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Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	6.00 pm on Tuesday, 6 June 2023
Location	Forest Room, Stenson House, London Road, Coalville, LE67 3FN
Officer to contact	Democratic Services (01530 454529)

## AGENDA

Item		Pages
<b>1.</b>	<b>APOLOGIES FOR ABSENCE</b>	
<b>2.</b>	<b>DECLARATION OF INTERESTS</b>	
	Under the Code of Conduct members are reminded that in declaring 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.</b>	<b>MINUTES</b>	
	To confirm and sign the minutes of the meeting held on 7 March 2023.	<b>3 - 6</b>
<b>4.</b>	<b>PLANNING ENFORCEMENT UPDATE Q4 2022/23</b>	
	Report of the Planning and Development Team Manager	<b>7 - 16</b>
<b>5.</b>	<b>TO CONSIDER AN OBJECTION MADE BY HARWORTH ESTATES INVESTMENTS LTD IN RESPECT OF NWLDC TREE PRESERVATION ORDER T508</b>	
	Report of the Head of Planning and Infrastructure	<b>17 - 24</b>
<b>6.</b>	<b>PLANNING APPLICATIONS AND OTHER MATTERS</b>	
	Report of the Head of Planning and Infrastructure.	<b>25 - 28</b>

## Index of Applications to be Considered

<b>Item</b>	<b>Application Number and Details</b>	<b>Recommendation</b>	<b>Page</b>
<b>A1</b>	<b>22/01312/FULM: Erection of an additional holiday lodge and change of use of grazing land for siting of caravan/motorhomes with electric hook ups, siting of glamping tents and associated amenity block/infrastructure</b>  Barleycroft Tonge Lane Breedon On The Hill, DE73 8AJ	<b>Permit, subject to conditions</b>	<b>29 - 42</b>
<b>A2</b>	<b>23/00292/OUT:Erection of a self-build detached dwelling (outline application with all matters reserved)</b>  Fieldview House, Babelake Street, Packington, LE65 1WD	<b>Permit subject to S106 agreement</b>	<b>43 - 58</b>

MINUTES of a meeting of the PLANNING Committee held in the Heartwood Conferencing, Rothley House, Coalville Business Park, Coalville, LE67 3NR on TUESDAY, 7 March 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 M B Wyatt

In Attendance: Councillors R Blunt, R Canny and R Johnson

Officers: Mr C Elston, Mr D Jones, Ms R Haynes, Mr S James, Mrs R Wallace and Ms J Davies

#### **54. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor A Bridgen.

#### **55. DECLARATION OF INTERESTS**

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

Councillor D Harrison declared a registerable interest in item A1, application number 21/01407/FUL, as the Leicestershire County Council Ward Member.

Councillor J Legrys declared he had been lobbied in respect of item A1, application number 21/01407/FUL but had come to the meeting with an open mind.

#### **56. MINUTES**

Consideration was given to the minutes of the meeting held on 7 February 2023.

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

RESOLVED THAT:

The minutes of the meeting held on 7 February 2023 be approved and signed by the Chairman as a correct record.

#### **57. 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.

#### **58. 21/01407/FUL: CONTINUED USE OF LAND AS A CARAVAN SITE FOR GYPSIES/TRAVELLERS WITH SIX TOURING CARAVANS AND RETENTION OF AMENITY BLOCK, TOILET BUILDING, PARKING AREA AND SURFACING**

The Planning and Development Team Leader presented the report to Members.

Mr Makin, Parish Councillor, addressed the Committee in objection to the application. He felt that the site was not appropriate for this use and was a blot on the countryside. Reference was made to the history of the site and the previous applications, and refusals that had been supported by Planning Inspectors, he felt that the arguments against the use of the site in this way remained. He sympathised with the personal circumstances of the current occupiers of the site but felt that as planning permission sits with the land and not the person, there were real concerns with how much the site could grow in the future. He urged the Committee to reject or defer the application to allow the appeal process to continue and for the decision to be taken by the Planning Inspector.

Mr Statham, agent, addressed the Committee. He provided a summary of the history of the family that have been on the site for many years, the current family circumstances and reminded Members that no complaints had ever been received. He commented that sites for Gypsies and Travellers had been promised by this Council for years and nothing has yet been provided. He urged Members to approve the application so that the family could have a permanent place to live and adequate washroom facilities could be provided.

Councillor R Blunt, Ward Member, addressed the Committee. He acknowledged the length of time that this matter and local concerns had been ensuing but he did sympathise with the views of the applicant. He believed that the matter should be a decision of the Planning Inspector and therefore urged the Committee to reject or defer the application.

In determining the application the Members acknowledged the personal circumstances of the family currently living on the site, the delay in local authorities to provide adequate Gypsy and Traveller sites and the difficult situation for Members when making a decision. Some concerns were raised in relation to the risk in setting a future precedent by how the Committee deal with the application and also the costs involved for the Council if Members were minded to defer.

A question was raised as to whether the Committee, if minded to approve the application, could impose a condition to erect fencing on the site so that public could still have access to the footpath around the site. Officers advised that as it is a public highway it could not be imposed but a request could be made to the applicant.

As further discussions were moving towards deferral of the application, Officers asked that if Members were minded to defer then a decision would need to be made on whether officers should defend the appeal for the site that is to be redetermined, as representations would need to be made to the Planning Inspectorate. Members were reminded by the Head of Planning and Infrastructure that circumstances had changed over the years in relation to the Gypsy and Traveller status and the unmet need for pitches which officers consider significantly outweighs the visual impact and previous reasons for refusal and so an appeal would be difficult to defend.

A motion to defer the application to allow an impartial decision to be taken by the Planning Inspector was moved by Councillor D Harrison and seconded by Councillor J Bridges.

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

RESOLVED THAT:

The application be deferred to allow an impartial decision to be made by the Planning Inspector.

Following a further discussion on the appeal process, the Chairman put the motion to defend the decision to the vote. A recorded vote being required, the voting was as detailed below.

RESOLVED THAT:

The Council continue to defend at appeal the decision taken by Committee in December 2016 for the previous reasons for refusal

<b>Motion to Defer the application (Motion)</b>	
Councillor Ray Morris	For
Councillor Russell Boam	For
Councillor Dave Bigby	Abstain
Councillor John Bridges	For
Councillor David Everitt	Abstain
Councillor Dan Harrison	For
Councillor Jim Hout	For
Councillor John Legrys	Abstain
Councillor Jenny Simmons	For
Councillor Michael Wyatt	For
<b>Carried</b>	
<b>Motion to defend the decision to defer the application (Motion)</b>	
Councillor Ray Morris	For
Councillor Russell Boam	For
Councillor Dave Bigby	Abstain
Councillor John Bridges	For
Councillor David Everitt	Abstain
Councillor Dan Harrison	For
Councillor Jim Hout	For
Councillor John Legrys	Abstain
Councillor Jenny Simmons	For
Councillor Michael Wyatt	For
<b>Carried</b>	

The meeting commenced at 6.15 pm

The Chairman closed the meeting at 6.54 pm

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## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – TUESDAY, 6 JUNE 2023



<b>Title of Report</b>	<b>PLANNING ENFORCEMENT UPDATE Q4 2022/23</b>	
<b>Presented by</b>	Dylan Jones Planning and Development Team Manager	
<b>Background Papers</b>	None	<b>Public Report:</b> Yes
<b>Financial Implications</b>	There are no financial implications that arise from this report	
<b>Staffing and Corporate Implications</b>	None	
	<b>Signed off by the Director:</b> Yes  James Arnold	
<b>Legal Implications</b>	None apparent from this report. Legal advice is provided on enforcement matters on a case-by-case basis.	
	<b>Signed off by the Legal Advisor:</b> Yes  Stephen James	
<b>Purpose of Report</b>	To provide an update to Members on the work of the planning enforcement team.  To provide an overview of the compliance and monitoring cases within the Planning Enforcement service.	
<b>Recommendations</b>	<b>PLANNING COMMITTEE NOTE THE INFORMATION CONTAINED WITHIN THE REPORT.</b>	

**1 BACKGROUND**

- 1.1 This report is to update Planning Committee members on the performance of the Planning Enforcement Team during Quarter 4 of the 2022/23 financial year, how this compares with the remainder of the year and also the performance achieved in the 2021/22 financial year. It also provides an opportunity to review the workload and the performance of the team in meeting its targets for investigating complaints against that which is specified in the Council's Enforcement Policy in the 2022/23 financial year and how that compares with how the team performed in the previous financial year to identify any trends.

## 2 HARM SCORING OF CASES

- 2.1 Harm scoring is a process that the team uses to prioritise its workload. Below is Table 1 showing the results of the harm scoring process with the different priority levels given to the cases listed along the left hand side of the table. Following an initial site visit, each case is given a harm score which determines the priority that should be given to the case, and this defines the timescale and process that the team will follow to investigate and resolve the matter.
- 2.2 To aid with clarity on this process, a copy of the harm scoring sheet is appended at the end of the report as Appendix 1.
- 2.3 To clarify, the first heading under the urgent case/not required category is where a harm scoring exercise is not carried out as it's not necessary. This will be due to either the case falling into the high priority category where an investigation happens immediately, or no breach is found on site and there isn't a case to investigate.

**Table 1 – Harm Scoring of New Cases**

	2021/2022					2022/2023				
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total
Urgent Case/Not Required	37	12	43	59	151	36	54	27	48	165
High Priority cases (score over 5)	36	34	17	8	95	11	7	5	3	26
Standard Priority case (score under 5)	28	10	27	12	77	14	8	4	15	41
No update (awaiting harm score)	3	11	24	19	57	3	5	5	2	15
Pending consideration (visit arranged but not completed or awaiting visit to be made)	13	18	31	14	76	32	37	15	29	113
<b>Annual Total</b>					<b>456</b>					<b>360</b>

- 2.4 The table shows that the workload of the team in terms of the new cases that it has received has reduced in the 2022/23 financial year over that seen in the previous year. However, it must be remembered that the country had just come out of the Coronavirus lockdowns in the 2021/2022 period and as such development was booming across the



country at that time which resulted in a high number of investigations for the team. Things have changed in the 2022/23 financial year with the cost of living crisis which has reduced both personal and business income and as such there is now less money for individuals to modify their properties and develop land which has resulted in less cases for the enforcement team to investigate. Whilst the number of cases that the team have investigated has reduced, they are now back to a similar level to that seen pre-covid.

