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Meeting	PLANNING COMMITTEE
Time/Day/Date	6.00 pm on Tuesday, 6 February 2024
Location	Forest Room, Stenson House, London Road, Coalville, LE67 3FN
Officer to contact	Democratic Services (01530 454529)

	AGENDA	
Item		Pages
1.	APOLOGIES FOR ABSENCE	
2.	DECLARATION OF INTERESTS	
	Under the Code of Conduct members are reminded that in declaring interests you should make clear the nature of that interest and whether it is a disclosable pecuniary interest, registerable interest or other interest.	
3.	MINUTES	
	To confirm and sign the minutes of the meeting held on 10 January 2024	3 - 6
4.	PLANNING APPLICATIONS AND OTHER MATTERS	
	The report of the Head of Planning and Infrastructure.	7 - 10

Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	<p>23/00565/FUL: Change of use of land for parking of heavy goods vehicle (HGV) for a temporary period of 36 months including erection of fencing/gates and a mobile building</p> <p>Former site of the Stardust Nightclub, Beveridge Lane, Bardon</p>	Refuse	11 - 46
A2	<p>23/01108/FUL: Works to an existing clubhouse to include raising the roof height to provide first floor accommodation, dormer windows and a balcony with the erection of a single storey building to provide changing room facilities, retention/extension to terrace stand and new pathway</p> <p>Ashby Ivanhoe Football Club, Lower Packington Road, Ashby De La Zouch</p>	Permit	47 - 76
A3	<p>23/01240/OUT: Erection of one detached self build dwelling (Outline application - all matters reserved)</p> <p>Land off Townsend Lane, Donington Le Heath, Leicestershire</p>	Permit, subject a S106 agreement	77 - 104
A4	<p>23/01241/OUT: Erection of one detached self build dwelling (Outline application - all matters reserved)</p> <p>Land Off Townsend Lane, Donington Le Heath, Leicestershire</p>	Permit, subject a S106 agreement	105 - 132
A5	<p>23/01482/VCIM: Erection of 400 dwellings approved under approval ref. 23/00459/VCUM (outline planning permission ref. 22/01140/VCIM) without complying with Condition 8 so as to allow for removal of additional trees</p> <p>Land north of Standard Hill and west of Highfield Street, Hugglescote, Coalville</p>	Permit, subject to conditions	133 - 144

MINUTES of a meeting of the PLANNING Committee held in the Forest Room, Stenson House, London Road, Coalville, LE67 3FN on WEDNESDAY, 10 January 2024

Present: Councillor R Boam (Chair)

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

In Attendance: Councillors

Officers: Ms S Booth, Mr C Elston, Mr D Jones, Mr S James, Mr A Mellor and Mrs R Wallace

52. APOLOGIES FOR ABSENCE

Apologies were received from Councillors R Canny and N Smith.

53. DECLARATION OF INTERESTS

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 23/00129/FULM: Councillors R Boam, D Bigby, D Everitt, J Legrys, R Morris, P Moulton, C Sewell, J Simmons and A Woodman.

54. MINUTES

Consideration was given to the minutes of the meeting held on 5 December 2023.

It was moved by Councillor J Legrys, seconded by Councillor R Morris and

RESOLVED THAT:

The minutes of the meeting held on 5 December 2023 be approved and signed by the Chair as a correct record.

55. 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.

56. 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

Officer's recommendation: Refuse

The Principal Planning Officer presented the report.

Ms C Chave, agent, addressed the Committee. She informed the committee about the lack of training for the sport and the impact the facility proposed would provide for the midlands area. Reference was made to the robust noise assessment and the management plan. Members were reminded that permission had already been previously granted for the site and the highway access already improved. Reference was also made to Highway Authority's response to the application, which she felt did not justify the reasons for refusal in front of Members. The applicant felt that the suggested improvements to the site access was not viable. Members were urged to approve the application.

As the Ward Member, Councillor R Sutton, was unable to attend the meeting, a written statement in support of the officer's recommendation to refuse had been submitted and was read out to the Committee by the Democratic Services Officer. It highlighted the proximity to the airport runway, the intense development for commercial purposes and major trunk roads close to the site access. Reference was also made to the nearby approved and anticipated future applications for housing and the adjoining farm that would be impacted by noise should the application be approved. To conclude, comments were made in relation to the application not satisfying the Highway Authority's access requirements.

In determining the application Members considered the comments of the Highway Authority and shared concerns in relation to the site access and its proximity to the junction. Concerns were also raised in relation to the noise that would be produced on the site and the significant impact this would have on the nearby homes.

Some discussion was had in relation to the possible deferral of the application to allow further negotiations with the Highway Authority. Officers were also asked if it was possible to add conditions to control the activities on the site and permit temporary approval so that it could be reviewed. Officers advised that as the Highway Authority had submitted a fundamental objection, it was unlikely that they would withdraw their objections, therefore Members were advised not go against the officer's recommendation. However, Members were reminded that the Highway Authority had offered a solution which the applicant had deemed not viable, which the applicant could review before submitting an amended application which the committee consider with appropriate conditions such as a temporary consent.

The officer's recommendation to refuse the application was moved by Councillor J Legrys and seconded by Councillor R Morris.

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

The motion was CARRIED.

RESOLVED THAT:

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

Motion to refuse in accordance with officer's recommendation (Motion)	
Councillor Russell Boam	For
Councillor Ray Morris	For
Councillor Dave Bigby	For
Councillor Morgan Burke	For
Councillor David Everitt	For
Councillor John Legrys	For
Councillor Peter Mout	For
Councillor Carol Sewell	For

Councillor Jenny Simmons	For
Councillor Andrew Woodman	For
Councillor Michael Wyatt	Abstain
Carried	

57. 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

Officer's recommendation: Permit

The Senior Planning Officer presented the report.

Mr D Harris-Watkins, agent, addressed the Committee. He commented that the reason the application was being considered by the Committee was due to the company director being a relative of a current sitting Councillor and referred to the fact that no objections had been received. It was confirmed that the application met the biodiversity requirement and that the applicant had worked proactively with planning officers. He went on to highlight the main changes to the site as detailed within the report and urged Members to permit the application.

In determining the application Members discussed the monitoring and enforcement of the Biodiversity Net Gain, and the possibility of a 'community orchard' was raised. Officers advised that the Section 106 Agreement would address these matters, along with a 30-year monitoring plan in relation to measurement of the biodiversity.

The officer's recommendation to permit the application was moved by Councillor M B Wyatt and seconded by Councillor J Legrys.

The Chair put the motion 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	For
Councillor Morgan Burke	For
Councillor David Everitt	For
Councillor John Legrys	For
Councillor Peter Mout	For
Councillor Carol Sewell	For
Councillor Jenny Simmons	For
Councillor Andrew Woodman	For
Councillor Michael Wyatt	For
Carried	

The Chairman closed the meeting at 6.55 pm

APPENDIX B

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

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

5. Granting permission contrary to Officer Recommendation

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

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

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

6 Refusal contrary to officer recommendation

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

7 Amendments to Motion

An amendment must be relevant to the motion and may:

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

as long as the effect is not to negate the motion

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

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

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

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

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

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

8 Delegation of wording of Conditions

A list of the proposed planning conditions are included in the report. The final wording of the conditions, or any new or amended conditions, is delegated to the Head of Planning and Infrastructure.

9. Decisions on Items of the Head of Planning and Infrastructure

The Chairman will call each item in the report. No vote will be taken at that stage unless a proposition is put to alter or amend the printed recommendation. Where a proposition is put and a vote taken the item will be decided in accordance with that vote. In the case of a tie where no casting vote is exercised the item will be regarded as undetermined.

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

Report Item No
A1

Application Reference
23/00565/FUL

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

Date Registered:
9 May 2023

Consultation Expiry:
27 September 2023

Determination Date:
10 November 2023

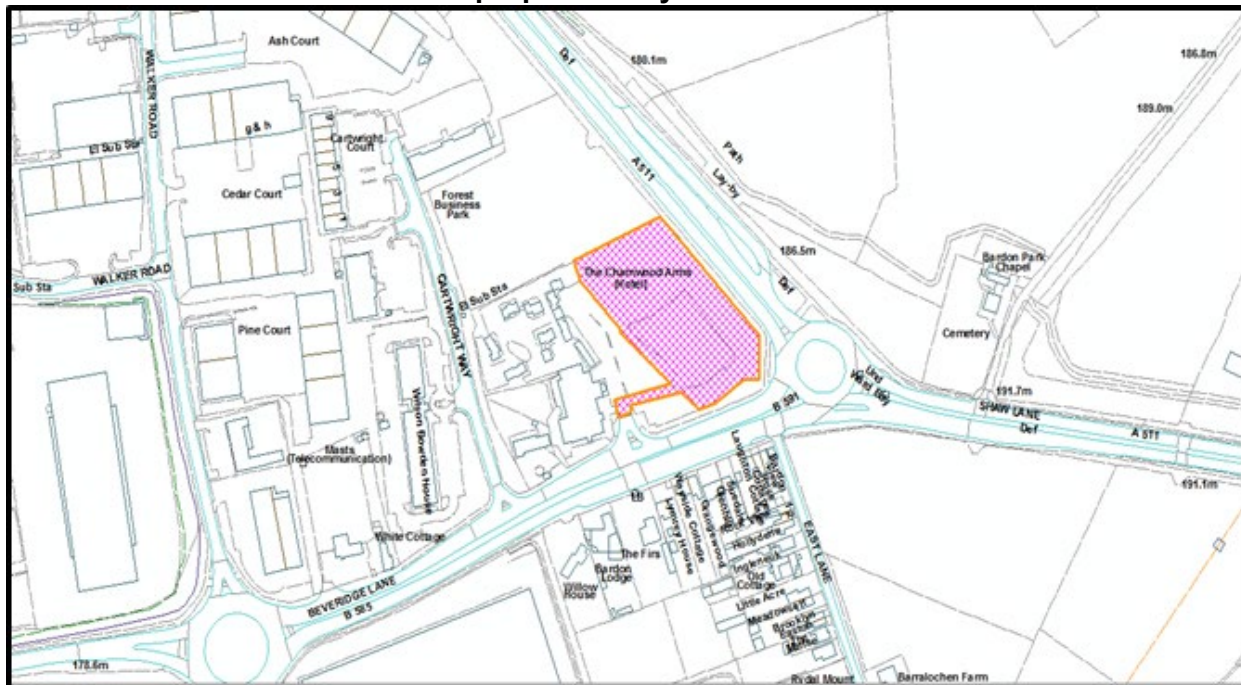
Extension of Time:
10 November 2023

Applicant:
Mr Brett Parker

Case Officer:
Hannah Exley

Recommendation: Refuse

Site Location - Plan for indicative purposes only



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Reason the case is called to the Planning Committee:

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

RECOMMENDATION – REFUSE, for the following reason:

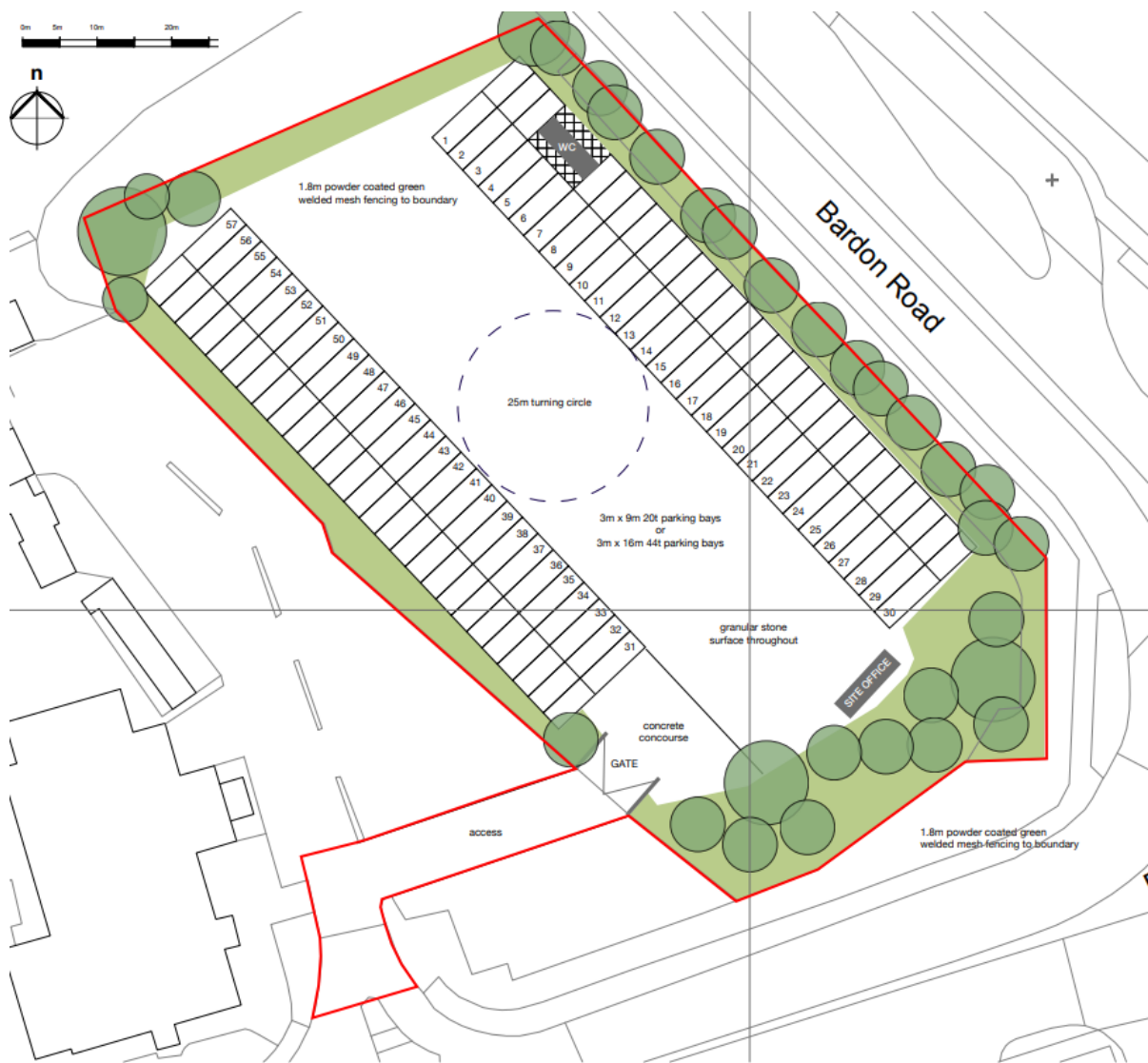
- 1 Paragraphs 7 and 8 of the National Planning Policy Framework (NPPF) 2023 require that the planning system contributes towards the achievement of sustainable development, and sets out the social objective of sustainable development, including its contribution to fostering safe places. Paragraph 114(b) requires that ‘safe and suitable access to the site can be achieved for all users’, paragraph 115 requires that ‘development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety’ and paragraph 116c provides that applications for development should create places that are safe, secure and attractive and which minimise the scope for conflicts between pedestrians, cyclists and vehicles. Paragraph 193 of the NPPF provides that “Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established”. The application proposes to access the site via an unadopted highway and through an existing car park serving a public house/restaurant and hotel which, when having regard to the extent of the car park affected, the proximity to the public house entrance, the difficult nature of the HGV manoeuvres through the unadopted highway and car park at this point (and on site evidence in the form of damaged kerbstones and vehicular encroachment into grassed area, used for pedestrian refuge, to show that manoeuvres are not being undertaken as envisaged) and the absence of any mitigation measures to enhance pedestrian safety within the site, it is considered that the proposal would represent an unsafe form of development that would not provide safe access for all users of the unadopted highway passing through the site, contrary to highway safety and therefore, would not constitute sustainable development. Furthermore, public safety concerns around the use of the car park as a result of the proposed use could serve to impact negatively on the business operations of an existing established public house/restaurant and hotel through which the site access route passes. For these reasons, it is considered that the proposal would be contrary to the policies and intentions of paragraphs 7, 8, 114 (b), 115, 116 and 193 of the NPPF.

MAIN REPORT

1. Proposals and Background

Permission is sought for the change of use of land for the parking of Heavy Goods Vehicles (HGV's) for a period of 36 months. The application also includes the erection of fencing/gates and a mobile building on the 0.8 of a hectare of site off Beveridge Lane, Coalville that was formerly occupied by the Stardust entertainment venue. The application site is located at the junction of Beveridge Lane (B585) and Bardon Road (A511). The access to the site would be off the B585, utilising the existing vehicular access to the Charnwood Arms (pub, restaurant, and hotel) via a route which passes through the car park to the Charnwood Arms.

Proposed Site Plan:



The site is currently in use as a lorry park for HGV's and has been since the granting of a temporary planning permission in 2020 for a temporary period of 36 months under application 20/00264/FUL. The earlier permission for lorry storage expired in June 2023 and the use of the site is currently unlawful.

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

Regarding the proposed use of the site, the supporting information as submitted by the applicant provides justification for the temporary permission sought which is summarised as follows:

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

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

- Adjacent to the Strategic Road Network (SRN) (A511) and less than two miles from Junction 22 of the M1, the current facility serves a vital function as a truck stop in the area;
- There are a shortage of truck stops in the vicinity (only four truck stops along a 50 mile stretch of the M1 Motorway from Lutterworth to Hucknall) far below the standards in the circular.
- There is a need for the facility and its loss would have detrimental impacts on the function of the SRN and the safety and security of HGV drivers and other road users.
- Due to being the only dedicated truck park in the area, the site is very popular with passing hauliers and the site provides parking for many local businesses who require assistance with parking.
- The site is a Driver and Vehicle Standards Agency (DVSA) recognised operating centre for various companies, creating many local jobs.
- Paragraph 80 of Circular 01/2022 requires that existing truckstops (including closed facilities) on or near to the SRN must be retained for their continued and future use unless it can be clearly demonstrated that a need no longer exists, but a need exists for this site.

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

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

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

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

Relevant Planning History:

21/00556/VCI - Variation of conditions 2, 5, 6 and 7 of planning permission 20/00264/FUL to allow for amended access arrangements, amended layout and the submission of landscaping and lighting information required by condition (Withdrawn 28.03.23). This scheme requested a revised access route into the site northwards through the car park to a gated access further north along the western boundary opposite the hotel accommodation to the Charnwood Arms. Although withdrawn, the application was also supported by arguments which set out the problems with the previously approved (and currently proposed) access.

20/00264/FUL - Change of use of land for parking of heavy goods vehicle (HGV) for a temporary period of 36 months including erection of fencing/gates and a mobile building (Permitted 09.06.2020 and expired on 09.06.23). Condition 5 of that permission required details of landscaping to be agreed but no discharge of condition application was made to the District Council.

18/00315/VCUM - Removal/variation of condition 3 and 12 of outline planning permission 17/00048/OUTM to allow for alterations to the site layout and to allow for additional floor space (Withdrawn 29.11.2018).

17/00048/OUTM - Erection of units for light industrial B1(c) and storage and distribution B8 (outline - access, layout and scale included) (Permitted 25.08.2017).

06/01124/OUT - Demolition of existing night club and function rooms and redevelopment for B1 use (outline - siting and means of access) (Permitted 13.11.2006).

2. Publicity

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

3. Summary of Consultations and Representations Received

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

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

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

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

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

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

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

Third Party Representations

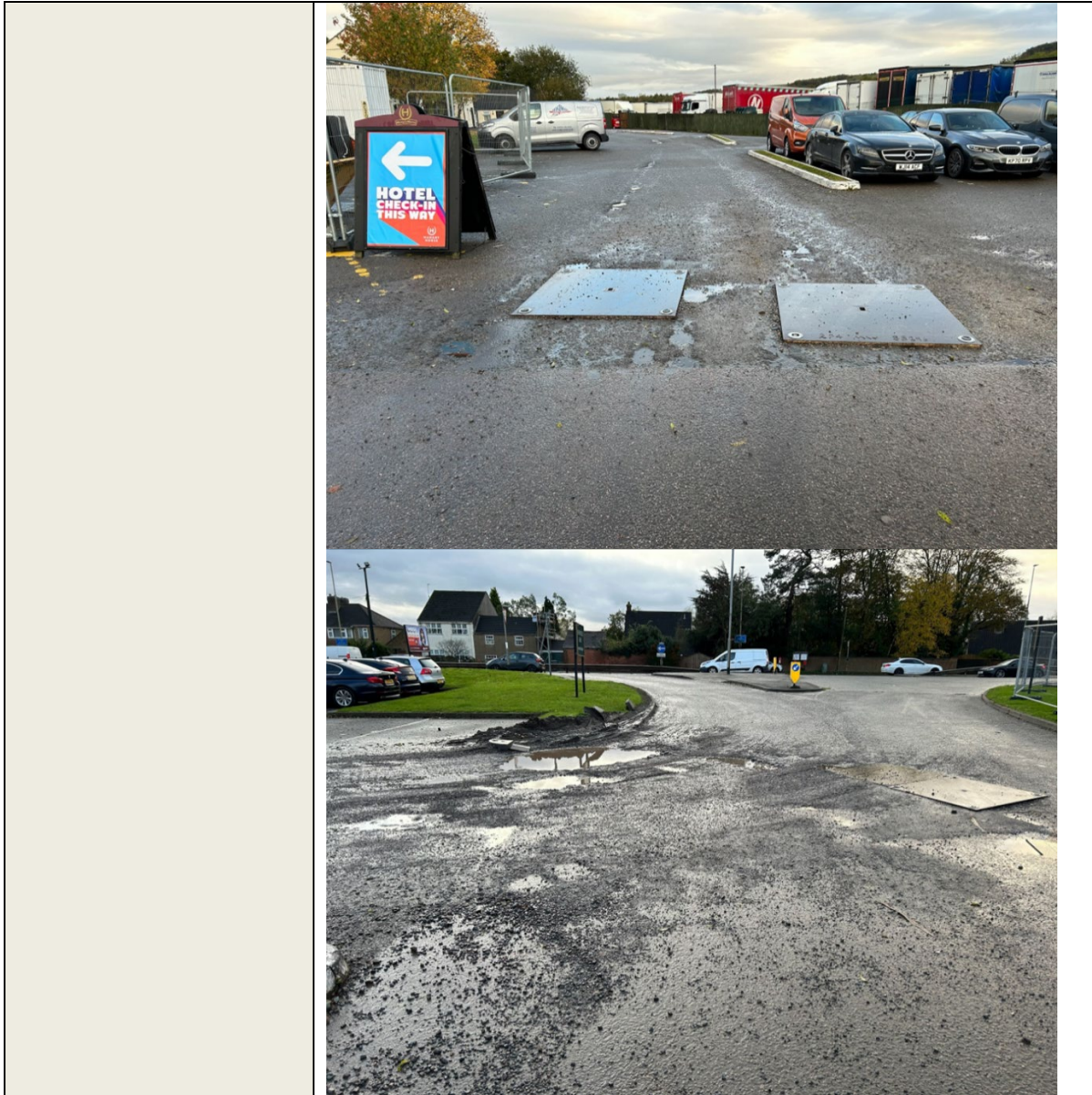
17 letters of representation (one including a Traffic and Transport Report and CCTV Survey) have been received raising objection on the following grounds:

Grounds of objection	Description of Impact
HGV's and Highway/Public Safety	Access requires 90-degree turns both in and out of the site which is unsuitable for HGV's
	Access to the lorry park is directly through the middle of a car park utilised by families and guests visiting a local public house and restaurant and the lorry park conflicts with the route of people going to the pub with numerous serious near misses involving HGVs and the general public having been witnessed
	Near misses witnessed range from small children trying to avoid the trucks to elderly drivers nearly reversing into oncoming HGVs and could have led to serious injuries
	HGVs were originally travelling directly through the car park, past the hotel to access the HGV park in the NW corner due to the unsuitability of the proposed access but this was unlawful, and the layout has changed in April 2023
	If a car is parked slightly forward of the parking spaces, then the HGV will struggle to get round meaning they have to blind reverse to generate the angle to continue
	Exiting out of the corner is also dangerous as HGVs have to enter the oncoming lane to avoid riding the kerb stone on the corner. This corner has already been damaged as a result
	Damage to the road surface by HGV's causing dangers for vehicles using the car park and trip hazards for pedestrian walking through the car park
	Vehicles are having to reverse back onto the highway with a speed limit of 70mph to enable space for two vehicles to pass within the car park
	The speed of vehicles entering the site is too fast due to the national speed limit of the A511
	The access to the site should be via the A511 as it was historically, and permission has recently been granted for a new access off the A511 further along the road
	Capacity of surrounding highway network
	The A511 is used as racetrack at night
	The application should be refused on highway safety grounds and enforcement action taken
	Information provided by the applicant in support of application 21/00556/VCI for an alternative access sets out their own concerns about the suitability of/ difficulties in using the currently proposed access by HGV's and the impacts on highway and pedestrian safety
	Concern about interpretation of highway safety which should not be restricted to safety within the 'public highway' and as an access route within a car park has effectively been turned into a highway to enable vehicles to access the lorry park, paragraph 111 of the NPPF is applicable to this proposal
	The support for lorry parking to support the Strategic Road Network does not offset the more localised highway safety

	impact and should be afforded limited weight
	A customer has fallen down a pothole within the car park to the Charnwood Arms over the Christmas period and sustained an injury and the potholes have arisen due to the damage caused by lorry park operations over a surface that was not design for such vehicular activity
Residential Amenities	A noise assessment is required
	Noise Impact report does not consider the impact on houses opposite, does not factor in wind direction and the noise equipment was incorrectly positioned and so the readings are inaccurate and should not be taken into account
	Noise and disturbance from comings and goings all through the night and from the running of refrigerated lorries and generators though the night
	The fencing is inadequate and acoustic fencing is required to reduce the noise of lorries and engines powering the refrigerated trailers
	New fencing would also block out lights from vehicles, the office/WC unit from shining in neighbouring windows opposite the site
	Litter and waste attract vermin
	Noise report states the speed limit of the A511 is 70mph, but it is 50mph and the B585 is 60mph when it is 70mph
	The flood lights are still being used in October 2023 without planning permission
Need for overnight parking	Notwithstanding any national need for overnight parking, this is not the right location for this development
	Lorry parking should be a mandatory requirement of industrial estates
	Whilst there may be a need for lorry parking in the area, alternative facilities are available, and the proposed location is unsuitable and causes significant adverse impacts
Visual Amenities	The lorry park is another blot on the landscape of the area;
	New tree planting on the outside of the site would help hide views of the truck park
Impact on Local Business	Noise impacts on residential accommodation provided at the Charnwood Arms including 34 guest bedrooms and permanent accommodation for the Manager with many rooms facing directly onto the lorry park
	The Charnwood Arms has received multiple complaints from overnight visitors, relating to the noise, light and disturbance generated by the lorry park. Indeed, these complaints are reflected in reviews of the business, left on travel websites
	Impact on the Charnwood Arms business/revenue
	Fear of damage to vehicles using the car park
	The proposed operation is having consequences for the neighbouring local business and if continues to deter guests

	because of negative reviews, then the continued operation of the business (community facility and visitor accommodation) will be severely threatened
Other	Land registry deeds require a new access to be formed to the land and the landowner has knowingly allowed the use without this
	Notice has not been served on the landowner
	The red line site area does not meet the highway boundary
	Lorries are being parked too close together which would be problematic if there was a fire, spillage or other emergency on the site and there is no fire assembly point on the site
	The site is being used as an operational centre by some hauliers with maintenance, repairs and servicing of their vehicles being undertaken on the site allowing chemicals into the environment
	The previous permission was not complied with, and vehicles are not being parked in the layout shown and lighting has been added
	Another temporary permission should not be granted
	The applicant's statement that there have been no concerns arising from the existing use of the site is inaccurate as concerns have been raised prior to and during the application
	PPG says the granting of a secondary temporary permission is rarely justifiable
	The three years it has operated shows that the site is inappropriate for the use and dangerous
	If deemed acceptable permission should only be granted for 1 year
	The ditch surrounding the site should be reinstated if permission is refused
	Light goods vehicles and buses are also being stored at the site;
	The proposal conflicts with Policies D1, D2, EC13, IF2, IF4, IF7 of the adopted Local Plan
	Concern about fires/explosions from the future use of electric/battery/gas powered trucks (including their cargo) on the site near to a residential area due to examples of electric cars and buses catching fire
Traffic and Transport Report (June 2023) by Consultants RGP on behalf of the neighbouring business	<p>A traffic survey has been undertaken on Monday 15th May and Sunday 21 May with CCTV cameras being installed to capture all movements in and out of lorry park via the pub providing evidence of examples of major safety concerns regarding the operation of the site, in terms of conflict arising between pedestrians and HGVs in the car park, as well as impacts on the free flow of traffic on the B505. The following results are presented in a Traffic and Transport Report (available to view on the Council's website) which can be summarised as:</p> <ul style="list-style-type: none"> - The lorry park is significant trip generator accounting for one third (223 vehicle movements per day on average)

	<p>of vehicle movements into the car park;</p> <ul style="list-style-type: none"> - 57 percent of movements to the lorry park are by HGV's; - The lorry par operates 24/7 with most movements during the pub trading hours; - The sharp right and left turns into and out of the lorry park are difficult to manoeuvre and damage to kerbs, landscaping and pub signage has arisen; - HGV's obstruct vehicles entering the site resulting in a back-up of vehicles onto the B585; - There is a high risk of pedestrian/vehicle conflict in the car park to the pub/restaurant in the absence of any dedicated pedestrian refuge with examples being recorded during the survey; - HGV's turning into/from the lorry park block the site access, and cause traffic to queue to enter the site onto the adopted highway, increasing the risk of vehicle collisions; - Incidents of multiple HGV's arriving concurrently impacts on the highway with vehicles queuing to enter; - Illegal rights turn manoeuvres onto Beveridge Lane when only left turns are permissible raises highway safety concerns and no solution is proposed to prevent this; - The applicant does not own land outside the site to enable measures to be put in place to control traffic to prevent illegal manoeuvres. <p>The report concludes that there are significant safety implications with the lorry park and the access arrangements in the context of the pub/restaurant/hotel car park and no priority is given to cyclists or pedestrians, giving rise to an unacceptable impact on highway safety.</p>
<p>Photographs provided by the Charnwood Arms</p>	<p>Photographs provided to highlight the following issues:</p> <ul style="list-style-type: none"> • Over running of verges to show that lorries cannot make the manoeuvres the tracking suggests they can; • Dissemination of the car park surface; • Evidence of the volume of vehicles passing through the car park from the number lorries parked up, with each vehicle movement is a risk to the public; •The disruption the pub is facing.





Members are advised that all responses from statutory consultees and third parties are available to view in full on the Council's website. Video footage of HGV activity at the site is also available through weblinks within the Traffic and Transport Report by Transport Planning Consultants RGP received on 11 July 2023 which forms part of the public comments from Greene King Brewing and Retailing Ltd (Charnwood Arms).

