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Meeting	PLANNING COMMITTEE
Time/Day/Date	6.00 pm on Wednesday, 10 January 2024
Location	Forest Room, Stenson House, London Road, Coalville, LE67 3FN
Officer to contact	Democratic Services (01530 454512)

AGENDA		Pages
Item		
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 5 December 2023	3 - 10
4.	PLANNING APPLICATIONS AND OTHER MATTERS	
	Report of the Head of Planning and Infrastructure.	11 - 14

Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	23/00129/FULM: Change of use of agricultural land to motocross training park including the formation of parking and earth-made jumps and the placement of associated ancillary portable buildings Molehill Farm, Ashby Road, Kegworth	Refuse	15 - 54
A2	23/01160/VCU: Amendments to conditions 14 and 15 of planning permission 22/00546/OUT which was for the erection of up to seven dwellings (outline-access and layout only) to change the offsite biodiversity mitigation details Land West of Ashby Road, Packington	Permit	55 - 68

MINUTES of a meeting of the PLANNING Committee held in the Forest Room, Stenson House, London Road, Coalville, LE67 3FN on TUESDAY, 5 December 2023

Present: Councillor R Boam (Chair)

Councillors R L Morris, D Bigby, R Canny, D Everitt, J Geary (Substitute for Councillor C A Sewell for item A1 only), J Legrys, P Moulton, C A Sewell, J G Simmons, N Smith and M B Wyatt (Substitute for Councillor M Burke)

In Attendance: Councillors R Sutton, R Johnson and M Blair-Park

Officers: Ms S Booth, Mr C Elston, Ms L Foreman, Mr D Jones, Mr S James, Mr C Unwin-Williams, Mrs R Wallace and Ms D Wood

44. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor M Burke.

45. DECLARATION OF INTERESTS

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

Councillor C Sewell declared a Registerable Interest in item A1 – application number 23/00933/FUL, as she was speaking on the application as the adjoining Ward Member. During the consideration and voting on the application, Councillor J Geary would join the Committee as a substitute for Councillor Sewell.

Councillor N Smith declared an Other Interest in item A2 – application number 23/01048/OUT, as an acquaintance of the applicant, however he had not made contact for many years.

Councillor R Boam declared a Registerable Interest in item A2 - application number 23/01048/OUT, as the Ward Member. He would not take part in the consideration and voting on the application. Councillor R Morris would take the chair for the duration of the item.

Councillor J Legrys declared an Other Interest in item A3 - application number 23/00905/FUL, as an acquaintance of the applicant through his wife who was previously a general practitioner at the medical practice, however contact had not been made for many years.

Councillor D Bigby declared a Registerable Interest in Item A4 - application number 23/01148/FUL, as an Ashby Town Parish Councillor and had taken part in discussions on the application but had come to the Planning Committee meeting with an open mind.

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 23/00933/FUL: Councillors R Boam, D Bigby, R Canny, D Everitt, J Legrys, P Moulton, C Sewell, J Simmons and M Wyatt. Councillor J Geary declared he had been lobbied once he had joined the meeting as a substitute for this item.

Item A2 - application number 23/01048/OUT: Councillors R Boam, D Bigby, R Canny, D Everitt, J Legrys, P Moulton, C Sewell, J Simmons and M Wyatt.

Item A3 - application number 23/00905/FUL: Councillors R Boam, D Bigby, R Canny, D Everitt, J Legrys, P Moulton, C Sewell, J Simmons and M Wyatt.

Item A4 - application number 23/01148/FUL: Councillors R Boam, D Bigby, R Canny, D Everitt, J Legrys, R Morris, C Sewell and J Simmons.

46. MINUTES

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

It was moved by Councillor N Smith, seconded by Councillor P Moulton and

RESOLVED THAT:

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

47. 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.

48. 23/00933/FUL: PROPOSED CONVERSION OF FORMER CHAPEL INTO NINE RESIDENTIAL FLATS AND ASSOCIATED DEVELOPMENT

Kegworth Wesley Methodist Church, High Street, Kegworth

Officer's recommendation: Permit

Having declared an interest in the item, Councillor C Sewell removed herself from the meeting to join the public gallery prior to being invited to speak as the adjoining Ward Member. Councillor J Geary joined the Committee as a substitute and declared that he had been lobbied without influence on the item.

The Senior Planning Officer presented the report.

Mr A Prestley, Parish Councillor, addressed the Committee. He highlighted the Parish Council's main concern of the lack of parking provision proposed and informed Members of the very little parking available in Kegworth. He summarised the current issues with roadside parking and the problems it caused for the community including antisocial and illegal parking. It was the Parish Council's view that the applicant should reconsider the parking provision to allow more parking spaces within the curtilage of the site. The Committee were urged to refuse the application.

Mr L Morris, agent, addressed the Committee. He reported that he had worked closely with planning officers to address concerns and that there had been no objections from the statutory consultees. The economic benefits were noted and the important utilisation of the building to ensure its long-term survival. Reference was also made to the nearby working facilities for potential residents and the good local amenities.

Councillor R Sutton, Ward Member, addressed the Committee. He acknowledged that the Committee were required to consider material reasons for this application but having undertaken research, he could not find any similar applications that had been approved by another authority on its first submission. He went on to quote several cases and made comparisons between them and the application in front of Members to indicate reasons why the application should not be approved.

Councillor C Sewell, adjoining Ward Member, addressed the Committee. She stressed how the limited parking in Kegworth was problematic and that antisocial parking occurred

regularly. She referred to the proposed cycle store and informed the committee that the use of cycles had decreased due to the lack of cycle paths and the recent changes to the road network making this form of travel difficult. She acknowledged that the building did need to be improved but was concerned that approving this application would set a precedent for other similar applications.

After addressing the Committee, Councillor C Sewell left the meeting during consideration and voting on the item.

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

In determining the application Members acknowledged the need to preserve this historic building and the severe parking issues in the area. Several concerns were raised in relation to the lack of parking provision proposed for the development and a discussion was had on the availability of other forms of transport such as cycle and public transport.

The officer's recommendation to permit the application was moved by Councillor R Morris and seconded by Councillor R Boam.

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

The motion was CARRIED.

RESOLVED THAT:

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

At the conclusion of the item, Councillor C Sewell returned to the Committee. Therefore, as no longer required as a substitute, Councillor J Geary left the meeting.

Motion to permit in accordance with officer's recommendation (Motion)	
Councillor Russell Boam	For
Councillor Ray Morris	For
Councillor Dave Bigby	Against
Councillor Rachel Canny	For
Councillor David Everitt	Against
Councillor John Geary	Against
Councillor John Legrys	Against
Councillor Peter Mout	Against
Councillor Carol Sewell	Conflict Of Interests
Councillor Jenny Simmons	For
Councillor Nigel Smith	For
Councillor Michael Wyatt	For
Carried	

**49. 23/01048/OUT: ERECTION OF THREE SELF-BUILD DETACHED DWELLINGS
(OUTLINE APPLICATION WITH ALL MATTERS RESERVED EXCEPT FOR ACCESS)**

67 Loughborough Road, Coleorton, Coalville, Leicestershire, LE67 8HJ

Officer's recommendation: Permit

Having declared an interest in the item, Councillor R Boam removed himself from the Chair and the meeting. As Deputy Chair of the Committee, Councillor R Morris took the Chair.

The Planning Officer presented the report.

Ms A Hill, Parish Councillor, addressed the Committee. It was stated that the application contravened Planning Policies S2 and S3 of the Council's Local Plan, as well as Policy H2 of the 'Swannington Neighbourhood Plan, and reference was made to the previous refusal for development on the site for those reasons. Concerns were raised in relation to the lack of amenities and public transport in the area, as well as the negative impact the development would have on the appearance of the landscape. Mention was also made to the busy stretch of the A512 that this site was adjacent and the accidents that had occurred over the years. The Parish Council felt that the self-build rules were being exploited to destroy valuable countryside and were concerned it would set a precedent if permitted.

Mr D Harris-Watkins, agent, addressed the Committee. Members were reminded that there were no objections from the statutory consultees and the intention of the applicant to preserve a large part of the site for environmental purposes. It was stated that the applicant was very passionate about self-builds and all the residents that would be moving into the development were currently on the self-build register. Members were urged to permit the application.

The Planning Officer addressed the matters raised by the speakers.

In determining the application Members expressed their disappointment that a proposed development for the site had returned to committee with no changes following a previous refusal. The Planning and Development Team Manager clarified some points regarding self-build policy and the reasons it was refused when previously considered by Committee.

A motion to refuse the application on the grounds that it contravened Planning Policies S2 and S3 of the Local Plan and policy H2 of the Swannington Neighbourhood Plan was moved by Councillor D Bigby and seconded by Councillor J Legrys.

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

The motion was CARRIED.

RESOLVED THAT:

The application be refused on the grounds that it contravened Planning Policies S2 and S3 of the Council's Local Plan and policy H2 of the Swannington Neighbourhood Plan.

At the conclusion of the item, Councillor R Boam returned to the meeting and the Chair.

Motion to refuse on the grounds that it was contrary to Policy S2 and S3 of the Local Plan (Motion)	
Councillor Russell Boam	Conflict Of Interests
Councillor Ray Morris	Against
Councillor Dave Bigby	For
Councillor Rachel Canny	For
Councillor David Everitt	For
Councillor John Legrys	For
Councillor Peter Moulton	For
Councillor Carol Sewell	For
Councillor Jenny Simmons	Against
Councillor Nigel Smith	Against
Councillor Michael Wyatt	Against
Carried	

50. 23/00905/FUL: DEMOLITION OF EXISTING NURSERY, AND ERECTION OF BUILDING COMPRISING CHILDREN'S NURSERY, AND 5 RESIDENTIAL APARTMENTS, TOGETHER WITH ASSOCIATED PARKING, LANDSCAPING, BIN AND CYCLE STORE

8 Forest Road, Coalville, Leicestershire, LE67 3SH

Officer's recommendation: Permit

The Senior Planning Officer presented the report.

Mr J Jowitt, agent, addressed the Committee. He highlighted the conditions agreed, the lack of objections from statutory consultees and the ecological benefits the proposal would provide. He stated that he had worked with planning officers to address any concerns and urged Members to permit the application.

Councillor R Johnson, Ward Member, addressed the Committee. He commented on the lack of parking provision, no turning circle within the carpark, narrow access road and restricted visibility. The lack of amenities in the area was also raised and the concerns of loss of light for the neighbour at number six due to the size of the development. If Members were minded to permit the application, they were asked to request a construction site traffic management plan to protect the neighbouring residents.

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

In determining the application Members considered the scale of the development, the fit with the street scene and the access road. Some comments were made on the possible parking issues that could occur, including parking on Forest Road rather than the car park during nursery collection and drop off times. Concerns were raised that the Parish Council's neighbourhood plan was being disregarded with the application.

Clarification was sought from officers in relation to the current width and the proposed width of the access road.

The officer's recommendation to permit the application was moved by Councillor R Morris and seconded by Councillor N Smith.

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

The motion was CARRIED.

RESOLVED THAT:

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

Motion to permit in accordance with officer's recommendation (Motion)	
Councillor Russell Boam	For
Councillor Ray Morris	For
Councillor Dave Bigby	Abstain
Councillor Rachel Canny	For
Councillor David Everitt	Abstain
Councillor John Legrys	Against
Councillor Peter Mout	Abstain
Councillor Carol Sewell	Against
Councillor Jenny Simmons	For
Councillor Nigel Smith	For
Councillor Michael Wyatt	Abstain
Carried	

51. 23/01148/FUL: ERECTION OF TWO STOREY SIDE AND REAR EXTENSION, SINGLE STOREY REAR EXTENSION AND REPLACEMENT WINDOWS

Hemingford, South Street, Ashby De La Zouch, LE65 1BR

Officer's recommendation: Permit

The Planning Officer presented the report.

Mr S Spare, objector, addressed the Committee. He explained that his mother resided at the neighbouring property to the application site and was very anxious about the impact of the proposal due to its size. He believed that the application breached several planning policies in relation to scaling and massing, flooding, and parking. He also believed it contradicted the 45-degree rule in relation to overlooking. As he felt the proposal did not meet the requirements, he urged that Members refuse it.

Ms J Crooks, applicant, addressed the Committee. She highlighted that there would be no detrimental impact and there was no material planning reasons to refuse the application. It was reported that it complied with the Council's Local Plan and the Parish Council's Neighbourhood Plan and she would comply with any conditions deemed necessary by the Committee.

Councillor M Blair-Park, Ward Member, addressed the Committee. He reported that when an application on this site was previously considered by the Committee it was refused due to comments from the conservation officer and the size and appearance. It was noted that there was no change to the size or impact the proposal would have on the area. It was commented that there was not an objection to the extension to the property, however it was the scale and size that was causing concerns. It was stated that contrary to the report, there was a lack of on street parking in the area.

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

In determining the application Members considered the size of the proposals and whether this would be overbearing on the neighbouring property. Some discussion was also had on the comments of the conservation officer and clarification was sought from officers.

Although some concerns were raised in relation to the impact on the street scene, other Members felt it would enhance the area.

The officer's recommendation to permit the application was moved by Councillor R Morris and seconded by Councillor R Boam.

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

The motion was CARRIED.

RESOLVED THAT:

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

Motion to permit in accordance with officer's recommendation (Motion)	
Councillor Russell Boam	For
Councillor Ray Morris	For
Councillor Dave Bigby	Against
Councillor Rachel Canny	For
Councillor David Everitt	Against
Councillor John Legrys	Against
Councillor Peter Mout	Against
Councillor Carol Sewell	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 8.15 pm

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APPENDIX B

Report of the Head of Planning and Infrastructure to Planning Committee

10 January 2024

PLANNING & DEVELOPMENT REPORT



PLANNING COMMITTEE FRONT SHEET

1. Background Papers

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

2. Late Information: Updates

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

3. Expiry of Representation Periods

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

4. Reasons for Grant

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

5. Granting permission contrary to Officer Recommendation

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

If The Planning Officer is unable to advise at Members at that meeting, he may recommend the item is deferred until further information or advice is available. This is likely if there are technical objections, e.g. from the Highways Authority, Severn Trent, the Environment Agency, or other Statutory consultees.

If the summary grounds for approval and the relevant policies and proposals are approved by resolution of Planning Committee, the wording of the decision notice, and conditions and the Heads of Terms of any S106 obligation, is delegated to the Head of Planning and Infrastructure.

6 Refusal contrary to officer recommendation

Where members are minded to decide to refuse an application contrary to the recommendation printed in the report, or to include additional reasons for refusal where the recommendation is to refuse, the Chair will invite the Planning Officer to advise on the proposed reasons and the prospects of successfully defending the decision on Appeal, including the possibility of an award of costs. This is in accordance with the Local Planning Code of Conduct. The wording of the reasons or additional reasons for refusal, and the decision notice as the case is delegated to the Head of Planning and Infrastructure.

7 Amendments to Motion

An amendment must be relevant to the motion and may:

1. Leave out words
2. Leave out words and insert or add others
3. Insert or add words

as long as the effect is not to negate the motion

If the amendment/s makes the planning permission incapable of implementation, then the effect is to negate the motion.

If the effect of any amendment is not immediately apparent the Chairman will take advice from the Legal Advisor and Head of Planning and Infrastructure/Planning and Development Team Manager present at the meeting. That advice may be sought during the course of the meeting or where the Officers require time to consult, the Chairman may adjourn the meeting for a short period.

Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of. The amendment must be put to the vote.

