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Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	6.00 pm on Tuesday, 7 February 2023
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 11 January 2023.	<b>3 - 6</b>
<b>4. PLANNING ENFORCEMENT UPDATE Q3 2022/23</b>		
	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
A1	<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	Permit	19 - 34
A2	<b>22/01571/FUL: Alteration to land levels (retrospective)</b>  The Stables, 4 Kelhams Court, Hemington, Derby, DE74 2SF	Permit	35 - 44
A3	<b>22/01568/FUL: Garage conversion, new electric gates, erection of new boundary treatment and insertion of rooflight to existing dwelling</b>  The Stables, 4 Kelhams Court, Hemington, Derby, DE74 2SF	Permit	45 - 56

MINUTES of a meeting of the PLANNING Committee held in the Council Chamber, Council Offices, Coalville on WEDNESDAY, 11 January 2023

Present: Councillor R L Morris (Chairman)

Councillors R Boam, D Bigby, J Bridges, D Everitt, D Harrison, J Hoult, J Legrys, J G Simmons and K Merrie MBE

In Attendance: Councillors

Officers: Mr D Jones, Mrs C Hammond, Mr S James, Ms S Lee and Mr A Mellor

#### **40. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors M Wyatt and A Bridgen.

#### **41. DECLARATION OF INTERESTS**

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

Councillor D Harrison declared a registerable interest in Item A2 as a member of Leicestershire County Council.

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

Councillors R Morris, D Bigby, J Hoult, J Simmons, J Legrys and R Boam had been lobbied by the applicant in respect of Item A2.

#### **42. MINUTES**

Consideration was given to the minutes of the meeting held on 30 November 2022.

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

RESOLVED THAT:

The minutes of the meeting held on 30 November 2022 be approved and signed by the Chairman as a correct record.

#### **43. 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.

#### **44. A1**

**WITHDRAWN - 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)**

Flagstaff Island, Lountside, Ashby De La Zouch, LE65 1JP

**Officer's Recommendation: Permit**

45.

**A2**

**21/02281/FULM: PART FULL/PART OUTLINE PLANNING APPLICATION FOR THE DEVELOPMENT OF THE SITE COMPRISING SITE WIDE INFRASTRUCTURE WORKS INCLUDING ACCESS FROM (AND ALTERATIONS TO) GRANGE ROAD, INTERNAL SPINE ROAD, EARTHWORKS AND DEVELOPMENT PLATEAUS, STRUCTURAL LANDSCAPING, UTILITIES INFRASTRUCTURE, FOUL AND SURFACE WATER DRAINAGE INFRASTRUCTURE (INCLUDING ATTENUATION POND AND OUTLETS). FULL CONSENT SOUGHT FOR THE ERECTION OF 5 EMPLOYMENT UNITS (TOTALLING 2,719 SQUARE METRES) COMPRISING LIGHT INDUSTRY (CLASS E(G)(III)), GENERAL INDUSTRY (CLASS B2) AND/OR STORAGE AND DISTRIBUTION (CLASS B8) FLOORSPACE AND ANCILLARY OFFICES (CLASS E(G)(I)), INCLUDING ASSOCIATED SERVICE YARDS AND SERVICE VEHICLE PARKING, VEHICULAR AND CYCLE PARKING, BOUNDARY TREATMENTS AND RETAINING WALLS, UTILITIES INFRASTRUCTURE, FOUL AND SURFACE WATER DRAINAGE INFRASTRUCTURE AND HARD/SOFT LANDSCAPING. OUTLINE CONSENT (WITH ALL MATTERS RESERVED EXCEPT VEHICULAR ACCESS FROM GRANGE ROAD AND RE-GRADING OF SITE) SOUGHT FOR UP**

Land West of Regs Way, Bardon

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

The Principal Planning Officer presented the report to the committee.

Councillor Wood, on behalf of Hugglescote and Donington Le Heath Parish Council, addressed the committee. He asserted that this land was originally intended for use as a link/in fill. With regards to small scale employment, Councillor Wood suggested that the Local Plan offered no interpretation of small scale employment. It was noted that in the report the site is described as being situated outside the limits to development as specified in the Local Plan and the Neighbourhood Plan, and it was asserted the limits to development had become rather flexible. The traffic capacity at the nearby traffic island was called into question. It was suggested that by granting permission to this development, the opportunity for a railway halt which could potentially service a large catchment area would be lost. With regards to bus services, it was noted that the County had removed various bus services due to costs, which would therefore leave little opportunity for the development to be accessed without ownership of a vehicle.

Claire Biddle, the applicant, addressed the committee and described the purpose and scale of the proposed development and asserted that there had been overwhelming evidence that there would be local demand for this type of development. A key point raised was that each unit had between three and five firms who had expressed an interest. The meeting was informed that the site was already well screened with mature vegetation and that there would be a substantial separation from dwellings. It was noted that where possible, low carbon construction methods would be used. The applicant highlighted that Leicestershire County Highways had presented no objections to the scheme. The level crossing and pedestrian crossing points would be improved in a bid to encourage employees to walk and cycle to reach the development. The scheme aimed to reduce private car use by offering bus passes, improving bus stops, offering EV charging

points and through the provision of cycle parking. It was noted that ecological enhancements and an extensive landscaping scheme would be implemented.

Councillor R Johnson, Ward Member, addressed the committee and asserted that a development of this type of building and size would be detrimental at the entrance to the village of Hugglescote and highlighted to the meeting that a recent similar development only had a 56% occupancy. It was suggested that the proposed access and egress would be dangerous given its proximity to an active railway line and felt that by allowing this application, it would serve to undermine other parishes' confidence in the authority with regard to Neighbourhood Plan Policy. The fact the development would be outside the limits to development was highlighted. It was suggested that a better use for the site would be for public transport services for the former Burton to Leicester railway line and that the development would threaten the integrity of this. The meeting was informed that Network Rail had offered to fund a feasibility study into the cost of reopening this line, which is currently a freight only route. East Midlands Chamber Business Group also supported the reopening of this line. The Campaign to Reopen the Ivanhoe Line were noted as another group in support of re-establishing passenger rail links within the local area. It was suggested that by encouraging local people to use rail travel as opposed to private vehicles, this would support the council's green agenda and reduce carbon emissions.

A member suggested that by developing the second part of the site later, the immediate demand identified by the developer may no longer be in place, should businesses decide not to wait and to occupy industrial space in other locations, which would therefore leave empty, unneeded warehousing.

Officers responded that the applicant had elaborated that the delay in the second part of the application would be to allow the flexibility for interested parties to design their own units, and by taking this route the application would go through reserve matters more quickly. It was highlighted that applicants were required to provide evidence that indicates an immediate demand, but it was not a requirement of the policy that there must be named occupiers. The meeting was informed that a way to demonstrate immediate demand was to market the proposal to test the level of interest, and the applicant had done this. Planning officers were satisfied with the number of firms, the level of interest and the immediacy of interest presented which had been indicative of a level of demand sufficient to justify granting permission and to demonstrate compliance with the policy.

The amenity of the nearby residences was raised as a concern, as the second part of the development would be at a much higher elevation than the residential houses, which would prove to be overbearing.

Officers replied that they considered the separation distances as quite significant, and felt that residents' outlook would be onto the landscaping buffer so there would be no meaningful impact on residents.

A member wished to point out that in 1996 this site was allocated for a railway station however that they did not accept Network Rail would not intend to situate a station on this site. It was asked whether the evidence of demand from the developer been tested. Members were advised that as the developer had done adequate marketing to provide this evidence, officers were satisfied from their professional standpoint that the demand had been demonstrated sufficiently to comply with policy.

A member suggested that the additional traffic congestion at the train crossing would be problematic, that it would be difficult for drivers to turn out of the development onto the A511 and also that the light pollution from the industrial units would be a significantly negative impact of permitting this development. The Chair noted concerns regarding light

pollution but suggested that new light fittings were now designed which casted light downwards to mitigate against light pollution and also suggested that given the current cost of energy this may become less of a problem going forward as firms would be more reluctant to have lighting on perpetually. Officers reassured members that light pollution was something which would be considered in the planning of this development.

A member thanked officers for a good report and questioned whether due to the fact there was a Neighbourhood Plan in place and that the proposed development would be outside the limits to development, if there had been adequate consultation with the Parish Council. Officers advised that the Parish Council had been consulted and given the opportunity to discuss the application with officers. A member emphasised the need to consult with and explain to Parish Councils any reasons for deviation from the plan. Officers affirmed that the policy allowed for deviation from the plan and that parishes would be included in any discussions around planned developments.

A member requested a more specific outline of what the time frame would be. Officers advised that the standard time frame would be three years but a shorter time frame of two years would be acceptable. Members supported a shorter time frame and asked that the two year limit be applied.

The recommendation to permit the application in accordance with the officer's recommendation was moved by Councillor D Harrison and seconded by Councillor R Boam.

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.

Closed 19:06

<b>Motion to permit the application in accordance with the officer recommendations (Motion)</b>	
Councillor Ray Morris	For
Councillor Russell Boam	For
Councillor Dave Bigby	Against
Councillor John Bridges	For
Councillor David Everitt	Against
Councillor Dan Harrison	For
Councillor Jim Hault	For
Councillor John Legrys	Against
Councillor Jenny Simmons	For
Councillor Keith Merrie MBE	No vote recorded
<b>Carried</b>	

The meeting commenced at 6.00 pm

The Chairman closed the meeting at 7.06 pm

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

## PLANNING COMMITTEE – 2022/23



<b>Title of Report</b>	<b>PLANNING ENFORCEMENT UPDATE Q3 2022/23</b>	
<b>Presented by</b>	Dylan Jones <b>Planning and Development Team Manager</b>	
<b>Background Papers</b>	None	<b>Public Report: Yes</b>
<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: Stephen James</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 3 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	Q3		Q1	Q2	Q3
<b>Urgent Case/Not Required</b>	37	12	43		36	54	27
<b>High Priority cases (score over 5)</b>	36	34	17		11	7	5
<b>Standard Priority case (score under 5)</b>	28	10	27		14	8	4
<b>No update (Awaiting harm score)</b>	3	11	24		3	5	5
<b>Pending consideration (visit arranged but not completed or awaiting visit to be made)</b>	13	18	31		32	37	15
<b>Total</b>	<b>117</b>	<b>85</b>	<b>142</b>		<b>96</b>	<b>111</b>	<b>56</b>

2.2 The table shows that in the third quarter of the 2022/23 financial year, less cases have been received for the team to harm score than in the previous two quarters. The amount harm scored is also less than that done in the same period in the 2021/22 financial year.

