



Scan the code above or visit [www.nwleics.gov.uk/meetings](http://www.nwleics.gov.uk/meetings) for a full copy of the agenda.

Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	6.00 pm on Tuesday, 3 June 2025
Location	Forest Room, Stenson House, London Road, Coalville, LE67 3FN
Officer to contact	Democratic Services (01530 454512)

<b>AGENDA</b>		
<b>Item</b>		<b>Pages</b>
<b>1. APOLOGIES FOR ABSENCE</b>		
<b>2. DECLARATION OF INTERESTS</b>		
	Under the Code of Conduct members are reminded that in declaring interests you should make clear the nature of that interest and whether it is a disclosable pecuniary interest, registerable interest or other interest.	
<b>3. MINUTES</b>		
	To confirm and sign the minutes of the meeting held on 7 May 2025.	<b>3 - 6</b>
<b>4. PLANNING APPLICATIONS AND OTHER MATTERS</b>		
	Report of the Head of Planning and Infrastructure.	<b>7 - 10</b>

## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
<b>A1</b>	<b>25/00422/FUL: Change of use from C3 dwelling to C2 residential children's care home</b>  27 Robin Road, Coalville, LE67 4LB	<b>Permit</b>	<b>11 - 26</b>
<b>A2</b>	<b>25/00026/FUL: Change of use from dwellinghouse (C3) to children's home (C2) for up to three children</b>  6 Swan Way, Coalville, LE67 4BU	<b>Permit</b>	<b>27 - 44</b>
<b>A3</b>	<b>24/01541/FUL: Conversion of agricultural building to dwelling</b>  Land adjoining 1 Main Street, Osgathorpe, Leicestershire, LE12 9TA	<b>Permit</b>	<b>45 - 70</b>

MINUTES of a meeting of the PLANNING Committee held in the Forest Room, Stenson House, London Road, Coalville, LE67 3FN on WEDNESDAY, 7 May 2025

Present: Councillor R Boam (Chair)

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

In Attendance: Councillors J Geary

Officers: Mr C Elston, Mrs C Hammond, Mr D Gill, Ms J Davies, Mr A Mellor, Mr I Nelson and Ms S Hullott

### **53. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor C Sewell.

### **54. DECLARATION OF INTERESTS**

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

Councillor N Smith declared a registerable interest in item A1, 21/00494/OUTM as he was speaking in objection to the application as a Ward Member and he would leave the meeting during the consideration and voting on the application.

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 21/00494/OUTM: Councillors J Legrys, J Simmons, R Morris and D Everitt.

Item A2, application 25/00106/FUL: Councillors J Legrys, J Simmons, R Morris and D Everitt.

### **55. MINUTES**

Consideration was given to the minutes of the meeting held on 8 April 2025.

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

RESOLVED THAT:

The minutes of the meeting held on 8 April 2025 be approved and signed by the Chair as a correct record.

### **56. 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.

**57. A1**  
**21/00494/OUTM: OUTLINE APPLICATION FOR THE ERECTION OF UP TO 105 DWELLINGS WITH PUBLIC OPEN SPACE, LANDSCAPING AND SUSTAINABLE DRAINAGE SYSTEMS (SUDS) (ALL MATTERS RESERVED EXCEPT FOR PART ACCESS)**

Land Off Wash Lane, Ravenstone, Leicestershire

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

Having declared an interest in the item, Councillor N Smith removed himself from the meeting to join the public gallery prior to being invited to speak as Ward Member.

The Principal Planning Officer presented the report.

Ms H Ball, agent, addressed the Committee. Members were reminded that there were no objections from the statutory consultees and that the site formed part of the draft allocation of the emerging Local Plan. It was noted that the site would boost the current land supply, whilst providing affordable homes in a sustainable location and contributing to improving local services and facilities.

Councillor N Smith, Ward Member, addressed the Committee. Members were advised that, though he had no objection in principle to the development he felt that consideration needed to be given to the implication of the road layout, as the junction at the top end of the development (A447/Coalville Lane/Church Lane) was dangerous. He urged the Committee to defer the application to consider traffic measures at the junction.

After addressing the Committee, Councillor N Smith left the meeting during consideration and voting on the application.

In determining the application some members expressed concerns around poor highway design and the length of time that the development would take to come through. Concerns were also expressed that approving an application, that was currently outside the Limits to Development, that had yet to go through the Regulation 19 consultation for the draft Local Plan, would be premature and set a precedent. Members sought assurances the S106 would incorporate a trigger measure to provide the affordable housing.

Officers advised that any S106 highway contributions would be earmarked for the A511 improvements, as LCC Highways had advised that no work was required to the junctions close to the site and the Legal Advisor provided members with assurance that the S106 would include a form of wording, that would be negotiated at the appropriate time, in relation to a trigger measure to bring forward the affordable housing provision in a timely manner.

The officer's recommendation was moved by Councillor R Morris and seconded by Councillor R Canny.

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

**RESOLVED THAT:**

The application be permitted subject to conditions and Section 106 Agreement in accordance with the recommendations of the Head of Planning and Infrastructure.

At the conclusion of the item, Councillor N Smith returned to the meeting.

<b>Motion to permit application in accordance with officer recommendation (Motion)</b>	
Councillor Russell Boam	For
Councillor Ray Morris	For
Councillor Dave Bigby	Against
Councillor Morgan Burke	For
Councillor Rachel Canny	For
Councillor David Everitt	Against
Councillor John Legrys	For
Councillor Peter Moulton	Against
Councillor Jenny Simmons	For
Councillor Nigel Smith	Conflict Of Interests
Councillor Doug Cooper	Against
<b>Carried</b>	

58.

**A2**

**25/00106/FUL: APPLICATION FOR CHANGE OF USE FROM 3-BEDROOM DOMESTIC DWELLING (C3) TO 4-BEDROOM HOUSE IN MULTIPLE OCCUPATION (C4) WITH A MAXIMUM OF 4 OCCUPANTS.**

49 Bridge Fields, Kegworth, Derby, DE74 2FW

**Officer's Recommendation:** Permit subject to conditions

The Senior Planning Officer presented the report.

In determining the application Members expressed concerns over the increasing number of House in Multiple Occupation (HMOs) in the village, as the nature of the occupants did not contribute to the health of the community. It was acknowledged a policy was being developed and consulted on for Kegworth in relation to HMOs as part of the review of the Local Plan. Concerns were also raised that a HMO is quite a substantial change from a dwelling, in particular as the level of car usage would be different.

Officers confirmed the nature of the Article 4 that Kegworth was subject to, which meant the change of use to a small HMO now required planning permission, whereas before the application would have gone through as permitted development.

The officer's recommendation was moved by Councillor R Boam 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.

**RESOLVED THAT:**

The application be permitted subject to conditions in accordance with the recommendations of the Head of Planning and Infrastructure.

<b>Motion to permit application in accordance with the officer recommendation (Motion)</b>	
Councillor Russell Boam	For
Councillor Ray Morris	For
Councillor Dave Bigby	Against
Councillor Morgan Burke	For
Councillor Rachel Canny	Abstain
Councillor David Everitt	Against
Councillor John Legrys	Against
Councillor Peter Moulton	Abstain
Councillor Jenny Simmons	For
Councillor Nigel Smith	For
Councillor Doug Cooper	For
<b>Carried</b>	

The meeting commenced at 6.00 pm

The Chairman closed the meeting at 6.50 pm

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

**3 June 2025**

**PLANNING & DEVELOPMENT REPORT**



## **PLANNING COMMITTEE FRONT SHEET**

### **1. Background Papers**

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

### **2. Late Information: Updates**

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

### **3. Expiry of Representation Periods**

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

### **4. Reasons for Grant**

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

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

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



If The Planning Officer is unable to advise at Members at that meeting, he may recommend the item is deferred until further information or advice is available. This is likely if there are technical objections, 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 from C3 dwelling to C2 residential children's care home**

**Report Item No  
A1**

**27 Robin Road, Coalville, LE67 4LB**

**Application Reference:  
25/00422/FUL**

**Grid Reference (E) 443926**

**Grid Reference (N) 313731**

**Date Registered:**

**14 March 2025**

**Applicant:**

**Mr James McCabe**

**Consultation Expiry:**

**14 April 2025**

**Case Officer:**

**Sara Hullott**

**Determination Date:**

**9 May 2025**

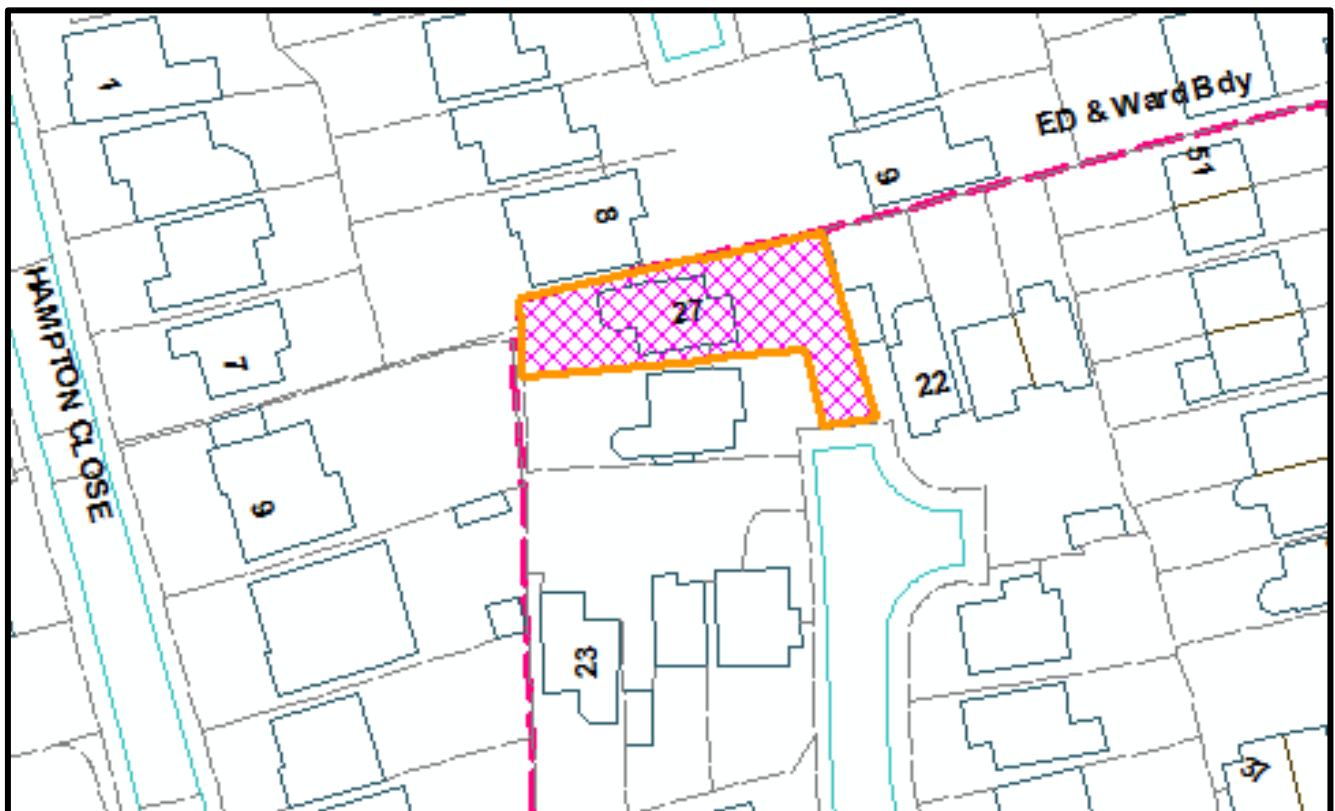
**Recommendation:**

**PERMIT**

**Extension of Time:**

**None Agreed**

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



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office  
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329)

### **Reasons the case is called to the Planning Committee**

The application is brought to the Planning Committee at the request of Councillor Burke on the basis that the proposal would result in highway safety concerns, is in close proximity to other properties and that the development would impact on neighbouring properties.

### **RECOMMENDATION – PERMIT, subject to the following conditions:**

1. Standard time limit (3 years).
2. Approved plans.
3. Restriction to the proposed use only.
4. Maximum of 1 child living on site at any given time.
5. Limit maximum number of three carers and two management staff being on site at any one time (except for handover periods)
6. Retention of existing parking spaces.

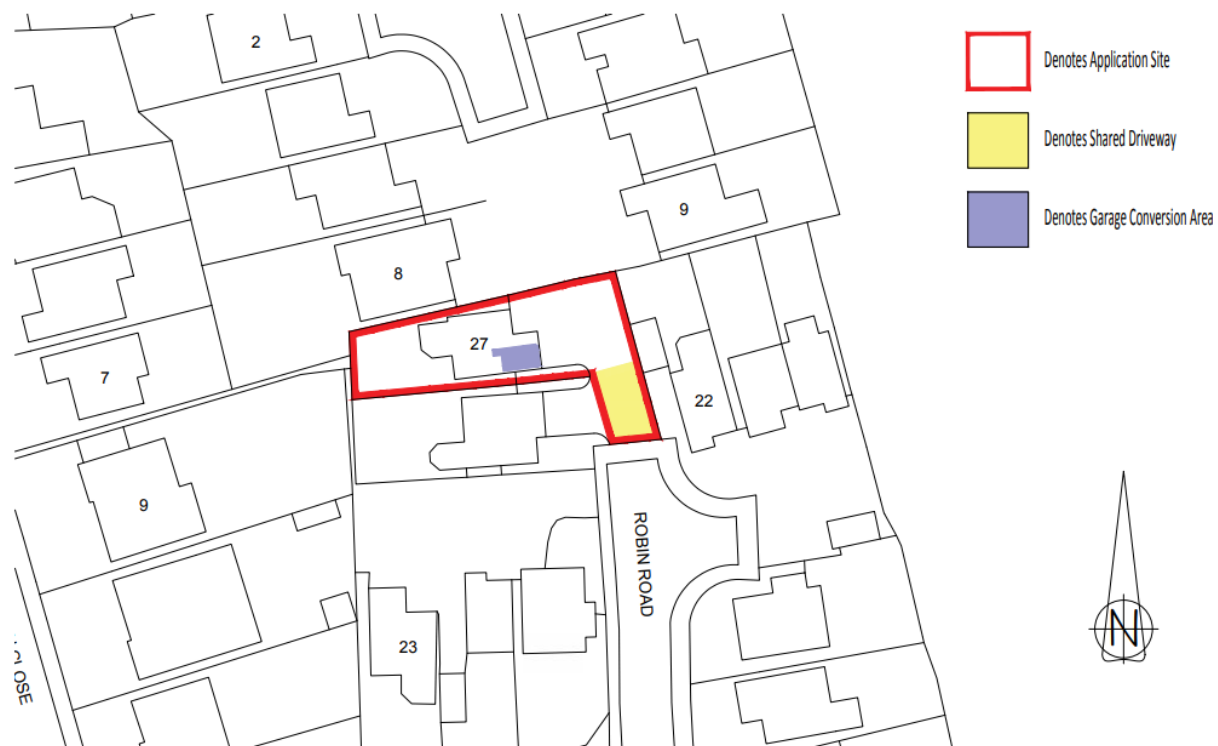
## MAIN REPORT

### 1. Proposals and Background

***The mandatory requirement for 10% Biodiversity Net Gain (BNG) for small sites as required by the Environment Act came into force on 2 April 2024. This application is exempt due to the development being de minimis in scale and there being no loss of existing habitat and thus the delivery of the 10% is not mandatory for this application.***

The application seeks full planning permission for the change of use of an existing dwelling house at 27 Robin Road, Coalville (C3 use) to residential children's care home (C2 use) for one child . No physical alterations are proposed to the building, only the change in land use classification.