4. Relevant Planning Policy

National Planning Policy Framework (2023)

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

- Paragraphs 7, 8, 11 and 12 (Achieving sustainable development)
- Paragraphs 47, 55, 56 and 57 (Decision-making)
- Paragraphs 55, 56 (Planning conditions and obligations)
- Paragraphs 85, 87 and 88 (Building a strong, competitive economy)
- Paragraphs 109, 111, 112, 113, 114, 115, 116 and 117 (Promoting sustainable transport)
- Paragraphs 123, 124 and 128 (Making effective use of land)
- Paragraphs 128, 132, 133, 134 and 135 (Achieving well-designed places)
- Paragraphs 180, 181, 182, 186 (Conserving and enhancing the natural environment)
- Paragraphs 165, 173 (Meeting the challenge of climate change, flooding, and coastal change).
- Paragraph 193 (Ground conditions and pollution)

Adopted North West Leicestershire Local Plan (2021)

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

- S1 - Future Housing and Economic Development Needs
- S2 - Settlement Hierarchy
- S3 - Countryside

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

Other Guidance

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

5. Assessment

Principle of Development

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

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

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

Suitability of Temporary Permission

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

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

In justifying the previous temporary permission, the supporting information accompanying that application (20/00264/FUL) detailed that the current economic climate did not permit the site to be fully developed for the intended use and the proposed use is temporary to allow the site to be used and generate some income towards the pre-development costs of fully developing the

site for B1 use. In the intervening period no proposals have been brought forward for a B1 use on the site. Since the publication of the previous Agenda Report for the November meeting (from which this application was withdrawn to allow the applicant and third parties additional time to provide further information), the applicant's agent has advised as follows:

“The main issue in the determination of the application should be whether a further ‘meanwhile’ use can be supported. On the basis the Council have previously granted PP for an identical development, the key matter is whether a further temporary permission is justifiable. As per the NPPG, a temporary permission may be appropriate where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. If assessed as a trial run, then as mentioned, the effects have proven to be acceptable. The NPPG states, a temporary planning permission may also be appropriate to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forward (a ‘meanwhile use’). The NPPG then states that it will rarely be justifiable to grant a second temporary permission... further permissions can normally be granted permanently or refused if there is clear justification for doing so.

The current use as a truck stop is a ‘meanwhile’ use, the landowner’s (SN Developments) long-term objective is to redevelop the site. However, in the period since the initial temporary permission was granted, the prospects of redeveloping the site have diminished (due to pandemic, economic circumstances, interest rates etc.). There is currently no prospect of SN Developments redeveloping the site in the next three years - these are the circumstances which justify a further temporary permission. SN Development are currently preparing a letter to confirm that is not viable to develop the site in the current economic climate.”

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

It is also noted that whilst temporary consent was granted in 2020 for a lorry park use, the approved access arrangements were not implemented until April 2023 and alternative arrangements were used to access the site (utilising an access to the north of the site). The issues surrounding the approved access as set out above have only been experienced for 7 months in that 3 year period and generated a complaint within 1 month of the previously approved access being used.

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

Need for the Lorry Park

As set out in the background section of this report, the applicant has put forward an argument that there is a need for the lorry park due to the lack of existing facilities within the locality. Paragraph 113 of the NPPF provides that “Planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, considering any local

shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance. Proposals for new or expanded distribution centres should make provision for sufficient lorry parking to cater for their anticipated use.”

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

The applicant’s agent has drawn attention to the requirements of paragraph 80 of the Department of Transport Circular 01/2022 entitled ‘Strategic road network and the delivery of sustainable development’. Paragraph 80 states as follows:

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

The applicant’s agent has also advised as follows:

“The loss of the truck stop would have detrimental impacts on the highway network and the safety and security of HGV drivers and other road users. This could be for a variety of reasons, e.g., drivers not being able to find areas to have breaks, drivers blocking lay-bys to park and rest, drivers’ safety being compromised in non-secured areas. NW Leicestershire Police recently identified HGVs Thefts as a priority matter (see image below). There have been dozens of incidents in NW Leicestershire involving HGV theft including serious assaults on drivers. Truck stops, like Bardon Truck Park (with CCTV, 24-hour security, excellent driver welfare) are crucial to deter such incidents. This is a key material consideration.”

Given the proximity of the truckstop from the SRN (1.6miles), and the advice in the Circular, the applicant considers that due consideration should be given to the impact of closing an existing truck stop facility on the strategic road network. In considering the proposal against the Circular, it is important to note that the existing truck stop on the site is unlawful as it is currently operating without the benefit of planning permission. In this case, it is considered difficult to argue that a lawful lorry park would be lost when no planning permission exists to allow the lorry park use to operate from the site.

Notwithstanding this, consultation and discussion have been undertaken with National Highways who manage the SRN, to establish the impact of the truck park on the SRN. National Highways have advised that lorry parking is a key national policy issue for National Highways and North West Leicestershire is an area of high interest to them. In respect of the specific development proposals, National Highways advise that the development does not share a boundary with the SRN and would not have any material impact on the SRN, and, therefore, raises no objection. Therefore, the proposal is considered acceptable in respect of paragraph 80 of Circular 01/2022.

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

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

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

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

Impact on Heritage Assets

The proposed site is located to the west of the listed cemetery off the A511. When having regard to the intervening cops of trees, the B585 and A511, along with the road traffic island, it is not considered that the proposal would affect the setting of the listed cemetery.

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

Impact on the Surrounding Landscape/Adjacent Countryside

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

The site is located at the junction of the A511 and the B585, with the eastern boundary with the A511 currently occupied by mature hedging and trees. The boundary with the B585 (to the south) is currently occupied by 1.8m open wire mesh fencing. The site is visible through and above the height of the fencing from the public highway. To the west and north west, the site is

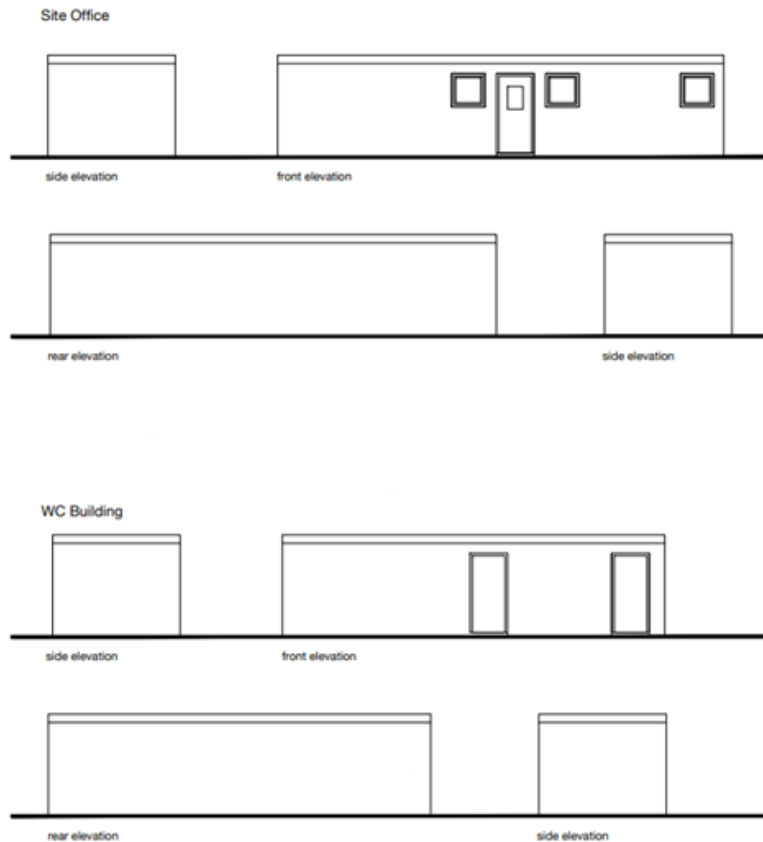
bordered by a commercial use; the Charnwood Arms which is a pub/restaurant with hotel accommodation. The access to the site off the B585 passes through the car park to the Charnwood Arms and utilises an existing vehicular access and therefore, the proposal would not necessitate substantial works at the site frontage to form the access.

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

Photograph of site frontage (taken June 2023)



Plans for the proposed Site Office and WC building



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

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

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

compliance and to ensure the development reflects the location of the site within the National Forest.

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

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

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

Residential Amenities

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

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



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

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

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



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

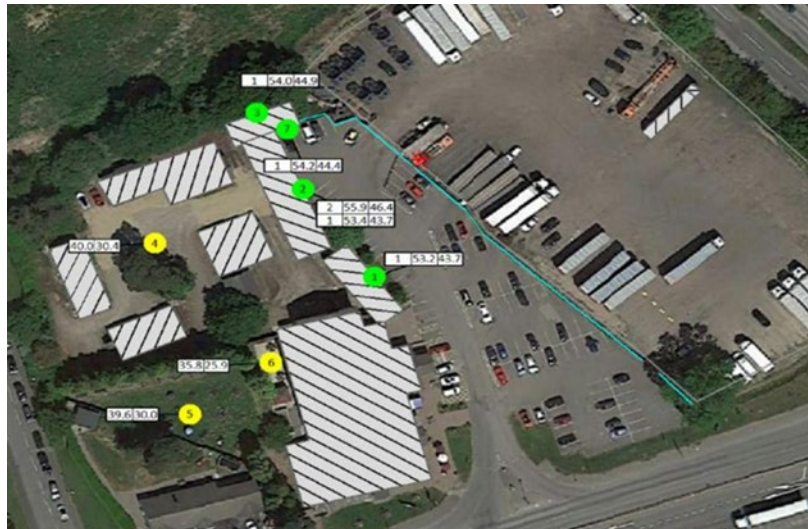
There would be vehicular movements to and from the site by HGV's and security staff in connection with the proposed use of the site. Objectors have identified that there are generators for refrigerated trucks being used at the site and this is to be expected in a lorry park.

In respect of noise and disturbance from activities undertaken at the site, a Noise Impact Assessment was provided during the application following a request by the Council's Environmental Protection Team. The report submitted considers the noise breakout from the

site (including fridge generators) at the Charnwood Arms only, which includes hotel accommodation and permanent residential accommodation for the Manager.

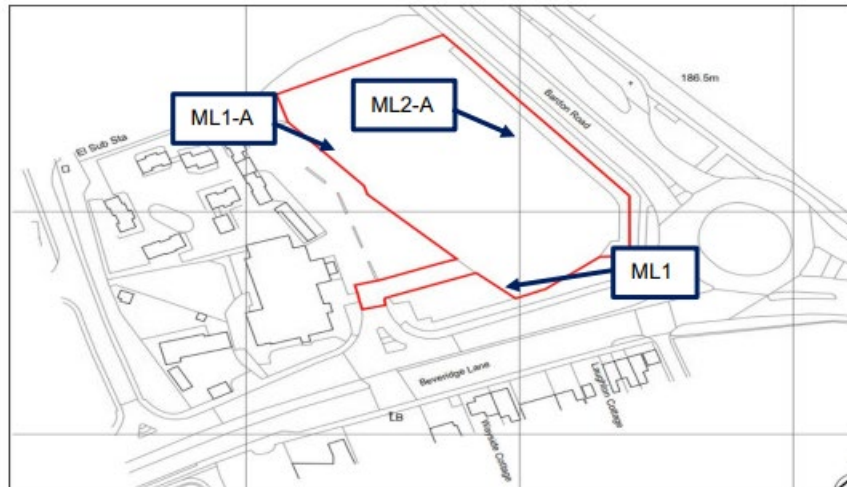
The noise monitoring information obtained during the survey undertaken by the noise consultant shows that that during the daytime and night-time, the noise more than the existing background sound level is 0 and +1 dB(A), with the background noise being dominated by road noise. The report goes on to conclude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

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



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

Plan showing the approximate noise monitoring locations:



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

Comments have been received about incorrect speed limit information within the Noise Assessment, but the consultant advises that this is an observational error and does not materially affect the outcome of the assessment because background sound levels were measured on site. Concern has also been raised about the absence of wind direction information within the report and the consultant has advised that average measured wind speeds were below 5 m/s throughout the survey which the consultant advises is a suitable wind speed in which to undertake a noise survey.

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

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

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

Overall, and notwithstanding the neighbour complaints that have been received in response to existing activities at the site, and the neighbour comments made in respect of the application, when having regard to the noise information provided, the advice of the Council's Environmental Protection team, it is not considered that the proposal would give rise to significant impacts upon the amenities of neighbouring residential properties or the amenities of hotel guests as a result the temporary proposal for the storage of HGV's. The proposal is considered to be acceptable in relation to Policy D2 of the adopted Local Plan and provisions of paragraph 191 of the NPPF.

Ecology and Biodiversity Net Gain

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

In terms of Biodiversity Net Gain (BNG), the mandatory requirement for 10% Biodiversity Net Gain has now been enacted by the Government and is to go live on the 2nd of April 2024 for planning applications of this type. As the submission of this application predates the start date of the mandatory BNG, it falls to be considered under the requirements of paragraph 186(d) of the NPPF which sets out a requirement to minimise impacts on biodiversity and provide net gains in connection with the schemes (amount unspecified). The County Ecologist has been consulted on the application and advises that in addition to the development proposals being temporary, there would be no habitat loss on site and, as a result, there is no requirement to secure biodiversity net gain in this case.

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

When having regard to the above, the proposed development would be acceptable for the purposes of Policy En1 of the adopted Local Plan, Paragraphs 180(d), 181 and 186 of the NPPF and Circular 06/05.

Compatibility with the Existing Use and Car Park Safety

The applicant's agent has taken on board the content of the previously published Report for this case that was put forwards for the November meeting of the Planning Committee and considers that the reason for refusal within the report relating to the incompatibility with a neighbouring use is as a result of a misapplication of policy. The agent considers as follows:

“Notwithstanding the above, we are keen to understand if the draft reason for refusal will be the same as the previous Committee Report (attached) from November 2023? This suggests that the proposal is unacceptable due to the ‘agent of change’ principle, which is now set out at paragraph 193 of the NPPF. This states ‘Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed’.

As you will know, in basic terms, this policy introduced to stop developers building flats next to live music venues or other noisy uses so that the new residents don't the make noise complaints and get the existing uses shut down under noise disturbance legislation. As I've mentioned previously – I don't think this is relevant in the context of the application.

Based on the reason put forward, the 'agent of change' is the Truck Park, it implies that the truck park will have a significant adverse impact on the vicinity. However, this is simply not the case and is evident by the fact that the Truck Park has been operating on the site for the past 4 years without any degree of infringement to the neighbouring uses. The highways officer and the EHO [Environmental Health Officer] have responded with 'no objection' to the application, so it is not rational to suggest that the proposal has any significant adverse effect on the vicinity. No unreasonable or burdensome restrictions have been placed on the Charnwood Arms in the past 4 years and there is no prospect of any restrictions being placed on them in the future as consequence of the Truck Park. Whilst the Truck Park may be undesirable for Greene King . . . from a land use planning perspective, there is no issue and no 'agent of change'. This reason for refusal is very weak and, in my opinion, a misapplication of policy."

In response to the above, as set out in the residential amenities section above, it is not considered that there would be any significant adverse impacts on neighbouring residential amenities arising from noise and disturbance arising from comings and goings to the site. The statement that no neighbour infringement has occurred is inaccurate as is evidenced by the complaints received prior to the submission of the application and during the course of the application. The impact on the operation of an existing business (bad neighbour issue) as detailed in the previous Agenda Report arose [from public safety concerns within the car park of the existing business as a result of the operation of the truck park and this is discussed again below. Furthermore, it is considered that the proposed truck part would be an 'agent of change' and it is considered that it is appropriate to apply paragraph 193 in this case.

Paragraphs 7 and 8 of the National Planning Policy Framework (NPPF) require that the planning system contributes towards the achievement of sustainable development, and set out the social objective of sustainable development, including its contribution to fostering safe places. Paragraph 116(c) of the NPPF provides that development should "...create places that are safe, secure and attractive - which minimise the scope for conflicts between pedestrians, cyclists and vehicles...". Paragraph 193 of the NPPF provides that "Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established". It is not considered that there are any development plan policies that would be directly relevant to this issue.

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

Concern is raised that the current (and proposed) access position introduces risk to pedestrians, as a result of the turning of HGVs adjacent to the main entrance to the public house. The

turning HGV's cross the path of pedestrians walking to and from their vehicles in the car park. In this regard, it is noted that there are no dedicated pedestrian refuge areas which are separate from the path of oncoming vehicles. Several excerpts of CCTV footage have been provided within the Traffic and Transport Report accompanying the representations from the Charnwood Arms providing examples of the risks to pedestrians within the car park:

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

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

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

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

The Council's Environmental Health Safety Team has been consulted on the application in respect of the safety of the public using the car park to the Charnwood Arms and have reviewed the RGP Traffic and Transport Report. The advice provided is that *"there is a foreseeable risk to pedestrians using the car park of the family friendly restaurant/ public house, from the heavy goods vehicles (HGVs) passing through the car park"*. The Safety Team note that *"the vehicular access for the HGVs passes through the area of the car park closest to the entrance to the public house, where members of the public are most likely to park, creating an unacceptable danger through the creation of a shared traffic route for HGVs and pedestrians"*. Furthermore, the Safety Team advise that the vehicular right of way for HGVs through the car park, consisting of a sharp right turn for the heavy goods vehicles, is located directly opposite the entrance to the public house where pedestrians, including children, are walking. The concern is that *"this, in combination with the blind spots/zones (as highlighted in a recent National Highways 'Blind Spots' safety campaign, supported by the Road Haulage Association) that drivers have, further increases the risks to pedestrians using the car park further still"*.

The images below from the Council's Environmental Health Safety Team were taken in July of this year and are of the truck park access route through the public house car park. The images show the proximity of the HGV access route to the entrance of the restaurant/public house and

the associated car park, and the damage caused by vehicles turning and mounting the kerb/grassed area rather than following the route of the road.

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

With respect to the image above showing damage to the kerb lines, it is noted that more recent photographs provided within the neighbour representation section of this report shows that additional damage to the kerb lines has occurred since the above photograph was taken in July 2023.

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

The Council's Environmental Health Safety Team has considered the potential to serve an Improvement Notice on the applicant, under the Health and Safety at Work etc. Act 1974, to require works to mitigate the risks from the development, for example using protective barriers,

road markings to identify vehicle and pedestrian routes, and/or the creation of crossing points. However, the Safety Team consider that the improvements that could be implemented in this area would not reduce the risks posed to families using the car park and accessing and egressing the restaurant/public house to an acceptable level. Members are also advised that the car park is not owned by the applicant and, therefore, works cannot be secured without the permission of the landowner.

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

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

As set out above, paragraphs 7, 8, 116 and 193 of the NPPF seek to create safe and secure places where conflicts between pedestrians, cyclists and vehicles are minimized and where development can be integrated effectively with existing businesses without existing businesses not having unreasonable restrictions placed on them because of new development permitted after they were established.

The application proposes to access the site via an existing car park serving a public house/restaurant and hotel which, when having regard to the extent of the car park affected, the proximity to the public house entrance/hotel reception, the difficult nature of the HGV manoeuvres through the car park at this point and the absence of any mitigation measures to enhance pedestrian safety within the site, it is considered that the proposal would represent an unsafe form of development, not constituting sustainable development. Furthermore, it is considered that that the development could restrict the operation of an existing business on the site by inhibiting the safe passage of customers, adversely affecting the experience of customers visiting the neighbouring public house/restaurant and hotel. Poor reviews could affect the reputation and operation of the existing public house/restaurant and hotel. For these reasons, it is considered that the proposal would be contrary to the policies and intentions of paragraphs 7, 8, 116 and 193 of the NPPF.

Highway Safety within the Public Highway

As set out in the neighbour representations section of this report, various complaints have been received from local residents and a neighbouring business raising concern about the suitability

of the proposed access arrangements and the route through the car park into the HGV storage area. It has also been identified by objectors to the current scheme, that the applicant has previously sought to vary the proposed route into the site under withdrawn application 21/00556/VCI on highway safety grounds. The northern route into the site which the applicant sought approval for is set out on a plan within the Residential Amenities section of this report above.

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

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

This application was withdrawn following officer concerns about the unsafe form of the development and noise and disturbance to occupants of the hotel bedrooms which is part of the Charnwood Arms complex. Whilst the application was withdrawn, the above is useful in understanding the context for the submission of the current application and the problems with the proposed access as identified by the applicant.

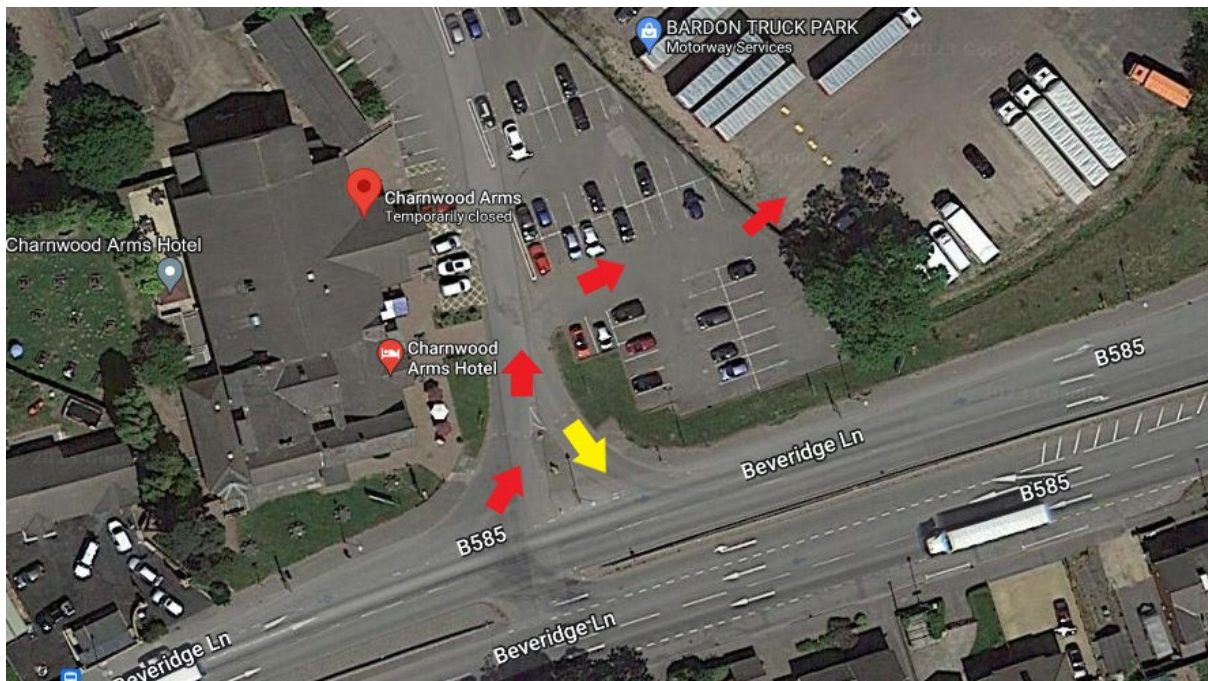
In respect of the current proposal, the site is located off a B Class road, B585 Beveridge Lane, which is a dual carriageway, subject to the national speed limit (NSL). The proposed

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

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



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



Photograph of site access looking westwards along Beveridge Lane:



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

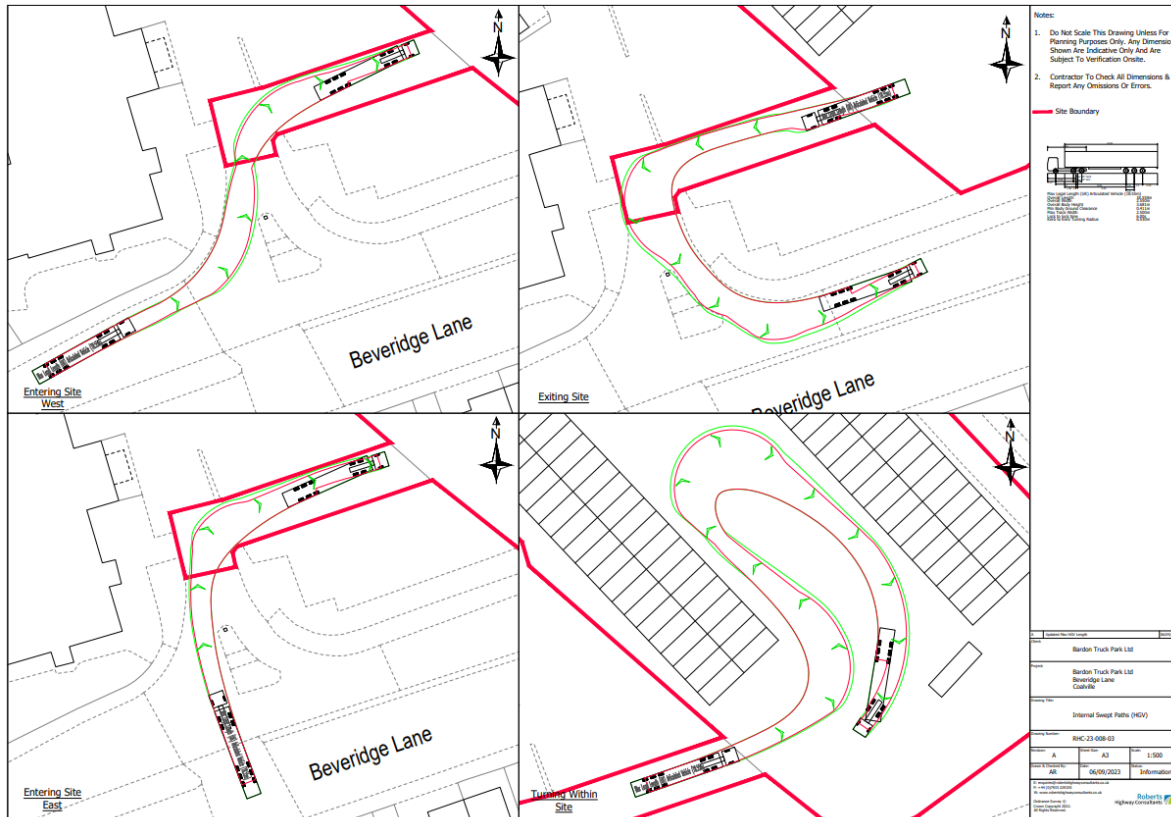


Whilst the County Highways Authority advise that they would normally seek to resist the intensification of the use of an existing access onto a B road with speed limits above 40mph or where measured vehicle speeds are in excess of 40mph, when having regard to the former use of the site as a nightclub,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

During the application additional information was sought by the County Highways Authority. The red line boundary of the site has been amended due to the original red line not abutting the public highway. Details of swept paths for the largest vehicles anticipated to use the proposed access (having regard to recent changes to the UK maximum legal articulated HGV

specification) and a highway mitigation strategy detailing signage/road markings in the public highway have been provided by the applicant at the request of the County Highways Authority.

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



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

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

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

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

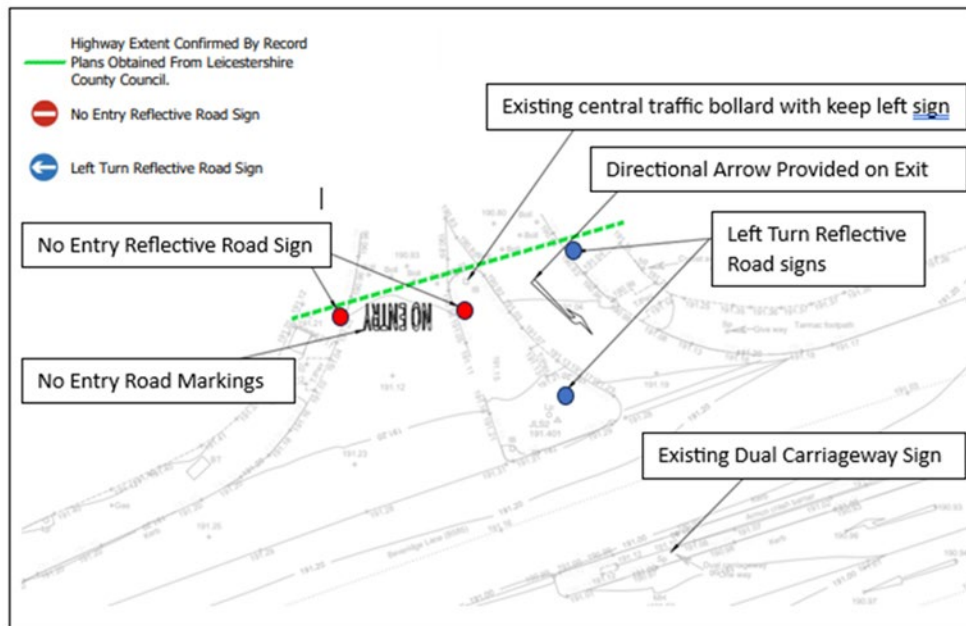
“Having reviewed the submitted RGP report and accompanying CCTV footage, it is acknowledged that evidence has been provided to demonstrate vehicles waiting within the adopted highway extents. However, it is important to note that this, whilst adopted highway, is within the site access. No evidence has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

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

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

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

Plan showing proposed Highway Mitigation Strategy



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

Regarding concerns regarding HGVs overrunning internal car park kerbs and potential conflicts occurring within the car park, these are noted by the County Highways Authority, but they advise that these matters would take place on private land and are not within the jurisdiction of the County Highways Authority to resolve. Overall, subject to conditions and a developer contribution, the County Highways Authority raises no objection to the proposals on the grounds of highway safety.

When having regard to the advice provided by the County Highways Authority in respect of matters concerning the public highway and highway safety, it is not considered that the impacts of the development on highway safety would be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, subject to conditions and developer contributions, the proposed development is considered acceptable for the purposes of Policies IF4 and IF7 of the adopted Local Plan and would not conflict with the provisions of paragraph 115 of the NPPF.

Highway Safety on Private Land

Concern has been raised by objectors about the interpretation of ‘highway safety’ by the County Highways Authority and legal advice has been sought in this regard.

The common law definition of highway is ‘*A highway is a way over which there exists a public right of passage, that is to say a right for all His Majesty’s subjects at all seasons of the year freely and at their will to pass and repass without let or hindrance.*’ (Halsbury’s Laws 21[1]).

Highways can be created by statute or common law following a period of uninterrupted use and for common law, and section 31(1) of the Highways Act 1980 specifies a period of uninterrupted use of 20 years. A highway can be a road or a footpath. It does not have to be a drivable route.

A footpath is a path that goes between two properties as opposed to a footway which is on the side of a road. There are three types of highways, and these are set out below:

- A road or footpath maintainable at the public expense – adopted road
- A road or footpath maintainable at private expense – unadopted road
- A private street/footway or footpath (where the public has no rights to use the land unless permission is given by the owner and where the private street/footpath is gated to prevent traffic for at least one day a year).

When having regard to the above definitions, the Council's solicitor advises that any person would have the right to regard the road which passes in front of the public house and restaurant down to the hotel accommodation as a highway. There are no gates which prevent access throughout the year or a sign setting out that the road is not a highway and, therefore, the Council's solicitor considers that the road passing in front of the pub/restaurant/hotel to be an unadopted highway.

Paragraph 114(b) of the NPPF requires that 'safe and suitable access to the site can be achieved for all users' and paragraph 115 requires that 'development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety'. The NPPF does not define highway safety and, therefore, notwithstanding the jurisdiction of the County Highways Authority consideration should be given to the highway safety impacts of the development on all types of highways including the unadopted highway passing through the site.

The application proposes to access the site via an unadopted highway and through an existing car park serving a public house/restaurant and hotel where there is vehicular activity into and out of the car park (including vehicles reversing) and pedestrian movement to and from the public house entrance/hotel reception. There is no dedicated pedestrian pathway through the car park and as a result, vehicles and pedestrians share the unadopted highway and circulation space within the car park. Lorry movements would occur 24 hours a day which, therefore, includes the operational hours of the neighbouring business and as a result there is potential for conflict between vehicles, and between vehicles and pedestrians.