If an amendment is not carried, other amendments to the original motion may be moved.

If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendment, or if there are none, put it to the vote.

8 Delegation of wording of Conditions

A list of the proposed planning conditions is 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.

**Change of use of agricultural land to motocross training park including the formation of parking and earth-made jumps and the placement of associated ancillary portable buildings
Molehill Farm Ashby Road Kegworth**

**Report Item No
A1**

**Application Reference
23/00129/FULM**

**Grid Reference (E) 447331
Grid Reference (N) 326093**

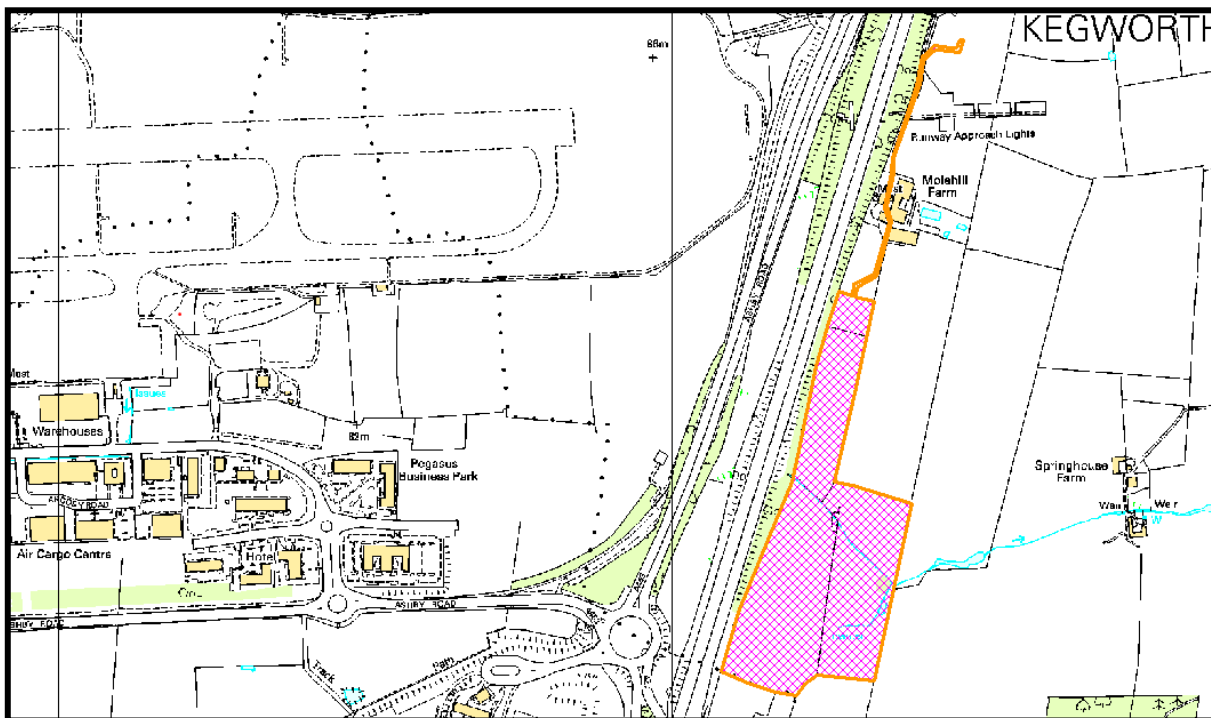
**Date Registered:
6 February 2023
Consultation Expiry:
9 October 2023
8 Week Date:
15 January 2024
Extension of Time:
15 January 2024**

**Applicant:
Mr Gary Taylor**

**Case Officer:
Adam Mellor**

**Recommendation:
REFUSE**

Site Location - Plan for indicative purposes only



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Reasons the case is called to the Planning Committee:

This application is brought to Planning Committee at the request of the Strategic Director of Place given the number of representations received both against and in support of the proposed development.

RECOMMENDATION – REFUSE, for the following reason:

1. Policy IF4 of the adopted North West Leicestershire Local Plan (2021) outlines, amongst other things, that development should take account of the impact upon the highway network and should incorporate safe and accessible connections to the transport network. Criterion (b) of Paragraph 114 of the National Planning Policy Framework (NPPF) (2023) outlines that safe and suitable access to the site can be achieved for all users, with Paragraph 115 of the NPPF stating that the development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

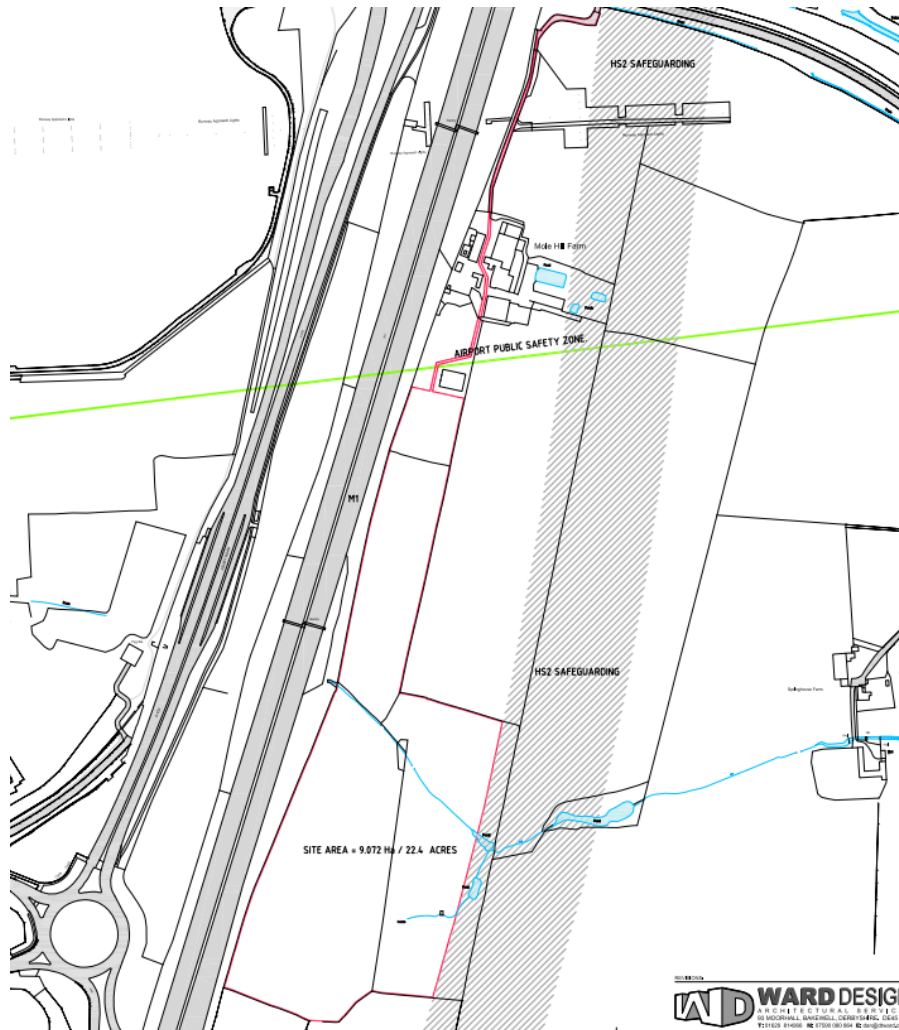
The proposal, if permitted, would lead to the intensification in the use of a vehicular access onto a high-speed Class A road (Kegworth Bypass (A6)) and where the turning manoeuvres of vehicles could lead to dangers to highway users whilst also restricting the free flow of traffic on part of the County Highway Authority's (CHA's) Resilient Network. As such the development has failed to demonstrate that a safe and suitable access to the transport network would be delivered with the impacts resulting in an unacceptable impact to highway safety. The residual cumulative impacts of the development to the road network would also be severe given the increase in vehicular movements and the restriction to the free flow of traffic at the site access.

On this basis the proposed development would be contrary to Policy IF4 of the adopted Local Plan and Paragraphs 114 and 115 of the NPPF.

1. Proposals and Background

Planning permission is sought for a change of use of agricultural land to motocross training park including the formation of parking and earth-made jumps and the placement of associated ancillary portable buildings at Molehill Farm, Ashby Road, Kegworth. The 9.07 hectare site comprises agricultural land, outside the defined Limits to Development, which is located to the south-west of Molehill Farm and to the south-east of the M1 and is identified on the site location plan below:

Site Location Plan



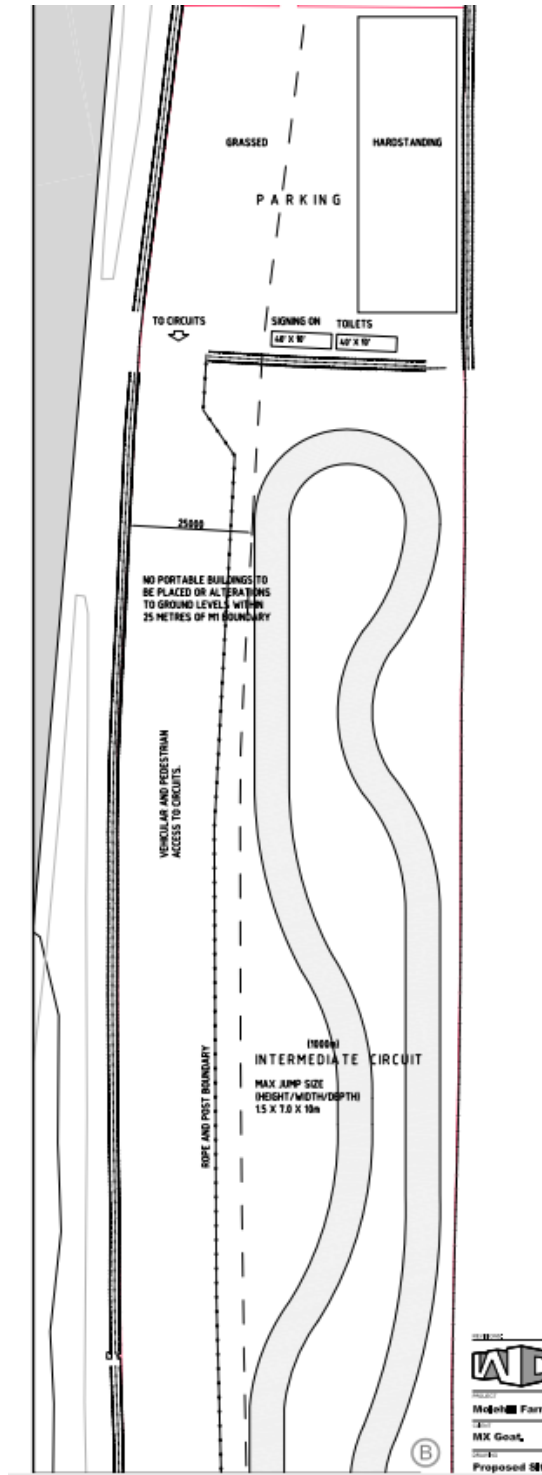
The supporting planning statement (at paragraph 4.2) outlines that it is intended that the site would be utilised by members of the public, both adults and children, of any riding ability who would be able to train and ride at the track. Such tracks would comprise a beginners track for smaller children and adult novice riders and two more advanced tracks. Training would be offered to the riders on a one-to-one basis as well as within group sessions.

It is further stated (at paragraph 4.3) that only motorcycles would be used at the training park with the potential for 45 riders to be on the site at any one time. Such riders would be required to bring their own bikes as none would be offered for hire. Two members of staff would be present on the site.

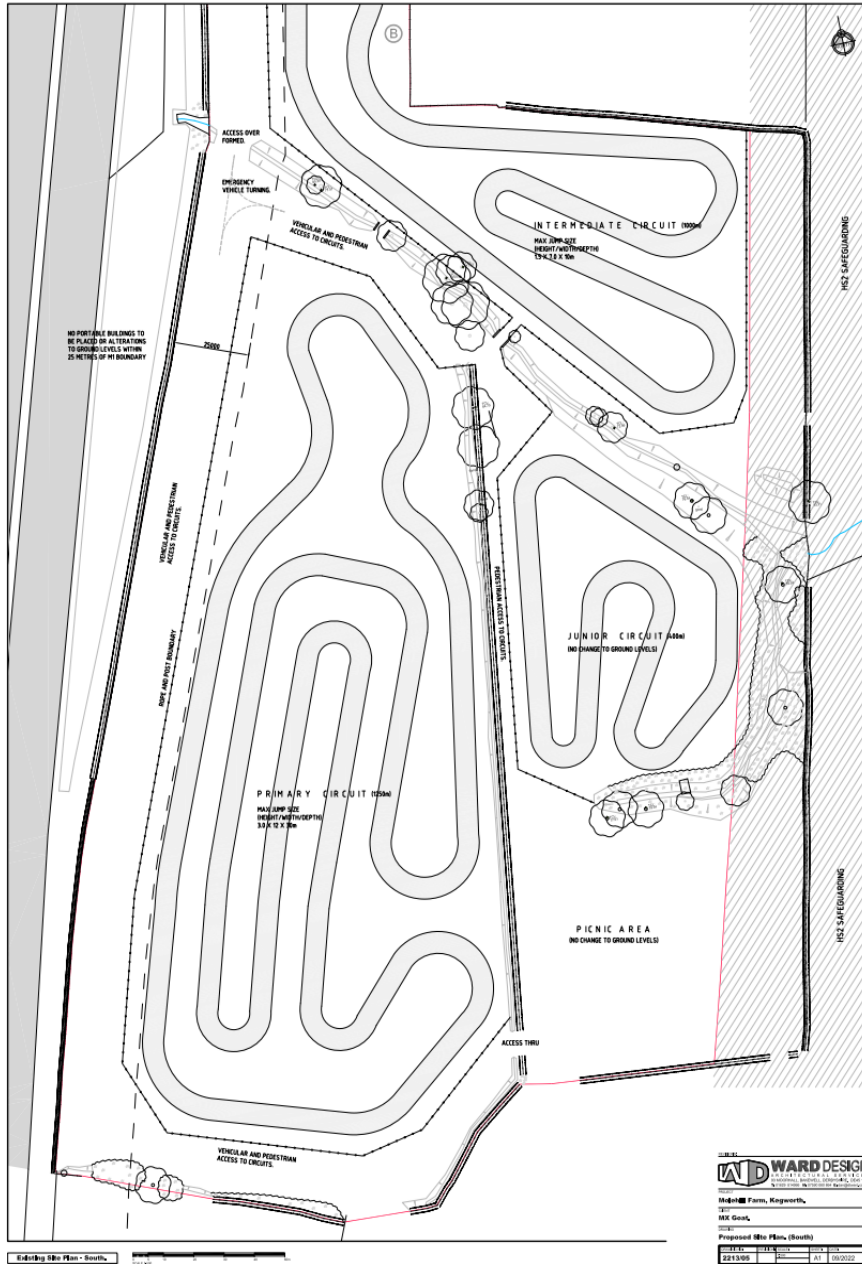
At paragraphs 4.4, 4.5 and 4.6 of the planning statement it is outlined that the site would operate on four days of the week (Tuesday, Thursday, Saturday and Sunday), as well as Bank Holiday Mondays, between the hours of 10:00 and 16:00. The only exception to this would be Thursdays during the summer months where the site would operate until 19:30. It would be expected that riders would pre-book their times for arrival to ensure that vehicle movements are staggered and that not all riders are arriving or leaving at the same time. It is also indicated that although a spectator area would be proposed this would be solely for family members wishing to watch the training with the site not being used to host events and/or competitions.