2.3 The reason for this is generally unknown but could be related to the concerns of residents and businesses in the district about the economy with less people building and altering their properties over earlier periods which is reducing the amount of planning complaints received by 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
Q3	142	60	120	310



2022/23				
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	96	72	112	307
Q2	111	120	87	280
Q3	56	75	127	290

- 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 those that have been with us for 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 team opened significantly less new cases in Q3 over that in the previous quarters of this financial year and through the same period in the previous financial year. A reduction in new cases coming in has allowed the team to review and deal with their older cases and there are now less cases older than 6 months than that seen in the previous quarter and the workload is now back to that seen in the first quarter of the year. However, the cases that are older than 6 months old are higher than the amount that were with the team in the 2021/22 financial year which reflects how busy the development industry was during the 2022/23 financial year and also the fact that the team lost an officer during the Q3 period.
- 3.3 Table 2 also shows that the number of cases that are older than a year old is the highest that is has been in any period at 127 cases although not significantly higher than the 120 cases seen in the same quarter in the previous financial year.
- 3.4 The total number of all live cases is at 290 in quarter 3 which is at a similar level to that seen in the earlier quarters of the year and in the previous financial year which indicates the level of workload that the team deal with during a year.
- 3.4 The types of breaches investigated during Quarters 1, 2 and 3 are summarised in Table 3 below.

**Table 3 – Types of Breaches Investigated**

Type of breach	2021/22			2022/23		
	Q1	Q2	Q3	Q1	Q2	Q3
<b>Breach of planning condition</b>	17	6	23	17	28	7
<b>Unauthorised works in conservation area</b>	10	2	4	1	1	2
<b>High hedges</b>	2	2	0	0	4	0

<b>Unauthorised works on a listed building</b>	4	2	6		3	2	2
<b>Not in accordance with approved plans</b>	15	8	23		11	11	9
<b>Unauthorised works on a protected tree</b>	2	3	3		2	3	3
<b>Unauthorised development – Domestic</b>	37	27	30		23	33	21
<b>Unauthorised development – Non domestic</b>	7	10	23		18	13	10
<b>Untidy land</b>	0	0	0		2	0	0
<b>Unauthorised advertisement</b>	1	0	3		5	1	1
<b>Material change of use</b>	16	17	5		6	7	1
<b>Advice</b>	3	6	18		7	7	0
<b>Breach of Section 106</b>	0	1	4		0	0	0
<b>Development Monitoring</b>	3	1	0		1	1	0
<b>Totals</b>	<b>117</b>	<b>85</b>	<b>142</b>		<b>96</b>	<b>111</b>	<b>56</b>

- 3.5 This table shows the different types of cases that the team deal with. The statistics show that the highest number of cases continue to relate to investigating unauthorised works at private dwellings. It is also interesting to note that significantly less breach of condition cases was received during Q3 of this financial year over that seen in the earlier quarters of the year.
- 3.6 The cases received throughout this current financial year to the end of quarter 3 are lower than that seen in the same period of the 2021/22 financial year and as stated earlier, could reflect the economy impacting on both businesses and private individuals and the affordability of progressing with their schemes.
- 3.7 **Prosecutions** - There have been no prosecutions during quarter 3, however the injunctions that are in place continue to be monitored. Cases continue to be monitored where there are extant notices in place.
- 3.8 **Notices** – A single Enforcement Notice and one S330 Notice have been issued during Q3. It must be emphasised that as the service of an enforcement notice and prosecution for non-compliance with its requirements is a last resort where all other forms of negotiation to resolve the issue has failed. A low number of prosecutions annually is what would be expected in the team and is not indicative of the team not performing as it should do.

3.6 **Appeals** - During the period 1<sup>st</sup> October 2022 to 31<sup>st</sup> December 2022, there has been one new enforcement appeals lodged with the Planning Inspectorate. This relates to the unauthorised siting of a caravan on land off Jeffcoates Lane, Swannington.

#### 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. The appeal hearing takes place in February 2023
<b>Aylesbury Gardens, Newton Road, Swebstone</b>	Planning application due to be determined.  Following an appeal against the decision to dismiss the application under section 288 of the Town and Country Planning Act 1990 for a statutory review of the 2018 appeal decision, the Court of Appeal has in October 2022 quashed the inspector's appeal decision made in April 2018 which refused to allow occupation of the site by the residents on a permanent basis. The case will now be reviewed by the Planning Inspectorate and a further hearing will be heard with new decision to be made on the appeal in the light of the Court of Appeal Decision.
<b>Whitney Park, Shortheath Road, Moira</b>	This is a gypsy/traveller site and feedback from the Lead Local Flood Authority on the acceptability of the site for the use is awaited before considering the next steps. Also awaited are details of who live on the site. The submitted planning application has been amended to propose that the site can be used for non-travellers and this is still being considered.
<b>Brooks Lane, Whitwick</b>	No travellers on site. Injunction being adhered to, and the site is continuing to be monitored. Planning application due to be determined.
<b>Netherfield Lane, Hemington</b>	Site visit to be arranged in January to check the site as the site is now under management by the owner's son.

#### 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**

	2021/22				2022/23		
	Q1	Q2	Q3		Q1	Q2	Q3
<b>Member Enquiries</b>	15	9	18		7	5	8
<b>Responded to within 10 day timescale</b>	15	9	16		7	4	7

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 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 The figures show that the amount of enforcement related queries received from our members remains at a similar figure across the whole of the 2022/23 financial year and is less than that received in the 2021/22 financial year 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	Q3		Q1	Q2	Q3
<b>Acknowledged in writing within 3 working days</b>	111	77	111		96	92	57
<b>Initial site visit carried out within 21 working days of receipt of the initial complaint</b>	105	55	81		64	59	41

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- 6.2 The table shows that the team have been consistent in acknowledging cases in time throughout the year.
- 6.3 Due to less cases being received in the Q3 period of this financial year; the team has been able to visit more sites proportionally than they did during the earlier quarters of the year or during the previous financial year to investigate and resolve the complaints.

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## **APPENDIX B**

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

**7 February 2023**

### **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 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

Applicant:  
EG Group

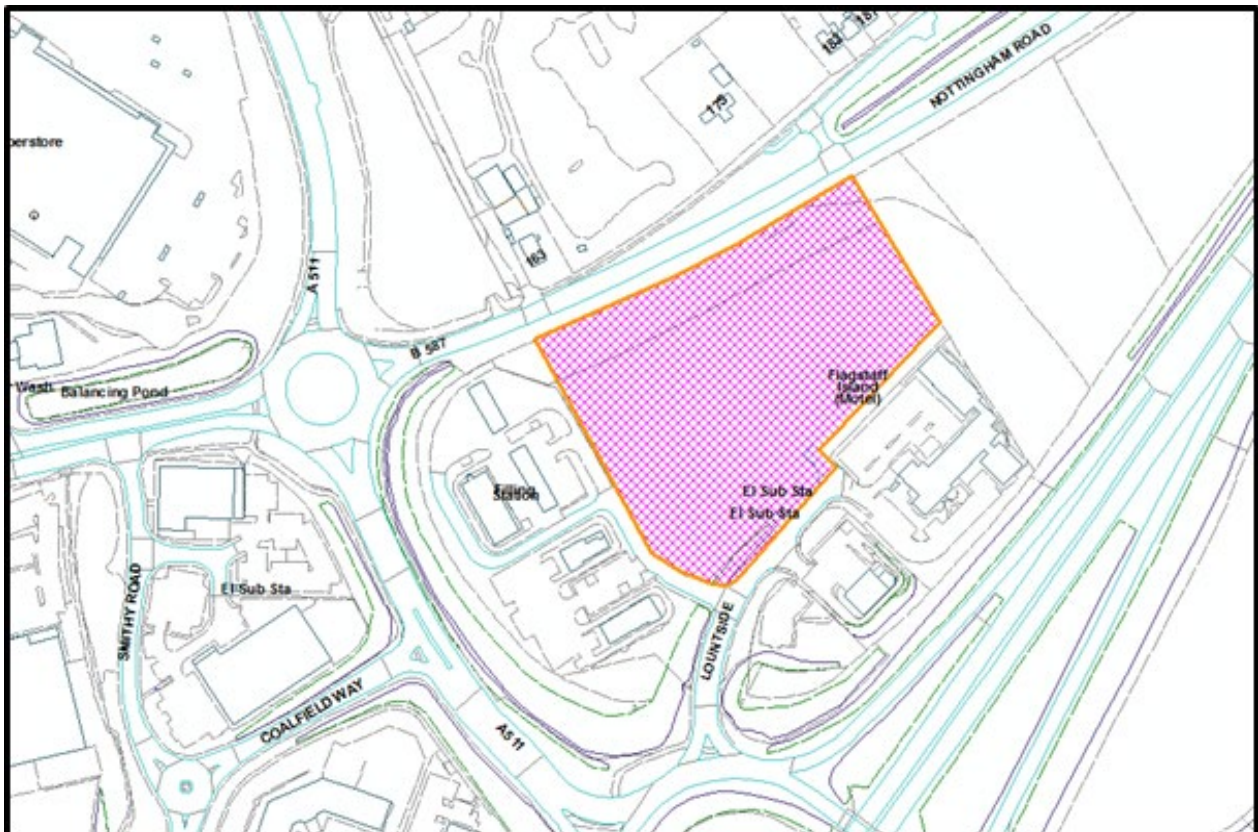
Case Officer:  
Donnella Wood

Recommendation:  
PERMIT

Report Item No  
A1  
Application Reference:  
22/00691/REMM

Date Registered:  
22 April 2022  
Consultation Expiry:  
8 December 2022  
8 Week Date:  
22 July 2022  
Extension of Time:  
13 January 2023

Site Location - Plan for indicative purposes only



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**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/manoeuvring areas
- 12 Cycle parking
- 13 External lighting
- 14 Environmental performance
- 15 Details of vehicular crossing to drainage ditch