The manoeuvring of lorries into and out of the lorry park requires a tight turning movement where the lorry enters or leaves the car park from or to the unadopted highway. The difficulty of undertaking this manoeuvre in accordance with the swept path details provided is evidenced on site by damaged kerbstones as vehicles overrun the grassed landscaped area on entrance to the car park. It is noted that this landscaped area is used as a pedestrian refuge within the CCTV footage provided by the neighbouring business. In navigating this manoeuvre, the lorries may need to accommodate moving vehicles leaving the site from the car park/lorry park, vehicles manoeuvring in and out of parking spaces and pedestrians passing through the car park within the circulation space. Video footage has been provided showing that these conflicts with other vehicles and pedestrians occur on the unadopted highway and within the car park where one has to give way to the other.

Overall, when having regard to the advice of the County Highways Authority whilst it is not considered that there would be an adverse impact on highway safety within the public highway, officers considered that the safe use of the unadopted highway within the site by all users would be adversely affected by the development proposals. When having regard to the proximity of the site to the public house entrance, the difficult nature of the HGV manoeuvres through the unadopted highway and car park and the absence of any mitigation measures to enhance pedestrian safety within the site, it is considered that the proposal would represent an unsafe

form of development that would not provide safe access for all users of the unadopted highway passing through the site, contrary to highway safety. Approval of the proposal would be contrary to the provisions of paragraphs 7, 8, 114(b), 115, 116 of the NPPF.

Other Matters

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

With respect to comments made about the land deeds for the site requiring certain actions in respect of access, the courts have determined over the years that land ownership and the contents of deeds aren't planning issues, and these cannot be considered in the determination of any planning application. If the deeds for the land specify that a certain action must happen then this needs to be addressed by the individual outside of the planning system.

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

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

Overall Planning Balance, Contribution to Sustainable Development and Conclusions

Economic Objective:

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

Social Objective:

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

Environmental Objective:

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

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

It is also recommended that enforcement action be taken to require the cessation of the use of the lorry park on the site and the restoration of the site to its former condition.

Works to an existing clubhouse to include raising the roof height to provide first floor accommodation, dormer windows and a balcony with the erection of a single storey building to provide changing room facilities, retention/extension to terrace stand and new pathway

Report Item No
A2

Ashby Ivanhoe Football Club, Lower Packington Road, Ashby De La Zouch, Leicestershire LE65 1TS

Application Reference
23/01108/FUL

Grid Reference (E) 436019
Grid Reference (N) 315721

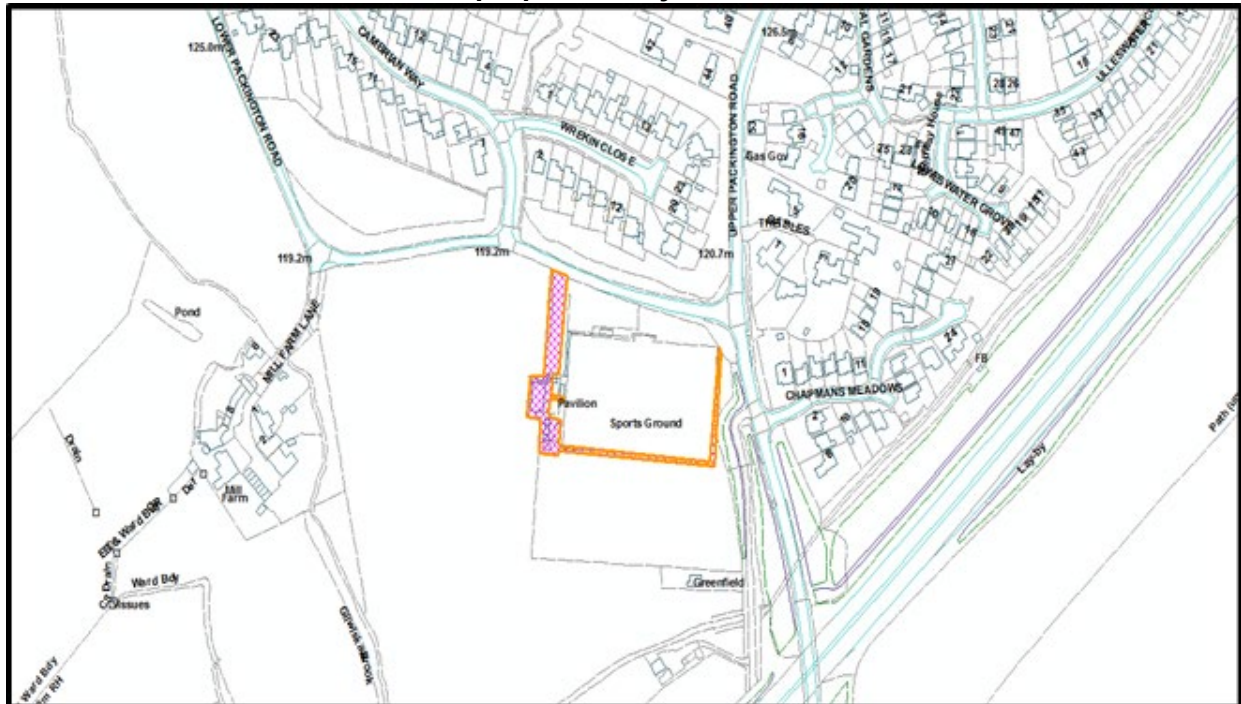
Date Registered:
22 September 2023
Consultation Expiry:
9 November 2023
Determination Date:
17 November 2023
Extension of Time:
09 February 2024

Applicant:
Ashby Ivanhoe Football Club CIC

Case Officer:
Donnella Wood

Recommendation: PERMIT

Site Location - Plan for indicative purposes only



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Reason the case is called to the Planning Committee:

This application is brought to Planning Committee at the request of Councillor Bigby who is the Local Member for the neighbouring ward to that which this application sits. His reasons for the call in are as follows:

- The scheme will impact on the residential amenity of the closest occupiers of his ward to the site.
- Will impact on highway safety in his ward specifically in terms of traffic and parking
- Is unacceptable development in the countryside
- Will impact on the River Mease SAC

RECOMMENDATION - PERMIT, subject to the following conditions:

1. Standard time limit
2. Plans – standard condition
3. Materials – In accordance with
4. Landscaping – details to be submitted
5. Boundary treatments – details to be submitted
6. Tree protection (Pre-commencement) - details to be submitted
7. Bat activity survey report & mitigation scheme (Pre-commencement) - details to submitted
8. River Mease sustainable drainage system – standard River Mease soakaway condition
9. Lighting - no installation of lighting without express permission from the LPA
10. Levels – no change to site levels without express permission from the LPA
11. Use of site – in accordance with details within the application to ensure appropriate use

MAIN REPORT

1. Proposals and Background

Planning permission is sought for works to an existing clubhouse to include raising the roof height to provide first floor accommodation, dormer windows and a balcony with the erection of a single storey building to provide changing room facilities, retention/extension to terrace stand and new pathway at Ashby Ivanhoe Football Club, Lower Packington Road, Ashby De La Zouch.



Aerial view of the site

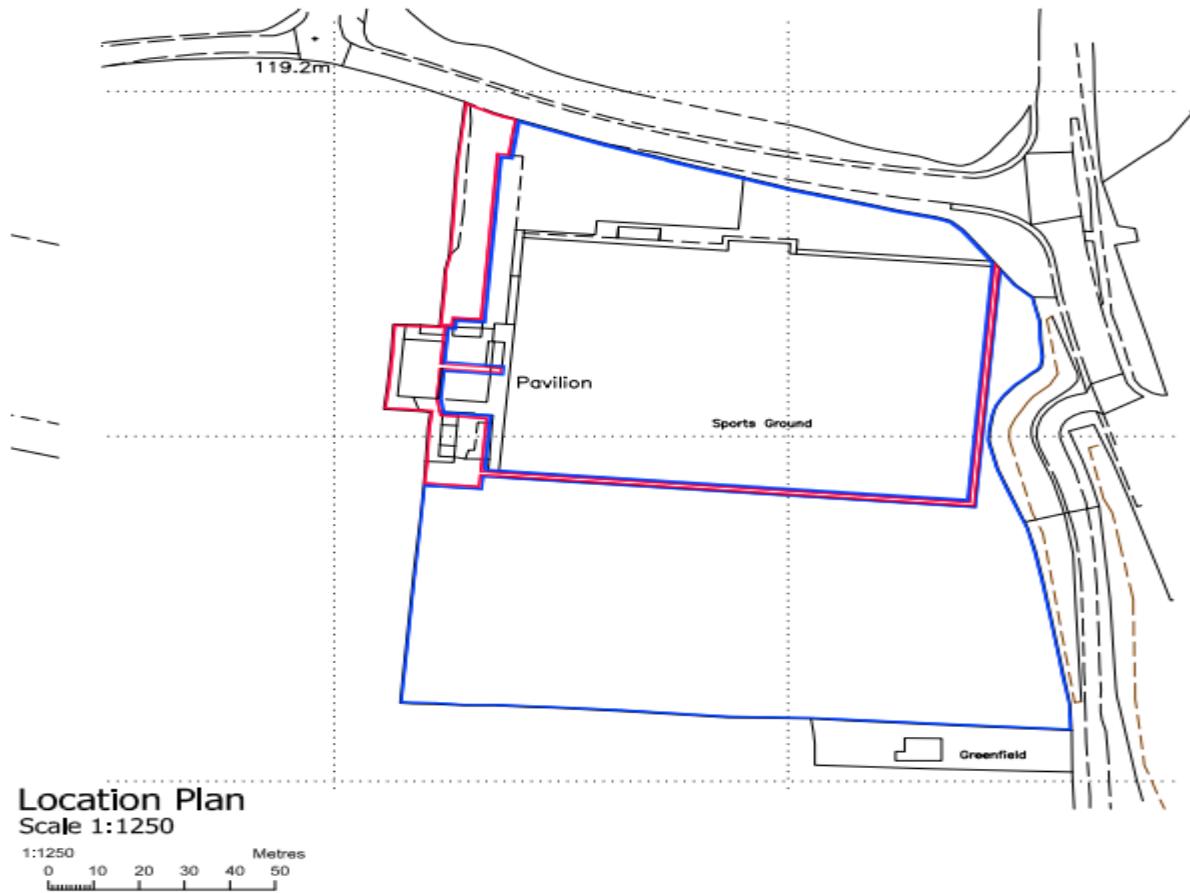
The application site is located to the southern side of Ashby on Lower Packington Road, and it is enclosed by post and rail fencing and low level hedgerow.

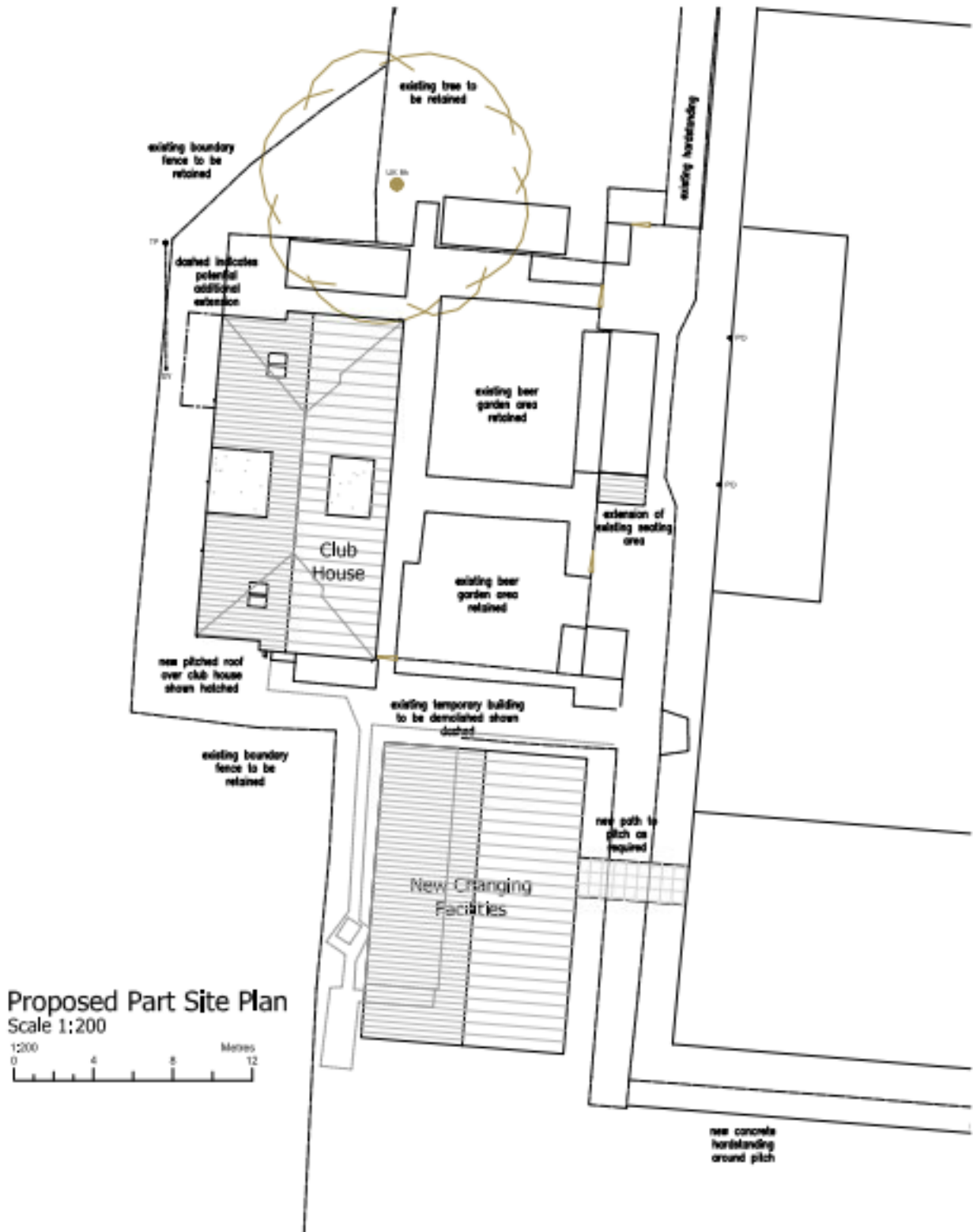
The site is located outside the Limits to Development, as defined by the adopted Local Plan and is sited close to the settlement limits of Ashby de la Zouch which is identified as a Key Service Centre. The site is located within the National Forest, and it has been identified as being within Flood Zone 1 as per the Flood Map for Planning (Rivers and Sea) published by the Environment Agency. The site additionally falls within the catchment area of the River Mease Special Area of Conservation.

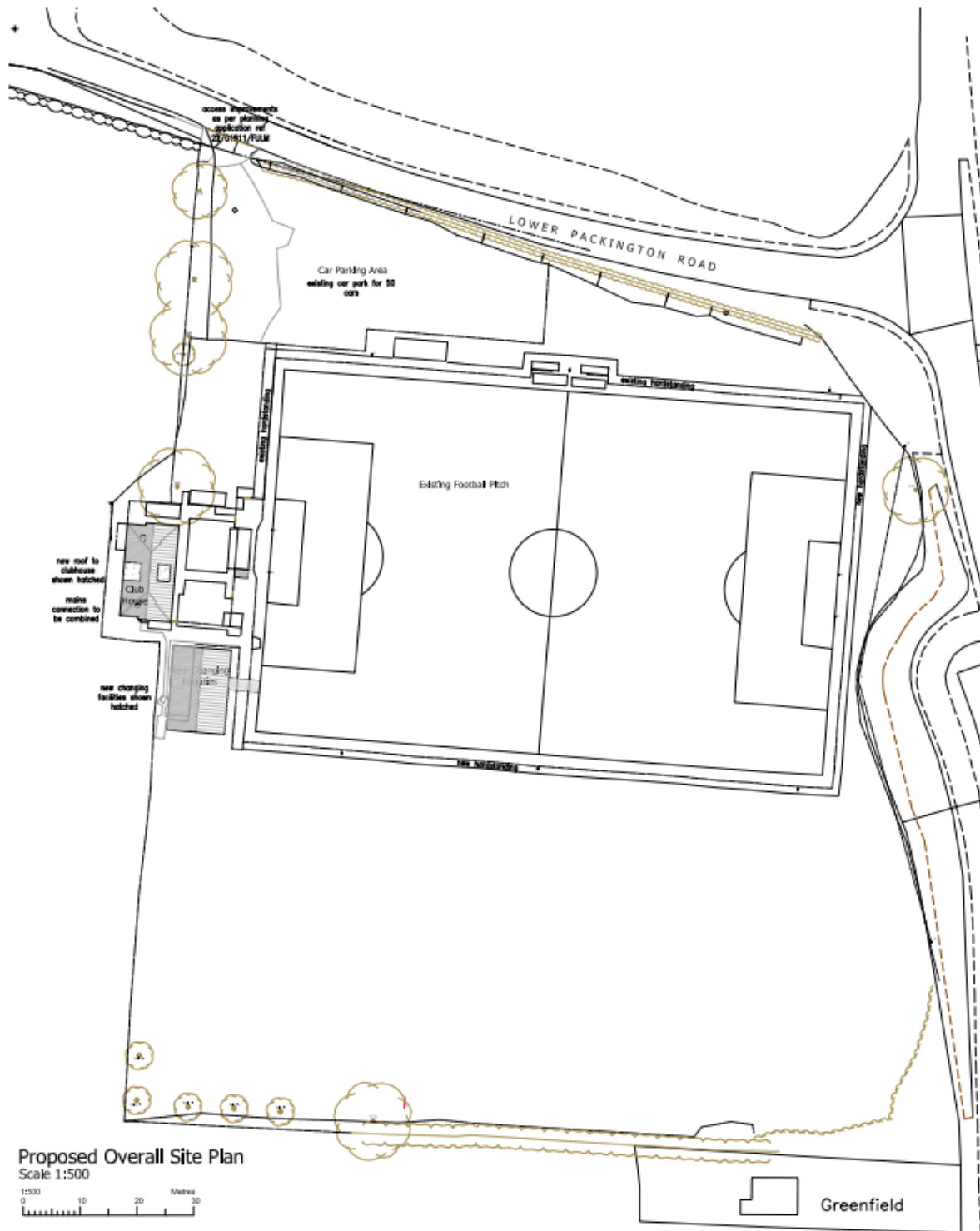


View from Lower Packington Road

The proposal would allow for new single storey changing room facilities to replace an existing portacabin, raising the roof to the existing club to provide first floor accommodation, dormer windows, rooflights and a balcony, the retention and extension of an existing terraced stand and the provision of new concrete hardstanding alongside the southern and eastern boundaries of the existing playing pitch.







Site Plan

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

Relevant Planning History

- 14/00007/REFUSE - Residential development of up to 70 dwellings (Class C3). Green infrastructure to include retained vegetation, habitat creation (including new woodland planting), open space, amenity space and play areas, sustainable drainage systems/features, and new walking/cycling/recreational routes. Infrastructure to include highway and utilities and associated engineering works (including ground modelling) and vehicular access via the construction of a new junction off the existing Lower Packington Road (outline - all matters reserved other than part access) – Application refused and dismissed at appeal on 28.10.2014
- 13/00694/OUTM Residential of up to 70 dwellings (Class C3). Green infrastructure to include retained vegetation, habitat creation (including new woodland planting), open space, amenity space and play areas, sustainable drainage systems/features, and new walking/cycling/recreational routes. Infrastructure to include highway and utilities and associated engineering works (including ground modelling) and vehicular access via the construction of a new junction off the existing Lower Packington Road (outline - all matters reserved other than part access) – Refused on 14.01.2014
- 13/00720/FUL Installation of six no. 15.0 metre high floodlights to illuminate senior football pitch - Permitted on 05.11.2013
- 15/00665/FUL Erection of 50 no. seat grand stand - Permitted on 27.08.2015
- 22/01811/FULM Change of use of land to recreation use including the formation of sport pitches, parking area, improved access, and landscaping - Permitted subject to a S106 agreement on 21.12.2023

2. Publicity

48 Neighbours have been notified.
Site Notice displayed 29 September 2023.

3. Summary of Consultations and Representations Received

Ashby de la Zouch Town Council - Raised objections on neighbour amenity, highway safety and sustainability grounds.

Leicestershire County Council Highways – No objection.

Leicestershire County Council Ecology – Advised conditions relating to bats.

NWLDC Environmental Protection - No objection.

NWLDC Tree Officer – Advised conditions relating to tree protection measures.

Natural England – Advised conditions relating to implementing a sustainable drainage system.

Third Party Representations

41 letters of representation have been received in total on this application. 25 of these letters were received in support of the proposal with 16 raising objections to the scheme.

All responses from statutory consultees and third parties are available to view in full via the Council website and only comments which raise material planning issues can be considered.

The following comments have been made in support of this scheme:

Grounds of Support	Description
Highways	Already the works the club have done has reduced parking issues for residents
	Never more than 8 -10 cars parked legally on nearby estates it is a public road with no parking restrictions as hard as the club works to stop people parking there you cannot compel them not to do so
	As the car parking situation at the club improves more will use the car park
	On-site parking is already being addressed including separate entrance and exits
Sport provision	Club improves the physical and mental health and wellbeing of children and residents
	Club provides exercise for 400 local children allowing them to express their talents in a safe environment
	Exercise/team activities results in health benefits, mental and physical as well as benefits to social skills, life skills and wellbeing
	Club is inclusive, has a development school for children who have previously struggled to get into teams
Neighbour amenity impacts	Claims of a balcony causing noise concerns are farcical, it faces few dwellings
Other Comments Received	Positive impacts to local residents including children
	The club has been there longer than anyone has lived there.
	Club needs the modernisation to bring it into the 21 st century, these measures will cement its future
	The club is an established asset to the community
	New facilities are vital, at present there are not enough toilets for the number of teams
	Benefits to the community

	Club encourages team work, discipline, fun, confidence and friendship
	Helps with mental health
	Current facilities woefully inadequate
	Substantial number of residents have a connection with the club
	Future proofs the club for years to come
	Building is decaying with rotting cabins upgrades are vital
	Economic benefits to the town
	The club is held back by the facilities
	Works will provide a basic need and benefit generations to come
	The reasons for objection are nonsense and short sighted
	Most other football clubs at this local level are situated within single road estates and are supported by their communities
	Absolutely needed for the growing town
	Ashby is underrepresented in facilities of any sort; these improvements will enhance the area
	Aesthetic upgrades to a club being used for sports since the 1950's, once complete the town will have a facility it can be proud of
	The club promotes the town, helps to generate a wider knowledge of the town and all its great facilities and raises the profile of the town to generate more income / tourist and business investment to help the development of the whole area,
	The football club has been involved with numerous charities and has hosted lots of family events ran mainly by volunteers

The following points have been raised in objection to this scheme:

Grounds of objection	Description of impact
Highways	Parking concerns
	Congestion/traffic issues
	Existing highways issues would be worsened
	Pedestrian/cyclist safety risks
	Access issues
	The LHA (so far) to acknowledge and address the growth of

	the club, and the intensification of use and traffic generation proposed by the cumulative impact of all current development proposed
	Repeated failures of the club, the LHA and the council to address highways issues including through lack of parking controls
	Further highways surveys should be submitted including speed and trip generation
	Road infrastructure cannot cope
	Ashby Rugby Club have recently doubled the size of their club house and improved facilities, but they have also created enough off street parking for those that attend. They have hundreds of people attending with no issues as they have made parking space for their members/visitors.
	No electric car parking chargers are being provided
	Parking stewards should be employed
Design and character	Area is countryside, development is not appropriate in this location. The creeping intensification of development involving construction of extra car and coach parking, floodlighting, grandstands, covered spectator space, dug-outs, fencing, adverts, netting and other paraphernalia has clearly made massive, harmful changes to the character of the area.
	The proposed development is excessive
	Impact of the proposal on the landscape
Neighbour amenity impacts	Noise impacts from visitors and from the balcony will expand to a greater area. Club has not submitted any noise assessments and made no effort to be considerate to residents who suffer from noise pollution
	Residents are already negatively affected by events held at the club
	Visitors to the club have no regard for residents, they block drives, they create litter and are noisy and have been threatening
	Anti-social behaviour concerns
Other material planning considerations	Impact on the River Mease

	Environmental concerns
	Issues from the club are destroying the once quiet and beautiful area
	Still no established residents' group despite S106. The club isn't interested in reaching out to residents.
Other comments received which aren't material planning considerations	Clubs aims are economic benefit to them not to the benefit of children. Aims to be a large leisure and social facility, as seen by the doubling of the entertainment floorspace, renting out the venue etc.
	Residents have had to submit anonymous objections for fear of retribution
	Other football clubs in Ashby also support children and don't need a bar open 7 days a week to do so
	Concerns over alcoholic drinks potentially being brought out of the clubhouse onto neighbouring roads
	The intention is to create an events' venue used at all times on any day of the week thus resulting in a large increase in the number of people using the premises.
	Not opposed to children having fun through support and exercise, issues are with the increased use/events held at the club
	The club should provide a copy of their development plan with a time scale for the next ten years so that everyone concerned can see what is intended instead of drip-feeding planning applications on an ad hoc basis as seems to be happening
	This is the 4th application relating to the site, it feels like a case of creeping development. The piecemeal approach to development is clearly an attempt to avoid proper scrutiny of legitimate planning concerns and assessment of the cumulative effect of all the currently proposed development.
	It feels more like the ongoing development of a mini stadium and entertainment centre than additional playing areas and changing facilities
	Club exploits permitted development rights
	It is wrong to describe the use as a "community services" as it is not a facility for the use of the whole community – only for members of the football club, their supporters or visiting players and supporters.
	Increase in recent membership significant, use of the site much higher than under the old club
	The club's facilities already satisfy FA requirements, the proposed development is designed to support the clubs non-sporting commercial activities

	Huge intensification of use already to the site as the club progresses through the leagues
	Council should impose controls on maximum visitor numbers, hours of operation covering lighting, outside functions, use of high level balcony, hours of use of the clubhouse and restrictions on non-football activities across the whole of the site, restrictions on the use of the Public Address system to team and public safety announcements only and a S106 Agreement establishing a resident liaison committee
	Behaviour of the club and customers unacceptable and not in keeping with a family friendly club
	Club needs to hire security
	Club needs to draw up a code of conduct for visitors

4. Relevant Planning Policy

National Planning Policy Framework (2023)

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

Paragraphs 8 and 11 (Achieving sustainable development)

Paragraphs 55 - 57 (Planning conditions and obligations)

Paragraphs 85, 87, 88 and 89 (Building a strong, competitive economy)

Paragraph 97 (Promoting healthy and safe communities)

Paragraphs 110 and 111 (Promoting sustainable transport)

Paragraph 128 (Requiring good design)

Paragraphs 123 and 124 (Making effective use of land)

Paragraphs 157 and 159 (Meeting the challenge of climate change)

Paragraphs 180, 185, 186, 187 and 188 (Meeting the challenge of climate change)

Adopted North West Leicestershire Local Plan (2021)

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

S2 - Settlement Hierarchy

S3 - Countryside

D1 - Design of New Development

D2 - Amenity

IF1 - Development and Infrastructure
IF2 - Community and Cultural Facilities
IF3 - Open Space, Sports and Recreation Facilities
IF4 - Transport Infrastructure and New Development
IF7 - Parking Provision and New Development
En1 - Nature Conservation
En3 - The National Forest
Cc2 - Water - Flood Risk
Cc3 - Sustainable Drainage Systems

Ashby Neighbourhood Plan (2018)

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

Policy S1 - Presumption in favour of sustainable development
Policy S3 - Development Proposals Outside of the Limits to Development
Policy S4 - Design
Policy NE4 - Biodiversity
Policy NE5 - Trees and Hedgerows

Other Policies/Guidance

Planning Practice Guidance.
Leicestershire Highways Design Guide (Leicestershire County Council).
Good Design for North West Leicestershire SPD - April 2017.
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System).
River Mease Water Quality Management Plan - August 2011.
The River Mease Developer Contributions Scheme (DCS1 & 2).
National Forest Strategy 2014-2024.
Natural England - Advice for development proposals with the potential to affect water quality.
National Design Guide - October 2019.
Sport England – Planning for Sport Guidance – June 2019.
Building for a Healthy Life (BHL) - June 2020.

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).

This proposal is for works to an existing clubhouse to include raising the roof height to provide first floor accommodation, dormer windows and a balcony with the erection of a single storey building to provide changing room facilities, retention/extension to terrace stand and new pathway.

One of the core principles of the NPPF is sustainability and applications to secure sustainable economic growth should be treated favourably.

The application site lies outside the Limits to Development and would therefore fall to be considered against Policy S3 of the Local Plan.

Policy S3(i) supports the *"Expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings and well-designed new buildings"* and *development as it relates to recreation and tourism S3(n)*.

The application proposal would therefore constitute a form of development permitted in the countryside under Policy S3.

Policy S3 states that development in accordance with criteria a-s would be supported, subject to satisfying criteria i-vi as set out below:

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

For the reasons discussed later in this report, it is considered that the appearance and character of the landscape would be safeguarded.

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

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

The proposed development would utilise land within an established football club, it would not create or exacerbate ribbon development, nor undermine the physical or perceived separation between nearby settlements.

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

As the proposal would form part of an existing established football club it is considered the proposed development would be well related to existing development within the immediate vicinity.

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

Given that the proposal would result in a continued use which is typically associated with open space it is not considered the proposal would seriously undermine the vitality and viability of existing town and local centres.

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

The site is served by public transport with bus stops approximately 125m from the site entrance and due to the nature of the proposal and its location close to the settlement limits of Ashby de la Zouch which is identified as a Key Service Centre and proximity of the club from neighbouring streets, it is considered visitors could walk or cycle to the site as such, more sustainable modes of transport are an option.

Given the above, the proposal is not considered to conflict with Policy S3 of the Local Plan.

Policy S3 of the adopted Ashby Neighbourhood Plan (2018) advises land outside the defined Limits to Development will be treated as countryside, where development will be carefully controlled in line with local and national strategic planning policies. In all cases, where development is considered acceptable, it will be required to respect the form, scale, character and amenity of the landscape and the surrounding area through careful siting, design and use of materials.

Given the previous assessment, the proposal is not considered to conflict with Policy S3 of the Ashby Neighbourhood Plan.

Assessment of the objections received in relation to compliance with Policy S3 of the adopted North West Leicester Local Plan and Policy S3 of the adopted Ashby Neighbourhood Plan

Objection	Response
The proposal conflicts with Policy S3 of the Local Plan and Policy S3 of the Neighbourhood Plan.	See above assessment. This concludes that the proposal would not conflict with Policies S3 of the Local and Neighbourhood Plans.

With regard to Policy S3(n) development as it relates to recreation and tourism which is supported under Policy S3 subject to the criteria as outlined above the adopted Local Plan advises on recreation that it is important that local communities have access to high quality open spaces and opportunities for sport and recreation as this makes an important contribution to the health and well-being of communities advising open space can provide for a range of users and uses, and can comprise for example, parks and gardens, informal recreation areas, outdoor sports facilities, and equipped play areas and allotments, it is therefore important to both protect our existing open spaces and sport and recreational facilities but to also improve provision, either through new or enhanced facilities.