- 2.5 The table also shows that the number of cases that were pending consideration and awaiting a site visit increased quite significantly in the 22/23 financial year over the previous period and this was as a result of the team losing four staff members (one permanent and 3 agency staff) during this period. This caused resource issues for the two remaining team members in coping with the volume of work that the team were dealing with. The Team now have support from two new agency staff (Senior Enforcement Officer and an agency Compliance/Enforcement Officer) while recruitment for a permanent Planning Enforcement Team Leader and Planning Enforcement is currently taking place.

### 3 PLANNING ENFORCEMENT CASE STATISTICS

**Table 2 – Number of live cases with the team**

2021/ 22						2022/ 23				
Month	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		Month	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
<b>Q1</b>	117	67	105	289		<b>Q1</b>	96	72	112	307
<b>Q2</b>	85	54	100	239		<b>Q2</b>	111	120	87	280
<b>Q3</b>	142	60	120	310		<b>Q3</b>	56	75	127	290
<b>Q4</b>	112	46	120	287		<b>Q4</b>	97	139	81	317
<b>Total</b>	<b>456</b>	<b>227</b>	<b>445</b>	<b>1125</b>		<b>Total</b>	<b>360</b>	<b>406</b>	<b>407</b>	<b>1194</b>

- 3.1 Table 2 above shows the total number of cases with the team at any one time over the last two financial years. Specifically, it shows the number of new cases that the team has received (and shown as harm scored in table 1), the number of cases that have been with the team for over six months and also over a year. The table also shows in the last column the total amount of cases that the team has in each quarter with the overall total given for both financial years.
- 3.2 The table shows that the team has more cases that are older than 6 months in the 2022/23 financial year over that seen in the previous year which reflects the fact that over the last 6 months the team has lost 3 agency and a permanent staff member and was also unable to recruit to a vacant post due to the lack of suitable candidates.

However, to balance this out it was noted that nearly a hundred less new cases were received during the 2022/23 financial year over that received previously and that the total amount of live cases with the team has only increased by 69 during this period which is not a significant increase.

- 3.3 Whilst this report r relates to the 2022/23 financial year, it is important to note going forwards into the 2023/24 period that the team, as stated above, has now managed to secure an agency Senior Enforcement Officer and an agency Compliance/Enforcement Officer, and they are both with the two existing staff members actively dealing with cases so that a greater backlog is avoided and the older cases are cleared in a timely fashion.
- 3.4 The types of breaches investigated during Quarters 1 & 2 are summarised in Table 3 below.

**Table 3 – Types of Breaches Investigated**

2021/22						2022/23					
Type of breach	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total	
<b>Breach of planning condition</b>	17	6	23	17	<b>63</b>	17	28	7	17	<b>69</b>	
<b>Unauthorised works in conservation area</b>	10	2	4	5	<b>21</b>	1	1	2	3	<b>7</b>	
<b>High hedges</b>	2	2	0	0	<b>4</b>	0	4	0	0	<b>4</b>	
<b>Unauthorised works on a listed building</b>	4	2	6	4	<b>16</b>	3	2	2	1	<b>8</b>	
<b>Not in accordance with approved plans</b>	15	8	23	15	<b>61</b>	11	11	9	29	<b>60</b>	
<b>Unauthorised works on a protected tree</b>	2	3	3	4	<b>12</b>	2	3	3	3	<b>11</b>	
<b>Unauthorised development – Domestic</b>	37	27	30	24	<b>118</b>	23	33	21	18	<b>95</b>	
<b>Unauthorised development – Non domestic</b>	7	10	23	20	<b>60</b>	18	13	10	9	<b>50</b>	
<b>Untidy land</b>	0	0	0	2	<b>2</b>	2	0	0	0	<b>2</b>	
<b>Unauthorised advertisement</b>	1	0	3	2	<b>6</b>	5	1	1	2	<b>9</b>	
<b>Material change of use</b>	16	17	5	10	<b>48</b>	6	7	1	8	<b>22</b>	

<b>Advice</b>	3	6	18	9	<b>36</b>		7	7	0	3	<b>17</b>
<b>Breach of Section 106</b>	0	1	4	0	<b>5</b>		0	0	0	0	<b>0</b>
<b>Development Monitoring</b>	3	1	0	0	<b>6</b>		1	1	0	4	<b>6</b>
<b>Totals</b>	117	85	142	112	<b>456</b>		96	111	56	97	<b>360</b>

3.5 This table shows the different types of cases that the team deal with. The statistics show that less investigations which relate to works at private domestic properties were carried out in the 2022/23 period over that seen in the previous year. This change again is likely to reflect the change in the finances of the country whereby lots of homeowners were completing works to their properties in the post covid period which resulted in more investigations, whereas in the 2022/23 financial year the cost of living crisis has impacted on personal finances and the number of domestic projects has reduced in this period.

3.6 The figures indicate that breach of condition investigations, development not in accordance with the approved plans and non domestic works investigations remained fairly consistent between the years whereas change of use, works in conservation areas and material change of use investigations reduced in the 2022/23 financial year over that seen previously which reflects the overall reduction in the amount of cases that the team has received in this period which potentially reflects the impact that the cost of living crisis has had on development across the country.

### 3.7 Table 4 - Prosecutions

<b>2022/23</b>				
<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>	<b>Total</b>
0	0	0	0	<b>0</b>

3.8 The table shows that no prosecutions have taken place during the 2022/23 financial year. This is due to the loss of staff from the team during this period which has limited the ability of the remaining team members to be able to progress as effectively with their workload as would have been desired. As stated above, this is now being resolved with new experienced agency staff who are currently in the team and adverts out to recruit for permanent experienced staff to ensure that the team is adequately resourced moving forward to deal with prosecutions as necessary.

3.9 Whilst no new prosecutions have been carried out during the above period, the team have continued to monitor the extant enforcement notices and injunctions that are in place.

### 3.10 Table 5 – Enforcement Notices

2022/23				
Q1	Q2	Q3	Q4	Total
0	1	2	0	3

3.11 The team has served 3 notices during the 2022/23 financial year period. Whilst the team haven't served a significant number of notices during this period, it must be emphasised that the service of an enforcement notice and prosecution for non-compliance with its requirements is a last resort where all other forms of negotiation to resolve the issue has failed. A low number of prosecutions annually is what would be expected and is not indicative of the team underperforming.

3.12 Appeals - During the period 1 January 2023 to 31 March 2023, there has been no new enforcement appeals lodged with the Planning Inspectorate.

## 4 KEY CASES

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

**Table 6 – Key Cases**

SITE	DESCRIPTION
<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. Appeals have been lodged against the planning application refusal and the Enforcement Notice. Hearing took place at the end of Feb 2023, awaiting decision.
<b>Proposed site of Swan Lake Lodges, Spring Lane, Swannington</b>	Site is for a proposed holiday lodges site, complaints have been received and this is being monitored by officers.
<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 by Planning officers.
<b>Brooks Lane, Whitwick</b>	No travellers on site. Injunction being adhered to, and the site is continuing to be monitored. Planning application awaiting determination.
<b>Netherfield Lane, Hemington</b>	Site visit to be arranged again to continue to monitor the site, the site is now under management of 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 7 – Member Queries**

2021/22						2022/23				
	Q1	Q2	Q3	Q4	TOTAL	Q1	Q2	Q3	Q4	TOTAL
<b>Member Enquiries</b>	15	9	18	24	66	7	5	8	11	31
<b>Responded to within 10 day timescale</b>	15	9	16	22	66	7	4	7	11	29

5.2 The figures show that the member queries which are submitted through the Feedback system has reduced by half in the 2022/23 financial year over that received in the previous period.

5.3 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 in the 2022/23 financial year 29 out of the 31 queries were responded to in time whereas all the 66 queries were responded to in the previous financial year. This reflects the temporary reduction in staffing in the team in the 2022/23 period which made it more difficult for the remaining team members to investigate and respond to queries as promptly as has been the case in previous years.

## 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	Q4	Total out of cases received	Q1	Q2	Q3	Q4	Total out of cases received
<b>Acknowledged in writing within 3 working days</b>	111	77	111	91	320	96	92	57	95	340
					456					360

<b>Initial site visit carried out within 21 working days of receipt of the initial complaint</b>	105	55	81	80	<b>321</b>		64	59	41	51	<b>215</b>
					456						360

6.2 The table shows that the team acknowledged more cases in the 3 working day deadline in the 2022/23 financial year than it did in the previous year. 94% of the 360 total cases were acknowledged in the 2022/23 period compared to 70% of all cases in the previous year which is excellent performance considering the staffing pressures that the team were under in this period.

6.3 In terms of site visits, the numbers carried out during the last financial year were less than in the previous year as it reflects the reduction in the overall number of cases that were received. However, only 59% of the cases received in the 2022/23 financial year period were investigated in the 21 day period as required by the Council's Enforcement Policy whereas 70% were investigated in the 21 day period in the 2021/22 financial year period. Again, the reduction of members in the team in the 2022/23 period has impacted on the ability of the team to be able to deal with all workloads promptly and the team has also experienced difficulties during this period in being able to access land promptly due to not being able to contact the landowners to gain access. The performance of the team should however improve in the 2023/24 (current) financial year with the new agency staffing in post and the arrangements in place to permanently recruit to the vacant posts in the team.

## APPENDIX 1 – Harm Scoring sheet

Date:

Officer:

Case Reference:

### North West Leicestershire District Council - HARM Prioritisation Assessment Form

To be completed by the officer who has seen the development

Note: this form is only to be used when a breach has been identified

- All retrospective refusals of planning permissions and complaints received regarding illegal works to listed buildings, illegal advertisements, hedge removal and trees covered by a tree preservation order/conservation area will automatically receive a full investigation.
- Each new complaint will be allocated scores as set out to assess its harm. The total will provide its harm score from which its priority will be based.
- Where there is no breach of planning control found, the file will be closed accordingly.