Paragraph 4.7 of the planning statement specifies that the physical changes to the site would include the formation of earth-made jumps, demarcation of boundaries between the circuits and access routes with rope and post fencing, formation of hardstanding for parking and placement of portable buildings for use as toilets and as a signing in office. Although motocross tracks are shown on the submitted plans these are indicatively shown with it being intended that the tracks would not be surfaced.

Part of Site Plan to the immediate south-west of Molehill Farm showing hardstanding, along with the location of the portable buildings, the beginning of the intermediate track and vehicular and pedestrian access to the tracks.



Part of Site Plan identifying the remainder of the intermediate track as well as the junior circuit, primary circuit, and spectator/picnic area.



The above plans indicate that there would be no changes to ground levels associated with the junior circuit with the jumps on the intermediate circuit having maximum dimensions of 1.5 metres in height, 7 metres in width and 10 metres in depth and those on the primary circuit being a maximum of 3 metres in height, 12 metres in width and 30 metres in depth.

Vehicular access into the site would be provided via the existing access to Molehill Farm off the Kegworth Bypass (A6).

Along with the planning statement, a preliminary ecological appraisal, noise impact assessment, highways report and personal statement from the applicant were originally submitted in support of the application. Following the receipt of consultation responses, a flood risk assessment, aerodrome safeguarding statement, amended noise impact assessment, swept path analysis, rebuttal highways

report and speed survey have also been submitted and re-consultation undertaken.

Further information in respect of the application can be found on the District Council's website.

Relevant Planning History

- 11/00475/FUL – Use of land for off-road motorcycle and quad bike circuits with associated car parking and portable office and toilet buildings together with alterations to vehicular access – Approved 5th October 2011.
- 19/01945/FUL – Change of use of agricultural buildings and silage store to B8 use, including storage of caravans and self-storage, excluding use as a distribution centre, sorting depot or retail warehouse and excluding any physical changes to the buildings – Approved 25th November 2019.
- 22/00033/FUL – Erection of an agricultural building – Approved 29th April 2022.

2. Publicity

One neighbour notified 9 February 2023.

A site notice was displayed on the 17 February 2023.

A press notice was published in the Leicester Mercury on the 15 February 2023.

3. Summary of Consultations and Representations Received

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

Comments from:

Kegworth Parish Council, who neither support nor object to the proposed development, on the following grounds:

- 1) *A number of residents have made comments about fears of persistent background noise ('buzzing hornets') and it is noted that the site could be active for 27+ hours per week.*
- 2) *The Noise Assessment uses a standard library noise of 88dB, we note that published standard data for such bikes operating up to 35mph is in the range 85-95dB. There is a large step from 88 to 95 given the logarithmic nature of the dB scale so we question the use of this reference value. Further, we would note that this noise level would assume that the bikes have factory fitted (or better) silencers. Customised silencers can have considerably higher noise levels. Should this application be granted we would request that the planning conditions should stipulate the standard for maximum noise levels of vehicles and/or vehicle compliance with accepted noise standards for the exhaust system.*
- 3) *The impact assessment makes reference only to Spring House Farm as the closest property. We note that the approved developments at Finger Farm roundabout are significantly closer and more extensive and will thus be impacted more. We feel that this aspect is a significant oversight and requires further consideration of noise impact and mitigation.*
- 4) *Kegworth Parish Council are not opposed to the general principal of the development as a worthwhile recreational facility and a source of economic activity. We are, however, concerned that there should not be further intrusive noise impacts on the residents of Kegworth above that which is currently experienced from Donington Park, East Midlands Airport and the trunk road infrastructure (M1/A453/A6/A42).*

Objections from:

Leicestershire County Council – Highways Authority who have recommended refusal of the application as the proposal, if permitted, would lead to the intensification of use of an access onto a high-speed, Class A road, contrary to Policy IN5 of the Leicestershire Highways Design Guide, and where turning manoeuvres could lead to dangers for highway users, contrary to Paragraphs 110 and 111 of the NPPF.

Long Whatton and Diseworth Parish Council on the following grounds:

“From the plans submitted this proposal appears to border our parish boundary rather than fall within it. Whilst the location for such a facility seems suitable in respect to the distance from the neighbouring villages and its access to transport links, being immediately next to the M1. However, it is also close to EMA’s flight path and the proposed route of HS2. Whilst this might seem reasonable, the Parish Council is concerned that the additional noise generated, in what is an already noisy area, will be unacceptable so needs careful consideration and mitigation. Given the disturbance our Parish is subjected to at all times of the day and night together with Donington Park’s limited track days the PC assume that an open track facility for trial bikes will generate considerable disturbance and needs serious consideration.”

No Objections from:

Leicestershire County Council – Archaeology.

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

- East Midlands Airport Safeguarding.
- HS2.
- Leicestershire County Council – Ecology.
- Leicestershire County Council – Lead Local Flood Authority.
- NWLDC – Environmental Protection.
- NWLDC – Tree Officer.

Third Party Representations

32 no. third party representations have been received objecting to the application with the comments raised summarised as follows:

<u>Grounds of Objections</u>	<u>Description of Impact</u>
Principle and Need	The proposal would impact on the landscape given the topography of the site.
	The Ashby Moto Park at Lount is 9 miles from the site; the Wymeswold Motocross Track is 8 miles, and the Coleorton MX Track is 10 miles. Donington Park could also adequately support such a facility and therefore it is not needed.
Residential Amenity	The proposed development would create additional noise when combined with that

	<p>already generated by East Midlands Airport, the M1 and Donington Park.</p>
	<p>The noise levels already experienced at residential receptors in Kegworth are above those deemed acceptable with the height of the application site not providing any means of noise mitigation. The wind is also predominately from a western direction bringing the noise to Kegworth.</p>
	<p>There will be an increase in environmental pollutants which will add to those already created by existing developments in the locality. The wind will bring these pollutants towards Kegworth given the prevalent wind direction. This will impact on air quality as well as the Molehill Farm Air Quality Management Area.</p>
	<p>There will be an increase in dust and dirt due to the nature of the activity undertaken.</p>
	<p>The proposed development is contrary to Policy D2 of the adopted Local Plan and Paragraph 185 of the NPPF. It is also noted that Donington Park is subject to strict controls on the noise generated so this development should also be controlled if allowed.</p>
	<p>External lighting would have the potential to create more adverse impacts to residential receptors.</p>
<p>Ecology</p>	<p>There is a watercourse near to the track which would become polluted from oil and fuel leaks, and this would be contrary to Paragraph 174 of the NPPF.</p>
	<p>There will be an adverse impact to wildlife which would be displaced because of the development.</p>
<p>Impact to Agricultural Land</p>	<p>There will be a further loss of agricultural land which should not be substituted for highly polluting leisure activity.</p>

Publicity for this proposal	No site notice was displayed for the application to advertise it to the wider public
Other Matters	What measures will be put in place to control rubbish?
	A restoration plan should be put in place to ensure the land can be restored should the use cease.

The impact of the development to the value of residential properties has also been raised but this is not a material planning consideration which can be considered in the overall assessment of the application.

52 no. third party representations have been received supporting the application with the comments raised summarised as follows:

<u>Nature of Support</u>	<u>Grounds of Support</u>
Need for Motocross Training Park	The proposal would be positive to the local community and would be available to various age groups. There is a lack of such a park in the area.
	The local community will be able to access the park on foot and it will also provide a leisure park for the neighbouring settlements.
	The tracks available elsewhere are not training facilities they are practice and race tracks that hold open practice sessions with multiple riders in each group.
	The proposal would support the health and wellbeing of the participants and provide an organised area for them to be involved in the sport.
Business Support	New businesses should be supported in establishing in the area.

	The proposal would bring additional people to the area and help support the existing businesses.
	There is a need for this type of park with such a recreation activity not getting the support it needs.
Residential Amenity	The noise assessment has concluded that subject to mitigation the proposal would accord with relevant standards.
	In the future bikes will become electric which will assist in reducing the noise generated.
Highway Safety	As the site will be accessed from the major highway network it will not impact on the highway network within the surrounding settlements.
Ecology	The impacts to ecology can be mitigated by planning conditions.

4. Relevant Planning Policy

National Policies

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);
 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 and 56 (Planning conditions and obligations);
 Paragraphs 85, 88 and 89 (Building a strong, competitive economy);
 Paragraphs 96, 97 and 102 (Promoting healthy and safe communities);
 Paragraphs 111, 112, 114, 115 and 116 (Promoting sustainable transport);
 Paragraphs 123 and 124 (Making effective use of land);
 Paragraphs 131, 133, 135 and 139 (Achieving well-designed places);
 Paragraphs 157, 158, 159, 165, 173 and 175 (Meeting the challenge of climate change, flooding and coastal change);
 Paragraphs 180, 186, 188, 189, 190, 191, 192, 193 and 194 (Conserving and enhancing the natural environment);
 Paragraphs 200, 201, 203, 205, 206 and 211 (Conserving and enhancing the historic environment).

Local Policies

Adopted North West Leicestershire Local Plan (2021)

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

Policy S2 – Settlement Hierarchy;
 Policy S3 – Countryside;
 Policy D1 – Design of New Development;
 Policy D2 – Amenity;
 Policy Ec5 – East Midlands Airport: Safeguarding;
 Policy Ec6 – East Midlands Airport: Public Safety Zones;
 Policy IF4 – Transport Infrastructure and New Development;
 Policy IF7 – Parking Provision and New Development;
 Policy En1 – Nature Conservation;
 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

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

5. Assessment

Principle of Development

In accordance with the provision 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 Local Plan (2021).

Paragraph 180 of the NPPF (2023) highlights the need to recognise the intrinsic character and beauty of the countryside but does not specifically preclude development within the countryside.

The application site lies outside of the defined Limits to Development, and therefore the proposal would be subject to Policy S3 (Countryside) of the adopted Local Plan. Policy S3 outlines, under criterion (i), that the expansion of all types and business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings will be supported, with criterion (n) supporting recreation and tourism. Any development supported under Policy S3 would also need to adhere to criteria (i) to (vi) of the second part of this policy.

To support a prosperous rural economy, Paragraph 84 of the NPPF states 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 (criterion (a)); and*
- *Sustainable rural tourism and leisure developments which respect the character of the countryside (criterion (c)).*

In terms of an assessment against criteria (i) to (vi) of Policy S3 this would be as follows:

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

Development on the site would comprise the placement of the portable buildings (to be used as toilets and a signing in office), hardstanding for parking, formation of the access routes and circuits (including the jumps) and rope and post fencing.

Previously planning permission was granted, on the 5th of October 2011, for the use of the land for off-road motorcycle and quad bike circuits with associated car parking and portable office and toilet buildings together with alterations to vehicular access under application reference 11/00475/FUL.

The officer assessment in respect of application reference 11/00475/FUL concluded that:

“Whilst it is acknowledged that the proposed portable buildings are not structures typically associated with the agricultural/rural location, the buildings would be modest in size, particularly in comparison to the existing agricultural buildings at Molehill Farm. Despite being located within the Countryside, the site is situated adjacent to the M1 motorway, near to an existing mobile phone mast and the landing lights for East Midlands Airport. As such it is not considered that the two buildings proposed would have a significant impact on the local landscape or rural environment.”

Whilst the planning permission granted under application reference 11/00475/FUL was not implemented, and as such has expired, it is noted that since that decision the East Midlands Gateway Strategic Rail Freight Interchange (EMGSRFI) and Kegworth Bypass (A6) have been constructed with the M1 also being widened. Such developments have further urbanised the immediate environment. Planning permission has also been granted for an additional agricultural building associated with Molehill Farm under application reference 22/00033/FUL.

View of agricultural building and other infrastructure from Whatton Road, the application site would extend to the left of the agricultural building.



The agricultural building under construction in connection with the planning permission granted under application reference 22/00033/FUL has an overall height of 8.5 metres, whereas the proposed portable buildings would have maximum heights of 2.5 metres. It is also noted that screening exists to the majority of the site boundaries in the form of hedgerows.

View of area of site where hardstanding would be laid for off-street parking along with where the portable buildings would be positioned.



Whilst portable buildings are not typical within a rural environment, it is considered that they would not impact significantly on the character and appearance of the landscape given their close association with the agricultural building under construction which is more substantial in scale. The portable buildings would also be visually read with the agricultural building under construction from any public vantage points given the proximity. The presence of the boundary hedges would also assist in providing screening of the portable buildings, with any gaps in such hedges being reinforced with additional planting which could be conditioned on any permission to be granted.

It is noted that a condition (no. 19) was imposed on the planning permission granted under application reference 11/00475/FUL which required the provision of a management plan for the monitoring of the condition of the portable buildings to enable maintenance and/or repair works to such buildings or their replacement. A condition would be imposed on any permission granted to secure a management plan, along with conditions to secure the colour scheme of the portable buildings (so as to enable them to assimilate into the rural environment) and the precise elevation details of the portable buildings (in the absence of any information).

In terms of the hardstanding (for off-street parking) this would be sited immediately adjacent to the agricultural building under construction and would be limited to an area of 1,199 square metres. A condition could be imposed on any permission granted to secure a sensitive surfacing material to such hardstanding but given its ground level impact, it is considered that such hardstanding would not result in detriment to the character and appearance of the rural landscape.

View of agricultural building under construction and location of off-street parking for the development, the portable buildings would be placed where the photo is taken from.



The circuits themselves would not be surfaced, which would reduce the ‘urbanisation’ of their impact, with such tracks being formed by scraping back the earth to form the jumps which would be up to 1.5 metres in height on the intermediate circuit and 3 metres on the primary circuit. It is also indicated on the plans that the jumps on the intermediate circuit would be 7 metres in width and 10 metres in depth with those on the primary circuit being 12 metres in width and 30 metres in depth. Land levels would not be altered on the junior circuit.

Photo within the site showing the fields where the circuits would be located, the field in the immediate foreground would be where the intermediate circuit would be located with the junior circuit and primary circuit then being in the distance where the land rises to the tree line at the site boundary.



Zoomed in photo showing the location of the primary circuit to the boundary with the tree line.



Zoomed in photo showing the location of the remainder of the intermediate circuit and junior circuit, the boundary being defined by the tree line.



As shown on the plans the arrangement of the circuits is indicative, but a condition would be imposed on any permission granted so as to secure precise details of the arrangement of the circuits and the

alterations to the land levels, this would be similar to condition 2 on the planning permission granted under application reference 11/00475/FUL.

Whilst accepting that the formation of the jumps may appear ‘alien’ in a rural landscape where mounds or bunds are not common place, it is considered that their overall height would be limited and could be suitably screened by soft landscaping infrastructure which would be conditioned on any permission to be granted. Such a soft landscaping scheme would seek to reinforce existing hedgerows (where gaps exist) whilst also encouraging the planting of trees. It is also the case that the circuits, and associated jumps, would be viewed in the context of a backdrop where the infrastructure associated with the strategic highway network (such as gantries, lighting columns and signage) is visible and consequently it is considered that as a minimum the character and appearance of the landscape would be safeguarded.

Overall, it is considered that there would be no significant conflict with criterion (i).

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

The settlement of Long Whatton is located to the south of the site, with Diseworth set to the south-west and Castle Donington to the north-west.

Whilst the proposed development would be located on undeveloped land between these settlements the application site is severed from the settlements of Diseworth and Castle Donington by the presence of the strategic highway network of the M1 and A42, with East Midlands Airport and the East Midlands Gateway Strategic Rail Freight Interchange (EMGSRFI) also being between the application site and the settlement of Castle Donington.