### Site Location Plan



## Aerial Image of Site Location



## Site Photos







The application site consists of a two-storey detached dwelling. The existing floor plans shows 3 upstairs bedrooms and this would remain unchanged. There are no external alterations to the property proposed in this application.

## Existing Floor Plans



## Proposed Floor Plans



This site is situated within Coalville and is located within the Limits to Development, as defined by the Policy Map to the adopted Local Plan.

The proposed care home would be occupied by a maximum of 1 child aged between 5 - 17 years old. The applicant has advised that there would be a maximum of 3 care staff present during the day, except for the staggered staff handover times which the agent advised would last a maximum of 30 minutes. At that time 4 carers may be on site whilst the handover takes place. There will be no more than 2 carers working through the night. The applicant has stated that most days the young person will be supported by 2 carers unless a 3rd carer is needed for more support. In addition, there would be up to 2 management staff on site during the day. 1 manager will be on site between 9am – 5pm Monday to Friday with a 2nd manager being present 2-3 times a week. Handovers of care staff will take place at 7:30am.

The application form states that there are four parking spaces on the site.

The County Highways Authority, Environmental Protection and neighbours have been consulted and their responses have been considered in this report.

Precise details of the proposal are available to view on the submitted plans on the Council's website.



### **Relevant Planning History**

20/00729/FUL - Conversion of existing integral garage into habitable accommodation and insertion of a window in the rear elevation of the garage – Permitted 03.06.2020

### **2. Publicity**

11 Neighbours have been notified.  
Site Notice displayed 20 March 2025.

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

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

#### **No objections from:**

NWLDC Environmental Protection  
County Highway Authority

#### **Third Party Representations**

2 Neighbour objections have been received these can be summarised as follows:

<b>Grounds of Objections</b>	<b>Description of Impact</b>
<b>Principle of Development and Sustainability</b>	Unsuitable location for this development
<b>Highway Impacts</b>	Car parking / insufficient spaces on site
	Shared access driveway
<b>Residential Amenity</b>	Potential overlooking
<b>Crime / Safety Concerns</b>	Devaluation of property prices

### **4. Relevant Planning Policy**

#### **National Planning Policy Framework (2024)**

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

Chapter 2. Achieving sustainable development  
Chapter 4. Decision-making  
Chapter 8. Promoting healthy and safe communities  
Chapter 9. Promoting sustainable transport  
Chapter 11. Making effective use of land  
Chapter 12. Achieving well-designed places  
Chapter 14. Meeting the challenge of climate change, flooding and coastal change  
Chapter 15. Conserving and enhancing the natural environment

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

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

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

### **Other Policies and Guidance**

National Design Guide (2021)  
National Planning Practice Guidance  
Leicestershire Highway Design Guidance  
Good Design for North West Leicestershire SPD - April 2017

## **5. Assessment**

### **Principle of Development**

The starting point for the determination of this application is Section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that decisions are made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the development plan comprises the adopted North West Leicestershire Local Plan (2021).

The site is located within the Limits to Development, as defined by the adopted Local Plan, in the settlement of Coalville. Policy S2 of the adopted Local Plan identifies Coalville as the primary settlement in the district that provides an extensive range of services and facilities including employment, leisure and shopping which are accessible by sustainable transport. Policy S2 also states that the largest amount of new development will be directed here.

In addition, the National Planning Policy Framework (NPPF) promotes a presumption in favour of sustainable development. Paragraph 11 of the NPPF states that development proposals that accord with an up-to-date development plan should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole or where specific policies indicate development should be restricted.

The NPPF also specifically states that it is important that the needs of different groups in the community with specific housing requirements are addressed (Paragraphs 61 and 63) and the proposal would help to meet the requirements of children identified as needing care, which is afforded positive weight.

In the ministerial statement dated from 23 May 2023 the then Housing and Planning Minister set out the Government's commitment to support for the development of accommodation for looked after children, and its delivery through the planning system. The minister also stated that the

planning system should not be a barrier to providing homes for the most vulnerable children in society in the right places with access to schools and community support.

The statement went on to say that "Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country."

In planning terms, the nature of the proposal is such that the property would remain in residential use within a residential area. There are no planning policies which restrict, in principle, such care homes from being provided within existing residential areas, subject to all material planning considerations. Nor is there any planning mechanism to locate care facilities away from existing residents who might be opposed to them or to control the number of care homes in one area. Each planning application is required to be considered on its own merits.

The proposal seeks to change the existing use of the residential dwelling to a children's care home for no more than 1 child at 27 Robin Road. No external changes are proposed.

In this case, the site is located within the limits to development therefore, the principle of development is considered acceptable, subject to compliance with all other relevant policies in the Local Plan, and the NPPF.

### **Design, Character and Impact upon Street Scene**

Policy D1 of the North West Leicestershire Local Plan (2021) requires that all developments are based on a thorough opportunities and constraints assessment and informed by a comprehensive site and contextual appraisal. In addition, new residential developments must also perform positively against the Council's adopted Good Design Supplementary Planning Document (SPD).

No external alterations or extensions to the building would be required to accommodate the proposed change of use and as such there would no further impacts on design beyond the appearance of the existing building.

It is considered that the proposal would accord with Policies D1 and En3 of the adopted Local Plan, the Council's Good Design SPD and advice contained in the NPPF.

### **Residential Amenities**

Neighbours have objected to the proposed development due to concerns regarding overlooking / loss of privacy concerns. These matters will be considered in this section below.

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

The proposal does not include any external alterations to the existing property and as such it is not considered that the development would result in any overbearing or overshadowing impacts on neighbouring properties.

This application seeks permission for a change of use from a dwelling to a small care home for 1 child aged between 5 - 17 years old. The proposal would not increase the number of bedrooms within the property which would remain as existing. Staff teams work on a shift basis that provides care 24 hours per day 7 days a week.

Staff will be supervising the home 24 hours a day, with up to 3 caregivers being present at any one time, apart from during the handover time period which is proposed to be staggered through the day to ensure that no more than 4 carers may be present during handover times. There will be no more than 2 caregivers overnight. In addition, up to 2 managers will be on site during the day. 1 manager will be on site between 9am – 5pm Monday to Friday with a 2nd manager being present 2-3 times a week. Handovers of care staff will take place at 7:30am so there is no build up of traffic and car parking.

The most immediate neighbouring property to the application site is No 25 Robin Road which shares an access driveway with the property. No. 8 Highgrove Close lies immediately north of the property, with No. 22 Robin Road to the east and Nos. 7 and 9 Hampton Close to the west.

In terms of noise and disturbance from comings and goings, given the inevitable variation in work patterns and social activities of the occupiers, it would not be unusual for neighbouring residents to be aware of the comings and goings of their neighbours throughout the day. Having regard to the small scale of the proposal and the limited staff numbers associated with the proposal, it is considered that the likely movements associated with the use would not be disproportionately large or significantly greater than those which could reasonably be expected of a family carrying out their day-to-day activities. For the avoidance of doubt, these conclusions have been reached on the basis of the proposal for one children living at the property with 3 carers being present on site with 4 in attendance for short periods of time for handovers and two managers being present during on weekday daytimes.

While it is accepted that on occasion this use may generate a level of noise and disturbance from car engines, doors and general conversation, it is considered that similar impacts could be achieved from occupants of a residential dwelling that work night shifts and commute early in the morning or late in the evening. It is considered that the general noise and disturbance would not be above and beyond what could be achieved at a residential dwelling and therefore does not warrant refusal of planning permission.

It is recognised that there could be a scenario where one three child living at the property could potentially cause noise and disturbance impacts. Whilst neighbouring properties are situated close together, noise and disturbance could be created by children living in a residential dwelling and so could be experienced by residents in any residential area.

Proposals for care homes are not an uncommon occurrence nationally and appeal decisions relating to similar proposals have concluded that it cannot be assumed that children living in care would be more likely to create levels of noise and disturbance over and above children living in a 'traditional' family unit. Appeal decisions also seem to take note that, in a care home, children would be cared for by specialist supervising staff and care workers who are able to deal with any situations that might arise.

Any permission granted could also be conditioned to ensure the use remained at a small scale as set out within the application including the number of children who would be housed at the site at any one time.

The Council's Environmental Protection Team were consulted on this application who confirmed they had no objections advising "The proposed use would not negatively impact on its environment by way of noise, light, odour or other disturbance."

Furthermore, if the proposal did subsequently result in creating an excessive noise nuisance, then separate legislation exists under Environmental Protection Act, which could be investigated separately by the Council's Environmental Protection team if necessary.

As a result of the proposed change of use, the number of bedrooms at the property would remain unaltered and is therefore considered that the number of permanent occupants at the property is unlikely to increase and result in a significantly detrimental impact on the neighbouring properties amenities.

As such, it is considered the proposal would not result in unacceptable neighbour amenity impacts in terms of noise and disturbance or impacts on quality of life over this existing C3 use to warrant a refusal of planning permission on such grounds under Policy D2 of the adopted Local Plan.

As part of the planning process there is the need to consider the amenity of future occupiers in addition to existing residents. There would be four bedrooms within the property so that the child would have a private room and there would be bedrooms for the carers. There would also be living space available on the ground floor along with a private rear garden. As such in this regard the proposal is considered to comply with Policy D2 of the adopted Local Plan.

### **Highway Considerations**

Neighbour concerns have been raised with regard to highway safety, traffic congestion, pedestrian safety and parking problems. These concerns will be considered in the section below.

Policy IF4 of the North West Leicestershire Local Plan (2021) requires that development proposals consider the impact on the highway network and environment, including climate change. It also requires the incorporation of safe and accessible connections to the transport network, enabling travel choices for residents, businesses, and employees, particularly by non-car modes. Policy IF7 stipulates that development must provide adequate parking for vehicles and cycles to avoid highway safety issues and to minimise the impact on the local environment.

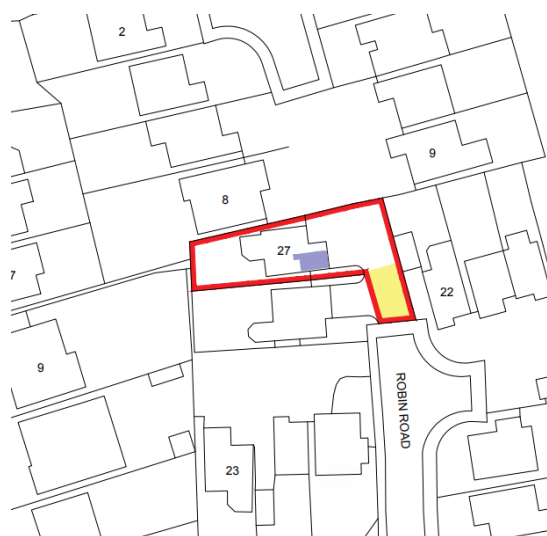
Access to the site is from Robin Road, which is an unclassified road subject to a 30mph speed limit. No alterations are proposed to the existing site access arrangements and private drive which presently serves the existing dwelling.

The County Highway Authority (CHA) has been consulted on this application and have raised no objections.

The CHA note that no Personal Injury Collisions (PICs) have been recorded within 500 metres in either direction of the site access.

Residents have raised concerns that there are insufficient existing parking spaces on site which would naturally encourage on street parking to prevent staff blocking each other in at times of change over.

The submitted details state that the existing parking provision consists of a minimum of 3 parking spaces, with the applicant stating that there is sufficient parking for 4 vehicles which appears to be three spaces on the drive and one within the integral garage.



The submitted information states that there would be a maximum of 3 care staff and 2 managers on site at any one time, except during the hand over period.

The CHA have stated that, given the site-specific location, the availability of on-street parking and accessibility of public transport, the LHA would not be able to demonstrate the proposals would have a severe impact on the public highway contrary to Paragraph 116 of the National Planning Policy Framework (NPPF) 2024, as such, the LHA seek no reason to resist the application.

It is recommended to condition that at least 3 parking spaces remain available on site in perpetuity to ensure the existing parking is retained.

Furthermore, it is noted that the existing property is also likely to already have visitors who would also need to park in the street when visiting the existing dwelling.

The CHA has also not raised concerns or objections in respect of access for emergency service vehicles.

As such it could not be justified that the application could be refused on highway safety grounds under Policies IF4 and IF7 of the North West Leicestershire Local Plan and the relevant paragraphs of the NPPF as well as the Leicestershire Highway Design Guide.

### **Biodiversity Net Gain**

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 186 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.