Points allocation		Score
Is the breach:	worsening (1) Stable (0)	
Highway safety issue: New unauthorised driveway/fence/gateway leading onto highway or anything that may restrict visibility	Yes (1) No (0)	
Other safety issues: Danger to pedestrian traffic, unsafe practices, certain businesses operating from home ie food	Yes (1) No (0)	
Causing a (potential) statutory nuisance: Smoke, dust, noise etc	Yes (1) No (0)	
Complainant:	Immediate neighbour/staff (2) Member/Parish Council (2) Other (1)	
Age of breach:	Within 3 months of immunity (3) Less than 1 month old (2) More than 1 month old (1)	
Is the harm: Local would be harm to the immediate vicinity ie next door neighbours affected. Widespread would be immediate vicinity and surrounding area	Widespread (2) Local (1) None (0)	
Irreversible harm: Eg removal of trees or demolition of listed building with no option to retrieve materials ie gone to land fill	Yes (1) No (0)	
Breach of planning condition: This should relate to a breach of a condition on an existing PP or a breach of a condition forming part of the GPDO	Yes (1) No (0)	
Conservation area	Yes (1) No (0)	
Affecting the setting of a listed building	Yes (1) No (0)	
Special exercise	Yes (1) No (0)	

<b>This is where the breach is likely to score under 5 but the Council believe that the development is so harmful that it requires further investigation (If yes provide more details)</b>	
<b>Sensitive site (if yes provide more details)</b> <b>Politically sensitive, contentious site.</b> <b>This is a discretionary score to utilise if needed.</b>	<b>Yes (1)</b> <b>No (0)</b>
<b>Undesirable precedent</b> <b>We don't want more of these in the area or others copying i.e. extended gardens into fields behind, car sales from home etc</b> <b>If yes provide more detail</b>	<b>Yes (1)</b> <b>No (0)</b>
<b>Total Points (HARM score)</b>	

- Only complaints which score 5 or above will be investigated further. Those with a lesser score will be informed of the breach/likely breach and invited to remedy/regularise it. In both cases the complainant will be notified of our actions.



<p><b>Title of Report</b></p>	<p><b>TO CONSIDER AN OBJECTION MADE BY HARWORTH ESTATES INVESTMENTS LTD. IN RESPECT OF NWLDC TREE PRESERVATION ORDER T508</b></p> <p><b>LAND SOUTH OF DUNBAR ROAD, KENMORE CRESCENT, KIRTON ROAD AND DAUPHINE WAY, COALVILLE</b></p>	
<p><b>Presented by</b></p>	<p>Dylan Jones Planning and Development Team Manager</p>	
<p><b>Background Papers</b></p>	<p>None</p>	<p><b>Public Report: Yes</b></p>
<p><b>Financial Implications</b></p>	<p>None</p>	
<p><b>Legal Implications</b></p>	<p>None</p> <p><b>Signed off by the Legal Advisor: Yes</b></p> <p>Stephen James</p>	
<p><b>Staffing and Corporate Implications</b></p>	<p>None</p> <p><b>Signed off by the Director of Place: Yes</b></p> <p>James Arnold</p>	
<p><b>Purpose of Report</b></p>	<p>A provisional TPO was made on 10 February 2023. The TPO needs to be confirmed within six months. Trees will lose their protection if the TPO is not confirmed before 10 August 2023.</p>	
<p><b>Recommendations</b></p>	<p><b>IT IS AN OFFICER RECOMMENDATION THAT THE TPO BE CONFIRMED SUBJECT TO MODIFICATION.</b></p>	

## SITE LOCATION PLAN



### 1.0 BACKGROUND

- 1.1 As a result of tree felling being carried out on land to the south of Dauphine Close and Kenmore Crescent in late January 2023, residents requested that a Tree Preservation Order be made. Their concerns were that important trees across several fields and hedgerows were at risk from potential development after a recent change in property ownership. Young naturally regenerated trees and some mature trees were reported to have been removed.
- 1.2 For consistency in the way the Council make all new TPOs, TEMPO Assessments (Tree Evaluation Method for Tree Preservation Orders) are carried out by the Council's Tree Officer to assess life expectancy, condition, public visibility and expediency. In this case, due to the large number of trees involved it was impractical to inspect all trees individually.
- 1.3 Subsequently, a provisional Area TPO covering seven disused fields and their dividing hedgerows was made on 10<sup>th</sup> February to preserve the amenity value of the area.

### 2.0 OBJECTIONS

- 2.1 One objection has been received from FPCR Consultants representing Harworth Estates Investments Ltd.

Summary of representations received:

- It is considered that the reasons for making the TPO are unsubstantiated.

- It is unlikely to be expedient to make a TPO if trees are subject to good agricultural management.
- Contractors had made a genuine error in removing more trees than instructed.
- FPCR have been instructed by Harworth Estates to carry out an arboricultural assessment to ascertain amenity value.
- FPCR were unaware of the Council's TEMPO assessment.
- FPCR consider that a large proportion of the site has restricted public visibility.
- Tree work applications could result in increased administration and enforcement burden on the LPA.
- Harworth Estates need to manage existing trees and vegetation appropriately and effectively so that visitors are reasonably safe.
- The removal of the saplings was to aid management of the grassland and reduce the risk of fire.
- The need for a felling licence from the Forestry Commission to remove larger volumes of timber prevents further felling.
- Area TPOs should only be for short-term protection.
- The land is currently being promoted for residential development with representations being submitted for allocation within the on-going local plan review. As part of that process a Concept Plan for the site has been developed.

FPCR consider that an Area Order is inappropriate and that if the LPA considers that a TPO is still required, that it be modified to protect individual trees and groups of trees.

### **3.0 OFFICER COMMENTS**

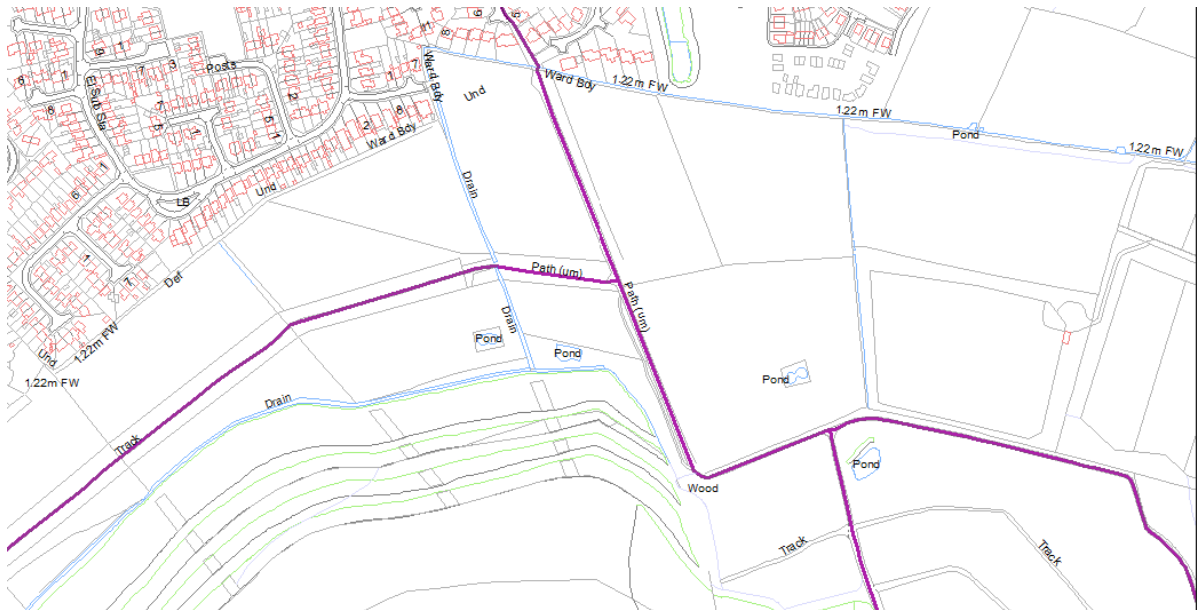
- 3.1 The LPA may make a TPO if it appears to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public.
- 3.2 Part of a tree or trees should normally be visible from a public place and that a reasonable degree of public benefit would accrue from the making of a TPO. The benefits may be in the present or the future, trees may be worthy of preservation for their intrinsic beauty or contribution to the landscape.
- 3.3 TPO guidance suggests that it is unlikely to be expedient to make a TPO if trees are under good arboricultural or silvicultural management – not good agricultural management. However, over many years, natural woodland regeneration has spread into the fields from hedgerows and woodlands by natural seeding and suckering. Clearance of such saplings can be justified for agricultural reasons.
- 3.4 Due to contractors felling more trees than allowable without a Felling Licence, the Forestry Commission have served a stop notice but the Forestry Commission support the making of a TPO.
- 3.5 The Pegasus Design Concept Plan for new housing provided by FPCR indicates potential conflict where fields would need a road network connection and where potential housing abuts hedgerows containing mature and aged trees.
- 3.6 It is agreed that Area TPOs should only be for short-term protection and therefore it is recommended that the TPO be confirmed with modifications to only include 12no. groups to protect trees in hedgerows and significant areas of natural regeneration.

<b>Policies and other considerations, as appropriate</b>	
Council Priorities:	<ul style="list-style-type: none"> <li>- Supporting Coalville to be a more vibrant, family-friendly town</li> <li>- Developing a clean and green district</li> <li>- Local people live in high quality, affordable homes.</li> <li>- Our communities are safe, healthy and connected.</li> </ul>
Policy Considerations:	None
Safeguarding:	None
Equalities/Diversity:	None
Customer Impact:	The site owner will have to apply to the Local Planning Authority for consent to carry out tree works.
Economic and Social Impact:	Trees have been shown to enhance mental wellbeing and by mitigating the urban heat island, reduce energy costs.
Environment and Climate Change:	A TPO will help protect the local natural environment and as trees absorb carbon dioxide and filter pollutants from the atmosphere it will support Council policy on climate change.
Consultation/Community Engagement:	People with a legal interest in the land affected by the Order have been consulted and members of the public were consulted by the placing of site notices.
Risks:	None
Officer Contact	Julian Simpson Tree Officer Planning and Development <a href="mailto:julian.simpson@nwleicestershire.gov.uk">julian.simpson@nwleicestershire.gov.uk</a>

# Appendix 1 – TPO Map



## Appendix 2 – Kenmore Crescent footpaths



**Appendix 3 – Kenmore Crescent Aerial view**



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**APPENDIX B**

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

**6 June 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 a resolution is finalised and voted on. The reasons shall be minuted, and the wording of the reasons, any relevant summary policies and proposals, any amended or additional conditions and/or the wording of such conditions, and the decision notice, is delegated to the Head of Planning and Infrastructure.

### **5. Granting permission contrary to Officer Recommendation**

Where the Head of Planning and Infrastructure report recommends refusal, and the Planning Committee are considering granting planning permission, the summary reasons for granting planning permission, a summary of the relevant policies and proposals, and whether the permission should be subject to conditions and/or an obligation under S106 of the TCPA 1990 must also be determined; Members will consider the recommended reasons for refusal, and then the summary reasons for granting the permission. The Chair will invite a Planning Officer to advise on the reasons and the other matters. An adjournment of the meeting may be necessary for the Planning Officer and legal Advisor to consider the advice required.