In terms of the settlement of Long Whatton, the proposed development would be predominantly located adjacent to the M1 and at least 1.25 kilometres from the closest part of this settlement. Given the separation and location of the proposed development, it is considered that whilst the ‘physical’ separation may be decreased the ‘perceived’ separation would not be undermined given that the limited visual impact could be mitigated by landscaping infrastructure.

On the basis that any impact would not undermine the physical **and** perceived separation (**my emphasis**) and open undeveloped character between nearby settlements it is considered that there would be no conflict with criterion (ii).

The proposed development would not create or exacerbate ribbon development and as such there is no conflict with criterion (iii).

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

Development on the site would comprise the placement of the portable buildings (to be used as toilets and a signing in office), hardstanding for parking, formation of the access routes and circuits (including the jumps) and rope and post fencing. The jumps themselves would be up to 1.5 metres in height on the intermediate circuit and up to 3 metres in height on the primary circuit.

Planning permission was granted for the erection of an agricultural building associated with Molehill Farm on the 29th of April 2022 under 22/00033/FUL and this permission has been implemented on the site.

As proposed, the hardstanding to be created for off-street parking would be located to the immediate south-west of the agricultural building with the two portable buildings then positioned to be to the immediate south-west of the proposed hardstanding. The intermediate circuit would then be to the south-west of the portable buildings with the junior and primary circuits then to the south-west of the intermediate circuit. The proposed pedestrian and vehicular access tracks would be positioned alongside the circuits with the post and rope fencing then defining the boundaries of each circuit.

Given the relationship the proposed development would have, visually and physically, with the agricultural buildings associated with Molehill Farm and the infrastructure associated with the strategic highway network (both the M1 and A42) it is considered that it would be well integrated with existing development and therefore compliant with criterion (iv).

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

Given the nature of the proposed development this criterion is not considered relevant.

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

Under Policy S2 (Settlement Hierarchy) of the adopted Local Plan, Kegworth is identified as a 'Local Service Centre' which is defined as a settlement which provides "some services and facilities primarily of a local nature meeting day-to-day needs and where a reasonable amount of new development will take place."

The supporting text to Policy S3 of the adopted Local Plan acknowledges that development will sometimes need to be located in a countryside setting (Paragraph 5.33) with Paragraph 89 of the NPPF advising that some rural business needs will have to be located in areas that are not well served by public transport. Should such circumstances arise then Paragraph 89 outlines that it should be ensured that a development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities available to make the location more sustainable (e.g. by improving the scope for access on foot, by cycling or by public transport).

Given the nature of the proposed use and the location of the site, it is considered that the development would attract additional private car journeys and vehicular movements above that of the existing arrangement. The public transport interchange at the East Midlands Gateway Strategic Rail Freight Interchange (EMGSRFI) is within 700 metres of where the proposed development would be located (around 225 metres from the site access off the Kegworth Bypass (A6)) with it being possible to reach the site entrance via raised footways which are well lit. Such a walking distance would be considered acceptable as outlined within the Manual for Streets. Therefore, staff could utilise the public transport options available with it also being the case that the site could be accessed via bicycle from the neighbouring settlements of Kegworth, Castle Donington and Long Whatton (as well as further afield settlements).

It is, however, accepted that future users of the site would be unlikely to utilise sustainable means of transport given the nature of the use of the site (i.e. motocross training park) whereby users would be expected to bring their own bikes (as none would be available to rent).

When having regard to Paragraph 89 of the NPPF, consideration has been given to the fact that it is not unusual for this type of development, given its nature and characteristics, to be found adjacent

to or beyond existing settlements, and in locations that are not well served by public transport. It is also recognised that criterion (vi) only seeks to ensure that the development ‘is’ or ‘can be made’ accessible via a range of sustainable transport, in this case the application site is already accessible via bus (given the walking distance to a public transport interchange) and by cycling.

Overall, given the nature of the proposal and the availability of public transport options for staff, some visitors, and spectators, it is considered that the development would not conflict with criterion (vi) of Policy S3.

Overall Conclusion in Relation to Policy S3

Paragraph 85 of the NPPF indicates that planning decisions should “help create the conditions in which businesses can invest, expand and adapt” and that “significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

Regard is also given to the terms of Paragraph 88 of the NPPF as outlined above.

In principle the development is an acceptable form of development outside the defined Limits to Development given its compliance with criteria (i) and (n).

It is also concluded above that no significant conflict with criteria (i) to (vi) of Policy S3 would arise because of the development and consequently the proposal would be considered acceptable in principle and compliant with the aims of Paragraphs 88 and 89 of the NPPF.

Assessment of objections in relation to the principle of the development

Objection	Officer Response
<p><i>The proposal would impact on the landscape given the topography of the site.</i></p>	<p>See above assessment. It is considered that the existing soft landscaping infrastructure, which could be reinforced where necessary, when combined with new soft landscaping infrastructure would assist in screening the proposed development which would be physically and visibly associated with existing infrastructure including the farm buildings at Molehill Farm and strategic highway network. On this basis there would be no adverse impacts to the character and appearance of the landscape.</p>
<p><i>The Ashby Moto Park at Lount is 9 miles from the site; the Wymeswold Motocross Track is 8 miles, and the Coleorton MX Track is 10 miles. Donington Park could also adequately support such a facility and therefore it is not needed.</i></p>	<p>Whilst it may the case that existing motocross parks exist elsewhere within the District, as well as outside the District (in the case of Wymeswold), the adopted Local Plan provides support for recreational development outside the defined Limits with it being the case that recreation type developments are not necessarily about ‘need’ but about adding to the vitality of the area by enhancing the current offer and providing economic and social benefits to</p>

	<p>the District for residents whilst also attracting visitors from further afield.</p> <p>The applicant has outlined that the proposal relates specifically to a ‘training park’, rather than being a competition circuit, and as such seeks to differentiate itself from those existing parks within the district. As the application is described as a ‘motocross training park’ rather than a ‘motocross park’ this provides reasonable assurances that should competitions be held it would breach the nature of any permission to be granted (albeit a condition could be imposed on any permission to be granted to outline that competitions would not take place).</p> <p>Notwithstanding this, it is considered that there is not an abundance of motocross parks within the district as a whole and consequently it is considered that the potential provision of an additional park would not be to the overall detriment of the rural environment of the District particularly when there would be no cumulative impacts with the existing parks. On this basis the application stands to be assessed against relevant Policies of the adopted Local Plan and Paragraphs of the NPPF.</p> <p>Donington Park racetrack is not currently designed to accommodate motocross activities and there is no current application submitted which enables the creation of motocross facilities within its boundaries. As such whether Donington Park could, or could not, accommodate the motocross park is not material in the consideration of this planning application.</p>
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Loss of Agricultural Land

In terms of the loss of agricultural land, Paragraph 180 of the NPPF outlines that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the *“wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile (BMV) agricultural land.”* Footnote 62 to Paragraph 181 of the NPPF suggests that *“where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.”* BMV agricultural land is defined as that falling within Grades 1, 2 and 3a of the Agricultural Land Classification (ALC).

Information which accompanies the application does not detail the agricultural quality of the application site but based on the ALC map for the East Midlands Region it would likely be within Grade 3 (Good to Moderate), however the ALC map does not specify whether the Grade 3 land falls

within 3a (BMV) or 3b (not BMV) classification.

Whilst the NPPF does not suggest that the release of smaller BMV sites is acceptable, the magnitude of loss of agricultural land is considered to be low where less than 20 hectares of BMV would be lost. Given that the developable site area (9.07 hectares) would fall below this threshold it is considered that a reason to refuse the application in the context of criterion (b) of Paragraph 174 of the NPPF could not be substantiated.

Assessment of objections in relation to the loss of agricultural land

Objection	Officer Response
<p><i>There will be a further loss of agricultural land which should not be substituted for highly polluting leisure activity.</i></p>	<p>See above assessment. It is considered that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost. The developable site area is below this threshold, and it may be the case that the land is not BMV should it be within Grade 3b of the ALC.</p>

Residential Amenity

Policy D2 of the adopted Local Plan outlines that development proposals will be supported where they do not have a significant adverse effect on the living conditions of existing and new residents through loss of privacy, excessive overshadowing, and overbearing impacts, which is supported by the Council's Good Design SPD. Paragraph 191 of the NPPF states that planning policies and decisions should also ensure that new development is appropriate for its location considering the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

The nearest residential receptor to the application site would be Spring House Farmhouse, Whatton Road which is situated, at its closest point, around 374 metres to the east of the site.

Whilst the representation from Kegworth Parish Council has referred to development at 'Finger Farm' being impacted on, the development consented relates to the provision of offices so is not a residential use and Policy D2 of the adopted Local Plan, as well as relevant Paragraphs of the NPPF, only seek to protect residential amenity and not 'employee' amenity. This was outlined in an appeal decision at Unit C, Norman Court, Ashby De La Zouch (appeal ref: APP/G2435/W/18/3195626 and District Council ref: 17/01159/FUL), dated 23rd May 2018, for an extension to an industrial building and where the Inspector at Paragraph 12 of the appeal decision outlined that *"I have been referred to Policy D2 of the Local Plan regarding amenity but this relates to the living conditions of occupiers of residential properties and is not relevant in this case."*

Given the separation distance to the nearest residential receptor it is considered that the proposed development, including the provision of the portable buildings and formation of the earth made jumps, would not give rise to any adverse overbearing, overshadowing, or overlooking impacts to the amenities of the residential receptor.

The other aspect to consider in respect of residential amenity is any potential impacts arising from noise, dust and fumes with Part 2 of Policy D2 of the adopted Local Plan outlining that development proposals will only be supported where *"they do not generate a level of activity, noise, vibration,*

pollution or unpleasant odour emissions, which cannot be mitigated to an appropriate standard and so, would have an adverse impact on amenity and living conditions.” This is compliant with the terms of Paragraph 185 of the NPPF as outlined above.

Paragraph 194 of the NPPF outlines that the focus of planning decisions *“should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.”*

It is noted that planning permission has previously been granted, on the 5th of October 2011, for the use of land for off-road motorcycle and quad bike circuits with associated car parking and portable office and toilet buildings together with alterations to vehicular access under application reference 11/00475/FUL. Whilst three tracks were proposed as part of this approved development such tracks were smaller given the reduced application site area (the land where the primary circuit is proposed was excluded).

The officer report in respect of application reference 11/00475/FUL stated the following in respect of the impacts to residential amenity:

“The nearest residential properties to the site are Spring House Farm, located approximately 340m to the east of the primary circuit and Molehill Farm, on whose land the use is proposed. There are no other residential properties within 750m of the site. The area is currently influenced by existing noise impact from the M1 Motorway and East Midlands Airport, and it is advised through the submitted noise assessment, and supported by the Council’s Environmental Protection Officer that the proposed use is likely to result in only marginal significance in terms of nuisance to the occupiers of residential properties near to the site.”

The planning permission granted under application reference 11/00475/FUL was not implemented and consequently expired on the 28th July 2014. It therefore does not act as a ‘fallback’ position in the assessment of this application.

A Noise Impact Assessment (NIA) was submitted in support of the application, and this has been reviewed by the Council’s Environmental Protection Team (EPT).

In their original consultation response, the Council’s EPT raised concern regarding the noise the proposed development could generate and the level of impact to residential receptors in Kegworth. Particularly, the Council’s EPT commented that the NIA did not give a true reflection of the predicted noise levels from the proposed operation which would involve moving sources and consequently the noise measurements of a point source would not give a clear assessment of the noise that would be generated in a circular movement around each track. In addition the NIA only referred to one receptor (being Spring House Farmhouse) with no reference to receptors in Kegworth.

On this basis the Council’s EPT advised that a NIA would be required to be undertaken at a representative motorsport facility, due to the wide range of specific acoustic characteristics from motorsport operations, and the methodology of BS4142 (*Noise Assessments and Measures*) applied to achieve the rating level which would be extrapolated on to the application site. This would then provide a true reflection of the potential noise impact. It was also advised by the Council’s EPT that a Noise Management Plan (NMP) would be necessary to detail how noise levels would be managed and how compliance to meet the guidelines would be achieved.

Information was also required in relation to the following:

- 1) How many bikes would operate on each track at a time;
- 2) Whether all tracks would be operating at the same time;

- 3) The length of sessions;
- 4) Number of practice runs/sessions in a week; and
- 5) The acoustic specification of bikes to be allowed on site.

The Council's EPT also advised that if the tracks were not to be surfaced then there would be a potential for dust to be generated, which would also have the potential to impact negatively on nearby residential areas, and therefore it was also outlined that a Dust Management Plan (DMP), including dust mitigation measures, for the proposed site should be provided.

It was also noted by the Council's EPT that no lighting information had been submitted in support of the application, but the Council's EPT considered that this could be subject to condition should planning permission be granted. In this respect it is noted that Paragraph 6.5 of the Planning Statement (PS) states that there "*is no need for lighting*" as the site would only operate during daylight hours.

Following the receipt of the comments from the Council's EPT, the applicant has subsequently submitted an amended NIA. The conclusions of the amended NIA are that the change in ambient noise and the rated level of noise at the closest residential dwellings (which are identified as Spring House Farmhouse and Kenilworth House) as result of the use of the motocross tracks falls below the criteria noise level. This would also be the case for cars parking. On this basis the amended NIA considers there is no requirement for noise mitigation measures. It therefore summarises that the predicted level of noise from the development would be sufficiently low enough at the identified residential receptors that they would accord with the '*No Observed Adverse Effect Level*' detailed within the NPPG. A NMP was also appended to the amended NIA.

Re-consultation has been undertaken with the Council's EPT and within their revised response they advised that it was not clear how staff would check the bikes on entering the site so as to ensure they would meet the noise level emissions detailed within the amended NIA (being 86 decibels (dB) on a 4-stroke bike and 94 dB on a 2-stroke bike), and in this respect it was recommended that the use of a calibrated handheld noise monitor would be reasonable to check the bikes and consequently refuse entry to those bikes which exceeded such a limit.

The applicant has subsequently clarified that a digital noise meter would be utilised and that there would be a holding pen for bikes before they would go on to a stand where the noise reading would be taken. When taking such a reading staff would stand 2 metres from the bike with such staff being technical (sound) officials. This is considered acceptable to the Council's EPT.

Based on the amended NIA the Council's EPT have no objections to the application, in respect of noise impacts, but this would be subject to conditions, on any permission to be granted, so as to secure:

- (a) A robust NMP detailing the operation of the track, how staff would carry out the bike checks (including how far they would stand away from the bikes and the rev etc the bikes would be at) and that a log would be maintained for inspection by the Council's EPT at any reasonable time;
- (b) That if a bike fails to meet the set noise level emissions detailed in the amended NIA it shall not be permitted to ride on the tracks unless, and until, it has been modified and/or repaired and has subsequently passed a further noise level emission check;
- (c) That the operational hours detailed within the amended NIA would be adhered to; being between 10:00 and 16:00 on Tuesdays, Thursdays, Saturdays, and Sundays as well as Bank Holiday Mondays with extended hours in the summer months where the site would operate until 19:30 on Thursdays. The extended hours on Thursdays in the summer months would be only available for a total of 12 days;
- (d) That the length of a session would be limited to 15 minutes, with a maximum of 24 sessions

- during a day and a maximum of 96 sessions a week; and
 (e) That whilst 45 bikes may be present on the site at any one time, not all 45 bikes would be riding at the same time with the number of bikes operational on the circuits at a particular time being limited to 21.

