that there were no objections from the statutory consultees.

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

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

RESOLVED THAT:

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

<b>Motion to permit the application in accordance with the Officer's recommendation (Motion)</b>	
Councillor Ray Morris	For
Councillor Russell Boam	Conflict Of Interests
Councillor Dave Bigby	Against
Councillor Alexander Bridgen	For
Councillor John Bridges	For
Councillor David Everitt	Against
Councillor Dan Harrison	For
Councillor John Legrys	Against
Councillor Jenny Simmons	For
<b>Carried</b>	

**25. A1**  
**22/00801/FUL: ERECTION OF AN AGRICULTURAL STORE TO BE USED FOR CATTLE AND GENERAL PURPOSE**

Rainbow Crescent, 7 The Moorlands, Coleorton, LE67 8GG

**Officer's Recommendation: Permit**

The Senior Planning Officer presented the report to members.

Mr Henderson, agent, addressed the committee stating that the proposed building would be used for housing the cattle over the winter months and that there was clear justification for the development. He urged the committee to support the application.

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

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

RESOLVED THAT:

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

<b>Motion to permit the application in accordance with the Officer's recommendation (Motion)</b>	
Councillor Ray Morris	For
Councillor Russell Boam	Conflict Of Interests
Councillor Dave Bigby	For
Councillor Alexander Bridgen	For
Councillor John Bridges	For

Councillor David Everitt	For
Councillor Dan Harrison	For
Councillor John Legrys	For
Councillor Jenny Simmons	For
<b>Carried</b>	

The meeting commenced at 6.00 pm

The Chairman closed the meeting at 7.30 pm

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – 1<sup>st</sup> November 2022

<b>Title of Report</b>	<b>PLANNING ENFORCEMENT UPDATE Q2 2022/23</b>	
<b>Presented by</b>	Dylan Jones <b>Planning and Development Team Manager</b>	
<b>Background Papers</b>	None	<b>Public Report:</b> Yes
<b>Financial Implications</b>	There are no financial implications that arise from this report	
<b>Staffing and Corporate Implications</b>	None	
	<b>Signed off by the Director: James Arnold</b>	
<b>Legal Implications</b>	None	
	<b>Signed off by the Legal Advisor: Kate Hiller</b>	
<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 2 of the 2022/23 financial year.

**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.

**Table 1 – Harm Scoring**

	2021/22			2022/23	
	Q1	Q2		Q1	Q2
<b>Urgent Case/Not Required</b>	37	12		36	54
<b>High Priority cases (score over 5)</b>	36	34		11	7
<b>Standard Priority case (score under 5)</b>	28	10		14	8
<b>No update (awaiting harm score)</b>	3	11		3	5
<b>Pending consideration (visit arranged but not completed or awaiting visit to be made)</b>	13	18		32	37
<b>Total</b>	<b>117</b>	<b>85</b>		<b>96</b>	<b>111</b>

- 2.2 The table shows that in the second quarter of the 2022/23 financial year, the team has harm scored more cases than in Q1, although the number of cases isn't significantly greater.
- 2.3 There were more urgent cases that required investigation in Q2 and the number of cases pending a site visit remained similar between both periods.
- 2.4 The number of case harm scored in the same two periods in the previous financial year are on average similar to that completed in the same period in the current financial year, although it is noted that the team have more cases pending site visits in the current two periods over that seen in the same period in the previous financial year. This is attributed to team availability during the summer holiday break and also the departure of a member of the team for a different role in the Council.

### **3 PLANNING ENFORCEMENT CASE STATISTICS**

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

2021/2022				
Months/Year	No. of new cases opened	No. of cases older than 6 months	No. of cases older than 1 year	Total no. of live cases within each quarter
Q1	117	67	105	289
Q2	85	54	100	239



<b>2022/23</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>	96	72	112	307
<b>Q2</b>	111	120	87	280

- 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.
- 3.2 The table shows that the team opened more new cases in Q2 with the number of cases exceeding 6 months also increasing over that in Q1. However, there are at the end of Q2 less cases over 1 year old with the team and the number of live cases has reduced by 27 cases which shows that the team are working hard to actively deal with and bring their cases to a conclusion.
- 3.3 Table 2 also shows that on average the number of new cases that are newly opened, are with us for 6 months and then over a year are similar for the two periods in both the current and previous financial year with no real trend to identify.
- 3.4 The types of breaches investigated during Quarters 1 & 2 are summarised in Table 3 below.

**Table 3 – Types of Breaches Investigated**

	<b>2021/22</b>			<b>2022/23</b>	
<b>Type of breach</b>	<b>Q1</b>	<b>Q2</b>		<b>Q1</b>	<b>Q2</b>
<b>Breach of planning condition</b>	17	6		17	28
<b>Unauthorised works in conservation area</b>	10	2		1	1
<b>High hedges</b>	2	2		0	4
<b>Unauthorised works on a listed building</b>	4	2		3	2
<b>Not in accordance with approved plans</b>	15	8		11	11
<b>Unauthorised works on a protected tree</b>	2	3		2	3
<b>Unauthorised development – Domestic</b>	37	27		23	33
<b>Unauthorised development – Non domestic</b>	7	10		18	13

<b>Untidy land</b>	0	0		2	0
<b>Unauthorised advertisement</b>	1	0		5	1
<b>Material change of use</b>	16	17		6	7
<b>Advice</b>	3	6		7	7
<b>Breach of Section 106</b>	0	1		0	0
<b>Development Monitoring</b>	3	1		1	1
<b>Totals</b>	<b>117</b>	<b>85</b>		<b>96</b>	<b>111</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 continue to 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. The remaining investigation types remain similar in number between both periods, although as stated earlier the total amount of cases received has increased in Q2 over that seen in Q1 but only marginally so.
- 3.5 When comparing the same period in the previous financial year, it is clear that the number of breaches of planning conditions have increased yet the numbers of unauthorised changes of use have declined between the years, although there is no real trend as to why this may be the case. The statistics do identify that the main investigation types as carried out by the team remain into works at domestic properties and whether these are permitted development or require planning permission.
- 3.6 **Prosecutions** - There have been no prosecutions during quarter 2, however the injunctions that are in place continue to be monitored. Cases continue to be monitored where there are Extant Notices in place.
- 3.7 **Notices** – A single Enforcement Notice and one Planning Contravention Notice have been issued during Q2. It must be emphasised that 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 1<sup>st</sup> July 2022 to 30<sup>th</sup> September 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. Awaiting confirmation of dates.
<b>Aylesbury Gardens, Newton Road, Sweptstone</b>	Planning application due to be determined, but there is a Judicial Review relating to the users of the site.
<b>Whitney Park, Shorth Heath 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>Brooks Lane, Whitwick</b>	No travellers on site. Injunction being adhered to, and the site is continuing to be monitored. Planning application received but invalid
<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**

<b>2021/22</b>				<b>2022/23</b>	
	<b>Q1</b>	<b>Q2</b>		<b>Q1</b>	<b>Q2</b>
<b>Member Enquiries</b>	15	9		7	5
<b>Responded to within 10 day timescale</b>	15	9		7	4*

\* Please note that at the time of writing this report one of the Councillor queries is still outstanding and still within its 10 day response period.

5.2 When the enquiries are submitted through the Feedback process officers have 10 days to respond to the query made by the Member and the statistics show that all of the completed cases 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 short timescale.

5.3 When comparing figures between the same period in the current and last financial year it can be seen that queries received through the feedback system from members on enforcement matters have reduced, although for all of the periods listed above, the responses given back to our members has been given in the specified 10 day 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**

	2021/22			2022/23	
	Q1	Q2		Q1	Q2
<b>Acknowledged in writing within 3 working days</b>	111	77		96	92
<b>Initial site visit carried out within 21 working days of receipt of the initial complaint</b>	105	55		64	59

6.2 The table shows that the team have been consistent in acknowledging cases in writing between Q1 and Q2 and that the number of cases acknowledged within the 21 day period remains relatively similar between the quarters.

6.3 When comparing the figures for the same period between the financial years, these show that that the number of cases acknowledged remains on average similar although less site visits in 21 days have been carried out in the first two quarters of the current financial year. This has been attributed to the number of cases received being marginally higher in this current financial year than in the previous one and is also attributed to staffing change and training commitments in the team which has

impacted on their ability to action as many cases in the same period in the previous financial year

This page is intentionally left blank

## **APPENDIX B**

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

**1 November 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 a road related storage, maintenance and management facility and associated site works (reserved matters to outline planning permission ref. 17/01081/OUTM) (revised scheme)

Flagstaff Island Lountside Ashby De La Zouch Leicestershire LE65 1JP

Report Item No  
A1

Application Reference  
22/00691/REMM

Grid Reference (E) 437495  
Grid Reference (N) 317235

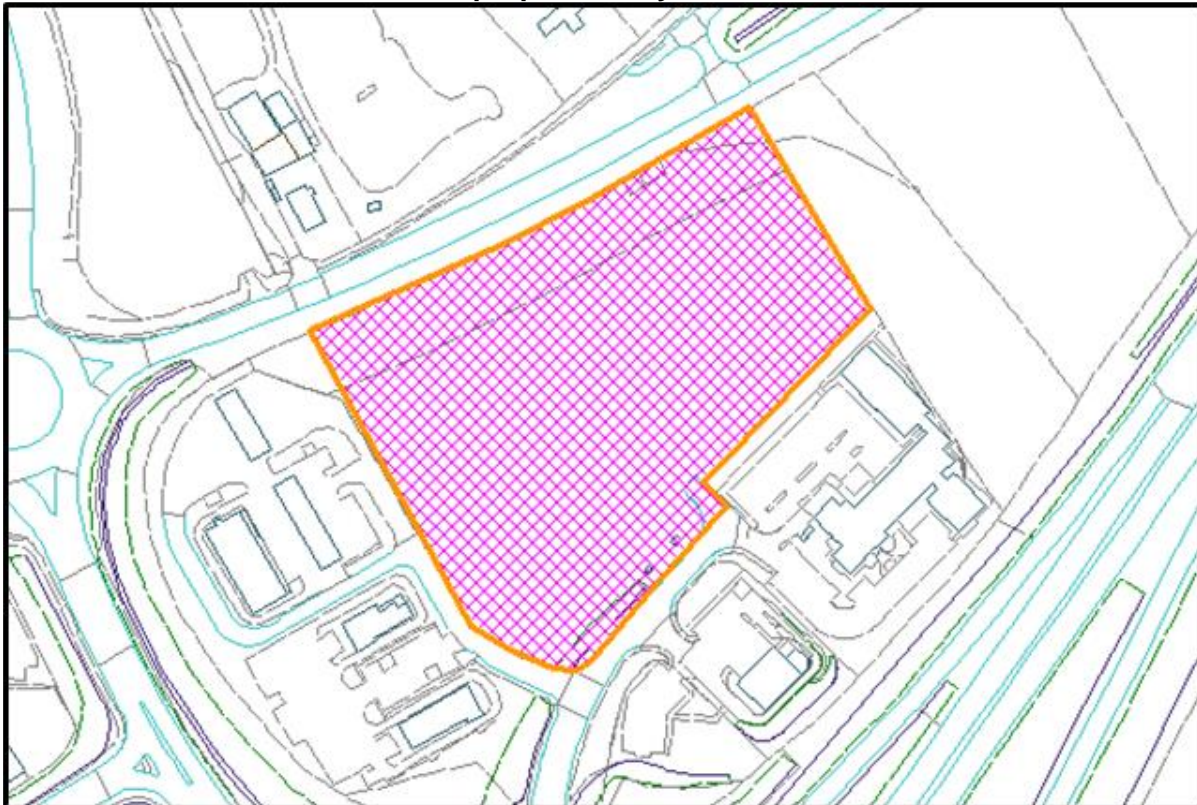
Applicant:  
EG Group

Case Officer:  
Donnella Wood

Recommendation:  
PERMIT

Date Registered:  
22 April 2022  
Consultation Expiry:  
26 October 2022  
8 Week Date:  
22 July 2022  
Extension of Time:  
7 October 2022