The mandatory requirement for 10% Biodiversity Net Gain (BNG) for small sites as required by the Environment Act came into force on 2 April 2024. However, the proposal relates to an

application for change of use only with no external alterations to the building or site generally. The biodiversity gain requirement does not apply to development subject to the de minimis exemption which is development that does not impact a priority habitat and impacts less than 25 square metres (e.g. 5m by 5m) of onsite habitat, or 5 metres of linear habitats such as hedgerows. Based on the information submitted under this application, the Planning Authority considers that biodiversity net gain does not apply in this case and therefore, the proposed development would not be required to demonstrate 10% BNG.

Given the above, the development would accord with Policy En1 of the Local Plan, the aims of Paragraph 187 and 193 of the NPPF (2024), and the Planning Practice Guidance.

### **Safety and Fear of Anti-Social Behaviour/Crime**

Whilst it has been held that fear of anti-social behaviour and crime are material considerations, in order to attract any significant weight, there must be some reasonable evidential basis for that fear. Planning case law has established that unfounded fear in itself would not be a reason to justify the refusal of planning permission. There haven't been any objections in respect of these matters.

The premises would provide care for a maximum of one child and it is noted that children are placed into care for a wide variety of reasons including having disabilities requiring specialist care, being unaccompanied asylum-seeking children and overwhelmingly children are living within a care setting due to statutory bodies considering the child to be at risk of harm from others. The site would be staffed 24 hours a day, 7 days a week, which would restrict opportunities for anti-social/criminal behaviour.

The success of the residents and their successful integration with the community and level of cohesion would largely depend on who the child is at the time and the effective management of the home, which as noted below, are matters for regulation by Ofsted.

Proposals for care homes are not an uncommon occurrence nationally and appeal decisions relating to similar proposals have concluded that it cannot be assumed that children living in care would be more likely to behave anti-socially over and above children living in a 'traditional' family unit. Appeal decisions also seem to take note that, in a care home, children would be cared for by specialist supervising staff and care workers who are able to deal with any situations that might arise.

It is recognised that there could be a scenario where a child living at the property could potentially undertake anti-social behaviour or criminal activity, which could in turn impact on public safety. However this could also potentially result from children living in a typical residential dwelling and so could be experienced by residents in any residential area.

It is therefore considered that the proposal is not likely to result in any additional anti-social behaviour or criminal activity than which could be generated by the existing residential dwelling. Moreover, as previously stated, the children's care home is proposed to have staff at the property at all times. Children's care homes are also regulated by Ofsted.

Whilst fear of anti-social behaviour and crime and impacts on public safety are material planning consideration, there are no planning grounds on which to refuse the application on this basis as similar issues could arise if the property was a residential dwelling. Although the NPPF states that planning decisions should not undermine quality of life or community cohesion, the unknown

behaviours of the occupant is not a material reason on which to identify conflict with the NPPF in this regard.

### **Equality Implications**

Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

The equality implications arising from this application relate to the protected characteristics of age and disability, given that a children's care home is proposed, and a child living there may have a disability.

Any risks to the safety of the child living in the home are unlikely to be different to the risks of children living there in a typical residential dwelling. Children's care homes are also inspected by Ofsted, as well as by the CQC if any kind of healthcare is delivered that is a CQC-regulated activity.

It is also not appropriate or reasonable to stereotype the child through the planning application process or to judge how they might behave as a result of their background, upbringing or any past trauma, and to do so would be discriminatory.

The proposal also provides a benefit by advancing equality of opportunity by providing residential care for looked-after children in need of care and support.

There would be one child living at the property along with carers who would always be at the home, which would not be dissimilar to the number of people that could live at the property as a family home. It is considered above that reason for refusals could not be justified in respect of noise and disturbance nor in respect of fear of anti-social behaviour or crime in particular as such impacts could result from a similar number of children living in a residential dwelling.

It is also not considered that any neighbouring residents with disabilities or health concerns would be detrimentally affected by this proposal given its minor scale and its use being similar in its function to that of a dwelling.

### **Other Matters**

Children's care homes are regulated by Ofsted, as well as by the CQC if any kind of healthcare is delivered that is a CQC-regulated activity. How the care home would function is a process that would need to be agreed as part of the registration process and these other regimes exist to ensure the appropriate care and management of children. As this is controlled by other legislation; it is not within the remit of the planning system to seek to control the day-to-day functioning of the



care home. This is therefore not a material planning consideration and cannot be taken into account in the determination of the application.

Neighbour concerns have been raised with regard to devaluation of property prices, this is not a material planning consideration and cannot be considered in this application.

Neighbours have also raised concerns that staff or visitors of the site will be accessing the site using the shared access driveway. Access and maintenance to the shared access driveway would be a civil matter for the two parties to resolve and is not a material planning consideration.

## **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 this application is the development plan, which in this instance includes the adopted North West Leicestershire Local Plan (2021).

The application site is situated within the defined Limits to Development, where the principle of development is supported, if it complies with relevant policies of the Local Plan. Policy S2 of the Local Plan supports sustainable development within Limits to Development, and the proposed development is considered to align with the overall spatial strategy for the district.

In addition to the above, no external alterations are proposed as a result of the development. Reasons for refusal could not be justified in respect of impacts on highway safety and residential amenities nor in respect of fear of anti-social behaviour or crime. There are no other relevant material planning considerations that indicate planning permission should not be granted.

In view of the above, it is considered that the proposed development complies with the relevant policies of the North West Leicestershire Local Plan and the NPPF (2024).

Subject to the imposition of conditions the proposed development represents sustainable development, and approval is therefore recommended.

This page is intentionally left blank

Change of use from dwellinghouse (C3) to children's home (C2) for up to three children

Report Item No  
A2

6 Swan Way Coalville LE67 4BU

Application Reference:  
25/00026/FUL

Grid Reference (E) 443922  
Grid Reference (N) 313600

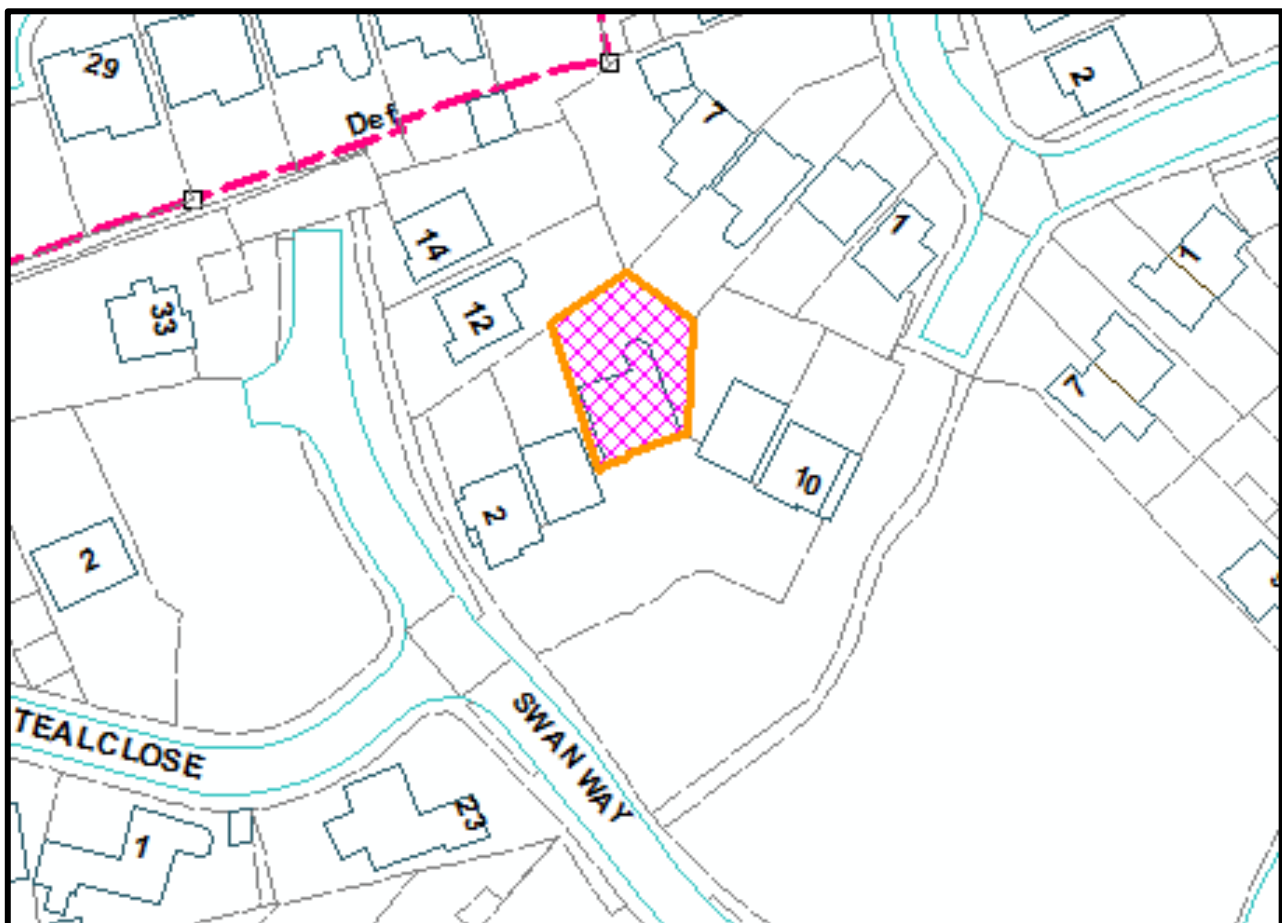
Date Registered:  
28 February 2025  
Consultation Expiry:  
10 April 2025  
Determination Date:  
25 April 2025  
Extension of Time:  
None Agreed

Applicant:  
Mr Andrew Matthews

Case Officer:  
Sara Hullott

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office  
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329)

### **Reasons the case is called to the Planning Committee**

The application is brought to the Planning Committee at the request of Councillor Burke on the basis that the proposal would result in highway safety concerns, is in close proximity to other properties and that the development would impact on neighbouring properties.

### **RECOMMENDATION – PERMIT, subject to the following conditions:**

1. Standard time limit (3 years).
2. Approved plans.
3. Restriction to the proposed use only.
4. Maximum of 3 children living on site at any given time.
5. Limit maximum number of staff on site to 3 (except for handover periods when it would be 4)
6. Submission of details of staff handover times prior to commencement
7. Retention of existing parking spaces.

## MAIN REPORT

### 1. Proposals and Background

***The mandatory requirement for 10% Biodiversity Net Gain (BNG) for small sites as required by the Environment Act came into force on 2 April 2024. This application is exempt due to the development being de minimis in scale and there being no loss of existing habitat and thus the delivery of the 10% is not mandatory for this application.***

The application seeks full planning permission for the change of use of an existing dwelling house at 6 Swan Way, Coalville (C3 use) to residential children's care home (C2 use) for three children. No physical alterations are proposed to the building, only the change in land use classification.

#### Site Location Plan



## Block Plan



## Aerial Image of Site Location





## Site photos



The application site consists of a two-storey detached dwelling. The existing floor plans shows 4 upstairs bedrooms and this would remain unchanged. There are no external alterations to the property proposed in this application.

### Existing Floor Plans



### Proposed Floor Plans





This site is situated within Coalville and is located within the Limits to Development, as defined by the Policy Map to the adopted Local Plan.

The proposed care home would be occupied by a maximum of 3 children aged between 7 - 16 years old. The applicant has advised that there would be a maximum of 3 care staff present for the majority of the time, except for the staggered staff handover times which the applicant has advised would last a maximum of 30 minutes. Details of the number and times of the handovers have been requested from the applicant and will be reported on the update sheet. At that time 4 carers may be on site whilst the handover takes place. There will be no more than 2 carers working through the night, with additional carers on call.

The applicant has advised that it is unlikely that the home will accommodate the maximum of 3 children all of the time. It is proposed that any spare bedrooms will be used to accommodate the 2 members of staff who will be present at night.

The applicant has stated that there is parking for five vehicles, which appears to be four spaces on the drive and one within the integral garage.

The County Highways Authority, Environmental Protection and neighbours have been consulted and their responses have been considered in this report.

Precise details of the proposal are available to view on the submitted plans on the Council's website.

### **Relevant Planning History**

There is no relevant planning history at the property.

## **2. Publicity**

11 Neighbours have been notified.

Site Notice displayed 20 March 2025.

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

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

### **No objections from:**

NWLDC Environmental Protection

County Highway Authority

### **Third Party Representations**

Nine neighbour objections have been received which can be summarised as follows:

<b>Grounds of Objections</b>	<b>Description of Impact</b>
<b>Principle of Development and Sustainability</b>	Unsuitable location for this development

<b>Highway Impacts</b>	Car parking / insufficient spaces on site
	More parking spaces are required for this use than a dwelling to accommodate staff, change overs and the children's visitors as well as the applicant and their visitors
	Increased traffic flow
	Shared access driveway with no turning point including for emergency services
	Impacts on neighbour's access to drive, could be blocked by staff parking
	No space for traffic associated with existing Air BNB use of the property
	Existing parking and traffic problems/congestion in the area will be exacerbated
	Danger to residents, including children and elderly people, and to pets from increase in traffic
	Narrow access drive only wide enough for one car
	Extra parking will obstruct access for emergency vehicles
<b>Residential Amenity</b>	Existing houses are close together
	Increase in noise / disturbance from traffic, staff handovers and comings and goings
	Impact on quiet and peaceful area
<b>Character of Area</b>	Impact on character of residential area
	Business use being introduced into residential area
<b>Anti-Social Behaviour / Crime / Safety Concerns</b>	Anti-social behaviour / crime
	Fear of crime
	Devaluation of property prices
	All residents are liable for upkeeping the private driveway, drainage and fences, and this proposal could result in charges for the whole estate.
<b>Other Matters</b>	Breach of covenant preventing use of the property other than as a private dwelling in the occupation of one family or for any

	purpose or in any manner which shall or may be or grow to be a nuisance annoyance or cause damage to the Vendor or the Vendor's Estate
	Breach of covenant preventing obstruction or damage to the estate roads, private access drives and footpaths
	Impacts to existing residents, including children and the elderly who have health conditions, from noise and disturbance
	Existing residents experiencing mental health impacts including from stress and anxiety
	Impact on quality of life
	Lack of space within the property for the proposed number of people
	Impacts associated with existing use of the property as an Air BNB and from the letting of rooms to teenagers
	Damage to the private drive
	Care homes can create noise and bad behaviour if not managed properly
	Concerns regarding operation of a previous care home by the applicant

#### 4. Relevant Planning Policy

##### **National Planning Policy Framework (2024)**

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

Chapter 2. Achieving sustainable development  
Chapter 4. Decision-making  
Chapter 8. Promoting healthy and safe communities  
Chapter 9. Promoting sustainable transport  
Chapter 11. Making effective use of land  
Chapter 12. Achieving well-designed places  
Chapter 14. Meeting the challenge of climate change, flooding and coastal change  
Chapter 15. Conserving and enhancing the natural environment

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

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

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

### **Other Policies and Guidance**

National Design Guide (2021)  
National Planning Practice Guidance  
Leicestershire Highway Design Guidance  
Good Design for North West Leicestershire SPD - April 2017

## **5. Assessment**

### **Principle of Development**

The starting point for the determination of this application is Section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that decisions are made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the development plan comprises the adopted North West Leicestershire Local Plan (2021).

