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Meeting	PLANNING COMMITTEE
Time/Day/Date	6.00 pm on Tuesday, 7 November 2023
Location	Forest Room, Stenson House, London Road, Coalville, LE67 3FN
Officer to contact	Democratic Services (01530 454529)

AGENDA		
Item		Pages
1. APOLOGIES FOR ABSENCE		
2. DECLARATION OF INTERESTS		
	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.	
3. MINUTES		
	To confirm and sign the minutes of the meeting held on 3 October 2023	3 - 6
4. TO CONSIDER AN OBJECTION MADE BY BTA PARTNERSHIP IN RESPECT OF NWLDC TREE PRESERVATION ORDER T509 - LAND REAR OF 47-49 MARKET STREET, ASHBY DE LA ZOUCH		
	Report of the Tree Officer	7 - 32
5. PLANNING APPLICATIONS AND OTHER MATTERS		
	Report of the Head of Planning and Infrastructure.	33 - 36

Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	CONSTRUCTION OF 28 1-BEDROOM RESIDENTIAL APARTMENTS WITH ASSOCIATED COMMUNAL AREAS, PARKING AND BIN STORAGE. CONSTRUCTION OF LEISURE BUILDING TO INCLUDE A BOWLING ALLEY, RESTAURANT WITH SECOND FLOOR TERRACE AREA, MINI GOLF AND GAMING AREAS. PART-DEMOLITION OF 75-81 BELVOIR ROAD AND CHANGE OF USE FOR RETAIL INCLUDING ASSOCIATED EXTERNAL ALTERATIONS AND PARKING, DEMOLITION OF 83 BELVOIR ROAD, ALTERATIONS TO EMPORIUM NIGHTCLUB INCLUDING PART DEMOLITION TO THE REAR, TOGETHER WITH NEW ACCESS ONTO BELVOIR ROAD AND CREATION OF ASSOCIATED PUBLIC AMENITY AREAS APPLICATION REFERENCE 22/00819/FULM		
	Land Off Belvoir Road Coalville Leicestershire LE67 3PD		37 - 70
A2	ERECTION OF TWO DWELLINGS (RESUBMISSION OF 20/00699/FUL) APPLICATION REFERENCE 23/01127/FUL		
	Land Adjacent To 5 Cedar Grove, Moira, Derby		71 - 84
A3	CHANGE OF USE OF LAND FOR PARKING OF HEAVY GOODS VEHICLE (HGV) FOR A TEMPORARY PERIOD OF 36 MONTHS INCLUDING ERECTION OF FENCING/GATES AND A MOBILE BUILDING APPLICATION REFERENCE 23/00565/FUL		
	Former Site of Stardust Beveridge Lane Bardon Coalville Leicestershire LE67 1TS		85 - 114
A4	ERECTION OF A RURAL WORKERS DWELLING AND SECURE AGRICULTURAL STORE APPLICATION REFERENCE 23/00306/FUL		
	Rainbow Crescent 7 The Moorlands Coleorton Coalville Leicestershire LE67 8GG		115 - 136
A5	ERECTION OF 5 NO SELF BUILD DWELLINGS (OUTLINE APPLICATION WITH ALL MATTERS RESERVED EXCEPT FOR ACCESS) APPLICATION REFERENCE 23/00740/OUT		
	Land At Main Street Swannington Coalville Leicestershire LE67 8QL		137 - 154

MINUTES of a meeting of the PLANNING Committee held in the Forest Room, Stenson House, London Road, Coalville, LE67 3FN on TUESDAY, 3 October 2023

Present: Councillor R Boam (Chair)

Councillors D Bigby, R Blunt (Substitute for Councillor R L Morris), R Canny, D Cooper (Substitute for Councillor C A Sewell), D Everitt, T Eynon (Substitute for Councillor P Moulton), J Legrys, J G Simmons, N Smith and M B Wyatt (Substitute for Councillor M Burke)

In Attendance: Councillors A Barker

Officers: Mr C Elston, Mr D Jones, Mr S James and Mrs R Wallace

28. APOLOGIES FOR ABSENCE

Apologies were received from Councillors M Burke, R Morris, P Moulton and C Sewell.

29. DECLARATION OF INTERESTS

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

Councillor T Eynon declared an 'other' interest in item A1, application number 21/00233/REMM and item A2, application number 21/00711/REMM as she was approached by the applicant for advice as a General Practitioner at the time of the initial outline planning permission application for the site.

Councillor N Smith declared an 'other' interest in item A1, application number 21/00233/REMM and item A2, application number 21/00711/REMM as an acquaintance of the landowner, however contact had not been made for many years.

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

item A1, application number 21/00233/REMM and item A2, application number 21/00711/REMM

Councillors D Cooper and J Legrys.

30. MINUTES

Consideration was given to the minutes of the meeting held on 12 September 2023.

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

RESOLVED THAT:

The minutes of the meeting held on 12 September 2023 be approved and signed by the Chairman as a correct record.

31. 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.

32. A1 - 21/00233/REMM: RESERVED MATTERS APPROVAL (ACCESS, APPEARANCE, LAYOUT AND SCALE) (OUTLINE PLANNING PERMISSION 15/00456/OUTM) FOR A 62 BED CARE-HOME DEVELOPMENT AND 15 CARE RELATED DWELLINGS ALONG WITH VEHICULAR ACCESS FROM ASHBY ROAD AND INTERNAL LAYOUT FOR THE FIRST PHASE

Willow Farm, Ashby Road, Moira, Swadlincote, DE12 6DP

Officer's recommendation: Permit

The Chair advised that as items A1 and A2 related to the same site, they would be considered together but would be voted on separately.

The Principal Planning Officer presented the report to members.

Mr Shephard, representative for the Parish Council, addressed the Committee and highlighted concerns that had been raised from when the outline permission was applied for several years ago through to the application in front of Members. Reference was made to the traffic survey which he felt was not accurate as it was undertaken during the Covid Pandemic, it was suggested that should the application be permitted, the speed of the road be reduced to 30mph, and a pedestrian crossing be installed to enable the elderly residents to safely cross the busy road. Mention was also made to the installation of double yellow lines to stop dangerous parking. Reference was made to the medical provision in the area and that it has already been identified as not being able to meet local needs. As the previous outline planning permission was granted eight years ago, it was suggested that it be reviewed due to the changes over this period.

Mr McCaffrey, objector, addressed the Committee. Reference was made to the 'precise details' required for condition 5 and it was highlighted that these details were not included in the application. Concerns were also raised regarding the accuracy of the plans due to nearby dwellings being incorrect, the measurements being incorrect for condition 11 and the unacceptable number of parking spaces. In relation to the wildlife on the site, it was confirmed that bats and owls had been seen and it was suspected that as part of the unoccupied house on the site was open to the elements, the wildlife could be settled there. It was also suggested that due to the length of time since it was last undertaken, the traffic survey be carried out again.

Ms Else, agent, addressed the Committee highlighting the conditions attached to the outline planning permission, the Section 106 Agreement and information in relation to the lease management. In relation to the medical provision, it was confirmed that as the service provider was operating several care homes, links were already made with medical practitioners of their own and therefore no additional pressure would be placed on the local medical provision. Members were reminded that the application was only in relation to the appearance, scale, landscaping, access and layout, and it was highlighted how the changes made, reflecting on feedback from local residents and officers, concealed the height and mass of the building.

As the Ward Member was unable to attend the meeting, a written statement had been submitted which was read to the Committee by the Democratic Services Officer. It highlighted concerns of residents in relation to loss of access to private driveways, reduction in speed limit on the Ashby Road carriageway, relocation of bus stop, loss of trees and disruption to residents during building works.

The Planning and Development Team Manager addressed the matters raised by the speakers.

In determining the application Members noted the improved changes to the application made by the Council's Urban Design Officers and acknowledged that highway matters were not something the committee could consider. Members were reminded that the pedestrian crossing was covered by condition 8 of the outline permission. Due to the concerns raised by residents, officers were asked to send a letter to the applicant to encourage proper dialogue with the community. It was suggested this be done via a liaison committee.

Comments were made in relation to the appropriate internal layout of the two storey homes to ensure residents could stay in their homes rather than move onto additional care should they chose to. Officers confirmed that this was not a planning consideration, however the Chair invited the agent to come forward and provide information. It was noted that the homes would be built in accordance with the disability standard regulations as applied.

Further general discussion was had on the retention of the hedgerows, local amenities, and proposed parking provision. The applicant was encouraged to work with the Parish Council on the external aesthetics of the proposed building.

The recommendation to permit the application in accordance with the officer's recommendation was moved by Councillor R Canny and seconded by Councillor N Smith.

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

RESOLVED THAT:

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

Motion to permit the application in accordance with the officer's recommendations (Motion)	
Councillor Russell Boam	For
Councillor Dave Bigby	For
Councillor Richard Blunt	For
Councillor Rachel Canny	For
Councillor Doug Cooper	For
Councillor David Everitt	For
Councillor Dr Terri Eynon	For
Councillor John Legrys	Against
Councillor Jenny Simmons	For
Councillor Nigel Smith	For
Councillor Michael Wyatt	For
Carried	

33. **A2 - 21/00711/REMM: RESERVED MATTERS APPROVAL (INTERNAL ACCESS, APPEARANCE, LAYOUT, SCALE AND LANDSCAPING) (OUTLINE PLANNING PERMISSION 15/00456/OUTM) FOR A 45 UNIT APARTMENT BLOCK WITHIN THE SECOND PHASE**

Willow Farm, Ashby Road, Moira, Swadlincote, DE12 6DP

Officer's recommendation: Permit

The recommendation to permit the application in accordance with the officer's recommendation was moved by Councillor R canny and seconded by Councillor N Smith.

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

RESOLVED THAT:

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

Motion to permit the application in accordance with the officer's recommendations (Motion)	
Councillor Russell Boam	For
Councillor Dave Bigby	For
Councillor Richard Blunt	No vote recorded
Councillor Rachel Canny	For
Councillor Doug Cooper	For
Councillor David Everitt	For
Councillor Dr Terri Eynon	For
Councillor John Legrys	Against
Councillor Jenny Simmons	For
Councillor Nigel Smith	For
Councillor Michael Wyatt	For
Carried	

The meeting commenced at 6.00 pm

The Chairman closed the meeting at 7.15 pm

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL
PLANNING COMMITTEE – TUESDAY, 7 NOVEMBER 2023

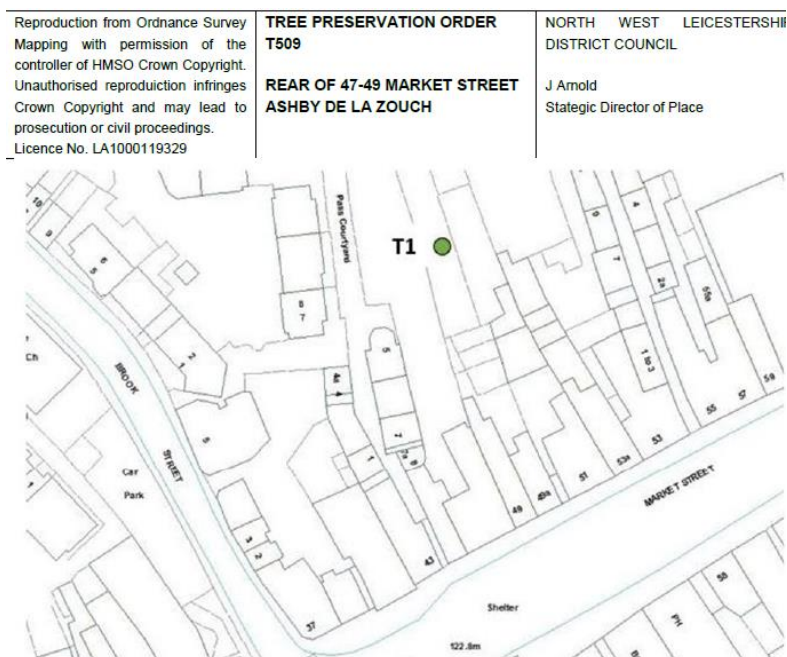


Title of Report	TO CONSIDER AN OBJECTION MADE BY BTA PARTNERSHIP IN RESPECT OF NWLDC TREE PRESERVATION ORDER T509 – LAND TO THE REAR OF 47-49 MARKET STREET ASHBY DE LA ZOUCH	
Presented by	Julian Simpson Tree Officer	
Background Papers	None	Public Report: Yes
Financial Implications	None	
Staffing and Corporate Implications	None	
	Signed off by the Director of Place: Yes James Arnold	
Legal Implications	None	
	Signed off by the Legal Advisor: Yes Stephen James	
Purpose of Report	A provisional TPO was made on 30 th May 2023 to protect T1 Silver Birch located in the parking area to the rear of the property. The TPO needs to be confirmed within six months. The tree will lose its TPO protection if the TPO is not confirmed before 30 th November 2023.	
Recommendations	IT IS OFFICER RECOMMENDATION THAT THE TPO BE CONFIRMED.	

1. BACKGROUND

- 1.1 In April 2023 a S211 notice was submitted of the intention to fell 2no. Ash trees and carry out a crown reduction to 1no. Silver Birch tree (unprotected trees in a conservation area) under application 23/00398/TCA. Due to the Ash trees being of poor quality and unsuitable for their positions, the council had no objection to them being felled. Due to the damaging nature of a crown reduction to amenity value and health of the Silver Birch, provisional TPO T509 was made (*see appendix 1 for details of the provisional TPO*).

- 1.2 The location of the Silver Birch is shown in the plan below with a photograph taken of the tree from Market Street to show its visibility from within the Conservation Area:



T1 Silver birch on the right
viewed from North Street



- 1.3 Subsequently an application was received on 26th June (23/00795/TPO) to fell the Silver Birch. The applicant submitted a structural report and tree report and subsequently, the application was refused for the following reason:

The application to fell is refused to ensure that unnecessary work is avoided and maintain amenity value. The proposals would result in the removal of a mature Silver Birch tree, protected for its amenity value, without any arboricultural justification or proven technical evidence that the tree has caused structural damage being demonstrated.

2. OBJECTIONS

- 2.1 One objection to the TPO was received from the applicant referring to the crown reduction having been carried out on the advice of a specialist to reduce the risk of uprooting and falling of branches which were unstable onto structures and buildings and onto an adjacent lane which is a private right of way (not a public footpath). (See appendix 2 for full details of the objection).

3. OFFICER COMMENTS

- 3.1 The submitted Tim Alden Consultancy tree report (see appendix 3 for full details of the report) concluded that damage to the existing boundary wall which lies next to the Birch tree is fairly likely and that proper repair of a retaining wall is quite expensive and if the tree issue is not addressed properly, that damage is likely to re-occur. It recommends that the tree should be removed or reduced in size, even though a crown reduction would not alter the position of the tree's root system or its interaction with nearby structures in any way. The report provides no evidence of instability or poor structural condition to justify the works proposed.
- 3.2 Pibworth Associates Consulting Civil and Structural Engineers (see appendix 4 for full details of the report) inspected the site on the 20th of June 2023 and noted several mature broadleaf trees growing close to the rear boundary wall. They concluded that the wall is already leaning significantly, bricks are weathered, and they are of the opinion that the action of tree roots is undermining the wall. They also state that tree canopies will cause damp damage to brickwork. The report is not specific to Birch tree T1 and no investigation has located any tree roots specific to this tree.
- 3.3 The report also does not refer to the raised bed behind the wall to the east, with the weight of soil against it or the Conifers located directly behind the wall. The wall is leaning towards the Birch to the west on the lower side and away from the Conifers. No evidence has been submitted that the Birch roots have caused any damage.
- 3.4 The Council's Tree Officer re-visited the site on 18th August 2023 and re-confirmed that the tree is in good condition. The weight of soil behind the wall and with the Conifers being so close, are more likely to be the cause of the damage in addition to the wall's aged and neglected condition. Depth of wall foundations and soil type are unknown.
- 3.5 With or without Birch T1, the wall will need to be dismantled and re-constructed. A re-built wall design could bridge any important Birch roots and can be carried out to withstand any future direct influence.
- 3.6 The Tree Officer's conclusion therefore is that due to the tree's good condition, the positive contribution it makes to the conservation area with it being clearly visible to the public, both from North Street and the adjacent alley and thoroughfare connecting North Street to Market Street, Silver Birch tree T1 should be retained and the TPO order made.

Policies and other considerations, as appropriate	
Council Priorities:	<ul style="list-style-type: none"> - Developing a clean and green district - Our communities are safe, healthy and connected.
Policy Considerations:	None
Safeguarding:	None
Equalities/Diversity:	None
Customer Impact:	The cost of a bridging lintel.
Economic and Social Impact:	The economic and social impact of trees in urban areas is positive and well documented.
Environment, Climate Change & Zero Carbon:	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 julian.simpson@nwleicestershire.gov.uk

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

REAR OF 47-49 MARKET STREET ASHBY DE LA ZOUCH TREE PRESERVATION ORDER 2023

The North West Leicestershire District Council in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 (as amended) hereby make the following Order.

Citation

1. This Order may be cited as the North West Leicestershire Rear of 47-49 Market Street Ashby de la Zouch Tree Preservation Order 2023.

Interpretation

2. (1) In this Order “the authority” means the North West Leicestershire District Council.
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 (as amended) and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect

3. (1) Subject to Article 4, this Order takes effect provisionally on the date on which it was made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall-
(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,
any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Applications to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

e2023-02

Dated this [30] day of [May 2023]

The Common Seal of North West Leicestershire District Council

was affixed to this Order in the presence of—


.....]



CONFIRMATION OF ORDER

This Order was confirmed by North West Leicestershire District Council without modification on the [] day of []

OR

This Order was confirmed by North West Leicestershire District Council, subject to modification indicated by [], on the [] day of []

Signed on behalf of North West Leicestershire District Council

.....

Authorised by the Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by North West Leicestershire District Council on the [] day of []

Signed on behalf of the North West Leicestershire District Council

.....

Authorised by the Council to sign in that behalf

VARIATION OF ORDER

This Order was varied by the North West Leicestershire District Council on the [] day of [] by a variation order under reference number [] a copy of which is attached.

Signed on behalf of North West Leicestershire District Council.

.....

Authorised by the Council to sign in that behalf

REVOCATION OF ORDER

This Order was revoked by North West Leicestershire District Council on the [] day of []

Signed on behalf of North West Leicestershire District Council.

.....

Authorised by the Council to sign in that behalf

SCHEDULE

Specification of trees

Trees specified individually

(Encircled on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Silver Birch	Rear of 47-49 Market Street Ashby de la Zouch

Trees specified by reference to an area

(Within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
A1	N/A	N/A

Groups of trees

(Within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
G1	N/A	N/A

Woodlands

(Within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	N/A	N/A

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**TREE PRESERVATION ORDER
T509**
**REAR OF 47-49 MARKET STREET
ASHBY DE LA ZOUC**

NORTH WEST LEICESTERSHIRE
DISTRICT COUNCIL

J Arnold
Strategic Director of Place



Dated this [30] day of [May 2023]

e2023-02(a)

The Common Seal of North West Leicestershire District Council
was affixed to this Order in the presence of—


.....]



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From: [JULIAN SIMPSON](#)
To: [DEVELOPMENT CONTROL](#)
Subject: FW: EXTERNAL: TPO
Date: 29 June 2023 10:06:46
Attachments: [StructuralReport.pdf](#)
[TreeReport.pdf](#)

Anne

If this was received within the 28 days, the TPO cannot be confirmed without a report going to committee if their subsequent application to fell is refused.

Julian

Julian Simpson Dip.Arb.(R.F.S.) C.Env. M.Arbor.A
Tree Officer | Planning and Development (Thursday and Friday)



01530 454619 | julian.simpson@nwleicestershire.gov.uk www.nwleics.gov.uk
Twitter @NWLeics | Facebook This Is NWLeics

NWLDC, PO Box 1105, Coalville, LE67 0FW

Any advice provided is offered without prejudice to future decisions made by the Authority.



From: BTA Partnership <btapartnership@gmail.com>
Sent: Saturday, June 24, 2023 4:14 PM
To: DEVELOPMENT CONTROL <DCONTROL@NWLeicestershire.gov.uk>
Cc: JULIAN SIMPSON <JULIAN.SIMPSON@NWLeicestershire.gov.uk>
Subject: EXTERNAL: TPO

Objection for 23/00498/TCA proposed TPO.

Rear of 49 Market Street, Ashby de la Zouch, LE65 1AG

The application for the crown reduction was on the advice of a specialist to reduce the risk of uproot and falling of branches onto structures and buildings which are unstable.

The councils report advises of an adjacent lane which is not a public right of way but private.

Both reports recommends felling.

Regards
BTA Partnership



Tim Alden Consultancy Limited
Arboricultural Consultants

Appendix 3

Tim Alden B.Sc.(Hons) C.Eng.

Tel. 01858 432 782

Email = tim@aldenconsultants.co.uk

Web = www.aldenconsultants.co.uk

Date: 24/6/2023

Client: BTA Partnership

Scope of instruction: To comment on the proposed placement of a tree preservation order (TPO) on the Silver Birch to the rear of 49 Market Street, Ashby De-La-Zouch LE65 1AG

Opinion: The Silver Birch is of sufficient size to be worthy of a TPO if the tree was in a suitable location. The retaining wall is approximately 2.5 metres from the tree

The authoritative reference "Tree Roots and Buildings" 1989 by D F Cutler & IB K Richardson is used extensively. Dr David Cutler (one of the authors of this authoritative reference) who is the head of the Plant Anatomy Section, Jodrell Laboratory, Royal Botanic Gardens, Kew and is one of the leading experts (probably the leading expert) on trees roots, advises that the important figures for deciding whether a particular tree is likely to effect the foundations is not the maximum tree to damage distance recorded, but for many trees, the distance within which 50% of recorded damage cases occurred.

In this authoritative reference in the section on Silver Birch trees it states that 50% of damage cases occurred within 4 metres. As this tree is a lot closer to the retaining wall than this I am of the opinion that damage to the retaining wall is fairly likely. Proper repair of a retaining wall is quite expensive and if the tree issue is not addressed properly damage is likely to reoccur

Summary: I am of the opinion that the tree should be removed or at very least substantially reduced in size. I am of the opinion that the risk of damage to the retaining wall is substantial enough to make this tree unsuitable for a TPO.

Yours sincerely

Tim Alden

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Consulting Civil and Structural Engineers

7A Mere Green Road Mere Green Sutton Coldfield B75 5BL
Telephone 0121 323 4422 Facsimile 0121 323 4466 e-mail info@pibworthassociates.co.uk

KAP/J/10203A

21st June 2023

STRUCTURAL INSPECTION
AT
REAR OF 49 MARKET STREET
ASHBY DE LA ZOUCH
LEICESTERSHIRE

Rear of 49 Market Street,
Ashby de la Zouch,
Leicestershire,
LE65 1AG.

Prepared by:
K.A. Pibworth
BSc,C.Eng,M.I.Struct.E.MAPS.MAE

SECTION A - INTRODUCTION.

1. A structural inspection was carried out at Rear of 49 Market Street, Ashby de la Zouch, Leicestershire on 20th June 2023.
2. The property is part of a wider building that has now fallen into a state of disrepair.
3. At the time of our inspection the weather conditions were dry and bright.
4. The instructions from our client limit our comments and observations to the action of the tree roots adjacent to the rear boundary wall that have destabilised the wall. We shall therefore limit out comments and observations to the points as instructed and cannot state that any other part of the property is free from defect or distress.
5. This structural inspection assumes that the reader is stood looking at the front elevation of the property and reference to all items of structure is made based upon this assumption.

SECTION B - OBSERVATIONS.

1. To the rear of the property growing close to the rear right boundary wall there are several mature broad leaf trees. These are growing very close to the rear right boundary wall.
2. The action of the tree roots is undermining the wall and jeopardising its stability.
3. The wall is leaning significantly.
4. The tree canopies are causing damp damage to the brickwork in the wall, further creating a scenario where the wall is becoming decayed.
5. The bricks forming the wall are severely weathered.

SECTION C - COMMENTS AND RECOMMENDATIONS

1. The trees adjacent to the rear boundary wall are having an adverse effect on the stability of the wall.
2. It is recommended that the trees are removed as soon as possible. The removal of the trees should include the root system. Where this creates a void adjacent to the foundations of the wall this void should be filled using concrete.
3. The wall is at such an angle that it is no longer considered to be stable. It is recommended that the deformed sections of the wall are taken down and rebuilt. It will be possible to do this by re-using the existing bricks, however, it is inevitable that some bricks will become damaged by the demolition of the wall and the cleaning of the bricks that other bricks will need to be sourced to replace them.



Wall looking to the front.



Wall looking to the rear.



Tree is very close to the wall causing it to become unstable.



Tree outside the wall line are also influencing the wall stability.



The wall is leaning at such an angle that it is unstable.



Trees are having a severe impact on the wall.



The wall is in a distressed state.

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APPENDIX B

Report of the Head of Planning and Infrastructure to Planning Committee

7 November 2023

PLANNING & DEVELOPMENT REPORT



PLANNING COMMITTEE FRONT SHEET

1. Background Papers

For the purposes of Section 100(d) of the Local Government (Access to information Act) 1985 all consultation replies listed in this report along with the application documents and any accompanying letters or reports submitted by the applicant, constitute Background Papers which are available for inspection, unless such documents contain Exempt Information as defined in the act.

2. Late Information: Updates

Any information relevant to the determination of any application presented for determination in this Report, which is not available at the time of printing, will be reported in summarised form on the 'UPDATE SHEET' which will be distributed at the meeting. Any documents distributed at the meeting will be made available for inspection. Where there are any changes to draft conditions or a s106 TCPA 1990 obligation proposed in the update sheet these will be deemed to be incorporated in the proposed recommendation.

3. Expiry of Representation Periods

In cases where recommendations are headed "Subject to no contrary representations being received by [date]" decision notices will not be issued where representations are received within the specified time period which, in the opinion of the Head of Planning and Infrastructure are material planning considerations and relate to matters not previously raised.

4. Reasons for Grant

Where the Head of Planning and Infrastructure report recommends a grant of planning permission and a resolution to grant permission is made, the summary grounds for approval and summary of policies and proposals in the development plan are approved as set out in the report. Where the Planning Committee are of a different view they may resolve to add or amend the reasons or substitute their own reasons. If such a resolution is made the Chair of the Planning Committee will invite the planning officer and legal advisor to advise on the amended proposals before the a resolution is finalised and voted on. The reasons shall be minuted, and the wording of the reasons, any relevant summary policies and proposals, any amended or additional conditions and/or the wording of such conditions, and the decision notice, is delegated to the Head of Planning and Infrastructure.

5. Granting permission contrary to Officer Recommendation

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

If The Planning Officer is unable to advise 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.

Construction of 28 1-bedroom residential apartments with associated communal areas, parking and bin storage.
Construction of leisure building to include a bowling alley, restaurant with second floor terrace area, mini golf and gaming areas. Part-demolition of 75-81 Belvoir Road and change of use for retail including associated external alterations and parking, demolition of 83 Belvoir Road, alterations to Emporium nightclub including part demolition to the rear, together with new access onto Belvoir Road and creation of associated public amenity areas
Land Off Belvoir Road Coalville Leicestershire LE67 3PD

Report Item No
A1

Application Reference
22/00819/FULM

Grid Reference (E) 442383
Grid Reference (N) 314110

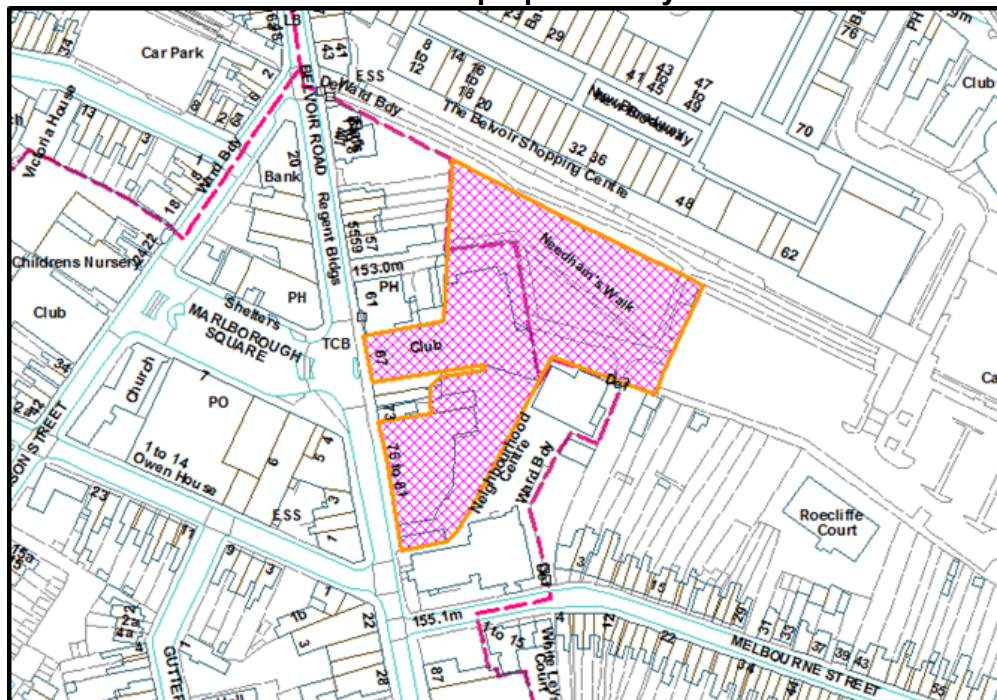
Date Registered:
8 June 2022
Consultation Expiry:
30 October 2023
Determination Date:
14 July 2023
Extension of Time:
17 November 2023

Applicant:
Gylo Property Unit Trust Ltd And Holland Park Leisure

Case Officer:
Chris Unwin-Williams

Recommendation: Permit, subject to conditions and S106 agreement

Site Location - Plan for indicative purposes only



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Reason the case is called to the Planning Committee:

This application is brought to the Planning Committee at the request of Councillor Geary due to the proposal being in the public interest and objections having been received during the course of the application.

RECOMMENDATION - PERMIT, subject to the following condition(s) and completion of a Section 106 agreement:

- 1 Standard time limit – 3 years for commencement of development.
- 2 Plans list.
- 3 Scheme of all external materials to be used in the construction of residential and leisure buildings to be submitted (no development built above damp-proof course level).
- 4 Revised elevations and additional large-scale drawings of the retail building to include all facing materials including details of colour and finish, details of brick bond, large scale drawings of all windows and doors including glazing bar details, large scale drawings to demonstrate precise details of the shopfront large scale drawings and sections of the proposed recessed panels and false windows and any other external materials including details of rainwater goods shall be submitted (prior to commencement of retail building excluding any demolition).
- 5 Access arrangements shall be implemented in full, vehicular visibility splays of 2.4m x 43.0 shall be provided at the site access, parking and turning facilities shall be implemented in accordance with the proposed site plan and cycle parking shall be provided in line with details submitted (prior to occupation).
- 6 Amended travel plan shall be submitted for agreement which sets out actions and measures with quantifiable outputs and outcome targets (prior to occupation).
- 7 A parking management plan shall be submitted (prior to occupation).
- 8 Development shall accord with the submitted proposed town centre redevelopment service strategy dated 24th May 2023 (compliance).
- 9 Submission of construction traffic management plan prior to commencement of development.
- 10 No gates, barriers, bollards, chains, or other such obstructions shall be erected to the vehicular access (compliance and permitted development right removal).
- 11 Submission of an acoustic survey and if necessary, submission of details of an insulation scheme prior to commencement of development.
- 12 Submission of a risk-based land contamination assessment including, if any unacceptable risks are identified, the submission of a remedial scheme and verification plan prior to commencement of development (excluding demolition).
- 13 Submission of statement from developer or approved agent confirming no previously identified contamination was discovered or, submission of a verification investigation in line with an agreed verification plan for all works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation (prior to occupation and following completion of groundworks of the completed development or part to be occupied).
- 14 Full details of proposed levels, including finished ground and floor levels which should relate to an existing datum point off the site and/or topographical survey of existing site levels have first been submitted to and approved in writing by the Local Planning Authority (damp proof course).