Site Location - Plan for indicative purposes only



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

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

- 1 Compliance with outline planning permission
- 2 Approved plans
- 3 Materials
- 4 Landscaping
- 5 Tree / hedgerow protection
- 6 Hard surfacing
- 7 Levels
- 8 Boundary treatment
- 9 Retaining walls / structures
- 10 Site accesses / visibility splays
- 11 Parking and manoeuvring areas
- 12 Cycle parking
- 13 External lighting
- 14 Environmental performance
- 15 Details of vehicular crossing to drainage ditch

## Main Report

### Proposals and Background

The application is brought to the Planning Committee as it was called in on design grounds following the refusal by Committee members of the previously submitted scheme 21/00471/REMM and the subsequent loss of appeal by the applicant.

This is a reserved matters application for the erection of a unit on a site of 2.4ha for use as a road related storage, maintenance and management facility and associated site works (reserved matters to outline planning permission ref. 17/01081/OUTM) at Flagstaff Island, Lountside, Ashby De La Zouch.

The application seeks reserved matters approval for the matters of access, appearance, landscaping, layout and scale.

Following the completion of a Section 106 obligation (in respect of a number of matters including employee travel packs and bus passes, bus stop improvements, implementation of waiting restrictions, construction traffic, River Mease contributions and National Forest planting), outline planning permission was granted in August 2019 (ref. 17/01081/OUTM).

This reserved matters application seeks approval for a unit of approximate dimensions 150m length x 40m width with a maximum height of 8.2m above finished floor level (FFL).

The proposed unit would include a service yard to the north eastern part of the site which would incorporate HGV parking. To the south western part of the site a car park is proposed.

Two vehicular accesses are proposed, the service yard would be served from Lountside and the car park would be served from Lountside and the existing estate road accessed via the adjacent completed first phase.

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

The previously submitted scheme 21/00471/REMM was refused by the Planning Inspectorate Inspector who raised the following;

*The adjacent petrol filling station canopies sit considerably closer to the boundary with Nottingham Road than the unit proposed. There is established tree planting which would help to screen the unit from Nottingham Road. Nonetheless, in comparison to the building proposed, the canopies read as lightweight structures due to their open sided construction and, on the basis of the information before me, the unit would be taller than the canopies. The building would be highly visible from the roads associated with the services. The proposed west elevation would be directly adjacent to the estate road and due to its siting would be particularly prominent when viewed from public vantage points.*

*The existing buildings within the road-related services area do not read as dominant buildings because of their scale, design, siting and use of materials. In contrast, the scheme would result in a dominant building which would fail to respect the character of the existing development within the services area. This is by virtue of the proposed building's height, scale, massing, siting and design with limited architectural features particularly to the prominent west elevation.*

*Furthermore, due to the limited gap between the unit and the road, it would not be possible to introduce any meaningful landscape to mitigate the impact of the proposed west elevation. Consequently, the scheme would be out of keeping with the existing development within the road-related services area and would not positively respond to the site's context.*

*For these reasons, the proposed development would be visually harmful to the character and appearance of the surrounding area.*

The full text of the appeal decision can be seen in appendix 1 to this report.

The previous scheme would have resulted in a much taller and more dominant building with a height of 10.3m, an overly large service yard, unsubstantial landscaping and a siting which would have ensured significant prominence when viewed from the public realm.

As a result of the amended scheme, the height of the building has been reduced from 10.3m to 8.2m which is lower than adjacent canopies and the siting of the building has been re-orientated to reduce its prominence from public vantage points. Furthermore, the amended scheme now features a substantially reduced service yard and a significant amount of landscaping is now proposed which would further screen the proposal reducing the dominance of the scheme within the public realm and addressing the issues raised by the Inspector when considering the appeal.

### **Recent Planning History**

06/00235/OUT Erection of road related service facilities (outline including details of access) PER 12.10.2006

06/00573/ADC Retention of one no. externally illuminated freestanding sign PER 10.08.2006

08/01437/ADC Display of 1 No. Pole Advertisement Sign (illuminated sign) INV

08/01522/ADC Display of pole mounted sign (Advertisement Consent Application) WDN 26.03.2009

16/00216/FULM Erection of road related facilities - including petrol filling, service station, restaurant, cafe and formation of petrol forecourts, aprons and parking areas PER 14.06.2017

17/01081/OUTM Erection of a road related storage, maintenance and management facility (use classes B1 and B8) and associated site works (outline - all matters reserved) PER 02.08.2019

18/00230/ADC Display of one internally illuminated totem sign PER 15.05.2018

18/00622/NMA Non-material amendment to planning permission 16/00216/FULM to increase the footprint of the building and amend the design of the building PER 23.05.2018

21/00471/REMM Erection of a road related storage, maintenance and management facility and associated site works (reserved matters to outline planning permission ref. 17/01081/OUTM) REF 04.11.2021

## **2. Publicity**

17 neighbours notified.

Site Notice displayed 27 April 2022.

Press Notice published Leicester Mercury 4 May 2022.

### 3. Summary of Consultations and Representations Received

#### Statutory Consultees

**Ashby de la Zouch Town Council** objects on the following grounds:

- Will cause disruption and deter visitors from the town
- Proposal is too large for the location
- Noise, air and light pollution
- Highways concerns
- Harm to the River Mease - assessments are required and no capacity is available
- Contrary to Local Plan policies as the proposals are not a road related services facility, contrary to Policy T4b (a reference to the former policy for the site within the previous North West Leicestershire Local Plan), and as the site is allocated as countryside, not employment land.

**Leicestershire County Council Highways** - No objection subject to the imposition of comments.

**Leicestershire County Council Lead Local Flood Authority** - No objection.

**NWLDC Environmental Protection** - Stated 'no information submitted for Environmental Protection consideration hence, no comments'.

**NWLDC Tree Officer** - No objection.

**NWLDC Urban Designer** - No objection.

**The National Forest Company** - No objection.

**Natural England** - No objection.

#### Third Party Letters of Representation

5 neighbouring dwellings and businesses objected to the proposal raising the following;

- Merits of the application
- Highways concerns
- Contravenes development plan
- Land area too small for the proposal
- Ugly design
- Overly dominant
- Little changed from the previously refused application
- Pedestrians struggle to cross the road due to already bad waiting times
- Application type not suitable
- Site does not have sustainable transport routes
- High pressure gas pipeline running under the application site
- Proposal not road related
- Land designated as open countryside
  - Inadequate surface water drainage
- Overloading of the Packington sewerage plant
- Great Crested Newts within the site
- 24 hour noise

- Light pollution
- Exhaust pollution and disturbance
- Air quality concerns
- Mixing extra HGV traffic with the A42 Services passenger cars and pedestrians
- Oil pollution
- Impacts on the River Mease
- Hydrocarbon pollutants
- Ecological harm
- Fire hazard
- Flooding concerns
- Residents and consultees were not consulted on the 2019 application
- EIA should have been independent
- Officer errors from previous applications
- Harm to public health
- Potential for storage of toxic materials
- Size of building larger than stated during outline
- Harmful to local businesses
- Absence of adequate technical assessments in respects of noise, air quality and lighting
- Insufficient detail regarding the proposed diversion of a gas main directly towards the hotel
- Inconsistencies between the drawing pack and supporting statements
- Inadequate parking provision
- Potentially inadequate service yard including capacity, turning circles for HGVs and potential for queueing onto Lountside
- Insufficient or inappropriate detail regarding site operations, security and management

All responses from statutory consultees and third parties are available to view via the Council website.

Only comments which raise material planning issues can be taken into account. For the avoidance of doubt material considerations for this site relate to impact on the character of the area, scale/ design, layout, landscaping and access. Matters relating to the granted outline application, nor considerations which would have been considered as part of the outline application such as the principle of the development, neighbour amenity, impacts on the SAC, impacts on the wider highways network, environmental impacts and ecological issues are not material planning considerations for this application.

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

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

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied.

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 109, 110, 111 and 112 (Promoting sustainable transport)

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

Paragraphs 153, 154 and 157 (Meeting the challenge of climate change, flooding and coastal change)



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

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

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

S3 - (Countryside)  
D1- (Design of New Development)  
D2- (Amenity)  
IF4- (Transport Infrastructure and New Development)  
IF7- (Parking Provision and New Development)  
En1- (Nature Conservation)  
En2- (River Mease Special Area of Conservation)  
En3 - (The National Forest)  
En6 - (Land and Air Quality)  
Cc3- (Sustainable Drainage Systems)

**Adopted Ashby Neighbourhood Plan (2018)**

The Ashby Neighbourhood Plan forms part of the development plan and the following policies of the Neighbourhood Plan are relevant to the determination of the application:

Policy S1 - Presumption in favour of Sustainable Development  
Policy S3 - Development Proposals Outside of the Limits to Development  
Policy S4 - Design  
Policy NE5 - Trees and Hedgerows

**Other Guidance**

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.  
The River Mease Developer Contributions Scheme (DCS1 & 2)  
Natural England - Advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites - March 2021.  
Leicestershire Highways Design Guide (Leicestershire County Council).  
Planning Practice Guidance.  
National Design Guide - October 2019.  
Good Design for North West Leicestershire SPD.

## **5. Assessment**

**Principle of Development**

The principle of development on this site for the proposed use was established by the grant of the original outline planning permission (17/01081/OUTM) 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. 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 issues (e.g. the impacts on the wider highway network and matters relating to the sustainability of the development) are not relevant to this application.