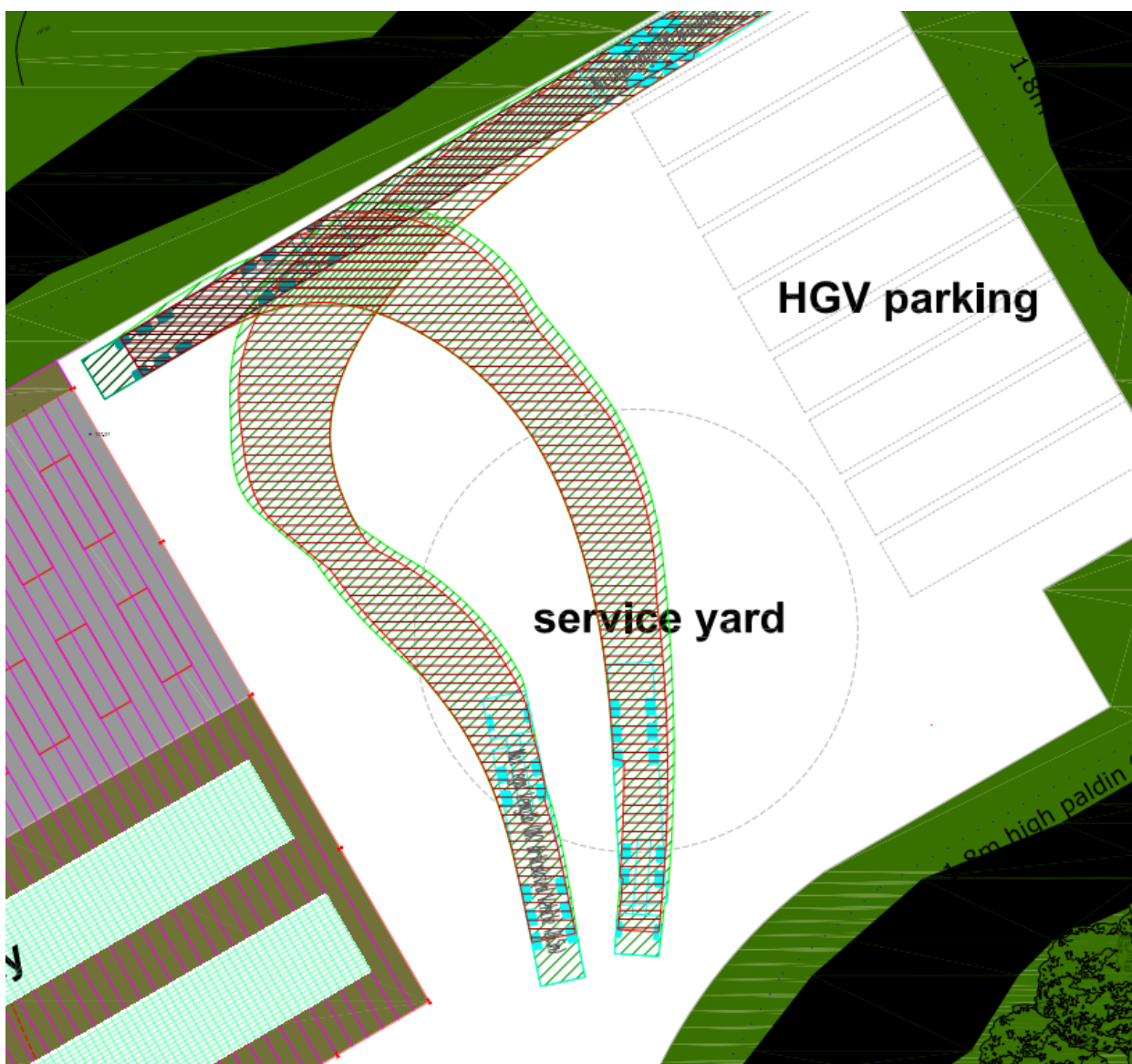
**MAIN REPORT**

**1. Proposals and Background**

The application is returning to the Planning Committee after it was deferred at the 1st November 2022 Committee to allow for the applicant to submit additional information in relation to an updated Swept Path Analysis and a street scene drawing with levels details to allow for easier comparisons to the adjacent development. The application was further deferred from the 11th of January 2023 Committee as the submitted levels plan demonstrating the adjacent phase was inaccurate however, following the receipt of an amended plan the issue has now been rectified.

Swept Path analysis

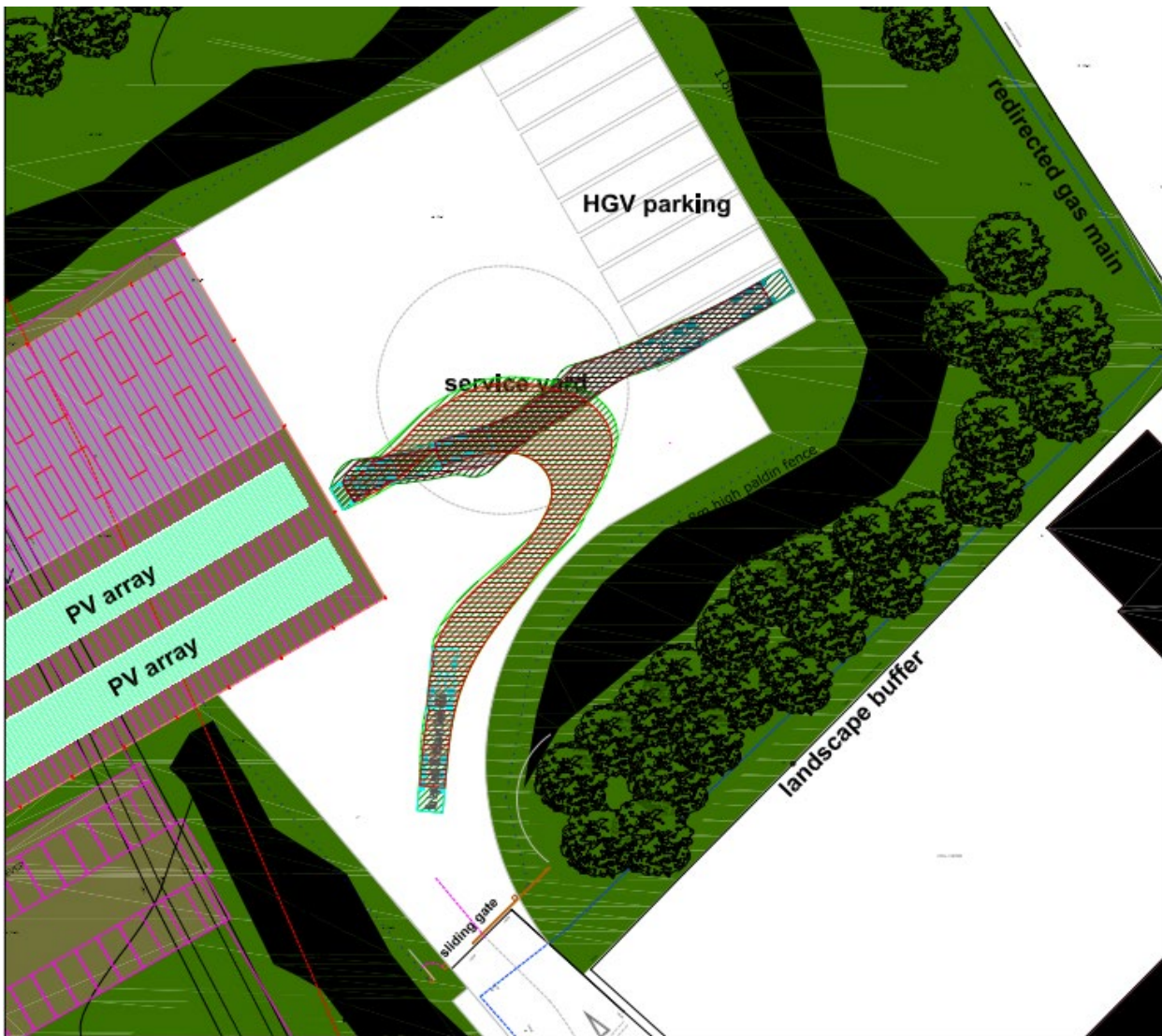
The new swept path analysis plan is as follows:



Swept Path Analysis - 16.5m Artic. - Scale 1/500







Since the early November Committee meeting, the applicant has gone away and updated his swept path analysis plan to make it easier for the committee to see that a heavy goods vehicle can access and turn safely within the site.

The Leicestershire County Council Highways Authority (LHA) were reconsulted on the newly submitted plan and have confirmed as previously advised, 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. As such, they did not raise any additional issues and have confirmed again that they have no objections to the development subject to conditions relating to site accesses/visibility splays and parking/manoeuvring areas. Given these conditions were previously requested by highways and therefore formed part of the recommended conditions list, there are no changes to the proposed recommended highways conditions for the development.

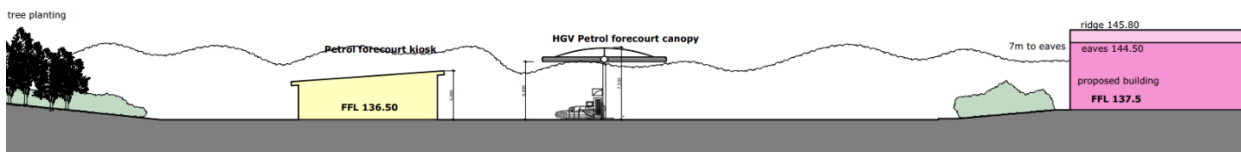
## Street Scene

Following the comments made at the 1st of November meeting, the applicant has submitted details of the finished floor levels of the building and also a street scene plan showing the land levels and the height of the proposed building in comparison to the other surrounding structures and the proposed new landscaping screen for the site. It is considered as previously weighed and as set out within the full report within the Appearance, Layout and Scale section that the proposal would be acceptable, and the additional drawing would not alter the concluding Officer observations in that regard.

The new drawing shows the hotel is approximately 5m higher than the proposed unit due to it being sited on a higher ground level with the proposed landscaping being slightly shorter in height than the proposed building.



The Planning Inspector mentioned specifically the relationship of the building that was previously refused permission on this site with the buildings on the adjacent petrol station site, and in particular the HGV petrol forecourt canopy.



The applicant has provided this detail and it shows that the proposed building is sited at a higher land level which is 1m higher than the adjacent petrol station canopy. The proposed building will therefore be approximately 800mm higher than the adjacent HGV petrol forecourt canopy, but due to the separation distance between them, it is not considered that the proposed building will have a dominating effect and will not be out of keeping with the existing visual appearance of the site and its surroundings.

During the reconsultation period two of the initial objectors to the scheme submitted additional representations. One solely submitted a mock-up of the proposal which is not to scale and as such, Officers cannot verify the accuracy of the representation and weight cannot be afforded to the mock-up given the scaled plans submitted by the applicant. Another letter of representations reaffirmed concerns already raised during previous communications, as such, it isn't considered further assessment of the additional representations is required over and above that as detailed within the Officer report. However, all responses from third parties should be viewed in full via the Council website.