If The Planning Officer is unable to advise at Members at that meeting, he may recommend the item is deferred until further information or advice is available. This is likely if there are technical objections, e.g. 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 an additional holiday lodge and change of use of grazing land for siting of caravan/motorhomes with electric hook ups, siting of glamping tents and associated amenity block/infrastructure**

**Report Item No  
A1**

**Application Reference:  
22/01312/FULM**

**Barleycroft, Tonge Lane, Breedon On The Hill, Derby, DE73  
8AJ**

**Date Registered:  
09 November 2022  
Consultation Expiry:  
06 March 2023  
8 Week Date:  
07 February 2023  
Extension of Time:  
09 June 2023**

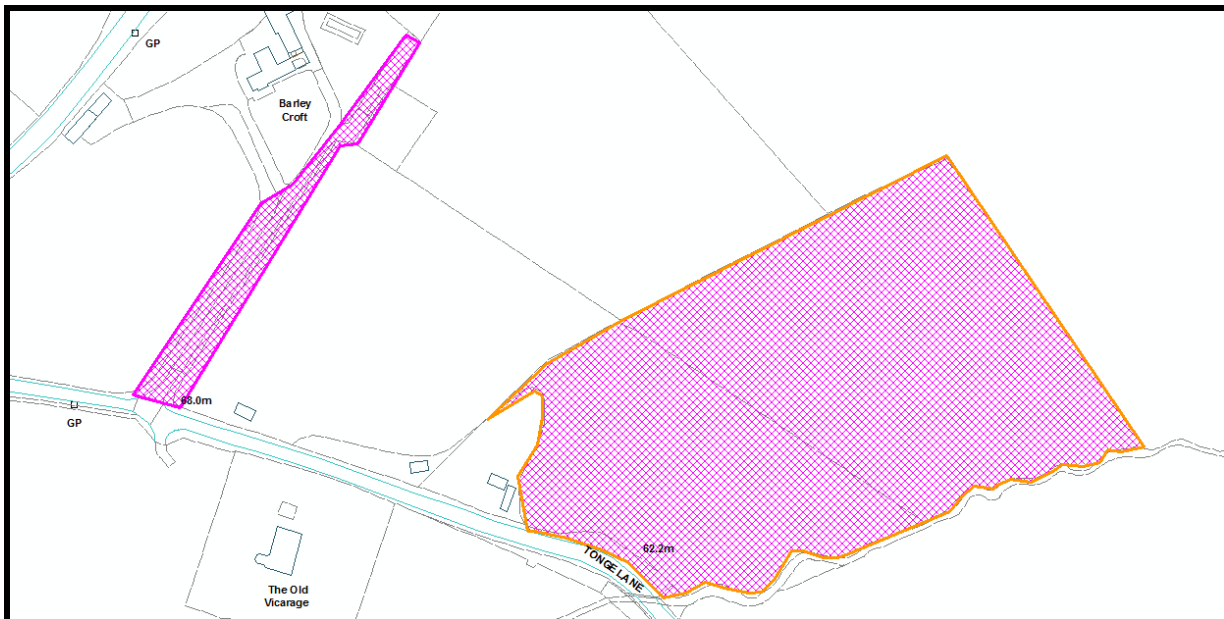
**Grid Reference (E) 441012  
Grid Reference (N) 323430**

**Applicant:  
Mr. Ray Morris**

**Case Officer:  
Lewis Marshall**

**Recommendation: Permit, subject to conditions**

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



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

- 1 Standard time limit
- 2 Plans
- 3 Tourism use only – no long-term use of accommodation and limits on numbers of tents and pitches. Glamping tents to be removed from site and no other tents erected November-March
- 4 Submission, approval and implementation of Biodiversity Enhancement and Management Plan (BEMP)
- 5 Submission, approval and implementation of Construction Environment Management Plan (CEMP)
- 6 Provision of landscaping scheme within first planting season following commencement of development
- 7 Provision of Access in accordance with approved plan and prior to the use commencing
- 8 Provision of Parking / turning in accordance with approved plan prior to use commencing
- 9 Provision of 2.4m x 65m visibility splays prior to use commencing
- 10 Details of tree pruning within the highway to be approved prior to commencement of development
- 11 Details of tree protection measures to be approved and implemented
- 12 Construction Management Plan to be submitted, approved and implemented
- 13 Surface water management to be in accordance with details submitted
- 14 Removal of residential permitted development rights for the holiday lodge
- 15 Limit curtilage of holiday lodge
- 16 Details of external lighting prior to any installation
- 17 Details of waste storage and collection points and provision before use commencing
- 18 Details of grey water and foul waste disposal points and provision before use commencing

## MAIN REPORT

### 1. Proposals and Background

The site lies on the edge of the village of Breedon on the Hill approximately 300 metres from the settlement limits via Tonge Lane and Main Street. The site is also approximately 100m from Berry Avenue, which is detached from the main part of the village but does fall within the settlement limits. The 2.1ha greenfield site is primarily located within Flood Zone 1 being at low risk of fluvial flooding with the eastern part of the site, adjacent to a watercourse, located at Flood Zones 2 and 3. Barleycroft is a large two storey detached dwelling located in extensive grounds. Tonge Lane is located along the southern boundary of the property, the A453 to the north western boundary and agricultural/equestrian land adjacent to the remaining boundaries. The site location plan is shown below.



The proposal is to erect a holiday lodge on land within the curtilage of the dwelling and the change of use of an equestrian grazing field to provide a campsite. The campsite would provide 10 pitches for campervans and touring caravans and 20 pitches for glamping tents with the erection of an amenity block and other associated works and landscaping. The proposed holiday lodge would be accessed via the driveway that serves Barleycroft, the host dwelling, and the campsite would be accessed via an existing field access from Tonge Lane.

The application is referred to the Committee as the applicant is a serving Councillor and at least one objection has been received against the proposal.

The application has been the subject of revisions and the submission of additional information at the request of consultees.

### **Relevant Planning History**

16/00696/FUL - Removal of existing timber office/storage building and erection of single storey timber holiday lodge – approved.

## **2. Publicity**

21 Neighbours have been notified.

Site Notice displayed 17 November 2022.

Press Notice published Derby Evening Telegraph 23 November 2022.

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

**Breedon On The Hill Parish Council** Objects to the application on the following grounds:

- Poor access and visibility
- Further clarity on the proposed number of pitches is required
- The land should be subject to a covenant to prevent further development.

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

**Leicestershire County Council Local Lead Flood Authority** has no objection subject to conditions.

**Leicestershire County Council Ecology** has no objections subject to conditions.

**Environment Agency** raises no objection.

**North West Leicestershire District Council Environmental Protection** raises no objection. It is advised that the applicant will need to apply for a site licence.

**North West Leicestershire District Council Conservation Officer** considers that the development will result in "less than substantial harm" to heritage assets. The level of harm would be reduced if operations were limited to spring/summer.

**North West Leicestershire District Council Tree Officer** raises no objections subject to conditions.

**East Midlands Airport Aerodrome Safeguarding Authority** raises no objection subject to conditions.

**Historic England** does not wish to make any comments.



### Third Party Representations

14 letters of representation have been received from surrounding neighbouring properties which make the following points:-

- Poor access and highway safety
- Additional parking on the highway
- Not in keeping with the village and landscape character
- Lighting and signage needed
- Increased, noise, antisocial behaviour and littering
- Increased flooding
- Light pollution
- Outside of the settlement limits and therefore does not comply with policies S2 and S3
- Does not comply with policy Ec13
- Lack of demand in the area
- Benefits for local shops and pubs

The following non-material matters have been raised:

- Proposed facilities considered to be low grade especially as mixed sex toilets are proposed
- A covenant should prevent further development of the land
- The application should be determined by the committee

## 4. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

Paragraph 11 (Achieving sustainable development)  
 Paragraphs 55, 56 (Planning conditions and obligations);  
 Paragraphs 78, 79, 80 (Delivering a sufficient supply of homes)  
 Paragraphs 109 (Promoting sustainable transport);  
 Paragraph 111 (Promoting sustainable transport)  
 Paragraphs 124, 127, 130, 135 (Requiring good design);  
 Paragraphs 170, 175, 177, 178, 179 and 180 (Conserving and enhancing the natural environment)  
 Paragraphs 189, 190, 192, 193, 199, 202 (Conserving and enhancing the historic environment)

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

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

- S1 - Future housing and economic development needs
- S2 - Settlement Hierarchy
- D1 - Design of New Development
- D2 - Amenity
- IF1 - Development and Infrastructure
- IF4 - Transport Infrastructure and New Development

IF7 - Parking Provision and New Development  
En1 - Nature Conservation  
He1 - Conservation and enhancement of North West Leicestershire's historic environment  
Ec13 - Tourism Development  
Cc2 - Water - Flood Risk  
Cc3 - Sustainable Drainage Systems

### **Other Policies/Guidance**

National Planning Practice Guidance  
Leicestershire Highways Design Guide  
Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990  
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System  
North West Leicestershire Good Design SPD

Breedon on the Hill Conservation area appraisal study (2001)

Breedon on the Hill Neighbourhood Plan is currently in preparation, although at this time, it is not at such an advanced stage to be afforded any weight in the determination of this application.

## **5. Assessment**

### **Principle of Development**

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2021).

The application site is located within the countryside. Policy S3(n) of the Local Plan supports tourism and recreation development in the countryside providing that it meets certain criteria in regard to accessibility and impact on the character of the area. This is considered within the relevant sections below. In broad terms, the principle of development complies with policy S3 providing that the tourism use is secured by way of a planning condition.