- 15 Submission of biodiversity improvement measures (which shall secure biodiversity net gain relative to a baseline habitat survey/completed Defra metric) together with a means to secure its implementation over the long term (prior to commencement).
- 16 Submission of external lighting scheme (if applicable) to be submitted for review (compliance).
- 17 Submission of an updated Arboricultural Impact Assessment including detailed specification and Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) prior to commencement.
- 18 Installation of integrated bat boxes and bird boxes in line with the enhancement recommendations within the submitted Preliminary Ecological Appraisal (prior to occupation).
- 19 Submission of a soft landscaping scheme including a timetable for implementation which should include the planting of a wide range of native species, prior to commencement of development. Any tree or shrub which may die, be removed, or become seriously damaged shall be replaced (no development built above damp-proof course level and compliance).
- 20 Submission of a hard landscaping scheme for the site including a timetable for implementation (no development built above damp-proof course level).
- 21 Submission of a boundary treatment scheme for the site including a timetable for implementation (no development built above damp-proof course level).
- 22 Submission of updated bin storage scheme including amended plans of bin storage points for the storage and collection of refuse and recycling bins, and a timetable for implementation (no development built above damp-proof course level).
- 23 The retail and leisure buildings shall be used only for the purposes specified in the application and for no other purposes whatsoever (compliance).
- 24 Precise details of opening hours of the leisure and retail buildings shall be provided prior to occupation.
- 25 Submission of a surface water drainage scheme (prior to commencement)
- 26 Submission of surface water management scheme (prior to commencement)
- 27 Details of long-term maintenance of surface water drainage system (prior to occupation)
- 28 Infiltration testing to be carried out (or suitable evidence to preclude testing) to confirm the suitability of the site for the use of infiltration as a drainage element (prior to commencement)

MAIN REPORT

1. Proposals and Background

The application seeks full planning permission for the construction of 28 1-bedroom residential apartments with associated communal areas, parking and bin storage, the construction of a leisure building to include a bowling alley, restaurant with second floor terrace area, mini golf and gaming areas, the part-demolition of 75-81 Belvoir Road and change of use for retail including associated external alterations and parking, the demolition of 83 Belvoir Road, alterations to the Emporium nightclub including part demolition to the rear, together with a new access onto Belvoir Road and the creation of associated public amenity areas.

The application site relates to a parcel of predominantly brownfield land located to the rear of the Emporium nightclub and nos. 75-83 Belvoir Road and to the west of Coalville car park.

Additional information has been provided throughout the course of the application including updated plans to address comments received by the District Council's urban designer and conservation officer, updated plans and supporting information in response to concerns raised by LCC Highways and additional supporting information to address comments and concerns raised by LCC Ecology, Waste Services, and the Lead Local Flood Authority.

The application site is located within limits to development.

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

Site Location Plan (north indicated by arrow):



Relevant Planning History

- 09/00359/FULM - Extension of the Belvoir Shopping Centre to provide new retail floorspace (A1 and A3), hotel, cinema, car park and associated highways works, public spaces, and refurbishment works (including demolition works) to existing centre (Permitted 2.3.10)
- 16/00581/FUL - External alterations to front elevation of the Emporium (Permitted 18.5.16)
- 17/00718/VCI - Variation of Condition 2 of planning permission 16/00581/FUL to allow for amendments to the front elevation of the Emporium (Permitted 7.6.17)
- 19/00857/LDO - 10 - 52 High Street (evens only), 74 High Street (even only), 2a - 32 Hotel Street (evens only), 1 - 13 Belvoir Road (odds), 37 - 43 Belvoir Road (odds), 49 - 59 Belvoir Road (odds), 69 - 81 Belvoir Road (odds), 2 Belvoir Road - 18 Belvoir Road (evens), 22A Belvoir Road - Regent Buildings (evens), 1 - 9 Ashby Road (odds), 2 - 24 Jackson Street (evens), 1 Margaret Street (odd), 7 - 10 Marlborough Square (evens), 2 - 3a Marlborough Square (odds) (Permitted 17.4.19)
- 19/02061/LDO - 10 to 52 High Street (evens only), 74 High Street (even only), 2a to 32 Hotel Street (evens only), 1 to 13 Belvoir Road (odds), 37 to 43 Belvoir Road (odds), 49 to 59 Belvoir Road (odds), 69 to 83 Belvoir Road (odds), 2 Belvoir Road to 18 Belvoir Road (evens), 22A Belvoir Road to Regent Buildings (evens), Lombard House to Stafford House, Belvoir Road , Exchange Buildings to 28 Belvoir Road (evens), 1a Owen Street (odd), 1 to 9 Ashby Road (odds), 2 to 16 Jackson Street (evens), 1 Margaret Street (odd), 7 to 10 Marlborough Square , 2 to 3a Marlborough Square (Permitted 12.2.20).

2. Publicity

102 Neighbours have been notified.
 Site Notice displayed 24 June 2022.
 Press Notice published Leicester Mercury 29 June 2022.

3. Summary of Consultations and Representations Received

LCC Highways – No objections subject to the imposition of conditions and planning obligations.

LCC Ecology – No objections subject to the imposition of conditions.

Conservation Officer – Identifies less than substantial harm to the Coalville Conservation Area in relation to the frontage gap, areas of space left over after planning as well as from the replacement shop front.

Historic England – No comment.

Urban Designer – No objections but notes general comments in relation to the location of the bin store and cycle parking and the overall boundary treatment proposals. Comments also included notes that further information is required on the retail elevations and general comments were noted in respect of the proposed residential block.

LCC LLFA – requests confirmation that no objections have been received from Severn Trent but advise of suitably worded conditions should officers be minded to support the proposals.

LCC Archaeology – No objections.

LCC Development Contributions – requests s106 contributions in respect of waste and libraries.

NHS Leicester – requests s106 contribution in order to manage the estates provision effectively.

National Forest Company - No objection and there is no requirement for National Forest planting. The NFC considers that the landscaping area should accommodate native trees, and we recommend that planting details are agreed as part of the planning application to ensure tree planting can be achieved. The use of materials can contribute to National Forest character and identity. While the Design and Access Statement concludes that brick is most appropriate for the residential building, the document includes images of timber slats and timber cladding on other bowling alleys. The use of sustainably sourced timber (as opposed to timber effect) is encouraged by the NFC where appropriate and possible to contribute to National Forest character and identity. A further aspect of National Forest identity is sustainable design, and it's not apparent from the documents available that sustainable construction and design has been considered.

NWLDC Tree Officer – No objections subject to conditioning of an appropriate landscaping scheme, the submission of a detailed arboricultural method statement and updated tree protection plan.

NWLDC Environmental Protection - No objection subject to conditions.

NWLDC Environmental Protection (Contaminated Land) - No objection subject to conditions

NWLDC Housing – In order to meet the requirements for affordable housing under the NPPF and Council policy H4, 6 no. units would need to be provided with affordable rental properties within a fully build to rent scheme.

NWLDC Waste Services – No objections subject to the securing of indemnification against any damage to the road because of waste collection vehicles and conditioning of further details of bin storage facilities and ensuring the proposed access road would be constructed to an adoptable standard. This has now been confirmed and as such, no objections have been raised.

Police Architectural Liaison Officer – No objections but notes general observations regarding the proposed development.

Third Party Letters of Representation

Neighbouring properties were consulted during the lifetime of the application by way of neighbour letters, a site notice and advertisement in a local newspaper 6 no. representations were received including 2 no. objections, 3 no. witness statements in respect of the status of the greenfield area as well as 1 no. comment in support. The objections and witness statements received raised the following points:

- Concerns that there do not appear to be plans to merge the development and the MCR car park
- Concerns that the developer has not consulted with MCR
- The lawned areas have been in use by the public for many years (noted in 4 no. separate statements).
- Concerns regarding misleading information or statements within the applicant's submission
- Concerns that statutory notices were removed after they were posted.
- Concerns the proposals would have an unacceptable impact on local wildlife.

In addition, the 1 no. comment in support of the scheme noted the following points:

- Supports the proposal and the development would bring more facilities and services to the centre of Coalville.

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

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2023)

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

Paragraph 34 (Development contributions);

Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making);

Paragraphs 55, 56, 57 and 58 (Planning conditions and obligations);

Paragraphs 60, 61, 62, 63, 65, 69, 74, 75, and 77 (Delivering a sufficient supply of homes);

Paragraphs 81 and 83 (Building a strong, competitive economy);

Paragraphs 86 (Ensuring the vitality of town centres);

Paragraphs 92, 93, 94, 97, 98 and 99 (Promoting healthy and safe communities);

Paragraphs 107, 108, 110, 111, 112 and 113 (Promoting sustainable transport);

Paragraphs 119, 120, 124 and 125 (Making effective use of land);

Paragraphs 126, 128, 130, 131 and 134 (Achieving well-designed places);

Paragraphs 152, 153, 154, 159, 167 and 169 (Meeting the challenge of climate change, flooding and coastal change);

Paragraphs 174, 180, 183, 184, 185 and 187 (Conserving and enhancing the natural environment); and

Paragraphs 197, 199, 200, 202, 205 and 206 (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 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 D1 - Design of New Development;
Policy D2 - Amenity;
Policy H4 - Affordable Housing;
Policy H6 - House Types and Mix;
Policy IF1 - Development and Infrastructure;
Policy IF3 - Open Space, Sports and Recreation Facilities;
Policy IF4 - Transport Infrastructure and New Development;
Policy IF7 - Parking Provision and New Development;
Policy En1 - Nature Conservation;
Policy En3 - The National Forest;
Policy En6 - Land and Air Quality;
Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;
Policy Cc2 - Water - Flood Risk; and
Policy Cc3 - Water - Sustainable Drainage Systems.

Other Policies/Guidance

National Planning Practice Guidance.
Good Design for North West Leicestershire Supplementary Planning Document - April 2017.
Affordable Housing Supplementary Planning Document - September 2022.
Leicestershire Highways Design Guide (Leicestershire County Council).
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).

Principle of Development and Sustainability

Insofar as the principle of development is concerned, and 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 comprises the North West Leicestershire Local Plan 2021.

The site is located within the defined Limits to Development, within the town centre boundaries where the principle of residential development, as well as retail, leisure and service development is acceptable subject to compliance with relevant policies of the adopted Local Plan and other material considerations.

Within the NPPF (2023) there is a presumption in favour of sustainable development and proposals which accord with the development plan should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

The sustainability credentials of the scheme would need to be assessed against the NPPF and in this respect Policy S2 of the adopted Local Plan defines Coalville as a 'Principal Town' which is the primary settlement in the District and where the largest amount of new development will take place.

On the basis of the above the application site would be considered a sustainable location for

new development due to it benefitting from a range of services and being readily accessible via public transport, as such future residents and users of the proposed services and facilities would not be heavily reliant on the private car to access the most basic of services.

From an environmentally sustainable perspective the majority of the site (80%) would be provided on land which was previously developed (brownfield land) which is the most appropriate type of land for new development in the context of Paragraphs 119 and 120 of the NPPF.

Whilst comments and witness statements have been received in respect of the partial siting of the residential building on an existing area of greenery, it is noted that this open space has no formal designation, with Policy IF3 of the Local Plan aimed principally at securing open space, sport, and recreational facilities in association with new housing development. Additionally, it is noted that whilst the development would result in a partial loss in existing grassed areas, these would largely be retained through the provision of landscaped areas to the east of the residential building which would also be enhanced as part of the scheme.

Additionally, from a social perspective, Policy IF2 notes that “new development will be required to provide or contribute to community facilities and other local services to enhance communities and the residential environment, as part of the development, or if appropriate off-site, where no facilities exist or where existing facilities are deficient.” Paragraph 92 of the NPPF states that “planning policies and decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, are safe and accessible and enable and support healthy lifestyles.” Paragraph 93 goes on to state that “To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.” The proposals would meet the requirements of policy IF2 through the provision of community facilities in the form of a mixed-use leisure building.

Paragraph 92 of the NPPF provides that planning policies and decisions should aim to achieve healthy, inclusive and safe places which, amongst others, promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other and enable and support healthy lifestyles, especially where this would address identified local health and well-being needs; Paragraph 93 states that planning policies and decisions should plan positively for the provision and use of community facilities such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.

In this case, at the heart of the development would be a proposed leisure building which would include a bowling alley, restaurant, mini golf, and gaming areas, whilst the proposed landscaping scheme would enhance the existing open space provision within Coalville, whilst linking the development to the nearby footpath and cycle path to the north of the site to promote opportunities for sustainable forms of travel. Both the leisure building and proposed open space provision would provide opportunities for social interaction and meetings between people who might not otherwise come into contact with each other and would account for a significant contribution towards the provision of community facilities within Coalville centre. On this basis, the development would accord with the aims and objectives of paragraphs 92 and 93 of the NPPF.

Overall, the proposal would not result in sufficient harm to the built environment, as assessed in more detail below, and would also have positive economic and social sustainability benefits.

As a result, the proposal would be considered sustainable in accordance with Policy S2 of the adopted Local Plan and the core objectives of the NPPF.

The principle of the development is therefore considered to be acceptable, subject to all other material planning matters being addressed.

Affordable housing and housing mix

With regards to housing mix, Policy H6 of the adopted Local Plan outlines that a mix of housing types, sizes and tenures is expected on residential developments proposing 10 dwellings or more. When determining an appropriate housing mix, the information contained within the Housing and Economic Development Needs Assessment (HEDNA) is one of the factors to consider alongside other criteria as outlined in Part (2) of Policy H6. Whilst Policy H6 relates to open market schemes only, build to rent came in after the adoption of the current local plan and as such, consideration needs to be had to the overall housing mix.

It is the case that the HEDNA mix is one of several factors to have regard to when assessing a housing development of 10 or more dwellings with regard also being given to the "mix of house types and sizes already built and/or approved when compared to the available evidence" (criterion (b) of Part (2) of Policy H6) as well as the "needs and demands of all sectors of the community" (criterion (e)).

In this case, the development would comprise wholly 28 no. studio flats and would therefore, not provide a range of apartment sizes as per Policy H6. However, as part of the overall consideration of the proposals against Policy H6, the character and context of the individual site, development viability and deliverability and the needs and demands of all sectors of the community should be considered.

As outlined in the overall assessment, the site is a constrained site, with limited options for a residential block. In this case, increasing the size of the proposed flats would result in an overall increase in footprint, consequently resulting in an unacceptable loss and/or lack of greenspace and open space provision within the site. Further, limiting the footprint of the residential block to its current extent whilst increasing the internal size of proposed flats would impact upon the overall viability of the scheme.

Further, in terms of needs and demands of the community, in their consultation response, the Council's Housing Team has indicated that within the HEDNA there is a shortage of affordable rental 1 bed properties for households under the age of 65 across the housing stock in North West Leicestershire which this scheme could help to alleviate in small part.

In terms of affordable housing, it is noted that paragraph 65 of the NPPF states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development provides solely for Build to Rent homes. As such, in this instance, there is no policy basis for affordable rental properties, although it is noted the Planning Practice Guidance

references that 20% is generally a suitable benchmark for the level of affordable private rent homes to be provided (and maintained in perpetuity) in any build to rent scheme.

In this case, whilst there is no defined policy basis for securing affordable rental units as part of the build to rent scheme, the applicant is willing to commit to the provision of 3 no. affordable rental units to contribute to the specific need for 1-bed affordable rental units identified within the HEDNA which was noted within the consultation response from the Council's Housing Team.

As such, whilst it is noted that the scheme would comprise wholly of rented studio apartments, including some affordable rented provision, given the specific constraints of the site and that the proposals would contribute to providing a greater variety of tenure options in the centre of Coalville, along with contributing to the alleviation of the shortage of affordable rental 1 bed properties for households under the age of 65, the proposals are considered to comply with the requirements of Policy H6 and H4, the affordable housing SPD as well as relevant paragraphs of the NPPF.

Therefore, the mix of housing types and tenures is appropriate in this instance, would support identified local requirements and consequently would be compliant with Building for a Healthy Life (BfHL) criteria relating to 'Homes for Everyone'.

Design and Layout

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.

The recently updated NPPF includes several new measures to improve design quality. This includes a test at paragraph 134 which directs that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

In particular, the Good Design for North West Leicestershire SPD requires development to contribute towards creating or reinforcing local distinctiveness and identity, and indicates that developments located within the National Forest will be strongly encouraged to reflect the principles and ethos of the Forest through:

- Green infrastructure;
- Building performance (i.e., more environmentally responsible buildings); and
- The selection and use of materials such as timber (including in construction, in both a structural and non-structural manner).

In addition, Local Plan Policy En3 requires that new development enhances the character of the National Forest through incorporating a National Forest or locally inspired character.

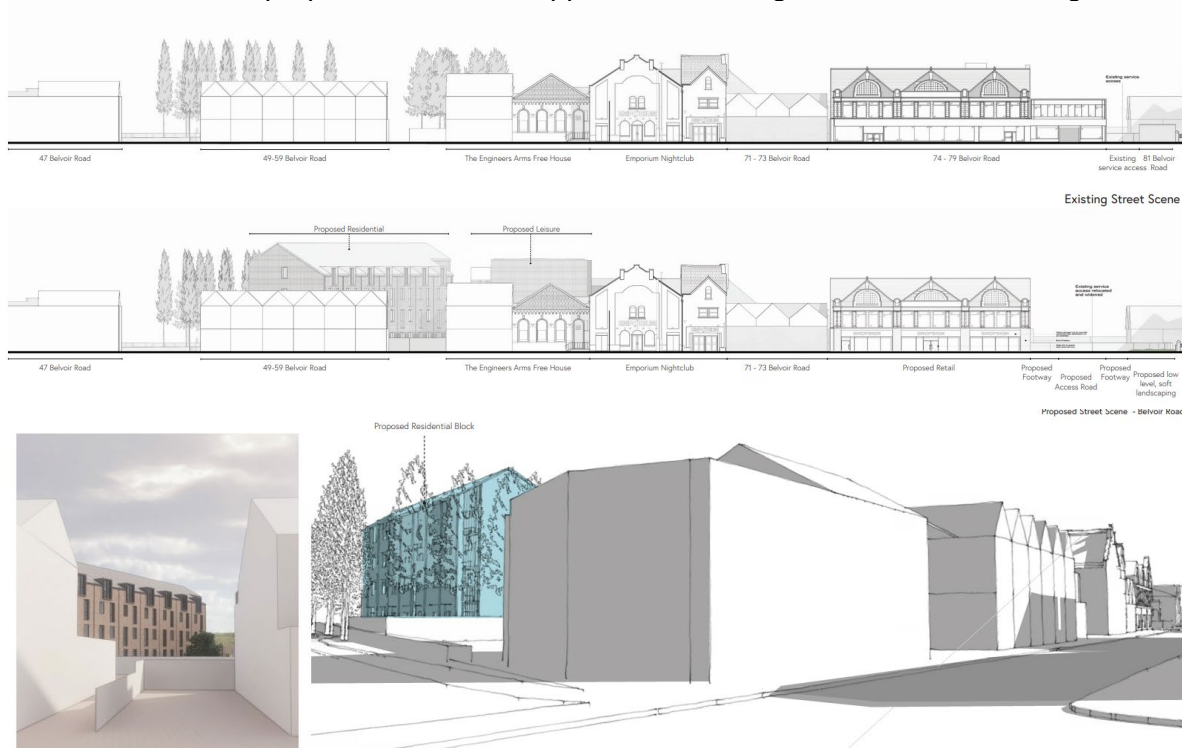
The application is supported by a Design and Access Statement explaining the applicant's rationale for the scheme as proposed and setting out the principal design considerations.

The existing site comprises of largely brownfield land, with a small area of greenspace to the north of the site, equating to approximately 20% of the site area. To accommodate the proposals within the site, partial demolition of Nos. 75-77 Belvoir Road (including a two-storey

side extension and various rear elements), the demolition of no. 81 Belvoir Road (an existing barbers) and demolition to the rear of Emporium nightclub is required. It is not considered that the proposed buildings and sections of buildings to be demolished are of sufficient architectural merit or positively contribute to the character of the streetscene or conservation area to warrant their retention. As such, no objections are raised to the proposed demolition included as part of the proposals.

Residential Block

The proposed residential block would be located to the northwest of the site and would comprise of a 4-no. storey building, with its principal elevation directly addressing the public footpath adjacent to the Belvoir Shopping Centre, with a communal amenity space located to the rear of the residential block. In terms of the principle of a building of this scale, indicative street views and models were provided throughout the course of design discussions to establish the acceptability of the development at the scale proposed as demonstrated below. Given the information submitted, and that any views of the development would be seen in the context of surrounding built development along Belvoir Road and the Retail and Leisure Quarter, it is considered that the proposals would not appear overbearing within the surrounding area.



In terms of the overall design of the residential block, the proposals have been the subject of design discussions throughout both pre-application and during the formal submission stages with several amendments being made throughout the application process to address officer concerns.

During the course of the application, the Council's Urban Designer was consulted who, in consultation with officers, raised concerns and provided suggestions to advise ongoing design discussions including among other things, the overall orientation of the building, the proposed walkway arrangement, window detailing, brick detailing and the siting of the bin and cycle store and ramped access to the residential building.

Revisions were received throughout the course of the application to address concerns raised in consultation with the Urban Designer including amendments to window design and height (including the replacement of high level windows to the north elevation and the inclusion of additional windows to the eastern elevation) to both maximise natural light and increase natural surveillance, the inclusion of planters on the proposed walkways to the north to provide a sense of separation and ownership between the apartments as well as the inclusion of brick detailing to the western elevation, the removal of screening fins on the rear gantry and its replacement with an open balustrade.

Comments were also raised by the Urban Designer in respect of the ramped access such that the layout would reduce the connectivity to the walkway to the north and would create an awkward space between the car park and link, including suggestions to flip the staircase. However, it is noted that the proposed positioning of the ramped access was required for accessibility purposes and as such, no further objections are raised in respect of this matter.

Additionally, the bin and cycle store were relocated to be sited adjacent to the boundary with the leisure building to allow for better connectivity and visibility with the adjacent open space. Whilst it was requested that the cycle store be integrated into the footprint of the residential building, the agent confirmed this would be unviable. Additionally, the boundary to the communal garden was updated on plan so this would appear at an angle to remove unusable space between the communal garden and bin/cycle store whilst increasing natural visibility.

Nevertheless, Officers consider the revised siting of the bin store an improvement in terms of design relative to its previous siting on the boundary of the adjacent open space and it is noted that the residential bin store in its current proposed location ensures that a refuse collection vehicle can reverse into the layby.

It is considered that the revisions represent an improvement in the overall design of the residential block and associated amenities such as the bin and cycle store. In terms of materials, it is noted that this would be finished in a brick façade, which is considered reflective of the local character as well as referencing historic brick collieries and the former Wesleyan Methodist Church. It is considered further specific details in relation to materials and overall detailing could be dealt with by way of condition.

Leisure building

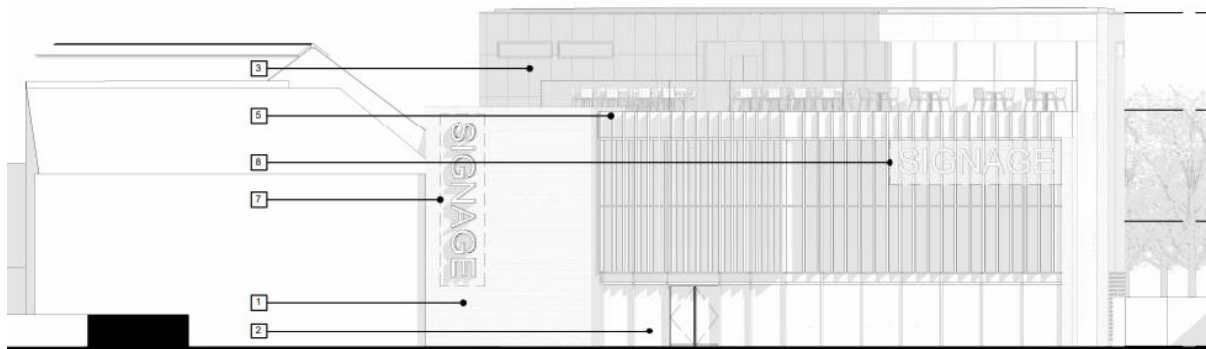
The proposed leisure block would be located to the north of the site and would be bound to the south by an existing nightclub (Emporium) and to the north by the proposed communal garden for the residential block. The proposed building would comprise of a 3-no. storey building and as outlined in the previous section, indicative street views and models were provided throughout the course of design discussions to establish the acceptability of the development at the scale proposed. Given the information submitted and that any views of the development would be seen in the context of surrounding built development along Belvoir Road and the Retail and Leisure Quarter, it is considered that the proposals would not appear overbearing within the surrounding area.

In terms of the overall design of the leisure building, the proposals have been the subject of design discussions throughout both pre-application and during the formal submission stages with several amendments being made throughout the application process to address concerns.

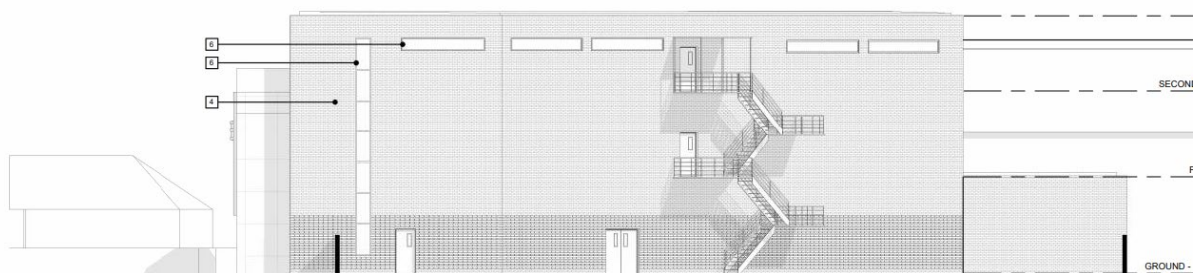
During the course of the application, the Urban Designer was consulted who raised concerns and suggestions to advise ongoing design discussions including among other things, the quality

of materials and fixings, queries regarding the brise soleil as well as the need for a greater amount of glazing to the north elevation to soften the overall appearance of this elevation. Additionally, comments were raised regarding the siting of the entrance and that this should correspond to the wider point of the pavement.

It is noted that revisions and additional information were received to address all points above other than the re-siting of the proposed entrance. Whilst it would be preferential for the entrance to be re-sited, it is considered that in the context of the overall design, the proposals are considered acceptable and that the revisions represent an improvement in the overall design of the Leisure Building. In terms of materials, it is noted that the leisure building would be finished in a white render, metal cladding and brick finish, with an aluminium framed curtain wall and timber fins. These materials are considered acceptable when considered in the context of surrounding development and would correspond to the District's National Forest identity. It is considered further specific details in relation to materials and overall detailing could be dealt with by way of condition.



1 Proposed East Elevation
1 : 100



2 Proposed North Elevation
1 : 100

Retail proposals

The retail element of the proposals would be sited to the southeast of the site and would utilise the existing buildings of Nos. 75-81 Belvoir Road.

In terms of the overall design of the retail units, the proposals have been the subject of design discussions throughout both pre-application and during the formal submission stages with

several amendments being made throughout the application process to address concerns.

During the course of the application, the Urban Designer was consulted who, in consultation with officers, raised concerns and suggestions to advise ongoing design discussions including among other things, favouring a traditional shopfront design approach, whilst the applicant sought to create a combined approach, linking traditional design with a modern aesthetic. Following discussions regarding the overall design approach and the overall variety of shopfront designs in the immediate vicinity, as well as having consideration to the current appearance of the existing shopfront, an overall combined approach was subsequently agreed to by both parties.

Revisions were also received throughout the lifetime of the application which included the grounding of the pilasters, and the inclusion of recessed panels to the gable end in order to animate the gable end.

The application does not include large scale drawings or a material specification for window frames, pilasters etc. for the shopfront. However, given that these details would be subject to a tenant being secured, it is considered reasonable for such details to be dealt with via condition. Additionally, further details of the exact appearance and finish of the recessed panels would be secured by condition.

Whilst at this stage, limited information has been provided in respect of the final plans for the overall design and rear elevation of the retail unit, it is noted that the applicant is agreeable to further exact details of this elevation being secured via condition once a tenant is secured for the retail building. Officers are agreeable to this approach given that a tenant is yet to be secured and further details would be secured by way of condition should the application be permitted.



Landscaping and public realm

Section 8 of the National Planning Policy Framework (NPPF) states that:

“Access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities and can deliver wider benefits for nature and support efforts to address climate change.”

The development would result in the partial loss of an existing open space provision on the site due to the siting of the residential building to the northwest of the site and some of the existing greenspace forming the area designated as the communal amenity areas for the residential block. Nevertheless, it is noted that open space to the northwest of the site would be retained for public use and enhanced via the landscaping scheme, ensuring the maintenance and enhancements of links to the nearby public footpath to the north, encouraging use of sustainable modes of transport. Notwithstanding the above, additional areas of landscaping would be formed as part of the proposals including a pocket of landscaping to the southwest of the site, adjacent to the proposed access point. As such, on balance, it is considered that the development's overall impact on the existing open space would not be overly harmful to warrant the refusal of the application on these grounds.

In terms of the overall strategy for the public realm, it is noted that, under section 4.0 of the design and access statement, this has been inspired by the National Forest identity of the district. The section goes on further to clarify that:

“In order to provide a cohesive concept and approach, it is proposed to celebrate this and incorporate the adjacent Poplar trees into the public realm approach.”

This will be through:

- *Creating street furniture in natural materials such as timber and locally sourced stone.*
- *Providing more green space, tree, and low-level planting*
- *Bringing decorative natural elements into the public realm such as burnt or stencilled leaf patterns and pressed timber concrete*

It is proposed that the planters within the adjacent pocket park will be gabion wall planters with integrated seating. Incidental planting will create an organic amenity space.”

The Local Planning Authority would support this approach and further details could be secured

by way of condition to secure precise details of soft and hard landscaping.



Heritage and Archaeology impacts

The application site is located within the Coalville Conservation Area. As such the proposed development must be considered in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that when considering a planning application for development located within a Conservation Area that special attention be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

It is a statutory requirement that any new development should at least preserve the character of the Conservation Area and significant weight be given to preserving the setting of listed buildings and historic grounds. Paragraph 197 of the NPPF states that planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and further indicates (at paragraph 199) that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The Conservation Officer has been consulted through the lifetime of the application and identified less than substantial harm to the Coalville Conservation Area, which focused on the proposed shopfront detailing as well as requesting further details on elevation detailing such as the proposed recessed panels and how the proposals would interact with landscaping design in the wider site.

Whilst these comments are noted, it is considered that these matters could be appropriately addressed via conditions, and it also noted that the applicant is amenable to such an approach should the application be permitted.

The County Archaeologist was also consulted throughout the course of the application process and confirmed that no further archaeological measures would be required.

In this case, as outlined above, the proposal would result in very limited less than substantial harm to the identified heritage assets and (and when having regard to the requirements of Paragraph 202 of the NPPF), it is considered that this would be outweighed by the public benefits of securing an updated retail use for the Nos. 75-81 and adapting a disused building, securing social and economic benefits in the form of securing a new leisure building within the heart of Coalville and securing social and economic benefits through the provision of 28 no. new apartments, contributing to the local area's overall housing options.

Design and Heritage conclusions

The above assessment has determined that the proposals would be acceptable in terms of design, layout, scale, and overall appearance subject to conditions. Additionally, whilst the development would lead to very limited less than substantial harm to the Coalville Conservation Area, this is outweighed by the public benefits resulting from the scheme.

It is therefore considered that the application would preserve the character and appearance of the conservation area and comply with Local Plan Policies D1 and He1 as well as paragraphs

194, 196 and 202 of the NPPF.

Impact upon residential amenity

Policies 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.

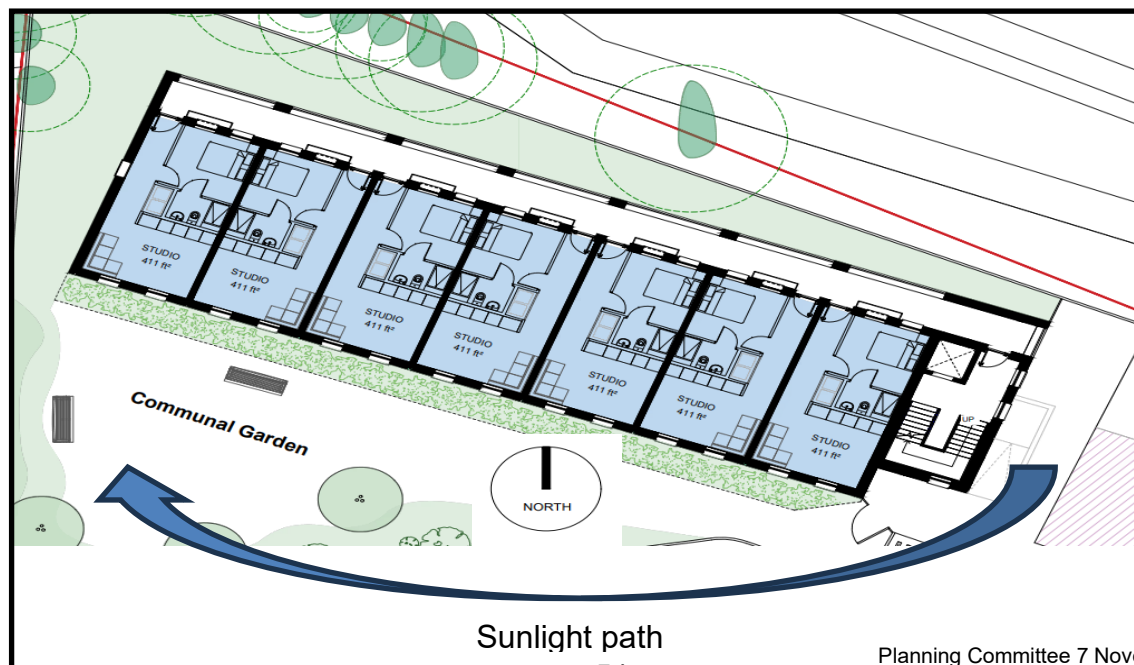
Residential Building

The first part of the proposal assessed below relates to the proposed residential building which would contain 28 no. 1-bed flats which would be built as a build-to-rent scheme.