Specifically on recreation the Ashby Neighbourhood Plan states it is important that any open space, sport and recreational provision and associated infrastructure is designed and provided to encourage all age groups to take part in recreation and exercise.

Building for a Healthy Life (BHL) acknowledges that improving the health of local communities requires greater action, and promotes development that offers social, leisure and recreational opportunities a short walk or cycle from their homes.

Paragraph 96 of the National Planning Policy Framework (NPPF) states planning decisions should aim to achieve healthy, inclusive, and safe places which enable and support healthy lifestyles and social interaction, especially where this would address identified local health and well-being needs - for example through the provision of sports facilities.

Sport England Planning for Sport Guidance (2019) provides guidance on how the planning system can help to provide opportunities for all to take part in sport and be physically active urging planning authorities to recognise and give significant weight to the benefits of sport and

physical activity and to be supportive of improvements to existing provision which meets identified needs and encourages use by under-represented groups.

Policy S3(i) of the Local Plan supports the expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings and given the site is an existing established commercial football club proposing works to support the current activities within the site it is considered the proposal would comply with the aims of Policy S3(i) as well as the aims of the NPPF which indicates that applications to secure sustainable economic growth should be treated favourably.

In summary, the scheme would comply with Policies within the adopted Local Plan, the Neighbourhood Plan and given the undeniable benefits to physical and mental health, wellbeing and social interactions the establishment provides, it is considered that the improvements proposed to the football club would contribute to the local community and is essential to encouraging and maintaining healthy lifestyles in accordance with the advice contained within the NPPF, the adopted Ashby Neighbourhood Plan, Sport England Planning for Sport Guidance and BHL. Therefore, the principle of the development is considered to be acceptable, subject to all other planning matters being addressed.

Design and Impact upon Character

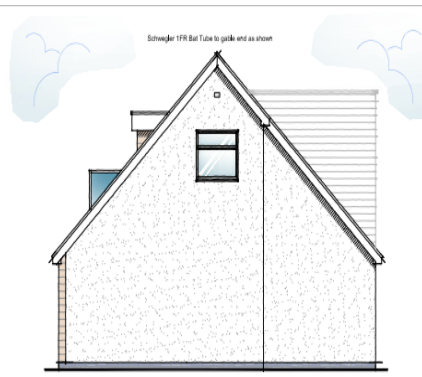
Policy D1 of the Local Plan (2021) requires that all developments be based upon a robust opportunities and constraints assessment and be informed by a comprehensive site and contextual appraisal. Policy S3 requires that where development is acceptable in principle, the appearance and character of the landscape, and local distinctiveness is safeguarded and enhanced. Policy S3 of the Ashby Neighbourhood Plan (2018) advises where development is considered acceptable, it will be required to respect the form, scale, character and amenity of the landscape and the surrounding area through careful siting, design and use of materials.

The proposal would allow for new single storey changing room facilities to replace an existing portacabin, raising the roof to the existing club to provide first floor accommodation, dormer windows, rooflights and a balcony, improvements to the existing access, the retention and extension of an existing terraced stand and the provision of new concrete hardstanding alongside the southern and eastern boundaries of the existing playing pitch.

PLANNING APPLICATIONS- SECTION A



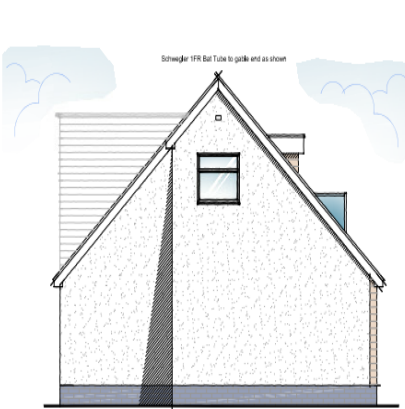
Proposed Front Elevation
Scale 1:50



Proposed Side Elevation
Scale 1:50

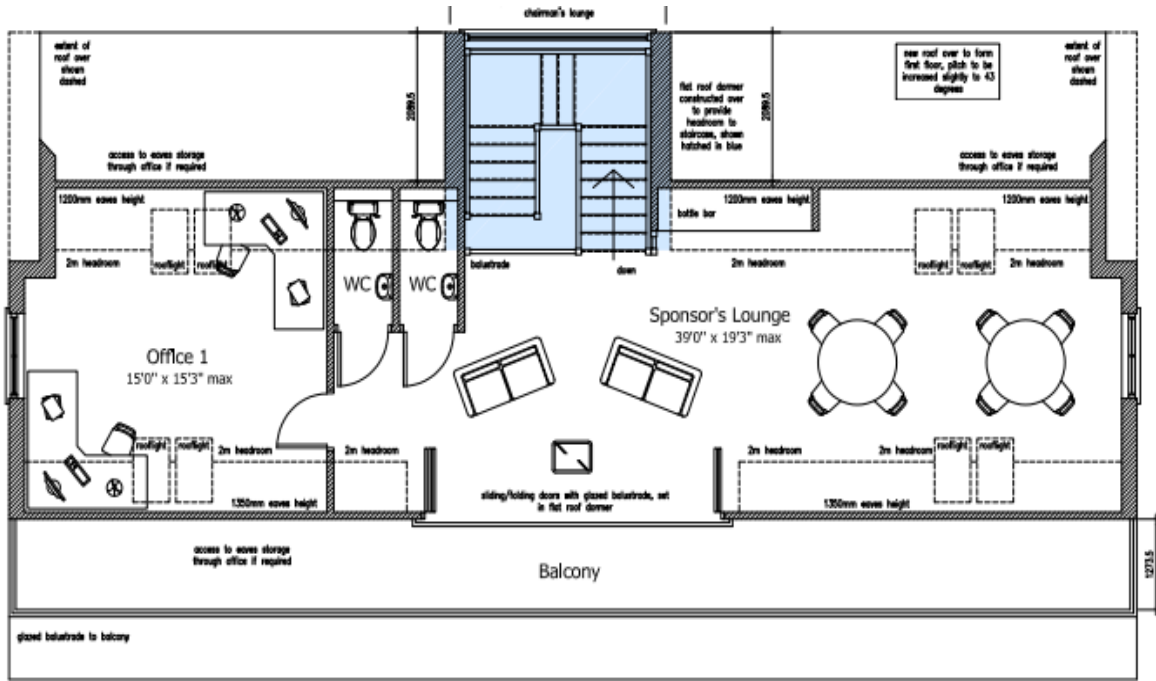


Proposed Rear Elevation
Scale 1:50

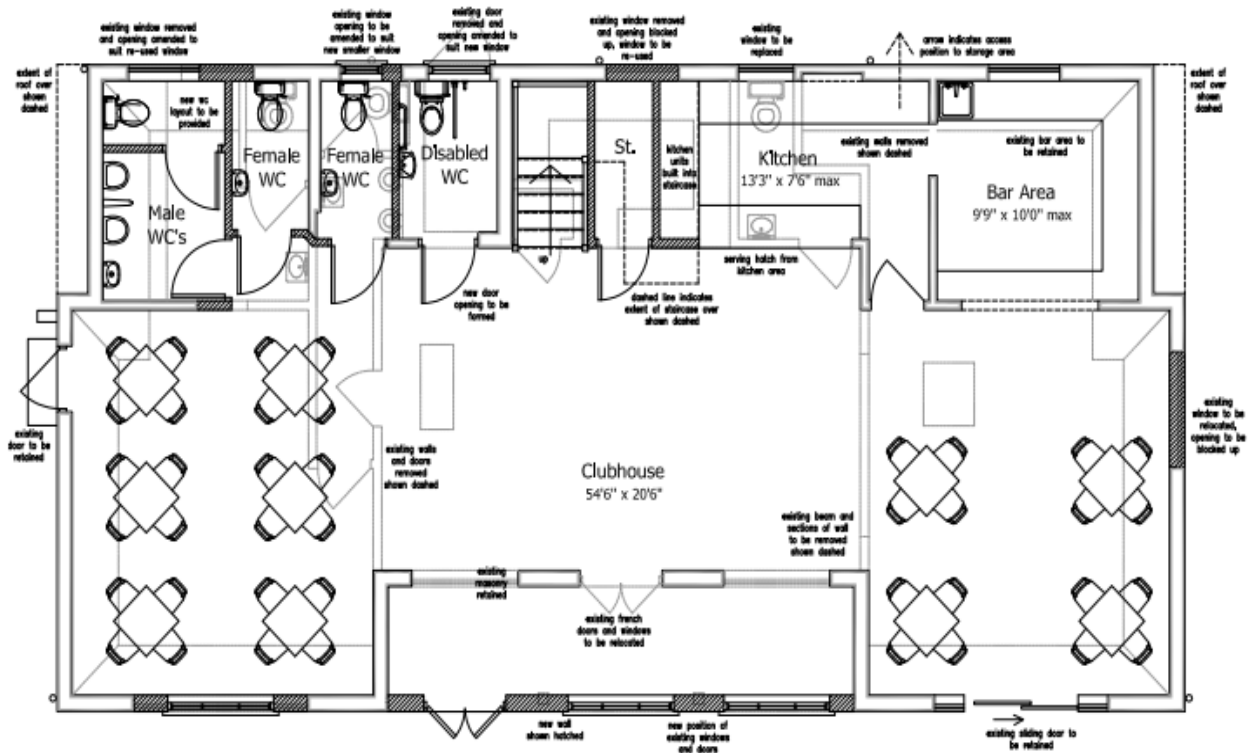


Proposed Side Elevation
Scale 1:50

Clubhouse proposal - Elevations



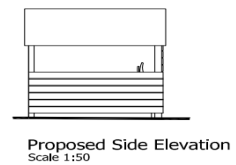
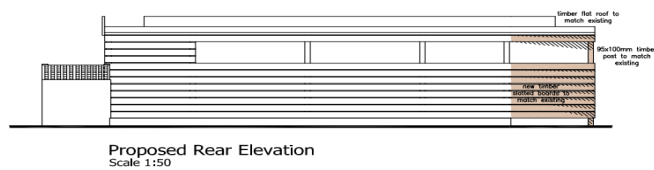
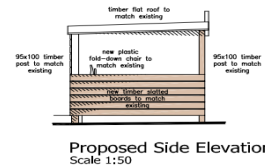
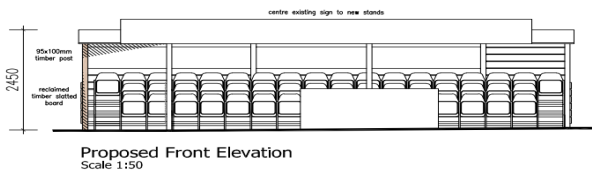
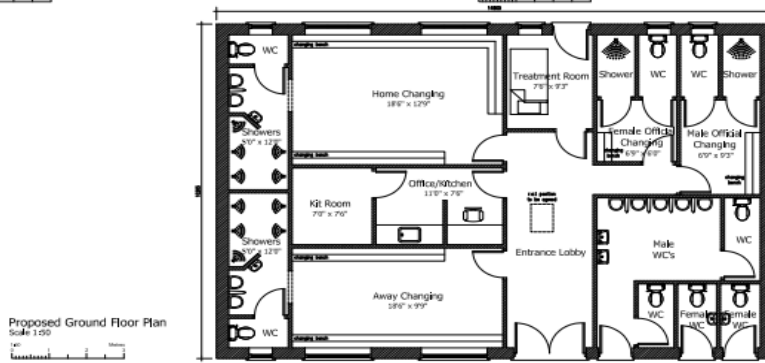
Proposed First Floor Plan

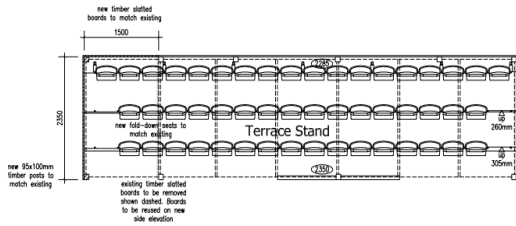


Proposed Ground Floor Plan

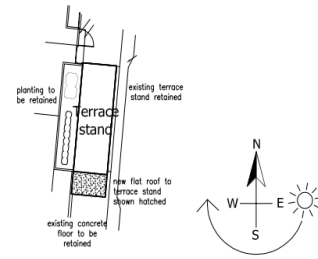
Clubhouse proposal – Floor Plans

PLANNING APPLICATIONS- SECTION A





Proposed Ground Floor Plan
Scale 1:50



Proposed Site Plan
Scale 1:200

Changing room and terrace stand



visualisations

3D

Whilst the site is within the countryside in planning policy terms, the works proposed would take place within the existing developed grounds of the football club and the visual context of the site is defined by its location close to the built up area to the edge of the defined limits to development with neighbouring properties to the north and east of the site as well as the existing club and sporting infrastructure. To the west of the site the Public Right of Way (PROW)

Footpath O17 runs adjacent to the site which features mature hedgerow providing a level of screening. To the south and east of the site additional mature hedgerow provides suitable screening. Low level hedgerow with post and rail fencing forms the northern boundary.

Having regard for the scale of the proposal which would largely result in works to existing development and replacement structures and the existing site context as described above it is not considered that the proposal would erode the character and appearance of the countryside and therefore would be compliant with Policy S3 of the adopted North West Leicester Local Plan and Policy S3 of the adopted Ashby Neighbourhood Plan. Further, given the existing screening to the site from the established planting in addition to landscaping enhancements which could be secured via a suitably worded condition it is not considered the proposal would be significantly detrimental upon users viewing the from the adjacent PROW and highway.

Given the above, on balance, subject to conditions securing suitable boundary treatments and a landscaping scheme, the proposal is not considered to result in harm to the site itself nor would it be visually harmful to the character and appearance of the surrounding area. The proposal is considered to be compliant with Policy D1 of the Local Plan, Policy S4 of the Ashby Neighbourhood Development Plan and the advice contained within the NPPF.

Assessment of the objections received in relation to Design and Impact upon Character

Objection	Response
Area is countryside, development is not appropriate in this location	See above assessment. It is not considered this would be to levels to warrant the refusal of the application particularly as landscaping and boundary treatments can be secured by condition to mitigate any impacts.
Impact of the proposal on the landscape	See above assessment. It is not considered this would be to levels to warrant the refusal of the application as the impact on the surrounding landscape can be suitably mitigated by conditions.

Impact upon residential amenity

Policy D2 of the Local Plan (2021) requires that proposals for development should be designed to minimise their impact on the amenity and quiet enjoyment of both existing and future residents within the development and close to it. Policy S4 of the Ashby Neighbourhood Plan (2018) requires that proposals should minimise the impact on general amenity and give careful consideration to noise, odour, light and loss of light to existing properties.

During the course of the application, neighbouring property occupiers have both overwhelmingly raised support and objections to the development raising a number of matters as summarised within the third party letters of representation section of this report. The representations are available to read in full via the Council website and only material planning considerations can be considered during the determination of the application. Consideration has been given to the impact of the proposal on neighbouring properties.

The surrounding area is densely packed with neighbouring properties being at varying distances from the proposal with the majority of the neighbouring occupiers living within the streets to the north and east of the site. Due to the nature of the development, it is not considered that the

proposal would result in any unacceptable amenity impacts to neighbouring dwellings when having regard to overshadowing, overbearing, or overlooking impacts.

Whilst neighbouring properties who have objected to the proposal are concerned that the works are to facilitate an increased membership to the club, it is clear from visiting the site that the existing facilities are in a poor condition which is impacting the existing users which has further been confirmed within the letters of support for the proposal. The works proposed are intended to improve the site provisions for the current members by providing a new single storey changing room facility to replace the present facilities, raising the roof of the existing clubhouse to provide additional space and the retention and extension of the existing terraced stand. It is not considered that the relatively modest amendments proposed to an existing and established football club would result in an unacceptable increase in noise and disturbance over and above that of the existing site which could warrant a refusal of planning permission and neighbouring properties are sufficiently distanced from the works to not be adversely impacted over and above the impacts from the existing development.

The Council's Environmental Protection Team were consulted on this application and confirmed they had no objections to the development.

Whilst neighbouring properties have raised concerns relating to noise impacts in particular the proposed balcony, given the distance of the proposal from neighbouring properties, the overall scale of the proposal and when having regard to the existing use of the site and following no concerns raised by the Council's Environmental Protection Team it is not considered that any specific noise mitigation conditions are required or that a refusal on these grounds could be substantiated.

Matters relating to excessive noise and disturbance are not covered by the planning system and are covered by the Environmental Protection Act. Should the occupiers of the neighbouring properties to the site believe the noise/disturbance from the football club becomes a statutory nuisance above permitted levels, they can raise their concerns with the Council's Environmental Protection Team who would investigate the matter under the relevant legislation. This planning application can only consider that which has been specifically submitted by the applicant and it cannot address the issues with the club as existing which are raised by the objectors and are listed as not being material planning considerations in the earlier neighbour objections part of this report.

Sport England Planning for Sport Guidance (2019) provides guidance on how the planning system can help to provide opportunities for all to take part in sport and be physically active urging planning authorities to recognise and give significant weight to the benefits of sport and physical activity and to be supportive of improvements to existing provision which meets identified needs and encourages use by under-represented groups. The guidance calls on planning authorities to protect and promote existing sport and physical activity provision ensuring that new development does not prejudice its use and to support the provision of new or enhanced sport and physical activity provision unless it can be clearly demonstrated that they would have unacceptable impacts on amenity which cannot be addressed through mitigation measures.

On balance it is not considered that the proposal would result in any unacceptable amenity impacts which could warrant a refusal of permission. In view of the above the proposal is considered to be acceptable in relation to Policy D2 of the Local Plan, Policy S4 of the Ashby de la Zouch Neighbourhood Development Plan, the Council's Good Design SPD and the advice contained within the NPPF.

Assessment of objections received in relation to residential amenity

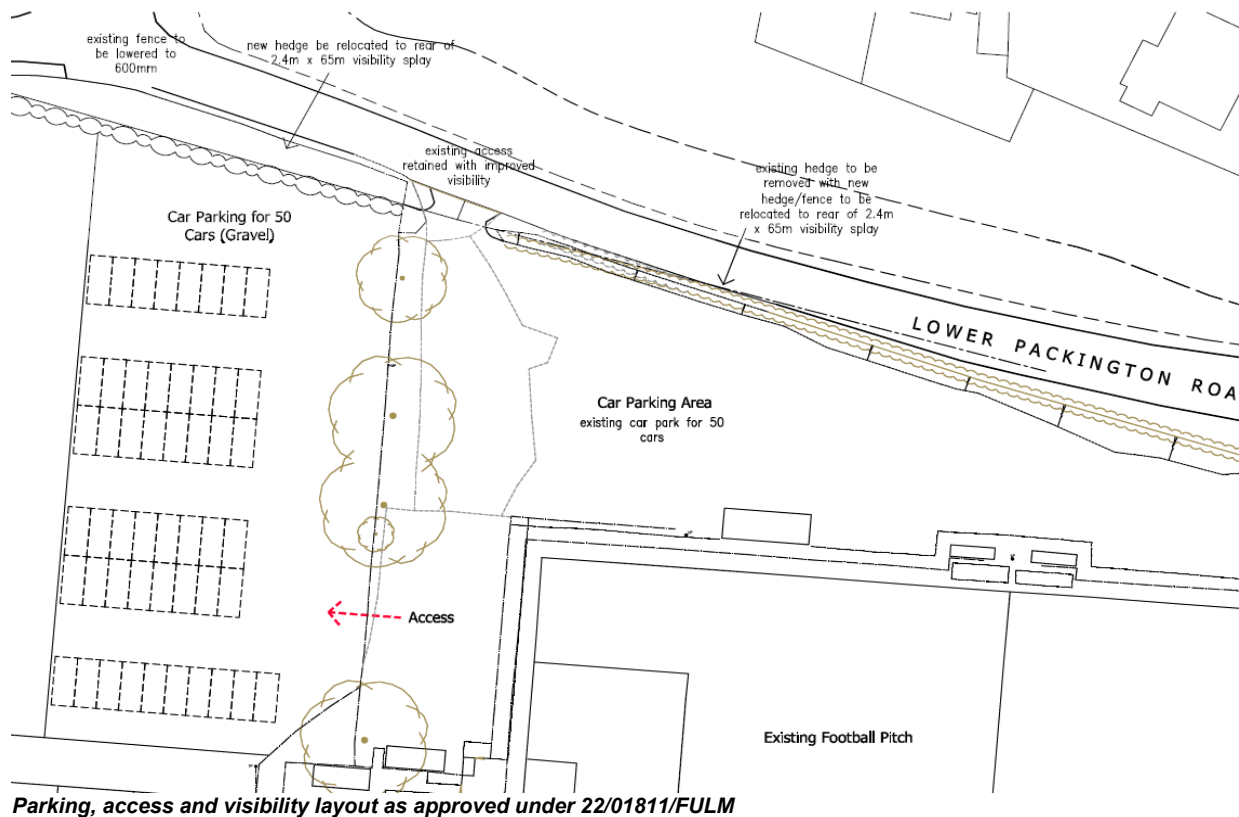
Objection	Response
Concerns regarding noise and disturbance	See above assessment. The NWLDC Environmental Protection Team were consulted on the application and concluded that they did not object to the proposal advising the proposed use would not negatively impact on its environment by way of noise, light, odour, or other disturbance. As such a refusal of planning permission on such grounds could not be substantiated. Residents are advised to contact the Environmental Protection Team as outlined in the assessment above should they consider noise impacts either as existing or in the future which warrant further investigation from the Council.
Concerns regarding additional residential amenity impacts	See above assessment. It has been concluded that the relatively modest works to an existing and established football club would not result in an unacceptable increase in neighbour amenity impacts over and above that of the existing development which could warrant a refusal of planning permission on these grounds particularly given the Environmental Protection Team raised no objection to the proposal.

Highway Considerations

Policy IF4 of the Local Plan (2021) requires that development takes account of the impact upon the highway network and the environment, including climate change, and incorporates safe and accessible connections to the transport network to enable travel choice, including by non-car modes, for residents, businesses, and employees. Policy IF7 of the Local Plan (2021) requires that development incorporate adequate parking provision for vehicles and cycles to avoid highway safety problems and to minimise the impact upon the local environment. Policy S4 of the Ashby Neighbourhood Plan (2018) requires adequate off road parking to be provided to ensure highway safety and to enhance the street scene in line with Leicestershire County Council standards.

The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Access to the site is located on Lower Packington Road, a classified C road subject to a 30 MPH speed limit. Enhancement works to the access and additional parking were permitted as part of planning application 22/01811/FULM.



A number of third party letters of objection were received from neighbouring properties citing concerns relating to highways matters. Letters of support from neighbouring properties were also received who considered that the approved highways work would help alleviate existing highways concerns.

The County Highway Authority (LHA) were consulted on the application, and they provided a substantive response as part of planning application 22/01811/FULM resulting in amendments to the access to ensure they would be in accordance with the Leicestershire Highway Design Guide (LHDG). As the present application provides no further works to the access nor additional parking with a pedestrian pathway proposed to the southern and eastern boundaries of the existing pitch the LHA advised following confirmation the proposal would not result in a material intensification of use that the proposal is acceptable confirming in their view the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe.

Whilst several concerns have been raised by residents raised in respect of the existing and proposed development and the impact it has on highway matters, given that the LHA raised no objection to the proposal a refusal on highway safety grounds could not be substantiated.

Given the above the proposal is therefore considered to be acceptable in relation to Policies IF4 and IF7 of the Local Plan, Policy S4 of the Ashby Neighbourhood Development Plan as well as the Leicestershire Highways Design Guide.

Assessment of objections received in relation to highway safety and parking

Objection	Response
<p>Concerns regarding the ongoing parking issues which would be worsened because of the development.</p>	<p>See above assessment. It is noted throughout the course of the application that both concerns and support was raised regarding the ongoing parking issues and the proposals to alleviate the issues with the club having already trialled additional parking to the site which supporters have advised have been a success and enhancement works to the access and additional parking were permitted as part of planning application 22/01811/FULM. This scheme cannot address the previous and existing parking issues outside of the site, the S106 agreement which has established a Community Liaison Group sits outside of this planning application with the group having been established to allow for the applicant and community to constructively work together to resolve issues. Further, the CHA was consulted on the application, and they concluded the proposal would be acceptable as such a refusal of planning permission on parking grounds could not be substantiated.</p>
<p>Concerns regarding ongoing traffic and congestion issues which would be worsened because of the development.</p>	<p>See above assessment again this scheme cannot address existing traffic issues, such matters need to be discussed and addressed at the Community Liaison Group meetings. Given the submitted information and the assessment by the CHA who concluded that they were satisfied the proposal would not result in a material intensification of use to the site it isn't considered any additional impact could warrant a refusal of planning permission.</p>
<p>Concerns regarding pedestrian safety</p>	<p>The CHA is satisfied the proposal would not result in risks to pedestrian safety and appropriate visibility splays can be achieved which were secured by way of a condition to as part of planning application 22/01811/FULM.</p>
<p>Additional highways related concerns including lack of electrical car chargers to the site, further surveys which should have been undertaken, the need to employ stewards etc.</p>	<p>See above assessment again this scheme cannot address such issues which largely relate to the existing use of the site and whilst the provision of electric car chargers would be appreciated, the applicant cannot be compelled to provide these as part of this application and such matters need to be discussed and addressed at the Community</p>

	<p>Liaison Group meetings. Whilst the highways concerns are noted and understood by the LPA given the lack of objection from County Highways a refusal on highway safety grounds could not be substantiated.</p>
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Ecology, Impact on Trees, and the National Forest

Policy En1 of the adopted Local Plan states that proposals for development would be supported which conserve, restore, or enhance the biodiversity in the district. This is supported by paragraph 180 of the NPPF which states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Policy S4 of the Adopted Ashby Neighbourhood Plan (2018) advises proposals that conserve or enhance the network of important local biodiversity features and habitats (such as hedgerows, treelines and water courses, including the River Mease) will be supported adding that proposals should promote preservation, restoration and creation of high quality habitats especially to support local wildlife sites, local priority habitats and the National Forest Project.

The County Ecologist was consulted as part of the application and raised concerns that not enough information was provided during the submission with particular regard to bats given that part of the works would result in amendments to an existing roof structure. Following the receipt of amended plans which demonstrated replacement roosting features the Ecologist was satisfied further surveys could be secured via appropriate pre-commencement planning conditions.

Regarding biodiversity net gain (BNG) the mandatory requirement for 10 percent BNG starts on the 2nd of April 2024 for a planning application of this size and type, however given the application predates the April introduction of mandatory BNG, the site is required to comply with the existing advice on biodiversity within the NPPF. The NPPF sets out a requirement to minimise impacts on and provide net gains for biodiversity and states that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity. In this case, given the limited scale of the works, the existing use of the site and the replacement roosting features proposed to the clubhouse, it is considered the requirements regarding biodiversity net gain have been satisfied.

The NWLDC Tree Officer was consulted on the application and confirmed they had no objection to the proposal advising the existing trees on site will however need to be adequately protected and as such, a suitably worded condition will be required to ensure any impacts to the trees will be mitigated.

As such, subject to conditions it is therefore considered that the proposal would contribute positively to its setting within the National Forest and meets the requirements of the Habitats Regulations 2017 in respect of protected species and would also comply with adopted Policies En1 and En3 of the Local Plan, Policies NE4 and NE5 of the Adopted Ashby Neighbourhood Plan and Paragraph 180 of the NPPF.

Assessment of objections received in relation to environmental concerns:

Objection	Response
Concerns regarding the potential for environmental impacts	See above assessment. Pre-commencement conditions relating to ecology and trees would be secured to ensure the proposal would not result in ecological harm and appropriate mitigation/protection measures would be in place.

Flood Risk and Surface Water Drainage

The site is within Flood Zone 1 with part of the site at a low risk of surface water flooding as defined by the Environment Agency's Surface Water Flood Maps. Whilst the proposal would result in the formation of additional surfacing which could increase flood risk to the site, the surfacing would be in a permeable material and the proposal would be conditioned to include soakaways to mitigate any impact therefore it is considered that the proposed development would not result in a significant increased surface water flood risk on site or elsewhere.

As such subject to conditions, it is considered the proposal would comply with Policies Cc2 and Cc3 of the Local Plan, Policy NE4 of the Ashby Neighbourhood Development Plan and the advice contained within the NPPF.

Impact on the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) - Habitats Regulations Assessment (HRA)

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

The proposal could result in an impact on the SAC, which may undermine the conservation objectives as it may result in the additional discharge of foul drainage to the treatment works/ use of a non-mains drainage system and surface water drainage discharge.

Natural England recently issued updated advice regarding nutrients in the River Mease catchment, dated 16th March 2022, which supersedes their previous advice. Amongst other things, the advice outlines that development which would not give rise to additional overnight stays within the catchment does not need to be considered in terms of any nutrient input, except in exceptional circumstances. This is a result of a likelihood that those using the development live locally, within the catchment, and thus their nutrient contributions are already accounted for within the background.

The proposal, in line with Natural England's advice, would therefore not lead to additional foul drainage discharge from the site; therefore, in terms of foul drainage the proposal is not considered to result in any unacceptable impact on the integrity of the River Mease SAC.

It is considered that the scheme would lead to an increase in surface water run-off, over and above that of the existing arrangement. As such it is considered reasonable to attach a soakaway condition in this instance. Natural England further advised subject to a condition securing a soakaway they do not consider the development likely to cause a significant effect on the River Mease SAC and raised no objection to the proposal.

Therefore on this basis, subject to appropriate conditions, it is considered that the integrity of the River Mease SAC would be preserved and it can be ascertained that the proposal would, either alone or in combination with other plans or projects, have no adverse effect on the integrity of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, and would comply with the Habitat Regulations 2017, the NPPF, Policies En2 and Cc3 of the Local Plan and Policy NE4 of the Ashby Neighbourhood Development Plan which commits the District Council to work with Natural England, the Environment Agency, Severn Trent Water, other local authorities and the development industry to improve the water quality of the River Mease and ensure it does not come under harm from development proposals setting out measures to achieve this.

Assessment of the objections received in relation to the River Mease

Objection	Response
Proposal would result in harm to the River Mease	See above assessment. Natural England were consulted on the application, and they confirmed there were no objections based on the provided information subject to appropriate conditions.

Other Matters

Concerns were raised by residents that the club should submit a masterplan with their overall goal for the site. Whilst such plans are useful, the applicant is not required to submit such a plan, there is no planning legislation which stops them effectively submitting as many applications as they wish, and it is down to the Local Planning Authority and statutory consultees to assess the cumulative impact of the development taking into consideration previous approvals/pending applications.

Additional concerns were raised regarding the obligation in the S106 as signed under planning permission 22/01811/FULM to create a community liaison group not being established and carried out by the club. Due to various delays in completing the S106 agreement, the permission was not issued until the 21st of December 2023. It is expected now the planning permission has been issued the club will meet its obligation and residents can address their concerns with the club directly and suggest measures the club could enact to reduce impacts from the matches, training and events that occur on site such as hiring security to target anti-social behavior, measures which for example cannot be imposed by the planning system.

The first meeting of the Community Liaison Group has now been undertaken and therefore matters are being discussed at present. The details of the obligation of the club with regard to the Community Liaison Group are outlined in full within the S106 agreement which can be viewed publicly on the Council’s website. Should residents consider the club is not following their obligation they can contact the Council Planning Enforcement Team who will investigate matters further.