It is considered that conditions could be imposed on any permission to be granted to meet the requirements outlined by the Council's EPT and the imposition of such conditions would ensure that noise generated by the proposed development would not result in detriment to residential amenity.

Within their revised consultation response the Council's EPT reiterated that no details of lighting have been provided, albeit it is outlined above that the submitted PS details that no lighting is proposed. Notwithstanding the contents of the PS, it is considered that a condition could be imposed on any permission to be granted to ensure that no lighting is provided on the site unless details have first been approved.

So as to ensure that dust does not result in detriment to residential amenity a condition would be imposed so as to secure a DMP given that the tracks would be unsurfaced, and no details have been provided by the applicant in respect of how dust would be controlled to date.

It is also the case that any statutory nuisance complaints arising from the operation of the proposed development could be investigated under separate legislation by the Council's Environmental Protection Team.

Residential Amenity Conclusion

Overall, and subject to the imposition of conditions, the impacts of the development to residential amenity (be that existing or future residential amenity) would not be of such significant detriment that a reason to refuse the application could be substantiated. On this basis the proposed development would be considered compliant with Policy D2 of the adopted Local Plan as well as Paragraphs 191 and 194 of the NPPF.

Assessment of objections in relation to residential amenity

Objection	Officer Response
<p><i>The Parish Council [Long Whatton and Diseworth] is concerned that the additional noise generated, in what is an already noisy area, will be unacceptable so needs careful consideration and mitigation. Given the disturbance our Parish is subjected to at all times of the day and night together with Donington Park's limited track days the PC assume that an open track facility for trial bikes will generate considerable disturbance and needs serious consideration.</i></p> <p><i>The proposed development would create additional noise when combined with that already generated by East Midlands Airport, the M1 and Donington Park.</i></p> <p><i>The noise levels already experienced at</i></p>	<p>See above assessment. The Council's Environmental Protection Team have raised no objections to the application subject to the imposition of a condition to predominately secure a Noise Management Plan (NMP) which would control the levels of noise generated by the proposed development and thereby ensuring that there was no detriment to residential amenity. This would be notwithstanding any separate action which could be taken by the Council's Environmental Protection Team, under relevant Environmental Protection Legislation, should a statutory nuisance issue arise.</p>

<p><i>residential receptors in Kegworth are above those deemed acceptable with the height of the application site not providing any means of noise mitigation. The wind is also predominately from a western direction bringing the noise to Kegworth.</i></p> <p><i>The proposed development is contrary to Policy D2 of the adopted Local Plan and Paragraph 191 of the NPPF. It is also noted that Donington Park is subject to strict controls on the noise generated so this development should also be controlled if allowed.</i></p>	
<p><i>There will be an increase in dust and dirt due to the nature of the activity undertaken.</i></p>	<p>It is considered that the imposition of a condition requiring a dust management plan (DMP) to be approved could ensure that dust and dirt did not result in residential amenity issues. This is notwithstanding any separate action which could be taken by the Council’s Environmental Protection Team, under relevant Environmental Protection Legislation, should a statutory nuisance issue arise.</p>
<p><i>External lighting would have the potential to create more adverse impacts to residential receptors.</i></p>	<p>It has been outlined by the applicant that no external lighting is proposed because of the development with it being the case that external lighting (if required in the future) could be controlled by the imposition of a condition on any permission to be granted. This would then enable an appropriate assessment of any external lighting to be undertaken.</p>

Air Quality

Part (2) of Policy D2 of the adopted Local Plan outlines that development will be supported which does not generate a level of pollution, which cannot be mitigated to an appropriate standard and so, would have an adverse impact on amenity and living conditions.

Policy En6 of the adopted Local Plan specifies that proposals for development which is within or close to an Air Quality Management Area (AQMA) will be supported where (a) a planning application is accompanied by a detailed investigation and assessment of the issues; and (b) appropriate mitigation measures are identified which avoid any unacceptably adverse impacts upon the site or adjacent areas.

Paragraph 192 of the NPPF outlines that planning decisions should “*sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement...Planning decisions should ensure that any development in Air Quality Management*

Areas and Clean Air Zones is consistent with the local air quality action plan.”

The application site does not lie within or adjacent to an Air Quality Management Area (AQMA) given that the M1 AQMA (which included Molehill Farm as the only receptor) was revoked in 2019. The nearest AQMA is therefore the High Street/Bondgate, Castle Donington AQMA which is over 3 kilometres from the application site.

As part of the consideration of the application the Council’s Environmental Protection Team (EPT) have been consulted and no objections have been raised in respect of the impacts of the development to air quality. It is considered to be the case that the proposed development is unlikely to result in any significant increase (if any increase) in vehicular movements through the High Street/Bondgate, Castle Donington AQMA given the location of the application site in relation to the strategic highway network and the separation distance involved.

On this basis the proposed development would not conflict with the aims of Policies D2 and En6 of the adopted Local Plan and Paragraph 192 of the NPPF.

Assessment of objections in relation to air quality

Objection	Officer Response
<p><i>There will be an increase in environmental pollutants which will add to those already created by existing developments in the locality. The wind will bring these pollutants towards Kegworth given the prevalent wind direction. This will impact on air quality as well as the Molehill Farm Air Quality Management Area.</i></p>	<p>See above assessment. The M1 Air Quality Management Area (AQMA) was revoked in 2019 with the development not resulting in any significant increase (if any increase) in vehicular movements through the High Street/Bondgate, Castle Donington AQMA (being the nearest AQMA) due to its accessibility on the strategic highway network.</p> <p>The Council’s Environmental Protection Team (EPT) also have no objections to the application.</p>

Highways

Policy IF4 of the adopted Local Plan 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 adopted Local Plan 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.

As part of the consideration of this application the County Highways Authority (CHA) and National Highways (NH) have been consulted with the consultation response from the CHA considering the advice outlined in the Leicestershire Highways Design Guide (LHDG).

It is noted that no consultation response has been received from NH in relation to the application.

Site Access

In their original consultation response, the CHA outlined that the proposed development would be served by an existing access connecting onto the Kegworth Bypass (A6) which is a classified A-road

subject to a national speed limit of 60mph at the site frontage.

The submitted Highways Report (HR) states that the existing vehicular access serving Molehill Farm is 6.5 metres wide and has 0.5 metre clear margins on each side with an extended dropped kerb crossing. In this respect the CHA advised that Policy IN5 within Part 1 of the LHDG may be applicable, which seeks to resist the increased use of an existing access onto a road with a speed limit above 40mph. They also advised that the access should be 6 metres wide with minimum control radii of 6 metres so as to accord with the LHDG.

On this basis, the CHA advised that swept-path analysis be undertaken based on the largest vehicle accessing the site so as to inform the access design. They also advised that as the proposed development was situated more than 45 metres from the highway, than it would be necessary to cater for emergency vehicles by ensuring that the access and driveway were of a sufficient width.

In their initial response the CHA also outlined that vehicular visibility at the site access, in accordance with the LHDG, would need to be demonstrated, and that a speed survey should be undertaken within the vicinity of the site access to ensure that the achieved vehicular visibility splays were in accordance with the 85th percentile recorded speed of passing traffic. A Stage 1 Road Safety Audit (RSA), with satisfactory designers' response, was also requested to demonstrate a safe and suitable access would be delivered.

The Agent subsequently submitted a speed survey which has demonstrated 85th percentile westbound vehicle speeds of 50.5mph and eastbound vehicle speeds of 49.8mph, it was also outlined that the 64 vehicular movements per day associated with the proposed development would be in addition to those already generated by the existing land uses (agriculture and storage).

In their revised response, the CHA has outlined that the Kegworth Bypass (A6) forms part of the CHA's Resilient Network whereby it is considered essential for economic activity and key services in the event of extreme weather events, major incidents, and other disruption. The key aim is to ensure that access is maintained on the Resilient Network for traffic at all times, wherever reasonably practicable.

The CHA has also outlined that the site access is located circa 180 metres east of the A6/A453/Wilders Way roundabout junction which facilitates access to East Midlands Airport, A50, A42 and M1. To quantify its importance, the CHA has empirical data for this area of the network from a permanent counter located 250 metres east of the site access which identified an Annual Average Daily Traffic (AADT) two-way count of 7,561 vehicles based on the period 1st July 2022 to 30th June 2023.

On the basis of the intensification in the use of the existing access, onto a highway where recorded vehicle speeds are around 50mph, the CHA consider that this would not be in the interests of highway safety and would not maintain the free flow of traffic.

The CHA has also outlined that they verbally advised the Agent, on the 8th of August 2023, that an improvement to the access to physically prevent right-turn in or out movements could counter-balance the CHA's road safety concerns over the intensification in the use of the access as this would only allow left-turns in and out. This option, however, has not been taken forward by the applicant.

In terms of visibility the CHA has outlined that the applicant has not demonstrated the required visibility splays on a scaled plan but based on the recorded 85th percentile speeds such visibility splays would equate to 2.4 metres by 149.06 metres in a westbound direction (i.e. when looking east) and 2.4 metres by 144.09 metres in an eastbound direction (i.e. when looking west).

Although the CHA consider that it is likely that the visibility splays can be accommodated within

highway land, they have noted that there is significant existing highway infrastructure within the visibility splay envelope which could obscure sight lines for users of the access. This includes vehicle restraint system (VRS) infrastructure, lighting columns, speed limit signage, directional signs, and other traffic signs, all of which would need to be reviewed and potentially relocated at the applicant's expense. If permission was to be granted the CHA would advise that a condition be imposed to ensure the required visibility splays were delivered, with the applicant then needing to fund and/or undertake works so as to deliver the required visibility splays.

Overall, however, the CHA recommends that the application be refused on highway safety grounds given the intensification in the use of the existing access and where the free flow of traffic on the Kegworth Bypass (A6) would not be maintained.

Impact on the Highway Network

In their original consultation response, the CHA requested a trip generation exercise for the proposed use type to determine the likely number of two-way vehicle trips during the weekday AM (08:00 – 09:00), PM (17:00 – 18:00) and Saturday peak periods. It was a requirement that such a trip generation exercise was comparative with the extant use type and considered the number of users of the tracks, employees and whether any spectators, officials or emergency services would be on site.

The Agent's covering letter in connection with the speed survey outlines that a total of 64 two-way movements would be experienced and which is broken down as follows:

"This is based on riders sharing transport and the expectation is that 20 riders would come in individual vans, there would be 5 vans with 2 riders and 5 vans with 3 riders in. The 30 vans would therefore generate 60 movements (30 in/30 out) and the staff would generate another 4 movements (2 in /2 out) giving the total of 64 daily movements. Given that the proposed hours of use are 10am till 4pm (except on Thursday during the Summer Holidays, when the training will continue until 7:30pm) and mainly at weekends and Bank Holidays, the proposed use will generate few if any vehicle movements during the peak hours."

It is also outlined in the Agent's covering letter in connection with the speed survey that the breakdown of existing trips would be as follows:

- In 2019, application 19/01945/FUL was granted for change of use of agricultural buildings and silage store to B8 use, including storage of caravans and self-storage. Details from the owner state that the movements equate to an average of 29 movements per day.
- The storage sheds generate 8 movements per day, (4 arrivals and 4 departures) with most of these movements occurring during the peak hours. In addition, the storage use generates an average of 3 lorry movements per day.
- In 2022, application 22/00033/FUL was granted for a new agricultural building at the farm, doubling seasonal harvesting movements, from the 80 original in 2019 (on the storage application) to 160 movements. When season averaged through the year, the letter states they will generate 0.4 movements each day.

In their revised response the CHA has outlined that in accepting the Agent's existing vehicle movements of 40.4 movements per day, then the proposed development trips of 64 trips per day would more than double the daily trips using site access.

In such circumstances whilst 'severe' is not defined within the NPPF, the CHA considers that a 158% increase in daily trips at the site access onto a high speed 'A' classified road would not be in the interests of highway safety.

Highway Safety

In their original consultation response, the CHA outlined that two Personal Injury Collisions (PICs) had taken place near the site within the most recent five year period which were recorded as 'slight' in severity and occurred at the A453/Kegworth Bypass (A6) roundabout to the west of the site. The CHA consider that the PICs recorded could not be attributed to the existing operation of the site and consequently they determined that the proposed development would not exacerbate the likelihood of such PICs occurring.

It was, however, outlined by the CHA in their original consultation response that they would not conclude that the current site access proposal was safe until the potential intensification in the use of the access was demonstrated.

Within their revised consultation response the CHA has outlined that the proposed development would result in the intensification in the use of the existing vehicular access to a level which would be contrary to highway safety, and which would restrict the free flow of traffic on the Kegworth Bypass (A6) predominately by virtue of vehicles turning into and out of the site, and particularly those turning right in and out.

Internal Layout and Off-Street Parking

In their original consultation response, the CHA outlined that a bespoke off-street parking arrangement would be required given the unique use proposed and therefore further information was required in respect of the trip generation to inform the level of off-street parking required. It was also noted that users of the site would bring their own bikes and as such the CHA advised that off-street parking spaces would be required to be larger, to accommodate trailer parking, and that swept path analysis would be required to demonstrate the vehicles could manoeuvre within the site so as to exit in a forward direction.

The Agent has outlined that a hard standing and grassed area of 55 metres wide by 60 metres long (3,300 square metres with 1,199 square metres comprising hardstanding) would be provided for off-street parking and the turning of vehicles but does not quantify the number of off-street parking spaces proposed.

In their revised consultation response, the CHA has outlined that the parking provision would need to be demonstrated on a drawing to enable this to be conditioned should permission be granted, with no such drawing being provided at this time.

Whilst no further details have been provided by the applicant to demonstrate the off-street parking which would be delivered, as well as how vehicles would manoeuvre within the site, the CHA are satisfied that should permission be granted a condition could be imposed to secure a suitable level of off-street parking as well as manoeuvring facilities. This is due to the area of land identified on the submitted plans which would be allocated for off-street parking and manoeuvring.

Highways Conclusion

Policy IF4 of the adopted Local Plan outlines, amongst other things, that development should take account of the impact upon the highway network and should incorporate safe and accessible connections to the transport network.

Criterion (b) of Paragraph 114 of the NPPF outlines that safe and suitable access to the site can be achieved for all users with Paragraph 115 of the NPPF stating that development should only be prevented or refused on highway grounds where *"there would be an unacceptable impact on highway*

safety, or the residual cumulative impacts on the road network would be severe.”

The CHA has outlined that the proposal, if permitted, would lead to the intensification in the use of a vehicular access onto a high speed Class A road (Kegworth Bypass (A6)) and where the turning manoeuvres of vehicles could lead to dangers to highway users whilst also restricting the free flow of traffic on part of the CHA’s Resilient Network which is considered essential for economic activity and key services in the event of extreme weather events, major incidents and other disruption. As such the development has failed to demonstrate that a safe and suitable access to the transport network would be delivered with the impacts resulting in an unacceptable impact to highway safety. The residual cumulative impacts of the development to the road network would also be severe given the increase in vehicular movements and the restriction to the free flow of traffic at the site access.

On this basis to permit the development would be contrary to Policy IF4 of the adopted Local Plan, as well as Paragraphs 114 and 115 of the NPPF.

The CHA has also referred to the application being refused by virtue of the conflict with Policy IN5 of Part 1 of the LHDG, whereby the CHA normally seeks to apply restrictions to the increased use of existing accesses onto highways where the speed limit is above 40mph or where measured vehicle speeds are more than 40mph. In this case the Kegworth Bypass (A6) is subject to a speed limit of 60mph in the vicinity of the site access, and the submitted speed survey has demonstrated 85th percentile speeds of around 50mph. Whilst noting the comments of the CHA, the LHDG does not have adopted plan status and is guidance to the District Council, rather than being adopted into policies of the Local Plan, and consequently it is considered that refusing the application based on conflict with Policy IN5 of the LHDG could not be justified.