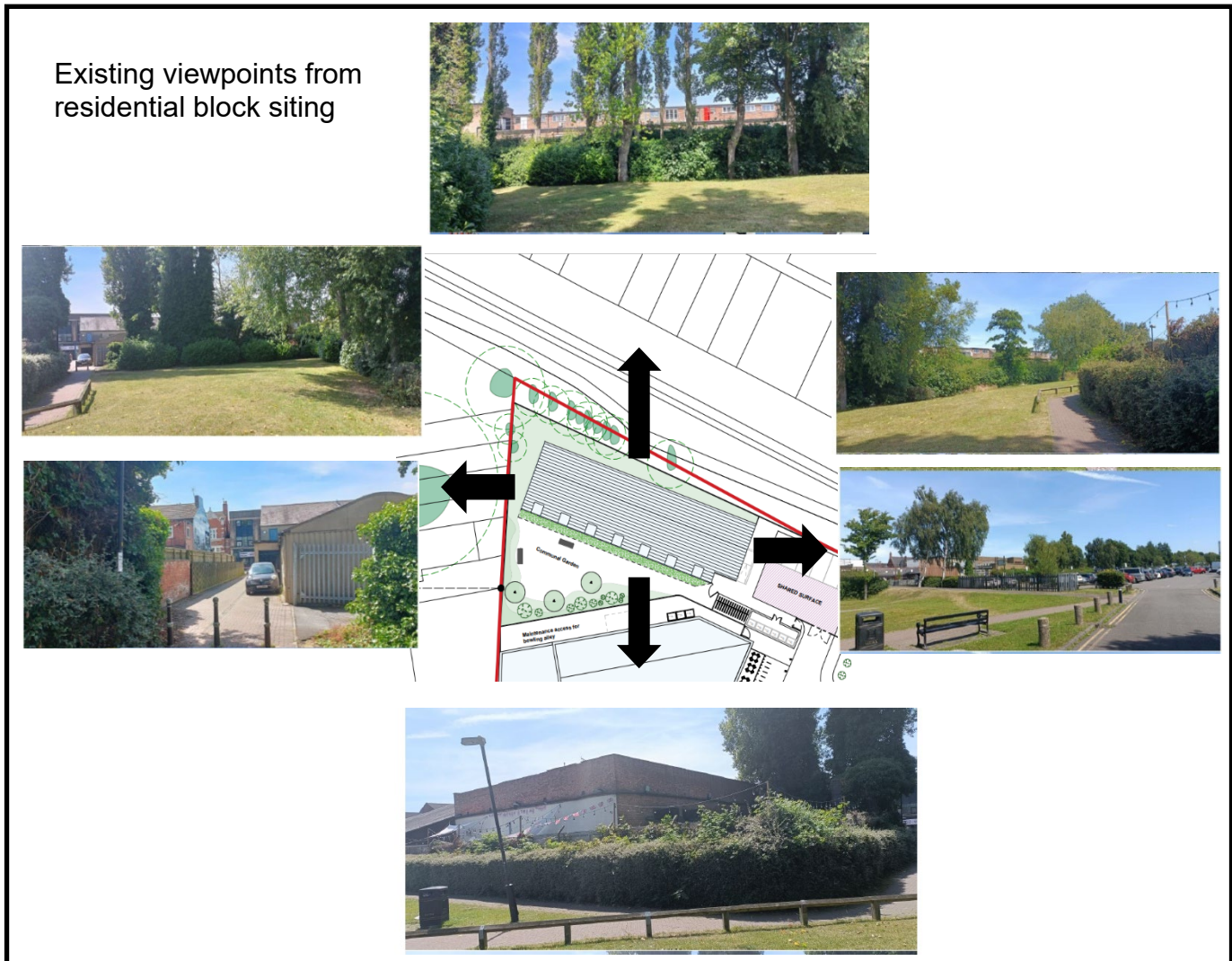
In terms of the amenities of future occupiers of the flats, it is noted that the Council's Good Design SPD notes that "Where market sale apartments are proposed, individual units above ground floor will be expected to be afforded private balconies to offer residents some semi-private amenity space." In this instance, it is noted that all 28 units would be build-to-rent and therefore, the above advice would not be applicable to the current scheme. Nevertheless, it is also noted that the SPD states that "the rear private garden spaces must be at least equal to the footprint of the property."

As part of the proposals, whilst each of the units would not benefit from individual private gardens, a communal garden would be proposed as part of the scheme. Whilst it is noted that the proposals would fall marginally short of this advice set out within the Good Design SPD, given the siting of the proposals within the centre of Coalville and the siting of the proposals directly adjacent to additional greenspaces, overall, the provision of amenity space would be acceptable, and it is not considered that the Local Authority could refuse the application on these grounds.

In terms of access to natural light, it is noted all habitable rooms would be served by windows, with the principal elevation of the residential building facing south to maximise levels of natural light to the main living spaces for the flats. Notwithstanding the above, each of the master bedrooms would be served by 2 no. windows to both maximise natural light and surveillance. The sunlight path for residential block is outlined below for reference.



In terms of the potential for overlooking to the surrounding properties, the views afforded from the principal elevation and from the main living spaces would be onto the communal garden as well as onto the northern elevation of the leisure building. As such, there would be no unacceptable overlooking resulting from this elevation of the residential block. Existing viewpoints are demonstrated within the figure below.



Whilst it is not considered this would result in the most attractive outlook for occupants of the flats, it is noted that this arrangement has been sought to maximise the levels of natural light afforded to the occupants of the flats. Given the above and that the view of the northern elevation of the leisure building would be softened through the presence of the communal garden and associated landscaping, this orientation of the building is considered acceptable.

As outlined above, to the northern elevation, each of the apartments would benefit from 2 no.

windows as well as an entrance walkway which would face onto the adjacent footpath to the north as well as towards the rear of shops at the Belvoir Centre. Given the separation distances involved (at least 20m distance) and the predominantly service and retail use of the units the residential building would overlook, along with consideration to the natural screening provided by trees to be retained, it is not considered the proposals would result in unacceptable overlooking impacts from windows to the proposed northern elevation.

Whilst there would be windows which would face onto the adjacent public open space from the eastern elevation, it is noted that these windows would serve a non-habitable room in the form of the stairwell. As such, it is not considered the eastern windows would result in unacceptable overlooking impacts. Finally, it is noted that whilst there would be windows to the western elevation of the residential block which would serve habitable rooms, given the residential block would be sited at an angle to properties and business fronting onto Belvoir Road along with consideration to the distances involved to habitable windows, it is not considered the proposals would result in unduly harmful levels of overlooking to warrant the refusal of the application on these grounds nor warrant the conditioning of side facing windows to ensure these would be obscure glazed and non-opening.

In terms of any overbearing and/or overshadowing impacts resulting from the proposals, whilst the proposed residential building would comprise of a 4-no. storey building, it is acknowledged that surrounding built development is largely characterised by two storey and two and a half storey buildings. The residential building would be sited to the northwest of the site, bounded by a footpath to the north, the proposed open space and car park to the east, the leisure building and communal garden to the south and large rear gardens to the west. Therefore, it is considered the proposals would result in some overshadowing to adjacent gardens during the morning, but this would not be to harmful levels with any overshadowing largely being confined to the adjacent footpath throughout the day and car parking area in the evening.

Given the above and that any views of the development would be seen in the context of surrounding built development along Belvoir Road and the Retail and Leisure Quarter, it is not considered the residential building would result in unacceptable levels of overshadowing and would not appear overbearing within the surrounding context.

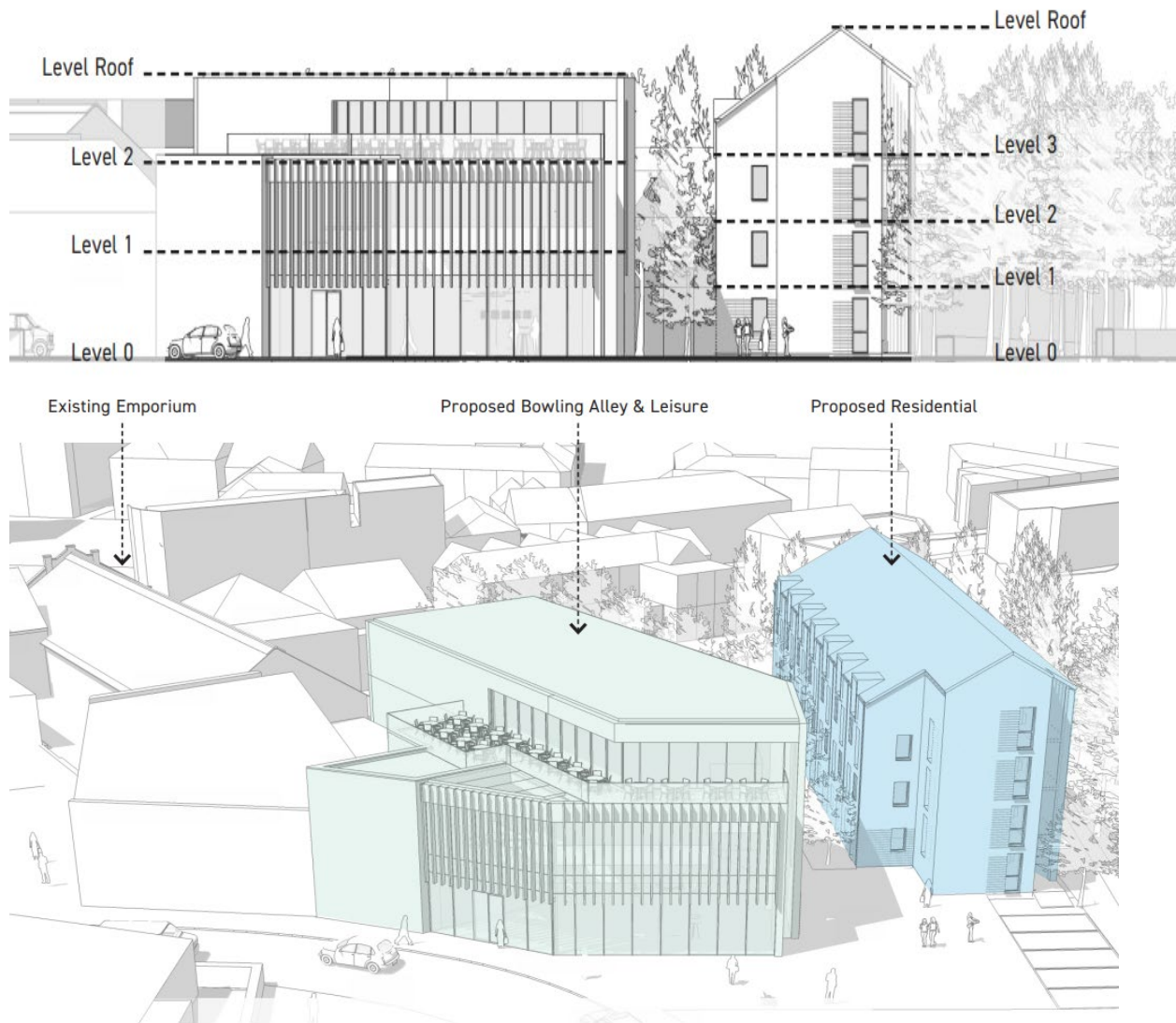
Leisure Building

The second part of the proposals would involve the erection of a leisure building to contain a bowling alley, restaurant with second floor terrace area, mini golf and gaming areas which would be sited to the northeast of the existing Emporium nightclub. The proposed building would be a maximum of 3 no. storeys high with a single storey element to the rear to allow sufficient space for the proposed bowling alley.

In terms of the impact to the surrounding residents, it is noted that the leisure building would be sited to the south of the proposed residential building and, at its closest, would have a separation distance of approximately 5.5m. As such, it is considered the leisure building would result in some overshadowing to the adjacent habitable windows at certain times of the day. However, given that the leisure building is located at an angle relative to the adjacent residential building, it is not considered the levels of overshadowing would be to unacceptable levels to warrant the refusal of the application on these grounds.

To the south of the leisure building would be the Emporium club whilst to the west would be the rear of the Engineers Arms. It is not considered the leisure building would result in unacceptable overshadowing impacts to either of these buildings and it is noted that the impact on the

Engineers arms would be limited by the reduction from 3 storeys to 1 storey in height directly adjacent to this property.



In terms of overlooking, this would be primarily from windows to the eastern elevation from the main public areas within the leisure building. The main surrounding property to be impacted upon would be the nearby furniture warehouse. Whilst it is considered there would be some overlooking because of the proposals, given the distances involved and the retail use of the adjacent property, it is not considered the proposals would result in unacceptable overlooking impacts to warrant the refusal of the application on these grounds. Additionally, whilst there would be windows to the northern elevation, these would either be limited to the stairwell or would be high level windows serving the restaurant area. As such, no unacceptable overlooking would arise from these windows.

With regards to noise and smell impacts to residential amenities it is considered that the application site is set within a highly central area, largely surrounded by other commercial premises. However, to ensure acceptable impacts on adjacent occupiers, and noting the request for the imposition of a condition by the Environmental Protection Team for an acoustic survey, and potential subsequent insulation scheme for the residential block, including details of ventilation arrangements, further details and potential mitigation measures shall be secured by

way of conditions.

Retail proposals

The final part of the proposals would be the retail element of the proposals, it is noted this would utilise an existing building with 2 no. floors proposed of retail space and 1 no. floor of office space. As this part of the proposals would not result in an extended footprint of built development and would utilise an existing building, with works largely limited to demolition and internal works, it is not considered the retail building would result in any unacceptable overbearing or overshadowing impacts.

Likewise, in relation to overlooking impacts, whilst the proposals would include additional windows to the rear, given these would overlook an adjacent car park and access road and having consideration to the siting and number of existing windows and the proposed retail and office use, it is not considered the proposals would result in unduly harmful overlooking impacts to warrant the refusal of the application on these grounds.



Amenity conclusions

The above assessment identifies that the development would be acceptable, both in relation to the amenities of existing surrounding occupiers as well as in relation to the amenities of future occupiers of the proposed build-to-rent flats.

On this basis it is considered that, subject to the imposition of conditions, the amenities of existing and future occupants would be safeguarded and consequently the proposal would be compliant with Policy D2 of the adopted Local Plan and Paragraph 187 of the NPPF.

Highway Considerations

Policy IF4 of the Local Plan (2021) requires that development takes account of the impact upon the highway network and the environment, including climate change, and incorporates safe and

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

LCC Highways were consulted throughout the course of the application and requested various updates to information and plans in order to inform a final substantive response.

The site proposes to reconfigure an existing access on the eastern side of Belvoir Road. The existing access is demonstrated in the photos below. As well as accessing the proposed development, the proposed access would also provide additional access to the 'Town Centre car park'. Belvoir Road is an adopted C-classified highway with a 30mph speed limit in the vicinity of the proposed access.

The proposed internal reconfiguration of the site means that the access proposals would provide additional new vehicular access to the existing 'Town Centre car park'. The 'Town Centre car park' is a combination of three separate car parks: Bridge Road, Needham's Walk and Market Hall.

The submitted 'Proposed Site Plan' drawing (reference 21142-0300 Rev. P-04) shows the access to be upgraded to a two-way single carriageway road with a carriageway width of approximately 6.5m. The proposed access road, which will have an s-shaped alignment, will provide a link between Belvoir Road at its southwestern end and the existing Town Centre car park at its north-eastern end.





A) Access arrangements

In relation to the access arrangements, LCC Highways commented as follows:

- *The footway provisions shown are considered reasonable and cater for pedestrians travelling from both the north and south of the access. The LHA accepts that there is physically no room to provide a footway on the south/east side of the access road, however the drawing shows multiple crossing points to the footway on the north/west side.*
- *The submitted drawing shows adequate dimension detail for this stage of the planning application and generally complies with Leicestershire Highway Design Guide (LHDG) Part 3.*
- *Swept-path analysis has been demonstrated satisfactorily on Drawing 19048 - TR004. The LHA recommended that a delivery and servicing plan be provided along with swept-path analysis, and this has been provided in Appendix 4 of TN 5.0. A condition has been advised in the relevant section below.*
- *The LHA is satisfied with the visibility splays provided which have been demonstrated correctly using speed survey information collected at the location.*
- *The Applicant was required to consider the interaction between adjacent junctions and the consequent effect on user delay and road safety given the proposed new access would be near the junction of Belvoir Road and Owen Street on the opposite side and the committed Marlborough Square development. No issues were raised in a Stage 1 Road Safety Audit (RSA1) regarding this.*
- *The LHA is satisfied that the consultant has responded to the issue raised within the RSA1 report and that there is no requirement for a further safety audit report at this stage.*

Additionally, it was noted that the following matters would need further consideration at the S278 detailed design and technical approval process stage:

- The new access would potentially require street lighting provision and consultation with LCC Street Lighting team would be required regarding this;
- The proposed new access would impact upon existing statutory utilities equipment and liaison with statutory utilities will need to be undertaken to confirm details of diversion/protection works required; and

- The designer should provide details of where they intend to drain the new proposed development in addition, the developer will be required to survey the existing drainage, and a detailed drainage design and drainage assessment will be required for approval as part of the S278 agreement. The developer will be required to survey the existing drainage, including CCTV, to identify suitable drainage to connect into.

Overall, it was noted that “the LHA notes and agrees that the proposed site access junction is predicted to operate well within capacity.”

B) Needham's Walk

It is noted that as part of the proposals, Needham's walk (existing photo shown below) would be permanently closed due to the siting of the proposed residential block and associated communal amenity space.

Therefore, the LHA directs the applicant to Section 31 of the Highways Act 1980 which states that:

'Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.'

The route seems to have been in existence for over 20 years and appears likely to have been in constant use by the public to pass and repass between Belvoir Road and the path it connects to. Therefore, if the Applicant does not hold any evidence that there was no intention to dedicate the route, it is strongly advised that a stopping up order via the S247 process to extinguish highway rights is pursued by the Applicant in connection with the development.



C) Highway Safety

LCC Highways provided the following information:

- *No Personal Injury Collisions (PICs) directly attributable to the site have taken place within the most recent five-year period for which data is available.*
- *Four PICs have been recorded along High Street (where the Town Centre car park connects to the highway) but there are no patterns / trends that can be determined.*
- *Four PICs have been recorded on Belvoir Road within the vicinity of the proposed access during the same period. Again, there are no patterns / trends that can be determined.*

Based on the above, the LHA therefore considers that the proposed development would not exacerbate any known highway safety concerns.

D) Trip Generation

The results from the completed trip generation exercise are included below for reference:

Use/Trips	AM	PM	Sat
Residential	+22	+21	-
Leisure	+8	+33	+19
Restaurant	+0	+6	+23
Retail	+0	+0	+0
Total	+30	+60	+42

It can also be noted that the proposed development trips would have three points of access with the wider highway network; the proposed site access with Belvoir Street and the two existing town centre car park access points, which may dilute the impact of the development traffic across the network.

E) Off-site implications

In relation to off-site implications, LCC Highways commented as follows:

“The LHA considered that the opening of an access to the town centre car park at this location could significantly alter traffic patterns in the town centre and therefore this needed to be established robustly and in detail.

The Applicant has applied a bespoke assessment methodology for calculating the impact upon the highway network based on a number of assumptions with regard to existing traffic flows at nearby junctions and parking accumulation surveys. However, when the LHA raised concerns and queries, disappointingly, the Applicant was reluctant to modify the application of its assumptions.

Therefore, in considering the Applicant’s methodology further, the LHA undertook its own assessment. Whilst the results of this did not fully match the findings by the applicant, the LHA does not consider on balance that the proposed development traffic, together with re-routing resulting from the new access to the car park, would be likely result in a significant change in flows at any off-site junctions within the town centre.”

Accordingly, the LHA does not consider that the operational capacity assessment of the impact on any off-site junctions is required in support of the development proposals and therefore, no further consideration was required.

F) Internal layout

In terms of the internal layout (outlined in the figure below), LCC Highways provided the following comments:

“A total of 15 car parking spaces are proposed for the site. This includes a total of 9 spaces for public use (including three disabled bays) and 6 spaces for the 28 residential apartments.”

Parking spaces should measure a minimum of 2.4 x 5.5 metres with an additional 0.5m strip where bound by a wall/ hedge/ fence etc.

LCC Highways noted that “the proposed development could require the total provision of an additional 239 parking spaces, broken down by use as follows:

Use	Numbers proposed
Residential	22
Retail	61 – 87
Bowling	36
Restaurant	95

Such parking demand would result in a worst-case scenario parking accumulation of 463 parking spaces, an occupancy level of 83%. The LHA considers that this is acceptable and that a level of parking beyond that proposed is not required in this instance.”



Highway conclusions

Based on the above, LCC Highways concluded that “the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, and the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 111 of the National Planning Policy Framework (2021), subject to the conditions and/or planning obligations proposed.

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 with regards to Local Plan Policy IF7 and the relevant paragraphs of the NPPF.

Ecology

Policy EN1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district.

LCC Ecology were consulted during the application process and requested further information in the form of an additional bat survey. Following re-consultation, the following comments were provided:

“The ‘Presence/Likely Absence Survey for Bats’ report dated August 2023, completed by Wharton Natural Infrastructure Consultants Ltd is sufficient. The assessment did not identify the presence of an active bat roost associated with the structures to be demolished or part demolished. However, to mitigate the loss of roosting features on site and in line with NPPF policy, recommendations for biodiversity enhancement have been made in Section 5 of the report. These include the provision of bat boxes upon the proposed structures which can form a standard planning condition for any approved scheme. The makes, models and locations should be illustrated on a relevant drawing/plan to discharge the condition.

Due to the site’s location and urban related habitat types, it was determined to be of little ecological value. However, there is the potential for breeding birds to occur within the structures and vegetated habitats on site. Therefore, a recommendation was made regarding the removal of such habitats outside of the breeding bird season (March – August inclusive). A technical advice note on nesting birds should be attached to any approved scheme to inform this. The PEA report also made a number of recommendations for ecological enhancement opportunities which could be incorporated into the proposed development.”

These recommendations include:

- *“integrated bat boxes into the brickwork of any new proposed buildings on site in addition to any mitigation measures that may be necessary following further bat surveys.*
- *The provision of specific bird boxes including general nesting boxes and sparrow terrace nest boxes*
- *A landscaping design for the proposed development should include the planting of a wide range of native species, including nectar and pollen-rich species”*

Subject to the conditioning of the above recommendations and enhancements, it is noted that

LCC Ecology have no objections to the proposals.

Whilst the mandatory requirement for 10 percent BNG has not yet been enacted through the Environment Bill (expected January 2024), paragraph 174(d) of the NPPF sets out a requirement to minimise impacts on and provide net gains for biodiversity. As noted above, the site is primarily brownfield land consisting of existing hardstanding and built development. However, approximately 20% of the site would be greenfield land, part of which would be lost because of the proposed residential development.

In this case, whilst no metric calculations have been provided with the application submission, it is noted that the developer is amenable to a condition to secure net gain, through a combination of onsite and offsite units which would include signing up to a Section 106 Agreement to secure its implementation over the long term. This is in line with government guidance on biodiversity net gain which notes the need to secure offsite biodiversity net gain for at least 30 years via a legal agreement.

Subject to the securing of the above conditions and Section 106 Agreement, the proposals would secure enhancements to local biodiversity, and would therefore accord with Policy En1 of the Local Plan and relevant paragraphs of the NPPF.

Trees

Policy En1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district.

The Council's Tree Officer was consulted throughout the application due to the proposals including works to trees within a Conservation Area and the following comments were received:

"The submitted Arboricultural Impact Assessment (AIA - Ref 220426 1464 AIA V1 DRAFT) appears to provide a thorough description of the site's existing tree cover and so is acceptable for the purposes of considering the arboricultural implications to the proposal. This tree cover is mainly situated in the northern part of the site and is of mixed broadleaf species, with the most obvious being a linear group of Lombardy poplar on the northern boundary.

The AIA identifies a total of 21 trees which will require removal to facilitate the development. Of these, 12 are considered to be of moderate quality (category B) and 11 low quality (category C). From reviewing the proposed layout, I agree that the development will not be possible with the retention of these trees. Their removal will obviously result in a loss of the tree cover to the northern aspect of the site, although I do note that the other adjacent trees which are to be retained will maintain some of the existing screen and there will be the opportunity for replacement tree planting as part of a landscaping condition. With these points considered, the loss of arboricultural amenity will therefore need to be balanced against the overall benefits of the development.

The report also highlights that the proposed layout includes new hard surfacing within the root protection area (RPA) for several of the retained trees. Mitigation is recommended by constructing this new surfacing using a 'no-dig' specification. This is acceptable in principle, although a detailed specification and Arboricultural Method Statement (AMS) will be required for its installation. In this instance, it will be acceptable for the submission of an AMA to be made a condition of consent.

A Tree Protection Plan (TPP) is also included within the AIA. This is also acceptable in principle, although I would question the position for the protective fencing to trees T17-T29, which uses the proposed new surfacing as protection for the outer part of the RPA. I would question whether the specified 'no-dig' surfacing will be sufficient for the likely ground loading from construction plant/traffic and so would prefer to see the fencing positioned at the outer edge of the RPA, with the 'no-dig' surfacing then installed once the main building works are complete. The AIA does state that the included TPP is indicative only, and that a final plan and AMS is required. The above amendments could therefore be made when the TPP is updated to its final version. It would again be acceptable for this to be made a condition of consent."

Subject to the conditioning of an appropriate landscaping scheme, the submission of a detailed arboricultural method statement and updated tree protection plan, it is noted that no objections are raised by the Tree Officer.

As such, subject to the imposition of conditions, the Local Planning Authority is satisfied that the proposal would accord with Policy En1 of the Local Plan and relevant paragraphs of the NPPF.

Flood Risk and Surface Water Drainage

The site is located within Flood Zone 1 and the development would be situated within an area that is at low risk of fluvial flooding and a low to medium risk of surface water flooding.

During the application, the Lead Local Flood Authority was consulted and provided the following comments:

"Leicestershire County Council as Lead Local Flood Authority (LLFA) notes that the 0.76 hectare brownfield site is located within Flood Zone 1 being at low risk of fluvial flooding and a low to medium risk of surface water flooding. The proposals seek to discharge at 40 l/s via pervious paving and an underground tank to a Severn Trent Water (STW) sewer."

The applicant justification for the site's discharge rate is based upon a betterment requirement from STW. However, in line with Department for Environment, Food and Rural Affairs 'Sustainable Drainage Systems, Non-statutory technical standards for sustainable drainage systems' March 2015:

For developments which were previously developed, the peak runoff rate from the development to any drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event must be as close as reasonably practicable to the greenfield runoff rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development prior to redevelopment for that event.

Therefore, the applicant should reduce the sites proposed discharge rate to abide by this standard.

The site's surface water drainage strategy is not shown to any level of detail. The applicant should show all proposed sewers, chambers and attenuation to demonstrate the sites strategy. Of critical detail is the location of the proposed sewer connection.

In order to provide a substantive response, the following information is required:

- *Review of the proposed discharge rate in line with guidance*
- *Consideration of source control SuDS such as permeable paving.*

- *Evidence that all parts of the site can be positively drained with a detailed surface water drainage strategy plan drawing.*
- *Accompanying network calculations for critical return periods with appropriate allowances for climate change.*
- *Developer Enquiry response from STW accepting the connection to their sewer asset in principle.*
- *Overland flow routing plan for any flooding in the peak design and exceedance events.”*

It is noted that in response to these comments, an updated flood risk assessment and surface water strategy was submitted by the applicant for review by the Local Flood Authority who provided the following further comments:

“Subsequent to the previous LLFA response the applicant has provided a revised drainage strategy which now seek to discharge at 3.41 l/s entirely via pervious paving to a Severn Trent Water (STW) combined sewer. Sewer records show an adopted surface water sewer which is the preferred point of connection and must be fully discounted before a connection to the combined sewer is supported.

No evidence of support in principle from STW has been submitted. It is however noted that the proposals currently drainage to existing STW assets off-site at a much greater flow rate; as such the risks are low associated with these missing details, however in line with NPPF the applicant has not adequately demonstrated the site can be drained.”

As such, the LLFA requested that evidence is submitted to confirm the Severn Trent Water support the proposals. Whilst this request is noted, given that Severn Trent Water has a duty to provide capacity including for new development, it is not considered reasonable to delay the application on this basis given the low risks associated with the site as identified above.

Therefore, on this basis, the LLFA have advised of conditions to attach to the application should officers be minded to approve the application without comments from Severn Trent Water. As such, these conditions would be applied should the application be permitted, and an update will be provided to members to confirm if the applicant is agreeable to the proposed pre-commencement conditions.

Therefore, subject to confirmation of agreement to the suggested pre-commencement conditions, it is considered that the proposal would comply with Policies Cc2 and Cc3 of the Local Plan, and the guidance set out within the NPPF.

Land Contamination

The Council's Land Contamination Officer has advised that due to the historic use of the site and use of the neighbouring sites, that it would be necessary for a Land Contamination Assessment to be undertaken as well as a verification investigation and remedial scheme, if required, and these should be conditioned on any permission to be granted. It is noted that the applicant is amenable to the suggested conditions and as such, these shall be conditioned should the application be permitted.

Subject to the imposition of such conditions, the development would accord with Policy En6 of the adopted Local Plan as well as Paragraphs 174, 183 and 184 of the NPPF.

Waste Services

Throughout the course of the application, the Council's Waste Services team were consulted and originally requested further information in relation to the access road and whether this would be fully adopted. Additionally, updated plans were requested in relation to bin store dimensions, and submitted swept path analysis plans to ensure this would be updated to accommodate the correct vehicle.

It is noted that throughout the application, an updated swept path analysis was received and reviewed by the Waste Services team who confirmed this to be acceptable. In terms of the adoptable standard of the access road, it was confirmed in consultation with LCC Highways that the access road would only be adopted as far as the eastern edge of the tactile paving on the proposed access road with the remainder of the access road being private. Therefore, for waste vehicles to traverse the proposed access road, confirmation was requested that the road would be constructed to an adoptable standard which was later confirmed by the applicant.

Based on the above, the Waste Services team confirmed that they would have no objections to the proposals subject to an indemnification from the developer being agreed against any damage to the road as a result of waste collection vehicles gaining access and egress to empty waste and recycling receptacles and it is understood that the applicant is agreeable to this approach. Further, further details in relation to waste bin dimensions could be secured via condition with additional guidance being included as a note to the applicant.

Given the receipt of confirmation of agreement to the above by the applicant, no objections are raised by Waste services.

Developer Contributions

Paragraphs 56 and 57 of the NPPF set out the Government's policy in respect of planning obligations and state that they can only be used here they are:

- *necessary to make the proposed development acceptable in planning terms;*
- *directly related to the proposed development; and*
- *fairly and reasonably related in scale and kind to the proposed development.*

Equivalent legislative tests are contained within the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).

Requests have been made by Leicestershire County Council for Section 106 contributions towards travel packs and a travel plan monitoring fee, contributions towards bus passes (one per employee and two per residential apartment), contributions towards improvements to the A511, contributions towards waste and library services as well as contributions towards the local surgery. These have been forwarded and reviewed by the applicant who has confirmed agreement to the requested contributions. Notwithstanding the above, the developer has also agreed to secure the implementation of a net gain strategy through a Section 106 agreement.

These requests have been assessed against the equivalent legislative tests contained within the Community Infrastructure Levy (CIL) Regulations (CIL Regulations) as well as Policy IF1 of the adopted Local Plan and Paragraphs 34, 55 and 57 of the NPPF. Further, as outlined above, the applicant is agreeable to all requested contributions.

Conclusion

The site is located within the defined Limits to Development, within the town centre boundaries where the principle of residential development, as well as retail, leisure and service development is acceptable subject to compliance with relevant policies of the adopted Local Plan and other material considerations.

It is also considered that the development would not impact adversely on the character and appearance of the streetscape and wider area, the historic environment and archaeology, residential amenity, highway safety, ecology, existing landscaping, land contamination, and subject to confirmation from the Lead Local Flood Authority, nor would the proposal exacerbate any localised flooding issue.

There are no other material planning considerations that indicate that planning permission should not be granted and accordingly the proposal, subject to conditions and the completion of a Section 106 agreement, is considered acceptable for the purposes of the aforementioned policies.

It is therefore recommended that the application be permitted.