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.

The principle of the development is acceptable. Subject to appropriate conditions, the proposal is not considered to have any significant detrimental design, residential amenity, flooding, ecology or highway safety impacts and would not adversely impact the River Mease SAC. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the adopted Local Plan, the Ashby Neighbourhood Development Plan, the Council's Good Design SPD and the advice contained in the NPPF. Accordingly, the application is recommended for planning permission, subject to the imposition of planning conditions.

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Erection of one detached self-build dwelling (Outline application - all matters reserved)

Report Item No
A3

Land Off Townsend Lane Donington Le Heath Leicestershire

Application Reference
23/01240/OUT

Grid Reference (E) 441867
Grid Reference (N) 312356

Date Registered:
9 October 2023
Consultation Expiry:
26 January 2024
Determination Date:
4 December 2023
Extension of Time:
12 February 2024

Applicant:
Mr T J Woodward

Case Officer:
Chris Unwin-Williams

Recommendation: **PERMIT** subject to a S106 agreement

Site Location - Plan for indicative purposes only



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The application is referred to the Planning Committee given the receipt of a call-in request from the local ward member, Cllr Johnson which outlined the following reasons:

- Outside limits of development and in the Countryside in the Local Plan which is contrary to policy S3 and the requirements of the Hugglescote & Donington le Heath Neighbourhood Plan
- The proposals would result in encroachment upon and erosion of the open space of the Conservation area.

RECOMMENDATION - PERMIT subject to a S106 which relates to the following requirements:

- Agreement limiting the occupation of the dwelling as a self-build property

and subject to the following conditions:

1. Time Limit for Submission of Reserved Matters (Application for approval of the reserved matters to be made before the expiration of three years and the development to begin before the expiration of two years from the date of approval of the last of the reserved matters).
2. Reserved Matters (prior to commencement of development, approval of reserved matters shall be obtained).
3. Approved Plans (location plan only)
4. Levels details including details of finished ground levels across site to be submitted at Reserved Matters
5. Submission of a Risk Based Land Contamination Assessment for approval by the Local Authority (prior to commencement). Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, no development shall commence on site until a Remedial Scheme and a Verification Plan have been prepared, and submitted to, and agreed in writing by the Local Planning Authority.
6. No development shall take place/commence until the necessary programme of archaeological work has been completed which shall commence with an initial phase of trial trenching. Each stage will be completed in accordance with a written scheme of investigation (WSI), which shall be submitted to and approved by the local planning authority. For land that is included within the WSI, development shall take place other than in accordance with the agreed mitigation WSI, which shall include the statement of significance and research objectives, and: i) programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works and; ii) The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material.
7. Prior to occupation and following completion of groundworks of the completed development, or part to be occupied, either; 1) if no remediation was required, a statement from the developer or an approved agent confirming that no previously unidentified contamination was discovered is submitted to the Planning Authority for approval, or; 2) A Verification Investigation shall be undertaken in line with the agreed Verification Plan for all works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to the whole development, or part to be occupied, shall be submitted to and approved in writing by the Local Planning Authority.

8. The first reserved matters application in respect of the development shall be accompanied by a detailed biodiversity net gain assessment and improvement / management plan, including full details of all measures proposed in respect of the enhancement of the biodiversity of the area (to include native planting and integrated bird and bat boxes into the dwelling), details of future maintenance and a timetable and phasing for the implementation of the relevant measures. The submitted details shall demonstrate that the development shall achieve biodiversity net gain of at least 1% as measured by DEFRA metric 3.1. The development shall thereafter be undertaken and maintained in accordance with the agreed measures and timetable.
9. Sustainable drainage solution to be installed prior to external materials to the roof are installed.
10. Permitted development rights removal (Classes A, AA, B, C and E).

MAIN REPORT

1. Proposals and Background

The application seeks outline planning permission with all matters reserved for the erection of 1 no. self-build dwelling.

The application site is located to the western edge of the village on the southern side of Townsend Lane, adjacent to an industrial unit. The site adjoins the boundary with Donington Le Heath Conservation Area (to the north) and is located outside of the Limits to Development. There is open countryside to the north, south and west of the site.

The application site is located outside limits to development, being situated adjacent to the limits to development of Donington-Le-Heath which is defined as a Principal Town which is a “primary settlement in the district which provides an extensive range of services and facilities including employment, leisure and shopping and which is accessible by sustainable transport from surrounding areas and to other large settlements outside the district. The largest amount of new development will be directed here.”

The designated Conservation Area lies to the north, the section of Townsend Lane to the north of the site is within the Conservation Area, as such the proposal may affect the setting of the Conservation Area.

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

Site Location Plan and Aerial Image



Planning History

- 16/00698/FUL - Erection of three detached dwellings with ancillary garages and associated works – Refused 06.11.17.
- 21/00801/FUL - Erection of stable block and barn and the formation of an access track and hardstanding – Application Permitted 21.07.21.

Planning history background

To provide context in relation to the assessment of the current application, in 2017, the Local Authority refused full planning application for the erection of three detached dwellings with ancillary garages and associated works on the land subject to the current two separate applications for 1 no. self build dwellings. In the assessment of this application, the officer noted that *“There is an existing industrial workshop to the eastern boundary however the land is currently open undeveloped pasture land which is visually linked with the wider agricultural fields and open countryside area to the west and south of Donington Le Heath. The location of the site outside the defined limits to development in both the adopted and submitted Local Plans signals the intent that this land should be protected from unnecessary development. On this basis the proposed residential development would diminish and erode this present open character by an urbanisation of the site and would represent an incongruous encroachment into the rural environment given the position outside the settlement boundary. The proposal would also extend the built form of development westwards on Townsend Lane and would represent an inappropriate form of ribbon development which conflicts with the aims of Policy S3 of the submitted Local Plan.”*

Additionally, in relation to the adjacent Conservation Area, the officer noted that *“Development of the application site would sever the historic settlement from its rural setting (to an extent) and obstruct one of the five “important views out from the hamlet”. In these respects, development of the application site would harm the setting and significance of the conservation area; the harm would be less than substantial.”*

As such, this original application was refused on the grounds of visual impact, heritage grounds as well as non-compliance with the defined limits to development. Additionally, since this initial refusal, it is noted that an additional permission (under 21/00801/FUL) has been granted for the erection of a stable block and barn and the formation of an access track and hardstanding which permitted an access track to the eastern boundary of the site which has since been laid down.

In comparison to this previous application (16/00698/FUL) which was for 3 no. market houses which were two storey in scale, in this case, the application seeks permission for the erection of 1 no. dwelling at outline stage, with an additional application for 1 no. dwelling directly adjacent to this site (under application reference 23/01241/OUT) also being sought at outline stage with all other matters including scale and layout being considered at later relevant reserved matters stages. As such, there is a reduction in 1 no. dwelling compared to the previous proposals on the site (under application 16/00698/FUL).

Further, and crucially, whilst the previous proposals were for market housing, the current applications seek permission for self-build dwellings where there is, at the time of writing, an unmet need for self-builds, which changed in October 2022 (where the Local Authority is failing to meet its statutory obligations under the Self Build Act).

The District Council has a duty under Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended), to give suitable development permissions in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the area of North West Leicestershire arising in each base period and the current application would make a contribution (of 1 no. dwelling) in addressing this existing and future shortfall.

2. Publicity

10 Neighbours have been notified.

Site Notice displayed 18 October 2023.

Press Notice published Leicester Mercury 25 October 2023.

3. Summary of Consultations and Representations Received

Hugglescote and Donington Le Heath Parish Council - Objects to the application given that the application site is located outside limits to development, would result in encroachment into the countryside, access to local services and facilities via walking would be difficult and notes general inconsistencies and contradictions within the submitted planning statement.

LCC Highways – No objections.

LCC Ecology – No objections.

LCC Archaeology – No objections subject to the imposition of a condition for a programme of archaeological work.

LCC Minerals - No objections.

NWLDC Tree Officer - No objections.

NWLDC Conservation Officer – Identifies less than substantial harm to the setting of the adjacent Donington le Heath Conservation Area.

NWLDC Environmental Protection - No objection

NWLDC Contaminated Land Officer – No objections subject to conditions.

Ward Member - requests that the application be called-in to the planning committee due to highways impacts, the development being outside the limits to development, contrary to policy S3 of the local plan and the Hugglescote and Donington le Heath Neighbourhood Plan. The proposals would result in encroachment upon the countryside and would impact upon the adjacent Conservation Area.

NWLDC Waste Services – No comments at the time of writing.

Third Party Letters of Representation

Neighbouring properties were consulted during the lifetime of the application and 6 no. objections have been received raising the following comments –

- The development is outside limits to development as outlined in the Hugglescote and Donington Le Heath neighbourhood plan and local plan.
- The proposal would be contrary to Policy S3.
- Concerns that local services and facilities would not be able to cope with additional demand resulting from the developments.
- There have been previous refusals on the land and so the application should be determined as such.

- There are limited public transport options nearby and limited facilities and services for the occupants of any new dwellings.
- The proposal would result in the loss of agricultural land.
- The proposals would not recognise the intrinsic character and beauty of the countryside.

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

4.Relevant Planning Policy

National Policies

National Planning Policy Framework (2023)

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

Paragraphs 7, 8, 9, 10, 11, 13 and 14 (Achieving sustainable development);
Paragraphs 38, 47, 55, 56 and 57 (Decision-making);
Paragraphs 70, 82, 83 and 84 (Delivering a sufficient supply of homes)
Paragraphs 85, 87 and 88 (Supporting a prosperous rural economy);
Paragraph 96 (Promoting healthy and safe communities);
Paragraphs 108, 109, 114, 115 and 116 (Promoting sustainable transport);
Paragraphs 123, 124, 126 and 128 (Making effective use of land);
Paragraphs 131, 135, 136, 139 and 140 (Achieving well-designed and beautiful places);
Paragraphs 157, 159, 162, 165 and 173 (Meeting the challenge of climate change);
Paragraphs 180, 185, 186, 189, 190 and 191 (Conserving and enhancing the natural environment);
Paragraphs 195, 200, 201, 203, 205, 206, 208, 211, 212 (Conserving and enhancing the historic environment); and
Paragraphs 215 and 217 (Facilitating the sustainable use of minerals).

Adopted North West Leicestershire Local Plan (2021)

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

S2 - Settlement Hierarchy
S3 - Countryside
D1 - Design of New Development
D2 – Amenity
He1 – Historic Environment
En1 - Nature Conservation
En3 – The National Forest
IF1 - Development and Infrastructure
IF4 - Transport Infrastructure and New Development
IF7 - Parking Provision and New Development
Cc2 - Water - Flood Risk
Cc3 - Sustainable Drainage Systems

Hugglescote and Donington Le Heath Neighbourhood Plan (2021)

Policy G1 – Limits to Development
 Policy G3 – Design
 Policy H1 – Housing Mix
 Policy Env 6 – Biodiversity and habitat connectivity
 Policy Env 7 – Protection of the Rural Setting
 Policy T2 – Residential and Public Car Parking

Other Policies/Guidance

The Community Infrastructure Levy Regulations 2010
 The Conservation of Habitats and Species Regulations 2017
 Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System
 National Planning Practice Guidance
 Good Design for North West Leicestershire SPD - April 2017
 National Design Guide - October 2019
 Leicestershire Highways Design Guide (Leicestershire County Council)
 National Forest Strategy 2014-2024
 The Self-Build and Custom Housebuilding Act 2015

5. Assessment

Principle of Development

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

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

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

Further, Policy G1 of the Hugglescote and Donington Le Heath Neighbourhood Plan states that land outside the settlement boundary will be treated as open countryside, where development

will be carefully controlled, or supported as appropriate, in line with local and national strategic planning policies.

The NPPF defines *'Previously Developed land' (PDL)* as *land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure*. However, this excludes land in built-up areas such as residential gardens. In this instance, the application site is an existing greenfield site and would not fall under the NPPF's definition of PDL. As such, this development would not be supported under Policy S3 (e).

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

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

For the reasons set out above, the proposal would not accord with the provisions of Policies S2 and S3 of the adopted Local Plan and Policy G1 of the Hugglescote and Donington Le Heath Neighbourhood Plan.

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

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

The application site would be located outside of defined limits to development, outlined both in the local plan and adopted neighbourhood plan. The application site is an existing greenfield site located to the southwest of Townsend Lane, on land to the west of an existing workshop.

The existing site is an existing greenfield site comprising largely of grassland with a mix of post and rail, and natural boundaries including trees and brambles. It was also noted that an access track in respect of the approved proposals under application reference 21/00801/FUL had been laid to the eastern boundary of the site. However, the application site maintains a rural character of undeveloped pasture land which is visually linked with the wider agricultural fields and open countryside area to the west and south of Donington Le Heath and would be publicly visible from the adjacent public footpath (N67).

The site is not located within the Donington Conservation Area, although the site is located directly adjacent to the boundaries of the Conservation Area.

In relation to the Conservation Area, it is noted that *"Buildings do not make an important contribution to the character of the conservation area."* Rather, the adopted character appraisal highlights the importance of *"a matrix of lanes ... enclosed by walls and hedges"* and *"the presence of fields and open recreational land round the hamlet"*. Regarding the former, the

character appraisal notes *"the absence of pavements"* and the way in which *"several of the lanes head out into the countryside as unmade tracks"*. Regarding the latter, the character appraisal identifies five *"important views out from the hamlet"* that are *"significant in establishing the rural feel and setting of the settlement"*. At the end of the appraisal, a map identifies elements that contribute positively to the character of the area. The map indicates a *"view to countryside"* from Townsend Lane across the application site.

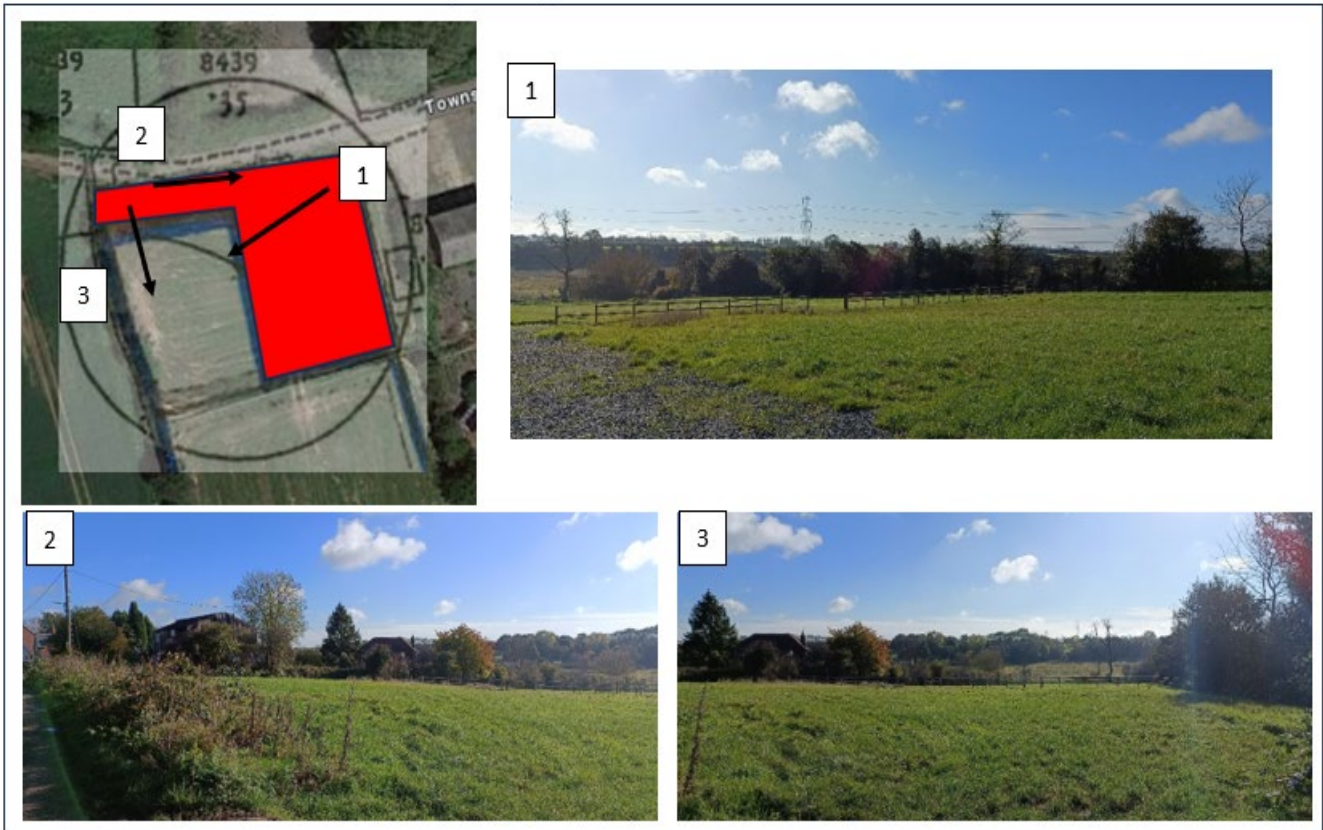
It is proposed to develop one self build dwelling on the application site in the current application, the site of which is in use as a paddock. Development of the application site would sever the historic settlement from its rural setting (to an extent) and obstruct one of the five *"important views out from the hamlet"*. In these respects, development of the application site would harm the setting and significance of the conservation area; the harm would be less than substantial. Nevertheless, it is considered that this harm would be to a minimal degree given that the application is for one dwelling only and noting that details such as scale, layout and landscaping could be controlled through the use of appropriate conditions and/or for discussion at later reserved matters stage(s).

Whilst less than substantial harm has been identified, it is considered that in this case (as outlined in further detail in the below heritage section), this limited harm would be outweighed by the public benefits resulting from the scheme which include to a lesser extent, economic benefits associated with employment in the construction trade and future residents helping to maintain local services in the area as well as to a greater extent, through the social benefits of contributing to the provision of a mix of housing types in the local area through the provision of a self-build dwelling which could be secured by way of condition.

Nonetheless, in the case of a harm assessment, overall, the introduction of a self build dwelling on the application site would be inconsistent with the established pattern of development and therefore, would cause harm to the character and appearance of the surrounding area. However, this would be to a reduced degree when compared to the previous refusal under application reference 16/00698/FUL due to the current applications only proposing one dwelling (or two dwellings when considered in conjunction with application reference 23/01241/OUT) and noting that the current application is at outline stage only, where further details such as scale, landscaping, appearance and layout could be controlled at later reserved matters stages to minimise any resultant harm.

Overall, the proposal would result in a suburban form of development that would fail to respond to or enhance the built and natural character of the settlement thus would harm its immediate and wider landscape setting.

Existing viewpoints with application site outlined in red



(ii) It does not undermine, either individually or cumulatively with existing or proposed development, the physical and perceived separation and open undeveloped character between nearby settlements...;

The proposed self-build dwelling, along with the additional self-build dwelling under consideration under application reference 23/01241/OUT would result in the infilling of an undeveloped greenfield site, outside the defined limits to development. Given that the proposals would result in encroachment into the countryside and would result in an extension of built development which would likely front onto Townsend Lane (as demonstrated within the provided illustrative plans), it is considered that the proposals would undermine the physical and perceived separation and open undeveloped character between nearby settlements.

Site location (outlined in red) overlaid on existing aerial view



(iii) it does not create or exacerbate ribbon development;

It is noted that the Planning Portal defines 'ribbon development' as "development, usually residential, extending along one or both sides of a road but not extended in depth" with the dictionary definition being "the building of houses along a main road, especially one leading from a town or village."

The proposals would result in additional development along this section of Townsend Lane and would extend the built form of development westwards on Townsend Lane. As such, whilst the plans at this stage are only outline, with all matters for consideration at later reserved matters stages, it is considered likely that the self build dwelling, considered alongside the additional self-build dwelling under application 23/01241/OUT would result in the exacerbation of ribbon development along this section of Townsend Lane.

Site location (outlined in red) overlaid on existing aerial view with direction of ribbon development indicated



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

Given that the proposal would be adjacent to an existing factory building and existing dwellings on this section of Townsend Lane, it is considered that a form of development could be secured at reserved matters stage that would be well-related to existing development along Townsend Lane and the wider settlement of Donington-Le-Heath.

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

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

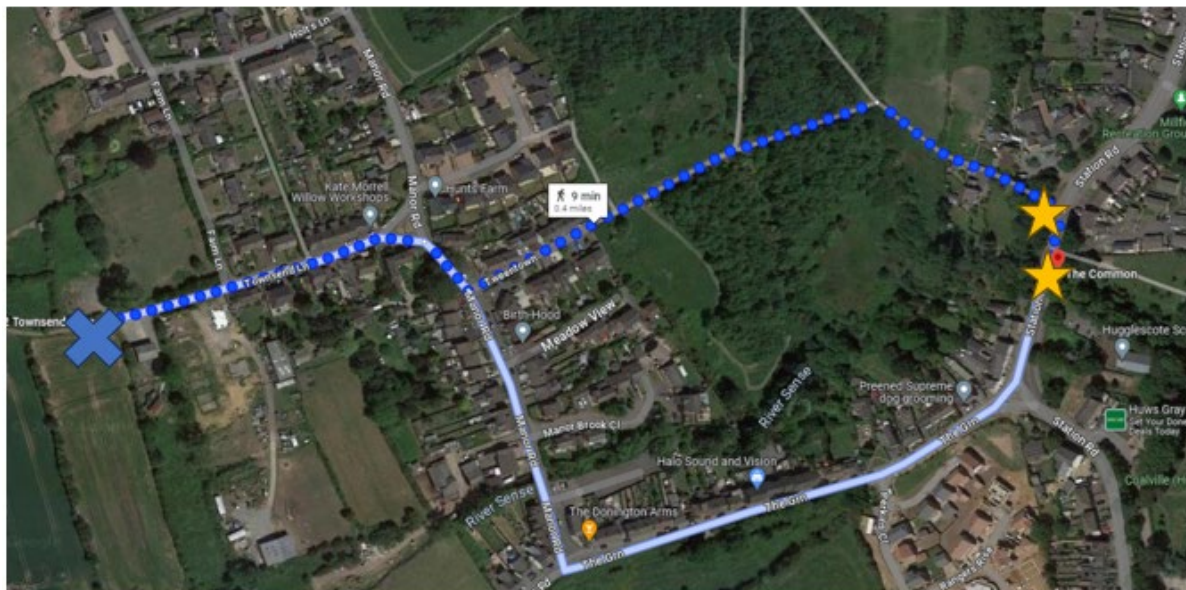
(vi) the proposed development is accessible, or will be made accessible by a range of sustainable transport

The application site is located approximately 25m away from the defined limits to development of Donington Le Heath which is defined under Policy S2 as a Principal Town.

Donington Le Heath is located within the Greater Coalville Area which benefits from a range of public services and facilities including convenience stores, public houses, local schools, recreation grounds and community centres among other things, many of which can be accessed within the preferred maximum walking distance.

Future occupants of the application site would also have access to public transport including being able to access regular bus services from Station Road where the No. 15, 28 and 125 services are based.

Location of application site (marked as blue “x”) and location of nearest bus stops (starred in yellow)



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

The site is not considered to be in an isolated location given its proximity to other dwellings and development, as well as having consideration to the distance from services and facilities in Donington-Le-Heath. There would also be some limited economic benefits associated with employment in the construction trade and future residents helping to maintain local services in the area.

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

Self-Build and Custom Housing

It is recognised that self-build and custom housebuilding is a key element of the government's agenda to increase the supply of housing, both market and affordable and gives more people the opportunity to build their own homes as set out in Paragraph 62 of the NPPF.

The applicant has provided arguments in support of a self-build unit, including but not limited to that the Council has not satisfactorily demonstrated that it has granted enough permissions to meet the identified need.

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

Self and custom build is defined as the building or completion by individuals, an association of individuals or persons working with or for individuals, of houses to be occupied as homes by those individuals. This is an outline application for the erection of 1 no. self-build dwelling, and the proposal would meet this 'definition' and would contribute towards the delivery of self-build and custom housebuilding in the district.

The District Council has a duty under Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended), to give suitable development permissions in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the area of North West Leicestershire arising in each base period. This District Council's Self-Build Register was established in April 2016. As of 17.01.2024 there are 137 individuals on the self-build register. For the area of North West Leicestershire, this demand equates to providing a specific number of permissions for plots.

The demand is split into different base periods. As of October 2022, there was a shortfall of four self-build permissions. Five applications have been granted (22/01054/FUL, 22/01547/FUL, 23/00782/FUL, 23/00776/OUT and 23/00292/OUT) and two application have resolutions to permit subject to the signing of a S106 agreement and so the permissions have not yet been issued.

However, this shortfall has increased by the need to provide a further 20 plots by October 2023, which therefore means to October 2023 there is a current deficit of 19 dwellings needed for the Council to meet its self-build obligation as contained in the 2015 Self Build Act. Therefore, it is acknowledged that this proposal (subject to a legal agreement securing it as a self-build dwelling) would contribute to addressing this existing and future shortfall and this is a material consideration in the determination of the application to be given significant weight.

Current self-build demand and shortfall based on 17.1.24 figures

Date the demand is to be met	Demand	Current shortfall?
October 2019	6 plots	0
October 2020	10 plots	0
October 2021	8 plots	0
October 2022	14 plots	0
October 2023	20 plots	19

October 2024	14 plots	33 if no further self-build dwellings are granted by October 2024
October 2025	20 plots	53 if no further self-build dwellings are granted by October 2025
October 2026	34 plots	87 if no further self-build dwellings are granted by October 2026

The adopted Local Plan is silent on the matter of self-build housing and in these circumstances, Paragraph 11 of the NPPF would apply which states that '*plans and decisions should apply a presumption in favour of sustainable development*'.

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

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

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

The application site falls within none of the areas identified within paragraph 11(d)i of the NPPF and therefore the test to be applied in this case is that set out in paragraph 11(d)ii above that planning permission should be granted unless:

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

Paragraph 14 of the NPPF also states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is "likely" to significantly and demonstrably outweigh the benefits, provided all of the following apply;

- a) *the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and*
- b) *the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 67-68)*
- c)

In this case, the Hugglescote and Donington Le Heath neighbourhood plan was adopted in November 2021 and therefore became part of the development plan five years or less before the date on which the decision is made. However, part (b) also specifies that the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 67-68).

Whilst the Neighbourhood Plan refers to the District Housing Need under the "approach to future residential growth" the Neighbourhood Plan does not provide specific allocations to provide for more residential units during the current planning period to 2031 other than through Windfall development. On this basis, it is not considered that the neighbourhood plan contains specific policies **and** allocations and as such, the policies in the plan cannot carry significant weight in decision making relating to residential development as it fails part 14(b) of the NPPF

and therefore the requirements of paragraph 11d still apply where the presumption in favour of sustainable development applies.

Therefore, in light of this shortfall that derives from the Self Build Register, this need has to be balanced against planning considerations in coming to a view on the suitability of the proposal. This balancing exercise will be undertaken upon completion of the consideration of all planning matters at the end of this report.

Loss of Agricultural Land

In terms of environmental sustainability the proposal would result in the loss of agricultural land. Furthermore, consideration has been given to footer 62 of the NPPF which states that the availability of agricultural land used for food production should be considered, alongside the other policies in the Framework, when deciding what sites are most appropriate for development. Best and Most Versatile (BMV) agricultural land is defined as that falling within Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). It is not clear what class of agricultural land the site falls within. 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.

Therefore, given the relatively limited extent of the potential loss of the site, at 0.1 hectares, it is considered that this is not sufficient to sustain a reason for refusal in this case.

Heritage Impacts

The site is not located within the Donington-Le-Heath Conservation Area, although the site is located directly adjacent to the boundaries of the Conservation Area.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

Policy He1 of the Local Plan (2021) states that proposals should “*conserve or enhance the significance of heritage assets within the district, their setting, for instance significant views within and in and out of Conservation Areas.*”

Paragraph 201 of the NPPF states that “*Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.*”

Further, paragraph 205 states that “*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*”

The Conservation Officer was consulted throughout the course of the application who referred to previous comments provided under application reference 16/00698/FUL and identified less than substantial harm.

In relation to the Conservation Area, it is noted that *"Buildings do not make an important contribution to the character of the conservation area. Rather, the adopted character appraisal highlights the importance of "a matrix of lanes ... enclosed by walls and hedges" and "the presence of fields and open recreational land round the hamlet"*. Regarding the former, the character appraisal notes *"the absence of pavements"* and the way in which *"several of the lanes head out into the countryside as unmade tracks"*. Regarding the latter, the character appraisal identifies five *"important views out from the hamlet"* that are *"significant in establishing the rural feel and setting of the settlement"*. At the end of the appraisal, a map identifies elements that contribute positively to the character of the area. The map indicates a *"view to countryside"* from Townsend Lane across the application site.

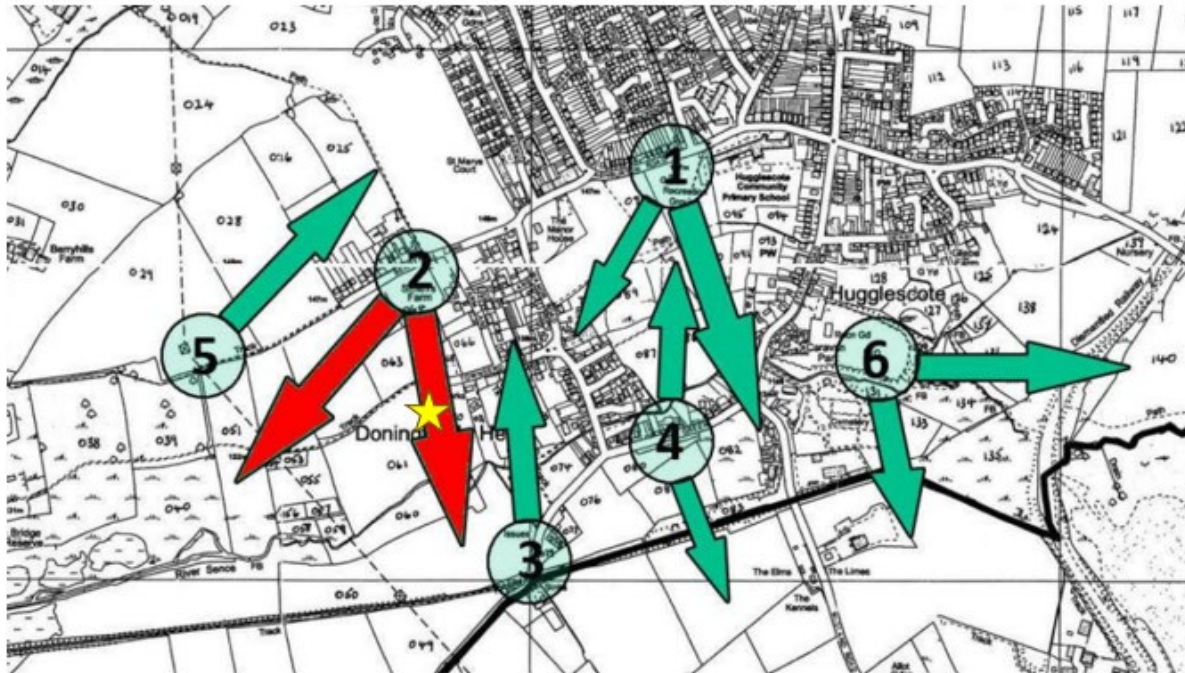
It is proposed to develop one self build dwelling on the site, which is the subject of the current application, the site of which is in use as a paddock. Development of the application site would sever the historic settlement from its rural setting (to an extent) and obstruct one of the five *"important views out from the hamlet"*. In these respects, development of the application site would harm the setting and significance of the conservation area; the harm would be less than substantial. Nevertheless, it is considered that this harm would be to a minimal degree given that the application is for one dwelling only and noting that details such as scale, layout and landscaping could be controlled by appropriate conditions and/or for discussion at later reserved matters stage(s).