Insofar as the proposed reserved matters applied for are concerned, the following conclusions are reached:

### **Appearance, Layout and Scale**

Whilst the site is located outside Limits to Development, as set out above, the principle of the development has already been established under the outline planning permission. However, Policies S3 of both the adopted Local and Neighbourhood Plans include criteria relating to the detailed design associated with development within the countryside. In terms of matters relevant at the reserved matters stage, Local Plan Policy S3 provides that developments will be supported where the appearance and character of the landscape is safeguarded and enhanced, and where built development is well integrated with existing development and existing buildings; Neighbourhood Plan Policy S3 requires development to respect the form, scale, character and amenity of the landscape and the surrounding area through careful siting, design and use of materials. Similarly, the scheme will also need to be considered against the design policies referred to above.

The scale of the proposed unit is as set out in the introduction above. Insofar as the height of the unit is concerned, it is noted that the supporting information submitted with the outline application indicated that the unit would be between one and two storeys in height, and between 5.0m and 8.5m. As set out above, the maximum height of the unit would be 8.2m above FFL which would be within the limits as indicated at outline stage. By way of comparison with surrounding development, the closest section of the existing hotel is approximately 9.6m to ridge (above FFL), and the existing filling station canopies (for cars and HGV sections respectively) are 6.5m and 7.5m above ground level. Whilst details of proposed floor and external ground levels are not yet available (and would be able to be addressed by way of an appropriate condition), existing site levels for that part of the site where the unit would be erected are (generally) at a similar level (and, in places, approximately 1m above) those of the filling station, and approximately 3 to 4m below those of the hotel's FFL.

The site is currently well screened from Nottingham Road by established tree planting and additional planting to further screen the development is proposed. Whilst the proposed unit would be taller than the adjacent filling station canopies (which are considered to be well screened by the existing vegetation), it is noted that the unit would be sited approximately 55m from the site boundary (compared to only around 16m in the case of the adjacent petrol station) and, as such, the visibility of the unit beyond the trees would be likely to be limited to some extent from street level on Nottingham Road.

In terms of the size of the unit generally, it is noted that this complies with the maximum floorspace specified in the outline planning permission.

With regard to the design of the unit, officers have sought to engage with the applicants so as to secure improvements to the proposed elevations. In particular, the Urban Designer whilst complimenting the proposal over the previously submitted scheme as sitting comfortably within the plot and the reduction in the size of the service yard, did advise that the elevations appeared unnecessarily complicated offering advice to offset this. Following the receipt of amended plans, it is considered the elevations now offer a greater simplicity and palette for such a scheme and it is accepted that it would represent a significant enhancement over and above the originally submitted scheme offering a good standard of design, in accordance with the relevant Local Plan, Neighbourhood Plan and SPD policies.

Additionally, whilst the unit incorporates car parking to its principal public realm-facing frontage, it is acknowledged that it would be set behind a substantial landscaped area, and the visual impact of the extent of hardstanding proposed would be expected to be mitigated to a reasonable degree.

The previous scheme would have resulted in a much taller and more dominant building with a height of 10.3m, an overly large service yard, insufficient landscaping and a siting which would have ensured significant prominence when viewed from the public realm. For these reasons, the previously submitted scheme 21/00471/REMM was refused by the Planning Inspectorate Inspector who considered the proposed development would be visually harmful to the character and appearance of the surrounding area.

As a result of the amended scheme, the height of the building has been reduced to 8.2m which is lower than adjacent canopies and the siting of the building has been re-orientated to reduce prominence from public vantage points. Further, the amended scheme now features a substantially reduced service yard and a significant amount of landscaping is now proposed which would further screen the proposal reducing the dominance of the scheme within the public realm. Given this and as discussed above, it is considered the amended scheme would satisfy the concerns raised by the Inspector when determining the appeal.

Given the above, the proposal is not considered to result in significant harm to the site itself or the character of the street scene. The proposal is considered to be compliant with Policy D1 of the Local Plan, Policy S4 of the Ashby Neighbourhood Development Plan and the advice contained within the NPPF.

### **Access**

The development is proposed to be accessed via two vehicular accesses from Lountside; one served from the existing estate road used to access the adjacent roadside services, and the other formed at the existing turning head at the end of Lountside. The access proposals remain largely unaltered from the previously submitted scheme of which the Planning Inspectorate Inspector did not raise specific concerns over.

The Leicestershire County Council Highways Authority (LHA) were formally consulted on the application and raised no concerns advising that in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe subject to the imposition of conditions.

The LHA noted the internal access proposals, visibility splays and swept path analysis are acceptable. With regard to the parking arrangements, the LHA concluded the proposal is in excess of the required amount of vehicular parking spaces and the disabled persons parking bays are in accordance with Table DG12 of Part 3 of the Leicestershire Highway Design Guide and are therefore acceptable. With regard to the service yard, they advised the proposed B8 use of the site requires a total of nine HGV spaces which have been demonstrated on the submitted plans. As such, the parking provision is in accordance with LHDG standards and therefore the application is acceptable.

Issues in respect of the scheme's impacts on the wider highway network, the suitability of the site in terms of sustainable location and its accessibility to public transport have in effect been dealt with at the outline stage. The scheme is therefore considered acceptable in terms of access and associated matters, and would comply with Policies IF4 and IF7 of the Local Plan, Policy S4 of the Ashby de la Zouch Neighbourhood Development Plan as well as the

Leicestershire Highways Design Guide.

### **Landscaping**

As set out above, the site is currently well screened from Nottingham Road by established tree planting (some of which was originally established as part of the landscape mitigation for the development of the commercial development to the south east of the site); a number of other smaller trees are currently located within the site. The application is accompanied by an Arboricultural Impact Assessment and Method Statement (AIA) and Landscaping Plan detailing additional planting and the retention of the existing vegetation.

With regard to the existing trees adjacent to Nottingham Road, of the 9 singular trees and groups, 3 are proposed to be removed, however new landscaping would be provided to those areas adjacent to Nottingham Road (including new tree, hedgerow, shrub and wildflower meadow planting). The affected existing groups in this part of the site would also be within Retention Category C and U, identified in the AIA as collectively of low quality and value beyond partial screening from Nottingham Road. Whilst the "depth" of the planting buffer to Nottingham Road would be reduced to some extent, it is considered that the area of vegetation retained and the additional planting proposed would likely to continue to provide an effective means of limiting the visual impacts of the development when viewed from Nottingham Road.

In addition to the landscaping referred to above, landscaped buffers would also be provided to the site boundaries. The submitted Landscaping Plan confirms that the site's proposed landscaping would include the provision of shrubs, native woodland mixes, native hedgerow mixes, native shrub mixes, pond edge seed mix, wildflower mixes and 93 no. heavy standard sized trees.

The NWLDC Tree Officer advised they did not have any objections to the proposal further commenting that the Tree Protection Plan (120422\_0029\_TPP\_V2) included in the AIA is additionally acceptable for the temporary protection of the retained trees during the development construction works.

In terms of National Forest planting, it is noted that the Section 106 obligations entered into at the outline stage secure National Forest planting and/or financial contributions (with the amount payable dependent on the final extent of on-site Forest planting). Under the relevant National Forest planting standards, a minimum area of 0.48ha of National Forest planting is required to be provided within the site (or, in the event that it is not, an off-site financial contribution of £20,000 per hectare of the shortfall is payable). Since the initial landscaping documents were received we requested a further detailed plan to be submitted and an amended detailed Landscaping Plan has now been received which increased the standard tree sizes and confirmed the minimum area of National Forest planting which would be provided. The National Forest Company has advised the amended plan and details indicates that the National Forest planting requirement (which includes woodland planting, shrub planting and specimen tree planting) would be met on site and that the species mix, density and sizes are considered appropriate. As such, the National Forest Company raised no objection to the proposal.

Other amendments requested were for clarity over the proposed physical boundary measures which has now been made clear and as such, the proposal would result in a 1.8m high Paladin fence to the site side of the planting buffer which would be green to blend in with the tree planting. It is considered the proposed fence therefore would be well screened by the planting and the green would be appropriate to provide further camouflage of the fencing. Following the amended plan the NWLDC Urban Designer was reconsulted who confirmed they have no

objection to the scheme.

The previous scheme would have resulted in insufficient landscaping for the proposal with the Planning Inspectorate Inspector additionally noting 'between the unit and the road, it would not be possible to introduce any meaningful landscape to mitigate the impact of the proposed west elevation'.

As a result of the amended scheme, the siting of the building has been re-orientated to reduce prominence from public vantage points and allow further scope for landscaping. As such, a significant amount of landscaping is now proposed which would further screen the proposal reducing the dominance of the scheme within the public realm. Given this and as discussed above, it is considered the amended scheme would satisfy the previously raised concerns.

Overall it is considered that the proposal would contribute positively to its setting within the National Forest and therefore would comply with the aims of Policies D1 and En1 of the adopted Local Plan.

### **Other Issues**

A number of objections have been raised in respect of other matters not directly relevant to the determination of this reserved matters application. These include concerns relating to the need or otherwise for the development, the principle of development outside Limits to Development, and the drainage implications of the scheme (and including impacts on the River Mease SSSI and SAC) amongst others. With regard to the drainage concerns raised, it is noted that the Section 106 agreement entered into at the outline stage to secure appropriate contributions under the River Mease Developer Contribution Scheme, and that the capacity at the receiving treatment works has already been allowed for on the basis of the outline planning permission proposals. In terms of surface water drainage, this is controlled under conditions attached to the outline planning permission. On this basis (and subject to the submission of appropriate details under a discharge of condition application), it remains the case that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Similarly, ecological concerns have been raised by third parties however, a scheme of ecological mitigation is required to be implemented in accordance with the outline planning permission (and in respect of which details have already been approved under a separate discharge of condition application (ref. 21/00854/DIS)). Whilst comments have been made to the effect that the scheme should be subject to an Environmental Impact Assessment (EIA) independent of the Council and applicant, it is considered that, having regard to the characteristics of the site and its surroundings and to the scale of the scheme, it would not constitute EIA development under the regulations and this is an assessment that the EIA regulations require the Council to make and cannot be done by an independent organisation. Indicative criteria for industrial estate development projects (which, in effect, this use would be akin to) as set out in the DLUHC's Planning Practice Guidance suggest that EIA is unlikely to be required for development of below 20ha. It is not considered that there are any other specific factors applicable here that would indicate any other position ought to be reached in this regard. Therefore, as the proposal falls outside of the remit of EIA development it does not require such an assessment.

It is noted that objections have been raised in respect of the scheme's impact on issues such as noise, oil, air pollution and the risk to public health from the proposal. However, these are not considered to be matters directly relevant to the determination of this reserved matters

application and were matters that were considered at the appropriate outline stage. It is nevertheless noted that the supporting information submitted at outline stage indicated that the impacts on residential amenity would be likely to be limited given the existing noise climate of the site and aside from conditions relating to land contamination the NWLDC Environmental Protection Team advised they had no environmental observations at the time of the outline planning permission. Any additional information with respect of these issues would have needed to be requested at outline stage and it is not appropriate to reconsider these or request additional conditions at the reserved matters stage which only deal with specific elements of the scheme i.e. the reserved matters which are referred to in this report.

It is therefore considered that the proposed scheme would be acceptable, and approval is recommended.