Given the above, the Officer recommendation for the proposal remains the same and there are no changes to the proposed recommended conditions for the development.



**Please see below the original report as presented to the November Committee.**

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 have been 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.

**National Grid** - No response at the time of the report.

**Severn Trent** - No response at the time of the report.

### **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.

**RECOMMENDATION - PERMIT, subject to the imposition of conditions.**

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**Alteration to land levels (retrospective)**

**Report Item No  
A2**

**The Stables  
4 Kelhams Court  
Hemington  
Derby  
DE74 2SF**

**Application Reference:  
22/01571/FUL**

**Applicant: Laura Hughes**

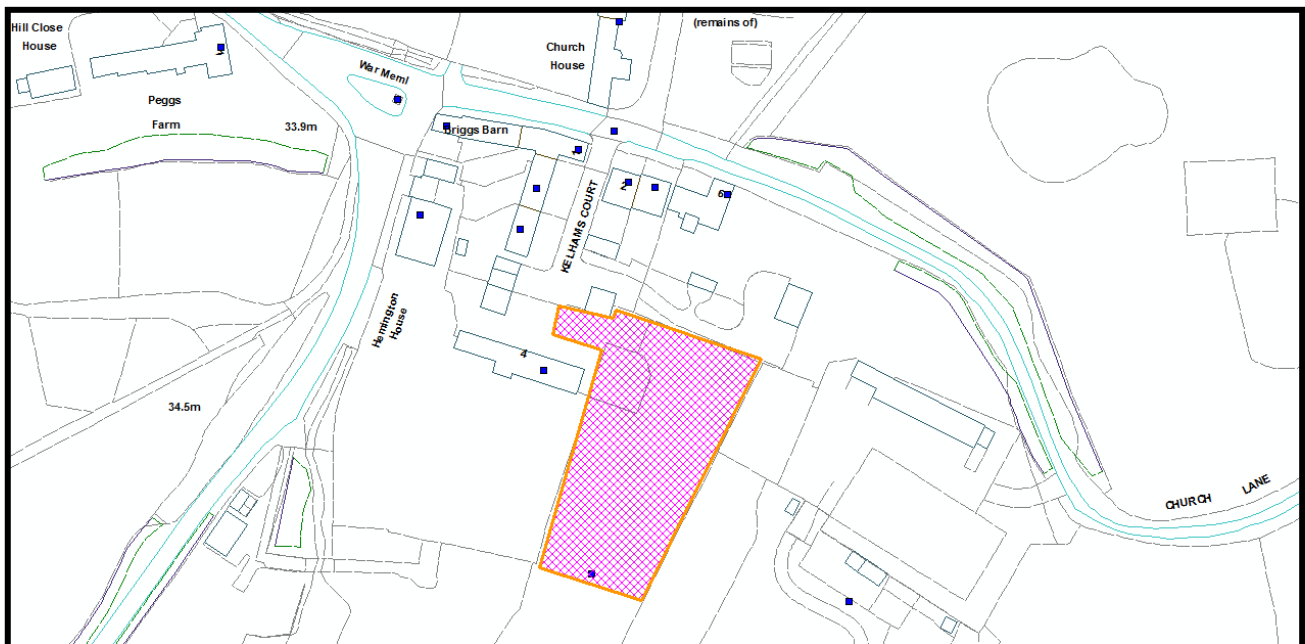
**Date Registered:  
14 October 2022  
Consultation Expiry:  
17 January 2023  
8 Week Date:**

**Case Officer: Lewis Marshall**

**28 November 2022  
Extension of Time:  
10 February 2023**

**Recommendation:  
PERMIT**

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



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

## 1. Approved plans

Informative to applicant: This permission gives approval only for the development as described and does not give permission to change the use of the land or to use the land for any other purposes. To do this would require the submission of a new planning application to the Council for consideration.

This application is brought to Planning Committee in line with Part 4, Rule 7.4 of the Council's Constitution (2021) because the application is recommended for approval by officers and the application is submitted by the close relative of a serving member or officer of the Council. 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.

**MAIN REPORT****1. Proposals and Background**

This is a full retrospective planning application for the works undertaken on land to include the cutting, filling and reprofiling of land within the paddock to the east of 4 Kelhams Court. The work took place and was completed in October 2020. The applicant has sought to justify the proposals on the basis that the previously sloping land was causing surface water run-off to flood the adjacent patio area which falls within the curtilage of the applicants dwelling.

The application site measures 0.17ha and relates to agricultural land to the east of 4 Kelhams Court, a converted barn forming part of the wider Kelhams Court Conversion scheme. The converted barns originally formed part of the farm buildings associated with Hemjngton House Farmhouse, a grade II listed building. The existing dwelling and its curtilage are within the Hemington Conservation Area and within the setting of a number of listed buildings. Whilst the building has been severed from the curtilage of the principal listed building, it would have at one time been considered as curtilage listed. It is now considered a non-designated heritage asset in its own right and identified as an unlisted building of interest with the Hemington Conservation Area Appraisal. The paddock land which is the subject of this application falls within the countryside, outside of the domestic curtilage of 4 Kelhams Court and is outside of, but within the setting of the Hemington Conservation Area. A proposed plan of the site and land which falls under the applicant's ownership is shown on figure 1 below.

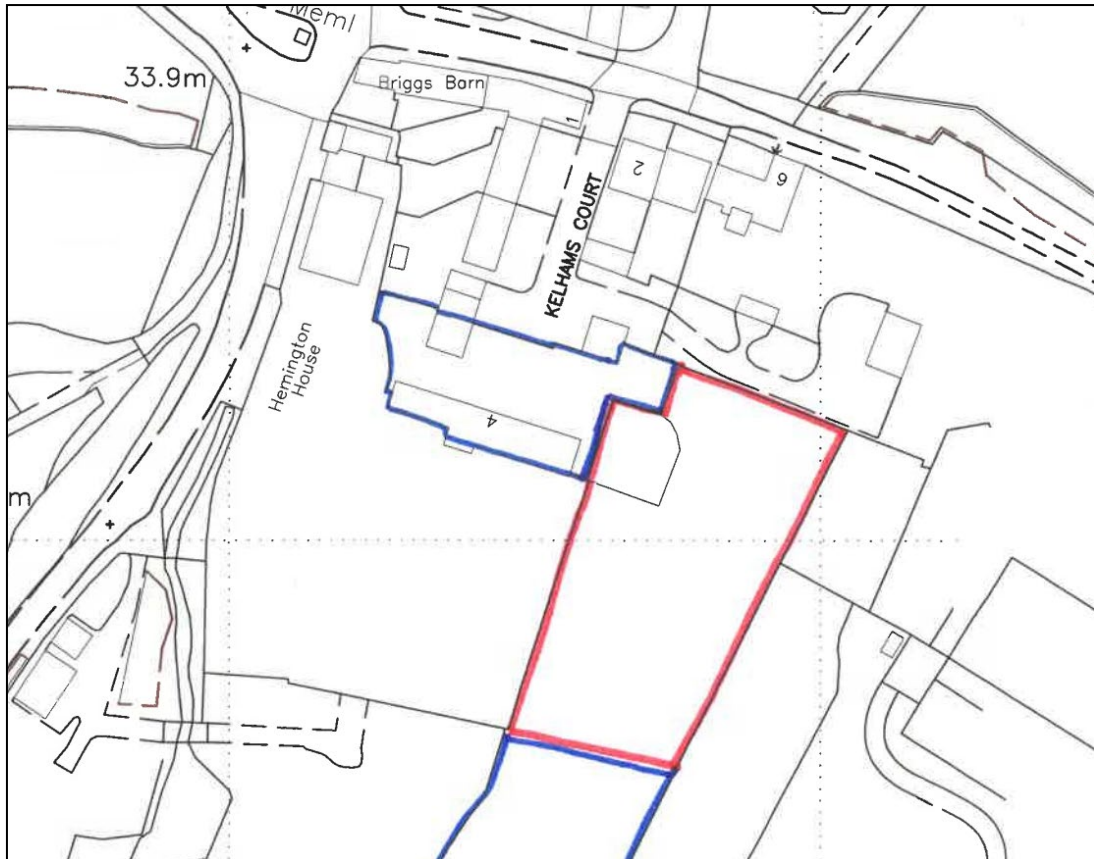


Figure 1 – Site Location Plan

Following the receipt of consultation responses additional and/or amended information has been provided and re-consultation undertaken.

The application is supported by a Planning Statement and topographical survey. The plans and all other documentation associated with the application are available to view on the District Council's website.

The planning history for the site is listed below -

22/01568/FUL - Garage conversion, new electric gates, erection of new boundary treatment and insertion of rooflight to existing dwelling - Pending Consideration

22/01569/FUL - Erection of a single storey extension – Refused

22/01570/FUL - Erection of a storage/implement store building - Refused

11/00841/VCI - Conversion of barns to form five dwellings, erection of associated garaging – permitted. 15/00934/FUL - Erection of detached garage and store – application withdrawn.

11/00172/FUL - Conversion of barns to form five dwellings, erection of associated garaging – permitted.

10/00333/EXT - Extension of time limit to implement planning permission ref 07/00238/FUL for Proposed conversion and alteration of existing outbuildings to form 6 no. dwellings along with the provision of associated garaging/parking, erection of new hay store and stable buildings and alterations to vehicular accesses with associated works – permitted.

10/00121/FUL - Conversion of barns to form six dwellings and erection of associated garaging – permitted.

07/00238/FUL - Proposed conversion and alteration of existing outbuildings to form 6 no. dwellings along with the provision of associated garaging/parking, erection of new hay store and stable buildings and alterations to vehicular accesses with associated works – permitted.

05/01356/FUL - Conversion of barns to form six dwellings, erection of one dwelling and erection of stables and hay store – application refused.

## 2. Publicity

Seven neighbours notified on 17 October 2022 and reconsulted on 3 January 2023.

A site notice was displayed on the 19 October 2022.

A press notice was published in the Derby Evening Telegraph on the 26 October 2022.

## 3. Summary of Consultations and Representations Received

The following summary of representations is provided. All responses from statutory consultees and third parties are available to view in full on the Council's website.

### No Objections from:

Leicestershire County Council – Ecology.  
 Leicestershire County Council – Archaeology  
 NWLDC – Conservation Officer

### Third Party Representations

Two letters of representation have been received objecting to the application with the comments raised summarised as follows:

<u>Topic of Objections</u>	<u>Summary of Objections to Topic</u>
<u>Drainage</u>	The only concern is whether sufficient work has been carried out to ensure that any runoff water has been diverted, to ensure that our property, and the rest of the properties in Kelhams Court, aren't at risk of future flooding.