Paragraph 208 of the NPPF states that *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use"*.

Whilst less than substantial harm has been identified, it is considered that in this case (as outlined in further detail in the below heritage section), this limited harm would be outweighed by the public benefits resulting from the scheme which includes to a lesser extent, economic benefits associated with employment in the construction trade and future residents helping to maintain local services in the area as well as to a greater extent, through the social benefits of contributing to the provision of a mix of housing types in the local area through the provision of a self-build dwelling which could be secured by way of condition.

As such, overall, it is considered that the proposals would accord with policy He1 of the Local Plan, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as relevant paragraphs of the NPPF.

Important view 2 referred to within the Hugglescote and Donington-Le-Heath Neighbourhood Plan and approximate position of application site (starred in yellow below)



Character and Appearance Impacts and Impacts to the Countryside

Policy D1 of the Local Plan (2021) requires that all developments be based upon a robust opportunities and constraints assessment and be informed by a comprehensive site and contextual appraisal. It also requires that new residential developments must positively perform against Building for Life 12 and that developments will be assessed against the Council's adopted Good Design SPD.

The recently updated NPPF includes several new measures to improve design quality. This includes a test at paragraph 139 which directs that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

The Council's Good Design SPD and the government's National Design Guide/National Model Design Code therefore carry substantial weight. The site is also located within the National Forest and is therefore subject to the requirements of Policy En3.

The application does not seek approval of the access, layout, scale, appearance, or landscaping therefore the submitted plans (other than the site location plan) show indicative details only.

The existing site is an existing greenfield site comprising largely of grassland with a mix of post and rail, and natural boundaries including trees and brambles. Officers also note that an access track in respect of the approved proposals under application reference 21/00801/FUL had been laid to the eastern boundary of the site. The application site maintains a distinct rural character

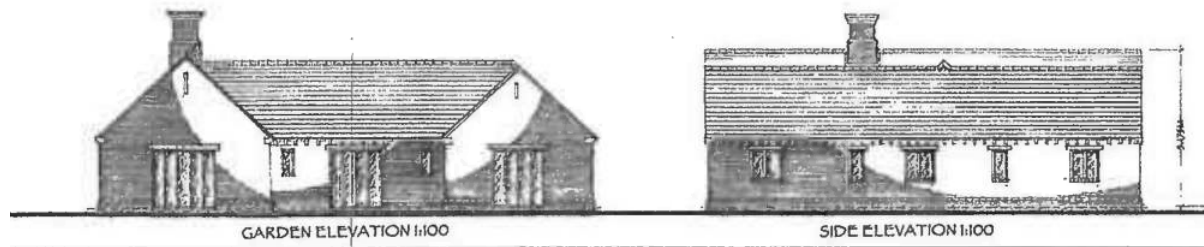
of undeveloped pasture land which is visually linked with the wider agricultural fields and open countryside area to the west and south of Donington Le Heath and would be publicly visible from the adjacent public footpath (N67).

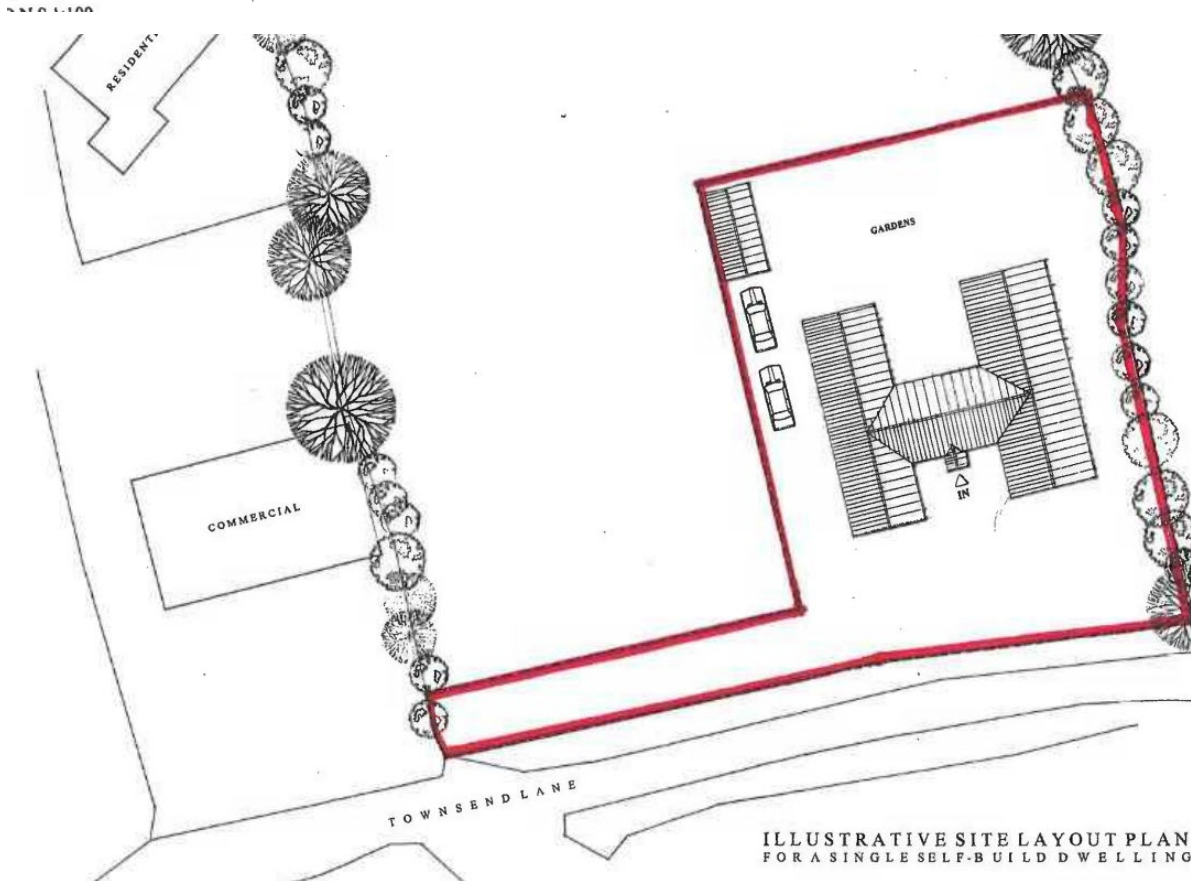
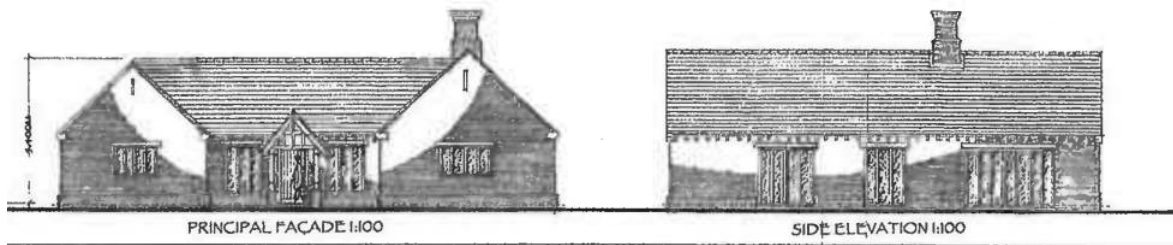
In this case, it is considered that the introduction of a self build dwelling on the application site would be inconsistent with the established pattern of development and therefore, would cause harm to the character and appearance of the surrounding area. However, this would be to a reduced degree when compared to the previous refusal under application reference 16/00698/FUL due to the current applications only proposing one dwelling (or two dwellings when considered in conjunction with application reference 23/01241/OUT) and noting that the current application is at outline stage only, where further details such as scale, landscaping, appearance and layout could be controlled at later reserved matters stages to minimise any resultant harm.

The submitted illustrative plans show one large detached single storey dwelling limited to single storey in height. It is considered that the site could accommodate all of the necessary requirements (private garden, parking/turning space, bin storage and collection) for one dwelling without being too cramped. Furthermore, given the site's location within the National Forest adjacent to open countryside there would be a need for reinforcement of the landscaping of the site, which could also be accommodated.

With the above in mind, whilst it is considered the loss of the site to built development would result in some harm to local character and the area's countryside setting, when the overall context of the scheme is considered (outline with all matters reserved at this stage) and that the impacts of such a development could be controlled through appropriate use of conditions and during any further reserved matters applications, on balance, it is considered the proposals would accord with policy D1 of the Local Plan and Policy G3 of the Neighbourhood Plan as well as relevant paragraphs of the NPPF.

Illustrative elevations and site plan (to provide context for the potential design, scale and layout)





Impact upon residential amenity

Policies D2 of the Local Plan (2021) requires that proposals for development should be designed to minimise their impact on the amenity and quiet enjoyment of both existing and future residents within the development and close to it.

Given that the submitted plans provided are indicative, it is not possible to assess the impacts upon the residential amenity of surrounding dwellings in detail. Impacts, particularly in terms of privacy, loss of sunlight and daylight and overbearing impacts would be a primary consideration at the reserved matters stage, when details of the scale and appearance of the proposal are presented for approval. How the proposed landscaping, including details of proposed ground levels and boundary treatments will impact or preserve amenity will also be considered carefully at the reserved matters application stage. However, the submitted layout and indicative plans

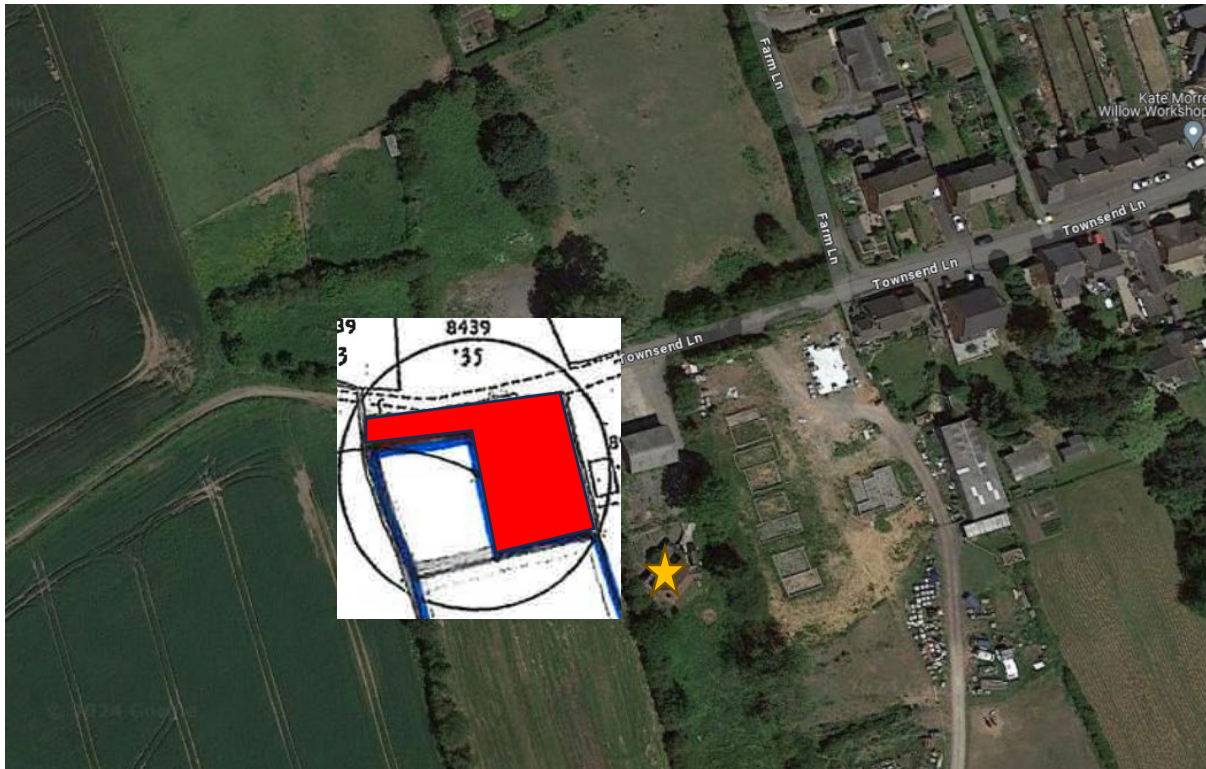
provide a high degree of confidence that a scheme is capable of being delivered that would accord with policy D2.

Furthermore, it is considered that the future occupiers of the proposed units could be provided with a high standard of amenity in terms of light, outlook, noise, and private amenity space.

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

Therefore, the proposal is considered to be in accordance with Policy D2 of the adopted Local Plan, Policy G3 of the Neighbourhood Plan, the Council's Good Design SPD, and relevant sections of the NPPF.

Application site (outlined in red) and nearest neighbour at Long Acres (yellow star)



View to the southeast with the nearest neighbour (Longacres) shown in the background



Highway Considerations

Policy IF4 of the Local Plan (2021) requires that development takes account of the impact upon the highway network and the environment, including climate change, and incorporates safe and accessible connections to the transport network to enable travel choice, including by non-car modes, for residents, businesses and employees.

Policy IF7 of the Local Plan (2021) requires that development incorporate adequate parking provision for vehicles and cycles to avoid highway safety problems and to minimise the impact upon the local environment.

The site lies off Townsend Lane which is an adopted unclassified road subject to a 30mph speed limit. In the vicinity of the site frontage, the road is a single track road on the northern boundary of the site and immediately turns into a public right of way in the form of a Byway Open To All Traffic (BOTAT).

LCC Highways was consulted throughout the course of the application who noted that *“Whilst no information has been provided regarding the proposed access, the LHA have reviewed the submitted ‘Site Layout Plan’ (drawing number HMD/PD/0512/01) and note that the red line boundary fronts the entire length of the northern boundary of the site connecting to Townsend Lane. The red line boundary would allow the Applicant to provide an access width in accordance with Figure DG17 of Part 3 of Leicestershire Highway Design Guide (LHDG) which is available at <https://resources.leicestershire.gov.uk/lhdg>.”*

In relation to visibility, *“the LHA is satisfied that appropriate vehicular visibility splays can be provided to accord with Table DG4 of Part 3 of the LHDG”* and the *“LHA is satisfied that a safe and suitable access to the site is achievable.”*

Regarding the internal layout, *“the LHA advise that the internal layout should be designed in accordance with the LHDG and ensure that sufficient parking and turning facilities have been provided within the site.”*

In terms of parking and turning, the site is large enough to provide sufficient space, which would be subject to a later reserved matters application. The site is also considered to be accessible in terms of local amenities and with access to public transport links to meet day to day needs. Notwithstanding this, the access is considered safe and suitable, and therefore the proposal accords with policy IF4 and IF7.

In relation to impacts on the Public Rights of Way, "The LHA note that Public Footpaths N67 and N70 run adjacent to the proposed development, as does BOTAT N66. The LHA is satisfied that the use and enjoyment of Public Footpaths N67 and N70 and BOTAT N66 will not be significantly affected."

As such, the Local Highway Authority Advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe (as outlined by paragraph 111 of the NPPF) and therefore a refusal of the proposal on highway safety grounds would not be defensible.

Overall, the application is considered to be in accordance with the guidance set out within the Leicestershire Highway Design Guide and the application is considered to be acceptable when having regard to Local Plan Policy IF4 and IF7, Policies G3 and T2 of the Neighbourhood Plan and relevant paragraphs of the NPPF.

Viewpoint facing westwards along Townsend Lane



Viewpoint facing eastwards along Townsend Lane



Ecology and Trees

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

The application is not accompanied by a Preliminary Ecological Appraisal or a completed biodiversity net gain metric.

LCC Ecology were consulted throughout the lifetime of the application who confirmed that the habitats are of low ecological value and there is no evidence of protected species present. However, it was recommended that a Reserved Matters Stage, biodiversity enhancements are sought including native planting and integrated bird and bat boxes into the dwelling.

Additionally, the Council's Tree Officer was consulted throughout the course of the application and raised no objections to the proposals.

The mandatory requirement for 10 percent BNG has now been enacted through the Environment Bill and for applications of the size and type as this one it comes into force on April 2nd, 2024. As such, mandatory BNG will only apply to applications submitted on or after April 2nd, 2024. In this case, whilst according to current guidance, self-build developments are exempt from Biodiversity Net Gain paragraph 180(d) of the NPPF sets out a requirement to minimise impacts on and provide net gains for biodiversity and paragraph 185(b) still requires a measurable net gain for biodiversity.

Whilst a completed metric has not been provided as part of the application documents given that one isn't required with planning applications which have been submitted prior to the 2nd of April 2024, a biodiversity net gain condition could be applied as part of any decision on the application to secure measurable net gains on the proposal which would be in line with paragraph 180(d) of the NPPF.

Subject to the securing of the above conditions, the proposals would secure enhancements to local biodiversity and would therefore accord with Policy En1 of the Local Plan, Policy Env6 of the Neighbourhood Plan and relevant paragraphs of the NPPF.

Viewpoints to the east and west of the site



Archaeology

Paragraph 200 of the NPPF states that local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

Where proposals are likely to have a detrimental impact upon any heritage assets present, NPPF paragraph 211, states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development, and to make this evidence (and any archive generated) publicly accessible.

During the application, the County Archaeologist was consulted who noted the following in relation to the site:

“The Leicestershire and Rutland Historic Environment Record (HER) notes that the site lies on the boundary of the medieval and post-medieval historic settlement core of Donington le Heath (HER ref.: MLE4576), close to earthwork remains which represent the medieval village settlement (MLE4565). Further earthworks to the west are thought to represent the remains of a platform for a substantial medieval house (MLE8329). The application area has not undergone extensive previous ground disturbance and has good potential for the presence of significant archaeological deposits, which are likely to be well-preserved and close to the ground surface.

Based upon the available information, it is anticipated that these remains whilst significant and warranting further archaeological mitigation prior to the impact of development, are not of such importance to represent an obstacle to the determination of the application.

Local Planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development, and to make this evidence (and any archive generated) publicly accessible.

In that context it is recommended that the current application is approved subject to conditions for an appropriate programme of archaeological mitigation, including an initial phase of exploratory trial trenching, followed, as necessary by intrusive and non-intrusive investigation and recording. The Historic & Natural Environment Team (HNET) will provide a formal Brief for the latter work at the applicant’s request.

If planning permission is granted the applicant must obtain a suitable written scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the planning authority. The WSI must be submitted to the planning authority and HNET, as archaeological advisors to your authority, for approval before the start of development. They should comply with the above-mentioned Brief, and with relevant Chartered Institute for Archaeologists “Standards” and “Code of Practice”. It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development.

While the current results are sufficient to support the planning decision, further post-determination trial trenching will be required in order to define the full extent and character of the necessary archaeological mitigation programme.”

Subject to the inclusion of an archaeological mitigation condition, the LPA is satisfied that, the proposal would be acceptable for the purposes of paragraphs 200 and 211 of the NPPF.

Flood Risk and Surface Water Drainage

The site is situated within Flood Zone 1 and is not in an area at risk of surface water flooding, as defined by the Environment Agency’s Surface Water Flood Maps.

The proposal would result in a material increase in hard surfacing thus surface water will need to be managed on site via a sustainable drainage solution. Although no details of drainage have been submitted at this stage, subject to conditions that require such details as part of the reserved matters application, it is considered that the proposal would not result in flooding or surface water drainage issues and consequently would accord with the aims of Policies Cc2 of the adopted Local Plan, as well as the guidance set out within the NPPF.

Land Contamination

It is noted that Environmental Protection were consulted during the application who confirmed that they have no objections subject to agreement to pre-commencement conditions in respect of contamination due to the use of the neighbouring land as a workshop.

Subject to suitably worded conditions, it is considered that the development would have an acceptable impact and would accord with Paragraph 180 and 189 of the NPPF.

Conclusions and Planning Balance

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

The most important policies in the determination of this application are Policies S2 and S3 of the Local Plan and Policy G1 of the neighbourhood plan which support development within the settlement limits and restrict development in the countryside. As set out earlier in this report, these policies are of greatest importance in this case, and are effective, not out of date and carry significant weight.

However, the adopted Local Plan is silent on the matter of self-build housing and in these circumstances, as set out earlier in this report, paragraph 11(dii) of the NPPF would apply which states that *'where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

Additionally, whilst regard has been given to Paragraph 14 of the NPPF which states that any conflict arising with the neighbourhood Plan, where criteria (a & b) are met, would "likely" constitute significant and demonstrable harm, the relevant criteria would not be met and as such, this paragraph would not be engaged in the assessment of the self-build scheme and policy G1 of the Hugglescote and Donington-Le Heath Neighbourhood Plan has to carry limited weight in the determination of this residential scheme.

Limited harm would arise from the loss of greenfield land located within the countryside. The proposals would result in some character and appearance impacts including ribbon development contrary to criteria (i), (ii) and (iii) of the second part of Policy S3.

Moderate harm would arise from the granting of a permission that conflicts with Policies S2 and S3 of the Local Plan and Policy G1 of the Hugglescote and Donington-Le Heath Neighbourhood Plan.

Balanced against the harms, the provision of additional housing in a sustainable location is afforded positive weight, with additional significant positive weight given to the provision of a self-build plot where there is currently an identified district wide shortfall. The benefits of the self-build dwelling can be secured by way of a legal agreement that requires the self-builder to occupy the property for the first three years following construction. In addition, the economic

expenditure both during construction and through additional expenditure by future occupants within the local area which is of benefit to the local economy is a benefit.

The application site is located approximately 25m from the settlement boundaries of Donington Le Heath which is defined under Policy S2 as a Principal Town which benefits from a range of services and facilities, with readily available access to public transport provision in the form of bus services. Whilst the application site itself is located outside of the defined limits to development, this location is more acceptable when compared to remote locations in the countryside where there would be more adverse environmental and social sustainability impacts. In this case, the proposal would not be an 'isolated' dwelling, and it would be close to other dwellings services.

Therefore, whilst the previous reasons for refusal for residential development for three dwellings under application reference 16/00698/FUL, the current application seeks permission for the erection of one dwelling at outline stage with all other matters including scale and layout being considered at later relevant reserved matters stages. As such, there is a reduction in the number of dwellings proposed compared to the previous proposals (under application 16/00698/FUL). Further, and crucially, whilst the previous proposals were for market housing, the current application seek permission for a self-build dwelling where there is, at the time of writing, an unmet need for self-builds, which changed in October 2022 (where the Local Authority is failing to meet its statutory obligations).

As such, in this instance, whilst harm in relation to criteria (i), (ii) and (iii) of the second part of Policy S3 has been identified, it is considered that this harm would be outweighed by the benefits of providing a self-build property.

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

It is therefore recommended that planning permission be granted subject to a Section 106 obligation and subject to the suggested planning conditions.

Erection of one detached self build dwelling (Outline application - all matters reserved)

Report Item No
A4

Land Off Townsend Lane, Donington Le Heath, Leicestershire

Application Reference
23/01241/OUT

Grid Reference (E) 441867
Grid Reference (N) 312356

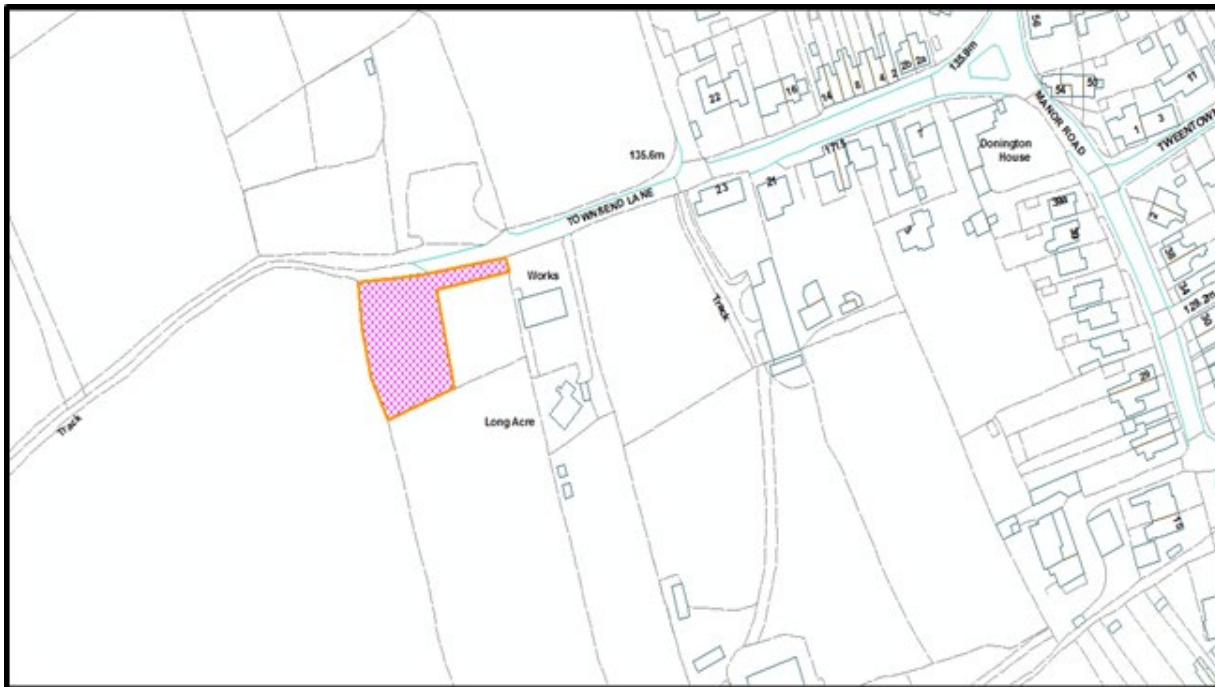
Date Registered:
9 October 2023
Consultation Expiry:
26 January 2024
Determination Date:
4 December 2023
Extension of Time:
12 February 2024

Applicant:
Mr A L Morely

Case Officer:
Chris Unwin-Williams

Recommendation: PERMIT, subject a S106 agreement

Site Location - Plan for indicative purposes only



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The application is referred to the Planning Committee given the receipt of a call-in request from the local ward member (Cllr Johnson) which outlined the following reasons:

- Outside limits of development and in the Countryside in the Local Plan which is contrary to policy S3 and the requirements of the Hugglescote & Donington le Heath Neighbourhood Plan
- The proposals would result in encroachment upon and erosion of the open space of the Conservation area.
-

RECOMMENDATION - PERMIT subject to a S106 which relates to the following requirements:

- agreement limiting the occupation of the dwelling as a self-build property

and subject to the following conditions:

1. Time Limit for Submission of Reserved Matters (Application for approval of the reserved matters to be made before the expiration of three years and the development to begin before the expiration of two years from the date of approval of the last of the reserved matters).
2. Reserved Matters (prior to commencement of development, approval of reserved matters shall be obtained).
3. Approved Plans (location plan only)
4. Levels details including details of finished ground levels across site to be submitted at Reserved Matters
5. Submission of a Risk Based Land Contamination Assessment for approval by the Local Authority (prior to commencement). Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, no development shall commence on site until a Remedial Scheme and a Verification Plan have been prepared, and submitted to, and agreed in writing by the Local Planning Authority.
6. No development shall take place/commence until the necessary programme of archaeological work has been completed which shall commence with an initial phase of trial trenching. Each stage will be completed in accordance with a written scheme of investigation (WSI), which shall be submitted to and approved by the local planning authority. For land that is included within the WSI, development shall take place other than in accordance with the agreed mitigation WSI, which shall include the statement of significance and research objectives, and: i) programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works and; ii) The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material.
7. Prior to occupation and following completion of groundworks of the completed development, or part to be occupied, either; 1) if no remediation was required, a statement from the developer or an approved agent confirming that no previously unidentified contamination was discovered is submitted to the Planning Authority for approval, or; 2) A Verification Investigation shall be undertaken in line with the agreed Verification Plan for all works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to the whole development, or part to be occupied, shall be submitted to and approved in writing by the Local Planning Authority.

8. The first reserved matters application in respect of the development shall be accompanied by a detailed biodiversity net gain assessment and improvement / management plan, including full details of all measures proposed in respect of the enhancement of the biodiversity of the area (to include native planting and integrated bird and bat boxes into the dwelling), details of future maintenance and a timetable and phasing for the implementation of the relevant measures. The submitted details shall demonstrate that the development shall achieve biodiversity net gain of at least 1% as measured by DEFRA metric 3.1. The development shall thereafter be undertaken and maintained in accordance with the agreed measures and timetable.
9. Sustainable drainage solution to be installed prior to external materials to the roof are installed.
10. Permitted development rights removal (Classes A, AA, B, C and E).

MAIN REPORT

1. Proposals and Background

The application seeks outline planning permission with all matters reserved for the erection of 1 no. self-build dwelling.

The application site is located to the western edge of the village on the southern side of Townsend Lane, adjacent to an industrial unit. The site adjoins the boundary with Donington Le Heath Conservation Area (to the north) and is located outside of the Limits to Development. There is open countryside to the north, south and west of the site.

The application site is located outside limits to development, being situated adjacent to the limits to development of Donington-Le-Heath which is defined as a Principal Town which is a “primary settlement in the district which provides an extensive range of services and facilities including employment, leisure and shopping and which is accessible by sustainable transport from surrounding areas and to other large settlements outside the district. The largest amount of new development will be directed here.”

The designated Conservation Area lies to the north, the section of Townsend Lane to the north of the site is within the Conservation Area, as such the proposal may affect the setting of the Conservation Area.

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

Site Location Plan and Aerial Image



Planning History

- 16/00698/FUL - Erection of three detached dwellings with ancillary garages and associated works – Refused 06.11.17.
- 21/00801/FUL - Erection of stable block and barn and the formation of an access track and hardstanding – Application Permitted 21.07.21.

Planning history background

To provide context in relation to the assessment of the current application, in 2017, the Local Authority refused full planning application for the erection of three detached dwellings with ancillary garages and associated works on the land subject to the current two separate applications for 1 no. self build dwellings. In the assessment of this application, the officer noted that *“There is an existing industrial workshop to the eastern boundary however the land is currently open undeveloped pasture land which is visually linked with the wider agricultural fields and open countryside area to the west and south of Donington Le Heath. The location of the site outside the defined limits to development in both the adopted and submitted Local Plans signals the intent that this land should be protected from unnecessary development. On this basis the proposed residential development would diminish and erode this present open character by an urbanisation of the site and would represent an incongruous encroachment into the rural environment given the position outside the settlement boundary. The proposal would also extend the built form of development westwards on Townsend Lane and would represent an inappropriate form of ribbon development which conflicts with the aims of Policy S3 of the submitted Local Plan.”*

Additionally, in relation to the adjacent Conservation Area, the officer noted that *“Development of the application site would sever the historic settlement from its rural setting (to an extent) and obstruct one of the five “important views out from the hamlet”. In these respects, development of the application site would harm the setting and significance of the conservation area; the harm would be less than substantial.”*

As such, this original application was refused on the grounds of visual impact, heritage grounds as well as non-compliance with the defined limits to development. Additionally, since this initial refusal, it is noted that an additional permission (under 21/00801/FUL) has been granted for the erection of a stable block and barn and the formation of an access track and hardstanding which permitted an access track to the eastern boundary of the site which has since been laid down.