---

## Appeal Decision

Site visit made on 17 May 2022

**by L Wilson BA (Hons) MA MRTPI**

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

**Decision date: 6<sup>th</sup> June 2022**

---

**Appeal Ref: APP/G2435/W/21/3288015**

**Land off Lountside, Ashby De La Zouch, Leicestershire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of an outline planning permission.
  - The appeal is made by EG Group Limited against the decision of North West Leicestershire District Council.
  - The application Ref 21/00471/REMM, dated 16 March 2021, sought approval of details pursuant to condition No 1 of an outline planning permission Ref 17/01081/OUTM granted on 2 August 2019.
  - The application was refused by notice dated 4 November 2021.
  - The development proposed is erection of a road related storage, maintenance and management facility and associated site works (reserved matters to outline planning permission ref. 17/01081/OUTM).
  - The details for which approval is sought are: access, appearance, landscaping, layout and scale.
- 

### Decision

1. The appeal is dismissed and approval of the reserved matters is refused, namely: access, appearance, landscaping, layout and scale details submitted in pursuance of condition 1 attached to planning permission Ref 17/01081/OUTM dated 2 August 2019.

### Application for Costs

2. An application for costs was made by the appellant against the Council. This application is attached as a separate Decision.

### Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

### Reasons

4. Outline planning permission was granted in 2019 for the erection of a road related storage, maintenance and management facility (use classes B1 and B8) and associated site works, with all matters reserved. The appeal seeks reserved matters approval for the matters of access, appearance, landscaping, layout and scale.
5. The appeal site is adjacent to a roadside related services area which includes a petrol station, hotel as well as food and drink outlets. The site is located outside limits to development as defined in the North West Leicestershire Local

Plan (2021) (LP). Policy S3 of the LP relates to development in the countryside. As stated above, planning permission has already been granted at the outline stage and therefore the suitability of the use proposed in this location is not a consideration. Nonetheless, the policy includes criteria relating to design associated with development within the countryside. Policy S3 is therefore relevant to the determination of the scheme because it would only be possible to assess some of the criteria at the reserved matters stage.

6. I acknowledge that the design of the scheme was amended to introduce detailing, the floorspace complies with the maximum floorspace specified in the outline planning permission and additional landscaping is proposed. It has also been drawn to my attention that at the time of the outline application, the supporting information indicated that the unit would be between one and two storeys in height, and between 5 and 8.5m. The proposed building would be approximately 10.3m high above finished floor level. However, I recognise that scale was a matter to be considered at reserved matters stage.
7. The adjacent petrol filling station canopies sit considerably closer to the boundary with Nottingham Road than the unit proposed. There is established tree planting which would help to screen the unit from Nottingham Road. Nonetheless, in comparison to the building proposed, the canopies read as lightweight structures due to their open sided construction and, on the basis of the information before me, the unit would be taller than the canopies. The building would be highly visible from the roads associated with the services. The proposed west elevation would be directly adjacent to the estate road and due to its siting would be particularly prominent when viewed from public vantage points.
8. The existing buildings within the road-related services area do not read as dominant buildings because of their scale, design, siting and use of materials. In contrast, the scheme would result in a dominant building which would fail to respect the character of the existing development within the services area. This is by virtue of the proposed building's height, scale, massing, siting and design with limited architectural features particularly to the prominent west elevation. Furthermore, due to the limited gap between the unit and the road, it would not be possible to introduce any meaningful landscape to mitigate the impact of the proposed west elevation. Consequently, the scheme would be out of keeping with the existing development within the road-related services area and would not positively respond to the site's context.
9. For these reasons, the proposed development would be visually harmful to the character and appearance of the surrounding area. Accordingly, it would conflict with Policies S3 and D1 of the LP which seek, amongst other matters, to promote well designed developments which positively address the Council's Place Making principles, including the need to be responsive to context and in terms of architectural quality. It would also conflict with Paragraph 130 of the National Planning Policy Framework (the Framework). This states that decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Even if I had found that Policy S3 was not relevant, this would not alter my findings on the main issue as the scheme would still conflict with Policy D1 and the Framework.



### *Other Matters*

10. The appellant has drawn my attention to a number of other considerations. These include access and highway matters, drainage, ecology, noise, air quality and lighting as well as renewable energy. The appellant also highlights that the application was recommended for approval, they engaged positively with the Council, the application site comprises vacant land which is highly accessible, the scheme is tailored to the requirements of the appellant, the local plan does not identify sites for roadside management facilities and such uses can only operate in specific locations. In addition, I recognise that the scheme would provide economic benefits and there is a signed Section 106 agreement associated with the outline application. However, based on the information presented, these considerations do not outweigh the harm identified above.
11. On the basis of the evidence before me, the site lies within the catchment area of the River Mease Special Area of Conservation (SAC)/ Site of Special Scientific Interest (SSSI). Therefore, an assessment of whether the proposal would have a significant effect on the SAC/ SSSI is required. However, as I have found that the scheme is unacceptable for other reasons, I do not need to pursue this matter further.

### **Conclusion**

12. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

*L M Wilson*

INSPECTOR

This page is intentionally left blank

Change of use to a shop (Use Class E) and associated works

Report Item No  
A2

Former Castle Donington Library Delven Lane Castle  
Donington Derby DE74 2LJ

Application Reference  
21/01615/FUL

Grid Reference (E) 444570  
Grid Reference (N) 327159

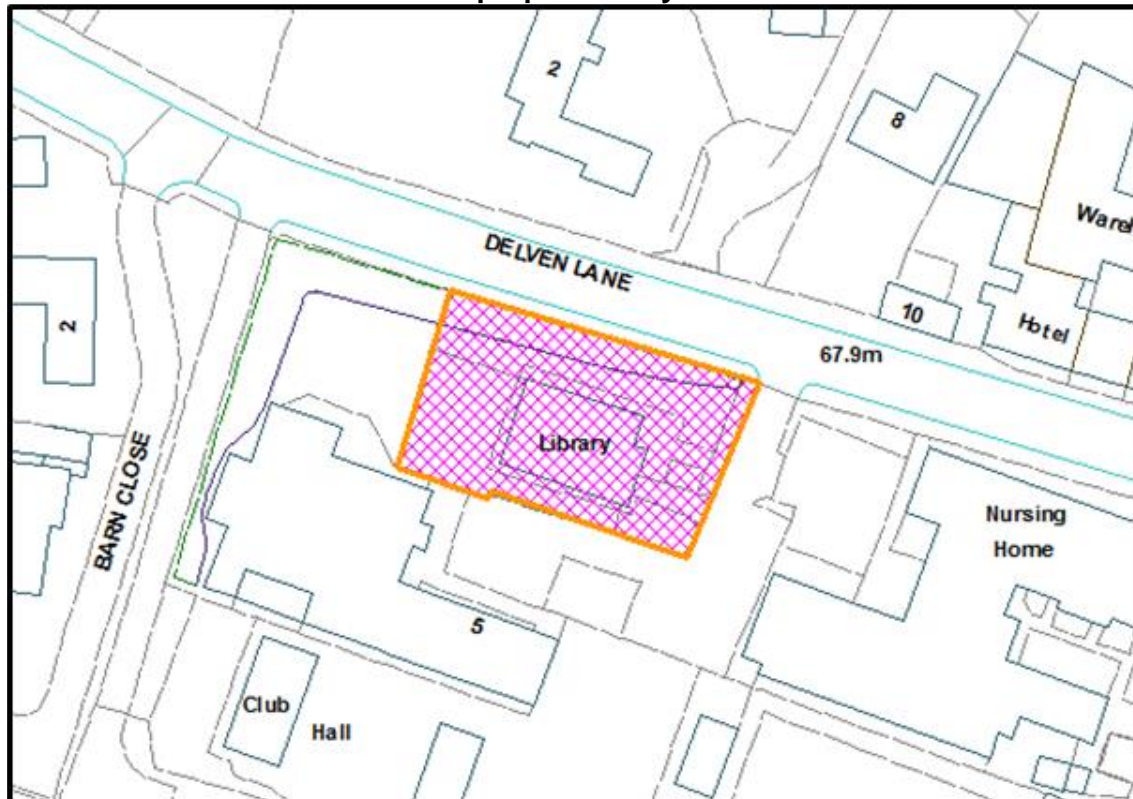
Date Registered:  
13 October 2021  
Consultation Expiry:  
17 October 2022  
8 Week Date:  
8 December 2021  
Extension of Time:  
None Agreed

Applicant:  
Liluben Odedra

Case Officer:  
Jen Wallis

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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

## **Call In**

The application is brought to Planning Committee at the request of Councillor Saffell due to the proposed retail use being outside the designated Village Centre and the allocation of Convenience Stores already up to allocation in Castle Donington. Also due to concerns on visual impact and access for emergency vehicles.

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

- 1 - time period
- 2 - approved plans
- 3 - opening hours
- 4 - parking
- 5 - cycle parking
- 6 - delivery Management Scheme
- 7 - use class restriction
- 8 - delivery hours
- 9 - colour of box and roller shutters
- 10- Retention of existing trees on site
- 11 - additional tree planting

## Main Report

### Proposals and Background

Planning permission is sought for the retrospective change of use of the former Castle Donington Library (Use Class F1 - Learning and non-residential institutions of the Town and Country Planning (Use Classes) Order 1987 (as amended)) on the south side of Delven Lane in Castle Donington into a retail shop (Class E - Commercial, business and service). Immediately to the south lies the Dovecote Veterinary Hospital. This shares a vehicular access with the library off Delven Lane, as well as Castle Donington Care Home and Castle Donington Bowls Club.

The site is located within the Limits to Development of Castle Donington, as defined by the Policy Map to the adopted North West Leicestershire Local Plan and has been operating as a Spar store for approximately a year.

A separate application for advertisement consent for adverts that have been installed on the building, is also currently under consideration (Planning Application Ref: 21/02028/ADV).

Precise measurements of the proposal are available to view on the submitted plans.

### Planning History

All previous planning history is related to its former use as a Public Library (Use Class F1) and not relevant to the current proposal.

21/02028/ADV Installation of various non-illuminated signage - Pending Consideration

## 2. Publicity

26 neighbours notified.

Site Notice displayed 26 September 2022.

Press Notice published Derby Evening Telegraph 27 October 2021.

## 3. Summary of Consultations and Representations Received

**Castle Donington Parish Council** has raised concerns about the proposal relating to

- Applicant has knowingly been operating the store without the necessary consents
- Need - there is no need for an additional retail store in the locality
- Sequential Test - although one has been carried out there is still considered to be no need.
- Highways - insufficient parking, unsuitable access for delivery vehicles, high level of congestion, danger to pedestrians. A covenant restricts the number of parking spaces to 1 space.
- Loss of Trees - two trees were removed from the forecourt of this building unlawfully being in the conservation area - what enforcement action will the Council be taking?