In terms of off-street parking, the CHA is satisfied that a condition could be imposed, should permission be granted, to secure a suitable level of off-street parking in connection with the proposed development. On this basis the proposal would not conflict with Policy IF7 of the adopted Local Plan and Paragraph 111 of the NPPF.

Flood Risk and Drainage

The application site comprises land which is within Flood Zone 1 (low risk of fluvial flooding) and is predominately at a very low risk of surface water flooding, as defined by the Environment Agency’s Surface Water Flood Maps, with the only exception being a higher risk of surface water flooding along the watercourse within the southern part of the application site.

As part of the consideration of the application the Lead Local Flood Authority (LLFA) has been consulted and their original consultation response outlined the requirement for the application to be supported by a Flood Risk Assessment (FRA) which should demonstrate the proposed surface water drainage strategy (if one was proposed), surfacing materials and demonstrate that the proposal would not mobilise suspended solids towards the watercourse. If there was a risk of suspended solids being mobilised than the LLFA required them to be intercepted prior to overland flows discharging to the watercourse.

An FRA has subsequently been submitted by the applicant which outlines that the only increase in surface water runoff because of the development would be from the hardstanding proposed for off-street parking and the two portable buildings. In this respect it is proposed that surface water runoff would be allowed to infiltrate naturally into the ground to mimic the existing drainage regime. Surface water runoff from the hardstanding and two portable buildings would therefore not be directly into the watercourse. It is also specified that the motocross tracks would not affect surface water drainage.

In terms of the management of surface water runoff to the watercourse from the formation of the tracks, the FRA outlines that a method statement would be produced to outline that the construction

of the tracks would only take place during a prolonged and forecast dry period to stop silt entering the watercourse. An additional precaution during the construction of the tracks would also comprise that placement of a barrier of straw bales downstream within the watercourse which would trap suspended sediment whilst allowing water to penetrate through. Such sediment would then be removed from the watercourse.

Following re-consultation, the LLFA has outlined that they have no objections to the application subject to the imposition of conditions on any permission to be granted which would secure the surface water drainage strategy for the parking and portable buildings as well as the management of surface water during the construction stage (and which would include the method statement in relation to the ensuring suspended solids do not enter the watercourse).

It is considered that the imposition of such conditions would ensure the development would not exacerbate any localised flooding impact and therefore it would be compliant with Policies Cc2 and Cc3 of the adopted Local Plan as well as Paragraphs 173 and 175 of the NPPF.

In terms of foul drainage disposal, the application forms indicate toilets would be provided in a portable building, whereby the effluent would be collected by a waste disposal contractor, and consequently there would be no connection to the mains sewer, nor would any alternative means of foul drainage disposal (i.e. a package treatment plant) be required. It is considered that this means of the disposal of foul drainage would be acceptable and as such the proposal would accord with Paragraph 191 of the NPPF.

Ecology, Trees, and Landscaping

Ecology

Vegetation, in the form of trees and other shrubs, are present on the site. Such features could be used by European Protected Species (EPS) or national protected species. As EPS may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions.

A Preliminary Ecological Appraisal (PEA) has been submitted in support of the application which has been reviewed by the County Council Ecologist and who has raised no objections to the application based on the contents of the PEA.

It is, however, advised by the County Council Ecologist that the precautionary recommendations outlined within the report, as well as the ecological mitigation and enhancement measures, should be secured by the imposition of conditions on any planning permission to be granted.

Such precautionary recommendations and ecological mitigation and enhancement measures would comprise the following:

- 1) The provision of petrol interceptors and sediment traps to avoid pollution of the watercourse, both during the construction and operational phases of the development.
- 2) A precautionary method of works to ensure great crested newts (GCNs), badgers, reptiles and other species (such as hedgehogs) are not put at risk during the construction phase.
- 3) The provision of bat and bird boxes, hedgehog boxes within the peripheries of the site, refuge piles/hibernacula for reptiles and insect refuge features.

In terms of biodiversity net gain (BNG), it is noted that the mandatory requirement for 10% BNG has not yet been enacted through the Environment Bill (will come in during late January 2024 for major developments) but Paragraph 180(d) and Paragraph 186(d) of the NPPF set out a requirement to

minimise impacts on and provide net gains for biodiversity.

Whilst no calculations have been provided it is considered that the securing of the measures outlined at point 3) above, along with an enhancement to the soft landscaping infrastructure of the site (as discussed elsewhere in the report), would be sufficient in delivering a 'net gain' in biodiversity.

Trees and Landscaping

The Council's Tree Officer considers that there are no significant arboricultural issues associated with the proposed development given that the indicative location of the motocross tracks has been designed around the site's natural features so as to ensure existing trees and hedgerows are retained. On this basis the Council's Tree Officer has no objections but they have outlined the need for it to be demonstrated that retained trees would be adequately protected during the ground works to form the tracks.

The submitted PEA, also outlines that a proposed soft landscaping scheme could include areas of native wildflower meadow creation (ideally by the enhancement of existing grassland areas), native species rich hedgerow planting (or the infilling of any defunct hedgerows); new native tree planting and new native mixed scrub planting. The submission of a detailed soft landscaping scheme would be conditioned on any permission granted which would seek to visually mitigate the proposed development.

Hard landscaping would be limited to the proposed off-street parking area, which is to be constructed using permeable surfacing, albeit precise details have not been submitted at this time. Given the lack of precise information a condition would be imposed on any permission granted to secure a detailed hard landscaping scheme.

Ecology, Trees and Landscaping Conclusion

Overall, and subject to the imposition of conditions, the proposal would accord with Policies D1, En1 and En3 of the adopted Local Plan, Paragraphs 180 and 186 of the NPPF and Circular 06/05.

Assessment of objections in relation to landscaping, trees and ecology

Objection	Officer Response
<i>There is a watercourse near to the track which would become polluted from oil and fuel leaks, and this would be contrary to Paragraph 174 of the NPPF.</i>	Subject to the imposition of a condition requiring the provision of fuel interceptors and sediment traps the County Council Ecologist has no objections to the application. The provision of such interceptors/traps would ensure that the watercourse would not become polluted.
<i>There will be an adverse impact to wildlife which would be displaced because of the development.</i>	Based on the above assessment there is no objection to the application in respect of the impacts to the ecology from the County Council Ecologist. This is subject to the imposition of suitable conditions so as protect ecological features and species and which would be secured on any permission granted.

High Speed Rail 2

The application site lies to the immediate west of land which is protected by the Safeguarding Directions put in place by the Secretary of State for Transport when the Phase 2b route was announced. Safeguarding is an established tool of the planning system designed for the above purpose and aims to ensure that new development along the route does not impact on the ability to build or operate HS2 or lead to excessive additional costs.

On the 4th of October 2023, the Government announced that the Phase 2b route of HS2 (or HS2 East as outlined in the Integrated Rail Plan (IRP)) would not take place. Whilst this is the case there has been no subsequent announcement on how the safeguarded areas would be revoked.

As part of the consideration of the application the HS2 consortium has been consulted and their original consultation response outlined whether the applicant would accept a temporary five year permission given the proximity to the safeguarded area and land potentially required for construction/utilities of HS2 Phase 2b/East.

The applicant has subsequently outlined that a temporary permission would make their investment into the site for a motocross training park unviable given the need to have longevity to the business model. They also outlined that the application site does not lie with the safeguarded area, being immediately adjacent to it.

Following re-consultation, the HS2 consortium have outlined that the location of the application site has the potential to impact upon the construction proposals of HS2 Phase 2b/East in this location, with the construction of HS2 Phase 2b/East also causing disruption to the applicant's operation. It was also outlined that the route of HS2 Phase 2b/East could alter in this location considering the IRP identifying that the route of HS2 Phase 2b/East would terminate at East Midlands Parkway.

It was, however, concluded by the HS2 consortium that they had no objections to the application, given that no development is proposed in the safeguarded area, subject to the imposition of an informative on any permission to be granted advising the applicant of the relationship the application site has with the safeguarded area for HS2 Phase 2b/East.

Notwithstanding such comments from the HS2 consortium, it is outlined above that HS2 Phase 2b/East has been cancelled and therefore whilst the safeguarding area remains in place at this time it is likely to be removed soon. On this basis the note to the applicant would not be considered necessary should permission be granted.

East Midlands Airport Safeguarding

Part (1) of Policy Ec5 of the adopted Local Plan outlines that development which would adversely affect the operation, safety or planned growth of East Midlands Airport will not be permitted.

Part (1) of Policy Ec6 of the adopted Local Plan outlines that there will be a general presumption against new or replacement development or changes of use of existing buildings within the designated East Midlands Airport Public Safety Zones identified on the Policies Map. Part (2) of Policy En6 states that within the identified 1:10,000 risk contours, only development which would involve a very low density of people coming and going may be permitted as exceptions to presumptions outlined in Part (1) of Policy Ec6.

As part of the consideration of the application East Midlands Airport Safeguarding (EMAS) has been consulted.

The original consultation response from EMAS outlined that the main part of the application site is located 800 metres to the south-east of the runway 27 threshold at East Midlands Airport (EMA), with

the vehicular access to the site running underneath the approaches to EMA. It was also noted by EMAS that the creation of the motocross site would necessitate large amounts of earth handling, particularly for the jumps.

On the above basis, EMAS advised of the following requirements:

- (1) A Bird Hazard Management Plan (BHMP) would be required for the construction phase including stripping top soils on a 'just in time' basis, compacting, covering or removing of top soils off-site to prevent access to hazardous birds which would feed on invertebrates in newly turned top soils, a commitment to promptly drain any areas of puddling or ponding to prevent hazardous bird using them to bathe and drink and to monitor hazardous birds on site and take additional measures if necessary;
- (2) A Site Management Plan (SMP) outlining that sufficient lidded bins would be provided within the picnic area, car parking area and elsewhere where necessary to ensure food waste was not available to scavenging birds;
- (3) That any replacement planting should be on a 'like for like' basis and that new soft landscaping infrastructure should not include large areas of berry or fruit bearing plants and large canopy forming trees such as Oak and Scots Pine. A detailed soft landscaping scheme would therefore be required;
- (4) That the bird boxes to be provided should be designed for smaller bird species and therefore bird boxes suitable for owls, kestrels or other large birds were required to be omitted;
- (5) That a Dust Management Plan (DMP) would be required to mitigate against rising dust to prevent visibility issues for approaching aircraft and a hazard to aircraft engines;
- (6) That a height restrictor would be required at the site access to ensure that vehicles did not obstruct the approach lighting for runway 27 at any time;
- (7) That if external lighting was required then a detailed plan would be necessary demonstrating that lighting would be capped at the horizontal with no upward glare to ensure there was no adverse impact to the Air Traffic Control (ATC) tower or approaching aircraft;
- (8) That details of the hardstanding and portable buildings would be required; and
- (9) That the use of tall equipment (over 10 metres in height) used during construction or maintenance of the site, along with any frequency emitting equipment used at the site, would require a permit from EMAS given its proximity to EMA.

The applicant subsequently submitted an Aerodrome Safeguarding Statement providing commentary against the above points raised by EMAS and re-consultation was undertaken.

In their revised consultation response EMAS have confirmed that they have no objections to the application subject to the imposition of conditions which would require strict management of the site and effective communication with the airport. Such conditions would include:

- (1) A Site Management Plan (SMP), which would include a BHMP and DMP;
- (2) A detailed soft landscaping plan;
- (3) Precise details of the portable buildings to be provided on the site; and
- (4) No external lighting is installed unless details are first approved.

It was also reiterated that a communication plan should be agreed with EMAS to advise on visitor numbers, an agreement that if a high sided vehicle regularly visits the site and obstructs aviation lighting then a height barrier should be installed retrospectively, and which addressed the scenario where vehicles are stationary at the location of the aviation lighting.

Whilst it is considered that planning conditions addressing points (1) to (4) would meet the tests for planning conditions as outlined at Paragraph 56 of the NPPF, it is considered that the securing of a communication plan would be unreasonable and unnecessary to make the development acceptable in planning terms and thereby failing the tests for planning conditions outlined at Paragraph 56.

This is considered to be the case as the vehicular access is already utilised for agricultural vehicle movements as well as commercial storage movements in accordance with the planning permission granted under application reference 19/01945/FUL which was not subject to a condition requiring a communication plan. It is also the case that there is no existing restriction preventing the obstruction of the aviation lighting from vehicles visiting the site. On the basis there would be no material change to the nature of the use of the vehicular access route past the aviation lighting, with the type of vehicles associated with the motocross training park not being materially different to those already visiting the site, the condition would be unreasonable.

In terms of Policy Ec6 the supporting Planning Statement (PS) outlines that the main application site is located deliberately outside the Public Safety Zone (PSZ) with only the existing access to the farmstead, which is currently used for agricultural traffic and access to the storage use, being within the PSZ. Whilst additional vehicle movements would occur on the access route through the PSZ (estimated to be 64 vehicle movements per day), they would be transient so the incidence of people being within the PSZ would be extremely limited and would not result in an increased number of people living, working, or congregating within the PSZ.

Overall, and subject to the imposition of relevant conditions, the proposed development would be considered compliant with Policies Ec5 and Ec6 of the adopted Local Plan.

Design

Policy D1 of the adopted Local Plan 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 developments are assessed against the Council's adopted Good Design SPD.

From a design perspective consideration is to be given to the placement of the portable buildings (which the plans indicate would measure around 12 metres by 3 metres and have maximum heights of 2.5 metres) and the proposed rope and post fencing given that the circuits (and their associated jumps) would be standardised in appearance and the hardstanding is considered in the *'Ecology, Trees and Landscaping'* section of this report above.

Previously planning permission has been granted, on the 5th of October 2011, for the use of the land for off-road motorcycle and quad bike circuits with associated car parking and portable office and toilet buildings together with alterations to vehicular access under application reference 11/00475/FUL. This planning permission was not implemented and as such has now expired.

Whilst portable buildings are not typical within a rural environment, it is considered that they would not impact significantly on the character and appearance of the rural landscape given their close association with the agricultural building under construction (as permitted under application reference 22/00033/FUL) which is more substantial in scale. The presence of the boundary hedges would also assist in providing screening of the portable buildings.

Ordinarily planning permission for portable buildings would be granted on a temporary basis, given the tendency for the appearance of portable buildings to easily deteriorate. However, it is noted that a condition (no. 19) was imposed on the planning permission granted under application reference 11/00475/FUL so as to secure a management plan for the monitoring of the condition of the portable buildings in order to ensure that maintenance and/or repair works were undertaken to such buildings, or they were replaced. It is considered that the imposition of such a condition on any permission to be granted would be reasonable and would negate the need for only a temporary consent to be granted for the portable buildings.

At this time no details of the appearance of the portable buildings have been provided and as such a condition would be imposed on any permission to be granted so as to secure precise details. A condition would also be imposed requiring the approval of a colour scheme for the portable buildings to enable them to assimilate more successfully into the rural environment.

The proposed rope and post fencing would be considered acceptable in a rural environment as a means of defining the boundaries of the three circuits and would not impact adversely on the character and appearance of the landscape. This boundary treatment could be secured by condition on any permission granted.