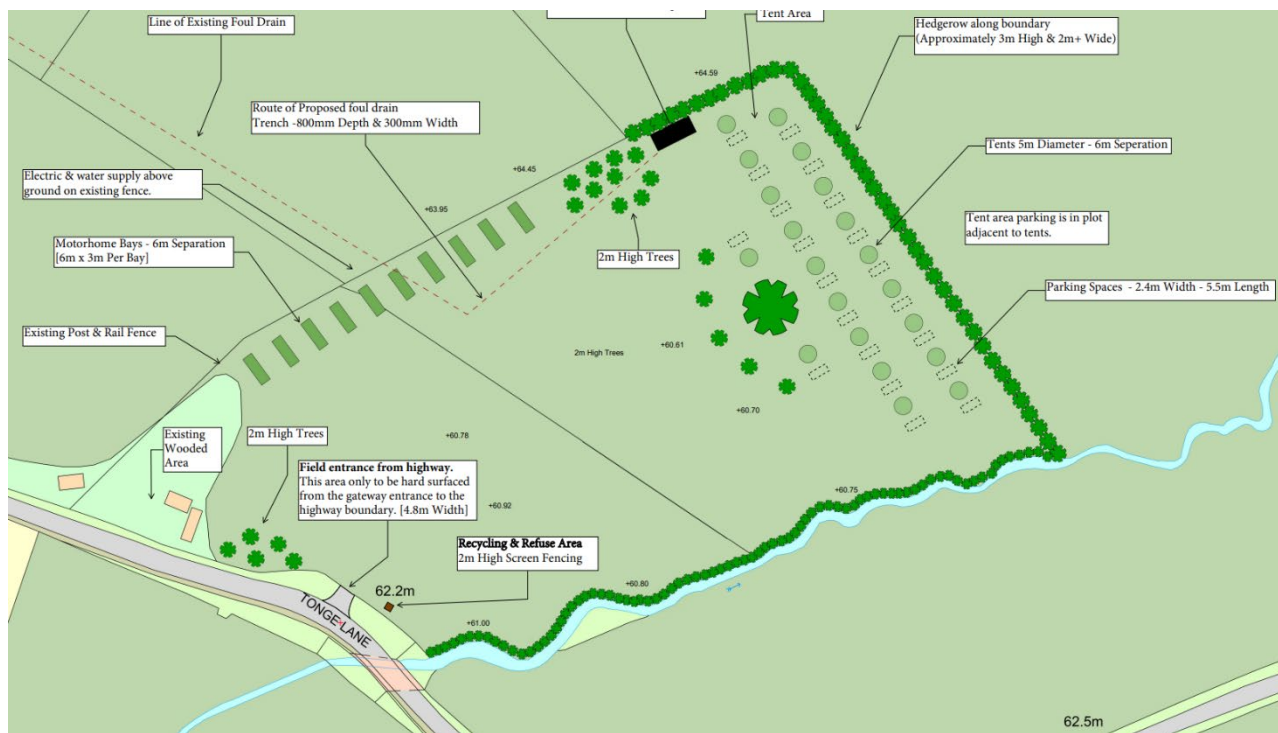
Policy Ec13 of the Local Plan supports tourism development, including overnight accommodation to support tourism where it is within limits to development. Policy Ec13 does however acknowledge that there will be circumstances where overnight accommodation may also be appropriate outside of settlements. The application site is located outside of but within accessible reach of the limits to development, where the principle of development is supported under policy S2 subject to all other planning considerations being adequately addressed. It is also considered that the proposal is small scale and would provide support for local businesses and other tourist attractions within the nearby National Forest. Overall, it is considered that the principle of development is supported by Policy Ec13 of the Local Plan.

The small scale development proposed is therefore considered to accord with policies S2, S3 and Ec13 of the Local Plan and is acceptable in principle. The application therefore falls to be considered in terms of design, impact on the character of the area, heritage assets, amenity, flooding and drainage, ecology, highway safety, and any other matters.

## Design and Impact upon Character

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 perform positively against Building for Life 12 and that developments will be assessed against the Council's adopted Good Design SPD. Policy S3 requires that where development is acceptable in principle, the appearance and character of the landscape, and local distinctiveness is safeguarded and enhanced.

The site is located outside of the settlement limits and in the countryside. The character of the surrounding area is defined by relatively open and undulating field networks interspersed with established boundary hedgerows and trees. Breedon Quarry is located 240m to the east and dominates the immediate landscape to the east. The settlement of Breedon is located to the south east. The proposed site plan is below.



The proposal seeks to change the use of an equestrian grazing field to a low density camping and caravan site. No hard surfaced vehicular or pedestrian pathways are proposed within the site. Ten campervan or touring caravan pitches are proposed which are positioned along the northern boundary of the field. The proposed pitches will measure 9m x 3m and be laid to permeable hard standing and will each be provided with an electrical hook-up point. When not in use, the proposed pitches will have limited visual impact given their position within the site and the limited amount of ground works required. It is accepted that the presence of campervans and touring caravans will be seen from beyond the site boundaries, although any impact would be temporary and reversible. The position to the east of an existing wooded area and equestrian buildings will limit any visual impact when viewed from Tonge Lane. The proposal includes the planting of new trees to the north of the access which will further augment the existing roadside trees and hedgerows which will mitigate the presence of vehicles. Any views of the pitches from Tonge Lane will therefore be intermittent and of limited visual impact. Any views of the site from

further south along Tonge Lane at its junction with Berry Avenue are extremely limited given the greater distance and the presence of well-established hedgerows along the brook which forms the southern boundary of the site. Well-established hedgerows along the north of Breedon Lane also intercept wider views towards the site from the south. Given the topography, intervening landscape features and lack of any vantage points, it is not considered that the campervan or caravan pitches could be seen from the north or east. It is recommended that the number of pitches be limited to 10 as proposed and secured by way of a planning condition.

Twenty glamping pods are proposed within the north eastern part of the field. The glamping pods will be in the form of a circular bell tent measuring 5m in diameter and 3m in height to the apex. The tents would be erected directly on to the grass with no hard standing. The tents would be positioned on the land and in from April-October only and stored off site between November and March. The seasonal use of the glamping pods limits any impact during the winter period when trees and hedgerows are not in leaf. It is recommended that the number of camping tents be limited to 20 as proposed and secured by way of a planning condition. It is also recommended that use of the field for camping in tents shall be restricted to the summer months only (April to October).

An amenities block is proposed within the north east corner of the field. The building will be of timber construction measuring 4m in height with a flat roof. The proposed positioning of the building and the use of natural external materials is such that it is not prominent and well screened by existing hedgerows to the north and east with new tree planting proposed to the south which would mitigate any visual impact.

An existing timber clad holiday lodge is located at the head of the existing driveway which runs along the south eastern boundary of the curtilage to the dwelling. The boundary to the agricultural field to the south east consists of a post and rail fence and is relatively open with some trees planted along the boundary line. Several mature trees/shrubs are planted within the curtilage to the north and north east of the building. The proposed holiday lodge would be positioned adjacent to an existing holiday lodge which would largely obscure the proposed lodge from wider views from the south and west. The lodge would be externally faced in timber to reflect the countryside landscape and its location adjacent to a small group of trees. Having regard for the existing site context, it is not considered that the proposed holiday lodge or its associated curtilage would have an unacceptable or harmful impact on the character and appearance of the area.

The proposed access point is to be taken from the existing point of access onto Tonge Lane, albeit widened to 4.8m and surfaced to meet the Highway authority's standards and therefore will result in some removal of existing hedgerow and the introduction of hard surfacing. Additional replacement planting is shown on the site layout plan and subject to exact details to be considered as a part of the discharge of conditions application, the access proposals would not result in unacceptable harm to the character and appearance of the area of the Tonge Lane street scene. It is also recommended that exact details of the refuse area be approved prior to the use commencing.

Overall, it is considered that the scheme would result in limited landscape and visual harm, although the harm is reduced by virtue of the seasonal and temporary nature of the use and the reversibility of the works proposed. It is considered that, subject to conditions to secure exact details of all elements proposed, the development and subsequent use would sufficiently respect the character and appearance of the locality and countryside beyond and would accord with Policies D1 and S3 of the adopted Local Plan and NPPF.

## Heritage

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 16 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 setting of a listed building and the character and appearance of the conservation area. The site can be seen from public vantage points within the conservation area, although this is limited to the area in and around the grade I Listed Priory which is in excess of 500m from the application site. The site is therefore considered to be within the setting of the Breedon On The Hill Conservation Area and the grade I listed Priory Church of Saint Mary and Saint Hardulph.

The heritage significance of the Grade I listed building is derived from being the former church of an Augustinian Priory founded early 12<sup>th</sup> century. The Parish Church of St. Mary and St. Hardulph occupies the summit of Breedon Hill, a limestone outcrop and dominates the surrounding landscape. The grade II listed Tomb-chest to the Dawson family and headstone to Francis Doleman are also located within the church yard.

The heritage significance of the Conservation area can be understood from the Conservation area appraisal study (2001). The grounds around the church are included within the conservation area boundary and are acknowledged to be positive areas of green space.

The site forms part of the wider landscape views from the elevated listed building. The wider natural landscape, including the application site positively contributes to the setting of the grade I listed building and the setting of the conservation area. However, it should be acknowledged that the wider landscape setting to the listed building and the conservation area has been eroded with modern development, modern agricultural practices and large scale mineral extraction sites. The application site forms a minor part of the wider landscape setting thus its individual contribution to heritage significance is very limited. Overall, taking into account the seasonal and reversible nature of the development and use, the Council's Conservation Officer has confirmed that the proposal would result in "less than substantial harm" to heritage assets or their settings thus the proposals fall to be weighed against the public benefits. This is considered within the planning balance below.

Overall, the proposal would accord with Policy He1 of the Local Plan (2021) and the NPPF. The proposal would also preserve the setting of listed building and the setting of the Conservation area in accordance with

### 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.

The nearest unrelated residential property is at The Old Vicarage on the south side of Tonge Lane, approximately 100m distance from the proposed campervan pitches. Barleycroft as the host dwelling occupied by the applicant is approximately 140m north from the campervan pitches. Properties along Berry Avenue are approximately 170m to the south.

Concerns have been raised by residents that the proposed use will result in antisocial behaviour and noise impacts. Given the distances to nearby receptors, the level of intervening tree cover

and the relatively small number of pitches proposed, it is not considered that the use would generate unacceptable levels of noise and disturbance beyond the site boundaries.

In terms of any odour impacts, the disposal of general waste will be via a waste storage point, precise details of which can be secured by condition to ensure it is satisfactory in the interests of preventing odour and litter. In terms of foul waste, it is proposed to provide a disposal point which can connect into the existing mains drainage network, which is shared with the host dwelling, Barleycroft. It is recommended that exact details of the design and location of the disposal point be secured by condition to ensure that it is satisfactorily designed and located to avoid any potential noise and odour issues.

Furthermore, the Environmental Protection Team have been consulted in connection with the proposal and have raised no objections and comment that the proposed use would not negatively impact on its environment by way of noise, light, odour or other disturbance". It is recommended that precise details of external lighting be secured by way of a planning condition to ensure that it does not adversely impact on the general amenities of the area.

Overall, it is considered that the proposal would not result in unacceptable harm to the amenity of existing or future occupiers and accords with Policy D2 of the Local Plan, the NPPF and the Good Design SPD.

### **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 in order to avoid highway safety problems and to minimise the impact upon the local environment.

In terms of transport sustainability, it is acknowledged that future visitors are likely to travel to the site by private vehicle given many will arrive in campervans or caravans, and with luggage. Notwithstanding this, the site is well connected in terms of its access to the A42, the A453 and the strategic highway network beyond. Although the site is outside of the settlement limits, the village can be reached on foot via public footpaths and the pedestrian footways along Tonge Lane and Main Street. It is considered that once visitors reach the site, access to local facilities and services can be reached by means other than the private car. It is therefore considered that the site location is sustainable having regard for the intended use.