The site is located within the Limits to Development, as defined by the adopted Local Plan, in the settlement of Coalville. Policy S2 of the adopted Local Plan identifies Coalville as the primary settlement in the district that provides an extensive range of services and facilities including employment, leisure and shopping which are accessible by sustainable transport. Policy S2 also states that the largest amount of new development will be directed here.

In addition, the National Planning Policy Framework (NPPF) promotes a presumption in favour of sustainable development. Paragraph 11 of the NPPF states that development proposals that accord with an up-to-date development plan should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole or where specific policies indicate development should be restricted.

The NPPF also specifically states that it is important that the needs of different groups in the community with specific housing requirements are addressed (Paragraphs 61 and 63) and the proposal would help to meet the requirements of children identified as needing care, which is afforded positive weight.

In the ministerial statement dated from 23 May 2023 the then Housing and Planning Minister set out the Government's commitment to support for the development of accommodation for looked after children, and its delivery through the planning system. The minister also stated that the planning system should not be a barrier to providing homes for the most vulnerable children in society in the right places with access to schools and community support.

The statement went on to say that "Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country."

In planning terms, the nature of the proposal is such that the property would remain residential in nature and be within a residential area. There are no planning policies which restrict, in principle, such care homes from being provided within existing residential areas, subject to all material planning considerations. Nor is there any planning mechanism to locate care facilities away from existing residents who might be opposed to them or to control the number of care homes in one area. Each planning application is required to be considered on its own merits.

The proposal seeks to change the existing use of the residential dwelling to a children's care home for no more than 3 children at 6 Swan Way. No external changes are proposed.

In this case, the site is located within the limits to development therefore, the principle of development is considered acceptable, subject to compliance with all other relevant policies in the Local Plan, and the NPPF.

### **Design, Character and Impact upon Street Scene**

Policy D1 of the North West Leicestershire Local Plan (2021) requires that all developments are based on a thorough opportunities and constraints assessment and informed by a comprehensive site and contextual appraisal. In addition, new residential developments must also perform positively against the Council's adopted Good Design Supplementary Planning Document (SPD).

No external alterations or extensions to the building would be required to accommodate the proposed change of use and as such there would no further impacts on design beyond the appearance of the existing building.

It is considered that the proposal would accord with Policies D1 and En3 of the adopted Local Plan, the Council's Good Design SPD and advice contained in the NPPF.

### **Residential Amenities**

Neighbours have objected to the proposed development due to concerns regarding noise impacts, impact on quality of life and overlooking / loss or privacy concerns. These matters will be considered in this section below.

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.

This application seeks permission for a change of use from a dwelling to a small care home for 3 children aged between 7 - 16 years old. The proposal would not increase the number of bedrooms within the property which would remain as existing. Staff teams work on a shift basis that provides care 24 hours per day 7 days a week.

Staff will be supervising the home 24 hours a day, with up to 3 caregivers being present at any one time, apart from during the handover time period which is proposed to be staggered through

the day to ensure that no more than 4 carers may be present during handover times. There will be no more than 2 caregivers overnight with additional staff on call.

The most immediate neighbouring properties to the application site are Nos. 2, 4, 8 and 10 Swan Way which share an access driveway with the property. No. 12 Swan Way and No. 5 Robin Road lie immediately north of the property. To the south of the site is an area of open space.

The proposal does not include any external alterations to the existing property and as such it is not considered that the development would result in any overbearing or overshadowing impacts on neighbouring properties.

In terms of noise and disturbance from comings and goings, given the inevitable variation in work patterns and social activities of the occupiers, it would not be unusual for neighbouring residents to be aware of the comings and goings of their neighbours throughout the day. Having regard to the small scale of the proposal and the limited staff numbers associated with the proposal, it is considered that the likely movements associated with the use would not be disproportionately large or significantly greater than those which could reasonably be expected of a family carrying out their day-to-day activities. For the avoidance of doubt, these conclusions have been reached on the basis of the proposal for up to three children living at the property with 3 members of staff being present on site with 4 staff in attendance for short periods of time for handovers.

While it is accepted that on occasion this use may generate a level of noise and disturbance from traffic, car engines, doors and general conversation, it is considered that similar impacts could be achieved from occupants of a residential dwelling that work night shifts and commute early in the morning or late in the evening. It is considered that the general noise and disturbance would not be above and beyond what could be achieved at a residential dwelling and therefore does not warrant refusal of planning permission.

It is recognised that there could be a scenario where three children living at the property could potentially cause noise and disturbance impacts. Whilst neighbouring properties are situated close together, noise and disturbance could be created by children living in a residential dwelling and so could be experienced by residents in any residential area.

Proposals for care homes are not an uncommon occurrence nationally and appeal decisions relating to similar proposals have concluded that it cannot be assumed that children living in care would be more likely to create levels of noise and disturbance over and above children living in a 'traditional' family unit. Appeal decisions also seem to take note that, in a care home, children would be cared for by specialist supervising staff and care workers who are able to deal with any situations that might arise.

Any permission granted could be conditioned to ensure the use remained at a small scale as set out within the application including the number of children who would be housed at the site at any one time.

The Council's Environmental Protection Team were consulted on this application who confirmed they had no objections advising "The proposed use would not negatively impact on its environment by way of noise, light, odour or other disturbance."

Furthermore, if the proposal did subsequently result in creating an excessive noise nuisance, then separate legislation exists under Environmental Protection Act, which could be investigated separately by the Council's Environmental Protection team if necessary.

As a result of the proposed change of use, the number of bedrooms at the property would remain unaltered and is therefore considered that the number of permanent occupants at the property is unlikely to increase and result in a significantly detrimental impact on the neighbouring properties' amenities. Furthermore, the application confirms that no more than three children would be permanent residents of the property at any given time and that it is unlikely that the home will accommodate the maximum of 3 children all of the time.

Whilst concerns have been raised regarding the existing use of the property as an Air BNB and from the letting of rooms to teenagers, the Council does not have any records of complaints regarding noise or disturbance relating to the property.

As such, it is considered the proposal would not result in unacceptable neighbour amenity impacts in terms of noise and disturbance or impacts on quality of life over this existing C3 use to warrant a refusal of planning permission on such grounds under Policy D2 of the adopted Local Plan.

As part of the planning process there is the need to consider the amenity of future occupiers in addition to existing residents. There would be four bedrooms within the property so that each child would have a private room and there would be one bedroom for a carer as well as space downstairs if the other overnight carer needed space to sleep. There would also be living space available on the ground floor along with a private rear garden. As such in this regard the proposal is considered to comply with Policy D2 of the adopted Local Plan.

### **Highway Considerations**

Neighbour concerns have been raised with regard to highway safety, traffic congestion, pedestrian safety and parking problems. These concerns will be considered in the section below.

Policy IF4 of the North West Leicestershire Local Plan (2021) requires that development proposals consider the impact on the highway network and environment, including climate change. It also requires the incorporation of safe and accessible connections to the transport network, enabling travel choices for residents, businesses, and employees, particularly by non-car modes. Policy IF7 stipulates that development must provide adequate parking for vehicles and cycles to avoid highway safety issues and to minimise the impact on the local environment.

Access to the site is via a private drive from Swan Way, which is an unclassified road subject to a 30mph speed limit and a 7.5 tonne weight restriction. No alterations are proposed to the existing site access arrangements and private drive which presently serves the existing dwelling and four other dwellings.

The County Highway Authority (CHA) has been consulted on this application and have raised no objections.

The CHA note that one Personal Injury Collision (PICs) has been recorded within 250 metres of either direction of the site access within the latest five-year period. The collision was classified as 'serious' in severity and occurred on the A511/Bardon Road. The CHA considers this an isolated incident and is therefore satisfied that the proposed change of use would not contribute to an existing issue of highway safety or create a new issue of highway safety.

Residents have raised concerns that there are insufficient existing parking spaces on site which would naturally encourage on street parking to prevent staff blocking each other in at times of

change over. Residents have also raised concerns that the staff parking could block the shared access driveway.

The submitted details show that the existing parking provision consists of a minimum of 2 parking spaces and a garage, with the applicant stating that there is sufficient parking for 5 vehicles, which appears to be four spaces on the drive and one within the integral garage as shown on the plan below.



The submitted information states that there would be a maximum of 3 members of staff on site at any one time, except during the hand over period where there would be 4. The CHA has advised that, based on their parking standards, they consider there to be 2 parking spaces on the site, as the garage doesn't count as a parking space given its size and only two spaces could be provided on the drive that meet the Leicestershire Highway Design Guide standards. The CHA's parking standards require one parking space per staff member and so three parking spaces would be required.

The CHA have stated that, notwithstanding the point that the applicant believes that there is additional parking available, when considering a worst-case scenario of two parking spaces being provided at the site, the CHA does not consider that it could demonstrate the potential shortfall in parking to have a material impact on highway safety arising from overspill parking within the public highway taking place in the vicinity of the existing access.



It does appear that three parking spaces could be provided on the property's driveway and therefore it is recommended to condition that at least three parking spaces remain available on site in perpetuity.

Residents have advised that sometimes on-street parking can block emergency service vehicles from gaining access to the estate. If that is the case, then the police have powers to move vehicles that cause obstructions and the CHA has powers to consider whether yellow lines should be implemented. The CHA has also not raised concerns or objections in respect of this matter.

Furthermore, it is noted that the existing property could have visitors who would also need to park in the street when visiting the existing dwelling. As such it could not be justified that the application could be refused on highway safety grounds under Policies IF4 and IF7 of the North West Leicestershire Local Plan and the relevant paragraphs of the NPPF as well as the Leicestershire Highway Design Guide.

### **Biodiversity Net Gain**

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 186 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.

The mandatory requirement for 10% Biodiversity Net Gain (BNG) for small sites as required by the Environment Act came into force on 2 April 2024. However, the proposal relates to an application for change of use only with no external alterations to the building or site generally. The biodiversity gain requirement does not apply to development subject to the de minimis exemption which is development that does not impact a priority habitat and impacts less than 25 square metres (e.g. 5m by 5m) of on-site habitat, or 5 metres of linear habitats such as hedgerows. Based on the information submitted under this application, the Planning Authority considers that biodiversity net gain does not apply in this case and therefore, the proposed development would not be required to demonstrate 10% BNG.

Given the above, the development would accord with Policy En1 of the Local Plan, the aims of Paragraph 187 and 193 of the NPPF (2024), and the Planning Practice Guidance.

### **Safety and Fear of Anti-Social Behaviour/Crime**

Numerous residents have objected to the application on the grounds of safety, antisocial behaviour, vandalism and fear of crime, and it is clear from the representations received that there is a public perception of fear surrounding the nature of this proposal in terms of the potential for anti-social behaviour and crime, and concerns regarding the potential impact on the safety and well-being of existing residents.

Whilst it has been held that fear of anti-social behaviour and crime are material considerations, in order to attract any significant weight, there must be some reasonable evidential basis for that fear. Planning case law has established that unfounded fear in itself would not be a reason to justify the refusal of planning permission. Therefore, it is important to consider the evidence when attributing weight to the fears raised in objections.

The premises would provide care for a maximum of three children and it is noted that children are placed into care for a wide variety of reasons including having disabilities requiring specialist care,

being unaccompanied asylum-seeking children and overwhelmingly children are living within a care setting due to statutory bodies considering the child to be at risk of harm from others. The site would be staffed 24 hours a day, 7 days a week, which would restrict opportunities for anti-social/criminal behaviour by residents.

The success of the residents and their successful integration with the community and level of cohesion would largely depend on who the children are at the time and the effective management of the home, which as noted below, are matters for regulation by Ofsted.

Proposals for care homes are not an uncommon occurrence nationally and appeal decisions relating to similar proposals have concluded that it cannot be assumed that children living in care would be more likely to behave anti-socially over and above children living in a 'traditional' family unit. Appeal decisions also seem to take note that, in a care home, children would be cared for by specialist supervising staff and care workers who are able to deal with any situations that might arise.

Neighbours' concerns and anxieties are acknowledged and it is recognised that there could be a scenario where children living at the property could potentially undertake anti-social behaviour or criminal activity, which could in turn impact on public safety. However this could also potentially result from children living in a typical residential dwelling and so could be experienced by residents in any residential area.

It is therefore considered that the proposal is not likely to result in any additional anti-social behaviour or criminal activity than that which could be generated by the existing residential dwelling. Moreover, as previously stated, the children's care home is proposed to have staff at the property at all times. Children's care homes are also regulated by Ofsted.

Whilst concerns have been raised regarding the existing use of the property as an Air BNB and from the letting of rooms to teenagers, as stated above the Council does not have any records of complaints regarding anti-social behaviour relating to the property.

Whilst fear of anti-social behaviour and crime and impacts on public safety are material planning consideration, there are no planning grounds on which to refuse the application on this basis as similar issues could arise if the property was a residential dwelling. Some concerns also relate to the actions of individuals as a result of their backgrounds. Although the NPPF states that planning decisions should not undermine quality of life or community cohesion, the unknown behaviours of the occupants are not a material reason on which to identify conflict with the NPPF in this regard.

### **Equality Implications**

Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
  - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

The equality implications arising from this application relate to the protected characteristics of age and disability, given that a children's care home is proposed, and children living there may have a disability, as well as some of the existing residents being children or elderly or having disabilities.