## **4. Relevant Planning Policy**

### **National Policies**

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

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

Paragraphs 8 and 10 (Achieving sustainable development)  
 Paragraphs 11 and 12 (Presumption in favour of sustainable development)  
 Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making)  
 Paragraphs 55, 56 and 57 (Planning conditions and obligations)  
 Paragraph 81, 82 and 83 (Building a strong, competitive economy)  
 Paragraphs 93 and 100 (Promoting healthy and safe communities)  
 Paragraphs 107, 108, 109, 110, 111, 112 and 113 (Promoting sustainable transport)  
 Paragraphs 119, 120, 122 and 124 (Making effective use of land)  
 Paragraphs 126, 128, 130, 132 and 134 (Achieving well-designed places)  
 Paragraphs 152, 153, 154, 157, 159, 161, 167 and 169 (Meeting the challenge of climate change, flooding, and coastal change)  
 Paragraphs 174, 180, 183, 184, 185, 186, 187 and 188 (Conserving and enhancing the natural environment) and  
 Paragraphs 189, 194, 195, 197, 199, 200, 202, 204 and 205 (Conserving and enhancing the historic environment)

### **Local Policies**

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

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

Policy S2 – Settlement Hierarchy;  
 Policy S3 – Countryside;  
 Policy D1 – Design of New Development;  
 Policy D2 – Amenity;  
 Policy En1 – Nature Conservation;  
 Policy He1 - Heritage  
 Policy Cc2 – Water – Flood Risk; and  
 Policy Cc3 – Water – Sustainable Drainage Systems.

### **Other Policies**

National Planning Practice Guidance.  
 Good Design for North West Leicestershire Supplementary Planning Document – April 2017.  
 Leicestershire Highways Design Guide (Leicestershire County Council).  
 Planning (Listed Buildings and Conservation Areas) Act 1990 – Sections 66 and 72.  
 Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).  
 Hemington Conservation Area Study and Appraisal 2001

## 5. Assessment

### Principle of Development

The site is located outside of the Limits to Development of any settlement and is therefore in the countryside as defined by the adopted Local Plan. The proposal would result in regrading and levelling of land within the countryside for the purposes of installing land drains and a soakaway to improve drainage and prevent surface water flooding. Development in the countryside for such purposes is supported in principle by policy S3(f) providing, inter-alia, the development respects the character and appearance of the countryside and heritage assets. This is considered further in the section below.

Overall, it is considered that the principle of development is acceptable, and the proposal falls to be considered in terms of design, heritage impact, amenity, and any other relevant matters.

### Design and Impact upon Character and Heritage Assets

Policy D1 of the Local Plan (2021) requires that all developments be based upon a robust opportunities and constraints assessment and be informed by a comprehensive site and contextual appraisal. Policy S3 requires that developments in the countryside safeguard and enhance the appearance and character of the landscape, including its historic character and local distinctiveness. Policy He1 of the adopted Local Plan and the advice in the NPPF requires heritage assets to be preserved and enhanced. Where development results in harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

The proposed development must also be considered against sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which states that special regard shall be had to the desirability of preserving the character and appearance of the conservation area, a listed building or its setting or any features of special architectural or historic interest which it possesses.

Kehams Court forms a group of barns that are considered to be non-designated heritage assets by virtue of their historic use and connection with the principal listed building at Hemington House Farmhouse, a grade II listed building. Hemington House Farmhouse is located 25m to the north of the site with its associated curtilage forming the northern boundary of the application site. The barns within Kelham Court are identified within the Hemington Conservation Area Appraisal and Study to be positive unlisted buildings within the conservation area. The grade II listed Hemington House is located to the west of Kelhams Court. The land that is subject to the application positively contributes to the setting of Hemington House Farm House as a grade II listed building and the setting of the unlisted barns within Kelhams Court. The land is also considered to positively contribute to the setting of the Hemington Conservation Area.

The ground works undertaken cover an area of approximately 850 square meters with approximately 350 square meters having been levelled and flat. Prior to the works being undertaken, the shallow gradient of the land fell to the north west in the direction of the Kelhams Court. The works have reprofiled the land so that there is a more distinct drop in levels between the eastern boundary of the site (39.35 AOD) and the levelled central area (37.10 AOD). The 2.25m change in levels occurs over approximately 9.5m from the western boundary where the change in levels is most visually evident (see figures 2 and 3 below).





Figure 2



Figure 3

Whilst the change in levels has resulted in the land losing its natural sloping topography, it is not considered that this has changed its character to such an extent that it causes harm to the character and appearance of the countryside. The land in its current condition remains a grass land paddock with views of the land from any public vantage points being restricted. Furthermore, the land when viewed from Kelhams Court and Hemington House Farm House remains one which is verdant and open that continues to positively contribute to the setting of the designated and non-designated heritage assets. Furthermore, it is also considered that the change in levels does not have an impact on the setting of the Conservation area for the same reasons as set out above.

Overall, the proposal is in accordance with Policies D1, S3 and He1 of the adopted Local Plan, the Council's Good Design SPD, and relevant sections of the NPPF.

Furthermore, the proposal would serve to preserve the setting of listed buildings and the character and appearance of the Conservation area as is desirable under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Impact upon residential amenity**

Policy D2 of the Local Plan (2021) requires that proposals for development should be designed to minimise their impact on the amenity and quiet enjoyment of both existing and future residents within the development and close to it. It is important to consider the relationship between the neighbouring property in terms of overlooking, privacy, access to light, noise and odour.

The application does not propose a change in use of the land and as such the appearance of the site in its current form and how this impacts on the amenity of neighbouring occupiers is the only consideration.

Land levels are broadly lower in the most northerly and westerly parts of the site where the land is in close proximity to neighbouring dwellings. As such, it is considered that the levels do not provide any greater opportunity for overlooking or result in any loss of privacy. Given the distance from neighbouring dwellings, there has also been no impact in terms of light or overshadowing. Additionally, there would be no impacts in terms of noise odour or outlook.

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

Therefore, the proposal is considered to be in accordance with Policy D2 of the adopted Local Plan, the Council's Good Design SPD, and relevant sections of the NPPF.

## Highway Considerations

Policy IF4 of the Local Plan (2021) requires that development takes account of the impact upon the highway network and the environment, including climate change, and incorporates safe and accessible connections to the transport network to enable travel choice, including by non-car modes, for residents, businesses, and employees. Policy IF7 of the Local Plan (2021) requires that development incorporate adequate parking provision for vehicles and cycles to avoid highway safety problems and to minimise the impact upon the local environment.

The site is located 70m from the edge of the public highway with no direct access between the land and the public highway. Accordingly, the proposal has and will not result in any implications for the highway network.

Overall, the application is considered to be in accordance with the guidance set out within the Leicestershire Highway Design Guide and the application is considered to be acceptable when having regard to Local Plan Policies IF4 and IF7 as well as the guidance set out within the NPPF.

## Ecology

Policy EN1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district. The application is not supported by an Ecological Survey or appraisal. The site prior to its re-profiling was grassland paddock and remains as grassland paddock. No features of biodiversity have been removed to facilitate the proposed works. Accordingly, Leicestershire County Council Ecology raises no objection.

Given the extent of the works overall, it is not considered that there would be any impact on protected species, their habitats, or other features of biodiversity. The development accords with policy Ne1 and the NPPF.

## Flood Risk and Drainage

The site is situated within Flood Zone 1, an area at lowest risk from fluvial flooding, and the existing dwelling is identified as an area at low risk of surface water flooding, as defined by the Environment Agency's Surface Water Flood Maps. As the site is not at high risk of surface water flooding and is not a major application, the LLFA are not a statutory consultee in this instance.

Given that there would be no increase in hardstanding or surfacing, it is not considered the proposal would result in a material impact on flood risk or drainage. Concerns have been raised that the works undertaken in changing the land levels could result in surface water run off being rediverted away from the applicants dwelling and impact on other nearby properties.

It should be noted that the works were completed in October 2020 and no incidents or evidence of surface water flooding have been raised by neighbours out of the consultation process. The works undertaken include the levelling of land and the installation of a soakaway which retains water on the site and it is naturally filtrated underground. Furthermore, the profile of the land at the site edges is such that it will continue to contain surface water on land within the applicant's ownership rather than being redirected to any neighbouring land.

It is considered that the proposal would not result in flooding or surface water drainage issues and consequently would accord with the aims of Policies Cc2 of the adopted Local Plan, as well as the guidance set out within the NPPF.

## Conclusion

Whilst the application site is outside the defined Limits to Development Policy S3 of the adopted Local Plan allows for flood alleviation works in the countryside. Consequently, the proposal is compliant in principle with Policies S3 of the adopted Local Plan.

It is also considered that the proposal has not resulted in harm to the significance of designated heritage assets, those being the setting of the Hemington Conservation Area and the setting of Hemington House Farm House as grade II listed building. The proposal would also preserve the significance of the non-designated heritage asset, that of the existing barn, its setting and the setting of other converted barns within the wider group that forms Kelhams Court.

The scope of the works undertaken are such that there are no detrimental impacts to the character and appearance of the visual landscape, residential amenity, highway safety, ecology, archaeology, nor would the proposal exacerbate any localised flooding impact. There are no other relevant material planning considerations that indicate planning permission should not be granted and consequently the proposal is deemed to comply with the relevant policies of the adopted Local Plan the Council's adopted Good Design SPD and the advice within the NPPF.

It is therefore recommended that planning permission be granted subject to conditions as set out above.