**North West Leicestershire DC Policy Team** - Request a Sequential Test including a Walkover of the Town Centre to establish the availability or otherwise of suitable premises.

**Leicestershire County Council Highway Authority** - consider that the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Appropriate conditions recommended.

**North West Leicestershire District Council's Environmental Protection Team** - no objections to make on the granting of this planning permission. The proposed use would not negatively impact on its environment by way of noise, light, odour or other disturbance.

**Ward Members** objects to the proposal on the grounds that the retail use is outside the designated Village Centre and allocation of Convenience Stores is already up to the specified maximum and as such, there is no need for this site. There should be no Roller Shutter Doors in the Conservation Area. Also concerned that this use in this location is not practical because the traffic generated particularly that of delivery lorries severely restricts access for emergency vehicles (Ambulances) to both The Nursing Home and the Vets Hospital

**Third Party Representations** Four letters of neighbour representation has been received raising concern on the following grounds:

- The SPAR outlet already now displays considerably more advertising & signage than has been applied for (wall mounted banners, Pop up 'A-frame' boards and bright red cardboard barricades) - these are unstable, move around in high winds and look unsightly in the conservation area
- Two trees have been removed from the foreground of the building. These were relatively small specimens and were considered to be more ornamental. These two mature trees have been ripped out unlawfully and for the sole purpose of adding car parking space
- This Developer has ploughed on regardless of what appears to be a toothless Planning & Control process. Please can you provide some re-assurance that the planning and legal issues that arise from this behaviour are being addressed
- Access - Already busy with the driveway serving a Vets, Residential Care Home, and the Bowls Club. Traffic regularly queues from the traffic lights on the main road all the way up the hill past the Nursing Home on Delven Lane. Very large numbers of school children walk past to and from St Edward's Primary School and Castle Donington College. Since the shop has opened, parking at the entrance to the site has become heavily congested and dangerous
- Parking - inadequate parking provision for the shop and delivery vehicles often block Delven Lane and the access to the Vets and Nursing Home, park inconsiderately on the pavement as well as parking on our land - Parish Council is applying for double yellow lines on Delven Lane as a result.
- Impact on Conservation Area
- On the balance of a low level of need for the proposed convenience store and the increased pedestrian and safety risks that this application presents it should be rejected.

A separate objection has been submitted by JLL on behalf of Dovecote Veterinary Hospital raising the following concerns:

- Transport and highway impacts of the development - the shop generates significant trip numbers/deliveries that the area is unable to accommodate. The unauthorised use of the library as a shop is exacerbating an already strained parking situation and leading to the unacceptable use of neighbouring occupiers car parking and turning areas
- Parking - very limited detail was been provided with concern to parking in the original proposal and the proposal may fall below the adopted parking standards.
- Access - no operational parking provided for deliveries and no scope on the site to accommodate it. As a result, the delivery vehicles block road traffic, and the capability to access

the other occupiers. Specifically, the vehicles are blocking access to the veterinary hospital which deals with a wide range of emergencies. Additionally, not only do emergency patients need to access the site, but also vital deliveries of oxygen gas cylinders and other sensitive apparatus.

- Impact on the Castle Donington Conservation Area - the application has no regard for its proximity to the Conservation Area and appears to have no consideration for minimising impact on heritage - the advertisements are considered to be inappropriate to the area context and would have a detrimental impact on visual amenity.
- Loss of a Community Facility - Local Plan Policy IF2 states that the loss of such services will be resisted unless an appropriate alternative is provided, or there is demonstrable evidence that the facility is no longer required and/or viable and that suitable alternative community uses have been considered.

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

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

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

Section 2 - Achieving sustainable development  
Section 4 - Decision-making  
Section 7 - Ensuring the vitality of town centres  
Section 9 - Promoting sustainable transport  
Section 12 - Achieving well-designed places  
Section 14 - Conserving and enhancing the historic environment

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

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

S2 - Settlement Hierarchy  
D1 - Design of new development  
D2 - Amenity  
IF4 - Transport Infrastructure and new development  
IF7 - Parking provision and new development  
EC8 - Town Centres: Hierarchy and Management of Development  
EC9 - Town and Local centres: Thresholds for Impact Assessments  
EN1 - Nature Conservation  
EN6 - Land and Air Quality

##### **Other Policies and Guidance**

National Planning Practice Guidance.  
Planning (Listed Buildings and Conservation Areas) Act 1990  
Leicestershire Highway Design Guidance.  
Good Design for North West Leicestershire SPD - April 2017.  
Shop Front and Advertisement SPD - June 2019

## 5. Assessment

### Principle of Development

The site is located within the defined Limits to Development for Castle Donington, a Key Service Centre. However, it is located outside of the defined Castle Donington Local Centre. The site is therefore considered to be an out of centre location for main town centre purposes.

#### *National Policy*

Paragraph 87 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge-of-centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out-of-centres sites be considered.

Paragraph 88 of the NPPF states that when considering edge-of-centre and out-of-centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge-of-centre sites are fully explored.

The NPPF also provides a definition of an Edge of Centre Site: For retail purposes, this is a location that is well connected to, and up to 300 metres from, the primary shopping area.

The Planning Practice Guidance states that it is not necessary to demonstrate that a potential town centre or edge-of-centre site can precisely accommodate the scale and form of development being proposed, rather to consider what contribution more central sites are able to make individually to accommodate the proposal.

Planning Practice Guidance (Paragraph: 010 Reference ID: 2b-010-20190722, revised 22/7/19) specifically mentions that the suitability, accessibility, availability, and viability of locations should all be considered.

Planning Practice Guidance (Paragraph: 011 Reference ID: 2b-011-20190722, revised 22/7/19) requires that consideration be given to flexibility in the format and/or scale of the proposal.

Paragraph 90 of the NPPF also states that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace).

#### *Local Plan*

Policy EC8 'Town Centres: Hierarchy and Management of Development' of the Local Plan states that proposals for retail and other main town centre uses will be expected to be located within town and local centres. Development outside of the defined town and local centres will only be permitted if it can be demonstrated that a sequential approach has been followed which favours sites in a defined centre, then edge-of-centre and then out-of-centre. New retail and town centre uses should be of a scale appropriate to the role, function and character of the settlement and not undermine the balance of hierarchy.



Policy EC9: 'Town and Local centres: Thresholds for Impact Assessments' of the Local Plan indicates that an assessment will be needed for retail, leisure and office development that are over 500 sqm where they are outside Castle Donington's defined Local Centre.

North West Leicester Planning Policy Team has provided the following comments on the planning submission and how it addresses the above policies:

*Policy EC9: Town and Local Centres: Thresholds for Impact Assessment of the local Plan identifies the threshold of 500 sqm gross for retail and leisure development outside of Castle Donington. This proposal falls below this threshold and as such an impact assessment is not required.*

### **Sequential Test**

*The site is located approximately 60m from the edge of the defined Castle Donington Local Centre Boundary and therefore is considered an Edge of Centre site given that it is located within 300m from the town centre boundary (although it will be suggested that consideration also be given to the accessibility of the site). Given the edge-of-centre location of the proposal site, any application proposal must be supported by an assessment of sequentially preferable sites, firstly looking at sites within the town centre.*

*As a general summary, the submitted sequential test provides the following:*

- *A walkover of the town centre (undertaken on behalf of the applicants although the date is unknown) has been carried out of Castle Donington and did not identify any vacant ground floor level premises although it notes that there maybe units available at upper floor levels. However no physical advertisements were visible.*
- *Local agents and websites were then assessed to ascertain if any town centre premises were available for retail. (e.g. Right Move, Property Link, Zoopla, Prime Location, Boxpod and Move Hut). A property was found, but details of the actual address were not provided but it related to a takeaway which was being sold as an ongoing business including premises. The size of the unit is significantly smaller than the application building and this has been discounted as the sale relates to the premise and business and is a takeaway and not a retail unit. No other premises were found to be available for retail use within the town centre.*
- *No other premises were found to be available at ground floor level. It is acknowledged that some upper floors maybe available but a retail function requires a ground floor premises.*
- *The Assessment also suggest that the town centre is tightly drawn with limited development opportunities. Combining this with low vacancy rates and that there are quite a number of residential premises within the local centre, this limits the opportunities for finding premises within the defined centre.*
- *Therefore, as no premises exist within the town centre, the sequential approach moves onto edge of centre. Although the site is beyond the town centre boundary, it is adjacent to the boundary, being a matter of a few seconds walk from the site into the town centre designation. Therefore, the site occupies an edge of town centre site which is sequentially the next most preferable for commercial uses. The site therefore occupies a sustainable location, on the edge of the town centre which can be accessed just as easily using non-car modes of transport as sites within the town centre.*

The Council's Planning Policy Team has raised some concerns about the conclusions of the submitted Sequential Test. These are set out below:

*A survey of premises was undertaken in June/July 2021 by Council officers and a number of vacant premises at ground floor level were observed. This is different to the results of the survey undertaken on behalf of the applicants although the date of their survey is unknown. However, it is appreciated that this information is only correct at a point in time and circumstances will change. It is therefore suggested that it be advisable for the case officer to undertake a walkover of the local centre themselves, so that they have an up to date picture regards vacant properties. A search, using local agents, identified no premises as being available within the Castle Donington Local Centre.*

*However, it is also suggested that consideration is also given to the sustainability of the site and its relationship/linkages with the defined local centre. There is no direct pedestrian access from the site to the defined local centre, walking routes to get to the local centre would most likely follow Dovecote/Apiary Gate or Delven Lane/High Street. Therefore, there is conflict with the advice in the PPG regarding accessibility of edge of centre sites to the town centre concerned. This may impact on use of non-car modes when accessing the site from the local centre and consideration will need to be given to whether it is unlikely that people using the town centre would then walk to this shop.*

A further survey of premises was then undertaken in July 2022 by Council Officers and a number of vacant premises at ground floor level were observed. These included the following premises:

- 28 Borough Street - this appeared to be empty at the time of the survey but is a very small unit and therefore unsuitable for the use.
- 7 Market Street (Former Vape Vibes) - this appeared to be empty at the time of the survey but is a very small unit and therefore unsuitable for the use.
- Former HSBC Bank, 13 Market Street - this appeared to be empty at the time of the survey and is of a more significant size with a ground floor measuring around 90sq.m. plus some small narrower rear additions, totalling around 65 sq.m.

Therefore, as the existing shop premises measures 190sq.m, none of the above vacant units would fully meet the current requirements, although the former HSBC Bank is the closest to this if some flexibility (i.e. reduction in products sold/internal layout etc) in the shop format is made. Whilst this store is closest in size, it would be 35 sq.m smaller than the SPAR premises and would not meet their current retail requirements and under national retail policy requirements, the HSBC building has to be dismissed as a potentially preferable sequential site.

Due to the length of time that the application has been submitted and that the last sequential test was undertaken in January 2022, an updated sequential test has been requested. The sequential test refers to the walk over undertaken by the Planning Officers and they themselves have undertaken a walkover of the town centre on the 10th October 2022.