Any risks to the safety of children living in the home are unlikely to be different to the risks of children living there in a typical residential dwelling. Children's care homes are also regulated by Ofsted, as well as by the CQC if any kind of healthcare is delivered that is a CQC-regulated activity.

It is also not appropriate or reasonable to stereotype these children through the planning application process or to judge how they might behave as a result of their background, upbringing or any past trauma, and to do so would be discriminatory.

The proposal also provides a benefit by advancing equality of opportunity by providing residential care for looked-after children in need of care and support.

Whilst there may at times be more traffic and comings and goings associated with the proposal than a residential dwelling, this may not be the case all of the time and has not been raised by the Highway Authority as a concern. The Council also cannot control the number of residents living in a residential dwelling or the number of cars or visitors they may have.

There would be three children living at the property along with carers who would always be at the home, which would not be dissimilar to the number of people that could live at the property as a family home. It is considered above that reason for refusals could not be justified in respect of noise and disturbance nor in respect of fear of anti-social behaviour or crime in particular as such impacts could result from a similar number of children living in a residential dwelling.

Some neighbour concerns relate to impacts on neighbouring residents who either have disabilities or other health concerns. Given the above assessments it is not considered that neighbouring residents would be detrimentally affected by this proposal given its minor scale and its use being similar in its function to that of a dwelling.

As such it is considered that a reason for refusal on the basis of significant impacts arising to children or elderly residents or residents with disabilities could not be justified in this case. Likewise any perceived potential health impacts such as stress and anxiety that that may arise in relation to the occupants of neighbouring properties are no more probable to occur than if the property was to remain as a typical residential dwelling.

### **Other Matters**

During the course of the application, concerns have been raised in relation to the operation of the proposed care home with reference to a Care Quality Commission (CQC) report from 2013 in respect of another care home elsewhere which it is understood was operated by the applicant.

Children's care homes are regulated by Ofsted, as well as by the CQC if any kind of healthcare is delivered that is a CQC-regulated activity. How the care home would function is a process that would need to be agreed as part of the registration process and these other regimes exist to ensure the appropriate care and management of children. As this is controlled by other legislation;

it is not within the remit of the planning system to seek to control the day-to-day functioning of the care home. This is therefore not a material planning consideration and cannot be taken into account in the determination of the application.

Neighbour concerns have been raised with regard to devaluation of property prices, this is a not a material planning consideration and cannot be considered in this application.

Residents have concerns that they are liable for the upkeep of the estate and they would be responsible for paying for any damages to the estate that might be caused by the occupants of the proposed care home. As this is civil matter it is not a material planning consideration.

Neighbours have also raised concerns that staff or visitors of the site will be accessing the site using the shared access driveway which is maintained by numbers 2 – 10 Swan Way. Access and maintenance to the shared access driveway would be a civil matter for the two parties to resolve.

Breaches of covenants is also a civil matter and is therefore not a material consideration and so cannot be considered in the determination of the application.

## **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 this application is the development plan, which in this instance includes the adopted North West Leicestershire Local Plan (2021).

The application site is situated within the defined Limits to Development, where the principle of development is supported, if it complies with relevant policies of the Local Plan. Policy S2 of the Local Plan supports sustainable development within Limits to Development, and the proposed development is considered to align with the overall spatial strategy for the district.

In addition to the above, no external alterations are proposed as a result of the development. Reasons for refusal could not be justified in respect of impacts on highway safety and residential amenities nor in respect of fear of anti-social behaviour or crime. There are no other relevant material planning considerations that indicate planning permission should not be granted.

In view of the above, it is considered that the proposed development complies with the relevant policies of the North West Leicestershire Local Plan and the NPPF (2024).

Subject to the imposition of conditions the proposed development represents sustainable development, and approval is therefore recommended.

**Conversion of agricultural building to dwelling**

**Report Item No  
A3**

**Land Adjoining 1 Main Street Osgathorpe  
Leicestershire LE12 9TA**

**Application Reference:  
24/01541/FUL**

**Grid Reference (E) 442989**

**Grid Reference (N) 319433**

**Date Registered:  
11 December 2024**

**Consultation Expiry:**

**10 February 2025**

**8 Week Date:**

**5 February 2025**

**Extension of Time:**

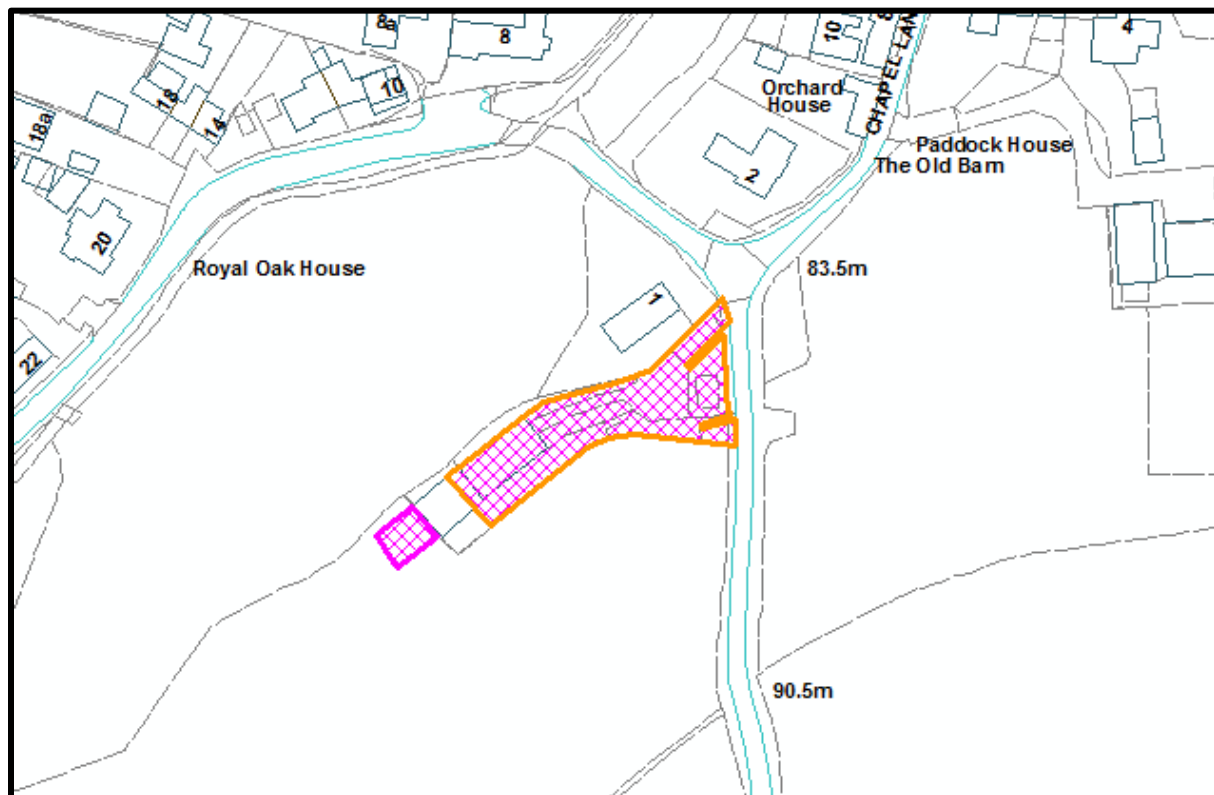
**10 March 2025**

**Applicants:  
Mr And Mrs Tivey**

**Case Officer:  
Karina Duncan**

**Recommendation:  
PERMIT**

### Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office  
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329)

**Reason the case is called to the Planning Committee:**

The application is brought to Planning Committee because this application is recommended for approval by officers and has been submitted by the close relative of a serving member or officer of the Council.

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

- 1 Standard time limit (3 years).
- 2 Approved plans.
- 3 Implementation of car parking spaces, the surfacing of the access points in a hard bound material for a distance of least 5 metres behind the highway boundary, and the removal of permitted development rights for the installation of gates, barriers, bollards, chains or other obstructions to the vehicle accesses.
- 4 Submission of details of all external materials.
- 5 Submission of a landscaping scheme, including boundary treatment details.
- 6 Statutory Biodiversity Net Gain condition.
- 7 Development to be carried out in strict accordance with the measures stated in Section 4.4.2 (Bats) of the Ecology Report (Turnstone Ecology, January 2025) which includes replacement roosting provisions which would be provided in the form of the two boxes on nearby trees and a single integrated bat feature on the south-western gable wall.
- 8 Soakaway to be installed on site prior to any external materials being installed to the roof, unless an alternative scheme of surface water discharge (including evidence to demonstrate that the means of drainage via soakaway is not suitable for the site) has first been submitted and approved.
- 9 Full details of the proposed foul waste connection methods which should ensure that a connection to the mains sewer is made where feasible.
- 10 Scheme of bin storage and collection point prior to occupation to be submitted, approved and implemented.
- 11 Removal of permitted development rights - No extensions, outbuildings or hard surfaces to be carried out utilising householder permitted development rights (Classes A, AA, B, E and F of Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)), without the express consent of the Local Planning Authority having first been obtained in writing.
- 12 Restriction for the creation of further first floor accommodation within the dwelling without express planning permission having first been obtained.

## **MAIN REPORT**

### **1. Proposals and Background**

Full planning permission is sought for the conversion of an agricultural building to a dwelling at Land adjoining 1 Main Street, Osgathorpe. The application form states that the proposal is for an open market dwelling and the proposed conversion is to be utilised for the applicant's personal home, although this could not be secured under any planning permission. The application form states that the applicant and his family live in the village but not on the site itself.

The dwelling would feature an open plan kitchen, living room and dining area, a hallway with study area, and two bedrooms with ensembles at ground floor level. A separate lounge and mezzanine are proposed at first floor level.

The submitted Planning Statement sets out that the applicants have farmed the land since 2005, with their wider land holding extending to around 40 acres.

The site is located to the east of the village of Osgathorpe with the building subject to this application positioned a distance of approximately 50 metres from Snarrow's Road. The existing building features a rectangular plan-form, a shallow pitched roof, and is constructed of metal sheet cladding to its walls, sheet cladding to its roof. Internally, half of the building features a concrete floor, the other half is open to its front and has no made-up floor. The building features steel rafters and timber purlins.

The building is positioned within a field which is bound at all sites by field hedgerows and trees. The existing access is taken from two gate access points to the east of the site off Snarrow's Road which is rural in nature featuring no footpaths or streetlighting. The most northern access is taken close to a bend just south of the T-junction with Main Street.

The red line boundary is split into two sections. One encompassing the two access points, proposed three car parking spaces, the proposed residential amenity space, and the main building which would be converted, and a separate red line boundary positioned approximately 14 metres to the south west of the proposed dwelling which is rectangular in shape and would be separated by the proposed dwelling. This additional piece of land is proposed to be used for biodiversity net gain purposes.

Amended plans have been received during the course of the application to amend the internal layout of the dwelling to address concerns relating to living conditions within the proposed dwelling.

The site is located outside Limits to Development, as defined by the Policy Map to the adopted North West Leicestershire Local Plan (2021).

## Site Location Plan



## Aerial Image of Site Location

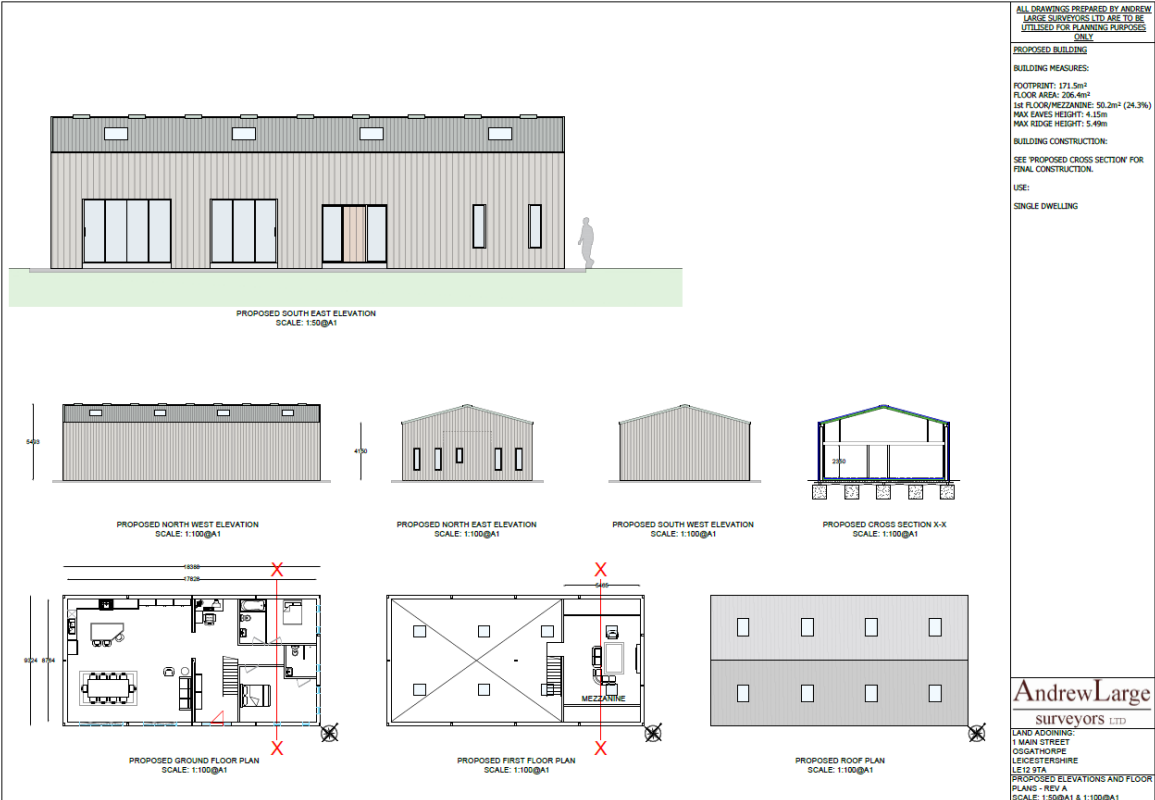




Proposed Site Plan



Amended Proposed Elevations and Floor Plans



Further information in respect of the application, including the supporting documentation and relevant plans, can be found on the District Council's website.