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**Garage conversion, new electric gates, erection of new boundary treatment and insertion of rooflight to existing dwelling**

**Report Item No  
A3  
Application Reference:  
22/01568/FUL**

**The Stables  
4 Kelhams Court  
Hemington  
Derby  
DE74 2SF**

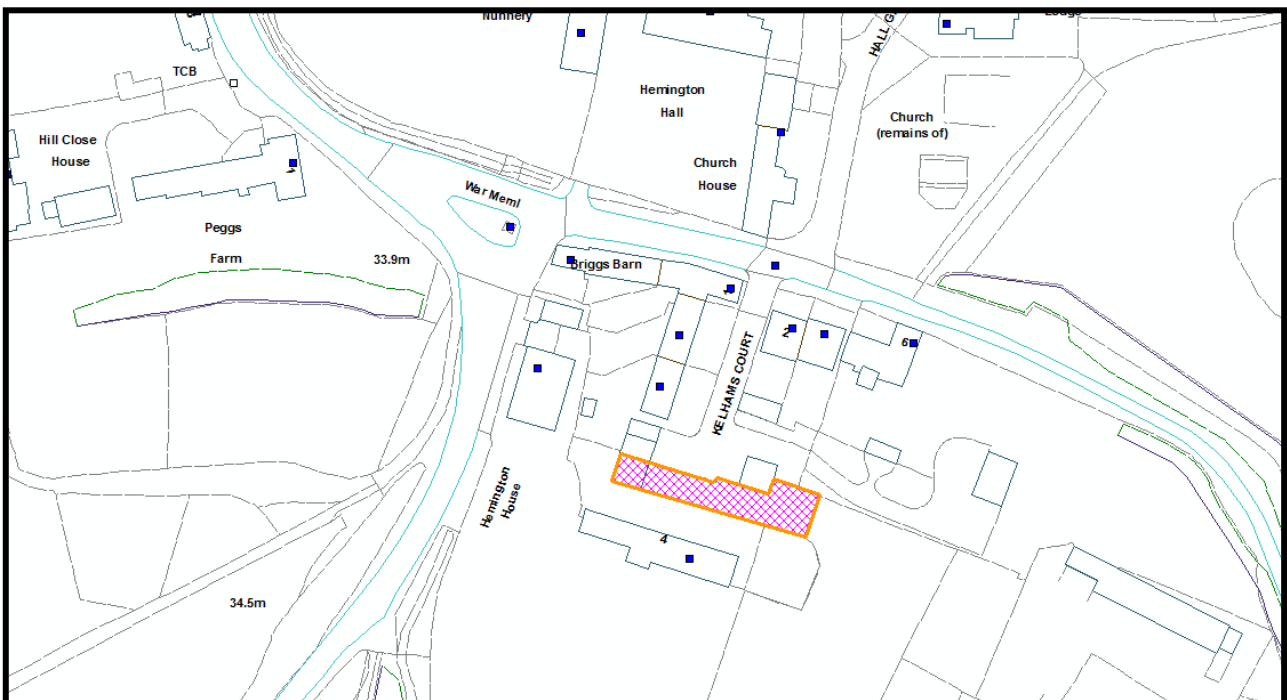
**Date Registered:  
14 October 2022  
Consultation Expiry:  
17 January 2023  
8 Week Date:  
28 November 2022  
Extension of Time:  
10 February 2023**

**Applicant: Laura Hughes**

**Case Officer: Lewis Marshall**

**Recommendation:  
PERMIT**

### Site Location - Plan for indicative purposes only



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

2. Time limit.
3. Approved plans.
4. Specification of glazing, rooflights and door prior to installation
5. Details of garden screen(s) and gates prior to installation
6. Use of gym to remain ancillary to the dwelling
7. New rooflight to first floor south elevation to be obscurely glazed

This application is brought to Planning Committee in line with Part 4, Rule 7.4 of the Council's Constitution (2021) because the application is recommended for approval by officers and the application is submitted by the close relative of a serving member or officer of the Council. 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.

**MAIN REPORT****1. Proposals and Background**

This is a full planning application for the following works within the curtilage of the existing dwelling:

- Conversion of a modern detached garage to create a home gym
- The installation of a new sliding electric gate
- The erection of new internal garden enclosure/screening, and;
- The insertion of a rooflight to the rear elevation of the converted barn.

The application site relates to 4 Kelhams court, a converted barn forming part of the wider Kelhams Court Conversion scheme. The converted barns originally formed part of the farm buildings associated with Hemington House Farmhouse, a grade II listed building. The existing dwelling and its curtilage is within the Hemington Conservation Area and within the setting of a number of listed buildings. Whilst the building has been severed from the curtilage of the principal listed building, it would have at one time been considered as curtilage listed. It is now considered a non-designated heritage asset in its own right and identified as an unlisted building of interest with the Hemington Conservation Area Appraisal. The site is within the built-up area of Hemington, although the village falls outside of any settlement limits and as such is in the countryside. A proposed plan of the site and land which falls under the applicant's ownership is shown on figure 1 below.

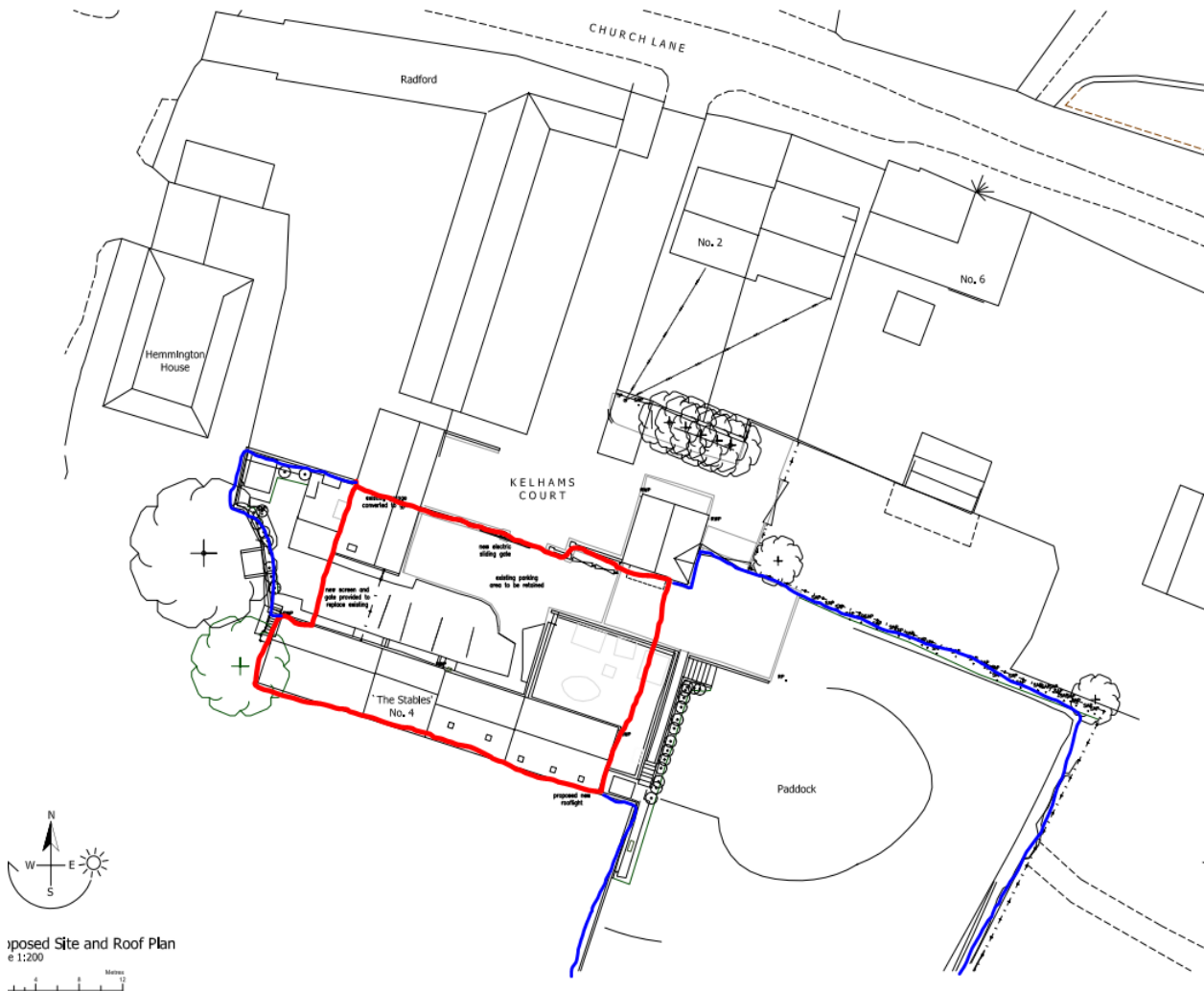


Figure 1 – Site Plan

Following the receipt of consultation responses additional and/or amended information has been provided and re-consultation undertaken.

The application is supported by a Heritage Statement and Design and Access Statement. The plans and all other documentation associated with the application are available to view on the District Council’s website.

The planning history for the site is listed below -

22/01571/FUL - Alteration to land levels – Pending Consideration

22/01569/FUL - Erection of a single storey extension – Refused

22/01570/FUL - Erection of a storage/implement store building - Refused

11/00841/VCI - Conversion of barns to form five dwellings, erection of associated garaging – permitted. 15/00934/FUL - Erection of detached garage and store – application withdrawn.

11/00172/FUL - Conversion of barns to form five dwellings, erection of associated garaging – permitted.

10/00333/EXT - Extension of time limit to implement planning permission ref 07/00238/FUL for Proposed conversion and alteration of existing outbuildings to form 6 no. dwellings along with the provision of associated garaging/parking, erection of new hay store and stable buildings and alterations to vehicular accesses with associated works – permitted.

10/00121/FUL - Conversion of barns to form six dwellings and erection of associated garaging – permitted.

07/00238/FUL - Proposed conversion and alteration of existing outbuildings to form 6 no. dwellings along with the provision of associated garaging/parking, erection of new hay store and stable buildings and alterations to vehicular accesses with associated works – permitted.

05/01356/FUL - Conversion of barns to form six dwellings, erection of one dwelling and erection of stables and hay store – application refused.

## 2. Publicity

Six neighbours notified on 17 October 2022 and reconsulted on 3 January 2023.

A site notice was displayed on the 19 October 2022.

A press notice was published in the Derby Evening Telegraph on the 26 October 2022.

## 3. Summary of Consultations and Representations Received

The following summary of representations is provided. All responses from statutory consultees and third parties are available to view in full on the Council’s website.

### No Objections from:

Leicestershire County Council – Ecology.  
Leicestershire County Council – Highways Authority.

### No Objections, subject to conditions and/or informatives, from:

NWLDC – Conservation Officer

### Third Party Representations

Four letters of representation have been received objecting to the application with the comments raised summarised as follows:

<u>Topic of Objections</u>	<u>Summary of Objections to Topic</u>
<u>Principle and Need</u>	No objection is raised in principle to the use of the garage as a home gym.
<u>Design</u>	The proposed design to the roofline and the installation of French doors is out of character with all the other existing properties/buildings in



	Kelhams Court.
	The Amended Plan dated 23 December 2022 states that all windows and doors will be of aluminium. Advice has been provided to other residents in Kelhams Court that any new windows/doors/porches must be of timber.
<u>Integration of Development and Amenities</u>	Concerned about the disposal of rainwater from the adjoining garage roof and adjoining neighbour at number 3, as the proposed rear dormer will interrupt the flow of water and the elevation drawing shows the down pipe in the wrong position.
	Use of steps to provide access to the French doors will allow for views into neighbouring gardens.
<u>Non-Material Planning Considerations</u>	The proposed French doors will provide access to the hot tub which is associated with noise and will create further impact on privacy.
	Kelhams Court is a private road therefore each occupant is liable to contribute to any repairs to the access.