In comparison to this previous application (16/00698/FUL) which was for 3 no. market houses which were two storey in scale, in this case, the application seeks permission for the erection of 1 no. dwelling at outline stage, with an additional application for 1 no. dwelling directly adjacent to this site (under application reference 23/01241/OUT) also being sought at outline stage with all other matters including scale and layout being considered at later relevant reserved matters stages. As such, there is a reduction in 1 no. dwelling compared to the previous proposals on the site (under application 16/00698/FUL).

Further, and crucially, whilst the previous proposals were for market housing, the current applications seek permission for self-build dwellings where there is, at the time of writing, an unmet need for self-builds, which changed in October 2022 (where the Local Authority is failing to meet its statutory obligations under the Self Build Act).

The District Council has a duty under Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended), to give suitable development permissions in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in North West Leicestershire arising in each base period and the current application would make a contribution (of 1 no. dwelling) in addressing this existing and future shortfall.

2. Publicity

10 Neighbours have been notified.

Site Notice displayed 18 October 2023.

Press Notice published Leicester Mercury 25 October 2023.

3. Summary of Consultations and Representations Received

Hugglescote and Donington Le Heath Parish Council - Objects to the application given that the application site is located outside limits to development, would result in encroachment into the countryside, access to local services and facilities via walking would be difficult and notes general inconsistencies and contradictions within the submitted planning statement.

LCC Highways – No objections.

LCC Ecology – No objections.

LCC Archaeology – No objections subject to the imposition of a condition for a programme of archaeological work.

LCC Minerals - No objections.

NWLDC Tree Officer - No objections.

NWLDC Conservation Officer – Identifies less than substantial harm to the setting of the adjacent Donington le Heath Conservation Area.

NWLDC Environmental Protection - No objection

NWLDC Contaminated Land Officer – No objections subject to conditions.

Ward Member - requests that the application be called-in to the planning committee due to highways impacts, the development being outside the limits to development, contrary to policy S3 of the local plan and the Hugglescote and Donington le Heath Neighbourhood Plan. The proposals would result in encroachment upon the countryside and would impact upon the adjacent Conservation Area.

NWLDC Waste Services – No comments at the time of writing.

Third Party Letters of Representation

Neighbouring properties were consulted during the lifetime of the application and 7 no. objections have been received raising the following comments –

- The development is outside limits to development as outlined in the Hugglescote and Donington Le Heath neighbourhood plan and local plan.
- The proposal would be contrary to Policy S3.
- Concerns that local services and facilities would not be able to cope with additional demand resulting from the developments.

- There have been previous refusals on the land and so the application should be determined as such.
- There are limited public transport options nearby and limited facilities and services for the occupants of any new dwellings.
- The proposal would result in the loss of agricultural land.
- The proposals would not recognise the intrinsic character and beauty of the countryside.

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

4.Relevant Planning Policy

National Policies

National Planning Policy Framework (2023)

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

Paragraphs 7, 8, 9, 10, 11, 13 and 14 (Achieving sustainable development);
Paragraphs 38, 47, 55, 56 and 57 (Decision-making);
Paragraphs 70, 82, 83 and 84 (Delivering a sufficient supply of homes)
Paragraphs 85, 87 and 88 (Supporting a prosperous rural economy);
Paragraph 96 (Promoting healthy and safe communities);
Paragraphs 108, 109, 114, 115 and 116 (Promoting sustainable transport);
Paragraphs 123, 124, 126 and 128 (Making effective use of land);
Paragraphs 131, 135, 136, 139 and 140 (Achieving well-designed and beautiful places);
Paragraphs 157, 159, 162, 165 and 173 (Meeting the challenge of climate change);
Paragraphs 180, 185, 186, 189, 190 and 191 (Conserving and enhancing the natural environment);
Paragraphs 195, 200, 201, 203, 205, 206, 208, 211, 212 (Conserving and enhancing the historic environment); and
Paragraphs 215 and 217 (Facilitating the sustainable use of minerals).

Adopted North West Leicestershire Local Plan (2021)

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

S2 - Settlement Hierarchy
S3 - Countryside
D1 - Design of New Development
D2 – Amenity
He1 – Historic Environment
En1 - Nature Conservation
En3 – The National Forest
IF1 - Development and Infrastructure
IF4 - Transport Infrastructure and New Development

IF7 - Parking Provision and New Development
 Cc2 - Water - Flood Risk
 Cc3 - Sustainable Drainage Systems

Hugglescote and Donington Le Heath Neighbourhood Plan (2021)

Policy G1 – Limits to Development
 Policy G3 – Design
 Policy H1 – Housing Mix
 Policy Env 6 – Biodiversity and habitat connectivity
 Policy Env 7 – Protection of the Rural Setting
 Policy T2 – Residential and Public Car Parking

Other Policies/Guidance

The Community Infrastructure Levy Regulations 2010
 The Conservation of Habitats and Species Regulations 2017
 Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System
 National Planning Practice Guidance
 Good Design for North West Leicestershire SPD - April 2017
 National Design Guide - October 2019
 Leicestershire Highways Design Guide (Leicestershire County Council)
 National Forest Strategy 2014-2024
 The Self-Build and Custom Housebuilding Act 2015

5. Assessment

Principle of Development

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

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

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

Further, Policy G1 of the Hugglescote and Donington Le Heath Neighbourhood Plan states that land outside the settlement boundary will be treated as open countryside, where development will be carefully controlled, or supported as appropriate, in line with local and national strategic planning policies.

The NPPF defines '*Previously Developed land*' (PDL) as *land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure*. However, this excludes land in built-up areas such as residential gardens. In this instance, the application site is an existing greenfield site and would not fall under the NPPF's definition of PDL. As such, this development would not be supported under Policy S3 (e).

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

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

For the reasons set out above, the proposal would not accord with the provisions of Policies S2 and S3 of the adopted Local Plan and Policy G1 of the Hugglescote and Donington Le Heath Neighbourhood Plan.

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

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

The application site would be located outside of defined limits to development, outlined both in the local plan and adopted neighbourhood plan. The application site is an existing greenfield site located to the southwest of Townsend Lane, on land to the west of an existing workshop.

The existing site is an existing greenfield site comprising largely of grassland with a mix of post and rail, and natural boundaries including trees and brambles. It was also noted that an access track in respect of the approved proposals under application reference 21/00801/FUL had been laid to the eastern boundary of the site. However, the application site maintains a rural character of undeveloped pasture land which is visually linked with the wider agricultural fields and open countryside area to the west and south of Donington Le Heath and would be publicly visible from the adjacent public footpath (N67).

The site is not located within the Donington Conservation Area, although the site is located directly adjacent to the boundaries of the Conservation Area.

In relation to the Conservation Area, it is noted that *"Buildings do not make an important contribution to the character of the conservation area."* Rather, the adopted character appraisal highlights the importance of *"a matrix of lanes ... enclosed by walls and hedges" and "the*

presence of fields and open recreational land round the hamlet". Regarding the former, the character appraisal notes *"the absence of pavements"* and the way in which *"several of the lanes head out into the countryside as unmade tracks"*. Regarding the latter, the character appraisal identifies five *"important views out from the hamlet"* that are *"significant in establishing the rural feel and setting of the settlement"*. At the end of the appraisal, a map identifies elements that contribute positively to the character of the area. The map indicates a *"view to countryside"* from Townsend Lane across the application site.

It is proposed to develop one self build dwelling on the application site in the current application, the site of which is in use as a paddock. Development of the application site would sever the historic settlement from its rural setting (to an extent) and obstruct one of the five *"important views out from the hamlet"*. In these respects, development of the application site would harm the setting and significance of the conservation area; the harm would be less than substantial. Nevertheless, it is considered that this harm would be to a minimal degree given that the application is for one dwelling only and noting that details such as scale, layout and landscaping could be controlled through the use of appropriate conditions and/or for discussion at later reserved matters stage(s).

Whilst less than substantial harm has been identified, it is considered that in this case (as outlined in further detail in the below heritage section), this limited harm would be outweighed by the public benefits resulting from the scheme which include to a lesser extent, economic benefits associated with employment in the construction trade and future residents helping to maintain local services in the area as well as to a greater extent, through the social benefits of contributing to the provision of a mix of housing types in the local area through the provision of a self-build dwelling which could be secured by way of condition.

Nonetheless, in the case of a harm assessment, overall, the introduction of a self build dwelling on the application site would be inconsistent with the established pattern of development and therefore, would cause harm to the character and appearance of the surrounding area. However, this would be to a reduced degree when compared to the previous refusal under application reference 16/00698/FUL due to the current applications only proposing one dwelling (or two dwellings when considered in conjunction with application reference 23/01240/OUT) and noting that the current application is at outline stage only, where further details such as scale, landscaping, appearance and layout could be controlled at later reserved matters stages to minimise any resultant harm.

Overall, the proposal would result in a suburban form of development that would fail to respond to or enhance the built and natural character of the settlement thus would harm its immediate and wider landscape setting.

Existing viewpoints with application site outlined in red



(ii) It does not undermine, either individually or cumulatively with existing or proposed development, the physical and perceived separation and open undeveloped character between nearby settlements...;

The proposed self-build dwelling, along with the additional self-build dwelling under consideration under application reference 23/01240/OUT would result in the infilling of an undeveloped greenfield site, outside the defined limits to development. Given that the proposals would result in encroachment into the countryside and would result in an extension of built development which would likely front onto Townsend Lane (as demonstrated within the provided illustrative plans), it is considered that the proposals would undermine the physical and perceived separation and open undeveloped character between nearby settlements.

Site location (outlined in red) overlaid on existing aerial view



(iii) it does not create or exacerbate ribbon development;

It is noted that the Planning Portal defines 'ribbon development' as "development, usually residential, extending along one or both sides of a road but not extended in depth" with the dictionary definition being "the building of houses along a main road, especially one leading from a town or village."

The proposals would result in additional development along this section of Townsend Lane and would extend the built form of development westwards on Townsend Lane. As such, whilst the plans at this stage are only outline, with all matters for consideration at later reserved matters stages, it is considered likely that the self build dwelling, considered alongside the additional self-build dwelling under application 23/01240/OUT would result in the exacerbation of ribbon development along this section of Townsend Lane.

Site location (outlined in red) overlaid on existing aerial view with direction of ribbon development indicated



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

Given that the proposal would be adjacent to an existing factory building and existing dwellings on this section of Townsend Lane, it is considered that a form of development could be secured at reserved matters stage that would be well-related to existing development along Townsend Lane and the wider settlement of Donington-Le-Heath.

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

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

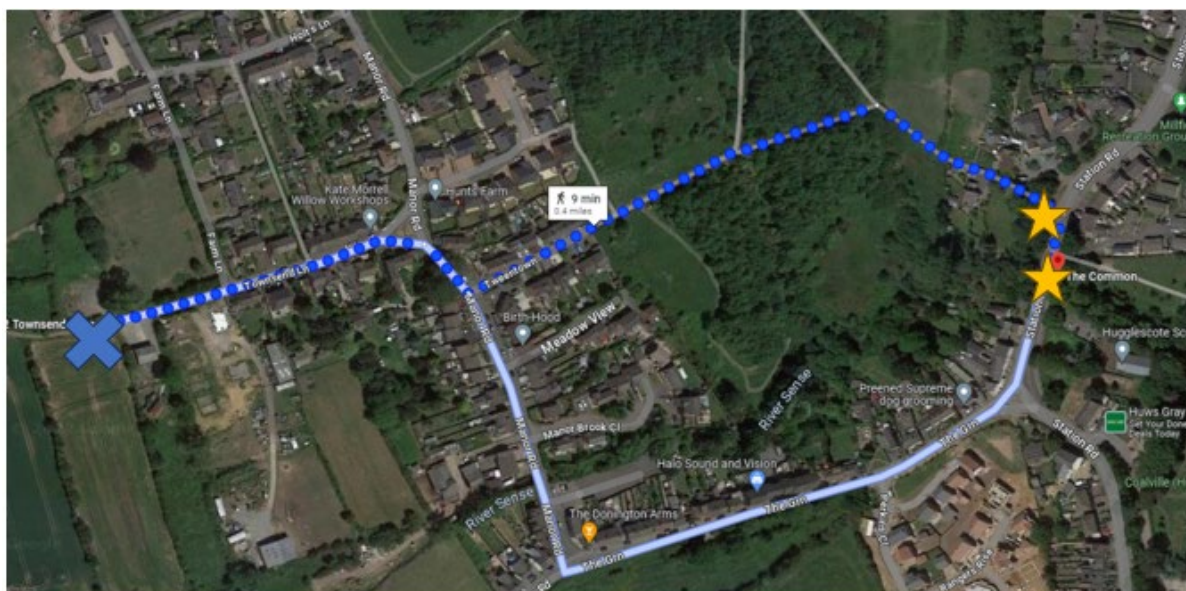
(vi) the proposed development is accessible, or will be made accessible by a range of sustainable transport

The application site is located approximately 25m away from the defined limits to development of Donington Le Heath which is defined under Policy S2 as a Principal Town.

Donington Le Heath is located within the Greater Coalville Area which benefits from a range of public services and facilities including convenience stores, public houses, local schools, recreation grounds and community centres among other things, many of which can be accessed within the preferred maximum walking distance.

Future occupants of the application site would also have access to public transport including being able to access regular bus services from Station Road where the No. 15, 28 and 125 services are based.

Location of application site (marked with a blue x) and location of nearest bus stops (starred in yellow)



Consequently, future occupants of the property would not necessarily be dependent on the private car to access the most basic of services and would support the approach to a low

carbon economy. The provision of this dwelling would also assist in sustaining these services, which is a key intention of Paragraph 79 of the NPPF. As such, it is considered that the proposed development would accord with the aims of Policy S3 (vi).

The site is not considered to be in an isolated location given its proximity to other dwellings and development, as well as having consideration to the distance from services and facilities in Donington-Le-Heath. There would also be some limited economic benefits associated with employment in the construction trade and future residents helping to maintain local services in the area.

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

Self-Build and Custom Housing

It is recognised that self-build and custom housebuilding is a key element of the government's agenda to increase the supply of housing, both market and affordable and gives more people the opportunity to build their own homes as set out in Paragraph 62 of the NPPF.

The applicant has provided arguments in support of a self-build unit, including but not limited to that the Council has not satisfactorily demonstrated that it has granted enough permissions to meet the identified need.

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

Self and custom build is defined as the building or completion by individuals, an association of individuals or persons working with or for individuals, of houses to be occupied as homes by those individuals. This is an outline application for the erection of 1 no. self-build dwelling, and the proposal would meet this 'definition' and would contribute towards the delivery of self-build and custom housebuilding in the district.

The District Council has a duty under Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended), to give suitable development permissions in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the area of North West Leicestershire arising in each base period. This District Council's Self-Build Register was established in April 2016. As of 17.01.2024 there are 137 individuals on the self-build register. For the area of North West Leicestershire, this demand equates to providing a specific number of permissions for plots.

The demand is split into different base periods. As of October 2022, there was a shortfall of four self-build permissions. Five applications have been granted (22/01054/FUL, 22/01547/FUL, 23/00782/FUL, 23/00776/OUT and 23/00292/OUT) and two application have resolutions to permit subject to the signing of a S106 agreement and so the permissions have not yet been issued.

However, this shortfall has increased by the need to provide a further 20 plots by October 2023, which therefore means to October 2023 there is a current deficit of 19 dwellings needed for the Council to meet its self-build obligation as contained in the 2015 Self Build Act. Therefore, it is acknowledged that this proposal (subject to a legal agreement securing it as a self-build

dwelling) would contribute to addressing this existing and future shortfall and this is a material consideration in the determination of the application to be given significant weight.

Current self-build demand and shortfall based on 17.1.24 figures

Date the demand is to be met	Demand	Current shortfall?
October 2019	6 plots	0
October 2020	10 plots	0
October 2021	8 plots	0
October 2022	14 plots	0
October 2023	20 plots	19
October 2024	14 plots	33 if no further self-build dwellings are granted by October 2024
October 2025	20 plots	53 if no further self-build dwellings are granted by October 2025
October 2026	34 plots	87 if no further self-build dwellings are granted by October 2026

The adopted Local Plan is silent on the matter of self-build housing and in these circumstances, Paragraph 11 of the NPPF would apply which states that *'plans and decisions should apply a presumption in favour of sustainable development'*.

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

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

The application site falls within none of the areas identified within paragraph 11(d)i of the NPPF and therefore the test to be applied in this case is that set out in paragraph 11(d)ii above that planning permission should be granted unless:

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

Paragraph 14 of the NPPF also states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is "likely" to significantly and demonstrably outweigh the benefits, provided all of the following apply;

- a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and*

b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 67-68)

In this case, the Hugglescote and Donington Le Heath neighbourhood plan was adopted in November 2021 and therefore became part of the development plan five years or less before the date on which the decision is made. However, part (b) also specifies that the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 67-68).

Whilst the Neighbourhood Plan refers to the District Housing Need under the “approach to future residential growth” the Neighbourhood Plan does not provide specific allocations to provide for more residential units during the current planning period to 2031 other than through Windfall development. On this basis, it is not considered that the neighbourhood plan contains specific policies **and** allocations and as such, the policies in the plan cannot carry significant weight in decision making relating to residential development as it fails part 14(b) of the NPPF and therefore the requirements of paragraph 11d still apply where the presumption in favour of sustainable development applies.

Therefore, in light of this shortfall that derives from the Self Build Register, this need has to be balanced against planning considerations in coming to a view on the suitability of the proposal. This balancing exercise will be undertaken upon completion of the consideration of all planning matters at the end of this report.

Loss of Agricultural Land

In terms of environmental sustainability the proposal would result in the loss of agricultural land. Furthermore, consideration has been given to footer 62 which states that the availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). It is not clear what class of agricultural land the site falls within. 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.

Therefore, given the relatively limited extent of the potential loss of the site, at 0.1 hectares, it is considered that this is not sufficient to sustain a reason for refusal in this case.

Heritage Impacts

The site is not located within the Donington-Le-Heath Conservation Area, although the site is located directly adjacent to the boundaries of the Conservation Area.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

Policy He1 of the Local Plan (2021) states that proposals should “*conserve or enhance the significance of heritage assets within the district, their setting, for instance significant views within and in and out of Conservation Areas.*”

Paragraph 201 of the NPPF states that “*Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by*

development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal."

Further, paragraph 205 states that *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."*

The Conservation Officer was consulted throughout the course of the application who referred to previous comments provided under application reference 16/00698/FUL and identified less than substantial harm.

In relation to the Conservation Area, it is noted that *"Buildings do not make an important contribution to the character of the conservation area. Rather, the adopted character appraisal highlights the importance of "a matrix of lanes ... enclosed by walls and hedges" and "the presence of fields and open recreational land round the hamlet".* Regarding the former, the character appraisal notes *"the absence of pavements"* and the way in which *"several of the lanes head out into the countryside as unmade tracks"*. Regarding the latter, the character appraisal identifies five *"important views out from the hamlet"* that are *"significant in establishing the rural feel and setting of the settlement"*. At the end of the appraisal, a map identifies elements that contribute positively to the character of the area. The map indicates a *"view to countryside"* from Townsend Lane across the application site.

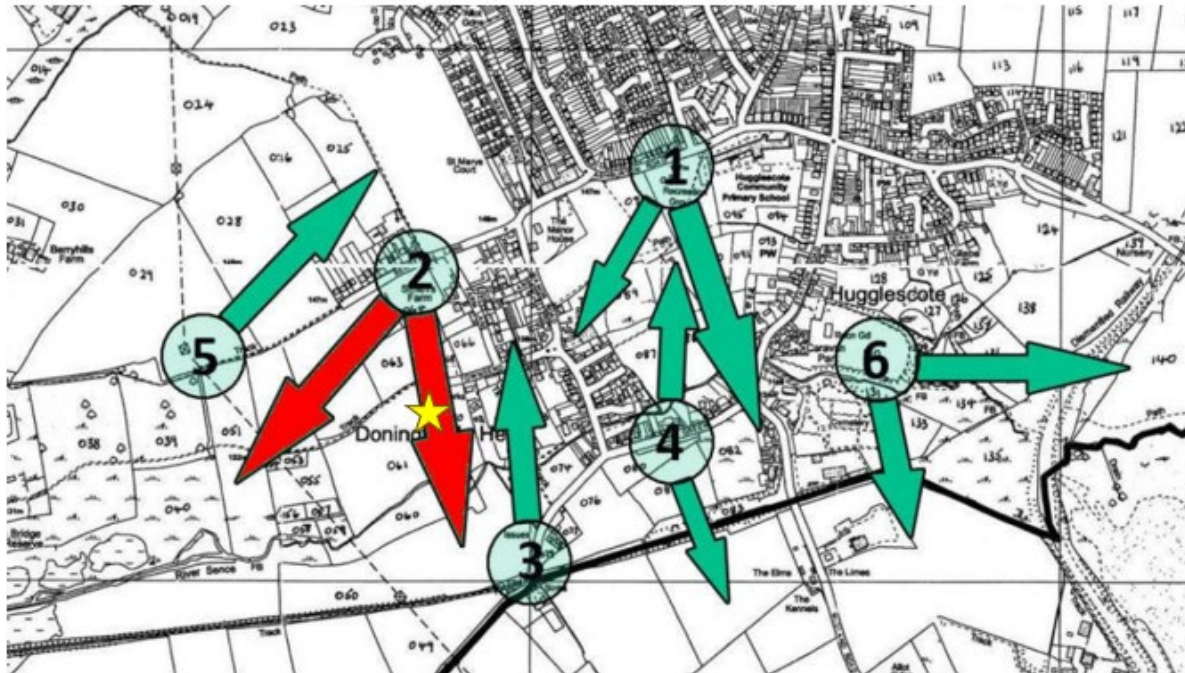
It is proposed to develop one self build dwelling on the site which is the subject of the current application, the site of which is in use as a paddock. Development of the application site would sever the historic settlement from its rural setting (to an extent) and obstruct one of the five *"important views out from the hamlet"*. In these respects, development of the application site would harm the setting and significance of the conservation area; the harm would be less than substantial. Nevertheless, it is considered that this harm would be to a minimal degree given that the application is for one dwelling only and noting that details such as scale, layout and landscaping could be controlled using appropriate conditions and/or for discussion at later reserved matters stage(s).

Paragraph 208 of the NPPF states that *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use"*.

Whilst less than substantial harm has been identified, it is considered that in this case (as outlined in further detail in the below heritage section), this limited harm would be outweighed by the public benefits resulting from the scheme which includes to a lesser extent, economic benefits associated with employment in the construction trade and future residents helping to maintain local services in the area as well as to a greater extent, through the social benefits of contributing to the provision of a mix of housing types in the local area through the provision of a self-build dwelling which could be secured by way of condition.

As such, overall, it is considered that the proposals would accord with policy He1 of the Local Plan, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as relevant paragraphs of the NPPF.

Important view 2 referred to within the Hugglescote and Donington-Le-Heath Neighbourhood Plan and approximate position of application site (starred in yellow below)



Character and Appearance Impacts and Impacts to the Countryside

Policy D1 of the Local Plan (2021) requires that all developments be based upon a robust opportunities and constraints assessment and be informed by a comprehensive site and contextual appraisal. It also requires that new residential developments must positively perform against Building for Life 12 and that developments will be assessed against the Council's adopted Good Design SPD.

The recently updated NPPF includes several new measures to improve design quality. This includes a test at paragraph 139 which directs that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

The Council's Good Design SPD and the government's National Design Guide/National Model Design Code therefore carry substantial weight. The site is also located within the National Forest and is therefore subject to the requirements of Policy En3.

The application does not seek approval of the access, layout, scale, appearance, or landscaping therefore the submitted plans (other than the site location plan) show indicative details only.

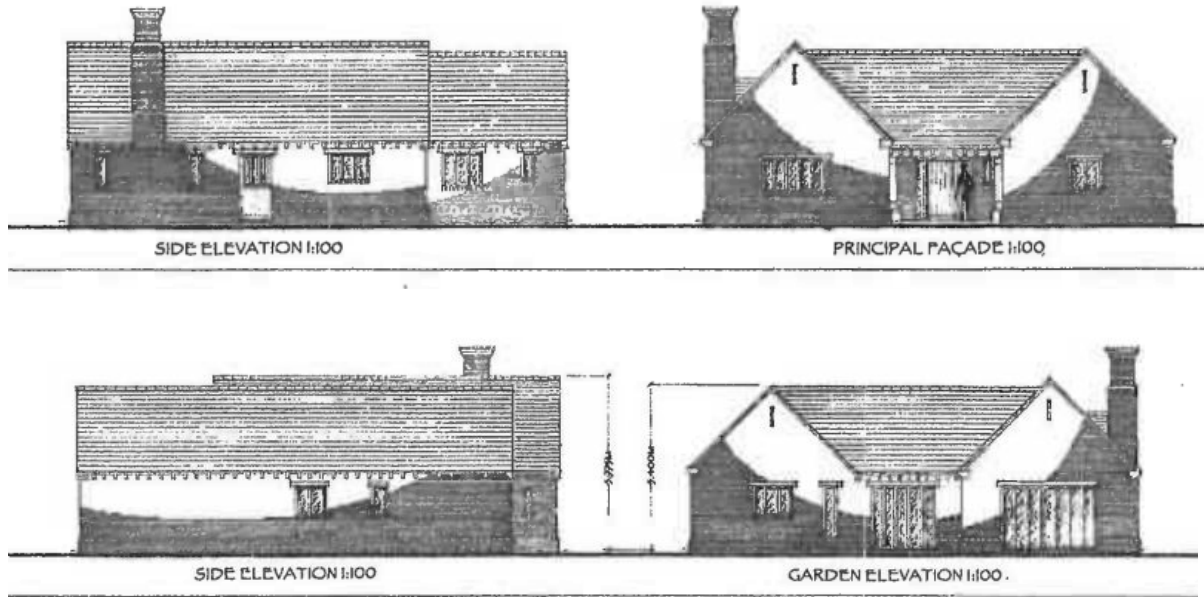
The existing site is an existing greenfield site comprising largely of grassland with a mix of post and rail, and natural boundaries including trees and brambles. Officers also note that an access track in respect of the approved proposals under application reference 21/00801/FUL had been laid to the eastern boundary of the site. The application site maintains a distinct rural character of undeveloped pasture land which is visually linked with the wider agricultural fields and open countryside area to the west and south of Donington Le Heath and would be publicly visible from the adjacent public footpath (N67).

In this case, it is considered that the introduction of a self build dwelling on the application site would be inconsistent with the established pattern of development and therefore, would cause harm to the character and appearance of the surrounding area. However, this would be to a reduced degree when compared to the previous refusal under application reference 16/00698/FUL due to the current applications only proposing one dwelling (or two dwellings when considered in conjunction with application reference 23/01240/OUT) and noting that the current application is at outline stage only, where further details such as scale, landscaping, appearance and layout could be controlled at later reserved matters stages to minimise any resultant harm.

The submitted illustrative plans show one large detached single storey dwelling limited to single storey in height. It is considered that the site could accommodate all of the necessary requirements (private garden, parking/turning space, bin storage and collection) for one dwelling without being too cramped. Furthermore, given the site's location within the National Forest adjacent to open countryside there would be a need for reinforcement of the landscaping of the site, which could also be accommodated.

With the above in mind, whilst it is considered the loss of the site to built development would result in some harm to local character and the area's countryside setting, when the overall context of the scheme is considered (outline with all matters reserved at this stage) and that the impacts of such a development could be controlled through appropriate use of conditions and during any further reserved matters applications, on balance, it is considered the proposals would accord with policy D1 of the Local Plan and Policy G3 of the Neighbourhood Plan as well as relevant paragraphs of the NPPF.

Illustrative elevations and site plan (to provide context for the potential design, scale, and layout)



Impact upon residential amenity

Policies D2 of the Local Plan (2021) requires that proposals for development should be designed to minimise their impact on the amenity and quiet enjoyment of both existing and future residents within the development and close to it.

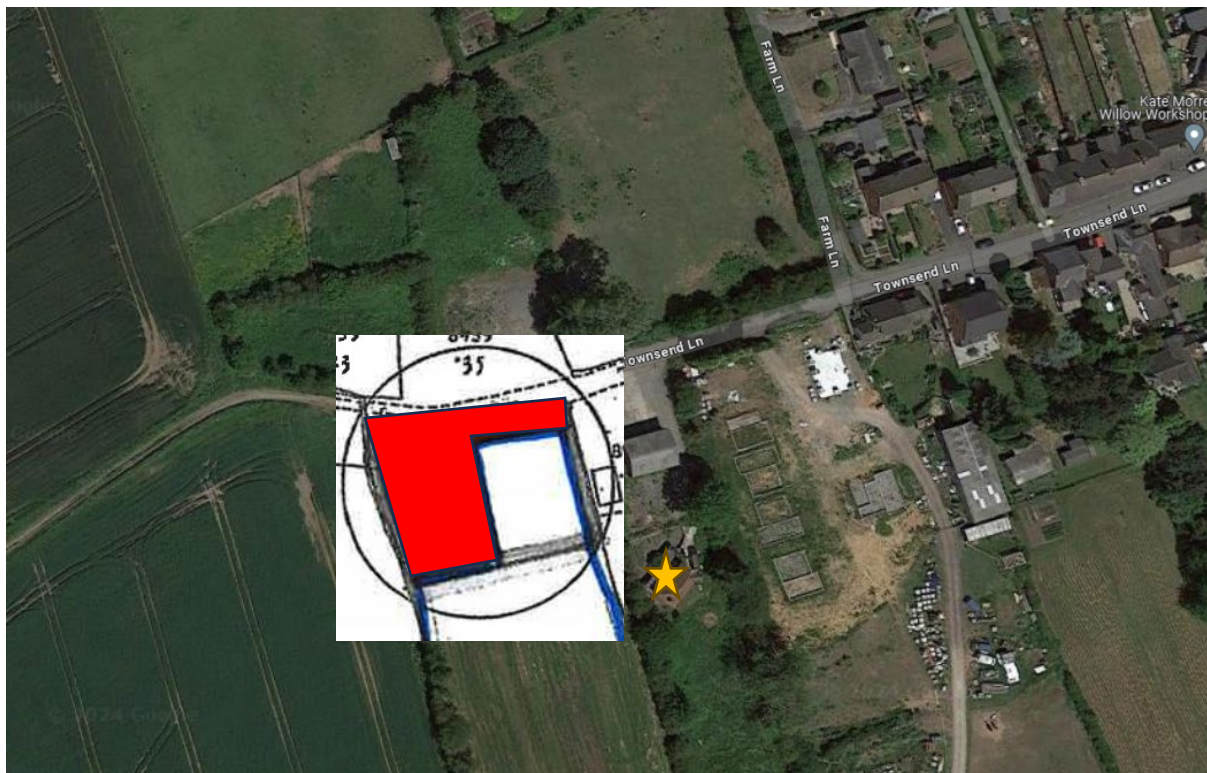
Given that the submitted plans provided are indicative, it is not possible to assess the impacts upon the residential amenity of surrounding dwellings in detail. Impacts, particularly in terms of privacy, loss of sunlight and daylight and overbearing impacts would be a primary consideration at the reserved matters stage, when details of the scale and appearance of the proposal are presented for approval. How the proposed landscaping, including details of proposed ground levels and boundary treatments will impact or preserve amenity will also be considered carefully at the reserved matters application stage. However, the submitted layout and indicative plans provide a high degree of confidence that a scheme is capable of being delivered that would accord with policy D2.