On the above basis the proposal would be considered compliant with Policy D1 of the adopted Local Plan, the Council's adopted Good Design SPD and Paragraphs 131 and 135 of the NPPF.

Archaeology

As part of the consideration of the application the County Council Archaeologist has been consulted and following a review of the Leicestershire and Rutland Historic Environment Record (HER) they have advised that the proposal would not result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets. This is the case as the formation of the tracks would result in ground levels increasing (for the jumps) rather than being decreased and the portable buildings not having footings.

On this basis the proposed development would be considered compliant with Policy He1 of the adopted Local Plan, insofar as it relates to archaeology, and Paragraph 211 of the NPPF.

Other Matters

Assessment of objections in relation to other matters

Objection	Officer Response
<p><i>No site notice was displayed for the application so as to advertise it to the wider public.</i></p>	<p>Part (4) of Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) (DMPO) outlines that the consultation on a 'major' planning application should comprise a notice by either site display <i>or</i> by serving the notice on any adjoining owner or occupier (<i>my emphasis</i>) and the publication of a notice in a newspaper.</p> <p>A site notice was displayed on the 17th of February 2023 within the vicinity of the site access (on the A6 Kegworth Bypass) with a press notice published in the Leicester Mercury on the 15th February 2023 and the only adjoining owner or occupier to the red line application site boundary (Spring House Farmhouse, Whatton Road) being consulted on the 9th February 2023.</p> <p>In the circumstances that consultation has been undertaken in the form of a site notice,</p>

	<p>consultation with a third party and a press notice it is considered that compliance with Part (4) of Article 15 of the DMPO has been demonstrated.</p> <p>Given that several representations have also been received against the application, it is also considered that third parties have not been prejudiced by any decision to be made on the planning application.</p>
<p><i>What measures will be put in place to control rubbish?</i></p>	<p>Within the Aerodrome Safeguarding Statement the applicant has outlined that the use of the picnic area would be 'low-key' and only used by those who are accompanying the rider for their training (i.e. parents). No catering is provided on the site so therefore any picnics would be brought by users of the park, and it would be anticipated that they would take their rubbish home. Signage would be put in place to advise visitors on removing their rubbish and daily checks of the park would be undertaken to ensure no rubbish is left on the site and if it has the applicant shall remove it.</p> <p>It is also outlined within the '<i>East Midlands Airport Safeguarding</i>' section of this report above that a condition would be imposed on any permission granted requiring the submission of a Site Management Plan (SMP) which would include the means of ensuring rubbish is appropriately managed given that scavenging birds could result in detriment to aviation safety.</p>
<p><i>A restoration plan should be put in place to ensure the land can be restored should the use cease.</i></p>	<p>It is considered that a condition could be imposed on any permission to be granted to secure a restoration plan. Such a plan could restore the land to its former condition albeit predominately this would only relate to the removal of the portable buildings, hardstanding, fencing and jumps and re-seeding of the surface. The applicant has confirmed that they would be agreeable to such a condition should permission be granted.</p>

Conclusion

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

The application site is situated outside the defined Limits to Development, but Policy S3 of the adopted Local Plan supports the expansion of all types of business and enterprise in rural areas as well as recreation and tourism. This would be subject to compliance with criteria (i) to (vi) of Policy S3 and for the reasons as outlined above, the proposed development is considered compliant with such criteria and is therefore acceptable in principle.

It is also considered that, subject to conditions, the proposed development would be of an acceptable design and would not result in significantly adverse impacts to residential amenity, air quality, ecology, trees, aviation safety or archaeology, nor would the proposal create or exacerbate any localised surface water flooding impact.

However, the proposal would lead to the intensification in the use of a vehicular access onto a high speed Class A road (Kegworth Bypass (A6)) and where the turning manoeuvres of vehicles would lead to dangers to highway users whilst also restricting the free flow of traffic on part of the CHA's Resilient Network which is considered essential for economic activity and key services in the event of extreme weather events, major incidents and other disruption. On this basis the development has failed to demonstrate that a safe and suitable access to the transport network would be delivered within the impacts resulting in an unacceptable impact to highway safety. The residual cumulative impacts of the development to the road network would also be severe given the increase in vehicular movements and the restriction to the free flow of traffic at the site access.

The NPPF also contains a presumption in favour of sustainable development and when having regard to the three objectives of sustainable development, it is concluded as follows:

Economic Objective

This objective seeks to ensure that sufficient land of the right types is available in the right places and at the right time to support growth, innovation, and improved productivity, and that the provision of infrastructure is identified and coordinated. The leisure/recreation economy would improve because of the jobs created in connection with the proposed use, as well as potential increases in the local economy as a result of visitors of the development utilising local facilities and services. However, given the nature of the development such economic benefits would be limited and would be balanced with the decline in the agricultural economy because of the loss of agricultural land.

Social Objective

The economic benefits associated with the proposed development would, by virtue of the social effects of the jobs created on those employed in association with the leisure/recreation use, also be expected to provide some social benefits. The NPPF identifies, in particular, in respect of the social objective, the need to foster a well-designed and safe built environment and to support communities' health, social and cultural well-being.

It is considered that the scheme, as proposed, would be of an acceptable design and would support the community's health and social well-being by providing a leisure/recreation facility which would be accessible to all. However, such health and social well-being benefits would only be applicable to those who have an interest in motocross and would be balanced by the health impacts which arise because of the noise and pollution generated by the use (albeit this could be mitigated to an acceptable standard).

Environmental Objective

The development would be undertaken on greenfield land and would result in the loss of agricultural land. It is, however, considered that the impact to the character and appearance of the rural landscape would not be significantly adverse and impacts to ecology can be appropriately mitigated. It is also the case that existing soft landscaping infrastructure would not be impacted on and could be suitably enhanced. This, however, is balanced with the increase in noise and pollution because of the proposed land use, albeit this could be mitigated to an acceptable standard. The use of petrol motocross vehicles would also not support the move to a low carbon economy, but this may change in the future because of the move towards the provision of electric motocross vehicles.

Overall, it is considered that the limited social and economic benefits arising from the proposed development, with there also being environmental impacts, would be significantly outweighed by the unacceptable impact to highway safety and severe impact to the highway network. On this basis the proposed development would be contrary to Policy IF4 of the adopted Local Plan and Paragraphs 114 and 115 of the NPPF. Accordingly the application is recommended for refusal.

Amendments to conditions 14 and 15 of planning permission 22/00546/OUT which was for the erection of up to seven dwellings (outline- access and layout only) to change the offsite biodiversity mitigation details

Report Item No

**Application Reference:
23/01160/VCU**

Land West Of, Ashby Road, Packington, Leicestershire.

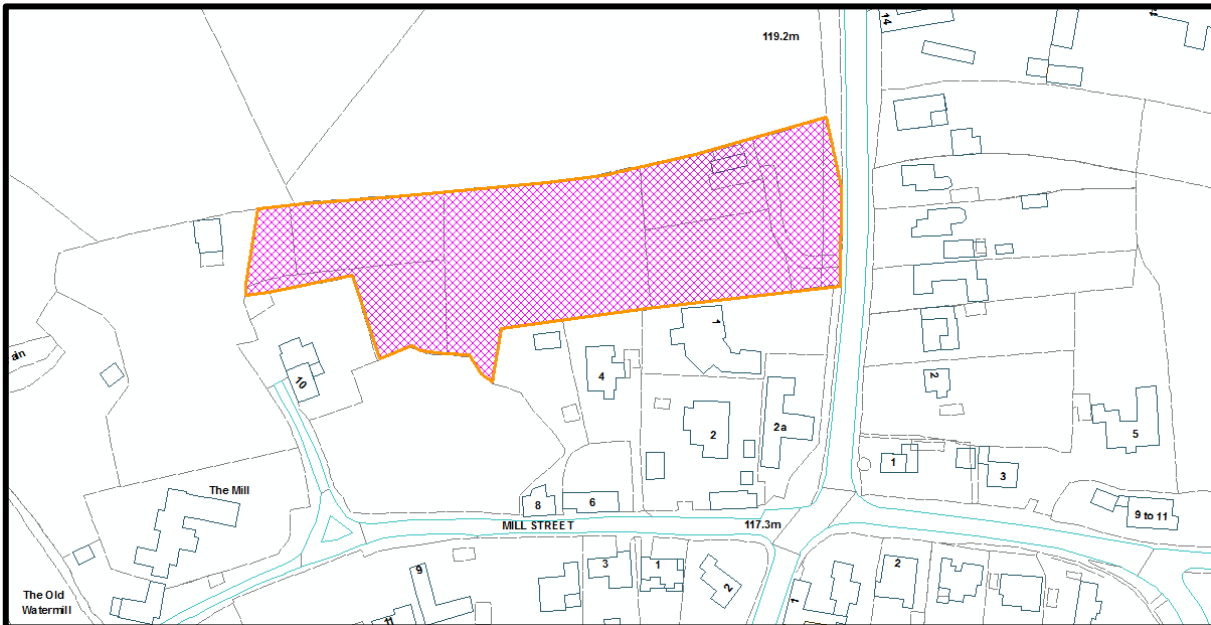
**Date Registered:
7 September 2023
Consultation Expiry:
18 October 2023
Determination Date:
2 November 2023
Extension of Time:
None Agreed**

**Applicant:
Keller Construction Ltd**

**Case Officer:
Sarah Booth**

**Recommendation:
PERMIT**

Site Location



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1. Proposals and Background

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 a deed of variation of the S106 agreement which relates to Planning permission 22/00546/OUT so that it also applies to this scheme and the following condition(s):

- 1 Standard time limit.
- 2 Submission of Reserved matters (landscaping, scale, and appearance)
- 3 Approved plans
- 4 Details of existing proposed ground levels to be submitted with reserved matters.
- 5 Details of all boundary treatments
- 6 Provision of Access in accordance with Highways standards
- 7 Provision of Parking / turning
- 8 Provision of visibility splays
- 9 Contaminated land as per details discharged under 23/00218/DIS
- 10 Verification Investigation for land contamination purposes
- 11 Surface water drainage as per submitted details
- 12 Management details of shared areas and wildlife corridor
- 13 Details of external lighting as per details discharged under 23/00218/DIS
- 14 Details of onsite ecological mitigation measures
- 15 Details of offsite ecological mitigation scheme
- 16 Removal of PD rights for boundary treatments
- 17 Treatment and enclosure of PROW 071 as per details discharged under 23/00218/DIS
- 18 Management of surface water drainage scheme as per details discharged under 23/00218/DIS
- 19 Surface water drainage connection to water course as per details discharged under 23/00218/DIS
- 20 Details of surface water management during construction
- 21 Provision of means to prevent vehicles cutting through the site as per details discharged under 23/00218/DIS

1. Proposals and Background

Planning permission (22/00546/OUT) was granted by planning committee in June 2022 on this application site, on land at Ashby Road Packington, for the erection of up to seven dwellings. That application was subject to a S106 legal agreement and permission for application 22/00546/OUT was subsequently issued in February 2023.

The application site lies on the edge of the village of Packington and is within the limits of development. The site consists of grassland and a stable block. Boundaries are predominantly hedgerow, with arable fields bordering the north and existing housing bordering the south, west and east. The site is located outside of but within the setting of the Packington Conservation Area to the south and there are grade II listed buildings at Packington Mill 65m to the south west, 9 and 11 Mill Street 65m to the south and no 14 Ashby Road 35m to the north east. A public right of way is located to the western boundary and connects with Mill Street to the south.

This is a variation of condition application to seek permission to amend conditions 14 and 15 of application 22/00546/OUT relating to biodiversity net gain mitigation. These conditions were worded as follows:

14. Prior to occupation of the development, a scheme of onsite ecological mitigation as broadly described in the approved Ecological Appraisal by Wildlife Consultants dated March 2022 and received by the Authority on 11 April 2022 shall be completed, the exact details and specification of which shall first be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details and thereafter retained in the approved form.

Reason: In the interests of mitigating the impact of the development on protected species and their habitats

15. Prior to occupation of the development, a scheme of offsite ecological mitigation and enhancement within the land edged in blue on the approved Site Location Plan and a timetable for its completion shall first be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details.

Reason: In the interests of mitigating the impact of the development on protected species and their habitats

This application seeks permission to amend these two conditions above so that it would be possible to relocate one of the offsite locations for the biodiversity mitigation from its currently approved location on land at Ashby Road to land on Coleorton Lane in Packington.

The new biodiversity mitigation land would be located to the north east of the approved development. Figure 1 below shows the location of the approved application site on Ashby Road as well as the proposed amended location for the biodiversity mitigation land on Coleorton Lane (shown in purple).

Figure 1 - Amended proposed biodiversity mitigation Site

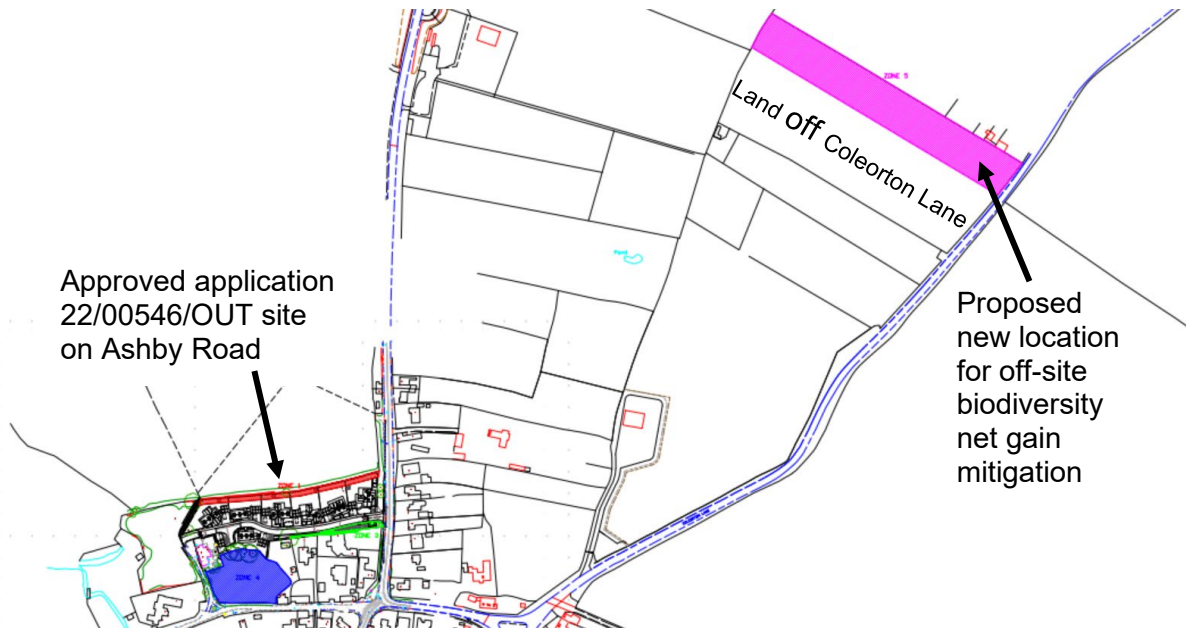


Figure 2 – Existing approved locations for biodiversity mitigation



Key for Figure 2

Red - B3 Onsite Hedgerow Enhancement

Blue - D3 Offsite Habitat Enhancement

Purple – D1 Offsite Habitat Enhancement (Orchard)

Figure 2 above shows the currently approved areas to be used for biodiversity enhancements. The areas in red are for onsite mitigation and would consist of Hedgerow enhancements. The Areas highlighted in blue, and purple are both offsite habitat enhancement areas but, as previously approved, these are directly adjacent to the approved site. The Area outlined in purple is the only

area that would be amended by this variation of condition application, all of the other approved mitigation would remain unchanged from the Figure 2 above.