#### 4. Relevant Planning Policy

##### National Policies

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

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

Paragraphs 8 and 10 (Achieving sustainable development)  
 Paragraphs 11 and 12 (Presumption in favour of sustainable development)  
 Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making)  
 Paragraphs 55, 56 and 57 (Planning conditions and obligations)  
 Paragraph 81, 82 and 83 (Building a strong, competitive economy)  
 Paragraphs 93 and 100 (Promoting healthy and safe communities)  
 Paragraphs 107, 108, 109, 110, 111, 112 and 113 (Promoting sustainable transport)  
 Paragraphs 119, 120, 122 and 124 (Making effective use of land)  
 Paragraphs 126, 128, 130, 132 and 134 (Achieving well-designed places)  
 Paragraphs 152, 153, 154, 157, 159, 161, 167 and 169 (Meeting the challenge of climate change, flooding and coastal change)  
 Paragraphs 174, 180, 183, 184, 185, 186, 187 and 188 (Conserving and enhancing the natural environment) and

Paragraphs 189, 194, 195, 197, 199, 200, 202, 204 and 205 (Conserving and enhancing the historic environment).

## **Local Policies**

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

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

Policy S1 – Future Housing and Economic Development Needs;  
 Policy S2 – Settlement Hierarchy;  
 Policy S3 – Countryside;  
 Policy D1 – Design of New Development;  
 Policy D2 – Amenity;  
 Policy IF4 – Transport Infrastructure and New Development;  
 Policy IF7 – Parking Provision and New Development;  
 Policy En1 – Nature Conservation;  
 Policy He1 – Heritage  
 Policy Cc2 – Water – Flood Risk; and  
 Policy Cc3 – Water – Sustainable Drainage Systems.

## **Other Policies**

National Planning Practice Guidance.  
 Good Design for North West Leicestershire Supplementary Planning Document – April 2017.  
 Leicestershire Highways Design Guide (Leicestershire County Council).  
 Planning (Listed Buildings and Conservation Areas) Act 1990 – Sections 66 and 72.  
 Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).  
 Hemington Conservation Area Study and Appraisal 2001

## **5. Assessment**

### **Principle of Development**

The site is located outside of the Limits to Development of any settlement and is therefore in the countryside as defined by the adopted Local Plan. The proposal would result in the extension and alteration of an existing dwelling in the countryside, which is supported in principle by policy S3 providing, inter-alia, the development respects the character and appearance of the countryside and heritage assets. This is considered further in the section below.

Overall, it is considered that the principle of development is acceptable, and the proposal falls to be considered in terms of design, heritage impact, amenity, highways and any other relevant matters.

### **Design and Impact upon Character and Heritage Assets**

Policy D1 of the Local Plan (2021) requires that all developments be based upon a robust opportunities and constraints assessment and be informed by a comprehensive site and contextual appraisal. It also requires that new residential developments must positively perform against Building for Life 12 and that developments will be assessed against the Council's adopted Good Design SPD. Policy S3 requires that developments in the countryside safeguard and enhance the appearance and character of the landscape, including its historic character and local

distinctiveness. Policy He1 of the adopted Local Plan and the advice in the NPPF requires heritage assets to be preserved and enhanced. Where development results in harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

The proposed development must also be considered against sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which states that special regard shall be had to the desirability of preserving the character and appearance of the conservation area, a listed building or its setting or any features of special architectural or historic interest which it possesses.

The existing barn forms part of a group of barns that are considered to be non-designated heritage assets by virtue of their historic use and connection with the principal listed building at Hemington House Farmhouse, a grade II listed building. The barns are linear in their form and footprint, usually a single room deep to reflect the historic use as a stables and cowsheds. The barns within Kelham court are identified within the Hemington Conservation Area Appraisal and Study to be positive unlisted buildings within the conservation area.

The garage proposed for conversion is a later addition that was constructed at the time of the original conversion scheme circa 2012. It therefore has no heritage significance in its own right, although in its current form has a neutral impact on the setting of the surrounding heritage assets. The most significant alteration to the garage as proposed is the removal of the existing garage doors and the insertion of aluminium four panel glazed windows (see figure 2 below). The glazed windows as proposed have been set in beyond the external facing brickwork as deeply as possibly in order to be cast in shadow under the above eaves line. This would limit the visual prominence of the glazing to an acceptable degree and retain the simple form of the existing garage building as to not detract from the setting of the host dwelling and its contribution to the character and appearance of the Hemington Conservation Area. Although the exact specification of the proposed glazed doors has not been submitted for consideration, they are to be aluminium. Concerns have been raised by a neighbouring resident that the windows and doors should be timber as are existing windows within the converted barns that form part of Kelhams Court. However, the garage that is subject of the application is a modern construction and therefore the use of a modern high quality material is appropriate. Furthermore, the glazed doors are located beyond the existing brick wall and therefore are not highly visible from within the shared courtyard space.



Proposed Front Elevation  
Scale 1:50

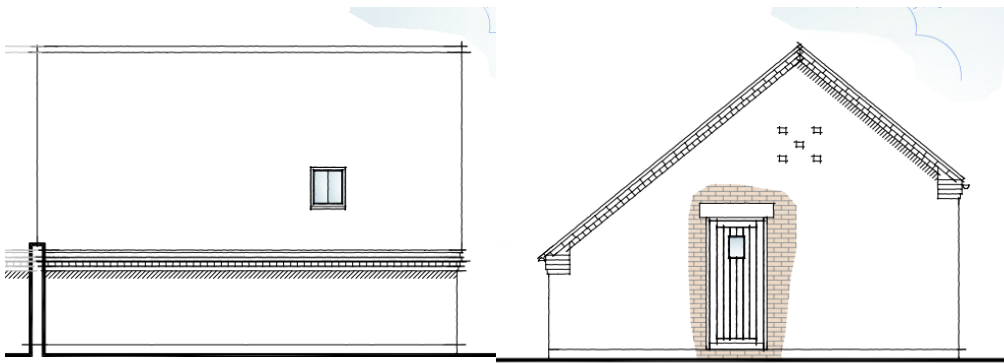


Figure 2 – garage elevations

The garage conversion has also been the subject of an amendment through the course of the application process. The originally proposed raking dormer and French doors to the rear of the garage is no longer proposed. The insertion of a rooflight to serve the shower room is not considered to be out of character with the form and appearance of the building or those surrounding the site, nor would it have any impact on the significance of the conservation area or the setting of any heritage assets. Similarly, the proposed plank door to the side elevation is appropriately considerate of the site and its wider setting. Overall, the proposed garage conversion would respect the character and appearance of the area, preserve the character and appearance of the Hemington conservation area and would cause no harm to the setting of heritage assets.

The application also proposed the installation of a new timber gate across the vehicular access between the curtilage of the host dwelling and the shared courtyard to Kelhams Court (see figure 3 below). Although exact details of the proposed timber sliding gate have not been submitted for consideration as part of the application, it is anticipated that the gate would not exceed the height of the brick wall across the frontage of the site and would be of an appearance and colour/finish that preserves the character and appearance of the area, including the conservation area.

The application also proposes the erection of a replacement enclosure within the curtilage of the dwelling in order to provide privacy and enclosure to an area of the garden. Given the curtilage of the dwelling is located forward of the principal elevation, it is considered reasonable that the applicant may want to subdivide the space to delineate between the open parking area and the more private garden area to the south and west of the garage. Subject to exact details being approved in respect of the scale and appearance of any enclosure, given its concealed position to the south of the garage building, it is not considered that it would cause harm to the character and appearance of the area or the significance of heritage assets.