### **Relevant Planning History**

- 15/00931/AGP – Installation of a 70.0 metre long by 3.0 metre wide road to serve existing agricultural buildings – Application Permitted – 14.10.2015
- 15/00664/AGP – Erection of a steel framed fodder and machinery store – No objection – 04.08.2015
- 07/00845/AGP – Erection of tractor machinery and fodder store – Prior Approval not required – 27.06.2007
- 05/01073/FUL – Erection of a stable – Application Permitted – 25.08.2005

## **2. Publicity**

6 neighbours were initially notified on the 12<sup>th</sup> December 2024.

A site notice was displayed on the 12<sup>th</sup> December 2024.

A press notice was published in the Leicester Mercury on 1<sup>st</sup> January 2025.

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

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

### **Representations from:**

**Osgathorpe Parish Council** makes one observation as to whether the application conforms with Policy S3(iii) of the Adopted Local Plan.

### **No Objections from:**

North West Leicestershire District Council Environmental Protection Team  
North West Leicestershire District Council Conservation Officer  
Leicestershire County Council Archaeology

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

Leicestershire County Council Highway Authority  
Leicestershire County Council Ecologist  
North West Leicestershire District Council Contaminated Land Officer

**No comments to make:**

Leicestershire County Council Planning Authority.

**Third Party Representations**

**Two letters of support have been received with the comments raised summarised as follows:**

<b>Grounds of Support</b>	<b>Description of Impact</b>
<b>Impacts on neighbouring Farming Operations</b>	The conversion of the building to a dwelling would not have any impact on neighbouring farming operations carried out on adjoining land and it would be helpful to have someone on site to assist the oversight and management of neighbouring grazing stock.
<b>Other Matters</b>	The application site is screened by mature tall hedgerows.

**Four letters of objection have been received with the comments raised summarised as follows:**

<b>Grounds of Objections</b>	<b>Description of Impact</b>
<b>Principle of Development and Sustainability</b>	Nearby applications for building a dwelling have been refused and dismissed at appeal (22/01611/FUL).
	These are not derelict or old structures that would benefit from repurposing and/or renovating but, being less than ten years old, the existing buildings are fit for the modern agricultural nature that they are intended. Indeed, the Planning Statement in 24/01541/FUL includes the statement that the 'existing building has been demonstrated to be of sound construction'.
	A precedent may be set for further agricultural buildings in the village and on this site to be converted.
	The applicants currently live very close to the agricultural building that they are seeking to convert to residential use. Although not explicitly stated in the application, the inference is that they would like to reside on the site

	rather than walk a short distance to it. However, to achieve this, much of the existing agricultural facility, other than the stable, would be lost and there would be little or no facility on the site to store agricultural machinery, equipment, fodder etc.
	The applicant lives around 100 metres from this proposed development and thus the proposal in no way reflects any local needs.
	The applicant will apply for a further agricultural building on this site.
	The proposal does not meet any of the needs of the area nor do they improve anything remotely to do with improving the environment.
	Statements made relating to the need for an agricultural workers' dwelling in the planning statement have been challenged.
	There is a limited bus service but no other facilities, such as a shop or a school, thus how will this proposed development support any local services.
	The village is not sustainable and there is no need for additional large housing developments in the village.
	Granting permission would extend a small village with very limited resources outside its currently defined settlement boundaries.
	The dwelling would look to be outside of the village boundary and there is a very obvious hedge line showing where the village ends and farm land begins.
	The applicant had a long term plan to gradually turn these farming structures into domestic use.

<b>Living conditions</b>	The head heights in the first floor accommodation are restricted and the roof pitch is shallow.
<b>Highway Safety Impacts</b>	Highway safety concerns, including that the site entrance does not have clear visibility.
	The submission that journey and traffic movements would be reduced is preposterous as the applicants' current residence is little more than 100 metres away.
<b>Visual Impacts and Impacts on the Countryside</b>	Loss of an agricultural building could result in the need for a further agricultural building on site.
	The proposal will affect the aesthetics and environment and will not add to the overall quality of the rural area.
<b>Other matters</b>	Statements made in the planning statement relating to theft have been challenged to state that one incident has occurred in all the years the site has been operational.
	Comments have also been received relating to the consultation process and whether the correct advertisement of the application has taken place.

#### **4. Relevant Planning Policy**

##### **National Policies**

##### **National Planning Policy Framework (2024)**

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

Paragraphs 7, 8, 9 and 10 (Achieving sustainable development);  
Paragraphs 11, 12 and 14 (Presumption in favour of sustainable development);  
Paragraphs 39, 48 and 49 (Decision-making);  
Paragraphs 56, 57 and 58 (Planning conditions and obligations);  
Paragraphs 61 and 63 (Delivering a sufficient supply of homes);  
Paragraph 96 (Promoting healthy and safe communities);  
Paragraphs 109, 110, 115, 116, 117 (Promoting sustainable transport);  
Paragraphs 124, 125, 128 and 129 (Making effective use of land);  
Paragraphs 131, 133, 135, 136, 139 and 140 (Achieving well-designed places);

Paragraphs 161, 163, 164, 166, 170, 173, 174, 175, 181 and 182 (Meeting the challenge of climate change, flooding and coastal change);  
Paragraphs 187, 192 193, 196, 197 and 198 (Conserving and enhancing the natural environment); and  
Paragraphs 205, 212, 213, 214, 215, 217 and 218 (Conserving and enhancing the historic environment).

## **Local Policies**

### **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:

Policy S1 – Future Housing and Economic Development Needs;  
Policy S2 – Settlement Hierarchy;  
Policy S3 – Countryside;  
Policy D1 – Design of New Development;  
Policy D2 – Amenity;  
Policy IF4 – Transport Infrastructure and New Development;  
Policy IF7 – Parking Provision and New Development;  
Policy En1 – Nature Conservation;  
Policy En6 – Land and Air Quality;  
Policy He1 – Conservation and enhancement of North West Leicestershire’s historic environment;  
Policy Cc2 – Water - Flood Risk;  
Policy Cc3 – Water - Sustainable Drainage Systems.

## **Other Policies and Guidance**

National Planning Practice Guidance  
Good Design for North West Leicestershire Supplementary Planning Document (April 2017).  
National Design Guide  
Leicestershire Highways Design Guide (Leicestershire County Council)  
The Conservation of Habitats and Species Regulations 2017  
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)  
Nationally Described Space Standards

## **5. Assessment**

### **Principle of the Development and Sustainability**

In accordance with the provision of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, includes the adopted 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 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. On sites falling outside the defined Limits to Development, residential development is not a form of development that is permissible by Policy S3 of the North West Leicestershire Local Plan (2021), save for limited exceptions as specified in the policy.

The description of development does not refer to the fact that the proposal is for the conversion of the building to create an agricultural workers' dwelling, and whilst it is noted that the submission states that the proposed dwelling would be occupied by the applicant and his wife who have farmed the land for a number of years, the application form specifically sets out that the dwelling would be an 'open market' dwelling (thereby capable of being occupied by any individual). The proposal has therefore been assessed as an open market dwelling. Furthermore, the application is not supported by sufficient information to demonstrate that there would be a functional and financial need for an agricultural worker to reside on site 24/7. Therefore, it cannot be concluded that the proposal would accord with criterion (i) of Policy S3 which supports agricultural workers dwellings.

Policy S3 supports the re-use and adaptation of buildings for appropriate purposes including housing in accordance with the Settlement Hierarchy (Policy S2) under criterion (d). Policy S2 of the Local Plan (2021) sets out the settlement hierarchy for the district and the approach to development within settlements, the intention being that those higher up the hierarchy will take more growth than those lower down. Osgathorpe is within the "small village" category; the small villages are described as having "very limited services and where development will be restricted to conversions of existing buildings or the redevelopment of previously developed land (as defined in the National Planning Policy Framework) or affordable housing in accordance with Policy H5 (Rural Exceptions Sites for Affordable Housing).

The proposal would be supported by criterion (d) of Policy S3 of the Local Plan (2021), however the Policy goes on to state that development in accordance with criteria (a) to (s) would be supported, subject to satisfying criteria (i) to (vi). An assessment of the application against criteria (i) to (vi) is 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 in the design section of this report, it is considered that the appearance and character of the landscape would be safeguarded. Therefore, the proposal is considered to accord with criterion (i) of Policy S3.

*(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*

The proposal would not introduce any extensions or new buildings to the site. Whilst a residential garden and parking areas are proposed, the development would be positioned a significant distance from the closest neighbouring settlements. Therefore, the proposal would not undermine the physical or perceived separation between nearby settlements. Therefore, no conflict has been identified with criterion (ii) of Policy S3.

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

The proposal, owing to its siting, would not create or exacerbate ribbon development. The proposal therefore accords with criterion (iii) of Policy S3.

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

The proposal would not introduce any existing buildings or extensions to the site and would re-use an existing agricultural building. It is therefore considered that the development would be well integrated with existing development and existing buildings. Therefore, no conflict has been identified with criterion (iv) of Policy S3.

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

Given the 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*

In terms of facilities within the village itself, there is only the St Mary the Virgin Church and a public house. It is understood that 'The Storey Arms' Free House resumed trading on 2<sup>nd</sup> May 2025. Osgathorpe therefore contains very little in the way of everyday services. There is no local shop selling groceries, nor is there any education facilities or employment opportunities. Future residents of the dwelling would therefore be reliant on travelling to other places for shopping and other services.

The site is located on a rural lane with no footpaths or lighting for pedestrians leading from the site to the main part of the village and they would not provide easily accessible or convenient walking or cycling routes, especially at night or during inclement weather.

A bus service (bus number 129 running between Ashby and Loughborough) would be located within 125 metres walk of the proposed dwelling, however whilst this service provides a connection to larger centres, as it runs only every two hours (approximately) with only 5 services a day, no evening services and no services on Sunday, it is unlikely to be relied on by residents for access to day to day services and facilities.

Access to day-to-day services by walking, cycling or public transport would be poor, and future occupiers would be likely to be heavily dependent on the private car for access to shops, services



and community facilities. Given this, it is likely that they would often choose to drive to use clusters of shops and services in larger towns in the surrounding area.

The proposed development would therefore not be accessible, nor would it be made accessible, by a range of sustainable transport. The application therefore fails to accord with criterion (vi) of Policy S3.

In summary, the site is located outside of the Limits to Development set out in the North West Leicestershire Local Plan (2021) where the re-use and adaptation of buildings for appropriate purposes including housing in accordance with the Settlement Hierarchy (Policy S2) is supported. However, Policy S2 places Osgathorpe within the “small village” category which are described as having “very limited services and where development will be restricted to conversions of existing buildings or the redevelopment of previously developed land [...] or affordable housing”. The proposal would not represent sustainable development when having regard to the Settlement Hierarchy and the application would also conflict with criterion (vi) of Policy S3 as it would not be accessible, nor would it be made accessible, by a range of sustainable transport.

Members should be aware of the two appeal decisions relating to application references 22/01611/FUL and 24/00233/OUT. Planning application 22/01611/FUL related to the erection of a custom-build dwelling, garage and associated works at The Warren 6 Chapel Lane, Osgathorpe which is the appeal most closely related to this site being located approximately 115m to the east of the application site (as the crow flies) and positioned on the rural peripheries of the village.

Planning application 24/00233/OUT related to the erection of a self build detached dwelling at 72 Main Street, Osgathorpe, however this site is located within the village itself on Main Street.

A summary of the Inspector’s findings on both appeals has been set out below:

*22/01611/FUL - The Warren 6 Chapel Lane (Appeal Ref: APP/G2435/W/23/3324219)*

The above appeal was dismissed by the Planning Inspectorate on 19<sup>th</sup> July 2024 partly due to the location of the proposed development. It is important to note that the application site is located close to the appeal site as set out above. It is also important to note that Chapel Lane, like Snarrow’s Road and the part of Main Street fronting the application site, is a rural lane with no footways or streetlighting.

The Inspector for the appeal stated that; *‘Osgathorpe therefore contains very little in the way of everyday services.... residents would be reliant on travelling to other places for shopping and other services,’* and that; *‘access to day-to-day services by walking, cycling or public transport would be poor, and future occupiers would be likely to be overwhelmingly dependent on the private car for access to shops, services and community facilities. Given this, it is likely that they would often choose to drive to use clusters of shops and services in larger towns in the surrounding area, bypassing the smaller and more limited facilities in other villages.’*

The Inspector went on to state that; *‘the proposed development would be outside a defined settlement boundary, in a small village within the countryside which has limited access to services by a range of sustainable transport options. I therefore conclude that it would not be an appropriate location for the proposed development, having regard to local and national planning*

*policy. The scheme would conflict with Policies S2 and S3 of the NWLLP, the principal relevant provisions of which I have set out above.'*

*24/00233/OUT - 72 Main Street (Appeal Ref: APP/G2435/W/24/3343890)*

The above appeal was allowed by the Planning Inspectorate on 20<sup>th</sup> September 2024. The Inspector noted that the appeal site was directly adjacent to a footway with connections to public rights of way and that the village was sited in close proximity to the national cycle network which links to Thringstone and Coalville, both principal towns in the settlement hierarchy. The Inspector also noted that whilst the public rights of way may present challenging terrain for some users and cycling may not be an attractive option for all potential future occupiers, there was a bus stop located directly in front of the appeal site. For these reasons, the Inspector considered that *'future occupiers would not be wholly reliant on the use of a private car.'*

*The Inspector concluded that 'the site would not be suitable for the development having regard to the spatial strategy of the development plan. The proposal would therefore conflict with Policy S2 and Policy S3 of the LP read together. However, given that the location would be acceptable with regard to the accessibility of services and facilities, the weight I attribute to the conflict with the spatial strategy is tempered in this case.'*

It is however important to note that the above appeal site is materially different to that of the application site and the appeal decision relating to 6 Chapel Lane. 72 Main Street is located within the village itself and benefitted from footpaths, streetlighting and a bus stop directly in front of the appeal site. The only way to access the village and nearest bus stop is to navigate the rural lane with no streetlighting or footpaths.