Given that this is a variation of condition application which only relates to biodiversity mitigation this can be the only matter for consideration in the report below.

Relevant Planning History:

23/01235/DIS The approval of details reserved by conditions 10 (Land Contamination) and 12, 14 and 15 (Ecology / BNG) relating to planning permission ref: 22/00546/OUT (Still pending a decision to be made on this case)

23/00228/REM Reserved matters approval (appearance, landscaping, and scale) (outline planning permission 22/00546/OUT) for the erection of up to seven dwellings – Permitted on 28.03.2023

23/00218/DIS The approval of details reserved by conditions 5 (Boundary Treatments), 9 (Contaminated Land), 13 (Lighting), 17 (Public Right of Way Works), 18 (Drainage Maintenance), 19 (Soakaway Connection) and 21 (Means to Prevent Access Through Site) relating to planning permission reference 22/00546/OUT – Permitted on 3.04.2023

22/00546/OUT Erection of up to seven dwellings (outline- access and layout only) PER 17.02.2023

21/02092/OUTM Erection of up to 11 dwellings and garaging, to include associated access alterations and parking provision (outline- access and layout only) – Withdrawn on 26.01.2022

2. Publicity

30 Neighbours have been notified.

Site Notice displayed 22 September 2023.

Press Notice published Leicester Mercury 27 September 2023.

3. Summary of Consultations and Representations Received

Packington Parish Council – No comments received

No objections from:

County Highway Authority

LCC Ecology

HS2 Ltd

Third Party Representations

4 letters of representation have been received which make the following points: -

- Loss of orchard originally proposed for Mill Street.
- Mitigation is moving further away from the site / outside of the village / too far the development.
- Detrimental to the character of the village and loss of community / village benefits.
- Loss of green space.
- Concerns over future use / redevelopment of the land.
- Impacts on the Conservation Area.
- Impacts on flooding in the area / on local residents.
- Negative impacts on the rural / visual amenity.
- There are already environmental improvements proposed in the new mitigation location for other development in that area.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (Dec 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 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, 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 and 57 (Planning conditions and obligations);
Paragraphs 60 and 70 (Delivering a sufficient supply of homes);
Paragraphs 109, 111, 112, 113, 114, 115, 116 and 117 (Promoting sustainable transport);
Paragraphs 123, 124 and 128 (Making effective use of land);
Paragraphs 131, 133, 135, 137 and 139 (Achieving well-designed places);
Paragraphs 157, 159, 162, 165, 167, 168, 169, 170, 171, 173 and 175 (Meeting the challenge of climate change, flooding and coastal change); and
Paragraphs 180, 186, 189, 190, 191, 192 and 194 (Conserving and enhancing the natural environment).
Paragraphs 195, 196, 198, 199, 205, 208 (Conserving and enhancing the historic environment)

Adopted North West Leicestershire Local Plan (2021)

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

D1 - Design of New Development
D2 - Amenity
H6 - House Types and Mix
IF1 - Development and Infrastructure
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
He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment
Cc2 - Water - Flood Risk
Cc3 - Sustainable Drainage Systems

Other Policies/Guidance

National Planning Practice Guidance.
Leicestershire Highway 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).

Development was approved for the erection of 7 dwellings under application 22/00546/OUT which was determined by planning committee in June 2022. This was subject to a legal agreement and permission was issued for the development in February 2023 with it remaining valid until February 2026.

The application site is located within Packington and within the defined limits to development where the principle of residential development is supported under policy S2 subject to all other planning considerations being adequately addressed. Policy S2 of the adopted Local Plan identifies Packington as a sustainable village which has a limited range of services and facilities where a limited amount of growth will take place within the defined Limits to Development.

In view of the above the application has already been found to be acceptable in principle by the granting of the original and still extant permission for this site.

Ecology

Policy EN1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district. Leicestershire County Council Ecologists have been consulted in connection with the proposal and advise that the submitted information and mitigation measures should be accepted.

The proposed site is permanent semi-improved grassland which has historically been managed for the purposes of keeping horses with associated grazing and stabling. Therefore, as grass land, this was considered to be of low ecological value. Over the last 3 - 4 years the site has been unused / unmanaged allowing the grassland to become overgrown with the dominant species now being Creeping Thistle, Ribwort Plantain and Dock resulting in any herb species which may have been present being smothered out. The current site is considered to offer Low Ecological Value. No evidence was identified of the site being used by protected species for any purpose.

Biodiversity Net Gain

Biodiversity net gain (BNG) is the governments new initiative for creating and improving natural habitats. BNG makes sure development has a measurably positive impact ('net gain') on biodiversity, compared to what was there before development.

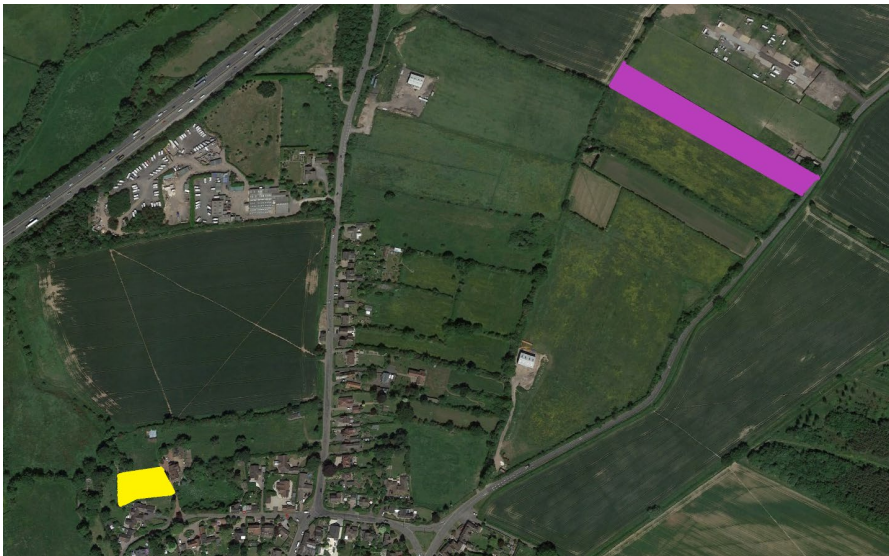
BNG is becoming mandatory in January 2024 under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Once this is mandatory developers must deliver a Biodiversity Net Gain of 10% in connection with their development. This means a development will result in more or better quality natural habitat than there was prior to the development. Whilst BNG is not yet mandatory, consideration must still be given to this legislation in all current applications.

The applicant has previously proposed to mitigate the loss for this development through both onsite hedgerow improvements and offsite mitigation in the form of enhancements and management of two land parcels under the applicants control adjacent to the application site. This has been previously secured through a Section 106 agreement. The existing mitigation is shown below.

Figure 3 – Approved mitigation



Zones 1 and 3 both provide onsite BNG with Zones 2 and 4 being offsite due to them falling outside of the application’s red line of development. Zone 2 was originally proposed as an orchard, and this is the only area that would be amended by this application.



New Biodiversity Impact Assessments have been submitted with this application to relocate one of the approved areas for biodiversity mitigation. The Aerial view above shows the approved location of the biodiversity mitigation “Zone 2” (in yellow), which is proposed to be replaced by an alternative location on Coleorton Lane (in purple). Photos of the existing and proposed mitigation sites are shown below.

Figure 4 - Existing Mitigation Site (Zone 2)

Looking east



Looking south-west



Figure 5 - Views of land at Coleorton Lane

Looking south-west



Looking north-east



The National Guidance for Biodiversity net gain embeds a fundamental principle for spatial hierarchy of habitat delivery, where there is a preference for onsite or local enhancements. Onsite and local offsite units must be the first option explored.

The BNG hierarchy for the purpose of the statutory framework for BNG is set out in Article 30A of the Development Management Procedure Order. This hierarchy is distinct from the mitigation hierarchy set out in the National Planning Policy Framework.

The biodiversity gain hierarchy means the following actions in the following order of priority:

- a) avoiding adverse effects of the development on onsite habitat with a habitat distinctiveness score, applied in the biodiversity metric, equal to or higher than six;
- b) so far as those adverse effects cannot be avoided, mitigating those effects;
- c) so far as those adverse effects cannot be mitigated, habitat enhancement of onsite habitat;
- d) so far as there cannot be that enhancement, creation of onsite habitat;
- e) so far as there cannot be that creation, the availability of registered offsite biodiversity gain;
- f) so far as that offsite habitat enhancement cannot be secured, purchasing biodiversity credits.

Local planning authorities must consider the above Biodiversity Net Gain Hierarchy when considering whether the biodiversity objective has been met and when determining whether to approve the Biodiversity Gain Plan.

In this instance the approved location for the mitigation is already “offsite”, as it falls outside the application red line. The proposed alternative site on Coleorton Lane is also offsite. Whilst the new location would be further away, the Coleorton Lane site is still within the local area and would still be within the North West Leicestershire District. As the biodiversity land was already offsite it is therefore within the same hierarchy category as the new site.

The planning agent has advised that at the time of the original application the applicant was in the early stages of negotiating alternative areas of land in the vicinity that were considered to be more suitable for taking the biodiversity enhancement. The original application was submitted with only the biodiversity enhancement sites that were available to the applicant at the time however more suitable sites have now become available to the applicant and this has resulted in submission of this variation of condition application.

The submitted information advises that the relocated site has greater biodiversity connectivity credentials, with open countryside on all sides, including adjacent meadow land and being boarded by mature hedgerows and trees.

The County Ecologist has advised that the relocation of the biodiversity enhancements will improve the chances of a successful establishment of the designed habitat.

In the local plan Policy En1 (Nature conservation) states that “Proposals for development will be supported which conserve, restore or enhance the biodiversity in the district”, the proposal relocates the biodiversity land circa 560m away within the district. The Environment Act 2021 allows for the delivery of biodiversity offsite. The proposal is in adherence to relevant legislation and in accordance with the local plan and an objection or refusal on environmental grounds could not be sustained on this basis.

It is noted that neighbours have objected on the grounds that the relocation of the mitigation would be a loss to the local community / amenity and to the Conservation Area. The requirement for this mitigation is to provide mitigation for ecological benefits due to the loss of biodiversity habitat and not for heritage, conservation, or public benefits. Whilst this application would result in less mitigation being sited within the village of Packington, there is no planning policy requirement to secure the land for the benefit of the local community or the Conservation Area. Notwithstanding this, the onsite mitigation will remain as per the approved application, which is adjacent to the approved dwellings, therefore those areas of mitigation will still be retained within the existing village.

Neighbour concerns have also been raised that the loss of the additional planting in this location would adversely impact on local flooding. The landscaping is not a mandatory requirement for flooding mitigation for this application therefore there is no planning policy reason to refuse the application on this basis.

As mentioned above, a deed of variation is required to amend the original legal agreement for application 22/00546/OUT to change the location of the biodiversity mitigation locations. Subject to the deed of variation being completed to secure the new location, it is considered that the application would accord with Policy En1 of the adopted Local Plan, the Environment Act 2021 and the NPPF.

River Mease Special Area of Conservation/SSSI Habitat Regulations Assessment

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). The Gilwiskaw Brook, one of its tributaries, lies around 100 metres to the west. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river.

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

A contribution under DCS2 was secured under the original permission. The proposed changes in this application would not increase the occupation of the dwellings nor increase the level of roofs or hard surfacing across the site. A deed of variation is required to secure the River Mease Contribution for this variation of condition application and the applicant has already commenced proceedings to undertake the deed of variation.

In March 2022 Natural England published advice in respect of the nutrient neutrality methodology which can be used to mitigate against the impacts of additional phosphate entering the SAC from foul drainage associated with new development. The River Mease DCS is a mitigation scheme to mitigate against additional phosphate entering the SAC, and capacity within the DCS for this development has been previously secured under the original permission. Therefore an assessment under the nutrient neutrality methodology is not required in this case.

Subject to the above legal agreement being completed it can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, and would comply with the Habitat Regulations, the NPPF and Policies EN1 and EN2 of the submitted Local Plan.

HS2

The Government announced on the 4th of October 2023, that the Phase 2b route of HS2 (or HS2 East as outlined in the Integrated Rail Plan (IRP)) would not take place. Whilst this is the case there has been no subsequent announcement on how or when the safeguarded areas would be revoked and therefore consideration must still be given to the safeguarded zones for the time being.

The proposed off-setting site is close to the safeguarded HS2 route, however both HS2 Ltd and the County Ecologist have advised that the Environment Act 2021 makes provision for BNG mitigation sites to be created within the HS2 safeguarded zones if they are then off-set elsewhere as and when HS2 is developed. As such no objections have been raised by either HS2 Ltd or the County Ecologist.

Other

This application only relates to the relation of biodiversity net gain mitigation, and this would not directly impact on residential amenity, design, heritage or highway safety.

Neighbour concerns have been raised that the land currently proposed to provide mitigation (Zone 2 of Figure 3) would then become available for redevelopment. If this was the case, this would be a matter for a separate planning application and would be assessed separately to the current application.

Neighbour concerns have been raised that the land on Coleorton Lane is already being used to provide mitigation for other developments and this could compromise the availability of the site. For the avoidance of doubt, the land on Coleorton Lane submitted in this application has not already been allocated for use of biodiversity mitigation for other sites.

Conditions

Application ref: 22/00546/OUT was subject to 21 conditions. This application seeks to vary conditions 14 and 15 of 14/00415/FUL. These conditions were worded as follows:

14. Prior to occupation of the development, a scheme of onsite ecological mitigation as broadly described in the approved Ecological Appraisal by Wildlife Consultants dated March 2022 and received by the Authority on 11 April 2022 shall be completed, the exact details and specification of which shall first be submitted to and approved in writing by the Local

Planning Authority. The scheme shall be carried out in accordance with the approved details and thereafter retained in the approved form.

Reason: In the interests of mitigating the impact of the development on protected species and their habitats

15. Prior to occupation of the development, a scheme of offsite ecological mitigation and enhancement within the land edged in blue on the approved Site Location Plan and a timetable for its completion shall first be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details.

Reason: In the interests of mitigating the impact of the development on protected species and their habitats

It is recommended that the conditions are updated as follows:

Condition 1 (Time for implementation) - Should be amended to ensure the development starts prior to 3 years from the approval date of the original application.

Condition 14 (BNG mitigation) – Should be amended to reflect the new location for biodiversity mitigation.

Condition 15 (BNG mitigation) - Should be amended to reflect the new location for biodiversity mitigation.

Some conditions have been discharged under other discharge of conditions applications therefore the wording of the following conditions should be amended to refer to the details approved under the discharge of condition application.

Condition 5 (Boundary Treatments),
 Condition 9 (Contaminated Land),
 Condition 10 (Land Contamination),
 Condition 13 (Lighting),
 Condition 17 (Public Right of Way Works),
 Condition 18 (Drainage Maintenance),
 Condition 19 (Soakaway Connection) and
 Condition 21 (Means to Prevent Access Through Site)

Conclusion

The principle of the development has already been established under planning permission 22/00546/OUT. Subject to the above changes to the conditions originally approved under 22/00546/OUT, it is considered that the proposal would comply with the relevant policies in the adopted Local Plan, the advice in the NPPF and the Council's adopted Good Design SPD. It is therefore recommended that the application be permitted subject to the completion of a deed of variation and amending relevant conditions.

SECTION B- OTHER MATTERS

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