The proposed use would generate approximately three two-way vehicle movements during the morning peak hour, with eight two way vehicle movements generated during the generic evening peak hour. The number of vehicular movements that are generated by a development of this scale and nature would not result in severe cumulative impacts on the network in accordance with paragraph 111 of the NPPF.

A 4.8m wide access with 6.0m radii has been proposed. Whilst it should be acknowledged that the Local Highway authority would usually require a 6m wide access in order to allow two vehicles to pass side by side within the access, in this instance having regard the low level trips generated and the large area of turning and waiting space within the site, it is not considered that the 4.8m wide access would be insufficient or increase risk to highway safety.

Concerns have been raised by residents that the road network around the site is dangerous and additional slow-moving vehicles at nearby junctions represent a risk to highway safety. It should be acknowledged that access to Breedon Quarry is located along Main Street within 300m of the site. The Local Highway Authority has confirmed that no Personal Injury Collision (PIC) collisions have taken place within 500m of the site access within the most recent five-year period. This suggests that the proposed use would not exacerbate any existing highway safety concerns or impacts within the surrounding highway network.

Furthermore, subject to conditions, the highway authority has raised no objection to the access proposals and the quantum of parking spaces reflects the size and number of pitches proposed, with each pitch having the required space for parking and turning.

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 supported by a Habitats and Protected Species Report produced by Paul Hicking Associates and a Biodiversity Net Gain Metric. Leicestershire County Council Ecologists have been consulted in connection with the proposal and advise that the submitted information and mitigation measures should be accepted subject to conditions.

The proposed site is permanent semi-improved grassland which has historically been managed for the purposes of keeping horses with associated grazing and stabling and was therefore as grass land, considered to be of low ecological value. The adjacent stream, hedgerows and trees have the most ecological value and should be protected during the works. There are no statutory designated sites or local wildlife sites within the site or within 1000m of the site.

Having regard for the impacts of the proposed development and the on-site mitigation measures that can be secured, the Biodiversity Impact Assessment as submitted would result in an 13.34% increase in biodiversity on site. Subject to a condition that requires exact details of the mitigation proposals and how the site will be managed over the long term, it is considered that the proposal is capable of achieving an overall net gain in biodiversity.

Provided that conditions are imposed on any consent that requires the development to be carried out in accordance with detailed mitigation measures during and post construction and ongoing management, the development will accord with policy Ne1 and the NPPF.

### **Flood Risk and Surface Water Drainage**

The site is largely situated within Flood Zone 1, an area at lowest risk from fluvial flooding, and the site is identified as an area of low risk of surface water flooding, as defined by the Environment Agency's Surface Water Flood Maps. Small parts of the site adjacent to the brook which runs along the southern boundary fall within flood zones 2 and 3. No development or positioning of tents or pitches will be within flood zones 2 and 3.

In terms of surface water, the natural topography of the site results in surface water discharging naturally into the ground and via the brook to the southern boundary of the site. The additional

areas of hard standing are limited to the access and the 10 campervan pitches proposed. Given the pitches will be laid with a permeable gravel, overall, it is not considered that the pitches in isolation will generate additional surface water flood risks within or beyond the site boundaries. Furthermore, the access area, and any areas which are used for tents, vehicles or the amenity block are temporary and having regard for the overall site area, is of very low density. Therefore, the impact on surface water flooding will not be materially worse than the existing greenfield situation.

Subject to conditions, 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**

It is noted that neighbour objections have suggested that there is a lack of demand for such facilities within the local area. It should be noted that the applicant is already operating a holiday lodge within the site which has proven to be popular thus the applicant has sought to expand the use. Notwithstanding this, the lack of evidenced demand for such facilities would not amount to a robust or reasonable reason to refuse the application and the application should therefore be determined on its planning merits.

Objections have been received on the basis that the land should be subject to a covenant to prevent further development on the site. Whilst the application and enforcement of a restrictive covenant is a private civil matter and nothing to do with the planning system or the functions of the Council, it is recommended that the number of pitches be limited by condition. This would not preclude the applicant from applying to increase the number of pitches in the future should this be desired, but any future applications would need to be considered on their individual merits at that time.

### **Conclusions**

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

The proposal for tourism use is located adjacent and accessible to a sustainable village as defined by Policy S2 of the Local Plan, which can therefore accommodate growth such as the development proposed. The proposed tourism use would also provide modest benefits to the local economy which is given limited positive weight in accordance with policy EC13 of the Local Plan.

The proposal would result in very limited harm to heritage assets and the character and appearance of the area, which would be largely reversible given the temporary and transient nature of the use, which is predominantly for camping tents, campervans and touring caravans. The use would also be seasonal. The proposal would preserve amenities for existing and future occupiers and would not result in flooding, drainage or ecological impacts subject to conditions. Overall, the public benefits of the proposal are considered to outweigh the less than substantial harm to heritage assets in accordance with paragraph 202 of the NPPF.



There are no other relevant material planning considerations that indicate planning permission should not be granted. Overall, the proposal is deemed to comply with the relevant policies in the adopted Local Plan, the Council's Good Design SPD and the overarching guidance in the NPPF. Accordingly, the application is recommended for planning permission, subject to the imposition of planning conditions.

Date: 18<sup>th</sup> November 2023

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Erection of a self-build detached dwelling (outline application with all matters reserved)

Report Item No  
A2

Fieldview House  
Babelake Street  
Packington  
Ashby De La Zouch  
Leicestershire  
LE65 1WD

Application Reference:  
23/00292/OUT

Date Registered:  
14 March 2023

Consultation Expiry:  
26 April 2023

8 Week Date:  
1 May 2023

Extension of Time:  
16 June 2023

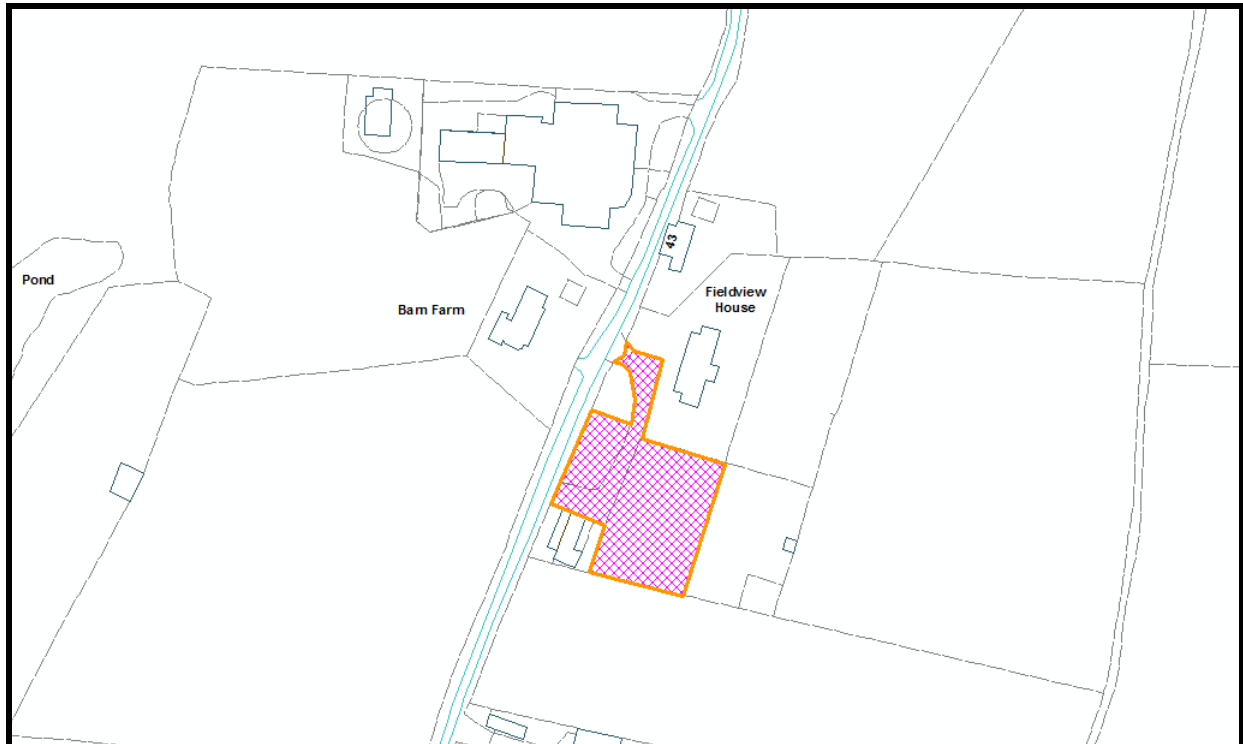
Grid Reference (E) 435847  
Grid Reference (N) 314050

Applicant: Mr James Mattley

Case Officer: Lewis Marshall

Recommendation:  
PERMIT subject to S106 agreement

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



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

1. The reserved matters to be submitted within three years and the development permitted shall begin before the expiration of two years from the date of reserved matters approval
2. Submission and approval of Reserved Matters (Scale, Appearance, Access, Landscaping and Layout) prior to commencing development
3. The development to be in accordance with the approved plans.
4. Prior to commencement, precise details of the existing and finished ground levels and the proposed floor levels
5. Foul drainage to be disposed of via a Package Treatment Plant with drainage field
6. Details of surface water management and disposal
7. Details of existing trees to be submitted with reserved matters and provision of tree protection measures prior to and throughout construction
8. The reserved matters to include a scheme of biodiversity enhancement to secure biodiversity net gain

This application is brought to Planning Committee in line with Part 4, Rule 7.4 of the Council's Constitution (9<sup>th</sup> May 2023) 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 applicant 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 an outline planning application for the erection of one self-build dwelling. The outline application seeks to establish the principle of development with the design to be subject of a later reserved matters application if approved.

The site is 0.18 hectares in size and forms part of a paddock located on the eastern side of Babelake Street. A stable block owned by the applicant lies to the south of the site and the site is adjoined by the remainder of the paddock and two dwellings. A large, detached dwelling known as Fieldview House is located to north of the application site. The submitted plan indicates that an existing access into the site from Babelake Street (which serves the existing dwelling, stables and paddock) would be used. As all detailed matters are reserved for future determination, no details of the siting, size or design of the dwelling have been submitted.

The site lies outside the Limits to Development as identified in the adopted Local Plan and lies within the catchment area for the River Mease Special Area of Conservation and the Gilwiskaw Brook (which is a tributary of the River Mease and part of the SSSI) lies approximately 110 metres to the east of the site. Blake Farmhouse (No. 33 Babelake Street) lies approximately 110 metres to the north of the site and is a Grade II listed building. The hedgerow fronting the site has been designated as a Local Wildlife Site. A plan of the site is shown on figure 1 below.