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Erection of two dwellings (Resubmission of 20/00699/FUL)

Report Item No
A2

Land Adjacent To 5 Cedar Grove Moira Derby

Application Reference
23/01127/FUL

Grid Reference (E) 432786
Grid Reference (N) 316717

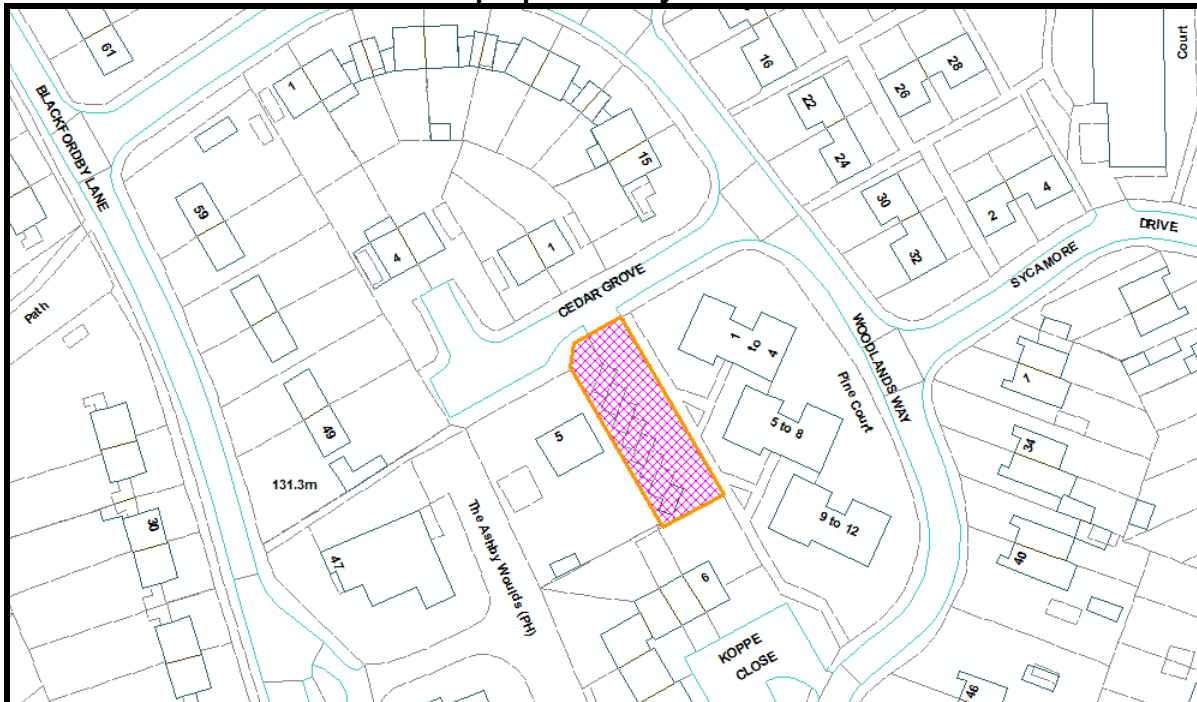
Date Registered:
30 August 2023
Consultation Expiry:
27 October 2023
Determination Date:
25 October 2023
Extension of Time:
10 November 2023

Applicant:
Mr Michael Fowell

Case Officer:
Sarah Booth

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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Reasons the case is called to the Planning Committee

The application is brought before Planning Committee in line with the council's constitution as the application has been submitted by North West Leicestershire District Council and contrary representations to the recommendation to permit the application have been received.

RECOMMENDATION - PERMIT, subject to No Objections from Natural England and the following conditions;

- 1 Standard time limit (3 years).
- 2 Approved Plans.
- 3 Materials details to be agreed.
- 4 Levels shall not be raised unless otherwise agreed.
- 5 Risk based land contamination assessment prior to commencement to be submitted, approved, and implemented.
- 6 A verification investigation prior to first use of the development to be submitted, approved and implemented
- 7 Hard and soft landscaping and boundary treatments and timescale for their implementation to be submitted and agreed prior to occupation. Replacement planting to be provided if any should die within 5 years.
- 8 Obscure glazing to be secured for the first floor windows on the east and west side elevations of the proposed dwellings.
- 9 Delivery of access arrangements (including visibility splays) in accordance with submitted plans.
- 10 Delivery of off-street parking and turning arrangements in accordance with submitted plans.
- 11 Provision of 1m x 1m pedestrian visibility splays.

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the erection of two new dwellings on land located between flats at Pine Court and No.5 Cedar Grove in Moira. This application has been submitted by North West Leicestershire District Council and the proposed new dwellings would become council housing to rent as affordable units.

The site is located within limits to development, as defined by the policy map to the adopted Local Plan. The site location plan is shown below.

Site Location Plan



The application site was last used for car parking for the adjacent Pine Court flats, which are also owned by the Council. This land was previously occupied by several detached garages serving Pine Court; however, these buildings have now been demolished (see below).

Garages before demolition



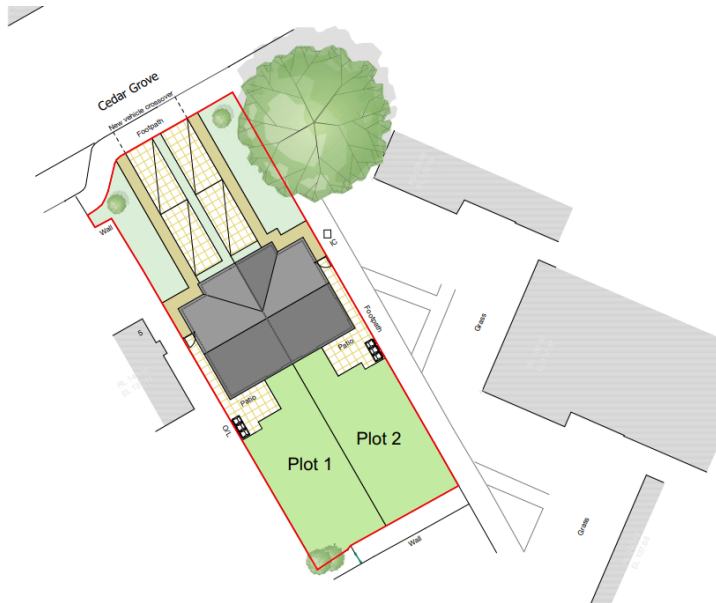
Application site after demolition



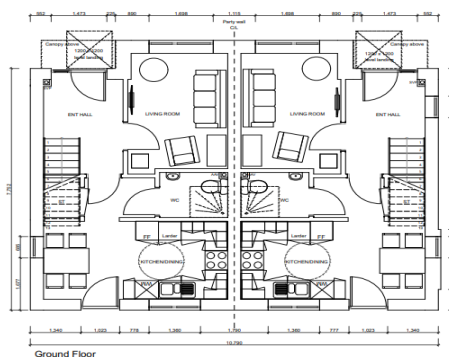
This application is a resubmission of application 20/00699/FUL, which was approved in August 2020. The proposed design, location and appearance of the application dwellings remains the same as the previously approved scheme. Planning approval is sought again for this development as the previous permission has now expired and more time is required by the Council to implement this development.

Details of the proposed development are shown below:

Site Layout Plan Showing Proposed Development

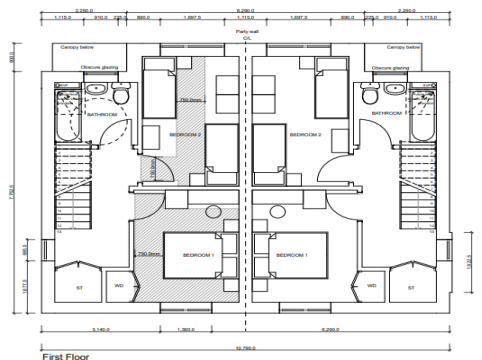


Proposed Floor Plans



Plot 1
Ground Floor GIFA = 36.5m²
First Floor GIFA = 36.5m²
Total GIFA = 73m²

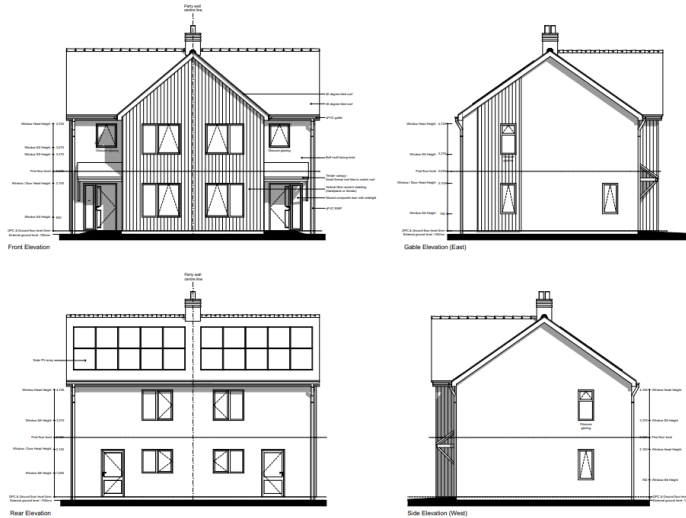
Plot 2
Ground Floor GIFA = 36.5m²
First Floor GIFA = 36.5m²
Total GIFA = 73m²



Plot 1

Plot 2

Proposed Elevations



Recent Planning History

20/00699/FUL - Erection of two dwellings (PER 05.08.2020).
 18/02260/DEM - Demolition of 8 brick garages (PER 21.01.2019).

The following application on a nearby site at Woulds Court, Willow Close, Moira is also relevant to this application:

18/02261/DEM - Demolition of Woulds Court flats and associated buildings (PER 21.01.2019).

2. Publicity

27 Neighbours have been notified.
 Site Notice displayed 6 October 2023.

3. Summary of Consultations and Representations Received

Ashby Woulds Town Council - Object to the application on the following grounds:

Members consider the land would be better used as car parking to ease the existing parking problems. The money could be spent on improving existing housing stock.

No objection from: -

Environmental Protection
 Leicestershire County Council Ecology
 NWLDC Waste Services (note to applicant recommended)

No objection subject to conditions from: -

County Highway Authority

No response received at the time of writing this report from: -

Severn Trent Water
Natural England

Third Party Representations

One letter of neighbour representation has been received raising objections to the proposal, this can be summarised as follows:

- the land should be used for car parking.
- Parking problems have increased on Woodlands Way and are worse at school times.

One letter of support has also been received, which also raises some concerns, this can be summarised as follows:

- Happy for the properties to be built.
- Concerns about parking for machinery and construction workers.
- Where will the tenants of the flats park.
- Could parking be provided on the grass areas around the flats for tenants.

4. Relevant Planning Policy

National Planning Policy Framework (2023)

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

Paragraphs 8 and 10 (Achieving sustainable development);
Paragraph 11 (Presumption in favour of sustainable development);
Paragraphs 55, 56 and 57 (Decision-making);
Paragraphs 60, 69, 74 and 75 (Delivering a sufficient supply of homes);
Paragraphs 104, 105, 110, 111 and 112 (Promoting sustainable transport);
Paragraphs 119, 120, 123 and 124 (Making effective use of land);
Paragraphs 126, 130, 132 and 134 (Achieving well-designed places);
Paragraphs 152, 154, 157, 159 and 167 (Meeting the challenge of climate change, flooding, and coastal change);
Paragraphs 174, 182, 183, 184, 185 and 186 (Conserving and enhancing the natural environment).

Adopted North West Leicestershire Local Plan (2021):

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

S1 - Future Housing and Economic Development Needs
S2 - Settlement Hierarchy
D1 - Design of New Development
D2 - Amenity
IF4 - Transport Infrastructure and New Development
IF7 - Parking Provision and New Development
En1 - Nature Conservation

En2 - River Mease Special Area of Conservation
En3 - The National Forest
En6 - Land and Air Quality
Cc3 - Water - Sustainable Drainage Systems

Other Guidance

The Conservation of Habitats and Species Regulations 2017
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System
National Planning Practice Guidance - March 2014
River Mease Water Quality Management Plan - August 2011
The River Mease Developer Contributions Scheme (DCS) - September 2016
Leicestershire Highways Design Guide (Leicestershire County Council)
Good Design for North West Leicestershire SPD - April 2017
National Design Guide - October 2019
The Community Infrastructure Levy Regulations 2010
Natural England - Advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites - March 2022
National Forest Strategy 2014-2024

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 site is located within Limits to Development as defined by the adopted Local Plan. Policy S2 defines Moira as a 'Sustainable Village' which is supportive of a limited amount of new development within limits to development.

It is proposed that these two dwellings would provide additional housing for the council to rent as affordable units, the principle of which is encouraged by the NPPF and the council's Local Plan.

Overall, it is considered that the proposal would represent a sustainable form of development and would accord with the policy aims of the adopted Local Plan and would be acceptable in relation to the NPPF. Therefore the development is acceptable in principle subject to other material considerations.

Siting and Design and Impact upon Character

The need for good design in new residential development is outlined in adopted Local Plan Policy D1 and the Council's Good Design Supplementary Planning Document (SPD) and in the NPPF.

The wider area consists of a mixture of property types including flats, bungalows and detached and semi-detached dwellings, which are all set back from the public highway. The existing street scene primarily comprises brick built, side gable properties with chimneys and some elements of cladding. Most dwellings in this location are semi-detached.

The proposed new dwellings would be two storey semi-detached dwellings with a set back from the highway in line with No.5 Cedar Close and would be constructed in brick and vertical cladding. The plans proposed the same design as previously approved application 20/00699/FUL which was acceptable. The proposal would have a symmetrical appearance with a chimney and porches that would be in keeping with the character of the area.

It is noted that the proposed design includes a protruding front gable element which differs somewhat from the other dwellings in Cedar Grove. However, this feature is similar in appearance to certain design aspects of the adjacent Pine Court flats. On that basis it is considered that the proposal would not be harmful to the street scene.

The overall plot sizes, floor area and height of the proposed new dwellings would also be comparable to surrounding neighbouring properties.

It is noted that the proposal includes tandem parking which is not the Council's preferred type of off street parking as advised in the Council's Good Design SPD. However, the design includes an almost equal ratio of landscaping to parking and hardstanding which softens the appearance of the frontage of the new development and accords with the aims of the Council's Good Design SPD.

Whilst some materials have been referred to in the application submission it is recommended to condition more specific details of the proposed materials, especially the cladding, to ensure they would be in keeping with the visual amenity of the area.

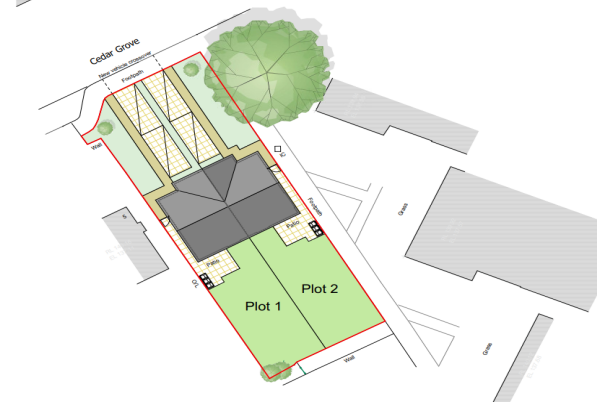
Precise details for the proposed boundary treatments have not been included in the application at this stage. It is recommended that these details are secured by condition if this application is approved.

Overall the proposed development accords with the general siting and scale of existing dwellings within the vicinity and the design approach is considered acceptable. Therefore, the proposal is considered to be in accordance with Policy D1 of the adopted Local Plan, the Council's Good Design SPD and the advice contained in the NPPF.

Impact upon Residential Amenity

The residential dwellings most immediately impacted upon because of the proposal would be No.5 Cedar Grove to the west, the flats in Pine Court to the east (No's 1- 12), No's 1 and 2 Cedar Grove opposite the site (to the north) and No.6 Koppe Close which borders the rear of the site (to the south).

Proposed Site Plan



Regarding No's 1 and 2 Cedar Grove and No.6 Koppe Close to the front and rear of the site, these neighbouring dwellings would be at least 20 metres away from the proposed new dwellings. This would accord with the separation distances set out within the Council's Good Design SPD and therefore the development is not considered to adversely impact on the residential amenities of these properties.

As the new dwellings would be in a parallel position to No.5 Cedar Grove the new development would accord with the 45 degree code of practice as per the Council's Good Design SPD and it is considered that the new dwellings would not significantly impact on No.5.

It is noted that there are proposed first floor side facing windows on both the east and west side elevations of the new dwellings. It is recommended that these should be conditioned to be obscurely glazed and fixed shut below in internal height of 1.7 metres to prevent any overlooking impacts of either the flats at Pine Court to the east or No.5 Cedar Grove to the west.

Regarding the flats at Pine Court, it is noted that there are some first floor windows serving the flats which would be near the application site. Notwithstanding this, there is a distance of at least 10 metres from the Pine Court first floor windows to either the side elevation of the proposed Plot 2 or its garden. In addition to this the flats are rotated at an oblique angle to the application site which further reduces the impact. Overall it is considered that this proposal would not result in any harmful overlooking, overbearing or overshadowing impacts on the flats of Pine Court.

Overall, the proposal is not considered to result in significant impacts upon surrounding residential amenity. Therefore, the proposed development is considered to be in accordance with Policy D2 of the adopted Local Plan and the Council's Good Design SPD.

Highway Considerations

Neighbour representations have been received for this application raising concerns about the loss of existing parking for Pine Court, because of this development, and the subsequent impacts on on-street parking in the area. Ashby Woulds Town Council has also objected on the basis that they would prefer the site to be used for car parking also. These matters will be considered below.

The site is located on Cedar Grove, an adopted, unclassified residential street subject to a 30mph speed limit. The scheme proposes two dwellings with two bedrooms and two off street

parking spaces for each dwelling. This is in accordance with the Local Highways Design Guide (LHDG). The proposed access would be approximately 5.5m in width which also accords with the LHDG.

It is noted that this proposal would be built on an existing car parking area for Pine Court. The applicant advised in the previous application that the garages that were formerly located on the application site, had not been occupied since 2015. All those garages had also been vacant between 4 and 11 years prior to their demolition in 2019. The applicant therefore considered that there was a lack of demand for garages from the residents of Pine Court. It was also previously understood from the applicant that a small number of cars have parked on the application site, however, most appear to already park on the public highway.

The County Highways Authority (CHA) have referred the Local Planning Authority to their previous advice from planning application 20/00699/FUL for the current application. The CHA previously advised that there are no current planning restrictions which secure the application site to remain available for use by the flats. The CHA is also satisfied that the loss of the existing parking area and the impacts of any displaced parking onto the surrounding highway would not cause severe harm to the highway network in this location. As such a reason to refuse the application on highway safety grounds could not be justified.

The CHA has advised that conditions should be included to secure the proposed access arrangements, off-street parking and turning for the proposed new dwellings and a condition is recommended to secure 1m x 1m pedestrian visibility splays. It is recommended that these conditions should be attached if permission is granted.

Neighbour concerns have been raised regarding parking of construction vehicles in the area. No objections have been raised by the CHA regarding this matter. Given the scale of the development the scheme is not of a nature where it would normally be considered necessary or reasonable to secure a scheme for off-street parking for construction vehicles. It is also noted that the CHA has not requested a construction management condition for the proposed development. Notwithstanding this, a note to applicant could be added requesting that the developer gives careful consideration to parking in the area during the construction phase.

A neighbour has requested that additional parking be provided on the Pine Court site, however this does not form part of the current application and would be a matter for the Council's Housing Team to consider.

Overall, therefore, the highway safety aspects of the scheme are considered to be acceptable. The proposal is considered to comply with the aims of Policies IF4 and IF7 of the adopted Local Plan and the LHDG.

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

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

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

The proposed development would result in an increase in foul drainage discharge from the site which 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.

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

This application has been submitted by North West Leicestershire District Council. In the application submission the Council have highlighted that they own other sites within close proximity to the application site. The Council have demolished a sheltered accommodation building on the site of Woulds Court in Moira (shown highlighted in yellow below), this was located on Willow Close which is approximately 90 metres to the north-east of the application site. The location of the application site is shown outlined in red below.

Figure 3 - Location of the Former Woulds Court site in relation to the application site



The Woulds Court sheltered accommodation building previously comprised of 20 one-bedroom flats and 1 three-bedroom flat. DCS2 advises that this is an average foul discharge rate of 140.4 litres per day for a 1-bedroom dwelling and 278.4 litres per day for a 3-bedroom dwelling, this equates a foul discharge rate of 3086.4 litres per day. Given that the sheltered housing building has been demolished in recent years then this foul drainage discharge has now ceased. As such it could be possible for new development to be built and offset against the former usage of the Woulds Court site.

The offsetting of foul drainage of a previous use is usually limited to a redevelopment scheme on the same application site. However, in this instance the applicant is the same land owner, the two sites are near each other and both sites also discharge to the same sewage treatment works. Given these specific circumstances, and that there is no extant planning permission for redevelopment of the sheltered housing site, it is considered that the proposed two new dwellings for this Cedar Grove applicant can be offset against the foul drainage previously

associated with Woulds Court. This was the same arrangement for previously approved application 20/00699/FUL and is therefore considered to be acceptable.

The foul drainage associated with the proposed 2 x two-bedroom dwellings would equate to 412.8 litres a day, which would not exceed the amount used by the former sheltered housing site. Therefore, there would be no further impacts on the River Mease SAC and as such a DSC2 contribution would not be required in this case.

If this application is approved, then it is recommended to include a note to applicant to remind the applicant that this scheme would need to be included in the total new foul drainage output if a new application is proposed to redevelop the Woulds Court site.

Natural England have been consulted on this application however their response has not been received at the time of writing this report. If Natural England's advice is provided prior to committee then this can be included in the committee update sheet. It is recommended that this application be approved subject to there being no objections from Natural England.

The flows from the new dwellings need to be considered against the existing headroom at Packington Treatment Works. At the time of writing this report capacity is available at the treatment works for the proposed 2 dwellings.

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.

Regarding surface water and flood risk, the site is within Flood Zone 1 which has the lowest risk of flooding, and the proposed development does not fall within an area identified as having a risk of surface water flooding.

In this case the development is located on an area of existing impermeable hard standing and the proposed development would include new areas of grass and landscaping which would improve the surface water drainage situation from the existing arrangements. Therefore it is not considered reasonable to condition a sustainable surface water drainage scheme in this instance and it is considered that the proposal would comply with the aims of Policies CC2 and CC3 of the adopted Local Plan.

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

Ecology

Policy En1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district.

Whilst the mandatory requirement for 10 percent Biodiversity Net Gain has not yet been enacted through the Environment Bill (expected in January 2024), paragraph 174(d) of the NPPF sets out a requirement to minimise impacts on and provide net gains for biodiversity. Whilst no metric calculations have been provided the proposed development would be largely sited on existing hardstanding and as such the site would be of low biodiversity value.

Notwithstanding this, it is noted that some additional grassed areas would be planted for the gardens of the new dwellings which would have a biodiversity gain from the existing situation.

Having considered the nature of the proposal and the scale of the development, it is not considered that the application would result in any unacceptable ecology impacts. The application is therefore considered to accord with Local Plan Policy En1.

Land Contamination

The Council's Environmental Protection Land Contamination Officer hasn't provided a consultation response at the time of writing this report however in the previously approved application 20/00699/FUL it was requested that conditions be imposed requiring a risk based land contamination assessment. It is therefore recommended to attach these conditions again. On that basis the development would accord with Policy En6 of the adopted Local Plan and paragraphs 183 and 184 of the NPPF regarding land and air quality.

Conclusion

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

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Change of use of land for parking of heavy goods vehicle (HGV) for a temporary period of 36 months including erection of fencing/gates and a mobile building
Former Site of Stardust Beveridge Lane Bardon Coalville
Leicestershire LE67 1TS

Report Item No
A3

Application Reference
23/00565/FUL

Grid Reference (E) 445660
Grid Reference (N) 311951

Date Registered:
9 May 2023

Consultation Expiry:
27 September 2023

Determination Date:
10 November 2023

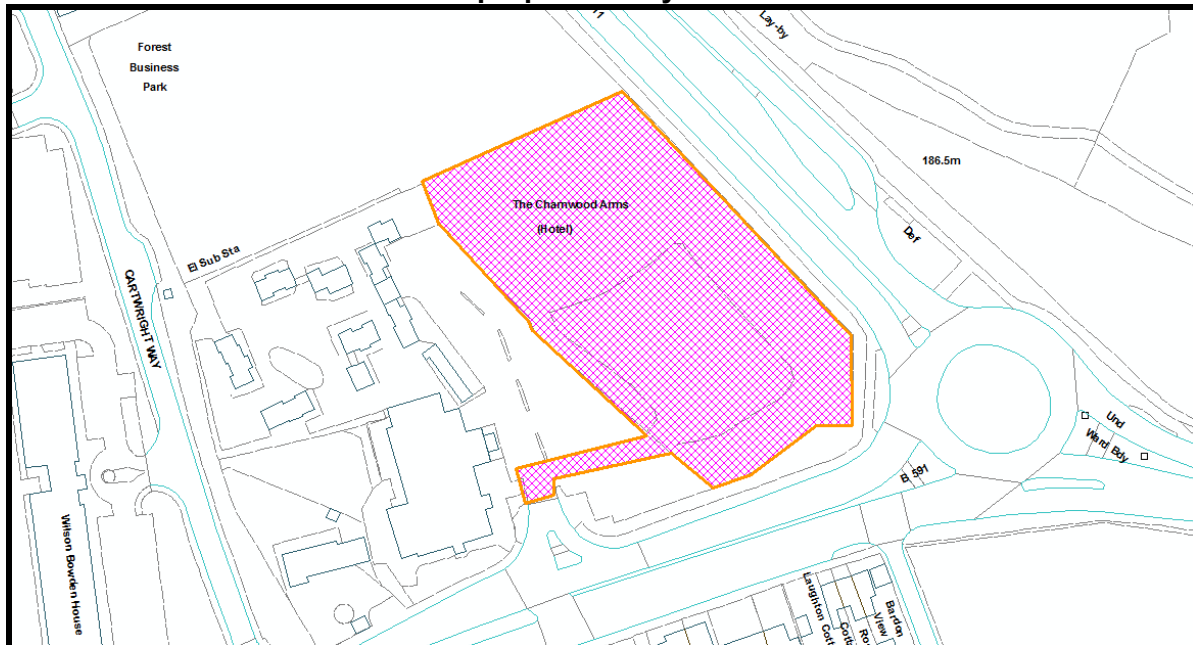
Extension of Time:
10 November 2023

Applicant:
Mr Brett Parker

Case Officer:
Hannah Exley

Recommendation: Refuse

Site Location - Plan for indicative purposes only



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Reason the case is called to the Planning Committee:

The application is brought to the Planning Committee for determination at the request of Councillor Merrie due to concerns about highway safety and the risks to pedestrians.

RECOMMENDATION – REFUSE, for the following reason:

- 1 Paragraphs 7 and 8 of the National Planning Policy Framework (NPPF) 2023 require that the planning system contributes towards the achievement of sustainable development, and sets out the social objective of sustainable development, including its contribution to fostering safe places. Paragraph 112c provides that applications for development should create places that are safe, secure, and attractive and which minimise the scope for conflicts between pedestrians, cyclists, and vehicles. Paragraph 187 of the NPPF provides that “Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established”. The application proposes to access the site via an existing car park serving a public house/restaurant and hotel which, when having regard to the extent of the car park affected, the proximity to the public house entrance, the difficult nature of the HGV maneuvers through the car park at this point and the absence of any mitigation measures to enhance pedestrian safety within the site, it is considered that the proposal would represent an unsafe form of development, not constituting sustainable development. Furthermore, public safety concerns around the use of the car park as a result of the proposed use could serve to impact negatively on the business operations of an existing established public house/restaurant and hotel through which the site access route passes. For these reasons, it is considered that the proposal would be contrary to the policies and intentions of paragraphs 7, 8, 112 and 187 of the NPPF.

MAIN REPORT

1. Proposals and Background

Permission is sought for the change of use of land for the parking of Heavy Goods Vehicles (HGV's) for a period of 36 months. The application also includes the erection of fencing/gates and a mobile building on the 0.8 of a hectare of site off Beveridge Lane, Coalville that was formerly occupied by the Stardust entertainment venue. The application site is located at the junction of Beveridge Lane and the A511. The access to the site would be off the A585, utilising the existing vehicular access to the Charnwood Arms (pub, restaurant, and hotel) via a route which passes through the car park to the Charnwood Arms.

Proposed Site Plan:



The site is currently in use as a lorry park for HGV's and has been since the granting of a temporary planning permission in 2020 for a temporary period of 36 months under application 20/00264/FUL. The earlier permission for lorry parking expired in June and the use of the site is currently unlawful.

The justification provided for the temporary use when previously proposed was that the current economic climate does not permit the site to be fully developed for the intended use and the proposed use is temporary to allow the site to be used and generate some income towards the pre-development costs of fully developing the site for B1 use.

With regard to the proposed use of the site, the supporting information provides justification for the temporary permission sought which is summarised as follows:

- The rationale for the temporary use remains as previous- the current economic climate does not permit the site to be fully developed as envisaged, noting that in the intervening three years, the economic climate has worsened and there are no plans to redevelopment site.
- Since June 2020, the need to provide truck-stop facilities has increased dramatically, as set out in the Department for Transport Circular 01/2022 - Strategic road network and the delivery of sustainable development (December 2022) which provides as follows:

"It is recognised that on certain parts of the SRN and at certain times a shortage of parking facilities for HGVs can make it difficult for drivers to find safe space to stop and adhere to requirements for mandatory breaks and rests. To alleviate the shortage, the expansion of existing facilities on the SRN is likely to be needed alongside the creation of new parking sites. As a result, existing truckstops (including closed facilities) on or near to the SRN must be retained for their continued and future use unless it can be clearly demonstrated that a need no longer exists."

- Adjacent to the Strategic Road Network (SRN) (A511) and less than two miles from Junction 22 of the M1, the current facility serves a vital function as a truck stop in the area;
- There is a shortage of truck stops in the vicinity (only four truck stops along a 50 mile stretch of the M1 Motorway from Lutterworth to Hucknall) far below the standards in the circular.
- There is a need for the facility and its loss would have detrimental impacts on the function of the SRN and the safety and security of HGV drivers and other road users.
- Due to being the only dedicated truck park in the area, the site is very popular with passing hauliers and the site provides parking for many local businesses who require assistance with parking.
- The site is a Driver and Vehicle Standards Agency (DVSA) recognised operating centre for various companies, creating many local jobs.

At the time of the officer site visit, the site was not being operated as shown on the site layout plan in terms of the location of the site office and the layout of parked vehicles. The type of vehicles kept was also not limited to HGVs with light goods vehicles, vans and cars present on the site. The western boundary of the site is occupied by close boarded fencing in front of the open wire mesh fencing and some floodlighting had been installed.

The Council's Enforcement Team set up an investigation into the unauthorised works and the applicant has been advised to remove or turn off the floodlighting. Floodlighting is not part of the current proposals and therefore, regardless of the outcome of this application, the issue of unauthorised floodlighting will need to be addressed by the Council's Enforcement Team.

Notwithstanding these deviations from the previously approved scheme or the current scheme, the application must be considered on the basis of the information submitted, having regard to the planning merits of the case and any other material considerations.

In terms of other supporting documentation, a noise assessment and swept path details for the largest anticipated vehicles using the site and a highway mitigation signage strategy were provided during the course of the application at the request of officers.

Relevant Planning History:

-21/00556/VCI - Variation of conditions 2, 5, 6 and 7 of planning permission 20/00264/FUL to allow for amended access arrangements, amended layout and the submission of landscaping and lighting information required by condition (Withdrawn). This scheme requested a revised access route into the site northwards through the car park to a gated access further north along the western boundary opposite the hotel accommodation to the Charnwood Arms. The application was also supported by arguments which set out the problems with the previously approved (and currently proposed) access.

-20/00264/FUL - Change of use of land for parking of heavy goods vehicle (HGV) for a temporary period of 36 months including erection of fencing/gates and a mobile building (Permitted and expired on 09.06.23). Condition 5 of that permission required details of landscaping to be agreed but no discharge of condition application was made to the District Council.

-18/00315/VCUM - Removal/variation of condition 3 and 12 of outline planning permission 17/00048/OUTM to allow for alterations to the site layout and to allow for additional floor space (Withdrawn).

-17/00048/OUTM - Erection of units for light industrial B1(c) and storage and distribution B8 (outline - access, layout and scale included) (Permitted).

-06/01124/OUT - Demolition of existing night club and function rooms and redevelopment for B1 use (outline - siting and means of access) (Permitted).

2. Publicity

14 Neighbours have been notified.
Site Notice displayed 18 May 2023.

3. Summary of Consultations and Representations Received

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

Ellistown and Battleflat Parish Council raises objection on the following grounds:

Grounds of objection	Description of Impact
Highway/Pedestrian Safety	<p>Suitability of access and egress which require a 90-degree left hand turn when leaving the site to get on to The Charnwood Arms road towards Beveridge Lane and a 90-degree right hand turn from The Charnwood Arms road to get into the site itself. Pedestrians and drivers of vehicles visiting The Charnwood Arms will be put at serious risk.</p> <p>There are insufficient road markings or warning signs to alert people of the dangers from the heavy traffic travelling through the car park.</p>
	Who owns the access and egress route off Beveridge Lane? If it is not LCC Highways then, as part of this planning application, suitable and sufficient control measures need to be implemented to reduce the risk to pedestrians and vehicle users.
	The road into and out of the vehicle yard is in a very bad condition, with numerous potholes and very few road markings.
	The entrance and exit points from Beveridge Lane are also poor and vehicles which are not HGV's continuously turn right out of The Charnwood Arms car park to cut through the pause in the central reservation, which is meant for vehicles turning right, into the pub car park, off the opposite side of the dual carriageway.
Permanence of the use	The original planning application was for a temporary 3-year HGV park, it is concerning that the word temporary is being used for something which appears to be far from temporary. If planning approves this application again, without addressing the concerns which are being raised, will this set a precedent if another temporary planning application arrives from the owner in three years' time for an HGV park? When does temporary stop being temporary and become permanent?