Furthermore, it is considered that the future occupiers of the proposed units could be provided with a high standard of amenity in terms of light, outlook, noise and private amenity space.

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

Therefore, the proposal is considered to be in accordance with Policy D2 of the adopted Local Plan, Policy G3 of the Neighbourhood Plan, the Council's Good Design SPD, and relevant sections of the NPPF.

Application site (outlined in red) and nearest neighbour at Long Acres (yellow star)



View to the southeast with the nearest neighbour (Longacres) shown in the background



Highway Considerations

Policy IF4 of the Local Plan (2021) requires that development takes account of the impact upon the highway network and the environment, including climate change, and incorporates safe and accessible connections to the transport network to enable travel choice, including by non-car modes, for residents, businesses, and employees.

Policy IF7 of the Local Plan (2021) requires that development incorporate adequate parking provision for vehicles and cycles to avoid highway safety problems and to minimise the impact upon the local environment.

The site lies off Townsend Lane which is an adopted unclassified road subject to a 30mph speed limit. In the vicinity of the site frontage, the road is a single track road on the northern boundary of the site and immediately turns into a public right of way in the form of a Byway Open To All Traffic (BOTAT).

LCC Highways was consulted throughout the course of the application who noted that *“Whilst no information has been provided regarding the proposed access, the LHA have reviewed the submitted ‘Site Layout Plan’ (drawing number HMD/PD/0521/01) and note that the red line boundary fronts the entire length of the northern boundary of the site connecting to Townsend Lane. The red line boundary would allow the Applicant to provide an access width in accordance with Figure DG17 of Part 3 of Leicestershire Highway Design Guide (LHDG) which is available at <https://resources.leicestershire.gov.uk/lhdg>.”*

In relation to visibility, *“the LHA is satisfied that appropriate vehicular visibility splays can be provided to accord with Table DG4 of Part 3 of the LHDG and the LHA is satisfied that a safe and suitable access to the site is achievable.”*

Regarding the internal layout, *“the LHA advise that the internal layout should be designed in accordance with the LHDG and ensure that sufficient parking and turning facilities have been provided within the site.”*

In terms of parking and turning, the site is large enough to provide sufficient space, which would be subject to a later reserved matters application. The site is also considered to be accessible in terms of local amenities and with access to public transport links to meet day to day needs. Notwithstanding this, the access is considered safe and suitable, and therefore the proposal accords with policy IF4 and IF7.

In relation to impacts on the Public Rights of Way, *“The LHA note that Public Footpaths N67 and N70 run adjacent to the proposed development, as does BOTAT N66. The LHA is satisfied that the use and enjoyment of Public Footpaths N67 and N70 and BOTAT N66 will not be significantly affected.”*

As such, the Local Highway Authority Advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe (as outlined by paragraph 111 of the NPPF) and therefore a refusal of the proposal on highway safety grounds would not be defensible.

Overall, the application is considered to be in accordance with the guidance set out within the Leicestershire Highway Design Guide and the application is considered to be acceptable when having regard to Local Plan Policy IF4 and IF7, Policies G3 and T2 of the Neighbourhood Plan and relevant paragraphs of the NPPF.

Viewpoint facing westwards along Townsend Lane



Viewpoint facing eastwards along Townsend Lane



Ecology and Trees

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

The application is not accompanied by a Preliminary Ecological Appraisal or a completed biodiversity net gain metric.

LCC Ecology were consulted throughout the lifetime of the application who confirmed that the habitats are of low ecological value and there is no evidence of protected species present. However, it was recommended that a Reserved Matters Stage, biodiversity enhancements are sought including native planting and integrated bird and bat boxes into the dwelling.

Additionally, the Council's Tree Officer was consulted throughout the course of the application and raised no objections to the proposals.

The mandatory requirement for 10 percent BNG has now been enacted through the Environment Bill and for applications of the size and type as this one it comes into force on April 2nd, 2024. As such, mandatory BNG will only apply to applications submitted on or after April 2nd, 2024. In this case, whilst according to current guidance, self-build developments are exempt from Biodiversity Net Gain paragraph 180(d) of the NPPF sets out a requirement to minimise impacts on and provide net gains for biodiversity and paragraph 185(b) still requires a measurable net gain for biodiversity.

Whilst a completed metric has not been provided as part of the application documents given that one isn't required with planning applications which have been submitted prior to the 2nd of April 2024, a biodiversity net gain condition could be applied as part of any decision on the application in order to secure measurable net gains on the proposal which would be in line with paragraph 180(d) of the NPPF.

Subject to the securing of the above conditions, the proposals would secure enhancements to local biodiversity and would therefore accord with Policy En1 of the Local Plan, Policy Env6 of the Neighbourhood Plan and relevant paragraphs of the NPPF.

Viewpoints to the east and west of the site



Archaeology

Paragraph 200 of the NPPF states that local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

Where proposals are likely to have a detrimental impact upon any heritage assets present, NPPF paragraph 211, states that developers are required to record and advance understanding

of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development, and to make this evidence (and any archive generated) publicly accessible.

During the course of the application, the County Archaeologist was consulted who noted the following in relation to the site:

“The Leicestershire and Rutland Historic Environment Record (HER) notes notes that the site lies on the boundary of the medieval and post-medieval historic settlement core of Donington le Heath (HER ref.: MLE4576), close to earthwork remains which represent the medieval village settlement (MLE4565). Further earthworks to the west are thought to represent the remains of a platform for a substantial medieval house (MLE8329). The application area has not undergone extensive previous ground disturbance, and has good potential for the presence of significant archaeological deposits, which are likely to be well-preserved and close to the ground surface.

Based upon the available information, it is anticipated that these remains whilst significant and warranting further archaeological mitigation prior to the impact of development, are not of such importance to represent an obstacle to the determination of the application.

Local Planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development, and to make this evidence (and any archive generated) publicly accessible.

In that context it is recommended that the current application is approved subject to conditions for an appropriate programme of archaeological mitigation, including an initial phase of exploratory trial trenching, followed, as necessary by intrusive and non-intrusive investigation and recording. The Historic & Natural Environment Team (HNET) will provide a formal Brief for the latter work at the applicant’s request.

If planning permission is granted the applicant must obtain a suitable written scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the planning authority. The WSI must be submitted to the planning authority and HNET, as archaeological advisors to your authority, for approval before the start of development. They should comply with the above-mentioned Brief, and with relevant Chartered Institute for Archaeologists “Standards” and “Code of Practice”. It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development.

While the current results are sufficient to support the planning decision, further post-determination trial trenching will be required in order to define the full extent and character of the necessary archaeological mitigation programme.”

Subject to the inclusion of an archaeological mitigation condition, the LPA is satisfied that, the proposal would be acceptable for the purposes of paragraphs 200 and 211 of the NPPF.

Flood Risk and Surface Water Drainage

The site is situated within Flood Zone 1 and is not in an area at risk of surface water flooding, as defined by the Environment Agency’s Surface Water Flood Maps.

The proposal would result in a material increase in hard surfacing thus surface water will need to be managed on site via a sustainable drainage solution. Although no details of drainage have

been submitted at this stage, subject to conditions that require such details as part of the reserved matters application, it is considered that the proposal would not result in flooding or surface water drainage issues and consequently would accord with the aims of Policies Cc2 of the adopted Local Plan, as well as the guidance set out within the NPPF.

Land Contamination

It is noted that Environmental Protection were consulted during the course of the application who confirmed that they have no objections subject to agreement to pre-commencement conditions in respect of contamination due to the use of the neighbouring land as a workshop.

Subject to suitably worded conditions, it is considered that the development would have an acceptable impact and would accord with Paragraph 180 and 189 of the NPPF.

Conclusions and Planning Balance

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

The most important policies in the determination of this application are Policies S2 and S3 of the Local Plan and Policy G1 of the neighbourhood plan which support development within the settlement limits and restrict development in the countryside. As set out earlier in this report, these policies are of greatest importance in this case, and are effective, not out of date and carry significant weight.

However, the adopted Local Plan is silent on the matter of self-build housing and in these circumstances, as set out earlier in this report, paragraph 11(dii) of the NPPF would apply which states that *'where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

Additionally, whilst regard has been given to Paragraph 14 of the NPPF which states that any conflict arising with the neighbourhood Plan, where criteria (a & b) are met, would "likely" constitute significant and demonstrable harm, the relevant criteria would not be met and as such, this paragraph would not be engaged in the assessment of the self-build scheme and policy G1 of the Hugglescote and Donington-Le Heath Neighbourhood Plan has to carry limited weight in the determination of this residential scheme.

Limited harm would arise from the loss of greenfield land located within the countryside. The proposals would result in some character and appearance impacts including ribbon development contrary to criteria (i), (ii) and (iii) of the second part of Policy S3.

Moderate harm would arise from the granting of a permission that is in conflict with Policies S2 and S3 of the Local Plan and Policy G1 of the Hugglescote and Donington-Le Heath Neighbourhood Plan.

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

The application site is located approximately 25m from the settlement boundaries of Donington Le Heath which is defined under Policy S2 as a Principal Town which benefits from a range of services and facilities, with readily available access to public transport provision in the form of bus services. Whilst the application site itself is located outside of the defined limits to development, this location is more acceptable when compared to remote locations in the countryside where there would be more adverse environmental and social sustainability impacts. In this case, the proposal would not be an 'isolated' dwelling, and it would be close to other dwellings services.

Therefore, whilst the previous reasons for refusal for residential development for three dwellings under application reference 16/00698/FUL, the current application seeks permission for the erection of one dwelling at outline stage with all other matters including scale and layout being considered at later relevant reserved matters stages. As such, there is a reduction in the number of dwellings proposed compared to the previous proposals (under application 16/00698/FUL). Further, and crucially, whilst the previous proposals were for market housing, the current application seek permission for a self-build dwelling where there is, at the time of writing, an unmet need for self-builds, which changed in October 2022 (where the Local Authority is failing to meet its statutory obligations).

As such, in this instance, whilst harm in relation to criteria (i), (ii) and (iii) of the second part of Policy S3 has been identified, it is considered that this harm would be outweighed by the benefits of providing a self-build property.

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

It is therefore recommended that planning permission be granted subject to a Section 106 obligation and subject to the suggested planning conditions.

Erection of 400 dwellings approved under approval ref.
23/00459/VCUM (outline planning permission ref.
22/01140/VCIM) without complying with Condition 8 so as to
allow for removal of additional trees
Land north of Standard Hill and west of Highfield Street,
Hugglescote, Coalville, Leicestershire

Report Item No
A5

Application Reference
23/01482/VCIM

Grid Reference (E) 441903
Grid Reference (N) 313425

Date Registered:
7 November 2023
Consultation Expiry:
6 December 2023
13 Week Date:
6 February 2024

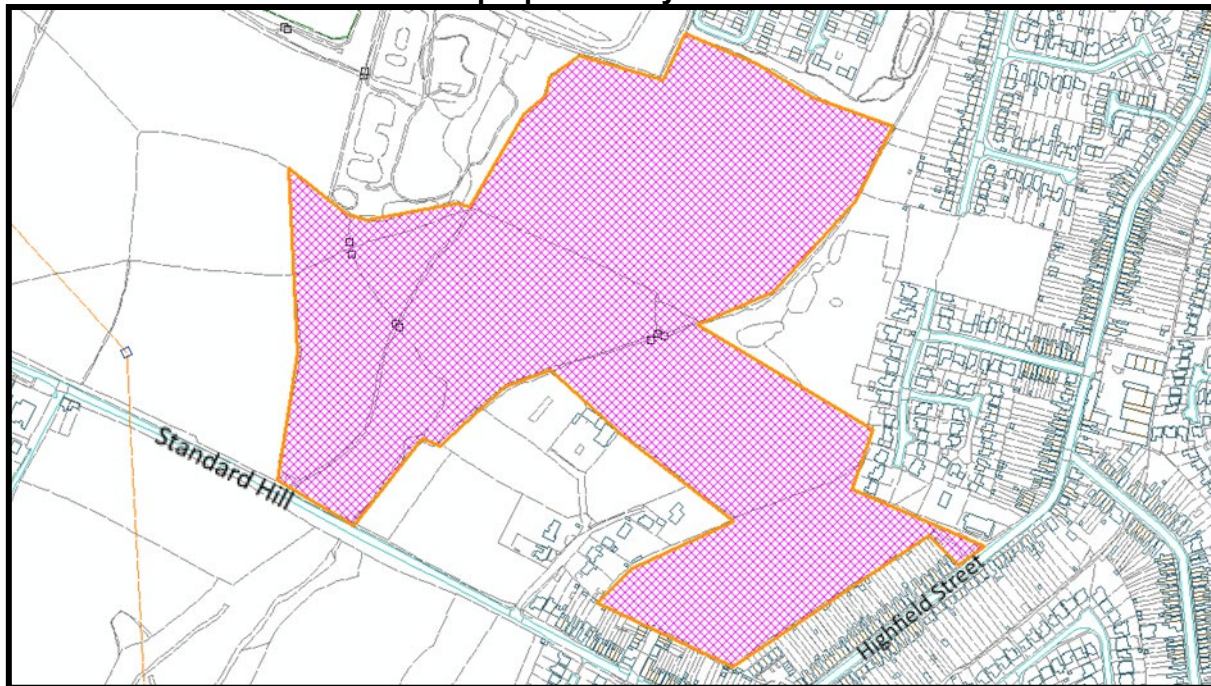
Applicant:
Mr Chima

Extension of Time:
To be agreed if required

Case Officer:
James Knightley

Recommendation: Permit, subject to conditions

Site Location - Plan for indicative purposes only



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Reason the case is called to the Planning Committee:

The application is referred to Planning Committee for determination at the request of Councillor Eynon (neighbouring ward member) on the grounds that it impacts on environmental and heritage amenity enjoyed by residents in her ward.

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

- 1 Compliance with outline planning permission
- 2 Approved plans
- 3 Scheme of landscaping (including future maintenance and management of proposed and existing landscaping) (submitted and agreed prior to occupation, or in accordance with details agreed under previous approvals)
- 4 Hard surfacing (including treatment of parking / driveway areas and delineation of parking) (submitted to and agreed prior to occupation, or in accordance with details agreed under previous approvals)
- 5 Materials (submitted and agreed prior to construction above damp proof course, or in accordance with details agreed under previous approvals)
- 6 Boundary treatment (submitted and agreed prior to occupation, or in accordance with details agreed under previous approvals)
- 7 Tree / hedgerow protection (including proposed TPO buffer zone) in place at all times in accordance with submitted tree protection details
- 8 Levels (submitted and agreed prior to commencement on the relevant phase, or in accordance with details agreed under previous approvals)
- 9 Provision of pedestrian and cycle routes / connections (submitted and agreed prior to occupation, or in accordance with details agreed under previous approvals)
- 10 Car parking / turning (provided prior to occupation of the relevant plot)
- 11 External lighting (submitted and agreed prior to installation, or in accordance with details agreed under previous approvals)
- 12 Windows, doors, eaves and verges (submitted and agreed prior to installation, or in accordance with details agreed under previous approvals)
- 13 Rainwater goods finished in black
- 14 Utility boxes finished in brown (or an alternative colour submitted and agreed prior to installation)
- 15 Chimneys (installed as per approved plans)
- 16 Windows to car parking areas installed prior to occupation of the relevant plot
- 17 Bin / recycling storage and collection points (submitted and agreed prior to occupation, or in accordance with details agreed under previous approvals)

- 18 Street name plates (submitted and agreed prior to installation, or in accordance with details agreed under previous approvals)
- 19 Retaining walls / structures (submitted and agreed prior to installation, or in accordance with details agreed under previous approvals)
- 20 Provision of signage in respect of unadopted roads / drives intended for public use (submitted and agreed prior to occupation of the relevant plots, or in accordance with details agreed under previous approvals)
- 21 Provision of pedestrian visibility splays to individual dwelling accesses prior to occupation of the relevant plots
- 22 Provision of measures to prevent drainage of surface water into the public highway prior to occupation of the relevant plots
- 23 Strategy for provision of rear vehicular access to existing properties on Highfield Street (submitted and agreed prior to occupation of the plots closest to this boundary, or in accordance with details agreed under previous approvals)
- 24 Details of substations/pumping stations etc. (submitted and agreed prior to installation, or in accordance with details agreed under previous approvals)
- 25 Details of works to watercourse (including culverting / headwalls etc.) (submitted and agreed prior to installation, or in accordance with details agreed under previous approvals)
- 26 Precise configuration of Plots 286 and 287 (submitted and agreed prior to commencement on the relevant plots, or in accordance with details agreed under previous approvals)
- 27 Compliance with Construction Environmental Management Plan (submitted and agreed prior to commencement on the relevant phase, or in accordance with details agreed under previous approvals)
- 28 Details of pedestrian link between the two principal areas of residential development within the site (submitted and agreed prior to installation, or in accordance with details agreed under previous approvals)
- 29 Details of measures to discourage on-street car parking adjacent to pedestrian link (submitted and agreed prior to occupation of adjacent plots, or in accordance with details agreed under previous approvals)
- 30 Additional landscaping adjacent to plots. 319 to 326 (submitted and agreed prior to occupation of those plots, or in accordance with details agreed under previous approvals)
- 31 Additional tree planting to off-set additional tree removal from central part of site (submitted and agreed prior to occupation of adjacent plots) (and including any associated changes to the principal landscaping scheme (under item 3 above) in this area of the site)

MAIN REPORT

1. Proposals and Background

In March 2022 reserved matters approval was issued for the erection of 400 dwellings on a site of approximately 19.7 hectares (ref. 18/00707/REMM). In February 2023, an application under Section 73 of the Town and Country Planning Act 1990 to vary conditions attached to the original reserved matters approval was granted, and which approved an amended internal site layout (ref. 22/01315/VCUM). A subsequent Section 73 application (submitted pursuant to approval ref. 22/01315/VCUM) to allow for amended house types, amended highways surfacing / treatment, alterations to the site layout and removal of additional trees was approved in September 2023 (ref. 23/00459/VCUM).

This is a further Section 73 application (submitted pursuant to approval ref. 23/00459/VCUM) and seeking approval for further amendments to retained trees.



The above image shows the site in relation to its surroundings

Relevant Planning History

Application Ref.	Description	Decision / Date
12/00007/OUTM	Erection of up to 400 dwellings with associated road and service infrastructure, drainage ponds, landscaping and open spaces (outline - all matters other than part access reserved)	Approved 17/04/15
16/00406/REMM	Erection of 79 dwellings and associated roads, infrastructure, drainage ponds, landscaping and open spaces (reserved matters of part access, appearance, landscaping, layout and scale to outline planning permission 12/00007/OUTM)	Approved 18/07/22
16/01198/REMM	Formation of site accesses to Standard Hill and Highfield Street (reserved matters to outline planning permission ref 12/00007/OUTM)	Approved 08/12/16
16/01200/VCUM	Erection of up to 400 dwellings with associated roads and service infrastructure, drainage ponds, landscaping and open spaces (outline- all matters other than part access reserved) approved under planning permission 12/00007/OUTM without complying with condition numbers 4, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20 , 21, 22, 23, 25, 26 and 28, so as to allow for development to commence on the provision of the site accesses	Approved 15/03/17
18/00707/REMM	Erection of 400 dwellings (Reserved Matters to Outline Planning Permission 16/01200/VCUM)	Approved 08/03/22
22/01140/VCIM	Erection of up to 400 dwellings with associated roads and service infrastructure, drainage ponds, landscaping and open spaces (outline- all matters other than part access reserved) approved under planning permission 16/01200/VCUM without complying with Condition numbers 4, 7, 9, 10, 15, 17, 27 and 28, so as to allow for a maximum of 150 dwellings to be accessed via Highfield Street, an amended access design to Highfield Street, amendments to proposed culverts, non-compliance with the Code for Sustainable Homes, and removal of the requirement to submit a Design Code	Approved 27/01/23
22/01141/VCIM	Formation of site accesses approved under reserved matters approval ref. 16/01198/REMM (as amended) (outline planning permission ref. 16/01200/VCUM) without complying with Conditions 2 and 3 so as to allow for the implementation of updated landscaping plans	Approved 19/10/22
22/01315/VCUM	Erection of 400 dwellings approved under reserved matters approval ref. 18/00707/REMM (outline planning permission ref. 22/01140/VCIM) without complying with Condition 2 so as to enable implementation of an alternative internal layout (including severing of connecting vehicular through route)	Approved 08/02/23
23/00459/VCUM	Erection of 400 dwellings approved under approval ref. 22/01315/VCUM (outline planning permission ref. 22/01140/VCIM) without complying with Conditions 2 and 8 so as to allow for amended house types, amended highways surfacing / treatment, alterations to layout and removal of additional trees	Approved 08/09/23

2. Publicity

Site Notice displayed 17 November 2023

Press Notice published Leicester Mercury 15 November 2023

3. Summary of Consultations and Representations Received

North West Leicestershire District Council Tree Officer has no objections

Third Party Representations

Councillor Eynon (neighbouring ward member) objects on the following grounds:

- Previously agreed that these trees should be protected
- Site is within the National Forest and close to the Snibston Colliery Park Arboretum
- Trees may mark a large mineshaft on this land with a history of subsidence
- Queries the developers' contention that the loss of the trees is "unavoidable" and why this was not previously known
- Queries what alternatives have been considered and their cost

13 further representations have been received, objecting on the following grounds:

Subject	Reason for Objection
Environmental Issues	Loss of green space
	Site is in the National Forest
	Impact on wildlife
	Adverse impact on measures to prevent climate change
	Increased flooding
	Increased pollution
Other Issues	Traffic impacts / speeding traffic
	Insufficient infrastructure for development (including in respect of traffic / transport, car parking, healthcare)
	Site unsuitable for development due to subsidence

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

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2023)

The following sections of the National Planning Policy Framework (NPPF) are considered relevant to the determination of this application:

Paragraphs 8, 11 and 12 (Achieving sustainable development)

Paragraphs 47, 55 and 56 (Decision-making)

Paragraphs 131, 135, 136 and 139 (Achieving well-designed places)

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

Adopted North West Leicestershire Local Plan (2021)

The application site lies within Limits to Development as defined in the adopted Local Plan and is also identified as a site with planning permission for housing under Policy H1 (site H1h). The following adopted Local Plan policies are considered relevant to the determination of this application:

Policy D1 - Design of new development

Other Policies

Good Design for North West Leicestershire SPD

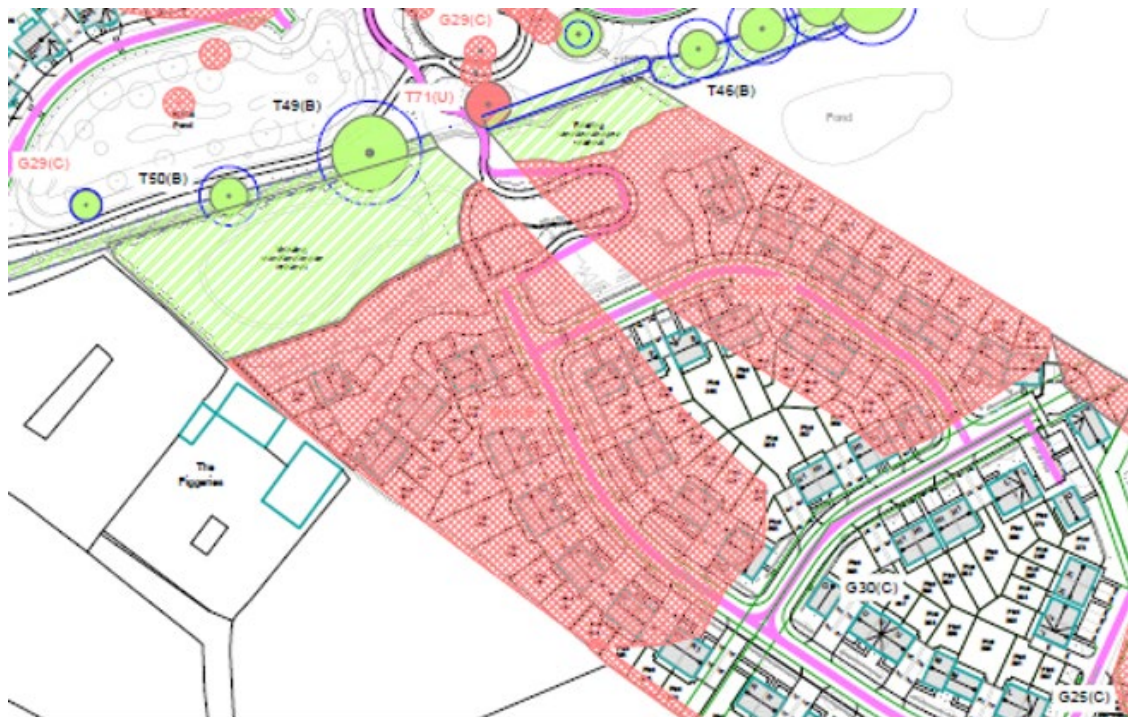
5. Assessment

Key Considerations

The proposed amendments would not result in any significant changes to the site layout, and does not include any changes to proposed house types or numbers of dwellings, and the key issue to be considered in the determination of this application relate to the changes to tree retention / planting vis-à-vis the existing approved development.

The previously approved arboricultural assessment included the tree retention plan as shown below (and with areas hatched in red being those from which trees would be removed):

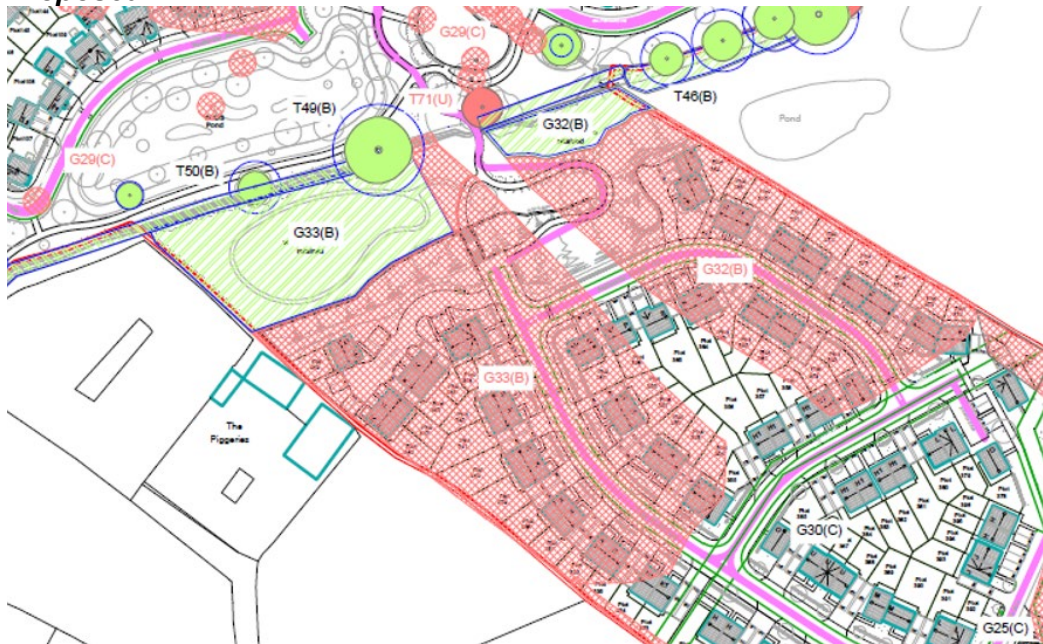
Approved:



The application is accompanied by a revised arboricultural assessment; this is essentially as per the previously agreed assessment save for the inclusion of additional trees proposed to be removed within the central part of the site. The applicant advises that additional trees are required to be removed to facilitate the installation of underground storm and foul drainage.

The revised arboricultural assessment's proposed tree retention plan is as shown below:

Proposed:



In effect, the additional trees proposed to be felled are as shown below:



The affected trees are highlighted on the site photo below



It is noted that the additional trees proposed to be removed relate to the north eastern section of a larger area (Group G33) that the assessment describes as a “dense woodland group” in “fair” condition of Ash, Elder, Oak, Hawthorn and Goat Willow, and falling within retention category B(ii) (moderate quality of mainly landscape value (i.e. as opposed to mainly arboricultural, cultural or conservation value)). It is noted that the trees are of “early mature” age (and not, therefore, ancient or veteran in status).

Further to concerns raised, the agents advise that the developers and their civil engineers have investigated whether there would be an alternative route for the foul and storm water drainage between the southern part of the wider site and the SuDs pond to the north but, unfortunately, all options would result in the removal of trees. They also confirm that they are unaware of any historic value attached to the trees because of a mineshaft. The site does not fall within a Coal Authority Development Referral Area.

In terms of the trees’ arboricultural value, as set out above, the trees in question form part of a group within retention category B. The District Council’s Tree Officer raises no objections to the application; he accepts that the revision to allow the removal of “an additional small area of trees at the northern end of G33” is unavoidable due to the requirements to install site drainage and confirms that he is satisfied that the extra tree removals would not result in a significant loss to the local tree cover.

To compensate for the additional loss of trees, the applicants have proposed the provision of additional tree planting (i.e. over and above that already required by the existing approved landscaping scheme); based on the draft details provided, an additional 16 trees would be provided, as shown indicatively (red dots) below.

Proposed Replacement Planting



The District Council's Tree Officer considers that the quantity and positions for the replacement trees indicated would be reasonable but notes that confirmation of the detailed size / species of trees to be planted would be required before agreeing to the replacement planting scheme to ensure that the replacement planting would provide an appropriate replacement for the area of trees to be removed. Further to a separate query raised by the tree officer regarding the planting of two oak trees forming part of the currently approved landscaping (given their proximity to the proposed drainage and future compatibility etc.), the agents confirm that they would seek to amend the currently approved scheme to ensure these trees are planted outside of the easement.

Subject to the detailed replacement planting being secured by way of an appropriate condition, therefore, it is considered that the trees' removal would be acceptable. Provision of the additional tree planting would, it is considered, also serve to retain the landscape-led approach

to providing character within the scheme, and in accordance with Local Plan Policy D1 and the District Council's Good Design for North West Leicestershire SPD.

Other Issues

Whilst several objections are raised on a range of other matters (and including some relating to infrastructure and the impacts of the development on the wider area, it is not considered that these are directly relevant to this application. Having regard to the location of the area of the proposed additional removals within the central part of the site, it is not considered that the amendments would result in any material amenity impacts outside of the site and including in respect of the nearest residential properties. The closest dwellings to the application site are in excess of 100m away, and with the relative site levels and retained woodland in between further limiting any potential impacts from that direction; the nearest dwellings within the adjacent ward are beyond these intervening dwellings (to the southern side of Standard Hill), and at a distance of approximately 300m from the area in question.

Conclusions

As set out above, subject to the provision of an appropriate scheme of replacement planting, the proposed removal of the additional area of trees would not be considered to have any materially adverse impacts on the quality of the scheme, and approval is therefore recommended.

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