Figure 1 – Site Location Plan

The application is supported by a Planning Statement and River Mease 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 wider site is listed below -

20/00916/FUL - Erection of detached garage and log store – Refused July 2020 and allowed on appeal November 2020

17/00174/REM - Erection of one self-build dwelling (reserved matters to Outline Planning Permission 16/00612/OUT) – Approved May 2017

16/00612/OUT - Erection of one self-build dwelling (outline - all matters reserved) – Approved October 2016

13/00670/FUL - erection of one single storey storage building for purposes ancillary to equestrian use – Approved October 2013

12/00642/FUL - Erection of an agricultural building for the storage of feed, agricultural machinery and animals, improvements to vehicular access and access roadway along with the relocation of existing lorry body container – Approved October 2012

10/00970/FULM - Formation of a menage, including removal of topsoil and erection of post and rail fencing and continued use of land for the keeping of horses (revised scheme) – Approved January 2011

10/00381/FULM - Formation of menage, including removal of topsoil and erection of post and rail fencing and continued use of land for the keeping of horses – Refused July 2010

02/01462/FUL - change of use of fields to paddock and the erection of stables – Approved December 2002

02/00152/FUL - Change of use of field to paddock and the erection of stables – Refused September 2002

## **2. Publicity**

Six neighbours notified on 14 March 2023.

A site notice was displayed on the 17 March 2023.

A press notice was published in the Leicester Mercury on the 22 March 2023.

### 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.  
Leicestershire County Council – Minerals Authority  
Leicestershire County Council – Archaeology

NWLDC - Environmental Protection  
NWLDC – Conservation Officer

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

NWLDC – Tree Officer  
Natural England  
Environment Agency

#### Objections from:

**Packington Parish Council** for the following reasons:

- The site is outside of the settlement boundary
- Support the continuation of the equestrian use of land
- Use of the access should be for Fieldview House only
- Other self-build applications in Packington have been refused
- Concerns with Flood Risk and Ecology

#### Support from:

**Ward Cllr Smith** for the following reasons:

- The Council have previously supported a self-build dwelling in this location previously.
- The Council have failed to provide a sufficient number of self-build plots in order to meet demand.
- The proposed dwelling would have no impacts on existing residential properties or the surrounding area (he notes that there have been no/limited public opposition to the proposals).

#### Third Party Representations

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

- The development would have no impact on the environment or existing residents.
- The development and new residents would provide social and economic benefits to the village.
- The development would be infilling, small scale and unobtrusive.
- Babelake Street is lightly trafficked.

- The existing access is safe and capable of accommodating additional vehicle movements.
- The self-build dwelling would enable former residents to return to the village.
- The adverse impacts of the development would not significantly and demonstrably outweigh the benefits.

#### **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);  
Paragraphs 78, 79, 80 (Delivering a sufficient supply of homes)  
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 En2 – River Mease Special Area of Conservation  
Policy En3 – The National Forest  
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 – Section 66  
 Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).  
 National Planning Practice Guidance - 2021  
 National Forest Strategy 2014 - 2024  
 National Design Guide – October 2019  
 The Self-Build and Custom Housebuilding Act 2015  
 The Conservation of Habitats and Species Regulations 2017  
 Circular 06/05 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System  
 River Mease Water Quality Management Plan – August 2011  
 The River Mease Developer Contributions Scheme (DCS) – September 2016  
 Natural England’s Standing Advice 4th Edition – November 2021  
 Environment Agency Advice for Local Authorities on non-mains drainage from non-major development

## 5. Assessment

### Principle of Development

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2002 (as amended)).

As of 21st November 2022, the adopted Local Plan became five years old and therefore an assessment is required as to whether the most important policies in the determination of the application are up to date having regard for their consistency with the National Planning Policy Framework. The most important policies in the determination of this application are policies S2 and S3 as they relate to the provision and distribution of housing. The Council can demonstrate a five-year housing land supply and has performed well against the Government's Housing Delivery Test. It is considered that Local Plan Policies S2 and S3, the policies of greatest importance in this case, are effective, not out of date and carry significant weight.

The site is located within land falling outside the defined Limits to Development designated as countryside within the adopted Local Plan. Residential development is not a form of development that is permissible by Policy S3 of the adopted Local Plan (2021) and the proposal does not constitute the redevelopment of previously developed land under criterion (e) or an exceptions site for affording housing under criterion (g) of Policy S3.

In terms of the compliance with criterion (i) to (vi) of Policy S3 this would be assessed as follows:

- (i) *The appearance and character of the landscape, including its historic character and features such as biodiversity, views, settlement pattern, rivers, watercourses, field patterns, industrial heritage and local distinctiveness is safeguarded and enhanced.*

For the reasons discussed in the design section of this report, it is considered that the character of the landscape would be safeguarded.

- (ii) *It does not undermine, either individually or cumulatively with existing or proposed development, the physical and perceived separation and open undeveloped character between nearby settlements, either through contiguous extensions to existing settlements or through development on isolated sites on land divorced from settlement boundaries.*

It is considered that the proposed development individually, or cumulatively with other development, would not undermine the physical and perceived separation and open undeveloped character between nearby settlements.

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

It is considered that the proposal would not create or exacerbate ribbon development.

- (iv) *Built development is well integrated with existing development and existing buildings, including the re-use of existing buildings, where appropriate.*

The proposed development would be well related to existing dwellinghouses fronting Babelake Street.

- (v) *The development will not seriously undermine the vitality and viability of existing town and local centres.*

On the basis that the development relates to a new dwellinghouse, it is considered that there is no conflict with this criterion.

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

In terms of social sustainability Packington is defined as a “Sustainable Village” within the Local Plan which provides a range of day to day facilities, e.g. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites, and there is a limited hourly public transport service. These services/facilities are within one km walking distance of the site. Ashby-de-la-Zouch is also located approximately 1.7km from the site, where a wider range of services can be found. Whilst there is no footway along this part of Babelake Street, it has a relatively low traffic flow and verges and footways are available further along the road. Furthermore, there are several public footpaths leading off Babelake Street providing links to the village and National Forest plantations, and the road is used by cyclists/walkers and horse riders from the nearby Champneys spa and stables. As such there are opportunities to walk to the village from the site along a route which is already in use by pedestrians and other non-car users. Therefore, it is considered that occupiers of the dwelling would not necessarily be dependent on the private car.

Given the location of the proposed development future residents would not be heavily dependent on the private car to access the most basic of services. Although the site is outside

of the defined settlement limits, the site is currently considered to be accessible by a range of sustainable transport and therefore, the proposal would not conflict with criterion (vi) of Policy S3. Accordingly, the development is considered to represent sustainable development, a core objective of the NPPF, and would not result in conflict with criterion (vi) of Policy S3 of the adopted Local Plan as well as provisions of the NPPF. It is also a material consideration that the Local Planning Authority has granted planning permission for one dwelling adjacent to the application site which also falls outside of the settlement limits.

Notwithstanding the above, the development is not supported in principle by policies S2 and S3 of the Local Plan. The proposal would therefore conflict with the broad objective of containing new residential development within the settlement limits of sustainable villages such as Packington.

### Self-Build

The District Council has a duty under Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended), to give suitable development permissions in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the area of North West Leicestershire arising in each base period. This District Council's Self-Build Register was established in April 2016. As of January 2023, there are 98 individuals on the self-build register. For the area of North West Leicestershire, this demand equates to providing a specific number of permissions for plots. The demand is split in different base periods and in the current base period, based on the number of entries on the register, there is currently a shortfall of four self-build plots. It is therefore considered that the relevant policies of the Local Plan are failing to secure sufficient permissions in this regard.

The adopted Local Plan is silent on the matter of self-build housing and in instances where the Local Planning Authority is not delivering a sufficient number of self-build plots to meet demand, paragraph 11 of the NPPF would apply which states that 'plans and decisions should apply a presumption in favour of sustainable development'.

For decision taking, it sets out in criterion (d) that '*where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

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

In light of the existing shortfall of self-build plots and that the application site falls within none of the areas identified within paragraph 11(d)i, the test to be applied in this case is that set out in paragraph 11(d)ii; that planning permission should be granted for the proposal unless:

*'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

The Council's Planning Policy Team has confirmed that the applicant (Mr. James Mattley) is currently on the Council's self-build register. Therefore, in light of this shortfall that derives from the Self Build Register, this need has to be balanced against planning considerations in coming to a view on the suitability of the proposal. This balancing exercise will be undertaken upon completion of the consideration of all planning matters at the end of this report.

## 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 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which states that special regard shall be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

The site consists of equestrian paddocks with a small woodland belt to the south. The site is largely screened from Babelake Street with a large hedgerow and ancillary outbuildings that currently serve Fieldview House. This part of Babelake Street is characterised by sporadic and loose knit development and the proposal would result in the loss of greenfield land within the countryside. However, the development will be located within an existing cluster of dwellings, the existing stable block, and a farm complex made up of several buildings and associated hardstanding. As such it is considered that harm to the character and visual amenities of the countryside would be limited as the development would not appear prominent within the rural landscape and would be well screened by the existing frontage hedgerow and seen within the context of existing built development. The existing belt of woodland to the south also encloses the development from the wider countryside beyond.

There is variety in the scale and design of the dwellings along Babelake Street and a self-built dwelling would give an opportunity to reflect local character and distinctiveness. The site could accommodate all of the necessary requirements (private garden, parking/turning space) without being cramped or resulting in over-development.

Blake Farmhouse (No. 33 Babelake Street) lies approximately 110 metres to the north of the site and is a Grade II listed building. Therefore, the impact of the development on the setting of the listed building should be given special regard as required by the 1990 Act. No. 33 dates from the 18th century and part of its significance comes from its traditional design and many original details and design features and its prominence within the street scene (due to its scale and design). Its significance is also due to its association with the farm which forms the historic edge to the settlement with the countryside beyond.

Significant weight is given to preserving the setting of the Grade II listed building. There is some distance between the site and the listed building with intervening screening from existing buildings and mature vegetation. Any views of a dwelling in the setting of the listed building from public footpaths and in longer views would be alongside existing development along Babelake Street. There is no evidence to suggest there is any direct functional/historic relationship between the site and the listed building. Therefore, it is considered that a dwelling on the site would result in no harm to the setting of the listed building and would not therefore be harmful to its significance.

Overall, the proposal is considered to be 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 as is desirable under Section 66 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.