Leicestershire County Council – Highways – has no objections subject to conditions and a financial contribution towards highway works.

Leicestershire County Council – Ecology - advise that there would be no habitat loss and therefore, biodiversity net gain is not required.

NWLDC Environmental Protection raise no objection on the grounds of noise following the submission of a noise impact assessment.

NWLDC Environmental Health – Safety Team advise that there is a foreseeable risk to pedestrians using the car park of the family friendly restaurant/public house, from the heavy goods vehicles (HGVs) passing through the car park.

Third Party Representations

11 letters of neighbour representation (one including a Traffic and Transport Report and CCTV Survey) have been received raising objection on the following grounds:

Grounds of objection	Description of Impact
HGV's and Public Safety	Access requires 90-degree turns both in and out of the site which is unsuitable for HGV's;
	Access to the lorry park is directly through the middle of a car park utilised by families and guests visiting a local public house and restaurant and the lorry park conflicts with the route of people going to the pub with numerous serious near misses involving HGVs and the general public having been witnessed;
	Near misses witnessed range from small children trying to avoid the trucks to elderly drivers nearly reversing into oncoming HGVs and could have led to serious injuries;
	HGVs were originally travelling directly through the car park, past the hotel to access the HGV park in the NW corner due to the unsuitability of the proposed access but this was unlawful and the layout has changed in April 2023;
	If a car is parked slightly forward of the parking spaces, then the HGV will struggle to get round meaning they have to blind reverse to generate the angle to continue.
	Exiting out of the corner is also dangerous as HGVs must enter the oncoming lane to avoid riding the kerb stone on the corner. This corner has already been damaged as a result.
	Damage to the road surface by HGV's causing dangers for vehicles using the car park and trip hazards for pedestrian walking though the car park;
	Vehicles are having to reverse back onto the highway with a speed limit of 70mph to enable space for two vehicles to pass within the car park;
	The speed of vehicles entering the site is too fast due to the national speed limit of the A511;
	The access to the site should be via the A511 as it was historically, and permission has recently been granted for a new access off the A511 further along the road;
	Capacity of surrounding highway network;
	The A511 is used as racetrack at night;
	The application should be refused on highway safety grounds and enforcement action taken.
	Information provided by the applicant in support application 21/00556/VCI for an alternative access sets out their own concerns about the suitability of/ difficulties in using the currently proposed access by HGV's and the impacts on highway and pedestrian safety;
Residential Amenities	A noise assessment is required
	Noise Impact report does not consider the impact on houses opposite, does not factor in wind direction and the noise equipment was incorrectly positioned and so the readings are inaccurate and should not be taken into account;
	Noise and disturbance from comings and goings all through the night and from the running of refrigerated lorries and generators though the night;

	The fencing is inadequate and acoustic fencing is required to reduce the noise of lorries and engines powering the refrigerated trailers;
	New fencing would also block out lights from vehicles, the office/WC unit from shining in neighbouring windows opposite the site;
	Litter and waste attract vermin;
	Noise report states the speed limit of the A511 is 70mph, but it is 50mph and the B585 is 60mph when it is 70mph;
	The flood lights are still being used in October 2023 without planning permission;
Need for overnight parking	Notwithstanding any national need for overnight parking, this is not the right location for this development;
	Lorry parking should be a mandatory requirement of industrial estates;
	Whilst there may be a need for lorry parking in the area, alternative facilities are available, and the proposed location is unsuitable and causes significant adverse impacts;
Visual Amenities	The lorry park is another blot on the landscape of the area;
	New tree planting on the outside of the site would help hide views of the truck park;
Impact on Local Business	Noise impacts on residential accommodation provided at the Charnwood Arms including 34 guest bedrooms and permanent accommodation for the Manager with many rooms facing directly onto the lorry park;
	The Charnwood Arms has received multiple complaints from overnight visitors, relating to the noise, light and disturbance generated by the lorry park. Indeed, these complaints are reflected in reviews of the business, left on travel websites;
	Impact on the Charnwood Arms business/revenue;
	Fear of damage to vehicles using the car park;
	The proposed operation is having consequences for the neighbouring local business and if continues to deter guests because of negative reviews, then the continued operation of the business (community facility and visitor accommodation) will be severely threatened.
Other	Land registry deeds require a new access to be formed to the land;
	Notice has not been served on the landowner;
	The red line site area does not meet the highway boundary;
	Lorries are being parked too close together which would be problematic if there was a fire, spillage or other emergency on the site and there is no fire assembly point on the site;
	The site is being used as an operational centre by some hauliers with maintenance, repairs and servicing of their vehicles being undertaken on the site allowing chemicals into the environment;
	The previous permission was not complied with, and vehicles are not being parked in the layout shown and lighting has been added;
	Another temporary permission should not be granted;
	The applicant's statement that there have been no concerns

	arising from the existing use of the site is inaccurate as concerns have been raised prior to and during the application;
	PPG says the granting of a secondary temporary permission is rarely justifiable;
	The three years it has operated shows that the site is inappropriate for the use and dangerous;
	If deemed acceptable permission should only be granted for 1 year;
	The ditch surrounding the site should be reinstated if permission is refused;
	Light goods vehicles and buses are also being stored at the site;
	The proposal conflicts with Policies D1, D2, EC13, IF2, IF4, IF7 of the adopted Local Plan;
Traffic and Transport Report (June 2023) by Consultants RGP on behalf of the neighbouring business	<p>A traffic survey has been undertaken on Monday 15th May and Sunday 21 May with CCTV cameras being installed to capture all movements in and out of lorry park via the pub providing evidence of examples of major safety concerns regarding the operation of the site, in terms of conflict arising between pedestrians and HGVs in the car park, as well as impacts on the free flow of traffic on the B505. The following results are presented in a Traffic and Transport Report (available to view on the Council's website) which can be summarised as:</p> <ul style="list-style-type: none"> - The lorry park is significant trip generator accounting for one third (223 vehicle movements per day on average) of vehicle movements into the car park; - 57 percent of movements to the lorry park are by HGV's; - The lorry par operates 24/7 with most movements during the pub trading hours; - The sharp right and left turns into and out of the lorry park are difficult to manoeuvre and damage to kerbs, landscaping and pub signage has arisen; - HGV's obstruct vehicles entering the site resulting in a back-up of vehicles onto the B585; - There is a high risk of pedestrian/vehicle conflict in the car park to the pub/restaurant in the absence of any dedicated pedestrian refuge with examples being recorded during the survey; - HGV's turning into/from the lorry park block the site access, and cause traffic to queue to enter the site onto the adopted highway, increasing the risk of vehicle collisions; - Incidents of multiple HGV's arriving concurrently impacts on the highway with vehicles queuing to enter; - Illegal rights turn manoeuvres onto Beveridge Lane when only left turns are permissible raises highway safety concerns, and no solution is proposed to prevent this; - The applicant does not own land outside the site to enable measures to be put in place to control traffic to prevent illegal manoeuvres. <p>The report concludes that there are significant safety</p>

	implications with the lorry park and the access arrangements in the context of the pub/restaurant/hotel car park and no priority is given to cyclists or pedestrians, giving rise to an unacceptable impact on highway safety.
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Members are advised that all responses from statutory consultees and third parties are available to view in full on the Council's website. Video footage of HGV activity at the site is also available through weblinks within the Traffic and Transport Report by Transport Planning Consultants RGP received on 11 July 2023 which forms part of the public comments from Greene King Brewing and Retailing Ltd.

4. Relevant Planning Policy

National Planning Policy Framework (2023)

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are applied. The following sections of the NPPF are considered relevant to the determination of this application:

Paragraphs 7, 8, 11 and 12 (Achieving sustainable development);
 Paragraphs 47, 55, 56 and 57 (Decision-making);
 Paragraphs 55, 56 (Planning conditions and obligations);
 Paragraphs 81, 83 and 84 (Building a strong, competitive economy);
 Paragraphs 105, 107, 108, 109, 110, 111, 112 and 113 (Promoting sustainable transport);
 Paragraphs 119, 120 and 124 (Making effective use of land);
 Paragraphs 124, 127, 128, 129 and 130 (Achieving well-designed places);
 Paragraphs 174, 175, 176, 180 (Conserving and enhancing the natural environment);
 Paragraphs 159, 167 (Meeting the challenge of climate change, flooding and coastal change).
 Paragraph 187 (Ground conditions and pollution).

Adopted North West Leicestershire Local Plan (2021)

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

S1 - Future Housing and Economic Development Needs
 S2 - Settlement Hierarchy
 D1 - Design of New Development
 D2 - Amenity
 IF4 - Transport Infrastructure and New Development
 IF7 - Parking Provision and New Development
 Ec1b – Employment Provision: Permissions – Rear of Charnwood Arms, Bardon
 En1 - Nature Conservation
 En3 - The National Forest
 En4 - Charnwood Forest
 En6 - Land and Air Quality
 Cc2 - Water - Flood Risk
 Cc3 - Water - Sustainable Drainage Systems

Other Guidance

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System
National Planning Practice Guidance - March 2014
Good Design for North West Leicestershire SPD - April 2017
Leicestershire Highway Design Guide (Leicestershire County Council)

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 site lies within the Limits to Development where the principle of new development is acceptable. The northern section of the site appears to extend into part of a site identified in the adopted Local Plan as having the benefit of planning permission for employment purposes under Policy Ec1 (Site Ec1b).

Therefore, the proposed development is considered to be acceptable in principle.

Suitability of Temporary Permission

The Planning Practice Guidance (PPG) explains that a local planning authority may grant planning permission for a specified temporary period only. Paragraph 014 explains, however, that: "It will rarely be justifiable to grant a second temporary permission". The PPG adds that further permissions can normally be granted permanently, or refused if there is clear justification for doing so. Furthermore, the PPG states clearly that: "There is no presumption that a temporary grant of planning permission will then be granted permanently".

Temporary planning permissions can be useful because they provide a 'trial run' to assess the effects of a development on an area and in this case, the operation of the site as a lorry park has given rise to neighbour complaints and objections.

From the complaints received in respect of the application and the planning history and enforcement action taken on the site, it is clear that concerns have been raised by the local community regarding the operation of the lorry park use on the site over the past three years.

It is also noted that whilst temporary consent was granted in 2020 for a lorry park use, the approved access arrangements were not implemented until April of this year and alternative arrangements were used to access the site (utilising an access to the north of the site). The issues surrounding the approved access as set out above have only been experienced for 7 months in that 3 year period and generated a complaint within 1 month of the previously approved access being used.

Having regard to the advice contained within PPG, it is noted that a temporary planning permission has been granted and sufficient time has passed to enable the impacts of the development to be established during this trial run period. It is not considered that any overwhelming argument has been put forward by the applicant to justify another temporary permission and in these circumstances, it is considered that the Local Planning Authority should

either refuse the request for a further temporary planning permission or grant a permanent permission for the use of the land as a lorry park.

Need for the Lorry Park

As set out in the background section of this report, the applicant has put forward an argument that there is a need for the lorry park due to the lack of existing facilities within the locality. Paragraph 109 of the NPPF provides that:

“Planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance. Proposals for new or expanded distribution centres should make provision for sufficient lorry parking to cater for their anticipated use.”

Objectors to the proposals have identified that there are some alternative lorry park facilities available within the local area, such as the Junction 23 Truck Stop, which is located just 6.6 miles from the site which provides comprehensive facilities, with 180 HGV parking spaces, a cafe, bar and restaurant, meeting room, showers, laundrette, truck wash, and fuel. Additional truck stop facilities are located along the length of the M1 at regular intervals.

With regard to need, the Council’s Planning Policy team has advised that there is some general commentary about HGV parking in *Chapter 15 of the Warehousing and Logistics in the Leicester and Leicestershire: Managing growth and change (April 2021)* report which is part of the evidence base for the new Local Plan. The report identifies that there are three reasons why lorries need to park away from their home depot creating a need for lorry parks, and these are: a) legally required breaks and rest, b) waiting for delivery/collection time slots and c) driver amenity and welfare (access to toilet/wash facilities and food and drink refreshments). It also identifies the environmental consequences of parking in inappropriate locations:

- Parking on the side of a highway and as a result impeding traffic flow, possibly causing congestion;
- Parking at locations which are incompatible with the noise and exhaust pollution (running engines, refrigeration units) emitted by lorries e.g. residential area;
- Causing damage to pavement or footpath infrastructure; and
- Parking vehicles at locations which are not suited to the visual intrusiveness of lorries.

In addition to the above consequences, goods vehicles parked at isolated lay-bys or patches of waste land are an easy target for criminals.

A national survey of overnight lorry parking was undertaken in 2017 for the Department for Transport (by consultants AECOM). The purpose of the survey was to provide a clear picture of the demand for lorry parking and facilities, including their capacity and utilisation, as well as other indicators of demand such as lorry parking in laybys and on industrial / retail estates. For the East Midlands, the survey estimates that at the time of the survey there was a capacity for 2,167 HGVs at on-site parking facilities. Overnight demand at that time was just over 3,000 HGVs per night, equating to an overall shortfall in capacity of around 865 HGVs. Overall, having regard to the evidence available, it is considered that there appears to be a need for such facilities within Leicestershire and therefore, this is a positive attribute of the proposed scheme and a material consideration in the determination of the application.

Impact on Heritage Assets

The proposed site is located to the west of the listed cemetery off the A511. When having regard to the intervening cops of trees and the A511 trunk road and road traffic island, it is not considered that the proposal would affect the setting of the listed cemetery.

As a result, the application was subject to a general site notice under Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and no further consideration of the impact of the development on heritage impacts is required and the proposal would not conflict with Policy He1 of the adopted Local Plan.

Impact on the Surrounding Landscape/Adjacent Countryside

Consideration has also been given to the use of the site for a temporary period and whether it has an acceptable impact upon the character and appearance of the area. The site abuts land identified as being outside the limits to development to the south and east and the site lies within the National Forest and the Charnwood Forest.

The site is located at the junction of the A511 and the A585, with the eastern boundary with the A511 currently occupied by mature hedging and trees. The boundary with the A585 (to the south) is currently occupied by 1.8m open wire mesh fencing. The site is visible through and above the height of the fencing from the public highway. To the west and north west, the site is bordered by a commercial use; the Charnwood Arms which is a pub/restaurant with hotel accommodation. The access to the site off the A585 passes through the car park to the Charnwood Arms and utilises an existing vehicular access and therefore, the proposal would not necessitate substantial works at the site frontage to form the access.

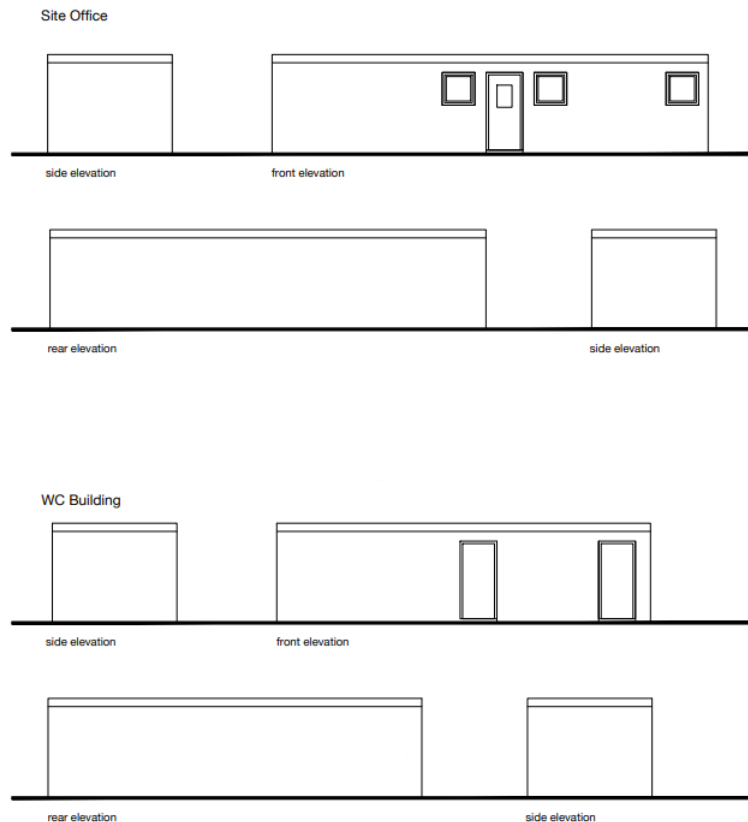
Photograph of site frontage (taken June 2023)



The application seeks to retain an existing unlawful use at the site as a lorry park for HGVs for a temporary period of 36 months. The site is currently hard surfaced and has existing security fencing around the perimeter, although it is noted that there is also existing close boarded fencing present along the western boundary beyond the mesh fencing which was in situ prior to the lorry park use.

The proposed temporary change of use would include the provision of green powder coated mesh security fencing/gates around the perimeter of the site and the siting of a mobile building to provide a site office. These are present on site, although it is noted that the site office is currently located within an area proposed for landscaping.

Plans for the proposed Site Office and WC building



Where the site abuts the highway boundary to the east the boundary is occupied by mature vegetation which would be unaffected by the proposed use, and which would help to screen the parking of vehicles during this temporary period. From the south, the proposals would be viewed within the context of the existing commercial and industrial units to the west and north west and so would not appear out of keeping. Proposed tree planting is shown along the southern boundary of the site, which will also help soften the visual impact of the proposals from this direction. Any planting introduced would need to have some degree of maturity to have any visual impact given the limited timescale of the permission sought.

The previous temporary permission included proposals for landscaping along the southern boundary, but this has not been implemented. The requirement to agree and implement landscaping was the subject of condition 5 of the previous temporary permission but no discharge of condition application was submitted by the applicant. Notwithstanding this, the current application must be assessed on the basis of the newly proposed scheme which includes landscaping and as with the previous application, this can be controlled by condition. Should permission be granted, given the existence of the use on site, it is considered that the

timeframe for the implementation of the landscaping should be strictly controlled and monitored to ensure compliance and to ensure the development reflects the location of the site within the National Forest.

The site office is proposed to the north of the landscape strip along the southern boundary of the site which is in a prominent location fronting the B585. It is considered that a single storey site office in this location would be acceptable in the context of the wider site. As with the previous permission, it is considered that the site office should be conditioned to be single storey only.

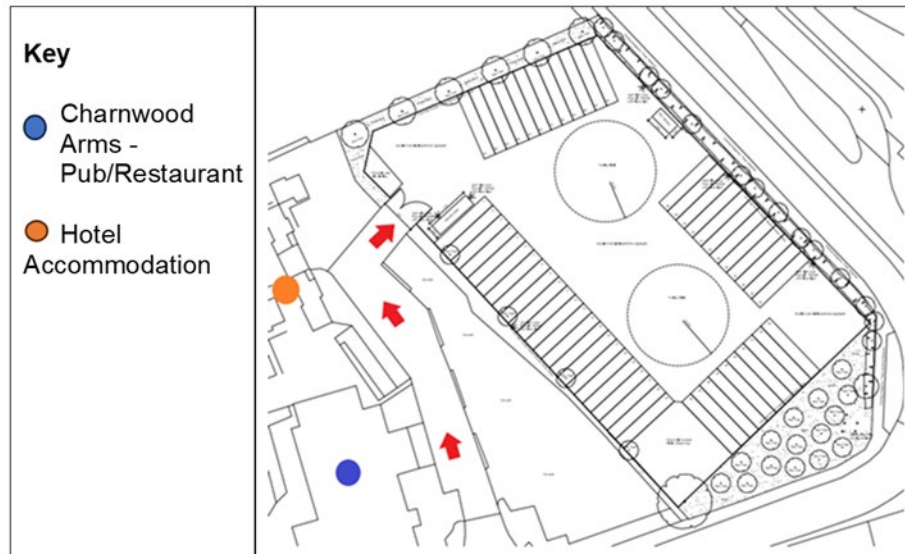
Prior to the existing use occupying the site, the site bore the marks of its developed past and did not make a positive contribution to the area. In considering the visual impact of the previous proposal, officers considered that the proposal would have limited visual impacts upon the wider area and that these impacts would be on a temporary basis only. It was considered that the site would also be enhanced by the proposed tree planting. Whilst the proposed tree planting has not materialised on site, this is proposed again and, subject to landscaping being secured and controlled by condition, it is considered that the same conclusions can be reached about the visual impacts of the development on the character of the area and the surrounding countryside to the south and east of the site.

There has been no material change in the content of policy or site circumstances since the previous approval to justify an alternative view being taken in this regard and overall, as with the previous permission, it is not considered that the proposal would look out of keeping with the character and appearance of the surrounding area and is considered to be compliant with Policies D1, En3 and En4(3) of the adopted Local Plan.

Residential Amenities

Since the implementation of the previous temporary planning permission, 6 complaints have been raised about the operation of the site as a lorry park: raising concern about general noise from the use of the site and specifically noise from the refrigerated lorries, lights shining into bedroom windows of nearby properties and health and safety concern at the site. These complaints range from September 2020 to July 2023 with three being received in 2020, one in 2022 and two in 2023.

Plan to show former route into the site prior to April 2023 which was at no point was agreed by the District Council:



The Council's Enforcement records disclose an investigation into the use of the site as a lorry park without complying with the conditions on the temporary planning permission. The investigation revealed the use of an unauthorised access route into the site, and the unauthorised use of the access ceased in April 2023 when the approved access route was brought into use. It is noted that the complaints about public safety were received following the change in access arrangements into the site. It is also noted that concerns about noise and light nuisances were received during the operation of the unlawful site access.

In addition to the letters of representation received to the current proposal, the above complaints to the District Council demonstrate that the temporary use of the site over the past three years has given rise to some disturbance to local residents/neighbouring occupiers. This is considered to be material to the determination of the current application.

Photograph looking westwards along Beveridge Lane showing the site and the Charnwood Arms on the right and the neighbouring properties on the left:



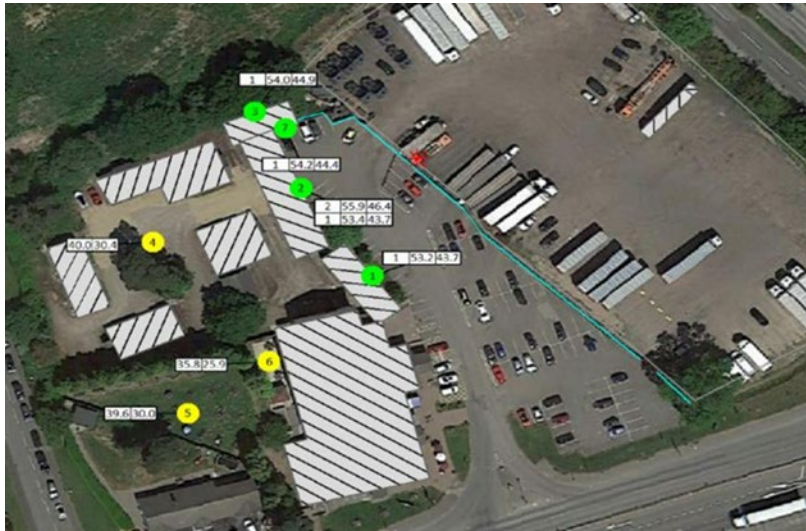
The nearest residential dwellings are located to the south of the site on the opposite side of Beveridge Lane and which face the development site. The Charnwood Arms pub/restaurant and hotel accommodation lie to the west of the application site. The properties on the opposite side of a dual carriageway and the Charnwood Arms are considered to be located at sufficient distance away from the site in order to prevent any significant loss of amenities to residents by means of overbearing, overshadowing or overlooking impacts arising from the proposed use or the proposed fencing/gates and office building on the site.

There would be vehicular movements to and from the site by HGV's and security staff in connection with the proposed use of the site. Objectors have identified that there are generators for refrigerated trucks being used at the site and this is to be expected in a lorry park.

In respect of noise and disturbance from activities undertaken at the site, a Noise Impact Assessment was provided during the course of the application following a request by the Council's Environmental Protection Team. The report submitted considers the noise breakout from the site (including fridge generators) at the Charnwood Arms only which includes hotel accommodation and permanent residential accommodation for the Manager.

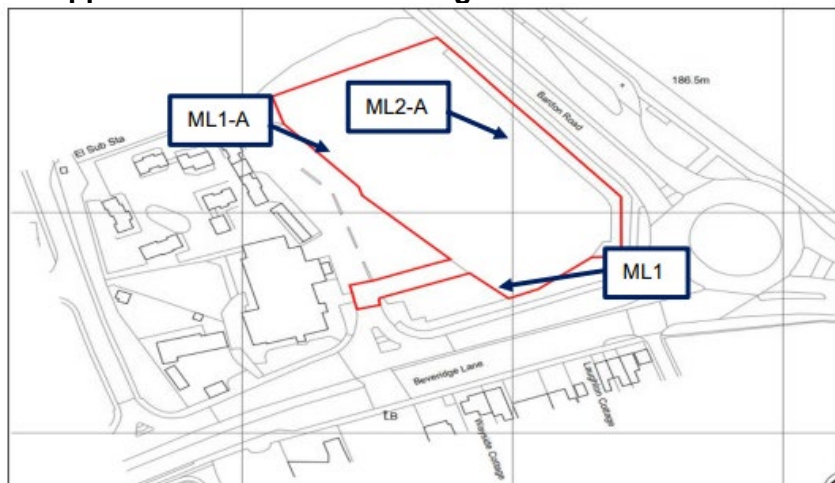
The noise monitoring information obtained during the survey undertaken by the noise consultant shows that that during the daytime and night-time, the noise in excess of the existing background sound level is 0 and +1 dB(A), with the background noise being dominated by road noise. The report goes on to conclude that a low impact is likely as a result of operational activities from the site. The Council's Environmental Protection team has been consulted on the application and has reviewed the findings of the Noise Impact Assessment and raises no objection to the application on the grounds of noise.

Image showing the location of noise monitoring receivers at the Charnwood Arms hotel accommodation (Green dot = receiver at external face of building, Yellow dot = receiver):



Concern has been raised by local residents about the suitability of the assessment which does not consider the noise breakout at properties on the opposite side of the road. The council's Environmental Protection team has advised on this matter stating that there was a noise monitor placed on the south side of Bardon Truck Park (ML1 on the plan below). And that this is a good indicator of the noise impact to the properties opposite. The daytime and nighttime average noise levels recorded at this spot were 56db and 50db respectively. This is considered to be a low impact and would be lower if a noise monitor was placed on the other side of the road.

Plan showing the approximate noise monitoring locations



Concern has also been raised about the suitability of the height at which the noise monitoring equipment was positioned, stating that a height of 0.5m is insufficient to adequately measure noise levels. The consultant has advised that ML1 (to ascertain the background sound levels) was attached to the palisade security fence approximately 2m above local ground level. It had a direct line of sight to the nearby road and was considered an appropriate selection to obtain background sound levels. ML1-A and ML2-A (measured the generator/ fridge located on site) and were taken at a height of 1.5 above local ground level. Noise levels measured at ML1-A and ML2-A were used with the background noise level to calibrate a 3D sound model.

Comments have been received about incorrect speed limit information within the noise assessment, but the consultant advises that this is an observational error and does not

materially affect the outcome of the assessment due to the fact that background sound levels were measured on site. Concern has also been raised about the absence of wind direction information within the report and the consultant has advised that average measured wind speeds were below 5 m/s throughout the survey which the consultant advises is a suitable wind speed in which to undertake a noise survey.

In terms of impacts from lighting, whilst there would be some light from the headlights of the vehicles using the site, these would principally be from vehicles exiting the site as there is close boarded fencing along the western boundary of the site and new tree planting is proposed along the southern boundary of the site. For HGV's exiting the site, this disturbance arising from headlights would be experienced in the context of general movements to and from the wider site during the hours that the Charnwood Arms is operating, it is not considered that the impact would be significant given the route of the proposed access to the lorry park area and the proximity to the nearest neighbouring residential properties/ ground floor hotel accommodation.

No floodlighting is proposed as part of this application, and this can be controlled in the future by condition. As set out above, any existing unauthorised lighting at the site will need to be dealt with through the Planning Enforcement system.

It is noted that other types of vehicles are being stored at the site and vehicle repair activities are alleged in the neighbour letters. However, the proposal for which permission is sought is for the storage of HGVs only, and any unauthorised vehicle parking/other activities and uses would need to be addressed also through the Planning Enforcement team.

Overall, and notwithstanding the neighbour complaints that have been received in response to existing activities at the site, and the neighbour comments made in respect of the application, when having regard to the noise information provided, and the advice of the council's Environmental Protection team, it is not considered that the proposal would give rise to significant impacts upon the amenities of neighbouring residential properties or the amenities of hotel guests as a result of the temporary proposal for the storage of HGVs on site. The proposal is considered to be acceptable in relation to Policy D2 of the adopted Local Plan and provisions of paragraph 185 of the NPPF.

Ecology and Biodiversity Net Gain

Policy EN1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district.

In terms of Biodiversity Net Gain (BNG), the mandatory requirement for 10% Biodiversity Net Gain has not yet been enacted through the Environment Bill (expected in January 2024). At present, paragraph 174(d) of the NPPF sets out a requirement to minimise impacts on biodiversity and provide net gains in connection with the schemes. The County Ecologist has been consulted on the application and advises that in addition to the development proposals being temporary, there would be no habitat loss on site and, as a result, there is no requirement to secure biodiversity net gain in this case.

In terms of general ecological requirements, the County Ecologist raises no objections, advising that the buffering to the existing hedgerow is adequate, and although there are badger records in the area, the main road would act as a barrier, so an ecology survey is not required.

When having regard to the above, the proposed development would be acceptable for the purposes of Policy En1 of the adopted Local Plan, Paragraphs 174(d), 175 and 180 of the

NPPF and Circular 06/05.

Highway Safety

As set out in the neighbour representations section of this report, various complaints have been received from residents and a neighbouring business raising concern about the suitability of the proposed access arrangements and the route through the car park into the HGV storage area. It has also been identified by objectors to the current scheme, that the applicant has previously sought to vary the proposed route into the site under withdrawn application 21/00556/VCI on highway safety grounds. The northern route into the site which the applicant sought approval for is set out on a plan within the residential amenities section of this report above.

For Members information, application 21/00556/VCI sought to retain unlawful access into the HGV parking area which was located towards the northern end of the wider site and car park. The reason provided by the applicant in support of that application was that the unlawful access was safer than the approved (and currently proposed) access for the following reasons:

- *“The existing access allows drivers to exit off the carriageway and drive straight down the road to the entrance to the truck-park. This is the safest arrangement for access to the site and much safer than the approved access.*
- *The approved access requires drivers to make an immediate sharp right-hand upon entry to the site. This requires drivers to slow-down and begin their manoeuvre whilst still entering the site (on the adopted highway). This manoeuvre occurs near the entrance to the pub – exactly where the pedestrian access into the pub is.*
- *The right-hand turn is very difficult to achieve in a single manoeuvre. Most drivers will need to reverse back to re-align and go through the car parking area. If larger cars or vehicles are parked in these bays, it can be very hard for HGVs to access the site. The prospect of manoeuvring here is particularly dangerous for pedestrians who are most likely to park at this end of the car park to access the PH / access the pub from the pedestrian entrance.*
- *The access is also awkward for HGVs egressing the site turning left, with the vehicles requiring all road space when ‘swinging out’ of the car park. This would result in vehicles being forced to wait within the highway for an HGV to make its manoeuvre, to the detriment of highway safety. Vehicles which would have to wait would also block the existing pedestrian crossing at the Beveridge Lane/Access junction, a highway safety concern for pedestrians.*
- *The approved access goes through the existing car park, whereas the implemented access goes down a separate road which is much wider road and delineated by raised curbing – it does not go through the car park.*
- *The implemented access is straight, sightlines are clear, it does not go through the car park, it does not result in vehicles stopping and potentially backing up to the carriageway. There is minimal potential for conflict with pedestrians.*
- *The approved access is a sharp right-turn which cannot be carried out in a single-manoeuvre, the sharp turn through the car park results in blind spots for drivers in an area where patrons of the PH are most likely to park and walk into the pub. The sharp turn means vehicles will be stalled and potentially backing up on to the highway while waiting for drivers to turn right. There is a much higher potential for conflict with pedestrians in the car park area or near the PH entrance.”*

This application was withdrawn following officer concerns about the unsafe form of the development and noise and disturbance to occupants using the hotel bedrooms. Whilst the application was withdrawn, the above is useful in understanding the context for the submission

of the current application and also the problems with the proposed access as identified by the applicant.

In respect of the current proposal, the site is located off a B Class road, B585 Beveridge Lane, which is a dual carriageway, subject to the national speed limit (NSL). The proposed development would utilise existing access off the B585 Beveridge Lane onto an unadopted, private road which serves a public house, restaurant, and hotel (Charnwood Arms). The access route through to the HGV storage area passes through the car park for the Charnwood Arms. This requires HGV's turning into the site from B585 Beveridge Lane to make an almost immediate right-turn within the car park area to access the HGV storage area. The County Highways Authority advise that the car park is private land, over which the County Highways Authority has no jurisdiction.