This found the following premises vacant:

- 7 Market Street (former Vape Vibes)
- 13 Market Street (former HSBC)
- 16 Borough Street
- 30 Borough Street
- 41 Borough Street

The report update states that out of the properties identified on both walkovers, 7 Market Street remains vacant but as previously concluded, this is a small property and not comparable to the

footprint of the Spar. It also does not appear to be currently on the market for rent/purchase and as such it can be discounted as a feasible alternative premises.

The report advises that 16 Borough Street is on the market for sale with Marble Property Services. In the assessment it states that *'It is however predominantly a residential property with a ground floor commercial use. The property has historically been a tailors, a butchers and a vets. The floor area is substantially lower than that of the Spar premises and has therefore been discounted as a viable alternative.'*

30 and 41 Borough Street are both vacant although no evidence of either premises being available to rent/purchase was found. Both units are small and not comparable to the footprint of the Spar premises. As such both have been discounted.

A further online search of available commercial premises was also carried out on 17th October 2022. This found no additional premises available (sites searched included Rightmove, Property Link, Boxpod Commercial Properties, Zoopla and Prime Location).

13 Market Street is the former HSBC premises. This remains vacant although it is subject to two current applications. 22/01560 relates to proposed alterations to the shopfront and 8 new outdoor air conditioning condensing units, replacing 5 existing units to rear elevation. Application 22/01525 relates to the display of a non-illuminated fascia sign and hanging sign to the front elevation. Both applications are for Specsavers who are to occupy the premises. As such, the premises is not available for rent/purchase.

The sequential report states that *'the former HSBC is smaller than the SPAR premises. As such, due to not being available and being significantly smaller, the former HSBC premises would not meet the Spar's current retail requirements and under national retail policy requirements, the HSBC building has to be dismissed as a potentially preferable sequential site'*.

A query has been raised that the former HSBC site has a frontage area and further office space to the rear and might be larger than the SPAR building. The application form for 22/01560/FUL, the application for Specsavers, states that the site is 200 sq m. However, despite the uncertainty over the floorspace of the building, it is now irrelevant in terms of the sequential search as the unit is no longer available for use.

It can therefore be demonstrated that there are no suitable, alternative premises within the sequentially preferable town centre.

Turning to the issue of sustainability and location of the proposed store, the main entrance is located some 60 meters from the boundary of the Local Centre Boundary, identified in the Castle Donington Inset in the adopted Local Plan, and close to the main town bus stops at the junction of Delven Lane and High Street. Whilst, NWLDC's Planning Policy Team have raised concerns about connectivity, the core of the town centre (the start of Borough Street) is only 300m away and there is a choice of routes via either Delven Lane /High St or via Dovecote/Apiary Gate to get there on foot. Both routes have footpaths on either side of the routes for their whole length. Therefore, the site is accessible to the town centre for residents to make linked trips.

Conversely, the floorspace of the building - 190 sq.m (Gross)/ 136 sq.m total net sales floorspace is somewhat small and the store performs more of a local shopping function (e.g. where people stop to and from their way home to collect basic items), rather than a town/village centre function. Indeed, there appears to be a large footfall of pedestrian traffic along Delven

Way to and from the nearby schools, who may use this facility when travelling to and from these schools. In addition, Delven Way serves two quite large housing estate, Hallam Fields/Stonehill and Eastway/Moira Drive, and this road forms the main access to them. People travelling by bus and alighting at the Delven Lane/High Street bus stops will also walk along Delven Way and past the store on their way to and from home. This store provides a local function serving the area immediately surrounding it and is not a store or facility which would attract visitors from further afield or detract from town centre uses.

An objection has been raised by the Ward Councillor that the capacity for retail in Castle Donington would be exceeded by the proposed store. There have been two retail capacity reports commissioned by the Local Authority, in 2019 and an update report in 2020. In the 2019 report no convenience goods development was identified for Castle Donington. However, the update report in 2020, which took into account revised population forecasts and expenditure forecasts, found that there was some requirement for additional convenience space in Castle Donington. The requirement set out in the report is as follows:

- By 2021 356sqm gross
- By 2026 441sqm gross
- By 2031 511 sqm gross
- By 2036 578 sqm gross

This report states that by 2021 there is a need for 356sqm floor area of convenience space in Castle Donington. As this proposed store has a gross floor area of 190sqm it contributes towards the identified convenience retail need in Castle Donington as identified in the 2020 Retail Capacity Report.

The Local Plan in the supporting paragraphs, paragraph 5.15, states that there is no additional need for convenience retail floorspace. The supporting text was not updated when the plan was revised in 2021 and the latest retail study is considered to be the up to date evidence which take priority over the supporting text of the Local Plan.

As the site is outside of the defined centre it is subject to the sequential test, which as outlined above, the sequential test has been satisfied and there are no alternative/suitable units for a store of this size within the town centre. Therefore, it has been identified that there is a need for this size of convenience store within Castle Donington and there are no suitable units within the town centre.

Although this proposal does not fully comply with guidance in Policy EC9, the store unit of 190 sq.m is well below the threshold for an Impact Assessment on Castle Donington Town Centre and due to its size, performs more of a function of a local shop rather than a retail unit that will be in direct competition with the town centre retail functions. Therefore, on balance, for the reasons set out above the continuation of the use of this building as a retail store is considered to be acceptable.

Policy IF2 relates to community and cultural facilities and states that the loss of such services will be resisted unless an appropriate alternative is provided, or there is demonstrable evidence that the facility is no longer required and/or viable and that suitable alternative community uses have been considered. In this instance, the library was closed by its former owner Leicestershire County Council who provides the statutory library service for the County and the site sold and an alternative library facility was provided on Bondgate. On this basis the proposal is considered to comply with Policy IF2 as an appropriate alternative was provided to serve the area.

As such, when balancing the issues set out above, the principle of development is considered to be acceptable in relation to Policy EC8, subject to all other planning matters being addressed.

### **Design and Appearance**

The existing building comprises the former Castle Donington library building, which is located on the south side of Delven Lane.

The site lies within part of the Castle Donington Conservation Area, although the building itself being of a 1960s flat roofed utilitarian design, does not make a positive contribution to the character or appearance of the conservation area. It is the setting around the building, which is characterised by grass with semi-mature cherry trees or similar that make the more positive contribution to the areas character and setting.

No changes to the existing building design will result from this proposal, apart from the installation of new adverts to the fascia of the building on the elevation facing Delven Lane and the elevation facing the access road that runs in front of the main entrance to the building and these are the subject of a separate advertisement consent application which is also currently being considered. The only changes are the creation of a widened block paved parking area in front of the building entrance, which was created following the removal of two cherry trees on the building frontage and the addition of roller shutters on part of the front elevation.

The building is located within part of Castle Donington Conservation Area. The proposed development must therefore be considered against section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The previous adverts and overall design of the library was more restrained in nature, following a 'Leicestershire County Council' corporate theme, demonstrated by the use of green painted fascias around the top of the building and predominantly white/green coloured signage. The fascia has now been painted white and the fascia signs installed mainly to the upper fascia of the building on part of the elevation facing Delven Lane and the elevation facing the access road that runs in front of the main entrance to the building. The changes made reflect the Spar corporate branding and other than the advertisements that have been installed on the premises, (which are subject to a separate advertisement consent application where their impact are considered separately) little has changed to its exterior.

The main exterior change (other than the advertisements referred to above) involves the introduction of an enlarged block paved parking area, in front of the building entrance. The removal of the two trees to create these spaces was unfortunate, and their loss has opened up views of the frontage of the former library building. However, this building and the car parking spaces will still be partially screened and framed by the remaining trees that surround the site, and are therefore not visually prominent when viewed from public areas, particularly from Delven Lane. The block paved parking spaces also match the design of other similar parking areas that have been created in front of the residential home opposite and the Dovecote Veterinary Hospital further along the access road.

Above the main entrance is a boxed roller shutter. Whilst a roller shutter is not visually attractive it would not be highly prominent on this building due to its siting which is screened from the public highway by landscape features and would not be out of character on this relatively

modern addition in the Conservation Area. The building itself is a flat roof former county library and it does not contribute positively to the character and appearance of the Conservation Area and it is not similar in terms of its design or impact to any buildings within the old part of the Conservation Area. Therefore, the roller shutter is not considered to be harmful in this location to the Conservation Area and a condition can be imposed to ensure that the roller shutters and boxing are painted green, to tie into the colour scheme of the existing building to minimise the impact of the roller shutters even more

The proposal has been discussed with the Conservation Officer who has raised no objection to the proposal. With regards to the roller shutters the Conservation Officer advised that the shutters should not be bare or black in colour and the closed shutters should not be solid, to allow visibility through them. The Council's SPD on Shop Fronts and Advertisements states that external shutters should be open grille shutters of a similar design to allow surveillance. The shutters are not solid and have openings within them to allow for visibility into the shop. As stated, a condition can be imposed to control the colour of the shutters and due to the location of the shutters and that they do not impose upon the whole shop frontage, the proposal would not be harmful to the character and appearance of the Conservation Area.

Overall, it is considered that the proposal would result in a neutral impact on the character and appearance of the conservation area, given the presence of the surrounding trees, thus maintaining the character of the conservation area.

Taking the above into account, it considered that the scheme is appropriate and would comply with the NPPF, Policies D1 and HE1 of the adopted Local Plan and the Planning (Listed Buildings and Conservation Area) Act 1990.

### **Impact upon Residential Amenity**

Environmental Protection has raised no objections to the granting of this planning permission. The proposed use would not negatively impact on its environment by way of noise, light, odour or other disturbance.

However, to prevent possible problems early in the morning or late into the evening, given the proximity to residential properties, a condition to restrict the hours of opening from 07:00 to 22:00 daily is suggested. The hours of delivery can also be controlled and restricted via means of a condition.

Therefore, in respect of amenity the proposed scheme is considered to be acceptable in relation to Policies D2 of the adopted Local Plan.

### **Highway Considerations**

The concerns of local residents and the Parish Council relating to highway safety and parking problems in the locality is recognised.

The Highways Team at Leicestershire County Council were consulted on this scheme and they haven't raised any objections to it. However, as specific concerns were raised by the Parish Council and local residents, the case officer decided to reconsult with Highways to discuss their thoughts on these specific concerns which included the safety of the access, general highway safety generated by the development in the surrounding area and the impact of the use on the surrounding businesses who share the internal access road into the site. The Highway

Authority have considered the above concerns and are satisfied that the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe.

The above highway assessment indicates that the proposal is considered to be acceptable on highway safety and parking grounds and they continue to be supportive of this scheme.

Concern has been expressed that delivery lorries block the highway and access and over the timings of the deliveries. The agent has confirmed that deliveries are 3 times a week, on a Monday, Wednesday and Friday between 9am and 11am. Deliveries are made by small lorries and there is a dedicated parking space to the frontage of the premises.