Given that the application is submitted in outline form with all matters reserved, it is not possible to assess the impacts upon the residential amenity of surrounding dwellings in detail. Impacts, particularly in terms of privacy, loss of sunlight and daylight and overbearing impacts would be a primary consideration at the reserved matters stage, when details of the scale and appearance of the proposal are presented for approval. How the proposed scale, appearance, including details of proposed ground levels and boundary treatments will impact or preserve amenity will also be considered carefully at the reserved matters application stage. However, the submitted block plan which indicates how the site would be divided provides a high degree of confidence that a scheme is capable of being delivered that would accord with policy D2 of the Local Plan.

The site is located close to a farm and stables which could result in smells and noise affecting occupiers of the new dwelling. However, no objections have been raised in respect of this matter by the Council's Environmental Protection team and it is not unusual for dwellings to be located close to such uses in rural areas.

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 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 in order to avoid highway safety problems and to minimise the impact upon the local environment.

The site is located within the countryside and the indicative block plan submitted suggests that the dwelling would be accessed via the existing access that serves Fieldview House. It is not anticipated that there are changes proposed to the access arrangements where the site adjoins the public highway.

The Local Highway Authority has been consulted on the proposal and has referred the Local Planning Authority to standing advice.

It should also be noted that the Local Highway Authority raised no objections to the use of the access in considering the application for Fieldview House which was granted planning permission in 2016. In considering the outline application the County Highways Authority advised that due to the site's existing use as a pony paddock the proposed dwelling would not result in a significant increase in trips and an argument could be made that there would be reduction in movements on a daily basis. Based on these conclusions a condition was imposed on the outline permission to limit the occupancy of the dwelling to the owners/users of the adjacent land and stables so as to ensure there would not be a substantial increase in vehicles using the access. In considering the additional vehicle movements generated by an additional dwelling within the site, the number of vehicular movements associated with an additional single dwelling is likely to be very low and it is not considered that such a restriction on the occupancy would be reasonable or necessary in the consideration of this application.

The existing access is located to the north of Babelake Street on an unclassified road subject to a 30mph speed limit. DG20 of Part 3 of the Leicestershire Highway Design Guide (LHDG) requires access points serving between two and five dwellings to have a minimum width of 4.25 metres for a minimum distance of 5m behind the highway boundary. The existing access point is 5.6 metres in width in excess of 5 metres from the edge of the highway. The width of the existing access is therefore deemed to be acceptable in relation to the advice in the LHDG.

The visibility splays of 45 metres in both directions at the access have already been secured as part of planning application 02/01462/FUL. There have been no significant changes to conditions on this lightly trafficked road or significant developments in the surrounding area which would result in a different conclusion being reached regarding the safety of the existing visibility splays at the site access.

In terms of parking provision, the application is submitted in outline form so it is not known precisely how many parking spaces will be required as this will depend on the size of the dwelling. However, it is clear that there is sufficient space within the site to provide parking for at least three cars being the number of spaces that would be required for a 4+ bed dwelling.

Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The proposed development would not have an unacceptable impact on highway safety, nor would the residual cumulative impacts on the road network be severe.

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 hedgerow that forms the site's front boundary is identified as a candidate Local Wildlife Site. The application states that there is no intention to remove the hedgerow and the existing access would be utilised. The majority of the site forms part of an equestrian paddock thus has limited ecological value. A small area of woodland is located to the south of the site. There

would be space on the site to accommodate a dwelling without the need to remove or impact on the hedgerow or any other features of biodiversity value. The County Ecologist has no objections and does not consider the proposal needs to be supported by a Preliminary Ecological Appraisal at the outline application stage.

Accordingly, Leicestershire County Council Ecology raises no objection in principle with the impacts and mitigation to be considered and secured as part of the later reserved matters application. A condition is recommended that requires the submission of a scheme of biodiversity enhancements as part of the reserved matters application in order to secure a biodiversity net gain.

Whilst the mandatory requirement for 10 percent BNG has not yet been enacted through the Environment Bill (expected 2023), paragraph 174(d) of the NPPF sets out a requirement to minimise impacts on and provide net gains for biodiversity. In this case, whilst no calculations have been provided, no significant loss of habitat would occur as a result of this development and the reserved matters application provides an opportunity to secure long term enhancements as part of the landscaping, appearance and layout. Given the lack of any natural features of biodiversity that would be impacted by the development, overall, it is considered that the proposals is capable of complying with the provisions of paragraph 174(d) of the NPPF.

Given the extent of the proposed works which would be confined to the paddock 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 En1 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.

There would be no increase in impermeable hardstanding or surfacing as a result of the proposed development. However, the submitted indicative block plan demonstrates that there is sufficient space within the site to provide drainage features that can hold any excess surface water created by the additional areas of hardstanding. Subject to the exact details of surface water management features to be considered as part of the reserved matters application, It is not considered the proposal would result in a material impact on flood risk or drainage and would not exacerbate flood risk elsewhere.

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.

### **The River Mease Special Area of Conservation and SSSI**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC) and the Gilwiskaw Brook (which is a tributary of the River Mease and part of the SSSI) lies approximately 110 metres to the east of the site. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore, an assessment of whether the proposal would have a significant effect on the SAC is required.

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

As the proposal would result in additional overnight stays associated with the proposed residential use, there would be an increase in occupancy of the site, resulting in an increase in foul drainage discharge from the site. Additional foul drainage discharge from the site would therefore adversely impact on the SAC as it would pass through the sewage treatment works within the catchment area of the River Mease SAC and contribute to the raised phosphate levels in the river.

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

### ***Foul Drainage***

Natural England has advised that connection to the public sewer is the preferred drainage option for the disposal of foul water. As the site is over 30 metres from the nearest public sewer and the applicant does not have permission to connect to a nearby private sewer, it would be eligible for a non-mains drainage solution for the disposal of foul water. A non-mains foul drainage scheme is therefore proposed.

The use of non-mains drainage can mitigate against additional phosphate entering the SAC providing it is suitably designed and managed over the lifetime of the development. Therefore, an assessment under the nutrient neutrality methodology is not required in this case.

The proposal seeks to utilise a package treatment plant such as a Kingspan Klargestar Biodisc or similar. A package treatment plant is a system which offers varying degrees of biological sewage treatment and involves the production of an effluent which can be disposed of to ground via a drainage field or direct to a watercourse. The use of a package treatment plant would include for appropriately sized drainage fields and would not discharge solely to a watercourse. This would have a similar arrangement to the existing package treatment plant that has been agreed by the Local Planning Authority for Field View House as part of planning application 16/00612/OUT

Natural England advises that the Council should satisfy itself that there would be no harmful discharges of foul or surface water from the site into the River Mease or its tributaries (which includes the Gilwiskaw Brook). The Environment Agency has no objections providing that the method of foul drainage discharges into an approved drainage field and surface water discharges into a soakaway or other suds feature. The site is of a sufficient size that there is the required space for a drainage field. Given the distance from the site to the Gilwiskaw Brook (approx. 110 metres) it is considered that a package treatment plant would not adversely impact on the SAC/SSSI.

### ***Surface Water Drainage***

Natural England has indicated that subject to mitigation measures to be secured by way of planning conditions and/or S106 agreement, the proposal would not result in harm to the water environment.



Due to the location of the proposed development, which falls within a Special Area of Conservation (River Mease Catchment), an extra treatment to the surface water should be provided before discharging it into the open water course to reduce the pollution hazard level. The proposed parking area is to consist of a small amount of additional permeable gravel which allows water to pass through the surface, between the gravel and the existing permeable laying course which naturally filtrates any pollutants that land on the surface material. Additional surface water also falls into the adjacent pond which would also naturally filtrate as it enters the water table.

A condition could be imposed requiring the discharge of surface water to an on-site sustainable drainage system the design of which can be approved as part of any reserved matters application.

On the above basis, surface water run-off from the site would not adversely impact on the integrity of the River Mease SAC.

### **Conclusion**

Therefore, it can be ascertained 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.

### **Other Matters**

Packington Parish Council have raised concerns that approving the application would be inconsistent with other applications for self-build dwellings in the countryside outside of Packington that have been refused. It is also considered that to permit the development would set a precedent for further development on greenfield land outside of the settlement limits.

Each application must be determined on its individual merits. In respect of the examples of previously refused self-build dwellings (17/01575/OUT and 17/00284/OUT). As set out above, the Local Plan is now more than five years old and despite the Self-Build and Custom Housebuilding Act (as amended), the NPPF and the Self-Build and Custom Housebuilding section of the PPG, there are no specific policies within the Local Plan relating to self or custom build housing. The current policy context therefore requires the Local Planning Authority to approve the application unless the harm significantly and demonstrably outweighs the benefits. This is a matter of legitimate planning judgement for the decision taker, which is considered within the conclusion and planning balance below.

In terms of any precedent that could be set by the granting of planning permission, each application must be considered on their individual merits based on the relevant planning policies and other material considerations relevant at the time of determination.

## Conclusion and Planning Balance

As set out above, the proposed development would contribute towards the supply of self-build plots when there is an identified shortfall, and the Local Planning authority is failing in its statutory duty to provide enough self-build plots in order to meet demand. It should also be acknowledged that, in terms of technical matters, the scheme would be satisfactory. Nevertheless, the scheme would result in residential development on land located outside the Limits to Development.

The most important policies in the determination of this application are policies S2 and S3 as they relate to the provision and distribution of housing and as set out earlier in this report these policies of greatest importance in this case, are effective, not out of date and carry significant weight. However, the adopted Local Plan is silent on the matter of self-build housing and in these circumstances, as set out earlier in this report, paragraph 11(dii) of the NPPF would apply which states that 'where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'

Limited harm would arise from the loss of greenfield land located within the countryside. However as set out in more detail above, the sites location is considered to be relatively sustainable and the proposal would not result in an 'isolated' dwelling or any unacceptable impacts on the natural, built or historic environment that cannot be overcome with appropriate design and mitigation which can be secured by conditions or at the Reserved Matters application stage, should outline planning permission be granted.

Moderate harm would arise from the granting of a permission that is in conflict with policies S2 and S3 of the Local Plan.

Balanced against the harms, the benefits of the proposed development consist of the economic expenditure both during construction and through additional expenditure by future occupants within the local area which is of benefit to the local economy. The provision of additional housing in a sustainable location is also afforded positive weight, with additional positive weight given to the provision of a self-build plot where there is currently an identified borough wide shortfall. The benefits of the self-build dwelling can be secured by way of a legal agreement that requires the self-builder to occupy the property for the first three years following construction.

Overall, it is not considered that the harms when considered individually or cumulatively would significantly and demonstrably outweigh the identified benefits.

It is therefore recommended that planning permission be granted subject to Section 106 obligation and subject to the following condition(s) conditions as set out above.

Date: 28<sup>th</sup> April 2023.