Plan showing proposed access route into the site up to highway boundary:



Aerial Photograph showing the access route into the site with red arrows. Egressing vehicles use the same route and exit the site as indicated with the yellow arrow:



Photograph of site access looking westwards along Beveridge Lane:



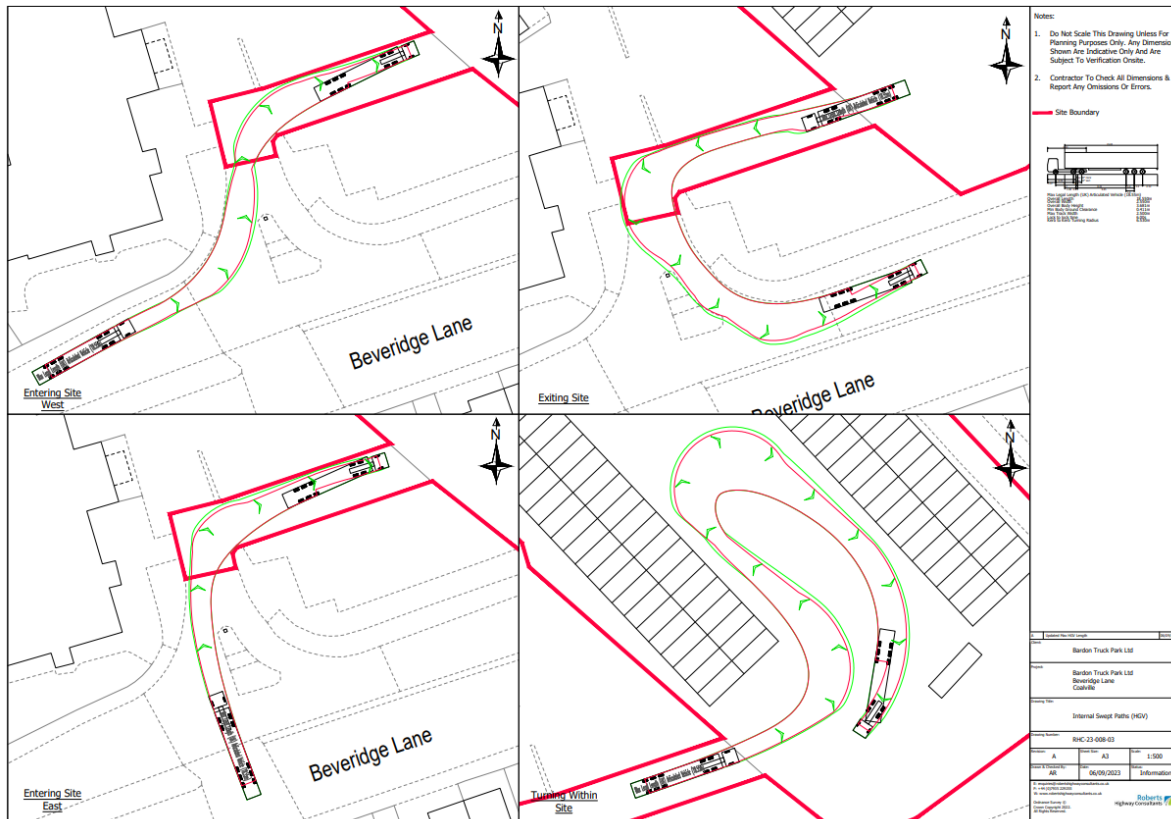
Photograph of site access looking eastwards into the site from the western side of the access off Beveridge Lane:



Whilst the County Highways Authority advise that they would normally seek to resist the intensification of the use of an existing access onto a B road with speed limits above 40mph or where measured vehicle speeds are in excess of 40mph, when having regard to the former use of the site as a nightclub, the wider use of the access road, and the proximity of the roundabout junction of B585 and A511 where approach speeds will be lower than the posted NSL, no objection is raised by the County Highways Authority in relation to the shared use of the existing access, in principle.

During the course of the application additional information was sought by the County Highways Authority. The red line boundary of the site has been amended due to the original red line not abutting the public highway. Details of swept paths for the largest vehicles anticipated to use the proposed access (having regard to recent changes to the UK maximum legal articulated HGV specification) and a highway mitigation strategy detailing signage/road markings in the public highway have been provided by the applicant at the request of the County Highways Authority.

Swept Paths for HGV's:
(Vehicles shown have a with maximum legal length of 18.55m and width of 2.55m)



The County Highways Authority advises that the above drawing demonstrates a swept path for vehicles up to the size identified above. Having reviewed the drawing, the County Highways Authority note that there is very little clearance in places between the wheel track and kerb lines at the site access junction with B585 Beveridge Lane. However, the County Highways Authority is satisfied that minor amendments could be made to the kerb lines within the highway in this location to provide suitable clearance for HGV's and advise that this should be secured by way of a planning condition. It is noted that concerns have also been raised by third parties about damage to kerb lines within private land within the Charnwood Arms car park itself, but these are on private land, outside the jurisdiction of the County Highways Authority and are not considered to be relevant to consideration of matters of safety within the public highway.

The County Highways Authority has been made aware of the concerns raised by local residents/the Charnwood Arms and has reviewed the representations made including RGP Traffic and Transport Report and accompanying CCTV Survey Evidence and identifies the key issues as follows:

- Risk of HGV and pedestrian conflict;
- HGVs stacking onto the adopted highway and within the car park;
- Illegal right-turn manoeuvres at the site access junction with B585 Beveridge Lane;
- Risk of vehicle to vehicle conflict within the site and on B585 Beveridge Lane.

In respect of HGV stacking and risk of conflict on B585 Beveridge Lane, the County Highways Authority advises that:

“Having reviewed the submitted RGP report and accompanying CCTV footage, it is acknowledged that evidence has been provided to demonstrate vehicles waiting within the adopted highway extents. However, it is important to note that this, whilst adopted highway, is within the site access. No evidence has been submitted to demonstrate that any stacking occurs at the site access which is detrimental to the operation of B585 Beveridge Lane or that causes an obstruction within the running carriageway. The LHA does acknowledge Clips 003 and 004 of the submitted report. Both of these clips demonstrate situations which are not ideal. However, they do not provide evidence that demonstrates an unacceptable risk to highway safety, or severe harm to the highway network. Therefore, the LHA does not consider that a reason for refusal could be substantiated.”

Members are advised that links to clips 003 and 004 as referred to above, can be viewed on the Council's website through links provided in the Traffic and Transport Report by Transport Planning Consultants RGP received on 11 July 2023 which forms part of the public comments from Greene King Brewing and Retailing Ltd. For Members' information, clip 003 shows an HGV entering the site and having to wait for another to exit the lorry park. The stationary HGV entering the site occupies the adopted highway upon entrance to the site, with some marginal chassis overhang into the live eastbound carriageway, until the vehicle can move through the car park. Clip 004 shows the simultaneous entrance and egress of HGVs with the entering HGV driver seemingly managing the situation by slowing down when turning across the eastbound carriageway of Beveridge Lane to avoid the path of the exiting HGV.

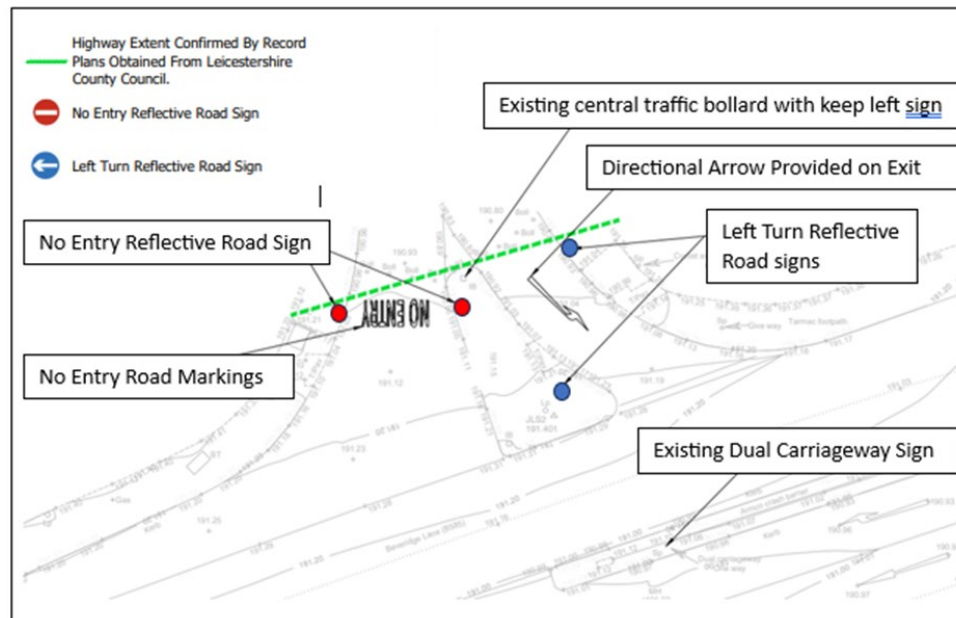
With regard to illegal right-turn manoeuvres at the site access junction with B585 Beveridge Lane, the County Highways Authority acknowledges that the RGP report and accompanying CCTV footage demonstrate that there were 14 recorded incidences of the illegal right-turn out of the site onto Beveridge Lane between 15th - 21st May 2023. These illegal manoeuvres onto a Class B dual carriageway, that is subject to a national speed limit, are of significant concern to the County Highways Authority in terms of highway safety. Firstly, because they are in contravention of the signed one-way system on Beveridge Lane (and an offence under S36 of the Road Traffic Act 1988). Secondly, because the photographic evidence provided demonstrates that in order to perform this manoeuvre, vehicles exited the site on the wrong side of the carriageway, and indeed the wrong side of the existing central refuge, then proceeded through a gap in the central reserve which is only provided for the right turn into the site.

In order to address the above concerns, the applicant has put forward a plan to address the illegal manoeuvring out of the site in the form of a highway mitigation strategy comprising new road markings and signage and this can be seen in the image below. The County Highways Authority has considered the submitted mitigation strategy and considers that the strategy provided is sufficient to address the problem of illegal right turn manoeuvres out of the site. These works would need to be secured by condition and a legal agreement with the County Council in order to secure the financial contribution required towards the provision of a Traffic Regulation Order to enable the provision of a 'No Entry' restriction at the site access junction with the B585 Beveridge Lane. The County Highways Authority has confirmed that all the signage and road markings would be within the public highway and therefore, subject to a condition and legal agreement, can be implemented.

With regard to concerns regarding HGVs overrunning internal car park kerbs and potential conflicts occurring within the car park, these are noted by the County Highways Authority, but these matters would take place on private land and are not within the jurisdiction of the County

Highways Authority. Overall, subject to conditions and a developer contribution, the County Highways Authority raises no objection to the proposals on the grounds of highway safety.

Plan showing proposed Highway Mitigation Strategy



Please note that the symbols and text on the drawing above have been enlarged by officers to ensure that the information can be seen within this report. The true version of the drawing is available to view on the Council's website.

When having regard to the advice provided by the County Highways Authority in respect of matters concerning the public highway and highway safety, it is not considered that the impacts of the development on highway safety would be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, subject to conditions and developer contributions, the proposed development is considered acceptable for the purposes of Policies IF4 and IF7 of the adopted Local Plan and would not conflict with the provisions of paragraph 111 of the NPPF.

Compatibility with the Existing Use and Car Park Safety

As set out in the third party representations section of this report, concern has been raised about public safety within the car park. Paragraphs 7 and 8 of the National Planning Policy Framework (NPPF) require that the planning system contributes towards the achievement of sustainable development, and set out the social objective of sustainable development, including its contribution to fostering safe places. Paragraph 112(c) of the NPPF provides that development should "...create places that are safe, secure and attractive - which minimise the scope for conflicts between pedestrians, cyclists and vehicles...". Paragraph 187 of the NPPF provides that "Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established". It is not considered that there are any development plan policies that would be directly relevant to this issue.

Whilst the access arrangements to the site remain as per the previous permission, consideration needs to be given to the impact of the use of the access during the temporary period during which the use has operated. As set out above, the use of the access as previously approved was not initially implemented, with an alternative access being used until April of this year. Since April, two complaints have been received by the Council about public safety in the car park and representations have also been made about vehicle and pedestrian conflict within the car park in response to the application.

Concern is raised that the current (and proposed) access position introduces risk to pedestrians, as a result of the turning of HGVs adjacent to the main entrance to the public house. The turning HGV's cross the path of pedestrians walking to and from their vehicles in the car park. In this regard, it is noted that there are no dedicated pedestrian refuge areas which are separate from the path of oncoming vehicles. Several excerpts of CCTV footage have been provided within the Traffic and Transport Report accompanying the representations from the Charnwood Arms providing examples of the risks to pedestrians within the car park:

- Clip 010 shows patrons exiting the public house and having to move out of the way of an HGV entering the site before continuing the walk to their vehicle.
- Clip 011 shows an HGV entering the site, whilst pedestrians are walking to the public house from their parked vehicle within proximity of the lorry park access. A young pedestrian is accompanied by an adult, and the HGV cuts closely across the path of the pedestrians requiring the child to step up onto a grassed landscaped area.
- Clip 012 shows pedestrians seeking refuge from an oncoming HGV. This clip also shows a vehicle leaving the car park swerving out of the way of an incoming HGV.
- Clip 013 shows an adult holding-back a young pedestrian exiting the public house from walking into the path of an oncoming HGV.

The above clips are available to view through weblinks within the Traffic and Transport Report by Transport Planning Consultants RGP received on 11 July 2023 which forms part of the public comments from Greene King Brewing and Retailing Ltd.

In terms of the relative probability of pedestrian/vehicle conflict within the site, it is important to understand the number of vehicular movements passing through the site. In this regard, the Traffic and Transport Report by Transport Planning Consultants RGP does provide details of HGV movements over the one week survey period (Monday-Sunday). It shows that there are a significant number of site-wide movements across all the days surveyed with traffic to the lorry park accounting for between 17-34% of overall vehicle movements. These range from 101 HGV movements at the lowest on the Sunday, to a peak of 283 HGV movements on the Wednesday.

Whilst to date there have been no reported injuries as a result of vehicle pedestrian conflict following the access being brought into use since April this year, these figures show the potential for vehicle-pedestrian conflict within the site.

The Council's Environmental Health Safety Team has been consulted on the application in respect of the safety of the public using the car park to the Charnwood Arms and have reviewed the RGP Traffic and Transport Report. The advice provided is that *"there is a foreseeable risk to pedestrians using the car park of the family friendly restaurant/ public house, from the heavy goods vehicles (HGVs) passing through the car park"*. The Safety Team note that *"the vehicular access for the HGVs passes through the area of the car park closest to the entrance to the*

public house, where members of the public are most likely to park, creating an unacceptable danger through the creation of a shared traffic route for HGVs and pedestrians". Furthermore, the Safety Team advise that the vehicular right of way for HGVs through the car park, consisting of a sharp right turn for the heavy goods vehicles, is located directly opposite the entrance to the public house where pedestrians, including children, are walking. The concern is that "this, in combination with the blind spots/zones (as highlighted in a recent National Highways 'Blind Spots' safety campaign, supported by the Road Haulage Association) that drivers have, further increases the risks to pedestrians using the car park further still".

The images below from the Council's Environmental Health Safety Team were taken in July of this year and are of the truck park access route through the public house car park. The images show the proximity of the HGV access route to the entrance of the restaurant/public house and the associated car park and the damage caused by vehicles turning and mounting the kerb/grassed area rather than following the route of the road.

Proximity of public house entrance and pedestrian access route to the truck park access route.	Damage caused to kerb lines within the private car park at the point of the sharp right hand turn into the car park
	

The damage to kerb lines within the site illustrates the difficulties HGV's have in manoeuvring through the site within the space available and which inevitably takes the HGV's closer to the path of pedestrians walking at the edges of the HGV route through the site. It is also noted that these raised grassed areas which are being breached by vehicles are where pedestrians may find temporary refuge when passing through the car park. This was evidenced in the clips provided within the RGP Traffic and Transport Report.

The Council's Environmental Health Safety Team has considered the potential to serve an Improvement Notice on the applicant, under the Health and Safety at Work etc. Act 1974, to require works to mitigate the risks from the development, for example through the use of protective barriers, road markings to identify vehicle and pedestrian routes, and/or the creation of crossing points. However, the Safety Team consider that the improvements that could be implemented in this area would not reduce the risks posed to families using the car park and accessing and egressing the restaurant/public house to an acceptable level. Members are also advised that the car park is not owned by the applicant and, therefore, works cannot be secured without the permission of the landowner.

In order to seek to remove the public safety hazard, officers have also given consideration to the possibility of creating a separate access to the truck park off Cartwright way to the west of the site by including additional land to the north of the site but the applicant has advised that this would involve land outside their ownership and is not an option. The informal advice of the County Highways Authority has been sought about the possibility of creating a new access off the A511 or the B585 but the advice provided was that this would be unlikely to be acceptable due to the close proximity of the roundabout, visibility and both would be contrary to Policy IN5 of Part 1 of the Leicestershire Highways Design Guide. With regards to a new access off the A511, the County Highways Authority advise that the gradient and how the access would merge where two lanes reduce to one, would also likely prevent an acceptable access being designed. As for an access onto Beveridge Lane, the County Highways Authority also note that with the exception of the currently proposed access, the current application site area along the southern boundary does not abut the highway. Having regard to the above, it is considered reasonable to conclude that the possibility of securing an alternative route into the site cannot be achieved.

In the absence of an alternative, the application must be considered on the basis of the submitted scheme and in this regard, the Council's Safety Team conclude that *"the access route to the truck park through the existing car park of a family friendly restaurant/public house and the serious concerns for the safety of the car park users accessing and egressing the building from the car park [should] be considered as an incompatibility of uses for this land"*.

As set out above, paragraphs 7, 8, 112 and 187 of the NPPF seek to create safe and secure places where conflicts between pedestrians, cyclists and vehicles are minimized and where development can be integrated effectively with existing businesses without existing businesses not having unreasonable restrictions placed on them because of new development permitted after they were established.

The application proposes to access the site via an existing car park serving a public house/restaurant and hotel which, when having regard to the extent of the car park affected, the proximity to the public house entrance, the difficult nature of the HGV manoeuvres through the car park at this point and the absence of any mitigation measures to enhance pedestrian safety within the site, it is considered that the proposal would represent an unsafe form of development, not constituting sustainable development. Furthermore, it is considered that that the development could restrict the operation of an existing business on the site by inhibiting the safe passage of customers, adversely affecting the experience of customers visiting the neighbouring public house/restaurant and hotel. Poor reviews could affect the reputation and operation of the existing public house/restaurant and hotel. For these reasons, it is considered that the proposal would be contrary to the policies and intentions of paragraphs 7, 8, 112 and 187 of the NPPF.

Other Matters

In response to concern raised that the owner of the site had not been correctly notified by the applicant, a revised certificate of ownership has been completed during the course of the application and notice has now been served on the correct land owner.

Concern has been raised about litter and waste on the site attracting vermin, but this is covered by separate Environmental Health legislation and, therefore, is not relevant to the determination of the application.

The application details that foul drainage is to be disposed of via a septic tank, but the agent has confirmed during the course of the application that this is incorrect and that the foul drainage is currently disposed via the sewer from the former nightclub on the site.

Overall Planning Balance, Contribution to Sustainable Development and Conclusions

Economic Objective:

The operation of the existing truck park business would, in itself, contribute to growth and the economic development of the area, and would contribute to the supply of much needed overnight lorry parking facilities within the local and wider area. However, having regard to evidence provided on behalf of the operators of the adjacent pub house, restaurant and hotel in respect of public safety and customer satisfaction, it would appear that the proposal could also serve to impact negatively on the business operations of the public house/restaurant and hotel operating at the site.

Social Objective:

Whilst concerns have been raised in respect of the effects on the operation of the adjacent public house, restaurant and hotel, it is considered that the most significant implications in respect of the social objective relate to the impacts on the objective's need to foster safe places; having regard to the issues in respect of pedestrian safety within the car park, it is considered that the scheme would perform poorly in this regard.

Environmental Objective:

The use of the site would result in additional noise impacts but as set out above, it is not considered that these impacts would be significant, and the scheme is not considered unacceptable in this regard. It is also considered that the development would have an acceptable visual impact on the character and appearance of the locality and the surrounding countryside.

For the reasons set out within the assessment above, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits and, when having regard to the three objectives of sustainable development, the application would not be considered to represent sustainable development overall and therefore, refusal is recommended for this scheme.

Erection of a rural workers dwelling and secure agricultural store

Report Item No
A4

Rainbow Crescent 7 The Moorlands Coleorton Coalville
Leicestershire LE67 8GG

Application Reference
23/00306/FUL

Grid Reference (E) 439878
Grid Reference (N) 315478

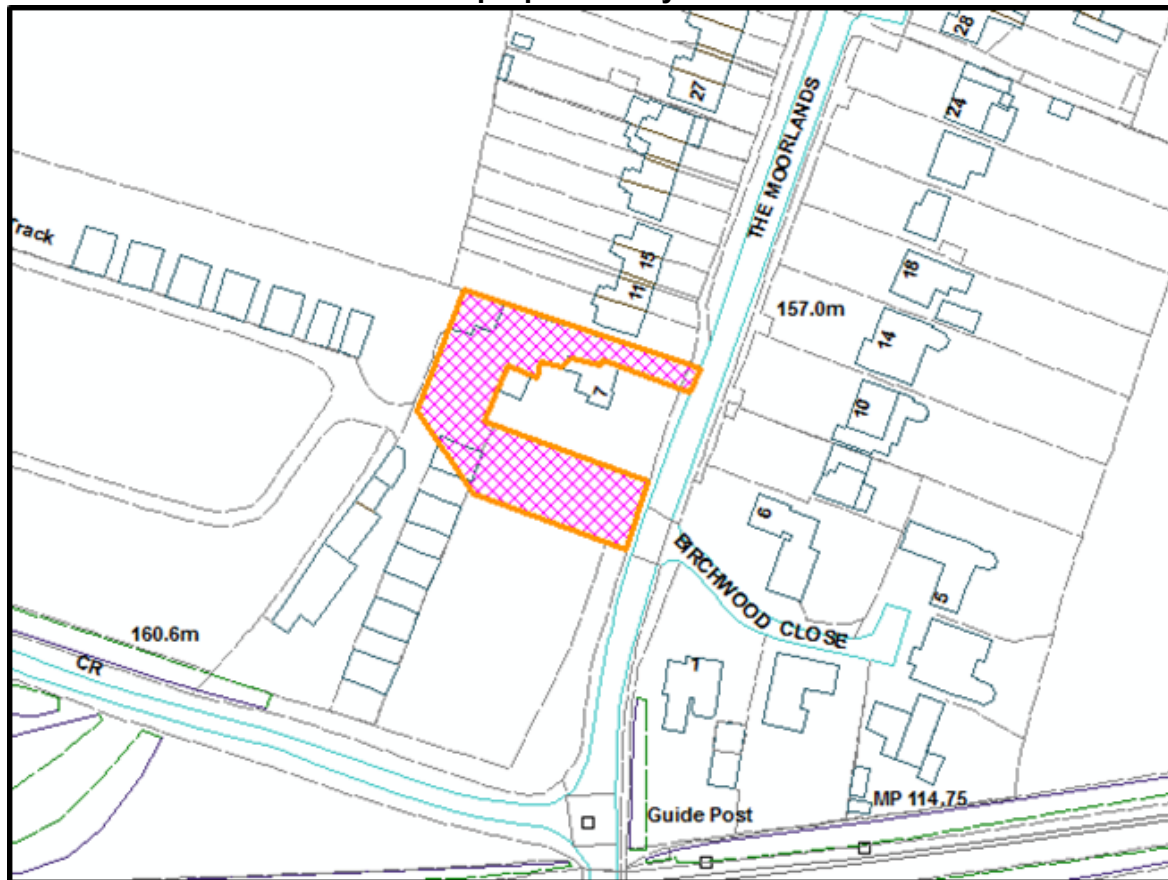
Date Registered:
22 March 2023
Consultation Expiry:
25 July 2023
Determination Date:
5 July 2023
Extension of Time:
TBC

Applicant:
Mr And Mrs Jessop

Case Officer:
Hannah Exley

Recommendation: Permit, subject to conditions

Site Location - Plan for indicative purposes only



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Reason the case is called to the Planning Committee:

The application is brought to the Planning Committee for determination under the requirement of the constitution as the agent for this scheme is related to an Elected Member of the Council.

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

- 1 Time Limit for implementation
- 2 Approved Plans
- 3 Agricultural tie to ensure occupation by persons solely or mainly working in the business enterprise CA Jessop and Sons operating from The Moorlands
- 4 Finished Ground Levels and Finished Floor Levels
- 5 External materials for the dwelling and agricultural building
- 6 Submission of a Risk Based Land Contamination Assessment
- 7 Contamination Land – No Remediation or Verification Investigation
- 8 Parking in accordance with details submitted
- 9 Scheme to be agreed for boundary treatments/landscaping and replanting requirement
- 10 Scheme to be agreed for the protection of existing hedgerows
- 11 Details of Bird Box/Bat Bricks to be used on the dwelling

MAIN REPORT

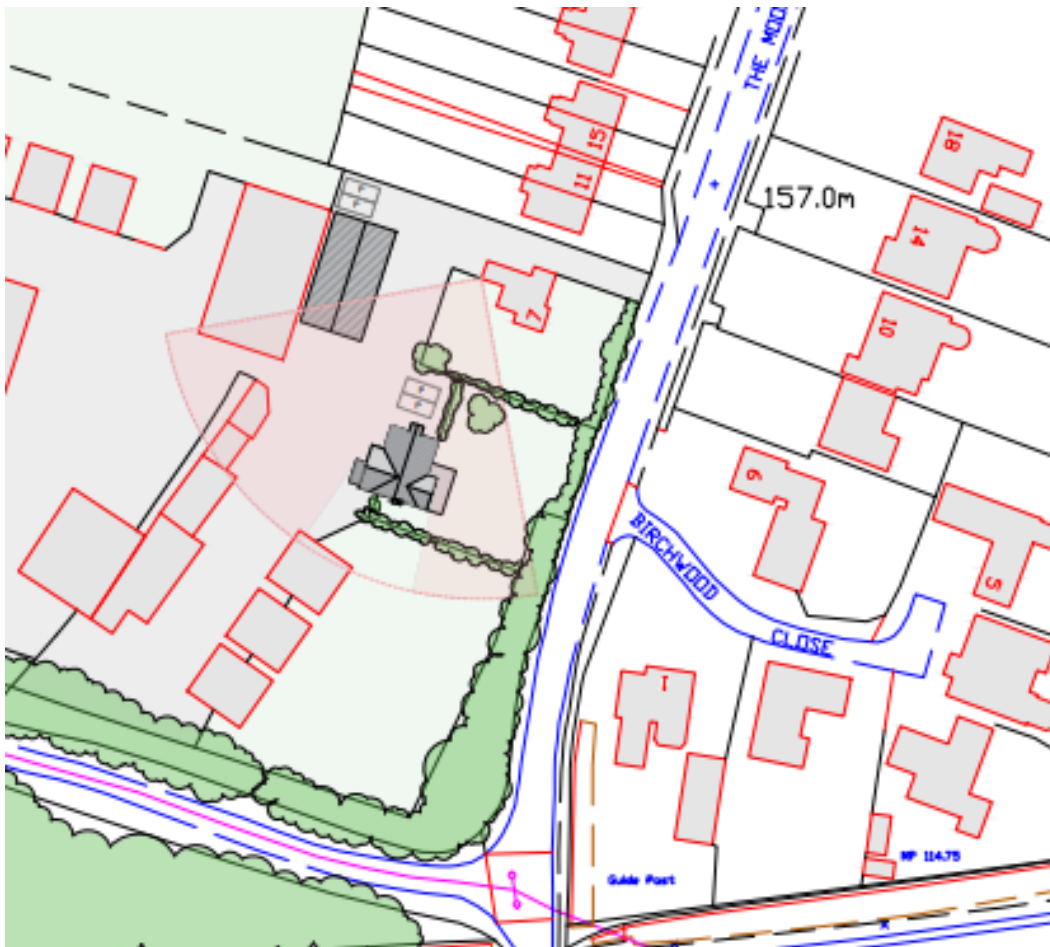
1. Proposals and Background

Approval is sought for the erection of a rural workers dwelling at an existing farming enterprise CA Jessop and Sons located to the rear of Rainbow Crescent, 7 The Moorlands, Coleorton. The dwelling would be located to the south of No.7 The Moorlands with the front elevation facing into the farm site. The application also includes a new agricultural building for the storage of farm equipment on the site located to the west of No.7 The Moorlands.

Access to the site would be via an existing vehicular access off The Moorlands which is shared by the farm site and the existing dwelling Rainbow Crescent, 7 The Moorlands.

No.7 The Moorlands is occupied and owned by the applicant's parents who previously ran a game rearing and farming business at the site before retiring and succeeding the business to the applicants. The applicant's parents retired to their family home of some 30 years (No.7 the Moorlands). The supporting information confirms that the applicant's parents have no personal or financial interest in CA Jessop and Sons and carry out no work for the current business. No.7 the Moorlands is in third party ownership and is not available for use by the applicants.

Amended plans have been secured during the application following officer concerns about the scale and appearance of the proposed dwelling.

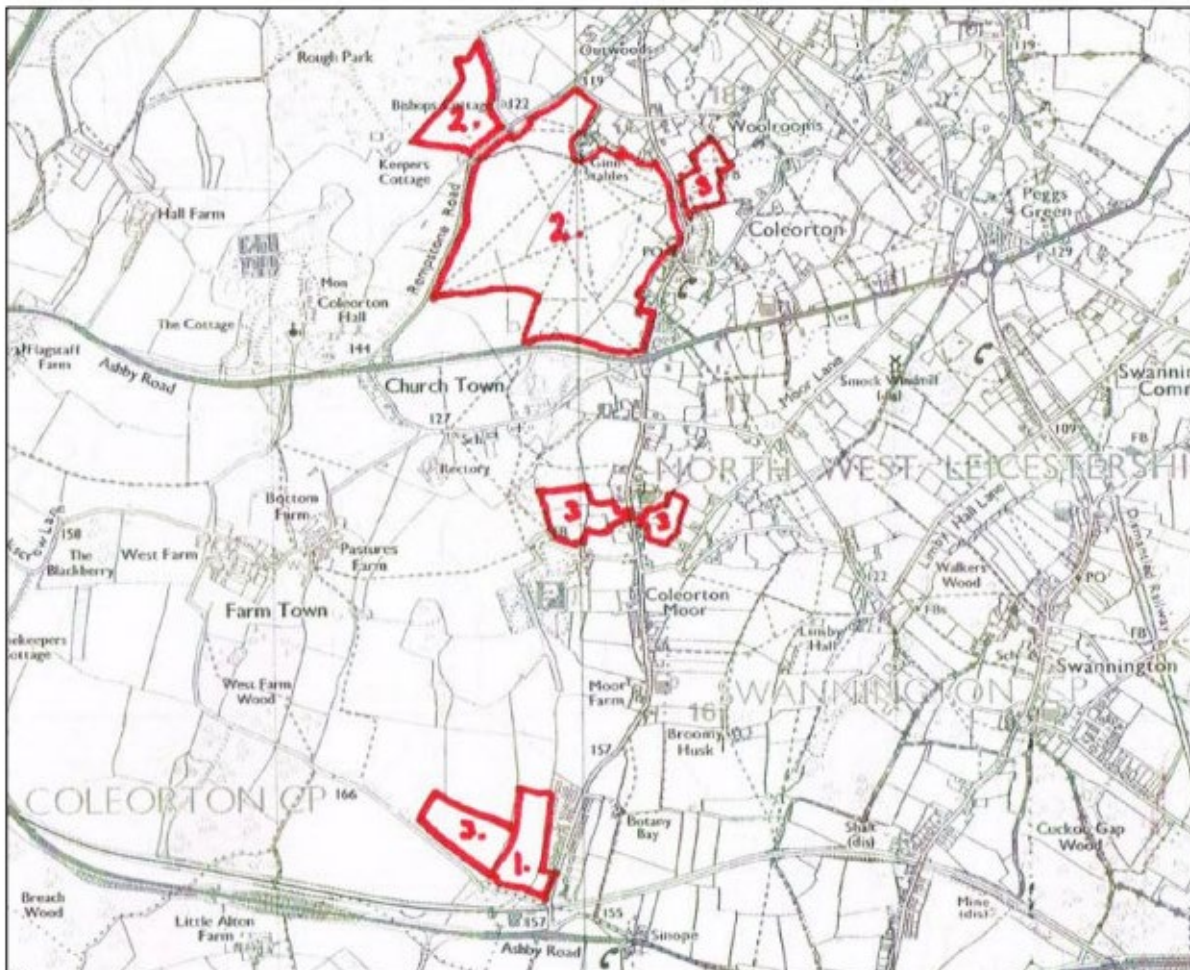


The supporting statement accompanying the application provides the following information about the farming enterprise at the site:

"The applicant's family have farmed at 7 The Moorland, Coleorton for three generations. The farming partnership currently comprises of Craig and Paula Jessop (husband and wife) who have ran the business since April 2020. The business comprises a commercial game rearing operation alongside a beef suckler cow heard, flock of sheep, breeding sow and pig fattening, and turkey and cockerel rearing for Christmas. The holding comprises 177 acres of land, all land is down to grass/pasture. The proposed dwelling is for Craig and Paula Jessop and their 2 sons. The applicants currently live circa 770m away but have been served notice to quit on their let residential dwelling at Glebe Farm and the 15 acres of land accompanied with it."