To try to address issues relating to deliveries, a condition requiring a Delivery Management Scheme to be drawn up and submitted to the Council for approval is suggested. This will ensure that deliveries are timed to avoid busy times and that smaller delivery vehicles are used where possible.

To encourage more sustainable means of transport to the shop for customers, a condition will be applied requiring that 2 no. cycle hoops are provided on the shop forecourt.

Matters in relation to vehicles badly parked and not allowing access for other users of other premises who share the access road are not matters that can be considered or controlled under planning legislation.

Therefore, in respect of highway safety the proposed scheme is considered to be acceptable in relation to Policies IF4 and IF7 of the adopted Local Plan.

### **Comments on Consultation Responses**

Objectors have made reference to the presence of a covenant preventing no more than 1 parking space being provided at the former library building, and request that this is now enforced.

Covenants are applied under Land and Property Law and need to be enforced by the owner of the Covenant should they decide to do so and the Council has no powers in its enforcement. This is a totally separate piece of legislation that is outside planning law and is not a material planning consideration that would carry any weight in this, or any other decision made by the Council on Planning matters

It is regrettable that the two trees on the frontage were removed to create the enlarged parking area, and the use of the shop commenced before planning permission was granted. The planning recommendation is based solely on a consideration of policies in the development plan plus any relevant material planning conditions and is not influenced by previous events. In response to a comment made by an objector, whilst the applicant removed the trees without firstly seeking consent from the Council, their loss is considered as part of this scheme and should planning permission be granted, it would not be appropriate to seek to prosecute the applicant for their removal.

The Ward Councillor has also commented that he has spotted that the most recent site plan as submitted by the applicant is missing a further tree which already exists on site and he has questioned if this means that the tree is to be removed, and if it was this would not be acceptable as it would cause harm to the visual appearance of the surrounding area which is

designated as a Conservation Area. The case officer has subsequently checked this point with the applicant who has confirmed that this was an error in the plans, and a new site plan has been submitted showing the tree as being retained on site. It is further considered that due to the fact that two trees have already been removed on site, that a condition is imposed to retain the other existing trees on site in the interest of the visual amenity of the area. Should the applicant wish to remove any tree in the future, he would have to apply to the Council for planning permission to do so and as such there would be control over any loss.

There are two existing trees to the north of the site within a raised grass bank, it is considered reasonable and necessary to require two additional trees to be planted to the north of the site to compensate for the removal of the two trees to the frontage to accommodate the parking area. This can be controlled via means of a condition.

Concern has been expressed by Cllr Saffell with regards to floodlights on the frontage of the building and them causing a traffic hazard. The agent has confirmed that the lights have been removed.

### **Conclusion**

The principle of the development is acceptable. The proposal is not considered to have any significant detrimental design, residential amenity, heritage assets or highway impacts. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the adopted Local Plan, the Design SPD and the advice in the NPPF and other national planning policy. It is therefore recommended that the application be permitted.



---

Erection of detached garage (retrospective)

Report Item No  
A3

15 Money Hill Ashby De La Zouch Leicestershire LE65 1JA

Application Reference  
22/01288/FUL

Grid Reference (E) 435634  
Grid Reference (N) 317652

Applicant:  
Mr Dick Eyley

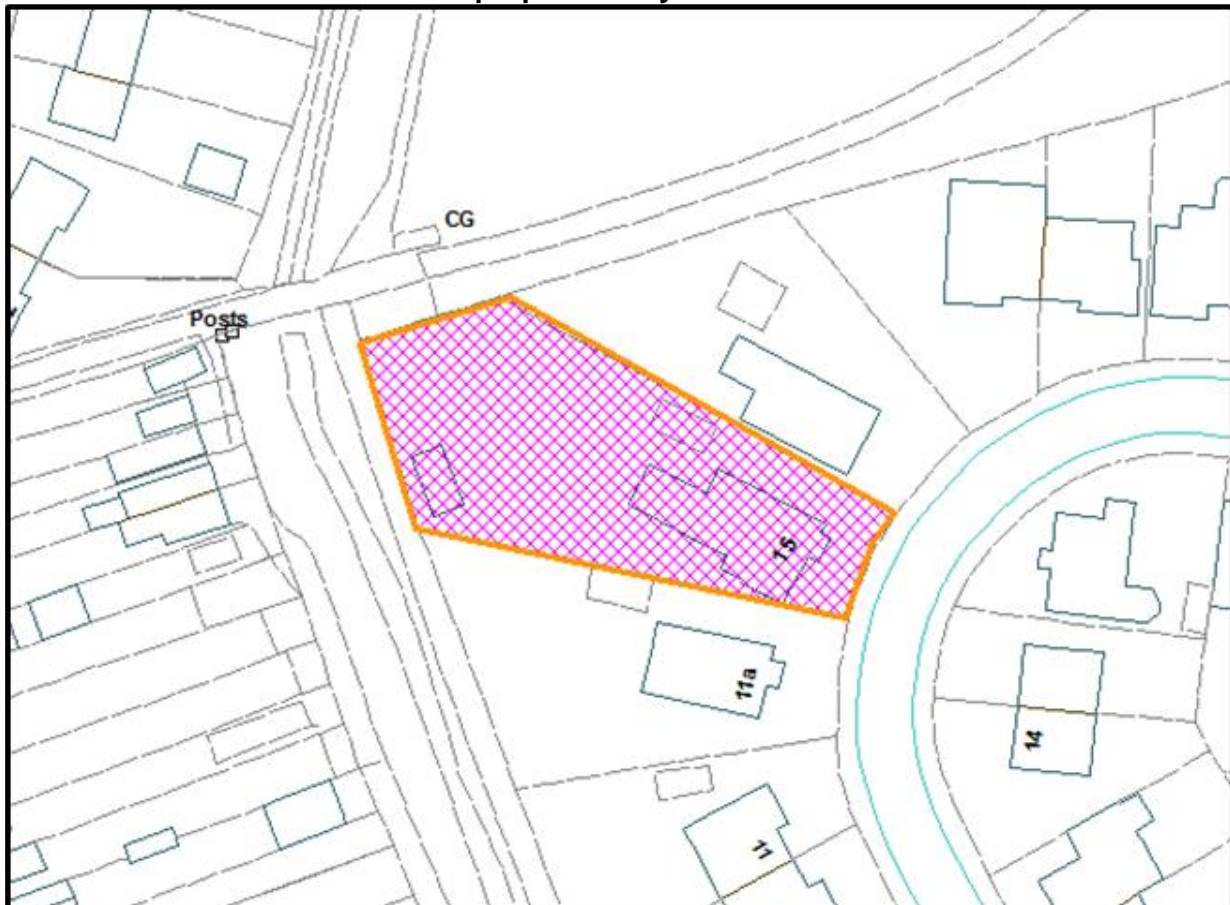
Case Officer:  
Jen Wallis

Recommendation:  
PERMIT

Date Registered:  
9 August 2022  
Consultation Expiry:  
20 September 2022  
8 Week Date:  
4 October 2022  
Extension of Time:  
4 November 2022

---

Site Location - Plan for indicative purposes only



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

The application is brought to the Planning Committee in line with the requirements of the constitution as the agent for the application is related to a senior officer of the Council, and the Council is in receipt of an objection from the Parish Council and neighbouring property in relation to this proposal. It must be emphasised that the Senior Officer who is the relative of the Planning Agent for this case has not been involved in any way or form with the consideration of this application.

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

- 1 - time period for alterations
- 2 - approved plans
- 3 - Materials
- 4 - Staircase screen installation
- 5 - Additional planting

## Main Report

### Proposals and Background

Money Hill is a residential estate road serving detached and semi-detached single and two storey dwellings. It is located on the north side of Ashby-de-la-Zouch.

The application, 15 Money Hill, is a single storey dwelling house constructed of brick and tile. The front and side of the dwelling is brick paved which provides off-street car parking for the property, and to the rear is a lawned garden area, to the rear of which a detached garden room.

A detached garage has recently been constructed adjacent to the north eastern boundary of the site, replacing a previous flat roof sectional garage. The existing garage measures 10.9m in length, 5.4m in width, and 5.2m to the ridge.

Retrospective planning permission is sought for the erection of the garage, but with the following amendments:-

1. A reduction in the length of the garage of 2m at the front.
2. A reduction in the height to the eaves of 225mm.
3. A reduction in the pitch of the roof by 10 degrees, resulting in a reduction in the height to the ridge of 1m.
4. The introduction of a 1.8m high close boarded fence along the north eastern elevation of the external staircase to rear.

The alterations are proposed as a response to pre-application advice given by the planning department, where concerns were expressed over the depth, footprint and height of the garage as built.

The site is located within the Limits to Development, as defined by the Policy Map to the adopted North West Leicestershire Local Plan and the Ashby-de-la-Zouch Neighbourhood Plan. The site is also located within the River Mease Special Area of Conservation. Public footpaths run beyond the northern and western boundaries of the application site.

During the course of the application, the agent submitted revised plans to include the 1.8m high close boarded fence along the north eastern elevation of the external staircase to the rear of the garage.

Precise measurements of the proposal are available to view on the submitted plans.

### Relevant Planning History

None.

## 2. Publicity

6 Neighbours have been notified.  
Site Notice displayed 22 August 2022.

### 3. Summary of Consultations and Representations Received

**Ashby-de-la-Zouch Town Council** object to the application on the following grounds:

We agree with the neighbour's objection that this garage structure, even with the amended height, would create loss of sunlight as well as loss of privacy. Also, the Ashby de la Zouch Neighbourhood Plan Policy S4:1 states that 'Care should be taken to ensure that the development does not disrupt the visual amenities of the street scape and impact negatively on any significant wider landscape views'. This planning application does disrupt the visual amenities of the street scape. It can be seen from the back of the dwelling and is surrounded by bungalows. The plan needs to follow the suggested guidelines. The Town Council does not object to erecting a garage but does object to the location that the garage has been placed. The neighbour suggests moving the garage to the back of the garden - would this be a viable option?

#### Third Party Representations

One letter of neighbour representation has been received, objecting to the proposal on the following grounds:

- The garage towers above the neighbouring property at 17 Money Hill, appears visually intrusive and creates overshadowing to the house (including the garden room) and garden area.
- The proposed changes to the garage are not sufficient to resolve the issue that the garage is too big, too high and too overbearing.
- A garage of such height could have a ramp installed and be used for car repairs
- The new garage is larger than that which was previously in situ.
- If a garage was built at the end of the garden, which is at a much lower level, it would reduce the impacts upon 17 Money Hill.

### 4. Relevant Planning Policy

#### National Planning Policy Framework (2021)

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied.