#### *Consideration of 'Fallback' Position*

Whilst the above section of this report sets out that the proposal would not represent sustainable development and is in conflict with the development plan, consideration should be given to any relevant 'fallback position' available to the applicant. Such a fallback position would arise through the Permitted Development rights for changes of use of buildings on agricultural units and former agricultural buildings to dwellinghouses, under Class Q in Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the GPDO").

In making an assessment of any application for development, the Council are bound to consider what the alternatives might be for the site in terms of what could occur on the site without requiring any permission at all or using permitted development rights for alternative forms of development. It should be noted that no application to convert the building using Class Q permitted development rights has been made by the applicant in this case. However, the relevant law as to a "real prospect" of a fallback development being implemented has been applied by the Court of Appeal in *Mansell v Tonbridge And Malling Borough Council [2017] EWCA Civ 1314* which related to the demolition of a barn and bungalow and the construction of four detached dwellings and consideration of Class Q permitted development rights as a fallback position. The judgement stated that *"...for a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice."* In this case, it is therefore necessary to take into account the fallback position available to the applicant, including the permitted development rights arising under Class

Q in the GPDO. Not to do so would be a failure to have regard to a material consideration, and thus an error of law.

In an event that the applicant does have a PD fallback, such a scenario would, in effect, give rise to the site being occupied by a residential unit without express planning permission being required.

Officers consider there to be a clear desire of the landowner to develop the site for one dwelling in this case. It is therefore considered that any relevant permitted development rights by which the applicant could achieve residential development on the site would ultimately be relied upon if an application for planning permission for the construction of a new dwelling were to be refused. Any realistic fallback position would therefore need to be afforded substantial weight in the assessment of the application should one exist.

In practical terms for this site, the permitted development rights set out cannot be relied upon by the applicant as the floor space of the dwellinghouse would exceed 150 square metres which would not meet Q.1.(c) of Class Q of the GPDO. It should however be acknowledged that the amount of floorspace proposed is not significantly greater than 150 square metres and an alternative scheme with a reduced amount of floor space to accord with the above criteria could be advanced by the applicant and this fallback position should be given significant weight in the assessment of this application.

Overall, whilst the proposed dwellinghouse would not meet the requirements of Q.1.(c) of Class Q of the GPDO, there would be a realistic fallback position available for the applicant for the conversion of the building to provide up to 150 square metres of floor space. Such a form of development would result in the same planning impacts as this proposal. Importantly, the fallback position would also result in a scheme resulting in the same planning conflicts, namely a development which conflicts with Policies S2 and S3 of the North West Leicestershire Local Plan (2021), and one which would not be accessible, nor made accessible, by a range of sustainable transport.

#### *Principle of Development Summary*

The site is located outside of the Limits to Development set out in the North West Leicestershire Local Plan (2021) where the re-use and adaptation of buildings for appropriate purposes including housing in accordance with the Settlement Hierarchy (Policy S2) is supported. However, Policy S2 places Osgathorpe within the “small village” category which are described as having “very limited services and where development will be restricted to conversions of existing buildings or the redevelopment of previously developed land [...] or affordable housing”. The proposal would not represent sustainable development when having regard to the Settlement Hierarchy and the application would also conflict with criterion (vi) of Policy S3 as it would not be accessible, nor would it be made accessible, by a range of sustainable transport.

However, the assessment carried out above sets out that there would be a realistic fallback position available for the applicant for the conversion of the building to provide up to 150 square metres of floor space under Class Q of the GPDO. Such a form of development would result in the same planning impacts as this proposal. Importantly, the fallback position would also result in

a scheme resulting in the same planning conflicts, namely a development which conflicts with Policies S2 and S3 of the North West Leicestershire Local Plan (2021), and one which would not be accessible, nor made accessible, by a range of sustainable transport. This fallback position is afforded significant weight in the assessment of this application and is considered to outweigh the conflict identified with Policies S2 and S3 of the North West Leicestershire Local Plan (2021) in this case. The principle of the development is therefore considered to be acceptable.

### **Loss of Agricultural Land**

In terms of environmental sustainability, the proposal would result in the loss of agricultural land which would arise as a result of the proposed residential garden, parking areas and the proposed area of land which would be required to provide a 10% Biodiversity Net Gain. Consideration has been given to Paragraph 125(b) of the NPPF which states that planning decisions should recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production.

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). DEFRA's provisional ALC identifies the site as likely to be Grade 3 (Good to Moderate) land and therefore the land could well be classed as BMV land, albeit the classification maps do not differentiate between Grades 3a and 3b. Whilst the NPPF does not suggest that the release of smaller BMV sites is acceptable, the magnitude of loss of BMV agricultural land in this case is considered to be low given that approximately 0.1 ha would be lost. Furthermore, there is no development plan policy relating to the loss of agricultural land.

Therefore, given the relatively limited extent of the potential loss of the site, at approximately 0.1 of a hectare, it is considered that this is not sufficient to sustain a reason for refusal in this case, however, the loss would be a harm to be weighed in the planning balance which would be afforded limited weight.

### **Impacts on the Landscape and the Character of the Countryside**

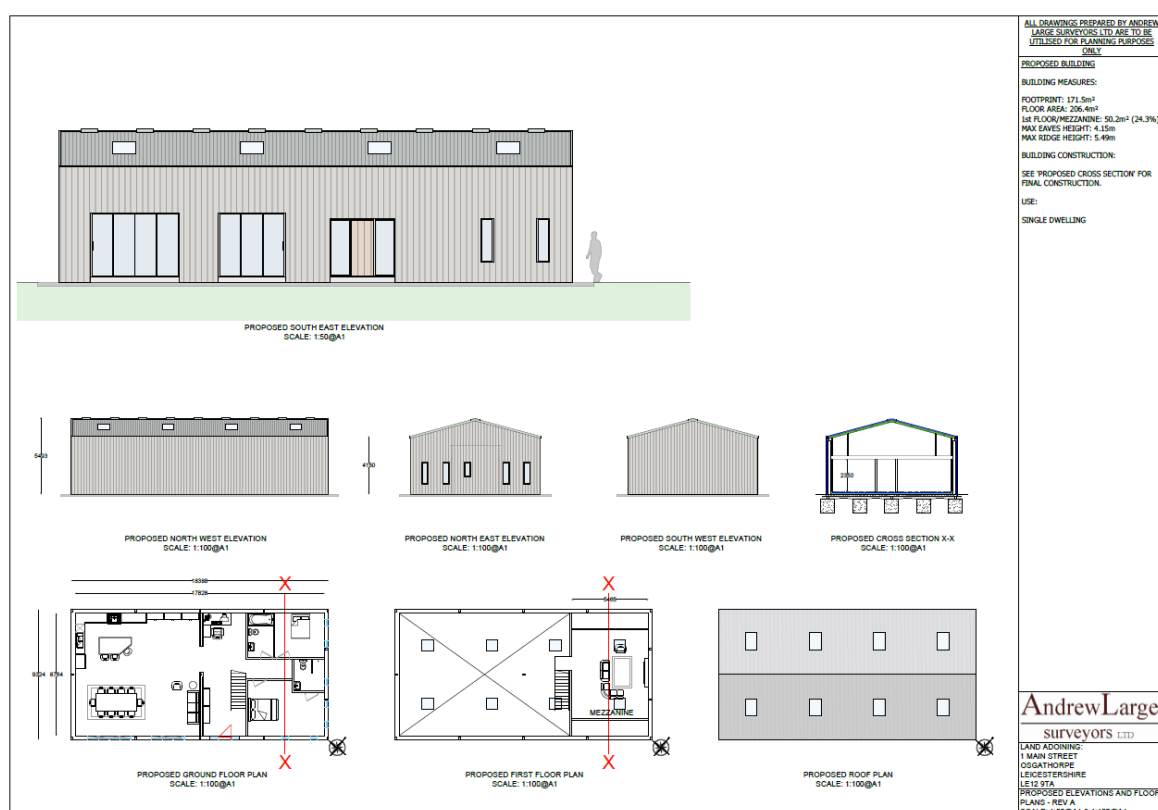
Policy D1 of the Local Plan (2021) supports proposed developments that are well designed and, as a minimum, offer a good standard of design based upon a robust opportunities and constraints assessment and informed by a comprehensive site and contextual appraisal. This is expanded upon in the Council's Good Design for North West Leicestershire Supplementary Planning Document (April 2017) which states that developments must be underpinned by a thorough understanding and appreciation of the place, both the site and its immediate and wider context. Policy S3 of the Local Plan (2021), as referred to in the principle of development section of this report, requires developments to safeguard and enhance 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 (criterion (i)).

The NPPF includes several 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.

Paragraph 135 of the NPPF states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

The Council's Good Design SPD and the government's National Design Guide therefore carry substantial weight.

A number of objections have been received on grounds of visual impacts upon the rural area.



The application does not propose any extensions to the existing building and therefore there would be no additional built form proposed on the site. Whilst areas of amenity land and car parking would be introduced to the site, in addition to the usual paraphernalia associated with residential gardens, the areas of land in question are not excessive in size and would be well related to the proposed dwelling and existing hardstanding areas, ensuring that much of the land would retain its rural and undeveloped appearance. A planning condition could be imposed to secure full details of the proposed boundary treatments that would enclose the amenity spaces proposed, and permitted development rights for the erection of boundary treatments could also be removed through the use of a planning condition in the interests of protecting the visual amenities of the rural area.

In terms of the proposed external materials, the application form states that the walls of the dwelling would feature timber cladding to match the existing. Natural timber cladding is considered to be a suitable material in this rural location, subject to precise details being secured through the use of a planning condition. Whilst there is a lack of information relating to the materials proposed to the roof, windows, rooflights, doors and rainwater goods, these could be secured through the use of a planning condition.

The proposed addition of windows, doors and rooflights to the elevation of the building are not considered to be inappropriate for an agricultural conversion and the openings proposed are considered to be simple in their design, well placed within the elevations, and would be of a suitable proportion.

Full details of all proposed landscaping, including details of its implementation and retention, could also be secured through the use of a planning condition.

Subject to the imposition of conditions, the scheme is considered to be of an acceptable design and would protect the intrinsic character and beauty of the countryside as required by the NPPF. The scheme would also be acceptable when having regard to the requirements of Policies D1 and S3 of the North West Leicestershire Local Plan (2021) and the Council's Good Design for North West Leicestershire Supplementary Planning Document (April 2017).

## **Neighbour Amenity and Living Conditions**

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. As such, development proposals will be supported where:

- 1) They do not have a significant adverse effect on the living conditions of existing and new residents through loss of privacy, excessive overshadowing and overbearing impact, and;
- 2) They do not generate a level of activity, noise, vibration, pollution or unpleasant odour emission, which cannot be mitigated to an appropriate standard and so, would have an adverse impact on amenity and living conditions.

Policy D2 of the Local Plan (2021) is consistent with the National Planning Policy Framework requirement that developments create places which promote health and well-being, with a high standard of amenity for existing and future users. Paragraph 198 of the NPPF also states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

### ***Assessment***

The only neighbouring property located near to the proposed dwelling is No.1 Main Street which is a detached bungalow located to the north east of the site. No.1 sits at a lower ground level to that of the application site and presents its rear elevation towards the internal access track within

the application site. The south western side elevation of No.1 is orientated to face towards the proposed dwelling, however the distances between the closest elevations would be in excess of 26 metres which exceeds the separation distances set out within section 13 of the Council's Good Design for North West Leicestershire SPD.

There are no first floor openings proposed to the north eastern side elevation which would face towards No.1 or its private amenity spaces. Whilst rooflights are proposed to the front and rear facing roof slopes, views afforded from these rooflights would be limited owing to their high level positioning and the shallow slope of the roof. No extensions are proposed to the building which would result in any additional overbearing or overshadowing impacts to No.1.

Three proposed car parking spaces are proposed close to the shared side boundary with No.1. These spaces would be positioned to face towards the south western end of the amenity space afforded to No.1, however the noise and disturbance impacts (including headlight impacts) arising as a result of the use of the proposed parking spaces would not be unacceptable to the living conditions of the occupiers of No.1 to warrant a reason for refusal.

In the interests of preserving the amenities of the occupiers of No.1, planning conditions could be imposed to remove certain householder permitted development rights to ensure that no further extensions or alterations to the dwelling are capable of being carried out without requiring express planning permission from the Local Planning Authority.

The addition of one household would not result in unacceptable noise and disturbance impacts to nearby neighbours. Any construction related noise and disturbance is an unavoidable manifestation of any development project, however, it would be for a temporary period owing to the scale of the development and would not warrant a refusal of planning permission.

As such, subject to the imposition of a condition, the proposal would comply with Policy D2 of the Local Plan (2021), the Council's Good Design SPD and the relevant paragraphs of the NPPF.

#### *Living conditions for future occupiers*

The Council's Good Design SPD states that *"Buildings should be designed internally to ensure that spaces are fit for their intended purpose with adequate internal space for their intended purpose. The Council will encourage applicants to provide furnished internal floor plans to demonstrate that homes and the rooms within them are fit for purpose. Internal layout plans should demonstrate that there is sufficient space within the home for the following activities:*

- o (The maximum number of) occupants to sit together in the living room.*
- o (The maximum number of) occupants to sit around a table together.*
- o A space to allow work at a desk to be undertaken without disturbance, i.e. located away from the kitchen or living room.*
- o Applicants must demonstrate that homes offer sufficient internal storage space to enable residents to store items conveniently and out of sight when not in use."*

Policy D2 of the adopted Local Plan (2021) does not refer to the Technical housing standards – nationally described space standard (March 2015) (NDSS); however, as a well-established expression of national housing standards, it provides a reasonable guide to appropriate room sizes. Both bedrooms would achieve the minimum internal floorspace and dimensions for double rooms as set out in the NDSS.

Paragraph 016 Reference ID: 26-016-20191001 of the Planning Practice Guidance refers to the National Design Guide as a tool for assessing and improving design quality. Paragraph 126 of the National Design Guide states that *'well-designed homes and communal areas within buildings provide a good standard and quality of internal space. This includes room sizes, floor-to-ceiling heights, internal and external storage, sunlight, daylight and ventilation.'* Paragraph 135(f) of the National Planning Policy Framework (2024) also states that planning decisions should ensure that developments create places which promote health and well-being, with a high standard of amenity for existing and future users. The NPPF also 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.