With the loss of the Glebe Farm site, the applicants total holding will comprise 162 acres (65.6 Ha) of owned and rented land. The proposed location of the rural workers dwelling is located within the 12 acres of land owned by the farming partnership (see area marked 1 on plan below). The main block at Coleorton (see areas marked 2 on Plan below) comprises of 100 acres has been let for the last 7 years on a rolling annual tenancy but the agent advises is now let on a 10-year Farm Business Tenancy (FBT) starting this year. The applicant's also rent other parcels of land in and around Coloerton on rolling annual agreements (see areas marked 3 on Plan below).

Plan showing owned and rented land:



In terms of livestock rearing numbers the following information has been submitted to set out the scale of the existing enterprise:

Pheasant	Rear 100,000 poults each year. They keep 4,000 poults on each year from their own stock as laying hens for the following year.
Turkey	Rear 200 turkeys and 200 cockerels per year.
Suckler Cows and Beef Fattening	A herd of pedigree Charolais cattle are kept, currently with 30 breeding cattle. These numbers will rise upon completion of the permitted livestock building. The weaned calves are kept through to finishing weight.
Sheep	10 Blue Texel ewes are kept with lambs kept through to finishing.
Pigs	1 pedigree Berkshire sow is kept which produces 2-3 litters per year. The piglets are reared on and finished at 5 months.

Relevant Planning History:

22/00801/FUL - Erection of an agricultural store to be used for cattle and general purpose (Permitted)

21/00331/AGP- Erection of an agricultural building for machinery, implement and fodder store (Permitted and implemented)

15/00543/FUL- Removal of existing timber framed workshop/garage/store and replace with an agricultural implements store and workshop (Permitted but not implemented)

09/00175/FUL- Retention of use of land for the mixed use of land for the stationing of livestock shelters and for the breeding and rearing of livestock upon the land and within those shelters and for an agricultural use (Permitted and implemented).

2. Publicity

6 Neighbours have been notified.

Site Notice displayed 30 March 2023.

3. Summary of Consultations and Representations Received

The following summary of responses is provided.

Coleorton Parish Council raise objection on the following grounds:

- The site is outside the limits to development;
- Highways make mention of the fact that The Moorlands has a 30-mph speed limit, but this is not adhered to, and an independent speed survey should be requested;
- In the Design and Access statement the agent refers to the Local Plan which has expired;
- It is not clear from the statement who is going to occupy this property. The agent's statement continually refers to a rural worker - is this one worker in addition to the applicants?
- The agent's statement which demonstrates need is not visible;
- The new property should be a tied agricultural dwelling and rigorously enforced in the future if permitted.

NWLDC Environmental Protection has no objections, advising that the proposed use would not negatively impact on its environment by way of noise, light, odour or other disturbance.

NWLDC Contaminated Land has no objections subject to conditions.

NWLDC Waste Services advises that the residents of the proposed dwelling would be required to present waste and recycling receptacles at the kerbside adjacent to the adopted highway of The Moorlands as per the current collection arrangements for 7 The Moorlands and neighbouring properties.

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

Leicestershire County Council - Highways - has no objections subject to conditions.

Third Party Representations

One letter of neighbour representation has been received raising objection on the following grounds:

Grounds of objection	Description of Impact
Inadequate Information	There is no proper analysis within the documentation to enable any adequate understanding of the proposal and its likely impact;
	All material considerations should be thoroughly assessed;
	An understanding of the full planning history of the site and related sites is required.

4. Relevant Planning Policy

National Planning Policy Framework (2023):

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

Paragraphs 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 and 56 (Planning conditions and obligations);

Paragraphs 60, 61, 62, 69, 74, 75 and 77 (Delivering a sufficient supply of homes);

Paragraph 80a – (Rural Housing)

Paragraph 84 – (Supporting a prosperous rural economy)

Paragraph 100 (Promoting healthy and safe communities);

Paragraphs 104, 107, 110, 111 and 112 (Promoting sustainable transport);

Paragraphs 119, 120, 124 and 125 (Making effective use of land);

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

Paragraph 167 (Meeting the challenge of climate change, flooding and coastal change);

Paragraphs 174, 180, 183, 184 and 185 (Conserving and enhancing the natural environment).

Adopted North West Leicestershire Local Plan (2021)

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

S3 - Countryside
 D1 - Design of New Development
 D2 - Amenity
 IF4 - Transport Infrastructure and New Development
 IF7 - Parking Provision and New Development
 EN1 - Nature Conservation
 CC2 - Water - Flood Risk
 CC3 - Water - Sustainable Drainage Systems

Other Policies/Guidance

National Planning Practice Guidance
 Leicestershire Highways Design Guide
 Good Design for North West Leicestershire SPD - April 2017.

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 lies outside the Limits to Development within the adopted Local Plan, with new dwellings not being a form of development permitted in the countryside, under Policy S3, unless there are special circumstances. One such special circumstance is agricultural development including agricultural workers dwellings and agricultural buildings which is outlined in criteria (a) of Policy S3 although any development deemed acceptable in relation to Policy S3 would need to adhere to criteria (i) to (vi) of this Policy.

The NPPF in Paragraph 8 outlines that there are three objectives to sustainable development (economic, social and environmental). The economic objective is particularly relevant to the provision of a permanent agricultural workers dwelling as the need for it must derive from the requirement of the farm business and not from the personal aspirations of the individuals concerned. The policy exception reflects support for agriculture as an economic activity; therefore, to allow such accommodation where a farming enterprise was not economically sustainable would not be justified.

Paragraph 80 of the NPPF outlines that isolated dwellings in the countryside should be avoided unless particular circumstances apply, one such circumstance is the "essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside" (criteria (a)).

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

The Planning Practice Guidance (PPG) note 'Housing Needs for Different Groups' sets out considerations which it identifies 'may be relevant' to consider in applying the NPPF exceptions as set out in paragraph 80(a) including:

- a) Evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise;
- b) The degree of confidence in the existing and foreseeable viability of the enterprise;
- c) whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process;
- d). The availability of alternative options - including whether the need could be met through improvements to existing accommodation on the site; and
- e). In the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.

The enterprise to which the proposed dwelling relates, is not new and therefore, consideration against criterion (e) is not required in this case. The remainder of the criteria are discussed in turn below. This assessment is informed by the applicant's supporting information in the form of a Rural Workers Dwelling Appraisal (RWDA) including business accounts and the advice of an independent agricultural advisor employed by the District Council who has scrutinised the scheme on our behalf:

a) Evidence of an essential functional need and c) whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process:

The case for the presence of a worker at most times at the farmstead at The Moorlands derives primarily from the welfare considerations relevant to the animals kept at the farm and security concerns relating to the farm site.

The Council's Agricultural Consultant advises that "All those responsible for the care of farmed livestock are subject to legal requirements to safeguard the wellbeing of individual animals in all reasonable circumstances. This does not translate into a proposition that a single animal or bird justifies the provision of a dwelling to enable a person to meet those requirements. The scale and nature of the circumstances to be managed are relevant. The standard labour calculation submitted shows that the livestock enterprises involved require the direct input of 1.7 workers, of whom 1.2 workers are applicable to the game bird element of the business. This is indicative of a scale of activity involving substantial numbers of birds and animals, with equally substantive welfare responsibilities.

The functional need for a worker presence is concerned with the management of risk; specifically with the wellbeing of animals present. In normal circumstances this will be successfully achieved during normal working hours. The primary risk relates to events which routinely or in emergency situations occur outside normal working hours and to the ready availability of a worker to identify and/or respond to any events which pose a threat to animal welfare."

Details have been provided within the RWDA about the periods of greatest risk, when both predictable and unforeseen interventions outside normal working hours may be necessary. The Council's agricultural consultant considers that this is a realistic assessment of risk for the enterprise, noting that enhanced risk management (when the ready availability of a worker will

be necessary) is spread across most of the year with the scale and nature of the enterprise justifying the ready availability of a worker at most times. The agricultural consultant advises that *"the management of the above circumstances in a manner which enables the applicants to meet their statutory and best practice welfare obligations to the rearing of game birds and farmed livestock could not be achieved from any substantive distance from the farmstead."* Furthermore, the agricultural consultant considers that the spread of the periods of enhanced need is such that the use of temporary seasonal caravan accommodation would not be appropriate.

In respect of site security, the advisor states that *"losses of, and damage to, equipment is costly and disruptive, but more significantly the applicants appear to have experienced direct impacts on their game birds and Christmas poultry, which are not recoverable and have potential wider animal welfare effects. In the light of these particular security aspects, it is considered that the ability to deliver best endeavours to deter these threats carries some weight in the case of the essential need for a close presence to the farmstead."*

When having regard to the content of the RWDA and the advice of the council's agricultural consultant, it is considered that reasonable evidence exists to demonstrate an essential functional need for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural enterprise. The diverse elements of the enterprise have a labour requirement in excess of a full-time worker, with a potentially frequent need for a worker to be readily available outside normal working hours. It is considered that the proposed dwelling would accord with criteria (a) and (c).

b) The degree of confidence in the existing and foreseeable viability of the enterprise:

In order to determine whether the above criterion is met, it is essential to establish whether the enterprise is profitable and capable of covering its costs, had no underlying weakness in its financial structure and could fund the cost of the proposed dwelling. In this regard the Council's Agricultural Consultant advises as follows:

"The farm business has clearly been sustained over a long period, with the applicants representing the third generation of involvement. Accounts have been submitted for the last two financial years which show substantive profitability. The balance sheet shows no underlying weakness with positive net assets and limited long-term liabilities. The accounts for 2022 are stated to be representative of the general performance of the business taking out short-term trading difficulties associated with the Covid Pandemic and the avian flu outbreak. The financial outcome for the year demonstrates the ability to remunerate the input of the two full time workers at a level well above that of the statutory minimum wage and to carry the build cost of the proposed dwelling as either a return on investment or a charge on borrowed capital."

The business has existed for a significant number of years, and evidence has been submitted to demonstrate that it is currently viable and likely to remain so. The level of profitability achieved is capable of realistically funding two full-time workers and the proposed dwelling and, therefore, it is considered that the proposed dwelling would accord with criterion (b).

d) The availability of alternative options including whether the need could be met through improvements to existing accommodation on the site:

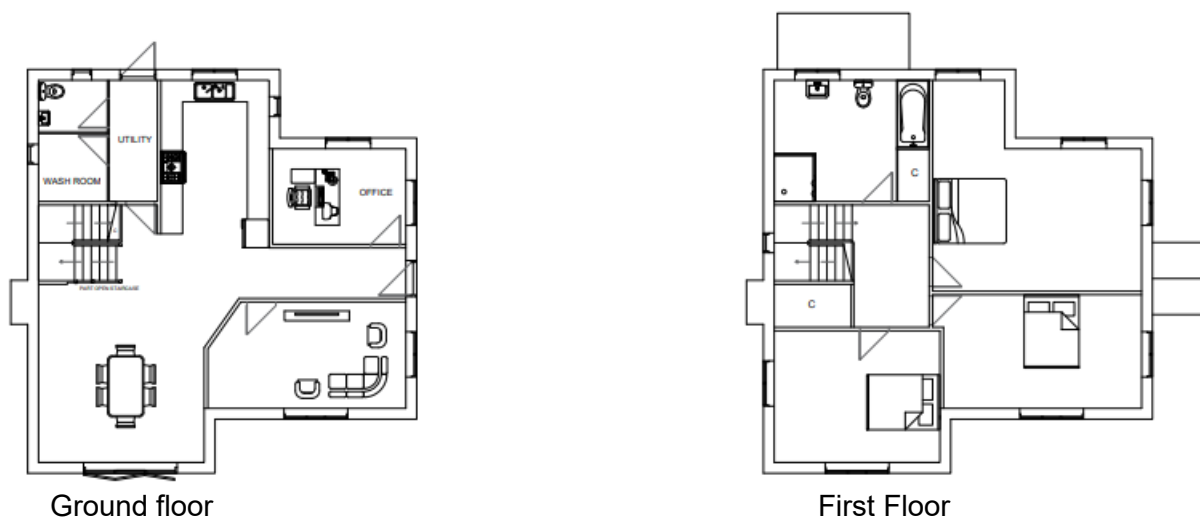
Insofar as the presence of workers on-site may be essential or desirable, this need cannot be satisfied by use of the existing dwelling (No.7 The Moorlands) at the site, which is legitimately occupied without an agricultural tie and, therefore, is unavailable.

At the present time, available housing in the immediate locality appears to be extremely limited, although an online search revealed that a three bedroomed property located next to the application site (No.9 The Moorlands) is currently on the market.

The applicant's agent has been asked whether this nearby property has been considered by the applicant's and a summary of the agent's response is provided below setting out why the property is not suitable for the farming business:

- the dwelling for sale is not in an as suitable a location to provide security surveillance of the site;
- it is too small for the required purposes being only 76.2m²;
- the second bedroom is too small (with a floor area of 4.95m²) to qualify as a bedroom for one of the applicants two teenage children – the agent notes that for new build dwellings Building Regulations require bedrooms floor areas for over 10 years old to be at least 6.51m²;
- A single bathroom downstairs would not be appropriate for an agricultural dwelling as a separate 'dirty' washroom directly off the farmyard is required and needs to separate from the bathroom in domestic use;
- the dwelling lacks a farm office or dining room;
- it would not be a financially astute decision, due to the cost difference between purchasing the dwelling and extending it to the necessary size to include the required internal accommodation;
- the property for sale is currently marketed for £240,000 and would need significant extensions to increase the floor space by 108.8m², which would more than double the size of the property. With an estimated build cost for the extension of £217,000 (possibly more dependent on existing foundations), this would come at considerable cost which would bring the total to well beyond the estimated cost of the proposed dwelling.

Image of floor plans for the proposed dwelling showing the accommodation required by the applicants including a wash room and WC directly off the farmyard and an office:



Overall, it is considered that the agent's assessment is reasonable in respect of the dwelling being unsuitable on the grounds of size, inappropriate accommodation, and the excessive cost

involved in purchasing and adapting the dwelling to meets the needs of the enterprise, which would exceed the likely costs of the new build dwelling proposed.

It is also noted that the property in question is the end of a row of modest terraced properties and there is no certainty that the property could be extended as required without adversely affecting neighbouring residential amenities, the character of the dwellings and the streetscene generally. The use of the property as an agricultural dwelling would likely give rise to a level and frequency of activity at all hours of the day that would be different to that of the adjoining residential dwelling, and which due to attached nature of No.9 to No.11, could adversely affect neighbouring amenities.

Overall, it is not considered that the need for a dwelling on the site could be met through existing or adapted accommodation on or near the site and the proposal would comply with criterion (d).

In conclusion, the proposed dwelling and secure agricultural store are needed and would accord with the provisions of Policy S3 of the adopted Local Plan. The proposed dwelling would meet the functional and financial tests set out in Planning Policy Guidance and would be compliant with the aims of criteria (a) of Policy S3 of the adopted Local Plan as well as the overarching objectives of the NPPF and in particular Paragraphs 80(a) and 84.

The application proposal would therefore, constitute a form of development permitted in the countryside under Policy S3. Policy S3 states that development in accordance with criteria a-s would be supported, subject to satisfying criteria i-vi as set out below:

(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 later in this report, it is considered that the appearance and 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.

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

The proposed development would not create or exacerbate ribbon development, nor undermine the physical or perceived separation between nearby settlements.

(iv) Built development is well integrated with existing development and existing buildings, including the reuse of existing buildings, where appropriate.

It is considered the proposed development would be reasonably well related to existing development within the immediate vicinity noting that the proposed dwelling would be situated adjacent to and aligns with the nearest neighbouring property and the proposed agricultural storage building would be well related to other farm buildings at the site.

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

Given the nature of the proposal, it is not considered the proposal would seriously undermine the vitality and viability of existing town and local centres.

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

Given the nature of the proposals which relate to an existing farming enterprise on the site, the proposal would not lead to an undue increase in vehicular movements but could reduce vehicular movements due to the on-site presence of farm workers. Therefore, the proposal does not need to be accessible, or to be made accessible by a range of sustainable transport.

It is therefore considered that the proposal complies with Policy S3 in terms of the principle of development.

Design and Impact on Character of the Area

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1 and the Council's Good Design SPD but also paragraphs 127 and 130 of the NPPF.

Initial concerns were raised by officers about the square proportions of the proposed dwelling and resulting shallow hipped roof, the mass of the building (compounded by large areas of uninterrupted brickwork) and the poor siting of the chimney resulting in a dwelling that would not represent good design and that would not appear in keeping with development within the locality.

Original Scheme

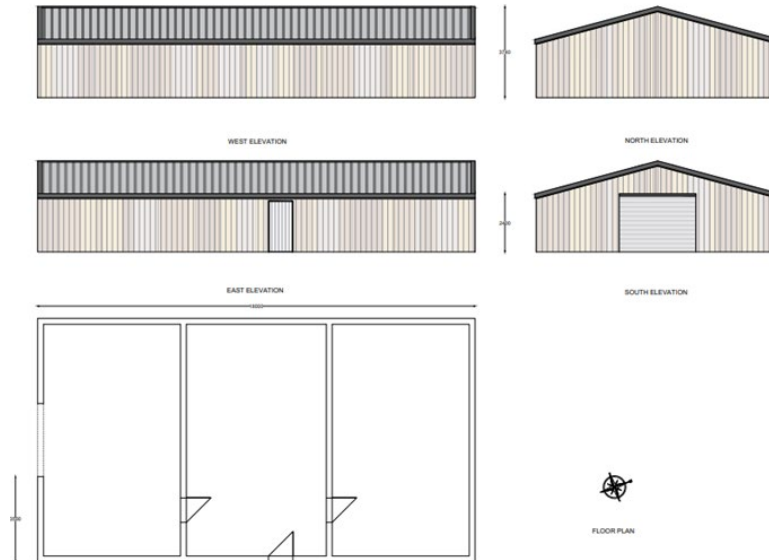


A dwelling in the siting proposed would be clearly visible from public vantage points along The Moorlands and therefore, any development on the site would need to knit into the existing grain, scale, and character of development. Whilst it is accepted that functionally the building would need to have a rear entrance to the farmstead, the elevation to The Moorlands should still present a balanced and interesting elevation to the street and the original scheme was unsuccessful in this regard.

View of the site/site access from The Moorlands:**Proposed Amended Elevations:**

Amended plans have been received following the concerns raised by officers showing a building of more linear form (north-south) with a projecting element to the east to provide for a more interesting elevation to the street scene (as per the existing dwelling on the site). The revised scheme also reduces the expanse of brickwork and windows are now detailed with heads and cills. Render is also proposed to the upper gable to brick up the mass of the brickwork and the chimney has been re-sited to the gable. It is considered that the improvements to the proposed dwelling are such that the amended proposals would knit into the existing grain, scale, and character of development within the locality, and would represent a good standard of design.

Proposed Agricultural Storage Building:



Regarding the proposed agricultural storage building, this would measure 10m x 18m with eaves and ridge heights of 2.4m and 3.7m respectively and would be sited immediately to the south of a larger agricultural building of greater dimensions, which would help mitigate the visual impact of the building within the wider landscape. The plans show a building constructed of brick to the south elevation and timber boarding with corrugated sheet roofing to the other elevations, which would not be out of keeping with other materials used on the wider site.

Whilst it is considered that the overall design would be improved by timber cladding to the southern elevation, this would face into the farm site and would be at a distance from the nearest public vantage point to the south along the road to Farm Town such that it would not be particularly prominent. There are also trees/hedgerow and intervening buildings that would obstruct views of the building from the south.

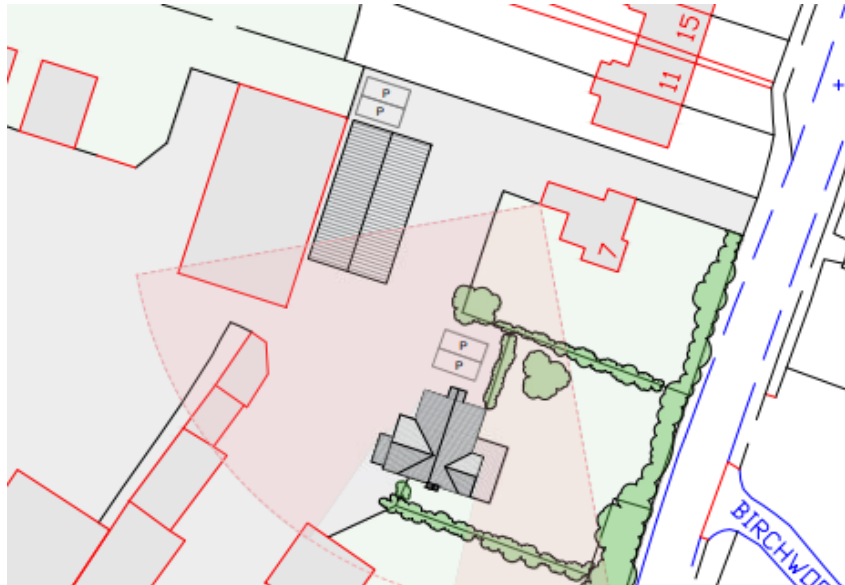
There is a dense, mature hedgerow along The Moorlands which along with the existing buildings on the site, would provide some screening for the building. However, given the height of the proposed building (3.7m to the ridge), the proposed buildings would be visible in medium views from the highway above the hedgerow but would be seen in the context of other larger agricultural buildings existing buildings.

Overall, the proposals for the dwelling and storage building would not appear out of keeping and would comply with the provisions of Policy D1 of the adopted Local Plan, the Council's Good Design SPD, National Design Guide and paragraphs 126 and 130 of the NPPF.

Residential Amenities

The property that would be most immediately affected by the proposals would be No's 7 and 9 The Moorlands. All other properties are either located beyond these neighbouring dwellings or are located on the opposite side of The Moorlands with sufficient distance between the development and those neighbouring properties to prevent any significant overbearing, overshadowing, or overlooking impacts.

Block Plan of the site showing the proposed buildings in black with 7 and 9 The Moorlands shown with a red dot:



Rainbow Crescent, No.7 The Moorlands is a two-storey dwelling with its principal elevation fronting The Moorlands and the majority of windows to the front and rear elevations.

Rear (eastern)/Side (southern) elevations of No.7 The Moorlands:



The proposed agricultural building would be located between 9.2m-10.1m to the west of the rear boundary with this neighbouring property and further from the dwelling itself due to the intervening garden.

When having regard to the storage use of the proposed building, the distances involved, along with the absence of any windows in the eastern elevation of the proposed building, and the existing proximity of this neighbouring dwelling to the farm site and other agricultural buildings of greater scale, it is not considered that the proposed building would give rise to any significant

overbearing, overlooking or overshadowing impacts, or significantly greater noise and disturbance to the occupiers of the dwelling.

View to the rear of No.7 The Moorlands (with rear boundary shown fenced):



Following officer concerns about siting of the proposed dwelling, amended plans have been received showing the proposed dwelling located 10m from the southern boundary of the neighbouring property and 20m from the dwelling itself due to the intervening garden. Whilst habitable room windows are proposed to the northern elevation of the proposed dwelling at ground and first floor level, when having regard to the distance to the common boundary and the neighbouring dwelling, it is not considered that there would be any significant overlooking, overbearing or overshadowing impacts arising from the proposed dwelling upon this existing neighbouring dwelling.

No.9 The Moorland lies immediately to the north of the site access and has its principal elevation facing The Moorlands such that the side elevation facing the site contains just one first floor window serving a landing. The side boundary to this neighbouring property is occupied by a mature hedgerow to the front and 1.8m close boarded fencing to the rear of the dwelling.

Photograph of the access drive between the two neighbouring properties:



It is noted that since the photograph was taken, a new 1.8m high fence has been erected along the boundary with No.9 beyond the hedgerow.

With No.7 The Moorlands separating No.9 the Moorlands from the proposed agricultural dwelling, there would be sufficient distance to prevent any significant overbearing, overshadowing or overlooking impacts. The proposed agricultural storage building would be located 6.5m from the bottom half of the garden to this neighbouring dwelling, approximately 19.5m from the nearest corner of the dwelling at No.9 The Moorlands. When having regard to the separation distances between the proposed building and the dwelling/common boundary, along with the scale and use of the proposed storage building, it is not considered that the proposed building would give rise to any significant overbearing, overlooking or overshadowing impacts, or significantly greater noise and disturbance to the occupiers of this neighbouring dwelling.

In terms of noise and disturbance arising from comings and goings to the proposed dwelling/agricultural building along the access drive between Nos 7 and 9 The Moorlands, it is not considered that this would be significant given the scale and nature of the proposals and that the applicant's residing at the site could reduce vehicular trips to and from the site.

Overall, the proposal is not considered to result in any significant impacts upon the residential amenities of neighbouring occupiers. Therefore, the proposed development is considered to be in accordance with Policy D2 of the adopted Local Plan and the Council's Good Design SPD.

Highway Safety

The site is located on The Moorlands, which is a classified C road subject to a 30mph speed limit and the proposed development would utilise the site's existing access. No alterations to the existing access arrangements are proposed.

Photograph of site access



The County Highways Authority has been consulted on the application proposal and advises that residential development and its use as a rural workers residence will reduce the number of trips on the local highway network such that the use of the existing access will not be intensified as a result of the proposal. In addition, the County Highways Authority advises that given the existing use of the wider site, the proposed agricultural storage would not result in additional trips to and from the site or the intensification of the use of the existing access.

The County Highways Authority has identified one Personal Injury Collision (PIC), as occurring within 500m of the site access within the most recent five year period. The PIC was recorded as 'slight' in severity and occurred approximately 15m south of the site access and involved a single vehicle colliding into a parked vehicle. The County Highways Authority has reviewed the PIC details and are satisfied that there is no evidence to suggest that the development proposal would exacerbate the likelihood of further such incidents occurring.

In terms of parking, the layout shows the provision of two parking spaces for the proposed three bedroomed dwelling which accords with the Leicestershire Highways Design Guide. The County Highways Authority, having regard to the new development proposed, is also satisfied that adequate parking and turning provision is achievable within the site to enable all vehicles including agricultural style vehicles to enter and exit in a forward direction. The County Highways Authority raises no objection subject to a condition to secure parking provision at the site in perpetuity.

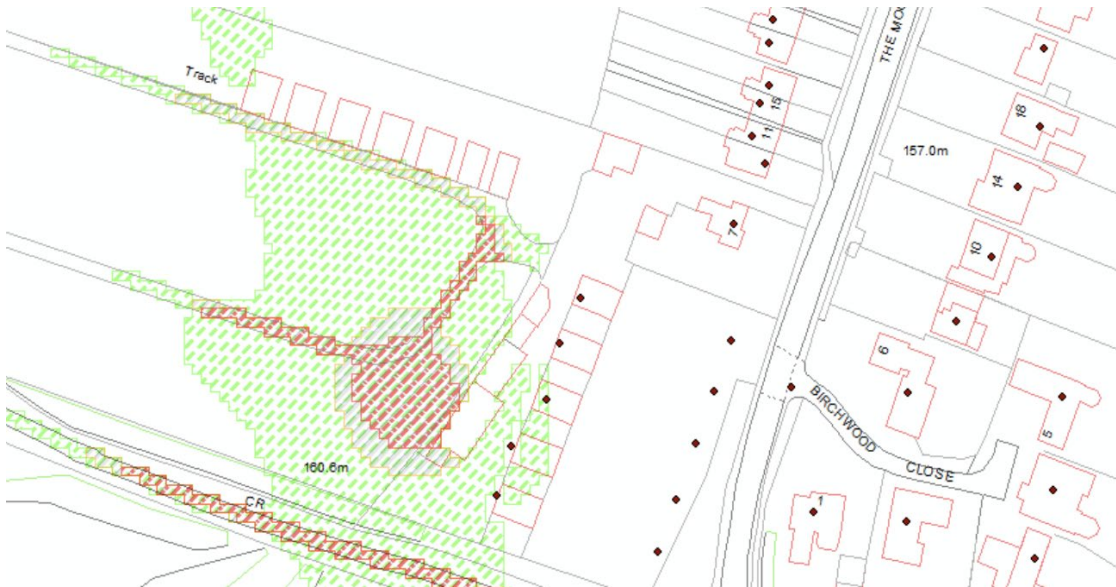
Subject to a parking condition, it is considered that the application is acceptable from a highway perspective and would comply with the provisions of Policies IF4 and IF7 of the adopted Local Plan and provisions of the NPPF.

Development and Flood Risk

It is noted that the application site and the proposed development fall within Flood Zone 1 which is at least risk of flooding and there are areas of low-high risk of surface water flooding to the west of the site of the proposed dwelling.

Areas at risk of surface water flooding are displayed on the following plan as follows:

Low risk = Green Medium risk = Amber High risk = Red



The proposed developments are located outside the areas at risk of surface water flooding.

Details of drainage would be dealt with under separate legislation (Building Regulations and Severn Trent Water), and as such any issues relating to how surface water run-off would be managed would be addressed at that time although the application submission indicates that surface water run-off would be directed to a soakaway. In the circumstances that the site lies in a flood zone 1 area, it is anticipated that any surface water run-off solution would not further exacerbate any localised flooding issue. As such the development would accord with Policies Cc2 and Cc3 of the adopted Local Plan.

Ecology and Biodiversity Net Gain

Policy EN1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district.

In terms of Biodiversity Net Gain (BNG), the mandatory requirement for 10% Biodiversity Net Gain on this scale of residential development has not yet been enacted through the Environment Bill (expected in April 2024). At present, paragraph 174(d) of the NPPF sets out a requirement to minimise impacts on biodiversity and provide net gains in connection with the schemes.

The County Ecologist has been consulted on the application during the validation of the application and advised that the submission of an ecology survey or biodiversity net gain

calculations were not necessary for the site, advising that there are no nearby records of protected species, no buildings appear suitable for roosting bats and from the photographs provided the habitats look very low value.

Two photographs of site for the proposed dwelling/garden:



Photograph of site of proposed agricultural building:

The application submission details 59m of new hedgerow made up of native species along the north, south and western boundaries of the proposed dwelling, along with the retention of the existing hedgerow along the highway boundary which would improve biodiversity on the site. The submitted drawings also include the provision of bat brick and a bird box within the proposed dwelling. Subject to conditions, the County Ecologist has no objections to the proposed development.

Therefore, subject to the imposition of conditions it is considered that the proposals would comply with Policy En1 of the adopted Local Plan, Paragraphs 174(d), 175 and 180 of the NPPF and Circular 06/05.

Conclusion

In conclusion, both the proposed dwelling and agricultural building are considered to be acceptable in principle providing that the use of the dwelling is restricted by a planning condition in connection with an agricultural use. Furthermore, the proposed development would have an acceptable impact upon design and the rural character of the area, neighbouring residential amenities, drainage and flood risk and ecology. The proposed access is also considered acceptable from a highway safety perspective. There are no other relevant material planning considerations that indicate that planning permission should not be granted, and 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. Therefore, subject to conditions, it is recommended that planning permission be granted.