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

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

- S2 - Settlement Hierarchy
- D1 - Design of New Development
- D2 - Amenity
- IF4 - Transport Infrastructure and New Development
- IF7 - Parking Provision and New Development
- EN2 - River Mease Special Area of Conservation

## **Adopted Ashby Neighbourhood Plan (2018)**

The Ashby Neighbourhood Plan forms part of the development plan and the following policies of the Neighbourhood Plan are relevant to the determination of the application:

Policy S1 - Presumption in favour of Sustainable Development

Policy S2 - Limits to Development

Policy S4 - Design

Policy NE4 - Nature Conservation

### **Other Policies/Guidance**

Planning Practice Guidance

Leicestershire Highways Design Guide

Good Design for North West Leicestershire SPD - April 2017

The Habitats Regulations (The Conservation of Habitats and Species Regulations 2017)

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

River Mease Water Quality Management Plan - August 2011

Natural England - advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites - March 2021

## **5. Assessment**

### **Principle of Development**

The site is located within the 'Limits to Development' as defined by the adopted Local Plan where the principle of residential outbuildings is acceptable, subject to all other planning matters being addressed. The key issues in the consideration of this application are; design, impacts upon residential amenity, highway safety and drainage.

### **Scale and Design**

Policy D1 (Design of New Development) of the Local Plan states that the Council will support developments that are well designed and as a minimum offer a good standard of design.

Policy S4 (Design) of the Neighbourhood Plan states new development should enhance and reinforce the local distinctiveness and character of the area in which it is situated. Proposals should clearly show how the general character, scale, mass, density and layout of the site, of the building or extension fits in with the aspect of the surrounding area. Care should be taken to ensure that the development does not disrupt the visual amenities of the street scene and impact negatively on any significant wider landscape views. New buildings should follow a similar design approach to ensure consistency in the use of materials, layout of windows and the roofline to the building. Materials should be chosen to complement the design of the development and add to the quality or character of the surrounding environment.

The garage is located within the rear garden area of the host property, however views of the garage are available from Money Hill along the driveway of the host property and the gap which exists between No.'s 15 and 17. As a result the garage would be visible within the public realm. However, the vast majority of properties within Money Hill have garages located within the side or rear garden areas, and as such a detached garage to the side of the dwelling is a typical

characteristic of the surrounding street scene. The proposed garage would replace an existing flat roof garage, which was sited further forward in the site, and was also visible from the highway frontage.

In support of the application the agent has provided a proposed street scene elevation, showing the reduced garage in relation to No.'s 15 and 17 Money Hill, including the changes in ground levels. This plan shows that the ridge height of the reduced garage would sit below the ridge heights of both No.'s 15 and 17. Furthermore, the scale, proportions and roof pitch would reflect those of the host property. As a result, the revised garage would appear as a subservient outbuilding to No.15. Furthermore, given its' reduced height, together with the additional distance it would be set back from Money Hill, the amended garage would not appear overly intrusive or out of character with the surrounding street scene.

The ground levels within the rear garden area slope downwards in a westerly direction, therefore the rear elevation of the garage would be raised above existing ground levels more than the front elevation of the garage. The amended garage would however be well screened from the public footpaths beyond the rear of the site by both existing and proposed tree and hedge planting, the latter of which could be secured by condition. As a result, the revised garage would not appear overly intrusive when viewed from public vantage points.

In term of materials, the garage has been constructed in red bricks to match those used in the construction of the original dwelling, and the roof would be finished in concrete inter locking roof tiles, which would reflect the materials palette of the surrounding area. A condition ensuring that the amended garage is constructed in the materials as specified is suggested.

For the reasons outlined above, it is considered that the amended garage would reflect the character and appearance of the surrounding area and would therefore result in 'good design'. As such, the proposal would accord with Policy D1 of the adopted Local Plan, Policy S4 of the Ashby-de-la-Zouch Neighbourhood Plan, and guidance contained within the NPPF.

### **Impact upon Residential Amenity**

Policy D2 (Amenity) of the Local Plan states that proposals for development should be designed to minimise their impact on the amenity and quiet enjoyment of both existing and future residents. Development proposals will be supported where; they do not have a significant adverse effect on the living conditions existing and new residents through loss of privacy, excessive overshadowing and overbearing impact; (and) they do not generate a level of activity, noise, vibration, pollution or unpleasant odour emission, which cannot be mitigated to an appropriate standard and so, would have an adverse impact on amenity and living conditions.

Policy S4 (Design) of the Neighbourhood Plan states proposal should minimise the impact on general amenity and give careful consideration to noise, odour, light and loss of light to existing properties.

Guidance contained within the NPPF states that planning decisions should create places with a high standard of amenity for existing and future users.

The revised garage would be located less than 1m from the side shared boundary with 17 Money Hill. The shared boundary is currently demarcated by fencing and trellis of various styles and heights, together with some evergreen hedge planting. No.17 is located to the north east of the garage and, due to changes in ground levels is slightly elevated above the application site. It has a single storey 'garden room' to the rear and contains glazed doors and windows within

the south western and north western elevations, facing the garage.

Objections to the application have been received from the occupier of 17 Money Hill on the grounds that, even following the proposed amendments, the revised garage would result in harm by appearing overbearing and oppressive, and create unacceptable levels of overshadowing to both their dwelling and garden area.

The revised garage is proposed to be reduced in length by 2m, therefore increasing the separation distance between the garage and the rear elevation of No.17. This would result in the front elevation of the garage being positioned beyond the line of the rear elevation of the sunroom. In addition, the eaves of the garage would be lowered by 225mm and the ridge height by 1m. These proposed reductions in the overall size and scale of the garage, together with its lower level in relation to No.17, and its dual pitch roof design which slopes away from the side shared boundary, would result in a structure which would not appear overly dominant or overbearing in relation to this neighbouring property.

The garage would be orientated to the south west of 17 Money Hill and some overshadowing of parts of its rear garden may occur. However, it is considered that any overshadowing would be limited to a very small part of the rear/side garage area and only during winter months when the sun is lower. As a result, it is not considered that such levels of overshadowing would be significantly harmful to occupiers of No.17 to warrant a refusal on such grounds.

In terms of overshadowing of habitable room windows, it is acknowledged that the garage would intercept a 45-degree line from the centre line of habitable room windows located within the side and rear of No.17. However, the 45-degree rule is usually applied when assessing developments located immediately adjacent to an existing residential property, for example rear extensions to terraced or semi-detached properties. In this instance, the revised garage would be located 5m beyond the rear elevation of the existing dwelling, and 5m from the centre line of the glazed doors contained within the rear garden room. Given these separation distances, together with the garage being positioned on a lower level than No.17, its reduced roof height, and the boundary treatment which exists along the shared boundary, the revised garage would not result in significant harm through unacceptable levels of overshadowing. In reaching this conclusion, the 'fallback position' afforded by permitted development rights for the construction of outbuildings within residential curtilages, has been taken into consideration.

The site was occupied by a single detached flat roof garage which was in a similar position to the partially constructed replacement garage. The previous flat roof garage was sited to the rear of the application property and would have obscured the garden room and windows on the west rear elevation, albeit to a lesser degree due to its height.

During the course of the application, revised plans were submitted to include the provision of a 1.8m high close boarded privacy screen to the north eastern elevation of the rear staircase. This would prevent unacceptable levels of overlooking over the rear garden area of No.17. The provision of such a privacy screen could be secured by condition.

Concerns have been raised by the occupier of No.17 regarding the potential for the garage to be used for commercial purposes. The agent has confirmed that the garage would be used for the parking of a motor vehicle but also for the applicant's hobby of repairing and maintaining motor vehicles. Some level of personal car maintenance would be reasonable in such residential areas, and if the applicant wanted to carry out any commercial uses from the garage it would have to be via a new planning application to the Council which would be subject to its own publicity when being considered.

Overall, it is not considered that the proposed development would result in unacceptable harm to the amenities of 17 Money Hill. The proposal would therefore accord with Policies D1 and D2 of the adopted Local Plan, Policy S4 of the Ashby-de-la-Zouch Neighbourhood Plan, and guidance contained within the NPPF.

### **Highway Considerations**

The site access is located on Money Hill, an unclassified residential estate road subject to a 30mph speed limit.

The Leicestershire Highways Design Guide (LHDG) and the North West Leicestershire Good Design SPD, state that a minimum of two car parking spaces must be proposed per property, and a minimum of three spaces must be provided for homes of four bedrooms or more.

Although it is unknown how many bedrooms the property currently has, the proposal would not increase the existing number of bedrooms.

The garden areas to the front and side of the property have previously been surfaced with block paving, although the kerb to the site frontage has not been dropped, therefore the car parking spaces to the front of the plot could not currently be counted towards off-street car parking provision. Notwithstanding this, the driveway to the side of the property does provide three off-street car parking spaces, with the garage providing a fourth space, and this is in excess of the minimum requirements.

The proposal is therefore considered to be acceptable in relation to Policies IF4 and IF7 of the adopted North West Leicestershire Local Plan, as well as the Leicestershire Highway Design Guide.

### **River Mease Special Area of Conservation**

The site is located within the catchment area of the River Mease Special Area of Conservation. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Discharge into the river from non-mains drainage systems and from surface water disposal can also result in an adverse impact on the SAC, including in relation to impacts on water quality and flow levels.

In this case it is considered that the proposal could result in an adverse impact on the SAC, as it would result in the additional discharge of foul drainage to the treatment works / use of a non-mains drainage system and surface water drainage discharge in close proximity to the watercourse. Therefore an appropriate assessment of the proposal and its impacts on the SAC is required.

In March 2022 Natural England published advice in respect of the nutrient neutrality methodology which can be used to mitigate against the impacts of additional phosphate entering the SAC from foul drainage associated with new development. This advice does not affect householder applications.

The proposed garage is in a similar location to a former garage which has been demolished, and would not therefore significantly increase surface water run-off from the site. The garage would not increase the number of bedrooms within the dwelling or result in any additional sanitary provision on the site.



On the above basis, it is considered that the integrity of the River Mease SAC would be preserved and the development would accord with Policy En2 (River Mease Special Area of Conservation) and Cc3 (Water - Sustainable Drainage Systems) of the adopted Local Plan. Therefore, it can be ascertained that the proposal on the site will, either alone or in combination with other plans or projects, have no adverse effect on the integrity of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

### **Other Matters**

The Town Council and the objector have suggested that a garage could be positioned towards the rear of the plot, and that this would have a lesser impact upon 17 Money Hill. However, the Local Planning Authority has a duty to assess and determine the planning application as it has been submitted.

### **Conclusion**

The principle of development in this location is considered to be acceptable. This revised garage, by reason of its design and appearance, would respect local distinctiveness and would not harm the character or appearance of the surrounding area. Furthermore, the revised garage would not result in an unacceptable degree of harm on the amenities of No.17 Money Hill. The proposal is also considered to be acceptable in terms of highway safety and surface water drainage.

The revised proposals are therefore considered to accord with Policies D1 and D2 of the adopted Local Plan, Policy S4 of the Ashby-de-la-Zouch Neighbourhood Plan, the Good Design for North West Leicestershire SPD and the guidance contained within the NPPF.

This page is intentionally left blank