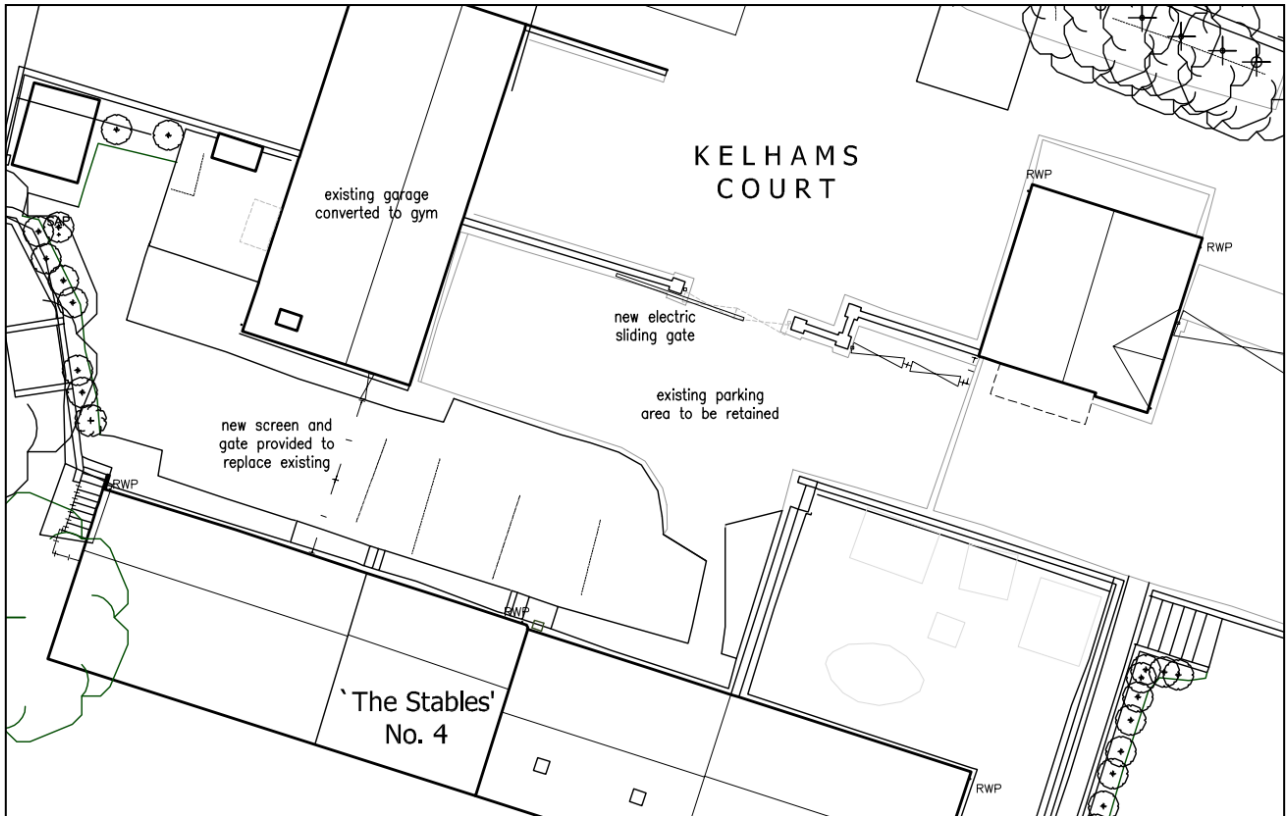
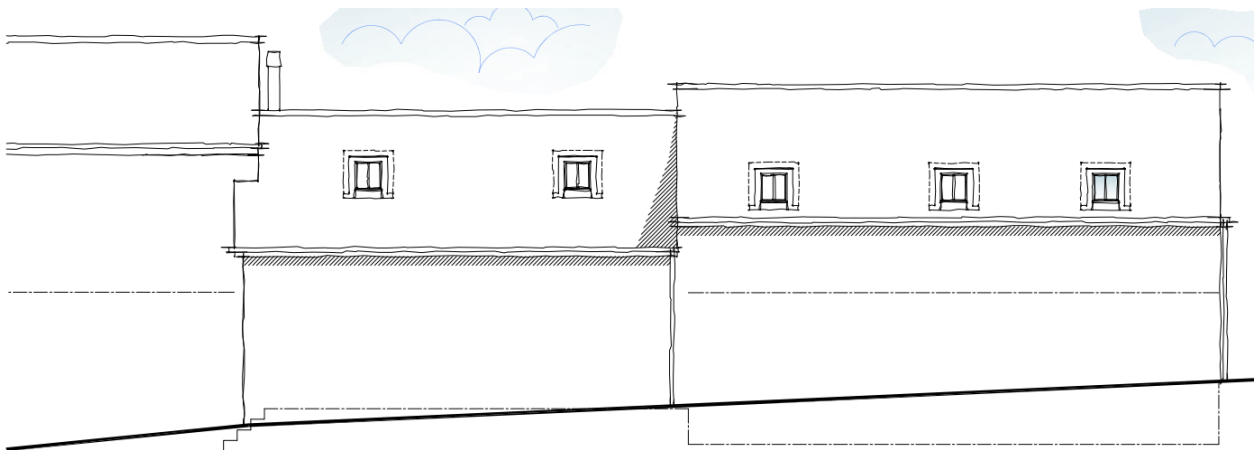


Figure 3 – site layout

The proposal includes the insertion of an additional rooflight to the rear (southern) roof slope (see figure 4 below). The size and appearance of the rooflight matches those on the rear of the building as existing and in this regard, respects the character and appearance of the building. The roof slope faces south and cannot be seen from within any public vantage points nor would it harm the character and appearance of the conservation area or the setting of any designated heritage assets.



Proposed Part Rear Elevation (Dwelling) - Showing New Rooflight  
Scale 1:50

Figure 4 – rear elevation with rooflight

In the interests of visual amenity and preserving the character and appearance of the conservation area and the setting of heritage assets, it is recommended that exact details of the sliding timber gate, the fenestration and the scale and appearance of the garden enclosure be secured by planning condition prior to the installation of each new element.

Overall, the proposal is in accordance with Policies D1, S3 and He1 of the adopted Local Plan, the Council's Good Design SPD, and relevant sections of the NPPF.

Furthermore, the proposal would serve to preserve the setting of listed buildings and the character and appearance of the Conservation area as is desirable under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Impact upon residential amenity**

Policy D2 of the Local Plan (2021) requires that proposals for development should be designed to minimise their impact on the amenity and quiet enjoyment of both existing and future residents within the development and close to it. It is important to consider the relationship between the neighbouring property in terms of overlooking, privacy, access to light, noise, and odour.

In respect of existing nearby residential properties, having regard for the existing use of the building, it is not considered that the conversion works as proposed would result in any additional overlooking than would be possible within the existing use and circumstances and there is no significant changes proposed to the relationship between the existing building and the existing unrelated nearby properties. The proposed raking dormer and French doors to the garage have been omitted from the scheme following concerns raised by officers and neighbours. It is not considered that the physical alterations proposed to the garage to facilitate the conversion works would have any impact on neighbouring amenity.

The proposed gym use is to remain ancillary to the dwelling and as such will only be used by the occupants of the dwelling. It is recommended that the use be restricted by way of a planning condition. In terms of noise impacts, the scale of the gym and the physical detachment from any neighbouring habitable rooms or accommodation is such that it is not considered there would be a loss of amenity in respect of noise and disturbance. The rooflight on the rear elevation would serve a shower room and would be located 2.4 metres above the floor level which would ensure against any overlooking issues.

It is not known if the proposed electric sliding gate would generate additional noise, however, given the infrequency of its use when serving a single domestic dwelling, it is unlikely that any such noise would amount to annoyance or disturbance to nearby neighbouring residents. The position of the gate is such that it would not cause harm to outlook or loss of light.

The proposed roof light is to serve a first floor room and would be set no lower in the roof slope than existing rooflights within the same roof elevation. However, the southern wall of the dwelling forms the boundary with the garden of Hemington House. Whilst the garden to Hemington house is extensive, the existing rooflights within the rear roof slope are obscurely glazed as required by condition on the original planning permission. As such it is not considered that there would be any loss of privacy arising from the insertion of the additional opening providing that the additional rooflight proposed is also obscurely glazed.

Overall and subject to conditions, the proposal is not considered to result in significant or harmful impacts upon existing surrounding or future occupier residential amenity.

Therefore, the proposal is in accordance with Policy D2 of the adopted Local Plan, the Council's Good Design SPD, and relevant sections of the NPPF.

### **Highway Considerations**

Policy IF4 of the Local Plan (2021) requires that development takes account of the impact upon the

highway network and the environment, including climate change, and incorporates safe and accessible connections to the transport network to enable travel choice, including by non-car modes, for residents, businesses, and employees. Policy IF7 of the Local Plan (2021) requires that development incorporate adequate parking provision for vehicles and cycles to avoid highway safety problems and to minimise the impact upon the local environment.

The site is located within the countryside and there are no changes proposed to the access arrangements where the site adjoins the public highway. Although the proposal would result in the loss of a double garage which could be used for parking, the external parking arrangements will be as existing with the continued use of the large area of hardstanding to the front of the principal elevation with space for at least three vehicles as required by the Leicestershire Highways Design Guide. Furthermore, the proposal would not increase the number of bedrooms or occupants at the property therefore would not increase demand for parking spaces or result in any additional risk of on street parking. The proposed sliding gate is positioned approximately 40m from the edge of the highway and would not therefore result in any waiting on the highway whilst the gate is closed or in operation.

Overall, the application is in accordance with the guidance set out within the Leicestershire Highway Design Guide and the application is considered to be acceptable when having regard to Local Plan Policies IF4 and IF7 as well as the guidance set out within the NPPF.

### **Ecology**

Policy EN1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district. The application is not supported by an Ecological Survey or appraisal.

The garage proposed for conversion is a modern brick structure constructed at the time of the original residential conversion scheme and is therefore considered to be unsuitable for protected species and their habitats. Accordingly, Leicestershire County Council Ecology raises no objection.

Given the extent of the proposed works which would be confined to the existing garden areas, it is not considered that there would be any impact on protected species, their habitats or other features of biodiversity. The development will accord with policy Ne1 of the Local Plan and the requirements of the NPPF.

### **Flood Risk and Drainage**

The site is situated within Flood Zone 1, an area at lowest risk from fluvial flooding, and the existing dwelling is identified as an area of low risk of surface water flooding, as defined by the Environment Agency's Surface Water Flood Maps.

Given that there would be no increase in hardstanding or surfacing and the proposal would be limited to the conversion of the existing building and associated internal works, it is not considered the proposal would result in a material impact on flood risk or drainage.

Whilst concerns have been raised by neighbours that the previously approved raking dormer would require the diversion of guttering and the associated surface water run-off, the dormer has been removed from the application and as such there would be no requirement to divert guttering or amend the existing guttering in place to the rear of the garage building.

It is considered that the proposal would not result in flooding or surface water drainage issues and consequently would accord with the aims of Policies Cc2 of the adopted Local Plan, as well as the guidance set out within the NPPF.

**Other Matters**

*Assessment of other objections*

<b>Objection</b>	<b>Response</b>
The development will cause damage to the private access road shared by all residents within Kelhams Court.	Concerns have been raised that the construction of the development could result in damage to the shared access drive. The shared access drive is private land, believed to be shared between the respective property owners. Any damage caused is therefore a civil matter and not a planning matter and cannot be considered in the determination of the application.
The proposed French doors will provide access to the hot tub which is associated with noise and will create further impact on privacy.	Notwithstanding that the rear French doors have been removed from the proposal following the submission of revised plans, the installation and use of a hot tub is beyond the control of the Local Planning Authority and any impact arising from its use is not a material planning consideration in the determination of the application.

**Conclusion**

Whilst the application site is outside the defined Limits to Development Policy S3 of the adopted Local Plan allows for the alteration and extension of existing dwelling in the countryside. Consequently the proposal is compliant, in principle, with Policy S3 the adopted Local Plan.

Subject to conditions it is also considered that the proposal would result in no harm to the significance of designated heritage assets, those being the Hemington Conservation Area and the setting of Hemington House and Hemington House Farm House as grade II listed buildings respectively. The proposal would also preserve the significance of the non-designated heritage asset, that of the existing barn, its setting and the setting of other converted barns within the wider group that forms Kelhams Court.

There are no detrimental impacts to the character and appearance of the visual landscape, residential amenity, highway safety, ecology, archaeology, nor would the proposal exacerbate any localised flooding impact. There are no other relevant material planning considerations that indicate planning permission should not be granted and consequently the proposal is deemed to comply with the relevant policies of the adopted Local Plan the Council’s adopted Good Design SPD and the advice within the NPPF.

It is therefore recommended that planning permission be granted subject to conditions as set out above.