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Erection of 5 No Self Build Dwellings (Outline Application with all matters reserved except for access)

**Report Item No
A5**

**Land At Main Street Swannington Coalville Leicestershire
LE67 8QL**

**Application Reference
23/00740/OUT**

**Grid Reference (E) 441648
Grid Reference (N) 316684**

**Date Registered:
14 June 2023**

**Consultation Expiry:
29 August 2023**

**Determination Date:
9 August 2023**

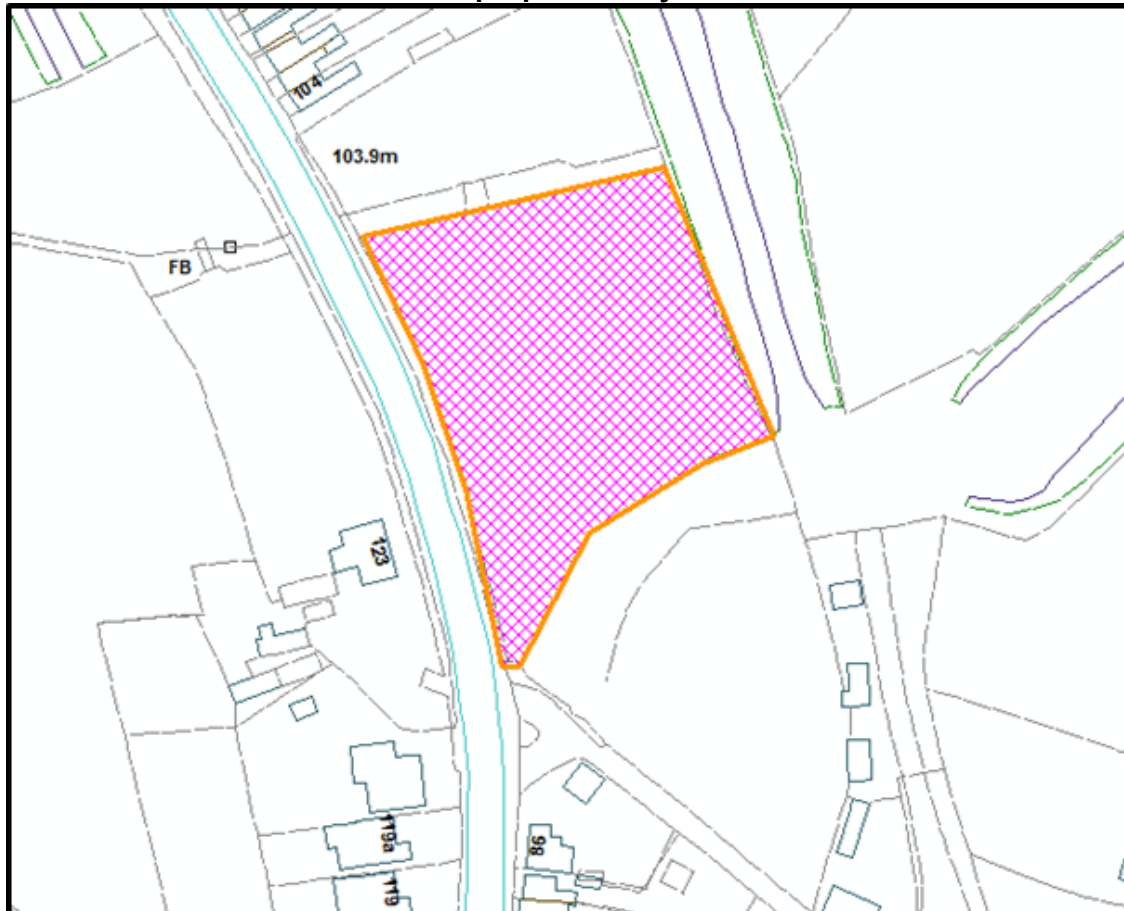
**Applicant:
Mr S Boam**

**Extension of Time:
14 November 2023**

**Case Officer:
Chris Unwin-Williams**

**Recommendation: Permit, subject to conditions and S106
agreement**

Site Location - Plan for indicative purposes only



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The application is referred to the Planning Committee in line with the requirements of the council's constitution as the applicant is a relative of a serving Councillor (Councillor Russell Boam) and an objection has been received against the proposal.

RECOMMENDATION - PERMIT, subject to a S106 agreement limiting the occupation of the dwellings as self-build properties and the following conditions:

- 1 Time Limit for submission of Reserved Matters (application for approval of the reserved matters to be made before the expiration of three years and the development to begin before the expiration of two years from the date of approval of the last of the reserved matters)
- 2 Reserved Matters (prior to commencement of development) approval of reserved matters shall be obtained).
- 3 Approved Plans (access only)
- 4 Levels details including details of finished ground levels across site to be submitted at Reserved Matters
- 5 Sustainable drainage solution to be installed prior to external materials to the roof are installed.
- 6 Access width shall be a minimum 4.25m, gradient shall be no more than 1:20 for a distance of at least 5m behind highway boundary and shall be surfaced in a hard bound material.
- 7 Visibility Splays to be secured prior to occupation of development with no obstructions within the splays greater than 0.6m in height (compliance).
- 8 Ecological constraints and opportunities plan (to include a minimum 53% net gain in habitat units either onsite, offsite or a combination) (prior to commencement of development).
- 9 Landscape and ecological management plan to be secured prior to commencement of development.
- 10 Reptile Survey and Mitigation Strategy to be submitted prior to commencement of development.
- 11 Intrusive investigations and remediation work in relation to past coal mining activity to be submitted prior to commencement of development.
- 12 Signed statement and declaration to be provided to confirm methods and findings of intrusive site investigations and the completion of any remedial works and or/mitigation necessary to address risks posed by past mining activities to be secured prior to occupation of the development.
- 13 BS5837:2012 Arboricultural Impact Assessment and Tree Protection Plan for the development to be provided at reserved matters stage.
- 14 Permitted development rights removal (Classes A, AA, B, C and E).

MAIN REPORT

1. Proposals and Background

The application seeks outline planning permission with all matters reserved except for access for the erection of five self-build dwellings.

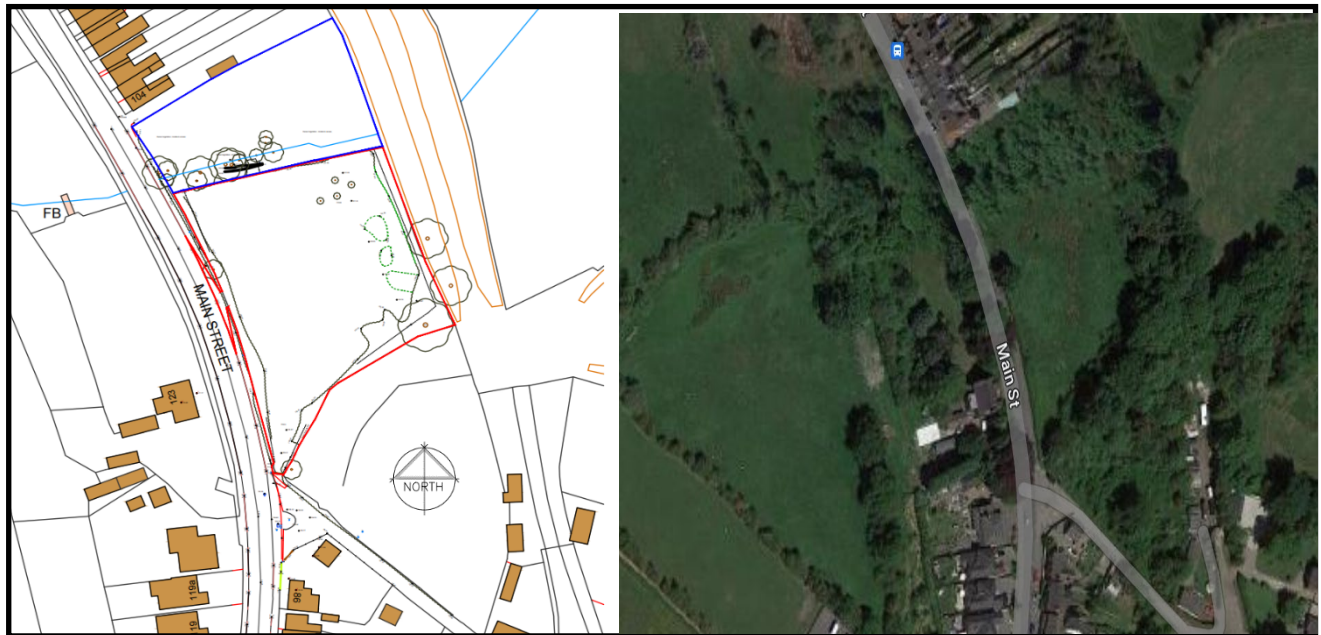
The application site relates to a paddock on the northern side of Main Street within the parish of Swannington.

Additional information has been provided throughout the course of the application including a completed biodiversity net gain metric and an ecological appraisal report.

The application site is located outside limits to development although it is adjacent to the built-up area of the settlement. A water course is located on the northern part of the site.

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

Site Location Plan and Aerial Image (north indicated by arrow)



Relevant Planning History

None relevant.

2. Publicity

4 Neighbours have been notified.

Site Notice displayed 30 June 2023.

Press Notice published in the Leicester Mercury on the 5th July 2023.

3. Summary of Consultations and Representations Received

Swannington Parish Council - raises an objection as the site is outside of the settlement limits, the site is a local wildlife site, unsafe access, and harm to the settlement's character.

LCC Highways - initially raised concerns that it had not been demonstrated that safe and suitable access could be achieved in the absence of visibility splays informed by an up-to-date speed survey. Following further consultation, it was confirmed that subject to conditions, no objection is raised.

LCC Ecology - initially raised concerns on the grounds that the site is a Local Wildlife Site, it is potentially irreplaceable habitat, and no ecological information has been submitted as part of the application. Following further consultation, it was established that the grassland on the site which was originally designated as a Local Wildlife Site due to the species present when surveyed in 2006, however, in its present state, the site does not meet the required UKHabs criteria to be considered as lowland meadow, which is a priority Annex 1 habitat. It was clarified that the most likely reason for this reduction in species richness is due to the cessation of grazing within the last 10 years. The site is now a mixture of coarse grassland and fen, being encroached by scrub. As such, in its present state, the grassland would no longer be considered a priority habitat. It was however noted that the old native hedgerow along the main road would qualify as a priority habitat and approximately 20m of this would be lost to create the site access. In terms of species, the site has the potential to support reptiles, hedgehogs, and foraging bats but the risk to Great Crested Newts was considered low enough that Reasonable Avoidance Measures (RAMS) would be sufficient in this instance. Accordingly, based on the grassland no longer being considered a priority habitat, and subject to appropriate conditions in the form of an ecological constraints and opportunities plan, a landscape and ecological management plan and a reptile survey and mitigation strategy, no objections are raised to the development of the site.

LCC LLFA - No objection

Coal Authority - No objection subject to conditions

National Forest Company - No objection

NWLDC Tree Officer - No objection

NWLDC Environmental Protection - No objection

NWLDC Environmental Protection (Contaminated Land) - No objection subject to conditions
Third Party Letters of Representation

Four neighbouring properties were consulted during the lifetime of the application and 2 no. comments have been received raising the following comments -

- Poor access
- Flooding
- Impact on trees
- Damage to adjacent property during construction due to local land instability

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

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2023)

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. The following sections of the NPPF are considered relevant to the determination of this application:

Paragraphs 8, 11, 14 (Achieving sustainable development);
 Paragraphs 47, 48, 55, 56 and 57 (Decision-making);
 Paragraphs 78, 79, 80 (Delivering a sufficient supply of homes)
 Paragraphs 83,84 (Supporting a prosperous rural economy);
 Paragraphs 55, 56 (Planning conditions and obligations);
 Paragraphs 92 and 93 (Promoting healthy and safe communities);
 Paragraphs 104, 105, 110, 111 and 112 (Promoting sustainable transport);
 Paragraphs 119, 120 and 124 (Making effective use of land);
 Paragraphs 126, 130, 131, 132 and 134 (Requiring good design);
 Paragraphs 152, 154, 157, 159, 162-165 and 167 (Meeting the challenge of climate change);
 Paragraphs 174, 180, 183, 184, 185 and 187 (Conserving and enhancing the natural environment);

Adopted North West Leicestershire Local Plan (2021)

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

S2 - Settlement Hierarchy
 S3 - Countryside
 D1 - Design of New Development
 D2 - Amenity
 En1 - Nature Conservation
 IF1 - Development and Infrastructure
 IF4 - Transport Infrastructure and New Development
 IF7 - Parking Provision and New Development
 Cc2 - Water - Flood Risk
 Cc3 - Sustainable Drainage Systems

Swannington Neighbourhood Plan (2023)

Policy H2 - Settlement Boundary
 Policy H3: Housing Mix
 Policy H4: Design Quality
 Policy H6: Windfall Sites
 Policy Env 3: Sites and Features of Natural Environment Significance
 Policy Env 4: Protecting and Enhancing Biodiversity
 Policy Env 5: Sites and Features of Historic Environment Significance
 Policy Env 8: Footpaths, Bridleways and Byways
 Policy Env 9: Flood Risk Resilience and Climate Change

Other Policies/Guidance

National Planning Practice Guidance

Leicestershire Highways Design Guide (LHDG)

National Design Guide (2019)

Good Design SPD (2017)

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

The Self-Build and Custom Housebuilding Act 2015

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).

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 the matter of principle 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 are effective, not out of date and carry significant weight.

The site is located on land falling outside the defined limits to development, designated as countryside within the adopted Local Plan and Neighbourhood Plan. On sites falling outside the defined limits to development, residential development is not a form of development that is permissible by Policy S3 save for limited exceptions as specified in the policy (e.g., re-use or adaptation of an existing building or the redevelopment of previously developed land). The proposal does not fall within any of these exceptions.

Further, Policy H2 of the Swannington Neighbourhood Plan states that land outside the settlement boundary will be treated as open countryside, where development will be carefully controlled, or supported as appropriate, in line with local and national strategic planning policies. The NPPF defines *'Previously Developed land' (PDL) as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure*. However, this excludes land in built-up areas such as residential gardens. In this instance, the application site is an existing local wildlife site and would not fall under the NPPF's definition of PDL. As such, this development would not be supported under Policy S3 (e).

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within paragraphs 7 and 8 of the NPPF. Policy S2 is consistent with the core principle of the National Planning Policy Framework (the Framework) to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

The site is located adjacent to the Limits to Development of Swannington. It is also noted that whilst Policy S2 identifies Swannington as a sustainable village, this specifies that any 'growth' should be proposed on land within the Limits to Development. As such this proposal would not accord with the details listed in the hierarchy of settlements as per Policy S2 of the Local Plan.

For the reasons set out above, the proposal would not accord with the provisions of Policies S2 and S3 of the adopted Local Plan and the Swannington Neighbourhood Plan.

Development on land within the countryside is also required to be assessed against subparagraphs (i) - (vi) of Policy S3. An assessment of these subparagraphs is listed below:

(i) The appearance and character of the landscape, including its historic character and features such as biodiversity, views, settlement pattern

The site itself is an existing wildlife site bound by existing areas of woodland as outlined in Figure 8 (page 30) of the Swannington Neighbourhood Plan. The proposals would result in the partial loss of existing biodiversity (in the form of habitat units) but would be compensated for by condition through either onsite or offsite net gains (or through a combination of both). Further the proposals would result in onsite net gains in hedgerow units. As such, it is considered biodiversity would be enhanced as a result of the proposals.

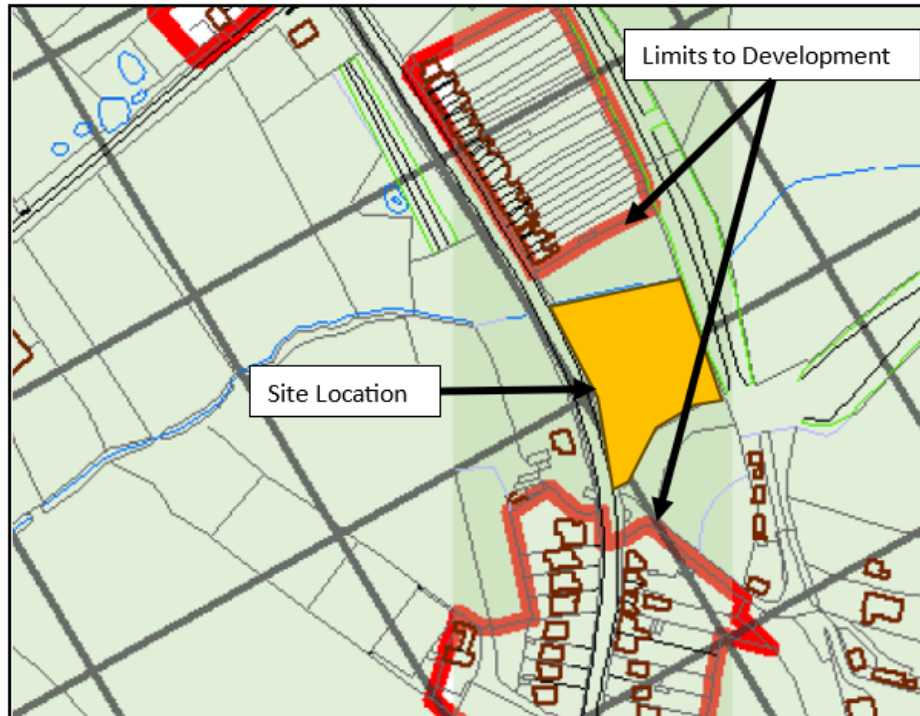
Swannington is defined by linear development that fronts the arterial routes that make up the settlement. Built development along the arterial routes are punctuated by meadows that extend up the edge of the highway which maintain its verdant and rural integrity.

The site itself contributes positively to the landscape setting and the predominantly rural character of the settlement. The proposal would result in a suburban form of development that would fail to respond to or enhance the built and natural character of the settlement thus would harm its immediate and wider landscape setting. This is demonstrated in further detail within the included site photographs and aerial imagery below:



(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

The proposals would result in the infilling of an existing undeveloped site outside of the defined limits to development and would be sited between two areas of Swannington as demonstrated in the figure below. As such, it is considered the development would result in a partial loss of the physical and perceived separation and undeveloped character between these two areas of Swannington. However, it is considered that the harm resulting from this could be mitigated through appropriate landscaping and subsequent scale and layout details.



(iii) it does not create or exacerbate ribbon development

It is noted that the Planning Portal defines 'ribbon development' as "development, usually residential, extending along one or both sides of a road but not extended in depth" with the



dictionary definition being *"the building of houses along a main road, especially one leading from a town or village."*

The proposals, whilst only illustrative at this stage would likely result in ribbon development across this section of Main Street given the proposed siting of the dwellings which would front onto Main Street as demonstrated above.

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

The proposed development would involve the erection of 5 no. new dwellings, but it is considered a form of development could be secured at reserved matters stage that would be well-related to existing development along Main Street and the wider settlement of Swannington.

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

Given the residential nature of the proposal, this criterion is not considered to be relevant.

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

This application site is located adjacent to the limits to development of Swannington. It is also noted that Policy S2 identifies Swannington as a sustainable village. Services available in Swannington include a public house, primary school, and village hall. These services/facilities are within 800-1000m (preferred maximum walking distance) of the site.

Future occupants of the application site would also have access to public transport via an hourly bus service to Coalville operating from a bus stop off Main Street (Jeffcoats Lane) which is a short walking distance from the application site. As such, a wider provision of facilities and services would be able to be accessed via sustainable forms of travel.

The above services would be accessible via foot on raised footways, or cycling, and consequently future occupants of the property would not necessarily be dependent on the private car to access the most basic of services and would support the approach to a low carbon economy. The provision of this dwelling would also assist in sustaining these services, which is a key intention of Paragraph 79 of the NPPF. As such it is considered that the proposed development would accord with the aims of Policy S3 (vi).

The site is not considered to be in an isolated location given its proximity to other dwellings and development and the distance from services and facilities in Swannington and Coalville. There would also be some limited economic benefits associated with employment in the construction trade and future residents helping to maintain local services in the area.

Whilst the development is compliant with three of the criteria set out under the second part of Policy S3, it conflicts with the criteria (i), (ii) and (iii). The development is also not supported in principle by Policies S2 and S3. The proposal would therefore conflict with the broad objective of containing new residential development within the settlement limits.

Self-Build and Custom Housing

It is recognised that self-build and custom housebuilding is a key element of the government's

agenda to increase the supply of housing, both market and affordable and gives more people the opportunity to build their own homes as set out in Paragraph 62 of the NPPF.

The applicant has provided arguments in support of a self-build unit, including but not limited to that the Council has not satisfactorily demonstrated that it has granted enough permissions to meet the identified need and that the relevant policies of the Local Plan are failing to secure sufficient permissions in this regard.

The Council's Planning Policy Team has confirmed that the applicant is currently on the Council's self-build register.

Self and custom building is defined as the building or completion by individuals, an association of individuals or persons working with or for individuals, of houses to be occupied as homes by those individuals. This is an outline application for the erection of 5 no. Self-Build Dwellings, and the proposal would meet this 'definition' and would contribute towards the delivery of self-build and custom housebuilding in the District.

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 10th October 2023, there are 126 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 into different base periods. As of October 2022, there is a shortfall of four self-build permissions. One application has been granted (22/01054/FUL) and four applications have resolutions to permit, subject to the signing of a S106 agreement and so the permissions have not yet been issued. As such, there is a shortfall at present of three self-builds.

As of October 2023, this shortfall has increased by a further 20 plots. Therefore, it is acknowledged that this proposal for five dwellings (subject to a legal agreement securing it as a self-build dwelling) would make a contribution to addressing this existing and future shortfall and this is a material consideration in the determination of the application to be given significant weight.

The adopted Local Plan is silent on the matter of self-build housing and in these circumstances, 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."*

Paragraph 14 of the NPPF also states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing

development that conflicts with the neighbourhood plan is “likely” to significantly and demonstrably outweigh the benefits, provided all of the following apply;

- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;*
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;*
- c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74); and*
- d) the local planning authority's housing delivery was at least 45% of that required over the previous three years.*

The Swannington Neighbourhood Plan was adopted in 2023 and is therefore less than two years old. The Swannington Neighbourhood Plan contains a housing allocation within Policy H1 and therefore seeks to meet housing needs. The Local Planning Authority can demonstrate in excess of five years housing land supply and has consistently exceeded 45% of the housing delivery test.

In this instance, whilst the above criteria would be met, it is noted that the wording of paragraph 14 refers to a “likelihood” that the adverse impact of allowing development that conflicts with the neighbourhood plan would demonstrably outweigh the benefits. 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

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.

The recently updated NPPF includes several new measures to improve design quality. This includes a test at paragraph 134 which directs that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

The Council's Good Design SPD and the government's National Design Guide/National Model Design Code therefore carry substantial weight. The site is also located within the National Forest and is therefore subject to the requirements of policies En3. Policy H4 of the Swannington Neighbourhood Plan states that new development should enhance and reinforce the local distinctiveness and character of the area in which it is situated.

The application does not seek approval of the layout, scale, appearance, or landscaping therefore the submitted plan shows only the layout and scale indicatively. Swannington is defined by linear development that fronts the arterial routes that make up the settlement. Built development along the arterial routes are punctuated by meadows that extend up the edge of the highway which maintain its verdant and rural integrity.

The site itself contributes positively to the landscape setting and the predominantly rural

character of the settlement. In this instance, it is acknowledged that the proposal would result in the introduction of a suburban form of development that would fail to respond to or enhance the built and natural character of the settlement thus would harm its immediate and wider landscape setting as demonstrated in the below site photographs and aerial image.

However, the overall harm resulting from this could be mitigated through appropriate controls on appearance, landscaping, layout and scale which would be considered in further details at reserved matters stage, including among other things, limiting the scale of development to single storey only and through appropriate landscaping to limit the visual impacts of the development.

With the above in mind, whilst it is considered the loss of the site to built development would result in some harm to local character, when the overall context of the scheme is considered (outline with access for consideration only at this stage) and that the impacts of such a development could be controlled through appropriate use of conditions and during any further reserved matters applications, on balance, it is considered the proposals would accord with policy D1 of the Local Plan and Policy H4 of the Neighbourhood Plan as well as relevant paragraphs of the NPPF.



Impact upon residential amenity

Policies D2 of the Local Plan (2021) and G1 of the Neighbourhood Plan (2022) 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. Policy H4 of the Neighbourhood Plan states that proposals should minimise the impact on general amenity and careful consideration given to noise, odour and light.

Given that the submitted plans provided are indicative, 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 landscaping, 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 layout and indicative plans provide a high degree of confidence that a scheme is capable of being delivered that would accord with policy D2. Furthermore, it is considered that the future occupiers of the proposed units could be provided with a high standard of amenity in terms of light, outlook, noise and private amenity space.

Overall, the proposal is not considered to result in significant impacts upon existing surrounding or future occupier residential amenity as can be seen from the plan below.



Therefore, the proposal is considered to be in accordance with Policy D2 of the adopted Local Plan, Policy H4 of the Neighbourhood 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.

Objections have been received throughout the lifetime of the application in respect of highway safety concerns, particularly relating to the proposed access location.

The Local Highway Authority (LHA) has been consulted to establish if there would be

acceptable highways impacts resulting from the proposal and no objection is raised.

The site is located on a 30mph classified C Road. In terms of access, a new vehicular access point is proposed which measures 5m in width and would serve a private drive that would access each of the proposed units. The access location (demonstrated in the below site photos) and width are considered to be acceptable having regard to the Leicestershire Highways Design Guide. The applicant has not carried out a speed survey to accurately determine the required visibility splays. Historic data obtained by the LHA suggests that vehicle speeds can be as high as 43mph within the vicinity of the access.

Therefore, visibility splays of 2.4m x 120m would be required to be demonstrated by the applicant. As the applicant has shown visibility splays of 2.4m x 120m to the north of the site access, the LHA is satisfied that appropriate visibility can be provided in accordance with LHDG standards. Regarding the splay to the south, the LHA has used the formula from Manual for Streets 2 (MfS2) to determine the minimum splay lengths for the worst-case scenario of speeds of 43.7mph for vehicles travelling north along Main Street as recorded in the July 2014 speed survey.

The LHA has measured a maximum achievable visibility south of the proposed site access to be 111m, when considering the highway extent. This leaves a shortfall of 8m based on a required 'desirable minimum' stopping distance of 119.28m. This is below the standards usually applied by the LHA when speeds are greater than 40mph. However, having regard for the character of the area, it is not considered the shortfall would amount to severe harm to highway safety and therefore raise no objection to the proposed access.



In terms of parking and turning, the site is large enough to provide sufficient space, which would be subject to a later reserved matters application. The site is also considered to be accessible in terms of amenities and public transport to meet day to day needs.

Notwithstanding this, the access is considered safe and suitable, and it is considered that there is sufficient space for the parking and turning of vehicles within the site and therefore the proposal accords with policy IF7.

As set out above, the site is well connected to sustainable transport modes due to its location adjacent to a Sustainable Settlement and therefore complies with policy IF4 in this regard.

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 Policy IF7 and relevant paragraphs of the NPPF.

Ecology

Policy EN1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district. The submitted indicative layout plan suggests that the northern and eastern parts of the site would be retained for biodiversity. No detailed improvement or enhancement works are proposed. Policy ENV3 of the Swannington Neighbourhood Plan identifies the application site as a feature of natural environmental significance as it is a designated Local Wildlife Site. Existing photos of the site, including relevant viewpoints can be viewed below.

Due to the designation of the site as a Local Wildlife Site, LCC Ecology were consulted throughout the course of the application and initially raised concerns that the site is potentially irreplaceable habitat and no ecological information had been submitted as part of the application. However, following submission and review and the submission of additional information, the following comments were received:

“The Preliminary Ecological Assessment survey by Midland Ecology found that the site has the potential to support reptiles, hedgehogs and foraging bats. One of the trees adjacent to the red line boundary had features suitable for roosting bats. The risk to Great Crested Newts was considered low enough that Reasonable Avoidance Measures (RAMS) would be sufficient and no surveys for them are required.

The old native hedgerow along the main road qualifies as Priority Habitat under the NERC Act, and approximately 20m of this will be lost to create the site access. The habitat assessment survey found that the grassland on the site (designated as a Local Wildlife Site due to the species present when surveyed in 2006) does not meet the required UKHabs criteria to be considered as a lowland meadow, which is a priority Annex 1 habitat. This most likely reason for this reduction in species richness is due to the cessation of grazing within the last 10 years. The site is now a mixture of coarse grassland and fen, being encroached by scrub.

It would be possible, with appropriate management, to restore parts of the site back to a more species-rich mesotrophic grassland.”

As outlined above, initially concerns were raised regarding the potential impact on the site, which is designated as a local wildlife site. However, it is understood that this original designation is due to the species that were present when surveyed in 2006 and the site at present does not meet the required UKHabs criteria to be considered as lowland meadow, which is a priority Annex 1 habitat. As such, in its present state, the grassland would no longer be considered a priority habitat which consists in its present state of coarse grassland and fen, being encroached by scrub. It was however noted that the old native hedgerow along the main road would qualify as a priority habitat and approximately 20m of this would be lost to create the site access.

Therefore, whilst the development would result in the loss of some hedgerow, on balance, given the site now consists of coarse grassland and fen, being encroached by scrub, LCC Ecology confirmed that they had no objections to the development of the site subject to securing the following conditions:

- 1) *An ecological constraints and opportunities plan which identifies areas and features which should be retained and avoided by construction activities and the overall footprint of the development, areas and features where there are opportunities to undertake mitigations, compensation and enhancement, areas where ongoing ecological management is required, areas needing protection onsite and in adjacent areas during the construction process and areas where biosecurity measures are necessary;*
- 2) *A landscape and ecological management plan which includes a description and evaluation of features to be created and enhanced, aims and objectives, appropriate management options and prescription of actions, a work schedule, details of species and/or seed mixes to be planted and/or sown and ongoing monitoring and remedial measures; and*
- 3) *A reptile survey and mitigation strategy.*

As such, it is recommended that these conditions be imposed in the event that the application is permitted.

Whilst the mandatory requirement for 10 percent BNG has not yet been enacted through the Environment Bill (expected in January 2024), paragraph 174(d) of the NPPF sets out a requirement to minimise impacts on and provide net gains for biodiversity. According to current guidance, self-build developments are exempt from Biodiversity Net Gain. Nevertheless, the NPPF still requires a measurable net gain for biodiversity.

It is noted that the submitted biodiversity metric demonstrates a 65.5% increase in hedgerow units, however, the scheme would result in a 53% loss in habitat units as demonstrated in the below biodiversity metric summary. Therefore, to ensure the development would secure measurable net gains across both habitat and hedgerow units, as part of the conditioning of the ecological constraints and opportunities plan, a minimum net gain of 54% habitat units will need to be provided either onsite or offsite (or through a combination of both).

Total on-site net % change plus off-site surplus (including all on-site & off-site habitat retention, creation & enhancement)	Habitat units	-53.06%
	Hedgerow units	+65.50%

Subject to the securing of the above conditions, the proposals would secure enhancements to local biodiversity, on balance, the proposals would therefore accord with Policy En1 of the Local Plan and relevant paragraphs of the NPPF.

Flood Risk and Surface Water Drainage

Objections have been raised throughout the lifetime of the application in respect of concerns that the proposals would lead to flooding impacts, particularly due to the site's close proximity to a nearby brook.

The site is 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, with a small area of medium risk surface water flooding to the northeast of the site, as defined by the Environment Agency's Surface Water Flood Maps.

The proposal would result in a material increase in hard surfacing thus surface water will need to be managed on site via a sustainable drainage solution. Although no details of drainage has been submitted at this stage, subject to conditions that require such details as part of the reserved matters application, 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.

Conclusions 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 of the limits to development.

The most important policies in the determination of this application are Policies S2 and S3 of the Local Plan and Policy H2 of the Swannington Neighbourhood Plan which support development within the settlement limits and restrict development in the countryside. As set out earlier in this report, these policies are of greatest importance in this case, and are effective, not out of date and carry significant weight.

The adopted Local Plan is silent on the matter of self-build housing and in these this circumstance, 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.'*

However, Paragraph 14 of the NPPF is also engaged which states that any conflict arising with the neighbourhood Plan, where criteria (a-d) are met, would *"likely"* constitute significant and demonstrable harm. Policy H2 of the Neighbourhood Plan restricts development in the countryside in line with national and local planning policies and as such does not support residential development outside of the settlement limits. Therefore, any harm arising from conflict with policy H2, and by association Policies S2 and S3 of the Local Plan needs to be weighed up to determine if this would be considered to be significant and demonstrable and whether or not this is outweighed by the benefits of 5 no. self-build units as proposed.

Limited harm would arise from the loss of greenfield land located within the countryside. As outlined above, the proposal conflicts with the criteria (i), (ii) and (iii) and would result in some harm through the introduction of a suburban form of development (in relation to criteria (i), a partial loss of the physical and perceived separation and open undeveloped character (ii) and some ribbon development impacts (iii).

Moderate harm would arise from the granting of a permission that is in conflict with Policies S2 and S3 of the Local Plan and Policy H4 of the Swannington Neighbourhood Plan.

Balanced against the harms, the provision of additional housing in a sustainable location is afforded positive weight, with additional significant positive weight given to the provision of 5 no. self-build plots where there is currently an identified District wide shortfall. The benefits of the self-build dwellings 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. In addition, 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 is a benefit.

The application site is located adjacent to defined limits to development for Swannington which is classified as a "Sustainable Village" under Policy S2. Whilst Swannington itself has a small provision of services and facilities, the development would be a short walk to public transport links which allow access to a wide range of facilities and services to support day-to-day needs. This location is more acceptable when compared to remote locations in the countryside where there would be more adverse environmental and social sustainability impacts. In this case the proposal would not be an 'isolated' dwelling, and it would be close to other dwellings and some services.

Additionally, whilst the proposal would be sited on a Local Wildlife Site as classified under Neighbourhood Planning Policy Env3, this would be adequately mitigated and compensated for through the imposition of conditions to secure measurable net gains across both habitat and hedgerow units, as part of the conditioning of the ecological constraints and opportunities plan in accordance with the requirements of this policy. Given the securing of net gains as part of the development proposals, this would be afforded positive weight.

Therefore, on balance, whilst criteria (a-d) as set out in Paragraph 14 of the NPPF are met in respect of the neighbourhood plan, when the scheme is considered as a whole and a balancing exercise undertaken, it is not considered that the harms identified above, when considered individually or cumulatively, would significantly and demonstrably outweigh the identified benefits. It is therefore recommended that planning permission be granted subject to a Section 106 obligation and subject to the following conditions.