### *Assessment*

The originally submitted proposal failed to achieve the minimum requirements in terms of head heights within the first floor. The NDSS states that the minimum floor to ceiling height should be 2.3m for at least 75% of the Gross Internal Area (GIA). The amended scheme now proposes two bedrooms to the ground floor of the dwelling where the required ceiling height of 2.3m would be exceeded.

Returning to the issue of the Class Q fallback position, Schedule 2, Part 3, Class Q of the GPDO permits development consisting of a) a change of use of an agricultural building and any land within its curtilage from a use as an agricultural building to a use as a dwellinghouse, and b) building operations reasonably necessary to convert the building, Class Q.1 of the GPDO sets out circumstances where such development is not permitted. Furthermore, Article 3(9A) of the GPDO provides that Schedule 2 does not permit any new dwellinghouse where it does not comply with the NDSS (The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2020 Statutory Instrument No. 1243).

Following a request from officers, the agent for the application has submitted a cross section drawing of the originally proposed accommodation at first floor level. This cross section showed achievable head heights of 1.6 metres at their lowest points, only a 1.4m wide strip of floorspace to the first floor would have achieved a 2.3m ceiling height, meaning the majority of the originally proposed habitable rooms at first floor level fell significantly below the minimum ceiling height set out above. The originally proposed scheme therefore failed to achieve the minimum floor to ceiling height requirement of 2.3 metres for at least 75% of the GIA. Consequently, the originally proposed dwellinghouse would not meet the requirements of Part 3 of the GPDO given the provisions of Article 3(9A) of the GPDO. The amended scheme now only proposed a lounge at first floor level and the scheme overall achieves the minimum floor to ceiling height requirement of 2.3 metres for at least 75% of the GIA, however, the creation of further accommodation at first floor level may be unacceptable when having regard to the NDSS, and for this reason, it is



recommended that a planning condition be imposed to restrict the creation of further first floor accommodation within the dwelling without express planning permission having first been obtained.

The proposed floor plans show that adequate natural light would be afforded to all habitable rooms at ground floor level. The amended first floor accommodation would feature a mezzanine lounge area which would be served by two rooflights and would benefit from other natural light afforded from the remaining six rooflights proposed within the roof space. Whilst the proposed first floor lounge would not afford any positive outlook as any views afforded would only be achieved when looking upwards towards the roof space, this is, on balance, considered acceptable in this case given that a secondary open plan living area is proposed at ground floor level.

The Good Design SPD states that *"The rear private garden spaces must be at least equal to the footprint of the property"* and that *"this is a minimum required standard."* The proposed garden area would be at least equal to the footprint of the proposed dwelling and would therefore meet this minimum standard.

#### *Neighbour Amenity and Living Conditions Summary*

Overall, subject to the imposition of a planning condition, the proposal would meet the minimum floor to ceiling height requirements of the NDSS and the proposal achieves a high standard of internal accommodation. In addition, the scheme would achieve a sufficient level of positive outlook from both bedrooms. Subject to the imposition of a condition to remove householder permitted development rights, the proposal would also be acceptable when having regard to the impacts upon the amenities of neighbouring occupiers.

The application therefore accords with the requirements of Policies D1 and D2 of the Local Plan (2021), the guidance set out at paragraph 12.2 of the Council's Good design for North West Leicestershire SPD, the guidance set out within the Government's Nationally Described Space Standards, paragraph 135(f) of the National Planning Policy Framework (2024) and paragraph 126 of the National Design Guide.

### **Highway Safety**

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 incorporates adequate parking provision for vehicles and cycles to avoid highway safety problems and to minimise the impact upon the local environment.

Paragraph 115 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 116 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on

highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

One objection from the public has been received stating that the site access does not have suitable visibility. The County Highway Authority (CHA) have been consulted on the application and have raised no objection to the application.

The CHA have advised that the access to the site, which is via two access points, is taken from Snarrow's Road, an unclassified road subject to a 30mph speed limit, the speed limit changes to 60mph approximately 5m south of the northern access. No amendments to the existing access arrangements are proposed as part of this application and the CHA have advised that given the current permitted use of the site, no amendments to the site access are required.

The CHA have advised that there have been no recorded personal injury collisions within the last five years within 500m of the site access and on this basis the CHA have no pre-existing highway safety concerns regarding this location.

In terms of trip generation, the CHA have reviewed the Transport Statement which states, *'the proposed dwelling is for the use of the applicants. On a daily basis the applicants are required on site throughout the entirety of the year. The development will remove the need to travel to and from site for work.'* The CHA have therefore concluded that the proposal will lead to a reduction in trips to and from the site. However, the Local Planning Authority consider that as this application does not propose that the dwelling would be occupied by the agricultural worker working on the site, the occupancy of the dwelling cannot reasonably be controlled through the use of a planning condition in this case. On that basis, the proposed dwelling could be occupied by any individual in the future and in such circumstances, there would not be a reduction in trips to and from the site. Notwithstanding this, the trips generated to and from the site associated with the occupancy of one dwelling would not be significant and the CHA have raised no concerns in terms of highway safety and the use of the access points for the proposed development. It is therefore concluded that safe and suitable access to the site can be achieved for all users of the site access.

The proposal would provide three car parking spaces, one more than the minimum number of car parking spaces required to serve a two bedroom dwelling. The parking provision is therefore considered to be in accordance with Table 28 of the Leicestershire Highway Design Guide (LHDG).

Overall, subject to the imposition of planning conditions to secure the provision of the proposed car parking spaces, the surfacing of the access points in a hard bound material for a distance of least 5 metres behind the highway boundary, and the removal of permitted development rights for the installation of gates, barriers, bollards, chains or other obstructions to the vehicle accesses, the CHA are satisfied that 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. Based on the information provided, the development therefore does not conflict with paragraph 116 of the National Planning Policy Framework (2024), subject to the conditions.

The application is therefore considered to accord with Policies IF4 and IF7 of the North West Leicestershire Local Plan (2021), the Leicestershire Highway Design Guide, and the guidance set out within paragraph 115 of the National Planning Policy Framework (2024).

### **Ecology and Biodiversity Net Gain**

Policy En1 of the Local Plan (2021) supports proposals that conserve, restore or enhance the biodiversity of the District. It goes on to state that new development will be expected to maintain existing ecological networks, hotspots and landscape features (such as water courses and waterways, disused railway lines, trees and hedgerows) for biodiversity, as well as for other green infrastructure and recreational uses.

#### *Ecology Impacts*

The site consists of a steel framed barn, its associated access points and a managed field. The site also contains a wooden shed unit. An area within the red line boundary (to the west of the main barn) is proposed to be used for biodiversity enhancements and is comprised of modified grassland. A smaller barn unit is situated between the building to be converted and enhancement area, but is not within the redline boundary itself. Hawthorn dominated hedgerows are situated along the north and east of the site but are not within the redline boundary. Habitats immediately surrounding the site include a grazed, modified grassland field, with native hedgerows around the field border

The County Council's Ecologist has been consulted on the application and has advised that the Ecology Report (Turnstone Ecology, Revision 02) submitted to support the application is satisfactory with the assessment identifying that protected species and the habitats on site are generally of low ecological value.

The Ecologist raises no objection to the application subject to a planning condition to ensure that the development is carried out in strict accordance with the measures stated in Section 4.4.2 (Bats) of the Ecology Report (Turnstone Ecology, January 2025) which includes replacement roosting provisions which would be provided in the form of the two boxes on nearby trees and a single integrated bat feature on the south-western gable wall. Informatives are also recommended to be attached to any planning permission granted to advise the applicant of the protection afforded to nesting birds and bats.

The proposal does not result in the losses of any existing trees or hedgerows on site and a landscaping planning condition could be imposed to secure the submission of a detailed hard and soft landscaping scheme.

#### *Biodiversity Net Gain*

The mandatory requirement for 10% Biodiversity Net Gain (BNG) for small sites as required by the Environment Act came into force on 2 April 2024. This application was validated on 11<sup>th</sup> December 2024 and therefore is a development which is required to demonstrate that at least the statutory minimum 10% net gain will be achieved.

The County Council's Ecologist has been consulted and has advised that the submitted metric (version 2) and the amended Ecology Report (Revision 02) is demonstrating at least a 10% net gain in habitat units (12.41% gain) and hedgerow units (18.54% gain).

The County Council's Ecologist has advised that the habitat enhancement measures on-site are considered significant due to the creation / enhancement of medium distinctiveness habitats. On this basis, the Ecologist has advised that measures need to be legally secured for 30 years. The Local Planning Authority do however consider that as the biodiversity net gain is being provided within the red line boundary on land owned by the applicant, the biodiversity net gain can be secured through the use of the statutory Biodiversity Gain condition.

On the above basis, the proposal is considered to be acceptable subject to the imposition of the Biodiversity Gain Condition.

#### *Ecology and Biodiversity Net Gain Summary*

Subject to a condition which would secure bat mitigation and a condition to secure the 10% Biodiversity Net Gain, the application is considered to be acceptable when having regard to ecology and biodiversity. It is not considered that the proposal would result in any adverse impacts to protected species or biodiversity in accordance with Policy En1 of the Local Plan (2021) and paragraph 187(d) of the NPPF.

### **Flood Risk and Drainage**

Policy Cc2 of the Local Plan (2021) seeks to minimise the risk and impact of flooding through: (a) Directing new development to areas with the lowest probability of flooding; and (b) Ensuring that all new development addresses the effective management of all sources of flood risk; and (c) Ensuring that development does not increase the risk of flooding elsewhere; and (d) Ensuring wider environmental benefits of development in relation to flood risk.

The site lies within Flood Zone 1 which is the lowest risk area for fluvial flooding. The site is also at a 'very low risk' of surface water flooding. The application would result in an increase of surface water run off given the addition of further surfacing for the proposed car parking areas to the west of the site.

The application proposes the use of a soakaway to dispose of surface water which is considered to be acceptable. A package treatment plant is also proposed to deal with foul waste disposal. In this case, there is no evidence to demonstrate that the development would not be capable of connecting to the mains sewer, and therefore, on this basis, a planning condition could be imposed to secure full details of the proposed foul waste connection methods which should ensure that a connection to the mains sewer is made where feasible. Should a non-mains drainage system be demonstrated to be required, a Package Treatment Plant is the most sustainable form of disposal method, after a connection to the mains sewer, and in such circumstances a Package Treatment Plant would be acceptable in this location.

Overall, subject to the imposition of planning conditions, it is considered that the proposal would be acceptable in terms of drainage, fluvial and pluvial flood risks and would accord with the aims of Policies Cc2 and Cc3 of the North West Leicestershire Local Plan (2021).

### **Archaeology**

Criterion (4) of Policy He1 of the North West Leicestershire Local Plan (2021) states that the District Council will support development that conserves the significance of non-designated heritage assets including archaeological remains.

The application has been assessed by the County Council's Planning Archaeologist who does not believe that the proposal will result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets.

The application therefore warrants no further archaeological action, and no conflict has been identified with Policy He1 of the North West Leicestershire Local Plan (2021) or the guidance set out in the NPPF.

### **Waste Storage and Collection**

In this case, the bin storage areas for the dwelling would likely be provided around 50 metres off the public highway. The Building Regulations requirement for bins to be stored no more than 25 metres from a bin collection point would therefore be exceeded in this case. However, this is separate legislation and there is no requirement in the Local Plan (2021) or the Council's Good Design for North West Leicestershire SPD to meet this requirement.

As the Council's waste collection vehicles would not be able to enter the site, bins would need to be left for collection adjacent to the highway in a location which would not impede access or visibility splays. A bin collection point adjacent or near to the roadside would be required given there is no public footpath to the front of the site for waste receptacles to be placed on collection day. This could be accommodated without adversely impacting on visual and residential amenities, trees or highway safety. A planning condition could be imposed to secure full details of bin storage and collection arrangements.

### **Conclusion and Planning Balance**

The site is located outside of the Limits to Development set out in the North West Leicestershire Local Plan (2021) where the re-use and adaptation of buildings for appropriate purposes including housing in accordance with the Settlement Hierarchy (Policy S2) is supported. However, Policy S2 places Osgathorpe within the "small village" category which are described as having "very limited services and where development will be restricted to conversions of existing buildings or the redevelopment of previously developed land [...] or affordable housing". The proposal would

not represent sustainable development when having regard to the Settlement Hierarchy and the application would also conflict with criterion (vi) of Policy S3 as it would not be accessible, nor would it be made accessible, by a range of sustainable transport. Accordingly, the proposal is fundamentally at odds with the settlement hierarchy and strategic housing aims of Policy S2 of the adopted Local Plan (2021) and would also be contrary to Policy S3.

However, there would be a realistic fallback position available for the applicant for the conversion of the building to provide up to 150 square metres of floor space under Class Q of the GPDO. Such a form of development would result in the same planning impacts as this proposal. Importantly, the fallback position would also result in a scheme resulting in the same planning conflicts, namely a development which conflicts with Policies S2 and S3 of the North West Leicestershire Local Plan (2021), and one which would not be accessible, nor made accessible, by a range of sustainable transport. This fallback position is afforded significant weight in the assessment of this application and is considered to outweigh the conflict identified with Policies S2 and S3 of the North West Leicestershire Local Plan (2021) in this case. The principle of the development is therefore considered to be acceptable.

There are no technical concerns arising from the proposal and matters in relation to landscape and the character of the countryside, ecology, archaeology, living conditions of future occupiers, neighbour amenity, highway safety, and flood risk and drainage are acceptable and can therefore only be considered neutral factors in the planning balance.

The application would also result in a small loss of agricultural land which would be a harm which weighs against the proposal in the planning balance. This harm would attract limited weight against the granting of planning permission owing to the small size of the loss involved.

There are no other concerns with the application which could not be addressed through the use of planning conditions.

The scheme would result in some benefits, including the delivery of a 10% biodiversity net gain on site. The proposal would support local services and facilities available which would lead to economic and social benefits. Economic benefits would also arise as a result of an increase in local spending and by support to construction employment. However, these benefits attract limited weight in favour of granting planning permission owing to the small scale of the proposal.

On the above basis, and when having regard to the fallback position available to the applicant in this case, it is recommended that the application be approved planning permission.